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Charting New Waters with Old Patterns: Smugglers and Pirates at the Penal Station and Port of Newcastle 1804-1823 [1]

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In 1797 when Lt John Shortland 'discovered' the richly seamed cliffs of a deep harbour and the heavily forested reaches of a promising river, it was purely serendipitous. For, as the comparative roughness of his hastily drawn 'eye sketch' (Figure 1) suggests, this was no survey party. Shortland had been dispatched from Port Jackson in pursuit of convict pirates and their government prize, *The Cumberland*.[2] The promise of coal and cedar must have offered some consolation for his failure to recapture the pirated vessel. However, the systematic, or rather state exploitation of these glittering resources, did not get seriously under way until March 1804 when a small coastal out station was established on the Coal River. The rich seams of coal dictated the location of this new settlement, but not its purpose. This was Governor King's attempt to silence the freedom cries of the surviving Irish rebels in the wake of the Castle Hill uprising.[3] The hastily settled camp was duly designated as a place of further punishment for the exclusive 'reception of desperate characters'.[4] Accordingly thirty three Irish convicts were dispatched under the command of a very young Lt Charles Menzies, supported by a surgeon, a storekeeper, a superintendent, an artist, a botanist and, more usefully in the circumstances, a sergeant, nine privates and one marine. It was here that Governor King would repeat the old formula for transportation and 'gamble that isolation, severe punishment and harsh monotonous labouring [sic] would provide Newcastle with *a reputation and a future*'.[5]

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[1]   An extended version of this article was presented at the University of Newcastle for New South Wales History Week under the theme of 'Neighbours', 9 September 2016.

[2]   'Extract of a letter from Lieut. John Shortland of *HMS Reliance* to his father', 10 September 1788, *Historical Records of New South Wales* (*HRNSW),* Vol. 3, pp. 181-182.

[3]   L. Ramsay Silver, *The Battle of Vinegar Hill 1804: Australia's Irish Rebellion*, Balmain (NSW), 2002, pp. 132-133.

[4]   King, 2 January 1806, *HRNSW*, Vol. 4, p. 9.

[5]   D. Murray, 'Tiernan, Smith and Desmond: the men from God Knows where', Coal River True Crime, Endnotes and Cold Mercy: Crime Stories from Colonial Newcastle, University of Newcastle, 6 March 2014, <hunterlivinghistories. com/2014/03/06/true-crime-2/> (25 September 2016). Emphasis added.
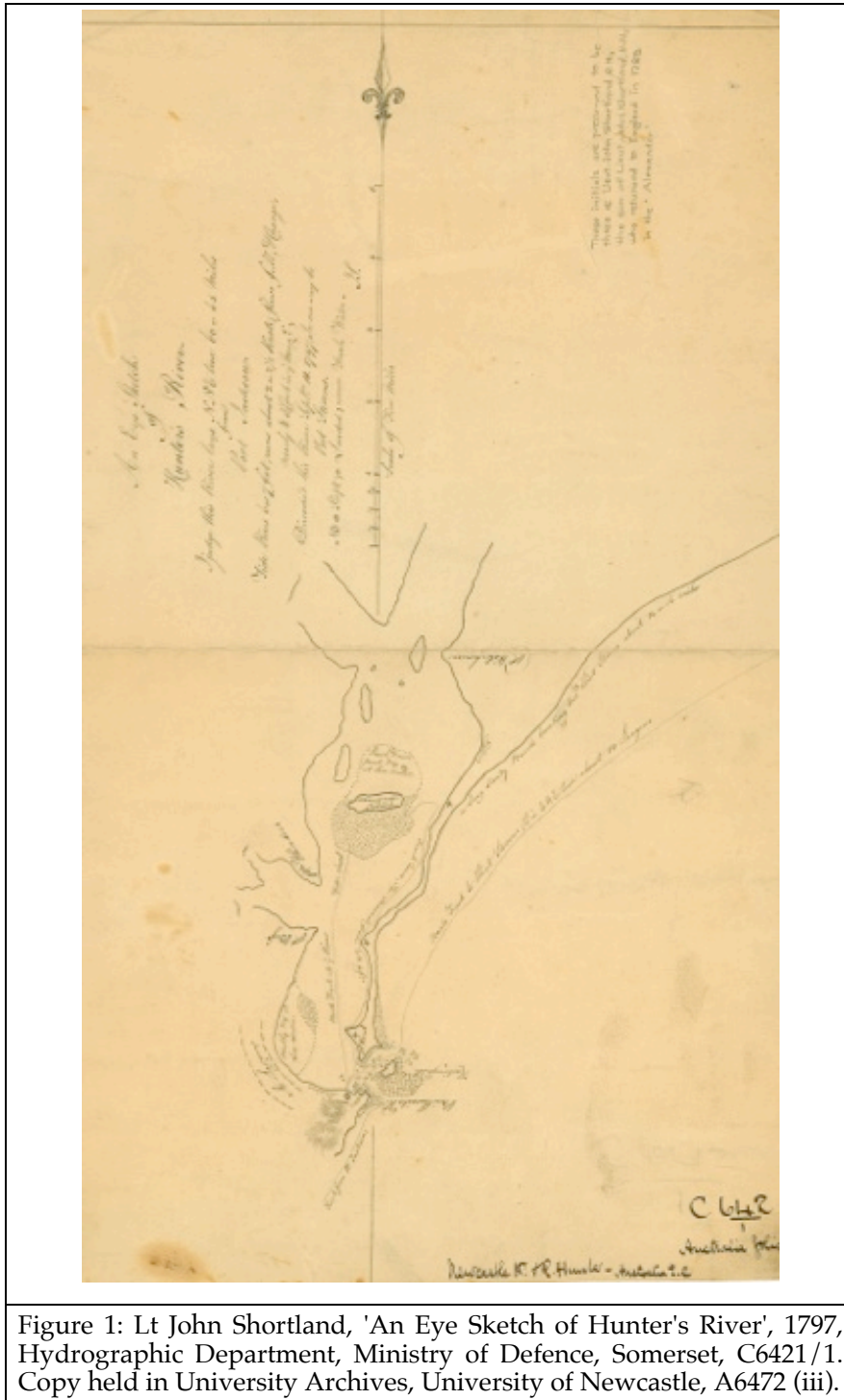
Figure 1: Lt John Shortland, 'An Eye Sketch of Hunter's River', 1797, Hydrographic Department, Ministry of Defence, Somerset, C6421/1. Copy held in University Archives, University of Newcastle, A6472 (iii).

According to that old formula, the colony of New South Wales (NSW) now required its own place of exile for convicts who reoffended while serving their original sentence, for free persons who broke the law as it applied to everyone and, most importantly in the immediate term, for those who attempted mutiny or escape. Henceforth, Mulubinba, named for the flower that grew there in abundance, would be variously known as Kings Town, Coal River and more lastingly Newcastle, a nomenclature that reveals a very colonial preoccupation with deferential expressions of authority and the extraction of wealth. For a time it was also intimately associated with a productive form of terror, having evolved from the haphazard discomforts of a convict camp into something more systemised — an imperfect prototype that formed the basis of the Bigge Report's recommendations for secondary punishment and convict re-transportation.[6] Newcastle, however, could not long reconcile the promise of a future with the power of a (penal) reputation. For exile and industry were not entirely compatible long-term goals. Thus by 1822 the prototype was proving a little too imperfect and the commandant of Newcastle was struggling to maintain its penal character against the irrepressible forces of encroaching free settlement from without and from the associated problems of convict escape from within. Indeed, the very reasons for the existence and subsequent closure of Newcastle support the argument that punitive systems of transportation invariably sow the seeds of their own demise.[7] Thus in 1821 a new depot was established at Port Macquarie, followed by Moreton Bay in 1824 and the

