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Masters, Magistrates and the Management of Complaint: The 1833 Convict Revolt at Castle Forbes and the Failure of Local Governance

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The 1833 revolt at Castle Forbes in the Hunter Valley of New South Wales (NSW), in which a small group of convicts conspired to attack the property and take the life of their master, was a sharp reminder of the fragility of law and order in the colony's remote farming and pastoral districts. In three expedited trials in December 1833, six men were twice capitally convicted of stealing from two dwelling houses, five of them also for shooting with intent to kill or for aiding and abetting an attempted murder. Five were subsequently hanged.¹ However, complaints aired by the defendants about 'bad treatment' at Castle Forbes, including insufficient and unwholesome rations, of 'frequent and severe' punishment and malfeasance in the local administration of justice, attracted high-level interest at a time of swelling preoccupation with scandalous abuses of power by peripheral elites.² Although the claims did not exonerate the conspirators, they prompted an inquiry into the management of Castle Forbes and the practices of local magistrates at Patricks Plains (Singleton). The evidence given by convicts, local settlers and government officials provides a unique window into the largely hidden world of relations between masters, magistrates and servants on the margins of the colony and a case study of how those relations could go terribly awry.³

¹ Contrary to popular assumption, they were not sentenced under the terms of the 'Bushranging Act' (2 Will 4, No. 9), which would have mandated their execution within forty-eight hours. One, acquitted of the charge of aiding and abetting an attempted murder, had his sentence commuted to life in irons on Norfolk Island. All six pleaded guilty to a third charge of stealing in a dwelling house. Two charges relating to other robberies were not prosecuted. See Supreme Court of New South Wales: Informations and Other Papers, 1824-1833, State Archives and Records New South Wales (SANSW), 33/234-236; Executive Council Minutes, 12 December 1833, Colonial Office Correspondence: New South Wales, 204-6, ff. 196-97, The National Archive, London. Accounts of the trial were published in the *Australian*, 13 December 1833, p. 3, *Sydney Gazette*, 11 December 1833, pp. 2-3, 12 December 1833, p. 2, and *Sydney Monitor*, 11 December 1833, p. 3, and 14 December 1833, pp. 2, 4.

² L. Benton and L. Ford, *Rage For Order*, Cambridge (US), 2016.

³ Extracts of the evidence were reproduced in the *Sydney Monitor* between 21 January and 3 February 1834, and in J. Mudie, *Vindication of James Mudie and John Larnach*, Sydney, 1834. A fuller set of the evidence, including unpublished depositions and

Historians have focussed on the extraordinary political fallout of the revolt, for although a minor episode it reverberated loudly in a colony that was deeply and rancorously divided.⁴ The affair fuelled a dispute between the administration in Sydney and the Hunter Valley elite over the maintenance of order and stability in the colony's delicate corners, summoning fiercely contested visions of power and privilege in the colony.⁵ However, while these political dimensions have been well canvassed, discussion of what actually transpired at Castle Forbes, and why, remains potted and perfunctory. This article takes a closer look *inside* the Castle Forbes estate, based on a close reading of the evidence collected by the inquiry, supplemented by an analysis of local bench records and a reconstruction of the estate's workforce. I draw on existing literature that has explained how paternalistic management strategies and working-class moral economies were transported to NSW but became challenged and modified by the convict assignment system.⁶ Certainly, the Castle Forbes inquiry garnered ample evidence of egregious failures in the paternalistic/deferential model of master and servant relations.⁷ New evidence, presented here for the first time, also sheds fresh light on the extraordinary punishment regime at the station in the lead up to the revolt.

extracts from the proceedings of the Patricks Plains Bench, are in the Colonial Secretary's Papers, Main Series of Letters Received, 1833, SANSW, 4/2182.1.

- 4 Especially S. Blair, 'The Revolt at Castle Forbes: A Catalyst to Emancipist Emigrant Confrontation', *Journal of Royal Australian Historical Society*, Vol. 64, 1978, pp. 89-107; S. Blair, 'The Felony and the Free? Divisions in colonial society in the penal era', *Labour History*, Vol. 45, 1983, pp. 1-16.
- 5 Competing views articulated in a range of polemics, especially 'Humanitas', *Party Politics Exposed*, Sydney, 1834; 'An Unpaid Magistrate', *Observations on the 'Hole and Corner Petition'*, Sydney, 1834; J. Mudie, *The Felony of New South Wales: Being a Faithful Picture of the Real Romance of Life in Botany Bays*, London, 1837. See also 'Memoranda upon Mudie's "Felony of New South Wales"', in Bourke Papers, Vol. 11, Miscellaneous 1831-1838, Mitchell Library, Sydney (ML), MSS 403-11.
- 6 See especially, A. Atkinson, 'Master and Servant at Camden Park, From the Estate Papers', *The Push*, No. 6, 1980, pp. 42-60; H. Maxwell-Stewart, "'I could not blame the rangers ... ": Tasmanian bushranging, convicts and convict management', *Papers and Proceedings: Tasmanian Historical Research Association*, Vol. 42, No. 3, 1995, pp. 109-126; B. Hindmarsh, 'Scorched Earth: Contested power and divided loyalties on Midland properties, 1820-1840', *Tasmanian Historical Studies*, Vol. 6, No. 2, 1999, pp. 63-80; H. Maxwell-Stewart and B. Hindmarsh, "'This is the bird that never flew": William Stewart, Major Donald MacLeod and the Launceston Advertiser', *Journal of Australian Colonial History*, Vol. 2, No. 1, 2000, pp. 1-28; B. Walsh, 'Assigned convicts at Tocal: "ne'er-do-wells" or exceptional workers? ', *Journal of Australian Colonial History*, Vol. 8, 2008, pp. 67-90.
- 7 D. Stoneman, 'Convict Assignment in New South Wales in the 1830s: Labour Relations Between Masters and Men, with a Focus on Castle Forbes', BA Hons thesis, University of New England, 2007.

However, the evidence is also complicated and conflicting. It does not necessarily support the portrait, offered by earlier historians, of an inevitable upheaval generated by systemic cruelty.⁸ I show that the revolt was more immediately triggered by a serious disturbance on the property, the handling of which united and incited a particular group of individuals to engage in an extraordinarily reckless and revengeful 'rejection of authority'.⁹ More broadly, I interpret the inquiry as revealing a collapse in the management of dispute at Castle Forbes — that is, a dysfunction in the handling of the complaints that masters and servants preferred against one another. This was a problem stemming from but slightly larger than the failure of paternalistic management. It was, most immediately, a situational crisis, originating in labour and interpersonal relations on the station itself, but it also exposed structural and regulatory problems in the administration of convict assignment, particularly as arose from the role of local magistrates in arbitrating workplace disputes. The Castle Forbes revolt reflected not just a disintegration of master and servant relations but also a rare and tragic malfunction in local governance.

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In a mixed grazing/farming region, monopolised by the large estates of elite gentlemen with their large convict workforces, Castle Forbes, owned by 'Major' James Mudie, was considered 'one of the noblest, best cultivated farms in the colony'.¹⁰ Conjoined with the neighbouring property of his son-in-law, John Larnach, Castle Forbes was staffed by pooling together the convicts assigned to each of them, as well as men 'lent' them by other settlers and associates. A reconstruction of that workforce — around sixty-four individuals in total (Appendix 1) — shows that it was broadly reflective of the colony's convict demography: 67% English, 25% Irish and a few Scots.¹¹ Their average age at the time of the revolt was twenty-eight, although there were

⁸ B. T. Dowd and A. Fink, 'Harlequin of the Hunter: Major James Mudie of Castle Forbes (Part II)', *Journal of the Royal Australian Historical Society*, Vol. 55, Pt. 1, 1969, pp. 83-110. See also M. Clarke, *A History of Australia*, Vol. 2, Carlton (Vic), 1962, pp. 204-206. Most historians have been more circumspect and balanced in their accounts of the revolt. For example, J. Hirst, *Convict Society and its Enemies*, Sydney, 1983, pp. 182-184, K. McKenzie, *A Swindler's Progress: Nobles and Convicts in the Age of Liberty*, Cambridge (Mass), 2010, pp. 223-237.

⁹ A. Atkinson, 'Four Patterns of Convict Protest', *Labour History*, Vol. 37, 1979, pp. 28-51.

¹⁰ *Sydney Gazette*, 26 November 1831, p. 2.

¹¹ L. L. Robson, *The Convict Settlers of Australia*, Carlton (Vic), 1965.

older men such as William Wilson ('Old Darby') who was fifty. James Ryan, among those executed for the revolt, was only seventeen. There were a handful of long-serving convicts who had been in Mudie's employ for a decade, and other veterans with long histories in the colony before joining Mudie's service. The great majority, however, including three of the six Castle Forbes conspirators, were only recently assigned to Castle Forbes 'from the ship', having no other experience of work in the colony.¹²

In terms of skill, the Castle Forbes workforce ostensibly featured some valuable tradesmen and a host of agricultural and stock workers including shepherds, ploughmen, gardeners and others with backgrounds in sowing and reaping. Certain elite tradesmen were highly valued, demanding greater respect and extra indulgence — a particular challenge that played some role in the unrest at Castle Forbes, as explained below. But for most, irrespective of their actual or professed skills, assignment to Castle Forbes meant being rotated among common, general farm duties such as shepherding, sheep-washing, shearing, milking, land-clearing, ploughing, reaping and bullock-driving. In these environments, where employment was multifaceted and supervision was relatively sparse, the convict experience was determined less by skill than by the vital qualities of 'diligence, trust and adaptability'.¹³ Masters, for their part, sought profit through securing the deference and obedience of their workers, which they attempted to forge and force through a combination of incentives and punishments, communicating both an interest in and authority over the welfare and labour of their servants. The manners of the master bore heavily on the convict experience of assignment.¹⁴ The evidence collected by the Castle Forbes inquiry also illuminates how master and servant relations were highly individualised and could vary greatly within a workforce. Some workers earned their master's confidence and favour, while others, earmarked as incompetent and restive, were disdained, harassed and punished. Simply put, willing workers and opportunists fared better than those who were obdurate.

¹² Walsh, *op. cit.*, p. 75 calculates a similar predominance of first-time assignees at the Tocal estate at Patersons Plains.

¹³ *Ibid.*, pp. 47-72. See also Maxwell-Stewart, *op. cit.*, p. 119.

¹⁴ D. Kent and N. Townsend, *The Convicts of the Eleanor: Protest in Rural England, New Lives in Australia*, London, 2002, pp. 191-211.

James Mudie was a firm and exacting employer, officious and punctilious but also clear and precise in what he expected of his servants.¹⁵ Early records show his servants being punished for a typical range of disciplinary offences, but also some more unusual ones.¹⁶ He was, certainly, of that class of elite 'up-country settlers' that was said to have assumed an imperious and intense sense of itself as an 'ultra-aristocracy', long suspected of treating their convict servants severely.¹⁷ Mudie's behaviour and opinions after the revolt, when he championed a view that convicts had abrogated their traditional rights and expectations as servants, easily mark him as the epitome of the 'illiberal and avaricious' master complained of by critics of the assignment system.¹⁸ Yet there is no evidence of long-term problems on Mudie's estate. Rather, the inquiry subsequent to the 1833 revolt revealed a serious disintegration in master and servant relations occurring rapidly and recently in Mudie's absence, when the management was delegated to his son-in-law. It is John Larnach who emerges as a principal protagonist in the revolt at Castle Forbes.