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[6]   J. T. Bigge, *Report of the Commissioner of Inquiry on the Colony of New South Wales*, London, 1822; J. W. Turner (ed.), *Newcastle as a Convict Settlement: The Evidence before J.T. Bigge in 1819-1821*, Newcastle, 1973; R. Evans, 'Creating "an Object of Real Terror": The Tabling of the First Bigge Report', in M. Crotty and D. A. Roberts (eds), *Turning Points in Australian History*, Kensington (NSW), 2008, pp. 48-61; D. A. Roberts and D. Garland, 'The Forgotten Commandant: James Wallis and the Newcastle Penal Settlement, 1816-1818', *Australian Historical Studies*, Vol. 41, No. 1, 2010, pp. 5-24; L. Ford and D. A. Roberts, 'New South Wales Penal Settlements and the Transformation of Secondary Punishment in the Nineteenth-Century Empire', *Journal of Colonialism and Colonial History*, Vol. 15, No. 3, 2014, DOI: 10.1353/cch.2014.0038. For an understanding of this networked approach see R. Evans and W. Thorpe, 'Power, Punishment and Penal Labour: Convict Workers and Moreton Bay', *Australian Historical Studies*, Vol. 25, No. 98, 1992, pp. 90-111; T. O'Connor, 'Power and Punishment: The Limits of Resistance. The Moreton Bay Penal Settlement, 1824-1842', BA Hons thesis, University of Queensland, 1994; T. Causer, '"Only a Place fit for Angels and Eagles": The Norfolk Island Penal Settlement, 1825-1855', PhD thesis, University of London, 2009.

[7]   D. Meredith and D. Oxley, 'Condemned to the Colonies: Penal Transportation as the Solution to Britain's law and order problem', *Leidschrift*, Vol. 22, No. 1, 2007, pp. 21-22.

resettlement of Norfolk Island in 1825, completing a new network of draconian punishment centres on the distant boundaries of white settlement.

There are many ways to tell the story of convict Newcastle and most are concerned with those ideas of a penal reputation and a colonial and industrial future. Some focus upon the familiar gaol narratives of tyranny and depravity but as Grace Karskens reminds us, 'the dynamics and strategies of banishment, forced labour and punishment are germane' to the story of convict New South Wales, but they 'are not the only narratives, for there were other more glorious visions for the colony'.[8] Indeed at Newcastle most accounts are preoccupied with the city it would become — with the developmental implications of resources and infrastructure.[9] Newcastle has always been an industrious town, a place of mining and making, exporting and employing. It has also always been a *worker's* town, and the convict settlement witnessed the genesis of that too — one of forced labour and rebellious labour.[10] Even in the city's foundational moments of discovery and settlement, provoked as they were by acts of convict piracy and rebellion, it emerges that the history of early Newcastle was not merely predicated on crime, or even coal, but on the pursuit of freedom and upon the corresponding efforts to curtail it. Accordingly, this article is concerned less with the city Newcastle would become and more with the lived experience of the subaltern men and women who challenged the abstract intention of punitive space to create a dynamic and disruptive maritime culture at the port and penal station of Newcastle.

The pervasive influence of water — 'sea harbour and river' as Grace Karskens reminds us in relation to Sydney's Rocks — was both replicated and intensified at the Newcastle penal station.[11] Indeed most

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8   G. Karskens, *The Colony: A History of Early Sydney,* Crows Nest (NSW), 2009, p. 9.

9   See for example, J. Jervis, 'The Rise of Newcastle', *Royal Australian Historical Society Journal and Proceedings,* Vol. 21, No. 3, 1935, pp. 141-196; J. W. Turner, *Coal Mining in Newcastle, 1801-1990: Newcastle History Monographs, No. 9,* Newcastle, 1982, pp. 13-15; D. J. Ryan, 'The Discovery and First Settlement of Newcastle and the Genesis of the Coal Industry', *Royal Australian Historical Society Journal and Proceedings*, Vol. 9, Pt. 5, 1923, pp. 225-259.

10   D. A. Roberts and E. Eklund, 'Australian Convict Sites and the Heritage of Adaptation: The Case of Newcastle's Coal River Heritage Precinct', *Australian Historical Studies*, Vol. 43, No. 3, 2012, pp. 363-380; D. A. Roberts, 'Dissent and Ill-Discipline: The Newcastle Penal Settlement, 1804-1823', in J. Bennet, N. Cushing and E. Eklund (eds), *Radical Newcastle*, Sydney, 2015, pp. 16-23.

11   G. Karskens *The Rocks: Life in Early Sydney*, Melbourne, 1997, p. 183.

colonial representations of the settlement favour a seaward perspective. The artist's eye seemed to gaze over the settlement and out to sea (Figure 3).[12] This is a perspective that continues to make perfect sense to modern Novocastrians, who live and work along the busy waterways of the river and port, but it is one that has often been lost in the wider historiography.[13] Yet from the artist's vantage point, on the high windy ground over Newcastle, it is also possible to comprehend the local implications of Richard Drayton's global observation that 'the critical material actors in oceanic history are the dispositions of the land masses and the flows of winds and currents'. Nature, he rightly insists, 'must always precede culture and economy in the networks of empire'.[14]

At Newcastle, the tides and currents dictated the very nature and rhythm of the working day. Miners, lime-burners and sawyers were as conscious of the water as the boat crews and the unlucky men detailed to build the breakwater. Salt water seeped through their clothing into every sore as they hauled themselves, their chains and their heavy loads though the waters of the harbour and river towards the temptation of the settlement boats. The tradesmen in the superintendent's yard fashioned the wood, nails and copper that kept those precious boats afloat and the commandants badgered Sydney for the skilled labour to build more. For all that, the men quickly found ways of making the rhythm of the waters work for them. In January 1811 Commandant Lt John Purcell complained, 'My lime burners will only work as they see the *Nelson* perform voyages' (see Figure 2).[15]

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12   See also Richard Browne, 'Newcastle, New South Wales with a Distant View of Port Stephens', 1812, Newcastle Art Gallery; Ferdinand Bauer, 'View of Newcastle', 1804, Mitchell Library, Sydney (ML), SVIB/Newc/1800-9/1.

13   This is the fundamental point and purpose of Frank Broeze's study of Australia's relatively neglected maritime culture in comparison to the influential legend of the bush, F. Broeze, *Island Nation: A History of Australians and the Sea*, Sydney, 1998, p. 1. There are important exceptions but it is mostly local historians who have been quicker to develop maritime themes. See for example L. Coltheart, *Between Wind and Water: A History of the Ports and Coastal Waterways of New South Wale*s, Sydney, 1997; T. Callan, *Bar Dangerous: A Maritime History of Newcastle*, Newcastle, 1986, and *Bar Safe: A History of Newcastle Harbour and its Entrance,* Newcastle, 1994; C. Hunter (ed.), *Riverchange: Six New Histories of the Hunter*, Newcastle, 1998; S. Marsden, 'Newcastle Waterfront', *Historic Environment*, Vol. 14, No. 3, 1999, pp. 19-25.

14   R. Drayton, 'Maritime Networks and the Making of Knowledge', in D. Cannadine (ed.), *Empire, the Sea and Global History: Britain's Maritime World, c.1760-c.1840*, New York, 2007, p. 74.

15   Purcell to Campbell, 14 January 1811, State Archives and Records New South Wales (SANSW), 4/1804. It was hard and painful work and the men could see no advantage in creating a surplus cargo in readiness for the *Lady Nelson*.