The concern, which escalated early in Governor Bourke's administration, was not just with the propensity for mismanagement by masters, but with the larger problem of remote, localised cultures of power and privilege fostering abuse through their incompetent and self-interested administration of discipline and justice.¹⁹ Anxieties pivoted on the quality and competency of the colony's justices of the peace, many of whom, like Mudie, were elite landholders and the largest employers of convict labour.²⁰ As the primary arbiters of disputes between masters and servants, magistrates enjoyed formidable summary powers to punish convicts and to penalise masters for mistreatment and negligence. Against the backdrop of

¹⁵ See for example, 'Rules to be Observed on Mr Mudie's Farm', in Mudie to Goulburn, 9 October 1824, SANSW, 4/1811, p. 169.

¹⁶ For the occasional punishment of Mudie's servants, see Monthly Returns of Corporal Punishments inflicted at Hunters River, 1810-1825, SANSW, 4/1718; Newcastle Bench Books, 1826-1827, ML, MSS 2482-5, including the case of Mary Stewart for 'combining to effect the seduction of her master's daughter'.

¹⁷ P. Cunningham, *Two Years in New South Wales*, Vol. 1, London, 1827, p. 121; *Sydney Gazette*, 9 June 1826, p. 3.

¹⁸ Mudie, *The Felonry of New South Wales*, p. 188; A. Harris, *Settlers and Convicts: or, Recollections of Sixteen Years' Labour in the Australian Backwoods*, London, 1847, p. 332.

¹⁹ L. Benton and L. Ford, 'Magistrates in Empire: Convicts, Slaves, and the Remaking of the Plural Legal Order in the British Empire', in R. J. Ross (ed.), *Legal Pluralism and Empires, 1500-1850*, New York, 2013, pp. 173-197.

²⁰ D. Neal, *The Rule of Law in a Penal Colony: Law and Power in Early New South Wales*, Melbourne, 1991, p. 134.

widespread confusion surrounding the jurisdiction of colonial magistrates — including disquieting lapses in behaviour and judgement and an accumulation of costly civil suits — Bourke's controversial Punishment and Summary Jurisdiction Act of 1832 provided a 'simplification and improvement' of the law that also, in some situations, tempered its severity.²¹

To some, Bourke's interference diminished the power and prestige of local elites and inverted the proper, local processes for maintaining discipline and order. That, in Mudie's view, inflamed 'the malignant feelings of the convicts against the laws and the peaceful settlers who are their immediate employers'.²² In August 1833, thirty-six settlers from Patricks Plains, including the masters of Castle Forbes, were among 'the free inhabitants' of the Hunter Valley who complained to the Legislative Council of an 'increase of crime and insubordination in this district'. The 'limitation of the power of the Magistrates', they said, had had 'the most decisive effect' upon convict deference and subjugation.²³ Probably, such claims were well founded. Convicts undoubtedly became more assertive and resistive in the wake of the Act, emboldened by what they saw as high-level interest and intervention in their rights and treatment. In late-1832, when convicts absconded from Merton (Denman) and made for Sydney, alleging mistreatment and the unlikelihood of obtaining local redress, the government's decision to forward them to another bench for an impartial examination was read by the Merton magistrates as 'an improper and indecorous interference' in their business and 'an affront' to magisterial authority 'in the face of the prison population'.²⁴ Such

²¹ Bourke to Monteagle, 12 March 1834, Bourke Papers, Vol. 9, ML, A1736, pp. 209-216; Murray to Darling, 16 July 1830, *HRA 1*, Vol. 15, p. 587. The Act (3 Wm.4 No. 3) is widely misinterpreted as a liberal amelioration of the policies of Bourke's predecessor, General Darling. Actually, the Act primarily addressed old and long-contested legal issues surrounding the local application of English transportation law, primarily to channel convicts away from remote penal stations and towards more economical forms of punitive labour. See D. A. Roberts, "'The 'illegal sentences which magistrates were daily passing': The backstory to Governor Richard Bourke's 1832 Punishment and Summary Jurisdiction Act in Convict New South Wales", *Journal of Legal History*, Vol. 38, No. 3, 2017, pp. 231-253. The justices at Patricks Plains had not attracted attention during several years of close scrutiny of magisterial proceedings, essentially because they rarely sent convicts to penal stations. See the Transportation Entrance Books, 1831-1834, SANSW, 4/4534.

²² Mudie, *The Felonry of New South Wales*, p. 10.

²³ *Sydney Gazette*, 24 August 1833, p. 2.

²⁴ Ogilvie to McLeay, 26 December 1832, SANSW, 33/88, 4/2202-3. On convict reactions to legal reordering, see L. Ford and D. A. Roberts, 'Legal change, convict activism and the reform of penal relocation in colonial New South Wales: The Port

moments seemed dangerously subversive to elites who believed their local knowledge and investment rendered them best placed to ensure the peace and prosperity of their own neighbourhood.

Yet even in the wake of Bourke's Act magistrates retained a menacing power in places such as Patricks Plains where there were enough local settler-magistrates, such as Robert and Helenus Scott, James Glennie and James Mudie, to form a local court of petty sessions. Although there was confusion and inconvenience caused by the limitations on their power to adjudicate larcenies (they were confined to dealing with 'pilferings' under the value of five pounds), a petty sessions could award up to fifty lashes or two months 'hard labour' for lower-class disciplinary offences, defined as 'drunkenness, disobedience of orders, neglect of work, absconding ... abusive language' and (most vaguely) 'other disorderly or dishonest conduct'.²⁵ Moreover, magistrates in petty sessions could double these punishments in the case of repeat offenders, and repeat absconders could receive up to twelve months 'labour in irons'. The discretionary dimension of their jurisdiction and the formidable punishment options they maintained gave the magistrates, in Bourke's view, 'a most comprehensive authority' that 'would certainly be out of place in any but a Slave Code'.²⁶

The real problem, which remained unaddressed, was the centrality of these fearsome and highly discretionary powers to the maintenance of the convict assignment system. In the early-1830s, when almost seventy per cent of convicts were in private employ, assignment remained the least formally governed sphere of the convict system. Regulations focussed on the allocation and rationing of assignees and on the moral responsibilities of masters, rather than on managing the competing demands of masters and servants.²⁷ Given the variety of pursuits in which convicts were privately employed, the

Macquarie penal settlement, 1822-1826', *Australian Historical Studies*, Vol. 46, No. 2, 2015, pp. 174-190.

²⁵ Punishment and Summary Jurisdiction Act, 1832. On the confusion surrounding larcenies, see Dumaresq and Bingle to McLeay, 4 September 1833, SANSW, 33/6225, 4/2202-3; Kinchela to McLeay, 4 October 1833, SANSW, 33/6573, 4/2202-3.

²⁶ Bourke to Stanley, 15 January 1834, *HRA 1*, Vol. 17, p. 323.

²⁷ S. G. Foster, 'Convict Assignment in New South Wales in the 1830s', *The Push*, No. 15, 1993, pp. 35-38. For regulations for the rationing of assigned convicts see Government Order, 29 June 1831, in *British Parliamentary Papers: Secondary Punishment (Australia)*, Vol. 614, London, 1834, p. 35.

regulation of workplaces was, of course, near impossible.²⁸ Recent innovations in the governance of work on penal stations and in iron gangs could not be equalled by rules and requirements for the private sector.²⁹ Moreover, given the potency of the analogies drawn between assignment and slavery, proposals to allow masters to punish their own servants as a means of regulating workplaces could not be suffered. Therefore, as one commentator put it, aside from what deference and obedience might be secured by onsite management strategies, convicts in private employ seemed 'under no control at all except when brought before magistrates for offences'.³⁰

As James Busby explained to an 1831 House of Commons Select Committee, it was this absence of formal governance of private workplaces that most exacerbated and problematized the 'great deal of very invidious discretion left to the magistrates in deciding upon such complaints' as were brought before them.³¹ Without regulations to manage and measure the quantity and quality of the work expected of assigned convicts, competing demands were bargained onsite, breeding variations in practice between workplaces and muddying the adaptation and negotiation of those customary expectations that masters and convict servants held of one another. Worksite disputes escalated to the bench where, in the absence of formal guidelines, settled according to the proclivity and preference of the magistrates. Local governance in remote regions thus involved a system of managing complaint that was too capable of breeding feelings of disappointment and perceptions of oppression and corruption. In the absence of what Busby described as 'a proper system' under which local disputes could be 'easily redressed', tensions between the 'disposition of the convict to annoy the master' and the temptation for 'cruelty and oppression on the part of mercenary masters', could be difficult to constrain. If the management of complaint was to leave

28 Bourke to Glenelg, 20 December 1835, *HRA 1*, Vol. 18, pp. 231-232; Bourke to Stanley, 15 January 1834, *HRA 1*, Vol. 17, pp. 321-327.

29 Penal Settlement Regulations, 1829, SANSW, 4/7088-1; 'Regulations for Iron Gangs', Executive Council Minutes, 10 September 1832, The National Archives (UK), CO 204-2, ff. 228-231.

30 *Australian*, 9 June 1835, p. 2.

31 Evidence of James Busby, 27 July 1831, *Report from the Select Committee on Secondary Punishments: Minutes of Evidence*, London, 1831, p. 77. See also *Sydney Monitor*, 15 May 1833, p. 3, recalling the 'good effect' of the regulated task-work system of Governor Macquarie's time 'contrasted with the farming work of the present day'. On the earlier regulation of assignment, see B. Dyster, 'Public Employment and Assignment to Private Masters, 1788-1821', in S. Nicholas (ed.), *Convict Workers: Reinterpreting Australia's Past*, Melbourne, 1988, pp. 127-151.

convicts feeling too disempowered and desperate, 'there is no calculating to what lengths they will go'.³²

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When news arrived in Sydney in early November of 'an act of most aggravated outrage' at Castle Forbes, it was of an incident that was not uncommon in the context of the colony's long history of bushranging, except that in this case the marauding absconders had attacked the life and property of their own master. The Patricks Plains magistrates used the occasion to remind of the 'insubordinate state of the prison population of this district' and 'the inadequate means in the hands of the magistracy to quell this growing evil'. Immediately, Governor Bourke wondered why they could not 'report a robbery without mixing it with ill-timed politics'.³³

On the evening of 4 November, three of Mudie's men (John Poole, James Reilly and James Ryan) absconded with arms, one of them (Poole) agonising under the effects of a flogging received that day. They joined another Castle Forbes absconder (John Perry), and a 'stranger'. Together they freed another two Castle Forbes men (Anthony Hitchcock and David Jones) who were under police escort to an iron gang, leaving behind one who refused to join them and a constable, both tied to a tree. The gang returned to Castle Forbes where they detained a number of workers and ransacked the house before setting off to find Larnach. They found him at the river and fired at him, but Larnach escaped to the opposite bank and fled. Later that day they apparently robbed another station, stealing a horse, before disappearing. A week later they attacked two other local properties, stealing prodigious quantities of equipment and provisions and in one case reportedly flogging a small settler (although that allegation was never substantiated).³⁴ On the following day, 13 November, a party of mounted police, accompanied by settlers and eighteen local convicts apprehended them around thirty kilometres east of Castle Forbes. The

³² Busby, *op. cit.*, p. 77.

³³ Scott and Scott to McLeay, 8 November 1833, with Bourke's annotation, SANSW, 33/7729, 4/2202.3.

³⁴ *Sydney Monitor*, 16 November 1833, p. 2; *Australian*, 25 November 1833, p. 2, and 29 November 1833, p. 3; Mudie, *Vindication*, pp. x-xi. As the conspirators pleaded guilty to the attack on George Sparke's hut, the details were not drawn out in court. The last attack, on the property of John Alexander Dutton of Woodview, was detailed in the Attorney General's Information 33/226, which was not prosecuted.