Indeed, the comings and goings of the vessels of the coastal fleet were closely monitored by *everyone* in the settlement. After all it was the only official line of communication with Sydney and the world beyond. A number of privately owned licensed vessels, belonging to Sydney traders, visited the settlement each month to collect consignments of coal and cedar and at least one larger government vessel was kept in constant motion between Sydney and Newcastle. From 1810 onwards, at Governor Macquarie's insistence, the convicts were to be allowed to write as often as they pleased to their friends in Sydney or elsewhere.[16] They were also allowed to receive the necessaries and comforts of life from their friends in Sydney — spirits excepted. No wonder then that the coastal vessels became the focus for the hopes, fears and ambitions of so many men and women on the settlement. They carried too the latest exchange in the vast body of official correspondence that regulated the lives of free and bond alike, although it was the convicts, under sentence of hard labour, who knew best the truth of Alan Atkinson's assertion that 'print in black and white had reverberations in flesh and blood'.[17]

As new drafts of prisoners arrived to a life of labour and exile, the sense of relative isolation (and perhaps boredom) of those already on the settlement was momentarily broken. Newcomers brought the latest stories from the Rocks, and much older news from London and, for the exiled, news of any description was a welcome distraction. Even after the penal station closed, this sense of occasion did not diminish. It was observed in 1829 that the weekly sailings and arrivals threw 'quite a new life into Newcastle'. Those 'who have not lived here can form no conception of the animation which this imparts to the place'. The inhabitants of the little port waited in anticipation of 'spirit stirring news from the capital of both the mother country and the colony'.[18] A decade earlier the inhabitants of Newcastle would doubtless have given the reports of trials and executions their most particular attention as they anticipated potential new arrivals. It is likely too that what constituted 'spirit stirring news' on the penal station was to be found in the speculative possibilities inferred by the shipping news

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16   'Instructions for the Guidance of Lieutenant Purcell', 1 October 1810, SANSW, 4/1804.

17   A. Atkinson, *The Europeans in Australia; A History: Volume One*, Melbourne, 1997, p. 30.

18   *Sydney Gazette*, 10 October 1829, quoted in J. Goold, 'The Growth of Newcastle Part 1', *Newcastle and Hunter District Historical Society,* Vol. 8, 1953, p. 10.

and the regularly gazetted lists of those absent from their labour — including bushrangers and pirates.

In addition, the newly arrived convicts and the ships' crews carried a heady mix of gossip, conjecture and rumour which could send the settlement into a murmuring turmoil before the ships had even berthed. Thus, Lt Thomas Skottowe, commandant at Newcastle between December 1811 and February 1814, was faced with a mass escape when news came of a warship anchored in Sydney harbour. He reported that 'the whole of the men in this place [think] that if they can get to Sydney they will meet a welcome reception on board the Sloop of War and no argument can convince them to the contrary'.[19] There is some irony in the context of New South Wales in Dr Johnson's observation that 'No man will be a sailor who has a contrivance to get himself into a jail: for being in a ship is being in a jail with the chance of being drowned'.[20] In the upside-down world of New South Wales it is perhaps fitting that the reverse proved to be true.

Crucially the government vessels also brought in the vast bulk of public stores that sustained the settlement, and the private necessities and luxuries that granted some relief to the lucky few able to obtain them. They even carried wives and families, who, in turn, brought comfort and goods for trade. Above all, they brought in spirits and in exchange took away stolen or unauthorised goods — typically slop clothing, rations, misappropriated timber or even tools.[21] There were two coastal trades and one was blacker than the finest Newcastle coal. Moreover, the proximity of the sea and that fleet of barques, brigs, sloops and schooners held the promise of even greater rewards than sly grog or smuggled slops.

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[19] Skottowe to Campbell, 19 December 1812, SANSW, 4/1804.

[20] J. Boswell, 16 May 1759, quoted in P. Linebaugh, *The London Hanged*: *Crime and Civil Society in the Eighteenth Century*, London, 1991 p. 130.

[21] Thompson to Campbell, 22 February 1815, SANSW, 4/1804. Similar but not identical patterns emerged at other penal stations and colonial ports. H. Maxwell-Stewart, *Closing Hell's Gates: The Death of a Penal Station*, Sydney 2008, p. 12.

Figure 2: Oil on canvas painting of the Brig *Lady Nelson*, National Musuem Australia, <collectionsearch.nma.gov.au/object/133793 >

Figure 3: Joseph Lycett, 'Inner View of Newcastle', c.1818, Newcastle Art Gallery.

Alan Atkinson asserted that pirates 'were never to make any mark on the operations of empire in the Western Pacific'. He probably had in mind the complex communities and marauding aspects of Atlantic and Caribbean piracy under the Jolly Roger.[22] It is certainly true that there was little scope or opportunity for such predatory activity in Australian waters, but as Ian Duffield's body of work has shown, Pacific piracy, as a form of escape from transportation, was a considerable thorn in the government's side. It challenged their authority, threatened their resources and posed a serious threat to the social order.[23] Atkinson did however concede that 'the customs which had shaped piracy, the power of living voices, the energies and attitudes of seamen, including seamen ashore, were not so easily curtailed'.[24]

Indeed, thanks to broadsides, chapbooks, John Gay and Daniel Defoe, convicts and seamen carried eighteenth century freedom tales across the globe, including the Newgate acrobatics of the remarkable Jack Shepherd and the saltier excesses of the notorious Atlantic pirates. For the convicts these stories of old worlds and new merged into an enduring culture of resistance and 'excarceration' (a counter point to incarceration).[25] While this print culture typically enriched the mental baggage of the English (both literate and illiterate), the Irish, who made up much of Newcastle's founding population, preferred to carry their cultural baggage in the memory of a tune. Light Irish aires 'chronicled

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22   Atkinson, *op. cit.*, p. 36. There is evidence of limited pirate behaviour centred around Mullet Island in Broken Bay, preying on the Hawkesbury traders, Karskens, *The Colony*, p. 300.

23   Ian Duffield calculates that, between 1790 and 1829, convicts successfully seized at least eighty-two vessels and boats, and that there were at least twenty-two further failed attempts. I. Duffield, 'Cutting Out and Taking Liberties: Australia's Convict Pirates 1790-1829', *International Review of Social History*, Vol. 58. No. 1, 2013, pp. 197-229; I. Duffield, '"Haul away the anchor girls": Charlotte Badger, tall stories and the pirates of the "bad ship Venus"', *Journal of Australian Colonial History*, Vol. 7, 2005, pp. 35-64. See also, I. Duffield, 'Identity Fraud: Identifying the Impostures of "Robert de Bruce Keith Stewart"', *Journal of Social History: Societies and Cultures*, Vol. 45, 2011, pp. 390-415; G. Karskens, '"This Spirit of Emigration": The Nature and Meaning of Escape in early New South Wales', *Journal of Australian Colonial History*, Vol. 7, 2005, pp. 1-34; E. Ihde, 'Pirates of the Pacific: The Convict Seizure of the Wellington', *The Great Circle*, Vol. 30, 2008, pp. 3-17. In a more popular tradition see, D. Levell, *Tour to Hell: Convict Australia's Great Escape Myths*, St Lucia (Qld), 2008; W. Hirst, *Great Convict Escapes in Colonial Australia*, East Roseville (NSW), 1999.

24   Atkinson, *op. cit.*, p. 36.

25   On 'excarceration', see Linebaugh, *op. cit.*, p. 23; T. O'Connor, 'Buckley's Chance: Freedom and Hope at the Penal Settlements of Newcastle and Moreton Bay 1804-1842', *Tasmanian Historical Studies*, Vol. 6, No. 2, 1999, p. 123.

darker collective memories' and served to keep alive 'the barely contained rage that had erupted at Castle Hill government farm in 1804'.[26] Regardless of precisely how these ideas were transmitted and transposed, there is ample evidence of the refusal to be contained either legally or physically in a long colonial history of piracy and mutiny.[27]

A matter of weeks after the first draft of Irish Rebels was sent to establish the settlement in 1804, Governor King sent twenty-one newly arrived English prisoners who had arrived on the *Coromandel* straight to Newcastle.[28] They were 'none of the best', he explained to Commandant Menzies, but 'by mixing the Englishmen with the Irish' he promised himself 'less evil would arise'. He was to be disappointed, for the Irish and English convicts first plotted *together* to kill the military and take the settlement and later fell into two distinct groups with two distinct plans. King greeted the news of the first attempt by assuring a very shaken Menzies that 'we have but little else to expect than to be constantly harassed by the schemes of those whom it is our duty to guard'. Two of the 'worst ring leaders', Neil Smith and Francis Neeson, were ordered to Head Quarters for trial in separate vessels, double irons and handcuffs'. This was after they had already received up to five-hundred lashes.[29] These transfer precautions were indicative of more than an urge to punish. The coastal vessels were always vulnerable to the ambitions of the convicts and the unpredictability of their crews, who were often just as willing, and far better placed, to test the limits of authority.[30]

The coastal vessels, their trade routes and the harbours where they berthed were all contested spaces. A host of port regulations were

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26   Murray, *op. cit.*, np.

27   Piracy was endemic to both New South Wales and Van Diemen's Land throughout this period. See for example, Karskens, '"This Spirit of Emigration"', pp. 1-34; C. Anderson, 'Multiple Border Crossings: Convicts and other Persons Escaped from Botany Bay and Residing in Calcutta', *Journal of Australian Colonial History,* Vol. 3, No. 2, 2001, pp. 1-22; Ihde, *op. cit.*, pp. 3-17.

28   On extra-judicial removals to penal settlements, see L. Ford and D. A. Roberts, 'Legal Change, Convict Activism and the Reform of Penal Relocation in Colonial New South Wales: The Port Macquarie Penal Settlement, 1822–26', *Australian Historical Studies*, Vol. 46, No. 2, 2015, pp. 174-190.

29   King to Menzies, 7 June 1804, King Papers, ML, MSS 582; *Sydney Gazette,* 5 August 1804.

30   E. Christopher, '"Ten Thousand Times worse than the Convicts": Rebellious Sailors, Convict Transportation and the Struggle for Freedom, 1787-1800', *Journal of Australian Colonial History,* Vol. 5, 2005, pp. 30-46; Atkinson, *op. cit.*, p. 113.

adapted over time to restrict the movement of the vessels and their cargoes and crew, unless under strict supervision.[31] David Day observes that 'the regulations designed to prevent the escape of convicts from the colony … also bore heavily upon the movement of free persons'.[32] They were meant to. King's instructions to Menzies could not have been plainer. 'If any vessel comes to the river without my licence you will confine her crew and scuttle the vessel'.[33] For attached to fears of convict piracy were fears of crew complicity.

However, a government licence did not guarantee the loyalty of the crew or even the master. It was no doubt with this in mind that convicts Joseph Myfield, John Baker, James Carmon, John Pierce and Thomas Coyne seized the lime-burner's boat and pulled alongside the *Resource* in September 1811. Neither the nature nor extent of their negotiations is recorded, but we do know that they got no further than the triangles where each received a surprisingly modest and oddly precise forty-three lashes.[34] It was a familiar outcome for the former soldier (and deserter) Thomas Coyne, who had made many such attempts at both Newcastle and Port Jackson.[35]

This really was part of the problem. Those sent to Newcastle for attempting to escape would invariably risk it again. In early October 1810 Purcell's already considerable problems were complicated by the arrival of Edward Barns, John McDonald, Dominic McIntyre, James Maxwell and William Cairney, the ringleaders in a daring conspiracy to seize the American brig *Aurora* from Sydney Harbour. It seems they wasted little time for even before the month was up Purcell was

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31   These portside anxieties started even before the main settlement was established in 1804. See for example, Government and General Orders, 3 July 1801, and 24 October 1801, *HRNSW*, Vol. 4, pp. 430-331, 598; Transport Office to Lord Hobart, 4 February 1802, *HRNSW*, Vol. 4, p. 693; Regulations Respecting Vessels, Foreign and English, 4 October 1806, *HRNSW*, Vol. 4, p. 194; Lt Purcell's Instructions, 1 October 1810, *HRNSW*, Vol. 7, pp. 421-423; Port Regulations, 6 February 1819, cited in D. Day, *Smugglers and Sailors*: *The Customs History of Australia 1788-1901*, Canberra, 1992, p. 214.

32.   Day, *op. cit*., p. 122. As the choleric correspondence between masters and commandants over the course of the settlement's history reveals, these restrictions were bitterly resented and often resisted.

33   General Order, 24 March 1804, SANSW, 4/1804.

34   Return of Punishment, September 1811, SANSW, 4/1718.

35   Return of Punishment, March 1818 and December 1819, SANSW, 4/1718; Purcell to Campbell, 12 July 1811, and 21 April 1810, SANSW, 4/1804.

reporting that, 'they have played all manner of tricks to get off'.[36] Interestingly a serving soldier named Samuel Elliot was implicated in the attempt against the *Aurora* and he was also sent to Newcastle, not as punishment under court martial, but merely to join the detachment there. We may infer that this was deemed punishment enough.[37]

For almost twenty years, successive commandants struggled to impose their authority over the traffic of the port. The port and settlement regulations are testament to the rigour and reach of government power, but the frequency with which they were posted, with all manner of adaptations, reveals the extent to which that power was tested. Every positive order was a response to the convicts' latest attempt to skirt the boundaries of obedience and disobedience. We may glimpse a plethora of long forgotten tales of evasion, defiance and escape behind Commandant James Thomas Morisset's constant insistence that no ship enter the harbour under cover of darkness;[38] behind Commandant Wallis's attempt to close the territory around the lighthouse and signal post,[39] and behind every commandant's anxious orders 'to muster the men'! when the alarm was raised. A host of regulations concerning the supervision of the settlement boats and, above all, the security of oars and sails, reveals a long history of stolen chances and carefully hatched plans.[40]

For even the tightest of regulations, to be effective, they had to be enforced. But a sense of duty was not always a match for the waterside negotiations and combinations of the sailors, soldiers and convicts, who all looked to the sea for their salvation. In August 1819 John Russel was punished with seventy-five lashes 'for secreting 3 oars & conspiring with 2 soldiers in cutting out a boat'. John Garsted received fifty lashes 'for being a constable on duty knowing of the same and not attempting to stop it'.[41] What happened to the soldiers is more difficult to ascertain. They are largely absent from the civil records of colonial administration and have subsequently been dismissed as marginal to

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[36]   Purcell to Campbell, 23 October 1810, SANSW, 4/1804. By 'off' Purcell means off the station (escape).

[37]   Campbell to Purcell, 8 October 1810, SANSW, 4/3490; Purcell to Campbell, 23 October 1810, SANSW, 4/1804.

[38]   Government and General Order, 11 November 1820, SANSW, 2/8632.

[39]   Government and General Order, 14 December 1816, SANSW, 2/8632.

[40]   Government and General Order, 10 April 1823, SANSW, 2/8632; Returns of Punishment, August 1819, June 1820, and February 1821, SANSW, 4/1718.

[41]   Return of Punishment, August 1819, SANSW, 4/1718.

the history of convict society and colonial development.[42] However the evidence at Newcastle reveals that this was a bureaucratic absence not an experiential reality. Moreover, at Newcastle official attempts to minimise social interactions between soldiers and convicts demonstrates the importance of the boundaries between free and bond and between civil and military to the process of colonial governance.