'stranger' was left 'dangerously wounded' at a nearby property and was said to have died.³⁵

Even before their trial commenced, there was a high-level view that 'harsh punishment urged them to the outrage', a suspicion reinforced by one of the servants brought to Sydney as a witness who informed the Sydney Police Magistrate of escalating tyranny at Castle Forbes in the wake of the revolt.³⁶ Immediately, discussion of the causes and cures of convict insubordination intensified in the press.³⁷ However, at the trial, attempts by defence counsel to establish 'circumstances ... which would tend to extenuate the alleged guilt' of the defendants were disallowed by the Chief Justice as 'extraneous'.³⁸ Witnesses brought from Castle Forbes to Sydney by the defence were 'not examined in consequence of legal objections'.³⁹ But in their own statements, the conspirators spoke of 'starvation, bad treatment and continual flogging' at Castle Forbes. Moreover, they contended that 'tyranny and oppression on the farm' was supported by the local magistrates. Specifically, one said, collusion was forged by an arrangement in which Mudie lent out his tradesmen to local magistrates 'who obliged him in return'. Thus, 'whatever punishment was threatened by the master ... was always sure to be inflicted by the Bench', for 'this was the way in which justice was administered on the

³⁵ Anley to McLeay, 18 November 1833, SANSW, 33/7588, 4/2240.5; *Sydney Gazette*, 10 December 1833, p. 3. The stranger, described in Mudie's initial report of the revolt on 8 November 1833 (SANSW, 33/7726, 4/2203-3), was named at the trial as 'James Henderson'. He was likely the Irish soldier transported by that name on the *Bussorah Merchant* in 1831. The Convict Death Register, 1826-1879, SANSW, 4/4549, records another soldier by the same ship, Adam Anderson, one of Mudie's servants, being 'shot as a bushranger' nearby at Wollombi on 20 November 1833, but that is evidently mistaken. Anderson was later at Moreton Bay. *Government Gazette*, 29 April 1835, p. 258, and 25 July 1835, p. 176.

³⁶ Bourke's annotation on Scott and Scott to McLeay, 8 November 1833, SANSW, 33/7729, 4/2202.3. Deposition of James Brown, 12 November [sic] 1833, in Hely to McLeay, 12 December 1833, SANSW, 4/2182.1.

³⁷ See for example, *Australian*, 25 November 1833, p. 2, and the letter by 'Paxo' in *Sydney Gazette*, 21 November 1833, p. 2, suggesting such events were caused when convicts 'conceive their lives are rendered miserable by injustice, or undue severity'. *Sydney Monitor*, 23 November 1833, p. 2, rejected allegations of bad treatment.

³⁸ *Sydney Herald*, 12 December 1833, p. 2. The defence counsel later described 'this line of defence' in R. Therry, *Reminiscences of Thirty Years Residence in New South Wales and Victoria*, (1863), Sydney, 1974, p. 168.

³⁹ Evidence of James Brown, Castle Forbes Inquiry, Part A, SANSW, 4/2182.1; *Sydney Herald*, 12 December 1833, p. 2. The defence (in the second trial) was also denied the pre-trial depositions. *Australian*, 13 December 1833, p. 3. These had been sent to the Attorney General. Notes on Scott and Scott to McLeay, 8 November 1833, SANSW, 33/7729, 4/2202.3.

Hunter'. 'If the Court would but look at their bare backs, it would see their statement was not exaggerated'.⁴⁰ These were immensely potent claims, but they were not allowed to save the men. Simply put by the Chief Justice, who directed the jury to ignore the claims, 'resistance by violence ... was not tolerated by the law'. There being sufficient institutional avenues for complaint and remedy, 'self-redress ... could not be suffered'.⁴¹ Three of the condemned were executed in Sydney, and two others hanged on the Castle Forbes estate a few days later.

However, the moment the trial ended, the government instituted 'a strict enquiry into the conduct of Messes Mudie and Larnach towards their assigned Servants, and into the proceedings of the Bench at Patricks Plains in the matter of complaints brought before them by Masters against Servants, and Vice Versa'.⁴² The inquiry, held at 'Brown's Inn' at Patricks Plains between 19 and 27 December 1833, was undertaken by the Solicitor General, John Hubert Plunkett, who had recently prosecuted the conspirators, and the long-serving Principal Superintendent of Convicts, Frederick Augustus Hely, who had a sounder knowledge than most of the administration of the assignment system and the sentencing practices of magistrates. They were to examine 'all points touching the subsistence, Clothing, Management and discipline' of servants at Castle Forbes, and 'also such other enquiries ... as may seem necessary'. The witnesses included Castle Forbes convicts who had not been admitted as evidences at the trial, as well as numerous local landowners, local officials, and Larnach himself (Mudie would not submit to answer accusations made by his servants, although he did cross-examine witnesses). The subsequent documentation amounted to roughly 345 pages, including copied extracts from the minutes of proceedings of the Patricks Plains Bench (the originals are otherwise lost). Convicts spoke candidly in what were rather intimidating circumstances, in the presence and under the cross examination of their masters and in the shadow of the executions of their colleagues which took place at the very same time. The

⁴⁰ The defendants made statements 'nearly to the same effect' on each of the first two trials. *Sydney Monitor*, 11 December 1833, p. 2, and 14 December 1833, p. 2; *Sydney Gazette*, 12 December 1833, p. 2. A fuller account of the allegations made at the trial is in Larnach to McLeay, 13 December 1833, SANSW, 4/2182.1.

⁴¹ *Sydney Gazette*, 12 December 1833, p. 2.

⁴² McLeay to Hely, 13 December 1833, SANSW, 4/3679, pp. 123-125. Although Mudie later railed against the inquiry as a 'violation' of his 'feelings' and a perversion of justice, Bourke later claimed that Mudie and Larnach themselves 'requested that the investigation might be instituted'. Mudie, *Vindication*, pp. ii-iii; 'Memoranda upon Mudie's "Felonry of New South Wales"', *op. cit.*, p. 47, emphasis in original.

evidence is personalised and incongruous, but from the entirety a general picture emerges of both the broader atmosphere and immediate circumstances preceding the tragedy at Castle Forbes.

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Ultimately, the proceedings of the inquiry pivoted on complaint — what was complained of, how complaints were made and handled, as well as whether and how complaints were answered. Of particular interest was an accusation by one of the condemned that his letter of complaint to the government concerning conditions at Castle Forbes had been intercepted and suppressed by his employer. Although the Chief Justice had disallowed that evidence, the inquiry's terms of reference drew particular attention to it, the confiscated letter epitomising the possibility of failures in the local procedures for resolving grievance.⁴³ Even though the court could not in principle spare the conspirators on the grounds that disempowerment and injustice might have driven them to desperation, the inquiry meant to explore and expose that very problem. The inquiry was to lay bare the concealed complaints of Castle Forbes, the proceedings prefaced by an assurance to the convict witnesses that 'as long as they adhered to truth they had nothing to fear from anyone'.⁴⁴ In the transcripts of depositions given by witnesses, the terms 'complaint', 'complained' and 'complaining' appear over two hundred times.

Through the prism of complaint, the inquiry revealed Castle Forbes as an unhappy place, at least in recent times, masters and servants levelling an array of complaints and counter-complaints against one another. Servants were aware of their right to complain, while masters pointed to moments when convicts 'did not complain', particularly at apposite moments or via the appropriate channels. Following the allegations raised at the trial, the questioning of witnesses honed in on numerous possible problems — coerced work on Sundays, for example, the withholding of tickets-of-leave, inadequate medical care, the insufficient provision of clothing and the use of irregular weights for measuring rations — none of which emerged as particularly serious or systemic at Castle Forbes. There was, however, a palpable climate of discontent and dispute pivoting on the interrelated issues of food and work. Servants had become

⁴³ McLeay to Plunkett and Hely, 14 December 1833, SANSW, 4/2182.1.

⁴⁴ Statement by the commissioners on the opening of the enquiry at the Patricks Plains Court House, 19 December 1833, SANSW, 4/2182.1.

dissatisfied and restless about the conditions under which they were maintained and employed, while the masters despaired at unacceptable levels of 'idleness, insolence, violence and dishonesty'.⁴⁵ Food and work were the quintessential subjects of negotiation and struggle between masters and servants in every convict workplace, but at Castle Forbes they had become quickly and dangerously contested in the months prior to the revolt.

During the inquiry, convicts were extremely precise and particular about the type, quality and quantity of food issued on the station, both with regard to the basic ration — that vital right and remuneration for convict labour — but also those supplementary 'indulgences' which both master and servant understood as having enormous value and purport. Overwhelming, testimony suggested an irregular supply and inferior quality of provisions at Castle Forbes before the revolt — of meat that was 'maggoty' and 'morally impossible' to eat, and of flour 'contaminated with grass seed and smut'.⁴⁶ Further, indulgences such as additional food and alcohol distributed in support of traditional seasonal festivities, or tea and sugar given to boost morale and reward performance, had been withheld on account of 'the idle conduct of the men'.⁴⁷ That bred a corrosive dynamic, noted by convict James Harvey. The work was poor because of 'the scarcity of provisions', but the subsequent withdrawal of 'the usual indulgences' meant that effort and output were further reduced.⁴⁸

Ration failures were a flashpoint in disputes between masters and servants, but that is not to say that convicts could not forbear such things. Convict Henry Russell understood that 'from the state of the country it was impossible to have it always good'.⁴⁹ Bad rations created 'a general murmur on the farm', but tempers might be restrained if the master 'spoke to us in a fair way'. But there was a more pervasive sense at Castle Forbes that complaints about food were risky. James Harvey feared that 'If any man spoke of it, Mr Mudie would call him an insubordinate character and hunt him down'. Henry Brown said 'we

⁴⁵ Larnach to McLeay, 13 December 1833, SANSW, 4/2182.1.

⁴⁶ Evidence of William Cook, Peter Ponsonby, and James Harvey, Castle Forbes Inquiry, Part A, SANSW, 4/2182.1.

⁴⁷ Larnach to McLeay, 13 December 1833, SANSW, 4/2182.1. See also Evidence of Peter Ponsonby, and James Harvey, Castle Forbes Inquiry, Part A, SANSW, 4/2182.1,

⁴⁸ Evidence of James Harvey, Castle Forbes Inquiry, Part A, SANSW, 4/2182.1.

⁴⁹ Evidence of Henry Russell, Castle Forbes Inquiry, Part D, SANSW, 4/2182.1.

were all afraid ... to make our grievances known', because 'When any man complains he was termed insolent'. James Brown was not prepared to complain, Mudie having already singled him out as 'a ringleader and grumbler'.⁵⁰

The possibility of escalating and formalising internal disputes was frequently discussed at Castle Forbes. Larnach dared his men 'to complain to the magistrates', and most convicts said they were never explicitly prevented from doing so. Some believed that, at least on the matter of rations and slops, 'the magistrates would do me justice if I went to complain'. What they feared was internal and surreptitious retribution. James Brown refrained from appealing to authority 'because I do not wish to make myself singular among the men'. James Harvey was afraid that Larnach would 'punish me in another way'. Henry Brown said 'when any man was to complain he was brought on another charge'. A perceived closure of this formal avenue of redress forced men into more symbolic protests. 'Rather than complain', men might 'lay down their meat' in refusing to eat.⁵¹ Henry Brown once refused to work after receiving butter instead of meat, for which he was sent to the lockup, then to the bench (which, notably, agreed that he had been hard done by and dismissed the complaint against him).⁵² But the inquiry produced little evidence of overt and direct action against bad food. Instead, sub-standard rations and the withdrawal of indulgences likely bred a mood of dissatisfaction and non-compliance that articulated in more furtive and crafty protests, especially relating to work effort and productivity.

It was dispute over effort and output that most soured the cooperation between masters and servants at Castle Forbes. The inquiry produced little proof of excessive or illegal work practices, but it captured an underlying mood of conflicting expectations. Some felt that they were driven too hard and that effort was unrewarded and derided. 'Mr Larnach always found fault with me not doing enough work', William Cook said, 'but I done my best'. Larnach and his overseer were firm and forceful in demanding what they needed done, while their servants were brusque and forthcoming in objecting to

⁵⁰ Evidence of Henry Brown, James Harvey, and James Brown, Castle Forbes Inquiry, Part A, SANSW, 4/2182.1.

⁵¹ Evidence of James Harvey, James Brown, and Henry Brown, Castle Forbes Inquiry, Part A, SANSW, 4/2182.1. Emphasis in original.

⁵² Evidence of Henry Brown, and Proceedings against Henry Brown, 12 November 1832, Castle Forbes Inquiry, Part A, SANSW, 4/2182.1.

what they thought was unreasonable. Again, this was a dynamic not unknown on any and every worksite involving convict labour, but at Castle Forbes it clearly descended into ubiquitous antagonism. Men complained of being 'abused and browbeat', of being 'bounced' and 'called out'. In reply, they told their employees that they 'would not be driven', that they 'would not work for the overseer or anyone else if ... treated in that manner'.⁵³ Tempers flared into moments of threatened and actual violence. Larnach assaulted a young convict for neglecting his pigs, kicking him so badly that it seemed unnecessary to have the magistrates flog him. He also repeatedly beat the youngest worker on the property, an Irish 'farm-boy' Michael Duffy.⁵⁴ James Reilly, soon to be condemned for his role in the revolt, began his punishment history when he struck Larnach in the face during a dispute in the maize field, for which he was sent to an iron gang for 'very outrageous conduct'.⁵⁵

Workplace violence marked a clear failure in onsite negotiations, but the power of complaint in this regard appeared securely in the master's favour. Richard Nagle, who was also struck for refusing to pick up some fence palings, intended to 'bring Mr Larnach to court for it' but changed his mind 'because the men told me if I complained I would get flogged, that insolence would be sworn against me'.⁵⁶ When James Ryan cut Larnach's head with a stick, he received both 'a sound thrashing' from Larnach and one hundred lashes from the magistrates.⁵⁷ As the internal mechanisms of complaint-resolution waned, Larnach became more reliant on coercion through the external intervention of the magistrates. Indeed, it can now be demonstrated how seriously the masters at Castle Forbes relied on punishment for the correction of what they perceived to be unsatisfactory work performance in the face of increasingly trenchant resistance.

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⁵³ Proceedings against Samuel Marston, 21 January 1833, Castle Forbes Inquiry, Part B, SANSW, 4/2182.1; Evidence of Larnach, Castle Forbes Inquiry, Part E, SANSW, 4/2182.1

⁵⁴ Evidence of Henry Brown and Richard Nagle, and Proceedings against Michael Duffy, 24 June 1833, Castle Forbes Inquiry, Part A, SANSW, 4/2182.1.

⁵⁵ Newcastle Gaol Description Books 1832, No. 31, SANSW, 2/2010; Evidence of Larnach, Castle Forbes Inquiry, Part E, SANSW, 4/2182.1.

⁵⁶ Evidence of Richard Nagle, Castle Forbes Inquiry, Part A, SANSW, 4/2182.1.

⁵⁷ Proceedings against James Ryan, 2 September 1833, Castle Inquiry, Part G, SANSW, 4/2182.1; Evidence of Larnach, Castle Forbes Inquiry, Part E, SANSW, 4/2182.1. It being his second offence, the punishment of one hundred lashes was legal, as two magistrates were in attendance.

An extraordinary picture emerges from a set of returns of punishments issued by the Patricks Plains Bench, beginning in January 1833 (Appendix 2). In the ten months prior to the revolt in November, the local magistrates adjudicated a staggering 78 cases involving servants of Castle Forbes. Fifty-six cases were referred by Mudie and Larnach themselves, the rest by their overseers and other workers (one, the case of William Bright, was a complaint from the bench itself, see Appendix 3). The 78 cases involved 42 individuals, with 21 men appearing multiple times. Fifty-five sentences were floggings, of 12 to 100 lashes, totalling 2,297 lashes. At an average of 42 lashes per sentence, that accorded almost precisely with the size of a typical flogging throughout NSW that year, including those issued at penal settlements.⁵⁸ But in the two months before the revolt, the average number of lashes per sentence was a little higher at Castle Forbes, peaking at 55.5 in September. In that month, nine sentences totalling 500 lashes were issued on six individuals, at an average of 83.6 lashes per person. More staggering is the percentage of Castle Forbes servants flogged, and the extent of multiple floggings. If there were around sixty-four servants at Castle Forbes, then in the ten months prior to the revolt, two-thirds of them were brought before the local bench, and most were flogged. Almost one third of the entire Castle Forbes workforce came before the bench twice or more in the months before the revolt (Appendices 1 and 2).

This horrific picture suggests a deliberate and immoderate attempt to coerce a dispirited and resistive workforce. The stated offences recorded in the returns of the Patricks Plains Bench clearly indicate the prevalence of offences summarised as 'neglect' 'disobedience', 'insolence' and 'insubordination', sometimes in combination. These labels reveal little on their own, but probably most were work-related offences.⁵⁹ Others such as 'refusing to work', 'shamming sickness', being 'useless' and 'falling asleep in the field' most certainly were. Some offences were described more specifically with reference to the consequences of work failures, such as 'losing sheep', 'injuring a ram' or 'breaking axes'. A few of the cases captured by the inquiry do divulge something of the nature and flavour of these workplace disputes. Clearly, in cases such as that of a young Samuel Marston, a blacksmith by trade but employed as a general farm hand

⁵⁸ The average for NSW in 1833 was 41 lashes per punishment. Returns of Punishments ordered by Magistrates, 1830-37, *HRA 1*, Vol. 19, p. 654.

⁵⁹ According to Larnach, most punishments were in relation to 'neglect of their flocks'. Evidence of Larnach, Castle Forbes Inquiry, Part E, SANSW, 4/2182.1.

and labourer, convicts did not regard themselves as unwilling to work, but rather beleaguered by what they felt were unreasonable and oppressive expectations. Punishment could then aggravate a sense of anger and resistance, marking an individual out as a malcontent and shirker and resulting in further punishments until, if lucky, one succeeded in becoming quiet and unnoticed.⁶⁰

The inquiry garnered little specific evidence of how the Castle Forbes convicts viewed this punishment regime, although there were numerous statements from local settlers and administrators emphasising the tendency of convicts to 'make light of punishment'.⁶¹ Most Castle Forbes convicts spoke of flogging rather matter-of-factly, as if it were normal and expected. Henry Russell thought his sentence of twelve lashes for harbouring another prisoner was 'a hard one', even though the bench extended leniency because he was unaware of having behaved improperly.⁶² James Brown resented, not receiving fifty lashes for malingering, but being made to work the next day, although he could 'not blame the magistrates' for that.⁶³ But unsurprisingly, many Castle Forbes convicts held a dim and fatalistic view of the standard of local justice with regard to the complaints brought against them by their master. One thought 'they would get flogged right or wrong'.⁶⁴ An overseer heard the men 'say it is no use to go to that court ... to complain as they would get no redress'.⁶⁵ Peter Ponsonby thought 'the magistrates were so friendly to each other, no justice could be done them'.⁶⁶ Such statements about the partiality and prejudice of the local magistrates were slightly less sensational or damning than those made by the defendants at their trial, but undoubtedly the magistrates were heavily and universally disposed to uphold the complaints brought by masters against their servants. Acquittals were extremely rare, and many — such as those in June 1833 (see Table 1), when eight servants were cleared of an accusation of neglect for working irregular hours, the court being satisfied that they

⁶⁰ Proceedings against Samuel Marston, 21 January 1833, Castle Forbes Inquiry, Part C, SANSW, 4/2182.1; 'Register of convicts tried before the Bench at Patricks Plains, 1833–1839', SANSW, 7/3714.

⁶¹ For example, Evidence of Nathaniel Powell, Castle Forbes Inquiry, Part B, SANSW, 4/2182.1.

⁶² Evidence of Henry Russell, and Proceedings against Henry Russell and James Heywood, 29 July 1833, Castle Forbes Inquiry, Part D, SANSW, 4/2182.1.

⁶³ Evidence of James Brown, Castle Forbes Inquiry, Part A, SANSW, 4/2182.1.

⁶⁴ Evidence of Henry Russell, Castle Forbes Inquiry, Part A, SANSW, 4/2182.1.

⁶⁵ Evidence of Creenan [Crinion], Castle Forbes Inquiry, Part D, SANSW, 4/2182.1.

⁶⁶ Evidence of Peter Ponsonby, Castle Forbes Inquiry, Part A, SANSW, 4/2182.1.

had 'done their acre' — were a result of the intercession of the master who evidently wished the occasion to serve as a warning.⁶⁷

However, another picture emerges from the evidence to the inquiry from local, non-elite settlers and administrators (which was not published) to whom the most probing questions concerning local court procedure and magisterial behaviour were directed. These smaller settlers testified to a widespread confidence in the 'impartial' administration of the bench and of its 'general reputation' for fairness.⁶⁸ Their convicts apparently preferred some magistrates to others and considered the punishments 'too unequal', comparable severity being dispensed, for example, to one who lost a sheep as to one who lost an entire flock.⁶⁹ William Kelman, whose farm employed only twelve servants, noted that mistrust of the bench manifested only in those convicts who had been punished by it — a circumstance that certainly accounts for the cynicism of the Castle Forbes men.⁷⁰ Further, many small settlers pointed to the fairness of the bench in upholding convict complaints. Solid evidence of the fact was provided by an overseer who, like Larnach, had horsewhipped a convict boy and was fined ten shillings for it.⁷¹ Other small settlers spoke of adjudications against them on the complaint of convicts, of their own grievances against servants being dismissed for lack of evidence, of being 'checked by the court' for interrupting a prisoner making a defence, and of being 'admonished' and 'censored' by the bench because 'I was wrong and the servant was right'.⁷² The practice of hearing and examining convict statements and of allowing cross-examination of complainants was considered routine. Before the Patricks Plains bench, one farmer said, 'the prisoner had as good a chance as the master'.⁷³

⁶⁷ Evidence of James Harvey, Castle Forbes Inquiry, Part A, SANSW, 4/2182.1; Proceedings against Perry, Harvey, James Brown, Parsons and others, 3 June 1833, Castle Forbes Inquiry, Part G, SANSW, 4/2182.1. See also Evidence of James Brown, Castle Forbes Inquiry, Part A, SANSW, 4/2182.1, recalling the magistrates dismissing a complaint about his ploughing on Mudie's intercession.

⁶⁸ For example, Evidence of James McDougall, Castle Forbes Inquiry, Part B, SANSW, 4/2182.1.

⁶⁹ Evidence of William Brooks, and Patrick Campbell, Castle Forbes Inquiry, Part B, SANSW, 4/2182.1; Evidence of William Cook, Castle Forbes Inquiry, Part C, SANSW, 4/2182.1.

⁷⁰ Evidence of William Kelman, Castle Forbes Inquiry, Part B, SANSW, 4/2182.1.

⁷¹ Evidence of James White, and Copy of Proceedings against James White, 4 April 1831, Castle Forbes Inquiry, Part B, SANSW, 4/2182.1.

⁷² Evidence of William Kelman, James Dodds, and James McDougall, Castle Forbes Inquiry, Part B, SANSW, 4/2182.1.

⁷³ Evidence of Andrew McDougal, Castle Forbes Inquiry, Part B, SANSW, 4/2182.1.