Newcastle perfectly demonstrates the locational and functional incompatibility of its competing moral geographies. On the one hand, we have an institution of constraint driven by penal, naval and military discipline and on the other all the familiar freedoms, dysfunction and disorder of a port. This in turn may also imply an interesting process of social and geographical transformation, whereby the abstract and official intention of penal space at Newcastle can be re-imagined as a place that acquires unintended characteristics. As one that was overlaid with a range of unsanctioned new meanings invested by the convicts, soldiers and sailors and shaped by their diverse and often oppositional interests.[43]

Occasionally soldiers such as Samuel Elliot and Thomas Coyne crossed the Rubicon, and the regimental line, to join the convicts. They too were unwilling transportees of sorts, constrained, isolated and exiled and as Purcell observed 'this place is as nearly disagreeable to one as to the other'.[44] The soldiers had limited scope at Newcastle to enjoy their nominal freedom, or their wages. Not least because, as Ogborn and Philo point out in their examination of the historical

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[42]   John Hirst was especially dismissive. J. B. Hirst, *Convict Society and its Enemies: A History of Early New South Wales*, Sydney, 1983, p. 80. Peter Stanley sets the record straight in *The Remote Garrison: The British Army in Australia 1788-1870*, Sydney, 1987, p. 7. For comparative work see P. Way, 'Rebellion and the Regulars: Working Soldiers and the Mutiny of 1763-1764', *William and Mary Quarterly*, Vol. 57, No. 4, 2000, pp. 761-792; P. Wray, 'Class and the Common Soldier in the Seven Years War', *Labour History*, Vol. 44, No. 4, 2003, pp. 455-481. A significant local contribution is P. Hilton, '"Branded on the Left Side": A Study of Former Soldiers and Marines Transported to Van Diemen's Land 1804-1854, PhD thesis, University Tasmania, 2010, p. 82.

[43]   H. Lefebvre, *The Production of Space*, Oxford, 1991; G. Rose, *Feminism and Geography: The Limits of Geographical Knowledge*, Minneapolis, 1993; For an exploration of ideas around the creative tension between official space and convict place see Karskens, *The Colony*, pp. 1-18; G. Karskens, 'The Settler Evolution: Space, Place and Memory in Early Colonial Australia', *Journal of the Association for the Study of Australian Literature*, Vol. 13, No. 2, 2013, p. 1; G. Karskens, 'Seeking Sydney From the Ground Up: Foundations and Horizons in Sydney's Historiography', *Sydney Journal,* Vol. 4, No. 1, 2013, pp. 184-185.

[44]   Purcell to Campbell, 4 August 1810, SANSW, 4/1804.

geography of nineteenth-century Portsmouth, 'The Army and Navy developed an early expertise in the techniques and spatial practices of discipline. They infiltrated the social lives of their employees more deeply than did virtually any other nineteenth-century employer'.[45]

This level of workplace control was a predicament the convicts understood only too well. Nevertheless, the disciplinary techniques that in many ways unified the convict and military experience could also divide it. The complementary forces of regimental discipline and brotherhood and the material benefits of rum and wages usually discouraged overt gestures of commonality. At Newcastle officers made no secret of their reliance upon the 'police fund of Newcastle' — an indispensable bribe of spirits that kept truculent and lonely soldiers at their posts. Such strategies helped keep soldiers behaving 'as they were meant to do' — 'as the teeth and claw of empire'.[46] The lime-burner's gang found this to their cost on 14 May 1814. The convicts attempted to seize a boat and make their escape, and one of their number was seriously wounded, when the military instantly opened fire.[47] As allies the seamen always proved a likelier prospect. After all they needed to cultivate reciprocal relationships with the convicts to enjoy the benefits of the black market and they did not carry muskets.

In 1810 in one of Commandant Purcell's long and rambling letters he complained the sailors 'of the *Lady Nelson* are very bad - their officers not only take no lead but encourage them'. It seems Bryan Eagan, her emancipist master, was in the habit of losing convicts on the way to Newcastle. On this occasion, it was the famous absconders Ratty, Tobin and Hogg.[48] 'Eagan is very much to blame', insisted Purcell, 'being in the habit of taking off the irons from the men'.[49] And naturally those who could swim seized such opportunities to jump

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45   M. Ogburn and C. Philo, 'Soldiers, Sailors and Moral Location in Nineteenth-century Portsmouth', *Area,* Vol. 26, No. 3, p. 221. See also N. A. M Rogers, *The Wooden World: An Anatomy of the Georgian Navy*, London, 1988, pp. 205-229; Hilton, *op. cit.*, pp. 80-106.

46   Atkinson, *op. cit.*, p. 252. They were of course also kept in line by fearsome discipline that was structured around the Mutiny Act and the Articles of War.

47   Purcell to Campbell, 14 May 1810, SANSW, 4/1804.

48   Purcell to Campbell, 6 July 1810, SANSW, 4/1804. Ratty and Tobin's long tale of running and refusal would end with a certain raffish dignity on the gallows, while poor Samuel Hogg would drown in the Hunter River in 1814. O'Connor, 'Buckley's Chance', p. 124.

49   This was one of several conflicts between commandant and master. Purcell to Campbell, 6 July 1810, 9 September 1810, and 16 September 1810, SANSW, 4/1804. Lt John Purcell was Commandant from February 1810 – December 1811.

ship. Thus, in March 1811, 'Saide, a moor, effected his escape at Broken Bay by swimming'. We hear nothing further of his fate in the Commandant's correspondence, but since Broken Bay was the gateway to the Hawkesbury we can assume he was making for the river settlement and its more 'nefarious geographies'.[50]

The rare appearance of a large ocean-going vessel and crew (as opposed to the regular coastal craft) in Newcastle harbour sparked all manner of ambitious and piratical plots. Throughout November 1816 Commandant Wallis reported anxiously that the presence of the Brig *Nautilus* of Calcutta was creating 'much speculation amongst some of the prisoners'.[51] In fact it would bring the settlement to a virtual standstill and the commandant to the end of his fraying tether. A week later Wallis wrote that he:

> had frequent information of plots *between the prisoners and crew to get off …*. I fouled the first attempt by the sentry firing on the men endeavouring to carry off the pilot boat … From the loss of the *Tryall* and the reported capture of the *Kangaroo* together with the encouragement received by the prisoners from some persons on board the *Nautilus,* I never had a more uneasy time, and my men from constant duty … are much harassed.[52]

On the face of it, it was a good month for pirates in New South Wales.

The small crews of the private vessels were generally comprised of convicts and emancipists and even the free seamen (many would have been non-European sailors or 'lascars' under strict terms of indenture) of the Brig *Nautilus* did not represent a distinct category. Again the legal boundaries were blurred by shared experience.[53] Perhaps this obvious commonality is why the sailors of the *Hunter* informed the commandant that they would not permit Thomas Hughes to board their vessel for transfer to Sydney, 'having got some knowledge of his intended profession' — as an executioner.[54] Their defiance may have been no more than an expression of the superstitious dread, with which sailors regarded any portent of death, and an executioner was certainly that, but it could also be understood as a deliberate act of

50   Purcell to Campbell, 6 March 1811, SANSW, 4/1804; *Sydney Gazette*, 30 March 1811.
51   Wallis to Campbell, 16 November 1816, SANSW, 4/1806.
52   Wallis to Campbell, 28 November 1816, SANSW, 4/1806.
53   Atkinson, *op. cit.*, p. 113; Day, *op. cit.,* p. 122; Karskens, *The Rocks,* ch. 16.
54   Purcell to Campbell, 29 January 1811, SANSW, 4/1804.

solidarity with the convicts. Like the soldiers, sailors understood the rigours of a working life characterised by constant supervision, brutal discipline and close confinement. However, as Peter Linebaugh points out, 'this was aboard ship'.[55]

For in a curious reversal of the convict life, land brought freedom for the sailor in the time-honoured tradition of revels and riots. No one understood this better than the naval authorities.[56] Thus, among the many orders relating to Newcastle issued in 1804 were instructions that 'those who have permission to get cedar or coal … are to by no means to interfere with people at public labour … nor are they to behave troublesome or riotously … or to disregard any public order'.[57] However, they did as sailors always did and disregarded every order.[58] Five years later Purcell, the first *regimental* commandant of Newcastle, took command and tried to take control. In shocked tones he told Governor Macquarie that he had tried to 'enforce something like morality at this place; Newcastle has been the hell of NSW. The way sailors were allowed to go on was worse than on the most infamous street in London or Paris'. The fact that their behaviour went so long unchecked is surprising, given the penal function of the port and prevailing anxieties about the debilitating effects of venereal disease, which according to Purcell 'raged here among my people'.[59] At Newcastle the disruptive behaviour of the crews reveals an interesting weakness in the penal station regime.[60] Here we can see the commandants' confidence and authority waver in the face of the self-conscious freedom of men like Bryan Eagan or Captains Overhand and Whyte who were not bound by the chains of penal, naval or military command.[61] Although given the Governor's ultimate authority this

55   Linebaugh, *op. cit.,* p. 131.

56   See for example Ogburn and Philo, *op. cit*., pp. 221-231.

57   General Order, 24 March 1804, SANSW, 4/1804.

58   E. P. Thompson, *The Making of the English Working Class*, New York 1966, p. 606.

59   Purcell to Campbell, 6July 1810, SANSW, 4/1804.

60   Purcell to Campbell, 6 July 1810, and 11 September 1810, SANSW, 4/1804; Tucker to Wallis, 14 July 1817, SANSW, 4/1806. Successive assistant surgeons presented similar problems, especially to Purcell. See various letters from Purcell to Campbell in 1810 and 1811, SANSW, 4/1804. Regarding the challenge of prisoners becoming free, see Purcell to Campbell, 20 April 1811, SANSW, 4/1804, and Morisset to Campbell, 9 July 1819, 21 July 1819, 16 August 1819, and 19 October 1819, SANSW, 4/1807.

61   Wallis to Campbell 14 July 1817, SANSW, 4/1806; Purcell to Campbell, 16 December 1810, and 9 July 1811, SANSW, 4/1804; P. J. Byrne, '"The Public Good": Competing Visions of Freedom in Early Colonial New South Wales', *Labour History*, No. 58, 1990, pp. 76-83.

was a freedom more significant in the way it was felt and asserted, than in the way it was experienced. Nevertheless, there can be no doubt that the transitory presence of seamen at Newcastle subverted the commandants' authority and undermined the penal imperative of the settlement. Moreover, they could also present more long-term problems.

Among those sentenced to penal stations were a number of sailors, seamen and sea-going tradesmen.[62] They brought to convict life what Linebaugh describes as 'the large and historic experience of the deep sea proletariat' which was above all characterised by a culture of cooperation and a medley of highly desirable skills.[63] These were skills that were put to immediate use by the authorities and more circumspectly by the convicts themselves as oars, sails and even boats were stolen or secretly constructed in readiness for the opportunities offered by a ship like the *Nautilus.* The arrival of the *Nautilus* ended with the loss of some of Wallis's most trusted, skilled and therefore relatively indulged men. These prized convicts, graced with the finest huts, gardens and positions of trust, were quickly recast as 'the most desperate of villains'. Patrick Riley, the chief carpenter, and William Evans, the settlement boat builder and hitherto a favourite of Wallis, were the ringleaders in one of the most daring and meticulously organised plots in the history of Newcastle. Armed with the settlement's finest boat, coastal charts, the navigational skills to read them and a set of pre-arranged signals they easily slipped out of the harbour to the point of rendezvous. They played their part with faultless precision and waited up the coast for the *Nautilus.* She did not come. Captain Edwards, who was subsequently implicated in the plan, apparently lost his nerve. He delayed sailing and when he finally weighed anchor, the weather changed and his ship was wrecked in the treacherous waters off Nobbies and with it the hopes of Patrick Riley, William Evans, William Crane, Samuel Connelly, Samuel Austen, Thomas Johnston and Walter White. [64]

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[62]   Atkinson, *op. cit.*, p. 113, calculated that one fifth of the convicts transported to the Australian colonies were former seamen.

[63]   Linebaugh, *op. cit.*, p. 123. While Macquarie was inspecting Newcastle in 1818 some twenty men attempted to steal a number of small private vessels from Port Jackson, no doubt with the intention of cutting out a larger sea-going vessel then at Port Stephens. Eleven of these men were subsequently sentenced to Newcastle in August 1818. *Sydney Gazette*, 1 August 1818.

[64]   Wallis to Campbell, 28 November 1816, and 9 November 1816, SANSW, 4/1806.

The entrances to the barred rivers of Australia's east coast are littered with such wrecks, drawing our attention to the sea as a fearsome and life threatening place. The waters off Newcastle were among the most treacherous on the east coast claiming the *Norfolk* (1800), the *Francis* (1805), the *Dunde*e (1806), the *Governor King (*1806), the *Estramina* (1816) and the *Nautilus* (1816), before Governor Macquarie had even laid the foundation stone to the breakwater in 1818. In such conditions, not even those convicts with the navigational skills of an officer were sure of success. Among those twenty-one Englishmen sent to Newcastle in May 1804 was Mr William Douglas[s] who had been an officer in the Royal Navy. King, with a remarkable faith in the intrinsic powers of social class, told Menzies 'I am hopeful he will be of service to you … give him an opening, whereby he may be enabled to recommend himself to your confidence'.[65] The precise details of his first year at Newcastle are unclear but two things are certain; he was of no lasting service and he never took his eyes off the horizon. For in September 1805 we learn that:

> Douglas[s] has again been at the head of a party under an idea of running away with one of our boats with an intention of going to Timor or if Possible to get possession of *The Contest* a schooner … [now] in Port Stevens, having run past our harbour some days previous.[66]

Again, there were signs of considerable planning. Sails had been stitched out of bed ticking and an intelligence network was quick to warn the would-be pirates that the game was up. Nevertheless, Douglas was arrested, chained and led to gaol.[67] It was his second failure in as many months, and as the constable marched him off, he could not resist one last pathetic dash for the sea and its 'more lethal certainties'. In this too he was thwarted.

In April 1819, a former sea captain and native of Bermuda named John Briggs, and a seaman called Thomas Crane, were, like William Douglas, to feel the painful consequences of 'forming a plan to cut out a vessel'.[68] Briggs however bided his time for another opportunity, and it came in June 1820 when, while serving in the boat crew up river, he

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65   King to Menzies, 8 May 1804, King's Letter Books, ML, MSS 562.
66   Menzies to Campbell, September 1804, SANSW, 4/1804.
67   Gaol in this context refers to the settlement lockup used for the purposes of temporary confinement and constraint.
68   Return of Punishment, April 1819, SANSW, 4/1718.

led five men against the overseer, down river and out to sea. Their hoped-for destination was Botany Bay and a vessel called the *Black Jack.* Briggs left a farewell message for Commandant Morisset, which, for all its glorious bravado, he would come to regret. Morisset informed the Colonial Secretary that 'Briggs is a desperate villain and desired the coxswain to tell me that as he should soon be Captain of a vessel he would fire a salute as they passed Newcastle'.[69] This would doubtless have raised an appreciative laugh among the convicts at the settlement for Morisset was famous for his obsessive insistence that they salute his every appearance.[70] However, Briggs's confidence was premature. They never reached the *Black Jack* and there would be no ironic salutes.

Many of these attempts were clearly the product of careful preparation. This implies private spaces with networks of cooperation and lives lived partly beyond the ambit of control. In 1817 Wallis issued the following order that reveals much about the physical and social space of the settlement.

> The Commandant having learnt with surprise that last night some of the prisoners had the audacity to cut the sails off a boat from the mast in the Superintendent's yard is determined to use every means in his power to discover the perpetrators of so daring a fraud. There were four persons concerned. The Commandant promises pardon and reward to any one of them who will discover their accomplices [sic] or to any other person who will give him information that may lead to a detection. He will be sure in time to discover the perpetrators and make an example of them, which will prevent in future attempts of this kind. He further directs that no person is to quit this settlement except those free by servitude. All gangs to work from daylight to dark, should any person desert the settlement the commandant will hold the owner of the hut responsible and seize it in the name of the crown.[71]

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69   Morisset to Campbell, 13 June 1820, SANSW, 4/1807. The *Gazette* only refers to him as a seaman, raising the possibility of confusion on Morisset's behalf. There was a Captain Briggs in the colony during this period, but there is no evidence to suggest that he became a convict. *Sydney Gazette*, 27 March 1827.
70   Government and General Order, 10 December 1822, SANSW, 2/8632.
71   Government and General Order, 20 April 1817, SANSW, 2/8632.