It is not difficult to reconcile such assertions with the resentment and distrust of the Castle Forbes convicts. The settlers interviewed by the inquiry were mostly minor farmers who spoke on behalf of their own, relatively diminutive workforces. Small settlers were probably more susceptible to decisions against them than were the elite and formidable masters of Castle Forbes.⁷⁴ Moreover, the small settlers were apparently inclined towards more congenial and indulgent management strategies, including overlooking the 'many things that other settlers would take them to court for'.⁷⁵ The evidence of the small farmers therefore merely serves to underline how vastly different things were at Castle Forbes. There, although Larnach denied it, convicts felt themselves susceptible to being punished 'for a trifling fault' such as 'merely resting from ... work'.⁷⁶ However, that is not to say that the Castle Forbes complaints heard by the bench in 1833 were all petty or frivolous. Many offences were in fact relatively serious, often a culmination of repeated infractions and recurrent disobedience of orders, sometimes resulting in very significant losses of stock and equipment. It was often noted in bench proceedings that the masters had 'repeatedly' or 'constantly complained' to a servant before bringing him to the bench, or that an offender had been either punished or 'forgiven' for similar 'offences previously'. These were costly and continual workplace offences worthy of punishment, and yet they were also clearly the products of a dejected and defiant workforce whose resistance was amplified by incessant punishment. Larnach's increasing resort to formalising complaints bred a strong perception among his convicts that the bench was an unsympathetic and unswerving instrument for the correction and coercion of their behaviour. In the two months prior to the revolt, there was an increasing number of Castle Forbes cases before the magistrates, with no acquittals, and a substantial rise in the average number of lashes issued for each offence. It was undoubtedly pertinent to the revolt at Castle Forbes that, in the peak punishment period, several weeks before the revolt, all six of the soon-to-be conspirators were punished, some of them multiple times.

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⁷⁴ They were mostly free immigrants but at least one, James Chilcott, was an emancipist. All were signatories to the 1833 petition protesting Bourke's reforms.

⁷⁵ Evidence of James Dodds, Castle Forbes Inquiry, Part B, SANSW, 4/2182.1.

⁷⁶ Evidence of Larnach, Castle Forbes Inquiry, Part E, SANSW, 4/2182.1.

The Castle Forbes revolt occurred in an atmosphere of dispute and discontent. Disagreements over food and work eroded convict deference, breeding a surly resistance that was met aggressively by the master and magistrates. That atmosphere, however, cannot explain the revolt entirely. It was, after all, a conspiracy among six men only. The challenge is to explain why and how they, in particular, were driven to such extreme and ill-fated behaviour. Some hints lie in the recent and rather different personal histories of those men, and in a series of events immediately preceding the revolt (Appendix 3).

Five of the conspirators were in the common ranks of employment at Castle Forbes. Anthony Hitchcock, the eldest at thirty-three years of age, was a bricklayer by trade, although he was allocated to 'various kinds of Farm labour, and sometimes with the sheep'. He was 'very well behaved' according to the overseer, allowed to make money from crafting straw hats and 'never ... without a dollar in his pocket'.⁷⁷ Relatively new to the estate, he had worked inconspicuously for several months. In contrast, David Jones, a butcher dubiously on loan to Mudie from another settler, was 'a sulky stubborn fellow but a good working man', although he had settled down since September 1831 when he was flogged for absconding and mutinous conduct.⁷⁸ 'The boy' James Ryan, aged seventeen, freckled and only five-foot tall, had a fiery temper and was punished numerous times, although his conduct prior to the revolt was reportedly 'very good'.⁷⁹ James Reilley and John Perry, however, were among those who consistently and staunchly resisted their assignment, and were targeted and hounded for it. Both in their mid-twenties, they were punished more than any other Castle Forbes servant in 1833. Reilly appeared before the bench six times for a total of 275 lashes, and Perry five times for 200 lashes. Reilley's co-workers regarded him as one who 'had reason to complain', and it was rumoured that 'he could not stand it'. Both were known to have a 'horrid back'.⁸⁰

John Poole, on the other hand, epitomised the particular challenges surrounding the assignment of elite tradesmen. A young

⁷⁷ Larnach to McLeay, 13 December 1833, SANSW, 4/2182.1; Evidence of Henry Russell, Castle Forbes Inquiry, Part D, SANSW, 4/2182.1.

⁷⁸ Evidence of 'Creenan' [Crinion], Castle Forbes Inquiry, Part D, SANSW, 4/2182.1; Proceedings against David Jones, 26 September 1831, Castle Forbes Inquiry, Part G, SANSW, 4/2182.1.

⁷⁹ Larnach to McLeay, 13 December 1833, SANSW, 4/2182.1.

⁸⁰ Evidence of William Cook and Peter Ponsonby, Castle Forbes Inquiry, Part A, SANSW, 4/2182.1.

man of twenty-two, a joiner by trade, he was the most privileged and indulged convict worker on the estate, so generously treated that other convicts considered him 'as well off as any freeman' and 'the last man that ought to have taken the bush'.⁸¹ But Poole was intensely resentful of being stationed on a remote estate, knowing his skills could win him considerable advantages in Sydney. It was he who absconded with a letter of complaint to the authorities in Sydney, the interception of which was later taken to exemplify the suppression of convict complaint at Castle Forbes.⁸² Poole enjoyed a reasonable rapport with Mudie, but his relationship with Larnach was toxic. It was said Poole 'would not acknowledge him for a master'.⁸³ In the months preceding the revolt, Poole thought Larnach was 'tyrannising over him'.⁸⁴ There were warnings that Poole was 'vengeful' and that he would 'make someone look out' if he were ever punished.⁸⁵

Each of these men appears to have reached a tipping point simultaneously, in a series of connected events beginning a fortnight before the revolt. On the night of 17 October, a shepherd's hut on the estate was attacked. Five Castle Forbes men were sleeping there, and also two servants of another settler who 'were going up country'. The occupants were assaulted, the two visitors were robbed and the hut was partially torn down. There were four suspects — Hitchcock, Ryan and Stephen Parrett, who were accommodated together at another corner of the estate, and Jones, who had allegedly abandoned his nightwatchman's post to join them. It was the gravest matter dealt with by the Patricks Plains bench that year, a 'robbery and assault' that, being substantially more serious than a minor 'pilfering', was conceivably outside the jurisdiction of a petty session.⁸⁶ But before that

⁸¹ Evidence of William Cook, Castle Forbes Inquiry, Part A, SANSW, 4/2182.1.

⁸² Larnach submitted to the inquiry what he claimed was Poole's letter, addressed to Captain Wilson, Chief Engineer of Public Works, and another to the Principle Superintendent of Convicts by a former servant, 'William McMarkins' (possibly William McMackin, per *Mangles* 1824), which Poole was also carrying. Larnach alleged that the latter was a forgery. Castle Forbes Inquiry, Part E, SANSW, 4/2182.1.

⁸³ Evidence of Hugh Thompson and Peter Ponsonby, Castle Forbes Inquiry, Part D, SANSW, 4/2182.1.

⁸⁴ Evidence of Peter Ponsonby, Castle Forbes Inquiry, Part A, SANSW, 4/2182.1.

⁸⁵ Evidence of Thompson, Castle Forbes Inquiry, Part D, SANSW, 4/2182.1; Evidence of Larnach, Castle Forbes Inquiry, Part E, SANSW, 4/2182.1.

⁸⁶ The colony's law officers had previously queried the use of the term 'robbery' by magistrates. Moore to McLeay, 30 April 1827, SANSW, 27/4174, 4/1930. In June 1833, a legal opinion suggested that assault was within the jurisdiction of a court of petty sessions. Kinchela to McLeay, 15 June 1833, SANSW, 33/4026, 4/2201-2. The

matter was even heard there was violent retribution from the master, with Hitchcock and Jones both brought before a single magistrate, Helenus Scott, on related or other complaints. Jones was sentenced for having abandoned his sheep of the night of the attack, the offence 'split' into two complaints, one by Larnach and another by an overseer: negligence (fifty lashes) and being absent without permission (twenty-five lashes). Hitchcock received twenty-five lashes for an entirely separate offence that had occurred six weeks earlier, his first punishment in four years of servitude.⁸⁷

A week later, five Castle Forbes convicts gave depositions on the attack on the hut that were sworn in the absence of the accused. The complaint was heard later, on 4 November, when the two visiting stockmen returned to add their evidence. James Ryan was acquitted and returned to the farm. Jones, Hitchcock and Parrot were found guilty of 'robbery and assault' and sentenced to twelve months in an iron gang (Appendix 3). That, the maximum penalty awardable by a court of petty sessions, was unusual, given the recent history of the local bench, in removing convicts from their master's service rather than having them flogged and returned. The episode also invited another casualty. Back on the estate the elite convict, John Poole, abused one of the witnesses, calling him 'a false swearing rascal', for which he was reprimanded by Larnach. That detonated the ill-feeling between them. After another dispute over Poole's work, Larnach marched him to the bench. On the same day as the others were sentenced, Poole received fifty lashes.⁸⁸ It was later said, no doubt correctly, that the revolt was planned at the court that day.⁸⁹

There is a larger story behind these proceedings that is now lost. The inquiry made no meaningful investigation of these penultimate

violent attack on the hut at Castle Forbes, however, could certainly have been tried as a capital offence in a higher tribunal.

⁸⁷ Proceedings against Anthony Hitchcock, and against David Jones, 21 October 1833, Castle Forbes Inquiry, Part G, SANSW, 4/2182.1. Larnach had overlooked Hitchcock's previous offence because, on that very day, his daughter had died, although Hitchcock was warned that the matter would be revived if he was ever brought up on another complaint. Henry Dangar, who witnessed these proceedings, later told the inquiry that the bench had 'heard the cases particularly' and that Larnach was 'closely' examined. Apparently, Jones complained that 'Larnach exacted too much work them' and behaved disrespectfully towards the court. Evidence of Henry Dangar, Castle Forbes Inquiry, Part B, SANSW, 4/2182.1 (Appendix 3).

⁸⁸ Proceedings against John Poole, 4 November 1833, Castle Forbes Inquiry, Part G, SANSW, 4/2182.1 (Appendix 3).

⁸⁹ Mudie, *Vindication*, p. ix.

moments, although there was some querying of the practice of taking depositions in the absence of the defendants that may hint at concern and suspicion.⁹⁰ The episode apparently evidences a rupture in relations between the Castle Forbes workers themselves, with one group of convicts assaulting and robbing their co-workers, resulting in complaints being brought to the bench by the convict victims, rather than their master. The guilt of some of the perpetrators seemed reasonably well established, but there was equivocation and ambiguity in the depositions against them. One deponent was given fifty lashes for gross 'prevarication' for his disingenuous failure to identify the assailants. Only one witness provided a positive identification — an elderly man, recently arrived at the estate — he also deposing that other workers had threatened his life. The defendants accused him of perjury. The motives for the attack were not recorded and there was no reference to the recovery of the stolen merchandise.⁹¹

Larnach's hand in these proceedings is unclear but apparent. Larnach himself claimed that the penultimate disturbances on the station were acts of 'revenge' against him, and that the conspirators were so enraged by their subsequent punishment that they consorted 'to commit murder'.⁹² Certainly, the revolt manifested an extreme sense of injustice and outrage directed squarely at him. Aiming their guns at Larnach they explained themselves clearly: 'I'll make you remember your flogging' ... 'you'll flog me, you b_, I'll learn you to flog'.⁹³ This was an anger undoubtedly backgrounded by a broader atmosphere of brutality and oppression at Castle Forbes, but it took a short and acute sequence of events to sharpen, among certain individuals, the intense and uncontrollable hatred required to attack the property and life of their tormentor. There was seemingly no greater or longer-term aim to the revolt other than immediate and ultimate vengeance. There was an initial report that the conspirators intended 'to make for Sydney' and escape the colony.⁹⁴ In fact they remained in the district, plundering probably in anticipation of a lifesaving 'escape' into what is now the

⁹⁰ Queries about the collection of depositions entered the inquiry's proceedings during the questioning of local settlers. For example, Evidence of William Brooks and William Kelmen, Castle Forbes Inquiry, Part B, and Evidence of Alfred Glennie, Castle Forbes Inquiry, Part C, SANSW, 4/2182.1.