The meanings attached to the successful theft, removal and concealment of those sails was not lost on Wallis. This incident entailed the theft of government property and the promise of escape, which was serious enough, but it also revealed the ability of the convicts to contest the punitive space and to assert their cooperative traditions in the face of hierarchical expectations. Hence Wallis's professed surprise and his assertion of the convicts' audacity and daring. He responded first by attempting to close convict spaces. He increased the working day, reduced their mobility and threatened their huts. Secondly by encouraging informants and compelling hut owners to police their residences and inform upon their companions he was effectively seeking to constrain and to sever the convict's cooperative relationships. But although the commandant usually found someone to make an example of, he never prevented the convicts from making 'future attempts of this kind'.

Escape by sea or land, prompted by the push factor of pain and the pull factor of hope, was a thoroughly logical response to unfreedom, and piracy was a thoroughly logical response to the prevailing conditions at Newcastle. But the seizure of boats was more than the seizure of ameliorative opportunities. By taking to the seas Australian convicts were echoing older solutions to the incursions of empire and the mercantilist state. Piracy potentially allowed men, and the occasional woman, to do more than disappear across oceans, islands and continents.[72] It also, as Alan Atkinson has shown, allowed them to dream of other ways of living, where no power would attempt to disturb them.[73] Thus, on the night of 7 April 1814, convicts Joseph Burridge, Edward Scurr, Herbert Styles and John Pearce overcame the master and crew of the *Speedwell* schooner and sailed swiftly and silently from Newcastle to a life or death among the islands of the Pacific.[74]

There were of course less emphatic ways of establishing subversive subaltern communities. If Newcastle was something of a nest of would-be pirates, then it was also a smugglers den. A detailed

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[72]   Duffield, 'Charlotte Badger', pp. 35-64.

[73]   Atkinson, *op. cit.*, pp. 40-41.

[74]   The *Sydney Gazette,* noting they had no small boats and limited provisions, insisted that certain death was the likely outcome, *Sydney Gazette,* 23 April 1814. In fact, they had water supplies and provisions for two weeks. As a recent sensational archival discovery in Japan reveals, pirates could make landfall in the most unexpected places, 'Australian Convict Pirates in Japan: Evidence of 1830 Voyage Unearthed', *Guardian*, 28 May 2017.

analysis of all the variables and nuances of this trade is beyond the scope of this article. However, a portion of the vibrant pattern of Newcastle smuggling can be traced in its circuitous journey to and from the sea. Timber, iron, coals and all manner of goods earmarked for exclusive government consumption were liberated for the 'free market' by the application of deft hands, blind eyes and faulty measures.[75] In 1814, Governor Macquarie wrote to Commandant Lt Thomas Thompson complaining that he seemed oblivious to the fact that the 'superintendents and overseers continued to carry on an illicit traffick for private advantage'. Thompson was at a loss, replying that 'I take every precaution checking the cargo and shall take more'.[76] Written exchanges of this sort persisted throughout the settlement's history and once more official anxieties were expressed in the rapid inflation of orders and regulations designed to reassert government control over its labour and resources.

Figure 4: Barracks with Christ Church in the distance, Newcastle, New South Wales, c.1820, watercolour painting by Edward Close (1790-1840), PIC Drawer 8631 #R7273, National Library of Australia.

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[75]   Linebaugh, *op. cit.,* pp. 153, 162-63.
[76]   Thompson to Campbell, 27 August 1814, SANSW, 4/1805.

Thus, in 1816, Commandant Wallis was taking no chances. He had sentries posted over the sawpits in the lumber yard, 'their muskets loaded with ball and cartridge', to ensure that no cedar chips, trimmings or off-cuts were lost to the age-old tradition of perquisites of the job.[77] However, it was not just sawn timber that was vulnerable to unauthorised movement. Some years earlier, in July 1810, Commandant Purcell reported that, 'the plunder on government here has been incredible ... The trouble I have been at to prevent the different traders from robbery would astonish you'. He calculated that the government was losing as much as £400 to £500 worth of timber and iron each year. But he ended his report on an optimistic note seemingly very well satisfied with his new procedures: 'I defy them at this time to rob government of an inch of cedar or a pound of iron'.[78] This was a regrettable degree of hubris for quite possibly, even as Purcell was writing, a very large, very valuable log of cedar was buried deep in a cargo of lime and spirited away by the Lady Nelson.[79]

The informant on this occasion, although Purcell's tone suggests she was not intending to be helpful, was a woman named Maria Johnson. Maria it seems was especially desirable. The Commandant had had no fewer than three applications for her hand all in the same month. Purcell thought her a most 'depraved prostitute', a common enough charge in a moral landscape where unchastity was invariably confused with criminality. He also tells us that she was the 'principal cause of delaying vessels here'.[80] He positively shuddered at the prospect of her matrimony, reflecting that 'it would be a great pity to have any young man thrown away on her'.[81] Purcell, though dimly aware of 'some scheme' had failed to spot the most appealing of Maria's qualities — she was very useful indeed. For the complexity of Maria's relationships was an index to the complexity of the illicit coastal trade. Two of the men who wished to marry her were sailors on rival vessels and the third was the chief blacksmith and chief trafficker of government goods. The man to whom she would, in the end, give

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77   Wallis to Campbell, 20 October 1816, SANSW, 4/1806.
78   Purcell to Campbell, 21 July 1810, SANSW, 4/1804.
79   Purcell to Campbell, 27 September 1810, SANSW, 4/1804. The record seems to indicate that the last time the *Lady Nelson* had been in Newcastle harbour was indeed in July.
80   Purcell to Campbell, 27 September 1810, SANSW, 4/1804.
81   Purcell to Campbell, 27 September 1810, SRANSW 4/1804.

her affection and at least nine children was Thomas Crump: one time Newcastle convict, skilled carpenter, boat builder and trafficker *extraordinaire*.[82] Women like Maria may have lacked the inclination to join in acts of piracy but they established their own forms of mobility. Whether circumscribed by the male dominated City Guilds in the old country or by the disciplinary practices of the colonial government, plebeian women had long since learned to take refuge in a vigorous shadow economy.[83] Moving easily among the various factions of the settlement, the women carried, exchanged and received goods, all the while gathering valuable information.[84] The male shadow economy was largely conducted in the workplace, at the waterside, in the stores and on board the ships, but for the most part female commercial activity, while remaining highly mobile, operated more easily within the domestic geography of the settlement.

At Newcastle, living arrangements, for those not confined to barracks, were organized around hut accommodation. Edward Close's Panorama of Newcastle (Figure 4) evokes a charming village-like scene of neatly ranged cottages and an imposing church to create a beguiling impression of benign domesticity. However penal space was never neutral and domesticity was never quite as benign as it appeared.[85] The household had long been understood as a key component of governance in idealized notions of an ordered society. Nevertheless, at Newcastle it became a primary site of disorder, a place where plans were hatched, and where stolen and smuggled goods were secreted

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82   Purcell to Campbell, 9 September 1810, SANSW, 4/1804.

83   M. Perrot, *A Tolerable Good Success: Economic Opportunities for Women in New South Wales, 1788-1839*, Sydney, 1983; P. J. Byrne, 'On Her Own Hands: Women and the Criminal Law in New South Wales, 1810-1830', in D. Philips and S. Davies (eds), *'A Nation of Rogues?': Crime, Law and Punishment in Colonial Australia*, Melbourne, 1984, p. 4; B. Lemire, *Dress, Culture and Commerce: The English Clothing Trade before the Factory, 1600-1800*, New York, 1997, p. 120.

84   Government and General Order, 16 April, 1823, SANSW, 2/8632. Also see, J. C. Appleby, *Women and English Piracy, 1540-1720: Partners and Victims of Crime*, Martlesham, 2015.