⁹¹ Proceedings against Anthony Hitchcock, James Ryan, David Jones and Stephen Parrott, 28 October and 4 November 1828, Castle Forbes Inquiry, Part G, SANSW, 4/2182.1 (Appendix 3).

⁹² Larnach to McLeay, 13 December 1833, SANSW, 4/2182.1.

⁹³ *Sydney Gazette*, 12 December 1833, p. 2.

⁹⁴ Mudie to Bourke, 8 November 1833, SANSW, 33/7726, 4/2203-3.

Barrington Tops National Park. Nevertheless, their extreme rejection of authority could only end one way. When captured they did not resist arrest. Reports of their hanging described them dying penitently and quietly, 'without a struggle'.⁹⁵

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The conclusion drawn from the copious evidence procured by the inquiry was that the allegations raised at the trial by the condemned conspirators were 'for the most part unfounded' and that the 'general conduct' of the masters of Castle Forbes towards their convict servants had 'not been marked by Hardships or oppression'.⁹⁶ There was, however, pointed attention given to a number of irregularities and lapses on the estate — in the issuing of rations, the striking of men and the punishment of one convict for refusing to work on a Sunday. And yet no regulations seemed to have been transgressed to any 'remarkable degree' and none of these problems appeared systemic.⁹⁷ Bourke, or someone close to him, later interpreted the findings a little more candidly. Mudie and Larnach had not 'habitually violated the letter of the government regulations, however exasperating their conduct might have been in their displays of manner and feeling which it is in vain to attempt submitting to a human tribunal'.⁹⁸ With regard to the culture and practices of the Patricks Plains Bench, there was an admonishment, based on the opinion of the Attorney General, for punishing David Jones 'twice for the same offence'. On the court proceedings relating to the disturbances which immediately foregrounded the revolt, it was decided that the manner of obtaining witness statements in the absence of the defendants was 'irregular and objectionable', although not illegal.⁹⁹ But aside from these lapses there was no obvious malfeasance in the local administration of justice, the inquiry's evidence instead allowing 'a general impression of confidence in the impartibility and integrity of the Bench'.¹⁰⁰

Just as the court could not accept the closure of avenues for the fair and acceptable resolution of complaint at Castle Forbes as

⁹⁵ *Australian*, 23 December 1833, p. 2.

⁹⁶ McLeay to Mudie and Larnach, 13 January 1834, SANSW, 4/2182.1.

⁹⁷ Bourke to Stanley, 20 September 1834, *HRA 1*, Vol. 17, pp. 542-543.

⁹⁸ 'Memoranda upon Mudie's "Felonry of New South Wales"', *op. cit.*, p. 47.

⁹⁹ McLeay to Kinchela, 13 January 1834, and Kinchela to McLeay, 14 January 1834, SANSW, 4/2182.1.

¹⁰⁰ McLeay to Patricks Plains Bench, 17 January 1834, SANSW, 4/3866, pp. 7-8.

justification for violence, the subsequent inquiry exonerated the local masters and magistrates. That was because what the inquiry revealed was a more subtle and structural problem in the local governance of the assignment system. By exploring the hidden world of complaint at Castle Forbes, the inquiry captured evidence of the consequences of the impossibility of formal and central regulation of private workplaces. The local governance of the assignment system relied excessively on local magistrates to adjudicate workplace disputes. Although recent legal interventions had curtailed magisterial jurisdiction, in some ways and in some circumstances, the disciplinary powers that lay at the heart of the administration of assignment remained poorly defined, highly discretionary and largely unchecked.

The problem was that the local governance of assignment fostered solidarity among elite neighbours. Onsite problems at Castle Forbes degenerated quickly and pervasively and were met and exaggerated by Larnach's reliance on magisterial intervention. Faced with repeated and often serious infractions at Castle Forbes, the bench proved resolute in checking what it undoubtedly saw as increasing convict insubordination and disorder, regardless of whether or not Larnach's management was immoderate or unreasonable. Through the consistency and increasing severity of its adjudications the local magistrates became a dependable instrument of violence in the service of Larnach's interests and a defender of his managerial shortcomings. Servants at Castle Forbes felt that, on the one hand, their own complaints and avenues for redress were stifled, particularly by internal threats and fear of retribution, while on the other hand those available to their master, especially judicial violence, were exploited, overused and stacked against them. Following an unusually serious and spectacular series of events immediately before the revolt, a sense of powerlessness and injustice proved too potent and overwhelming for a small and particular group of individuals. The Castle Forbes revolt was mostly a product of managerial and interpersonal problems on the estate, but these were exacerbated by, and ultimately exposed, the incapacity of local governance to deal with such an extraordinary breakdown in master and servant relations.

Appendix 1: The Castle Forbes Workforce in 1833

Showing:

- name
- ship of arrival
- age at the time of the revolt
- nationality
- trade on arrival in NSW
- year assigned to Mudie or Larnach
- number of appearances (including acquittals) before the Bench, 7 January - 4 November 1833, including those cases which immediately preceded the revolt (see Appendix 3)

The Castle Forbes conspirators are highlighted. I am indebted to Sue Wiblin for her identification of and research into the convicts who served at Castle Forbes during the 1820s and early 1830s.

Name	Per	Age	Nat	Trade	assig	bench
Anderson, Adam	<i>Buss. Merchant</i> 1831	24	Sco	pipemaker, soldier	1832 c	
Blackburn, Francis	<i>Camden</i> 1831	23	Eng	chair and sofa maker, carpet maker	1831	*
Boyle, John	<i>Edward</i> 1831	27	Ire	ploughs, reaps, sows	1831	
Bright, William	<i>Asia</i> 1833	23	Eng	tobacconist	1833	*
Brown, Henry	<i>Royal Admiral</i> 1830	26	Eng	groom, indoor servant	1830	**
Brown, James	<i>Surry</i> 1823	32	Sco	groom	1832	*
Brown, William	<i>Prince Regent</i> 1827	34	Eng	farmer's man	1827	*
Burt, John Edmond	<i>Ocean</i> 1823	30	Eng	copper plate printer	1833 c	***
Carter, Robert	<i>John</i> 1832	31	Eng	stonemason	1832	
Chetwood, Thomas	<i>Lady Harewood</i> 1831	25	Eng	watch/clockmaker, maltster/brewer	1831	
Colbert, Patrick	<i>Norfolk</i> 1832	32	Ire	clothier	1832	
Cook, William	<i>Claudine</i> 1829	23	Eng	blacksmith, locksmith, bellhanger, cook	1830	
Crisp, William	<i>Ocean</i> 1823	33	Eng	ploughman	1824	*
Darcey, Walter	<i>Lonack</i> 1825	26	Ire	harness maker	1832	**
Dempsey, Edward	<i>Andromeda</i> 1830	29	Ire	labour, plough, reap, sow	?	*

Downing, William	<i>Isabella</i> 1832	23	Eng	bellows and pattern maker	1832	*
Duffy, Michael	<i>Dunvegan Castle</i> 1832	15	Ire	farmer's boy	1832	**
Fanning, Joseph	<i>Eliza</i> 1832	25	Ire	ploughs, reaps and sows	1832	**
Frost, George	<i>General Stuart</i> 1818	42	Eng	labourer	1823 c	
Gamble, Thomas	<i>Hercules</i> 1832	32	Eng	shoemaker	1832	
Gittoes, Richard	<i>Asia</i> 1832	21	Eng	carpet weaver	1832	****
Griffiths, James	<i>Lord Melville</i> 1830	21	Eng	ploughman, shepherd	1830	
Griffiths, John	<i>Dick</i> , 1821	38	Eng	labourer	1832	
Hart, John	<i>Marq. Huntley</i> 1830	25	Eng	brass founder	1830	
Harvey, James	<i>Phoenix</i> 1828	28	Eng	ploughman	1828	**
Heywood, James	<i>York</i> 1831	26	Eng	shepherd	1833 c	***
Hilsden, Edward	<i>Lady Harewood</i> 1832	23	Eng	brickmaker's labourer	1832	*
Hitchcock, Anthony	<i>Lord Melville</i> 1829	33	Eng	fisherman, bricklayer	1833	**
Horricks, Charles	<i>Minstrel</i> 1825	33	Eng	sawyer	?	**
Hughes, Elizabeth	<i>Competitor</i> 1828	33	Eng	serv't of all work	1832c	*
James, Thomas	<i>Lord Melville</i> 1830	27	Eng	bricklayer, plasterer	1832 c	*
Jones, David	<i>Guildford</i> 1829	24	Ire	butcher	1830 c	****
Lynch, Bryan	<i>Dunvegan Castle</i> 1832	31	Ire	ploughman	1832	
Mahony, James	<i>Hercules</i> 1830	30	Ire	tinman	1832	*
Marston, Samuel	<i>Prince Regent</i> 1827	23	Eng	blacksmith ?	?	***
McCaffer, Edward	<i>Minerva</i> 1824	26	Sco	weaver	1825 c	
McCarthy, Edward	<i>Eliza</i> 1827	28	Ire	labourer	?	
Meiklejohn, Walter	<i>Guildford</i> 1822	37	Sco	bricklayer	1831	
Mooney, James	<i>Dunvegan Castle</i> 1832	24	Eng	Spanish leather dresser	1832	**
Nagle, Richard	<i>Eliza</i> , 1829	25	Ire	hawker	1830	*
Pain, Edward	<i>Minerva</i> 1826	32	Eng	ploughman	1828 c	
Parrett, Stephen	<i>Asia</i> 1832	25	Eng	seaman	1832	**
Parson, James	<i>Guildford</i> 1833	30	Sco	servant, footman	1833	**
Perry, John	<i>Asia</i> 1832	24	Eng	ploughs, milks, sows, groom	1832	*****
Phillips, Jabez	<i>Lord Melville</i> 1830	19	Eng	coppermith	1830	**
Ponsonby, Peter	<i>Eliza</i> , 1820	36	Eng	tailor	1832	
Poole, John	<i>Claudine</i> 1829	22	Ire	joiner	1831	*

Poucher, Richard	<i>Exmouth</i> 1831	35	Eng	shepherd, farrier	1831	*
Powell, George	<i>Waterloo</i> 1833	42	Eng	gun-lock filer	1833	*
Priestly, James	<i>Hercules</i> 1832	23	Eng	waggoner, groom, woolcomber	1832	
Reilly, James	<i>Buss. Merchant</i> 1831	25	Ire	carter, labourer	1831	*****
Ridgeway, William	<i>Waterloo</i> 1833	21	Eng	brazier	1833	*
Rook, Thomas	<i>York</i> 1831	48	Eng	rope maker, millwright, gardener	1833	
Russell, Henry	<i>Parmelia</i> 1832	33	Eng	miller, baker	1832 c	**
Russell, Peter	<i>Buss. Merchant</i> 1831	20	Ire	farmer's boy	1831	
Ryan, James	<i>Eliza</i> 1832	17	Ire	shoemaker's apprentice	1832	***
Sage, William	<i>Norfolk</i> 1829	28	Eng	sweep	1829	*
Sawyer, John	<i>John</i> 1827	40	Eng	farm servant, shepherd	1830	*
Stack, Maurice	<i>City of Edinburgh</i> 1832	22	Ire	labourer	1832	***
Styles/Stiles, John	<i>Marq. Hastings</i> 1827	29	Eng	weaver	?	*
Ward, Samuel	<i>Asia</i> 1832	31	Eng	groom and footman	1832	
Wilson, William	<i>Lady Harewood</i> 1831	50	Eng	shepherd, ploughs, reaps, milks, sows & shears	1832	*
Woolaston, Thomas	<i>Planter</i> 1832	25	Eng	boot shoemaker	1832	*
Wright, Lansdale	<i>Lady Feversham</i> 1830	37	Eng	miller, baker	1833	

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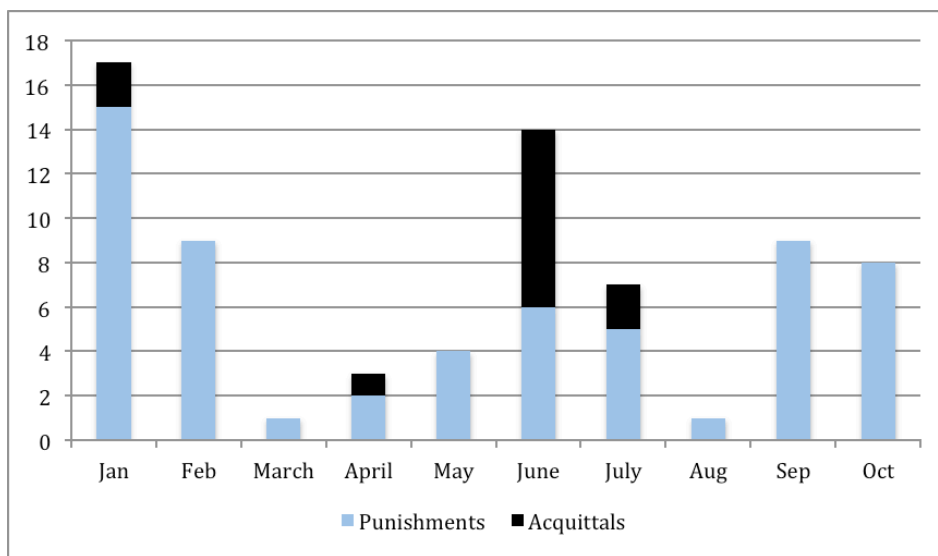
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Appendix 2: Castle Forbes convicts and the Patricks Plains Bench, January to October 1833

The 'Register of convicts tried before the Bench at Patricks Plains, 1833–1839', SANSW, 7/3714, pp. 8–26, is one numerous versions of the punishment returns for the Patricks Plains bench in this period. M. Sturma, *Vice in a Vicious Society: Crime and Convicts in Mid-Nineteenth Century New South Wales*, St Lucia (Qld), 1983, pp. 12–20, used and tabulated some data from this file, but only for the years 1834–1835, to illustrate the excessive nature of the punishment regime at Castle Forbes *after* the revolt when 'over ten per cent' of the complaints heard at Patricks Plains 'involved servants assigned to Mudie or his partner John Larnach'. The earlier data for 1833 shows that the situation was much worse *before* the revolt. Dowd and Fink, *op. cit.*, p. 2, used a shorter and incomplete set of returns for November 1835 to November 1836 in SANSW, X709, which they say evidence 'crimes ... of vengeance, demonstrating the convicts' hatred of their master'. Those are collated returns for a broader range of magisterial seats. Blair, 'The Revolt at Castle Forbes' noted but did not explore the returns in 7/3714.

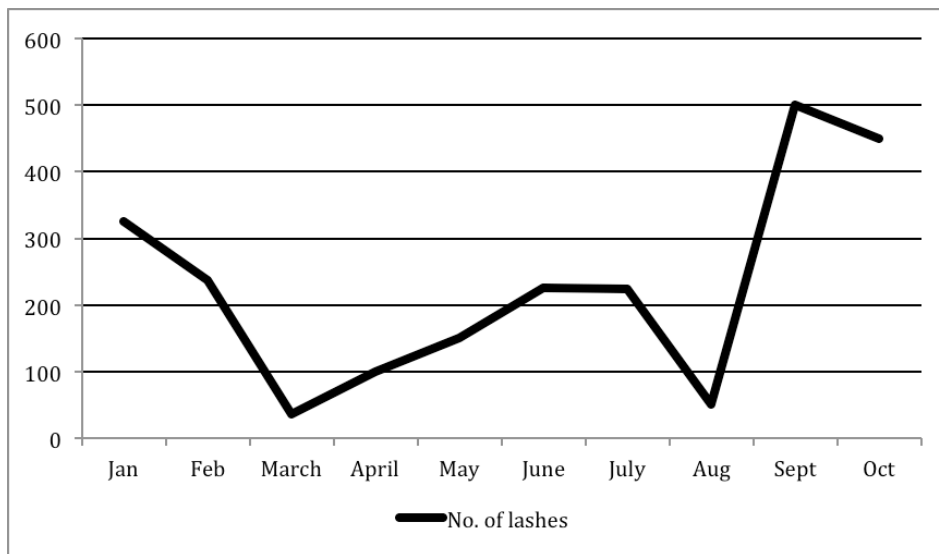
Table 1: Castle Forbes Men before the Patricks Plains Bench, January-October 1833, showing number of cases: punishments and acquittals

Month	No of Cases	Acquittals	Punished
January	17	2	15
February	9		9
March	1		1
April	3	1	2
May	4		4
June	14	8	6
July	7	2	5
August	1		1
September	9		9
October	8		8
TOTALS	73 *	13	60



The totals do not include the five cases of 4 November (for which see Appendix 3)

Table 1b: Castle Forbes Men before the Patricks Plains Bench, January-October 1833, showing number of lashes



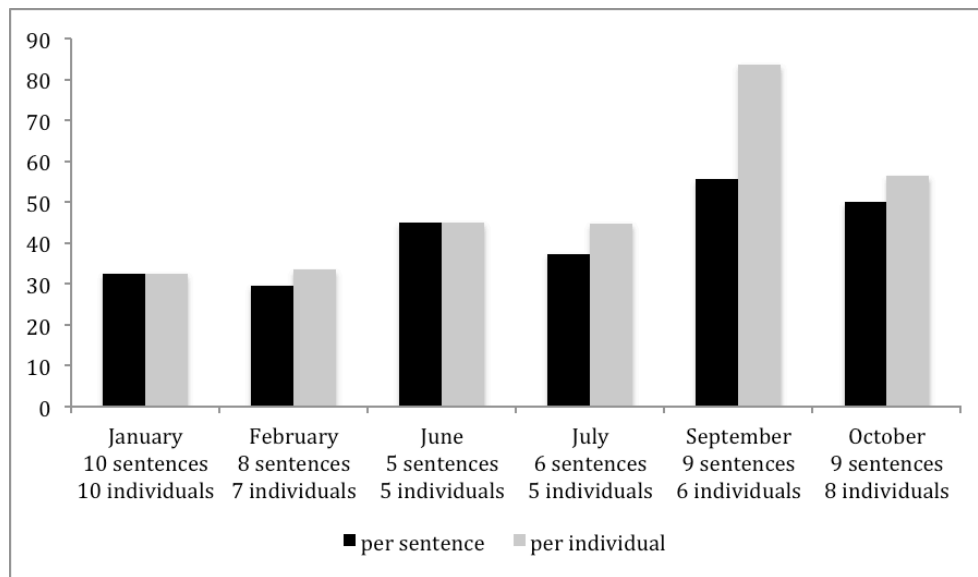
The Figures for October include the 50 lashes awarded to the Castle Forbes conspirator, John Poole, on 4 November 1833.

Note: While flogging was the preferred punishment option for the Patricks Plains magistrates, there were a number of other punishments issued to Castle Forbes convicts, notably in the first two months of 1833, as recorded in SANSW, 7/3714:

Date	Name	complaint	sentence
14 Jan:	Harvey, James	useless	returned to Gov.
28 Jan:	Browne, William	sheep stealing	12 mths in iron gang
28 Jan:	Darcey, Walter	sheep stealing	12 mths in iron gang
28 Jan:	Horrux, Charles	sheep stealing	12 mths in iron gang
28 Jan:	Poucher, Richard	sheep stealing	12 mths in iron gang
18 Feb:	Hughes, Elizabeth	refusing to work	7 days confinement in the cells

Table 2: Castle Forbes men flogged by the Patricks Plains Bench, January-October 1833, showing number of sentences issued, and average lashes per punishment and per individual, by select month.

Month	Sentences	Average per sentence	Individuals	Average per Individual
January	10	32.5	10	32.5
February	8	29.6	7	33.4
June	5	45	5	45.0
July	6	37.3	5	44.8
September	9	55.5	6	83.6
October	9	50	8	56.3



Pertains to floggings only. Acquittals and other punishments are removed. The Figures for October include the 50 lashes awarded to the Castle Forbes conspirator, John Poole, on 4 November 1833.

Appendix 3: Proceedings before the Patricks Plains Bench immediately before the Castle Forbes revolt, 21 and 28 October, and 4 November 1828, Castle Forbes Inquiry, Part G, SANSW, 4/2182.1.

These are the previously unpublished minutes of the proceedings of the Patricks Plains Bench, copied by the Castle Forbes Inquiry, for the cases against Castle Forbes servants, immediately preceding the revolt: that is: (1) the 'split' case against David Jones, 21 October 1833; (2) against Hitchcock, 21 October 1833; (3) against Hitchcock, Ryan, Jones and Parrot, on 28 October and 4 November 1833; (4) the separate complaint against Poole, 4 November 1833. They were included in Part G of the inquiry's documents, which contained copies 'of all depositions taken on the several occasions upon which Hitchcock, Poole, Reilly, Perry, Jones, and Ryan were brought before the Bench at Patrick Plains while in Messrs Mudie and Larnach's service'. The transcripts are rearranged slightly to reflect the apparent chronology of the proceedings. I am indebted to Sue Wiblin for her initial transcripts. Some minor corrections have been made to spelling and punctuation.

* * *

(1) Proceedings against David Jones per Guildford, life, assigned to A.B. Spark Esq. in Mr Mudie's employ, 21 October 1833.

John Larnach being duly sworn deposeseth, the prisoner is employed as a nightwatchman over sheep. Last Thursday night a flock of sheep that had been washed for shearing was given into his charge, and he was desired to watch them in a paddock, the following morning when I went to see the sheep I found about fourteen dead, and near fifty very severely bitten by dogs. There are now nineteen dead four or five missing and about forty all very much bitten.

Sworn before me 21 October 1833.
Helenus Scott JP.

Prisoner states that he left the sheep and went to a station about a mile off and when he returned his sheep were gone from the place where he left them.

Guilty of neglect in consequence of which his master's sheep were destroyed. 50 lashes.
Helenus Scott JP.

Edward Brampton being duly sworn deposeseth, last Thursday night the prisoner had charge of a flock of sheep, that had been washed during the night he came to the station where I was he appeared to me in liquor my station is about three quarters of a mile or more from where the prisoner was minding his sheep.

Sworn before me 21 October 1833.
Helenus Scott JP.

The prisoner states that about 10 o'clock his sheep lay down and he then went to the station mentioned by Brampton for a hat and returned immediately.

Guilty of going at night to a station without permission to receive 25 lashes.
Helenus Scott JP.

(2) Proceedings against Anthony Hitchcock per Lord Melville, life, assigned to Mr Larnach, 21 October 1833.

John Larnach being duly sworn deposes, the prisoner in employed as shepherd on the 6 September last I was walking this the bush and I observed the prisoner pushing something into a log. I watched him for sometime and I went towards him. He approached me, and I asked him what he was doing at the log, he said "nothing", I went to the log and there I found a dead sheep which appeared very much to me as if it had been killed by dogs. My reason for not bringing this charge forward at the time was that it happened on the day of the death of my child, and I told the prisoner if every I had occasion to bring him to court on any other charge I would, I would bring this against him, and as I have brought him before the Bench today on suspicion of robbery I now bring this charge against him.