85   Anne McClintock cautions against such neutral and 'natural' readings of domestic spaces, or domestic relations, while Catie Gilchrist alerts us to the reforming and regulatory power latent in any such aesthetic representations and arrangements of the 'spatial idyll'. A. McClintock, *Imperial Leather, Race, Gender and Sexuality in the Colonial Contest*, cited in K. Reid, *Gender Crime and Empire: Convict Settlers and the State in Early Colonial Australia*, Manchester, 2007, p. 125. Reid also shows how those same huts and houses could be envisaged as 'mini panopticons' as discipline tightened in the post Bigge era. See also C. Gilchrist, 'Male Convict Sexuality in the Penal Colonies of Australia 1820 -1850', PhD thesis, University of Sydney, 2004 p. 87.

and exchanged.[86] The huts were thus transformed into flourishing, albeit unauthorised and potentially disruptive sites of commercial enterprise.[87] From theirs the convict John Moss and his free wife Elizabeth distributed a rough grog, made with a very profitable illicit still 'that was productive of much drunkenness and riot'.[88] Martha Young, the free wife of a convict constable, also took an entrepreneurial approach to her circumstances and her hut, where she 'conducted herself extremely ill' by keeping a disorderly house and 'fermenting quarrels among the constables and soldiers'.[89] Free women like Martha Young and Elizabeth Moss may not have been under sentence, but their enthusiastic engagement in the shadow economy of the settlement greatly increased their chances of facing a more permanent billet.

In 1815, it became apparent that a very busy passenger service had developed on the coastal vessels, both government and private. Free men and women darted between Sydney and Newcastle under pass pleading urgent business or under the pretext of visiting friends and relations, but as Commandant Thompson belatedly observed, 'in reality for the purpose of carrying on clandestine traffic'. Everyone was implicated, including Mrs Evans, the doctor's wife.[90] A regular visitor was one Joseph McKendly, a former Constable at Newcastle who, armed with a pass from the governor, was well placed to exploit his old connections on the black market under the guise of legitimate trade.[91] Even when free movement was subsequently restricted and the pass system curtailed, the enterprising invariably found a way to operate unhindered.

Later the same year a free woman was sent to Newcastle for 'adulterous behaviour' at the behest of her free husband, Foster, who worked as a carpenter on the *Elizabeth*. Nevertheless, as Wallis dryly observed, 'they now appeared perfectly reconciled'. She was in fact carefully positioned to fulfil the time honoured female role of receiving

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86   Government and General Order, 14 May 1821, SANSW, 2/8632; G. Walker, *Crime, Gender and Social Order in Early Modern Britain*, Cambridge, 2003, pp. 9-13.

87   P. J. Byrne, 'The Use of Space in a Port Town: Sydney 1810-50', *Push From the Bush*, No. 30, 1992, pp. 10-21; P. J. Byrne, 'A Colonial Female Economy: Sydney, Australia', *Social Hi*story, Vol. 24, No. 3, 1999, pp. 287-293.

88   Thompson to Campbell, 19 May 1814, SANSW, 4/1805.

89   *Ibid.*; Morisset to Campbell, 30 June 1819, SANSW, 4/1805.

90   Thompson to Campbell, 15 November 1815, SANSW, 4/1805; Wallis to Campbell, 14 July 1816, SANSW, 4/1806.

91   Thompson to Campbell, 23 July 1814, and 22 February 1815, SANSW, 4/1805.

goods for and from her husband.[92] Thus women were often the means by which goods passed out of the settlement and by which payment, usually in the form of spirits, was distributed within it. It was a form of mobility that would be comprehensively shut down as the penal stations were moved north. The convicts of Newcastle were engaged in a complex juggling act, but it was one for which they were well trained by the common experience of plebeian life. They were familiar with patterns of exchange that were regulated less by currency and more by the movement of material goods.[93] Equally they were adept at the practices — the 'perks and lurks' — that maintained a healthy supply of those goods. A vibrant black economy allowed prisoners with the necessary wherewithal to obviate some of the hardships of penal station life: to supplement their rations, to gain comfort from the bottle in their isolation and even to accumulate property. However, its operation required effort. Success on the black market meant a life lived on wits and stolen opportunities. It also involved a degree of intra-convict theft, which meant greater hardship for the more vulnerable on the settlement. Moreover, this material sub-culture was never an exclusively convict domain. The terms were set by the traders of the coastal vessels and the convict office holders, and if the market was threatened it was ordinary convicts who suffered.

Thus, in 1818 when Macquarie launched what he hoped would be a final assault on the illicit coastal trade, Wallis warned him that a total prohibition on all but government goods would 'deprive the prisoners of the little indulgences compatible with their situation'. More seriously, he intimated that discontented sailors would retaliate by refusing to bring the prisoners' letters. Class commonality and social accommodation had its limits.[94] However, through 'intimate connections' between the Master of the *Mary Anne,* the Chief Constable, the Chief Clerk and the Pilot reveal that, despite Macquarie's intentions in 1818, the structures of the black economy remained as buoyant as ever in 1820.

In part, life at Newcastle was an echo or rather an extension of the struggle born out of the transformation of customary rights into legal

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92   Wallis to Campbell, 20 October 1816, and 16 November 1816, SANSW, 4/1806.
93   See for example, J. Elliott, 'Was there a convict dandy? Convict consumer interests in Sydney, 1788–1815', *Australian Historical Studies,* Vol. 26, No. 104, 1995, pp. 373-392. Moreover, see the insightful contribution from D. Kent and N. Townsend, 'Deborah Oxley's "Female Convicts": An Accurate View of Working-Class Women?', *Labour History*, No. 65, 1993, pp. 179-199.
94   Wallis to Campbell, 2 April 1818, SANSW, 4/1806.

wrongs. Equally it was an echo of traditional attitudes to what constituted crime. The convicts and sailors would have endorsed George Crabbe's poem of smugglers and poachers: 'what guilt is his who pays for what he buys'.[95] Indeed, plebeian networks of exchange and the many forms of unregulated labour, ranging from the licit to the illicit, are far better understood on a continuum rather than as discrete categories on either side of the law.[96]

These 'inglorious' convict visions of the colony may have lacked grandeur, focussed as they were on illicit modes of acquisition and departure, but they showed boundless ambition and ingenuity There is, however, a melancholy postscript. The lessons of Newcastle had been carefully learned and at Morton Bay and Norfolk Island, the convicts' sea-dreams and sub-cultures were to be smothered by a new and more tightly-regulated penal regime. Abstract penal space may well have been incompatible with the irrepressible place-making of the convicts of Newcastle, but it had the advantage of being easily adaptable and infinitely transferable.

In 1992 Paula Jane Byrne wrote, 'The town culture of Sydney arose from the artificial structures of an economy tied to the convict system and the competition of a port'.[97] This was no less true of Sydney's closest trading partner — the Newcastle penal station. Life on the settlement was shaped by the attitudes, beliefs and habits stowed in the transported and migratory baggage of the convicts, seamen and soldiers, but it was also shaped by its proximity to the sea, with all its ambiguous possibilities of comfort, grief, wealth and knowledge. It was the circumstances of the port that created the ideal conditions for the convicts, free sailors and soldiers to replicate the black trading patterns of the old world and to construct their community here in the newest one. Above all, the sea remained the enduring focus for dreams of freedom for the inhabitants of a settlement that was quite literally caught between the devil and the deep blue sea.[98]

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[95]   G. Crabbe, *Smugglers and Poachers: Tales of the Hall*, 2 Vols., London, 1819. See also, J. Rule, *Albion's People: English society, 1714-1815,* London, 1992, p. 235, for an analysis of smuggling as a social crime.

[96]   Lemire, *op. cit.*, p. 120.

[97]   Byrne, 'The Use of Space in a Port Town: Sydney 1810-50', p. 16.

[98]   With a respectful nod to M. Rediker, *Between the Devil and the Deep Blue Sea: Merchant Seamen, Pirates and the Anglo-American Maritime World, 1700-1750*, Cambridge, 1989.