Sworn before me 21 October 1833.

Helenus Scott JP.

The prisoner states the sheep died in his flock does not know from what cause, it got torn by dogs after it died and he put it into the log to protect it from further injury so that he might show it to his overseer. Denies having told Mr Larnach he was doing nothing at the log.

Guilty of hiding a dead sheep under suspicion of having killed it. To receive 25 lashes.

Helenus Scott JP.

(3) Proceedings against Anthony Hitchcock Lord Melville, life, assigned to Mr Larnach; James Ryan Eliza, life, assigned to Mr Mudie; David Jones Guildford, life, assigned to A.B. Spark; Stephen Parrott Asia, life assigned to Mr Mudie, 28 October and 4 November.

Thomas Rooke per ship York assigned servant to Mr Larnach of Castle Forbes being sworn states, that last Thursday week as he was well sinking two strange men (who said they were assigned to Mr James Scott) came and asked for water. That these two men stopped that night at the shepherd's hut were Dept at present lives. There were three shepherds and a watchman besides Dept and his mate had the hut. Soon after the moon went down (about two hours after dark) one of the shepherds (Thomas Phillips) went out and soon afterwards Dept heard him cry out 'murder' and Phillips came in with his face all bloody, saying two or three men had beaten him with a stick. Everything was then quiet, and the men went to bed, and Dept had his bed and blanket under him near the doorway when a brick came close to his head, and a great number of others followed quickly all about the hut thrown through the door, but before the bricks were thrown the sheep were heard to rush, and on going out the gateway of the pen was down, and Dept helped to put it up, none of the sheep were out. Dept went back to the hut and the watchman Michael Stack stayed out and George Powell did so also, and shortly after came running in saying he had been nearly killed by a blow on the side with a brick, and it was then that the bricks were thrown into the hut. The fire was well alight and dry oak bark was blazing, which Dept had put there on purpose to see by. Dept then saw Hitchcock pull down a slab from behind the fireplace, and Dept knew him immediately, and looked at Hitchcock while he pulled down nine or ten more slabs, and a man by the name of Stephen Parrott pulled down the slabs from the side of the hut, and David Jones pulled down the bark which formed one end

of the hut. These three men, Hitchcock, Jones and Parrott, are fellow servants of Dept's, and he swears to them positively. Hitchcock was the first man who entered the hut with a stick flourishing in his hand, and stuck one of the strangers on the side of the neck, and seized hold of two small bundles tied in a handkerchief, and a small box. The stranger resisted, and Hitchcock took them away at this time. Parrott entered and took away two bundles from the other stranger, who did not resist. David Jones came in last and turned over a number of blankets and selected the two belonging to the strangers, which had not the master's brand on them. He (Jones), also put two bed ticks under his arm, and then said they were alright, and the three men went off. Dept is quite positive it was the three men Hitchcock, Parrott and Jones who robbed the hut and ill-used the men. Dept says that his life has been threatened by Thomas James, Samuel Marston, and Towner (Francis Blackburn).

Sworn before us 28 October 1833.

Robert Scott, James Glennie and Helenus Scott JP.

George Powell per Waterloo, assigned to James Mudie Esq. of Castle Forbes being sworn states, that last Thursday week, when he came home with his sheep he found a new hand in the country with whom he had been acquainted in the hulks, at the hut and he the stranger and his mate, were both assigned to Mr Scott of Stonehenge. They stayed all night. Dept had gone to bed, but had not fallen asleep, when he heard a man cry out 'oh dear don't kill me', upon this Dept ran out and found Thomas Phillips on his back upon the ground, and no one else that Dept could see. Dept led Phillips into the hut and while Dept was washing his face Dept heard a noise at the end, and the watchman Kerry (Maurice Stack) called out for assistance. Dept ran out to the pen towards the gate, when a man jumped up from the fence and struck at Dept's head but the blow was caught on the arm (shows a mark) and then a stone or brick hit Dept a severe blow on the hip (shows a mark yet black) which disabled him, and he was again struck on the thigh and he crawled as fast as he could towards the hut, where a brick struck Dept on the side, and knocked him down. After this Dept heard one cry out 'have mercy on me, have mercy on me'. Dept was not more than a yard and a half from the hut, at the door. Dept does not know who the men were who ill-used the men, for he the Dept did not see the other men after he was struck on the side. When Dept went into the hut after the row, the hut was pulled to pieces, the two strange men complained of having been ill used, and Phillips did so too, that after the row a little black bitch with white round the back of its neck came to Dept and Dept knows this bitch it follows Hitchcock. The man who struck Dept had on a red shirt and a black hat and Dept thinks it was a man by the name of James Ryan, he was the same size as Ryan. Dept belonged to the same station where Ryan was watchman only the day before for Dept was removed only the same day to the station on the plains where the riot took place. Ryan wears a red shirt but not a black hat. Dept heard a laugh which he thinks was Ryan's voice but cannot swear positively.

Sworn before us 28 October 1833.

Robert Scott, James Glennie and Helenus Scott JP.

James Phillips per Melville assigned to Mr Larnach on oath states, last Thursday week at night he went out in his shirt to make water, about 9 or 10 o'clock. Dept was struck on the nose without any notice whatever, he cried out 'murder' and ran towards the hut and something struck Dept on the back of the head. When Dept came to himself he was in the hut, he saw the men in confusion, and observed two or three of the slabs pulled down from the corner of the chimney, but the person who pulled them down kept out of sight. Dept ran under the backing board and hid himself, when the slabs immediately behind him were pulled down and he was struck on the shoulder with a brick. Dept turned around and looked out through the place where the slabs had been pulled down and not seeing anyone, ran away, and did not again that night return to the hut, but laid down in the wheat till the morning. During the whole of this time Dept did not see any person but those who belong to the hut.

Sworn before us 28 October 1833.

Robert Scott, James Glennie and Helenus Scott JP

William Bright per Asia 1833, 7 years, assigned to Mr Mudie being sworn states, that on the night of last Thursday week he assisted to bring in Phillips after he was hurt, that afterwards he saw a hand pull down some slabs, but could not tell who he was. The Dept being accused of being a coward, said the magistrate would be frightened too if a man were to flourish a stick over his head. The Dept then positively denied that the man was in the hut at all, but that he had stood at the door, hid his face, which he held down and was covered with something black, says that one of the robbers put nothing but his arm into the hut, and selected the unbranded blankets belonging to the strangers, and left three branded with Mr Mudie's brand, and if this Dept cannot describe the man, admits there were three men who he helped to rush from the sheep pens, but could not see the men, but admits one had a black hat and red shirt, the others he knows nothing at all about.

Sworn before us 28 October 1833.

Robert Scott, James Glennie and Helenus Scott JP

A grosser incidence of prevarication never came before me.

Robert Scott JP.

The first offence under the Act 3rd Wm 4th No. 3. 50 lashes.

Helenus Scott JP. James Glennie JP

Henry Russell per Parmelia, assigned to Mr Larnach, being duly sworn states, that he is a shepherd attached to a station where Brampton is overseer and Parrott a deputy overseer. The hut in which the men live is divided into two rooms the one occupied by the two overseers and Little Dick (Richard Getters) a shepherd, and at the other room by Hitchcock, Sage, and Dept. Dept's station is on the creek, about a mile from the plain station, and about the same distance, or a greater of a mile less from the farm. On Thursday night the 17th instant Dept was woke from his sleep by David Jones calling out for his pipe, and asking who is here in a loud tone of voice, and after a little he spoke aside to Channing (Sage) which Dept could not understand. Jones is watchman at the farm and had no business at Dept's station. Jones appeared to be in liquor and Dept distinctly smelt spirits, whether from Jones person or from the hut Dept cannot tell. Jones remained 10 minutes or a quarter of an hour and went into the overseer's room where Dept heard whispering going on, which was not loud enough for Dept to understand. Jones was only a few minutes there. Channing got up but did not go out of the hut but

went into the overseer's room, and he returned to bed. Dept thinks this must have been about 12 o'clock. Dept got up and Parrott desired Dept to give him a drink which Dept did. Parrott was in bed and said he was thirsty from eating salt meat. Dept says there had not been any salt meat at the station at all that day. Parrott had fresh meat that day for supper. Dick and Brampton were also in bed that time. Dept then went to bed himself and Ryan came into the hut for a drink, he had on a red shirt and a straw hat and then went out, a few minutes after this Hitchcock came into the hut he was in his shirt with his trousers over his arm, and a black hat on his head, he got in at the foot of his bed and then called out to Dept for a drink of water, Hitchcock went to bed before Dept that night, but did not see him go out at all that night. Dept did not see Parrott come in that night after hours.

Sworn before us 28 October 1833.

Robert Scott JP. James Glennie JP. Helenus Scott JP.

Maurice Stack assigned servant to Mr Mudie being duly sworn deposes, I am employed as a watchman at a sheep station, on the night of last Thursday week, about 9 o'clock, a man named Phillips went out of the hut just before going to bed, and when he had been out a short time I heard him call out 'murder' on going out I found him bleeding at the nose and his face covered with blood. The men in the hut all came out then, and we saw three men run between the trees, and they commenced pelting us with bricks and other things they afterwards went round the sheep pen and pulled down the gateway and I went with another man and put up the folds again and remained at the pens for the rest of the night. One of the three men had black hat another a straw hat with a broad brim, and the third had a straw hat, after Phillips had been pulled to the hut the three men came and commenced pulling down the hut. We all went out, and the men ran around the pens. The second time the men came to the hut I was at the pens, and saw the slabs of the hut pulled down in one place but could not tell who did it. I was so frightened that I could not take notice, I cannot tell when the bricks were thrown. I ran away through the door and got hit on the breast as I went. I saw three men that night but do not know who they were.

Sworn before us 28 October 1833.

Robert Scott JP. Helenus Scott JP

Remanded until Mr James Scott's men can be brought down.

James Glennie JP.

Thomas Rooke on his cross examination says he is sure it was Hitchcock, if it was only by the white patch on his trousers, says he did not acknowledge knowing Hitchcock at the time because he was afraid Hitchcock would kill him does not exactly know the hour the attack took place. It was after the moon went down. Dept had not been to sleep. There were two strangers, one was struck with a stick the men remained in the hut for from five to ten minutes. That Jones employed the time in ransacking the things does not remember the exact time. He had conversation with Jones who asked if he Dept meant to swear against the men, and was answered if he (Dept) was put on his oath he would tell the truth, Jones then said he the (Dept) deserved to be killed for it.

George Powell being X examined said he has seen the bitch at the station since Hitchcock was locked up, but did not see her away from Hitchcock when he was at large.

Henry Russell on his X examination says he told Hitchcock of his having come in. Desired David not to set his bed on fire. The fire was light enough to see in the hut.

On oath sworn before us 28 October 1833.
Robert Scott JP. James Glennie JP.

William Smith per Heroine, life assigned to Mr James Scott being duly sworn deposeth, last Thursday fortnight on 17 October I and another man were on our way to my master's farm, and we stopped that night at a sheep station of Mr Mudie's. About 11 o'clock at night, one of the men belonging to the hut was outside and he called out that he had been stuck on the nose with a stick. Shortly after this, three men came to the hut and commenced pulling it down, and then pelted us with brick bats. They robbed me of the following articles, namely a blue cloth coat, a light waistcoat, and a pair of light grey cloth trousers, a suit of slops consisting of a grey cloth jacket and waistcoat, a pair of duck trousers, and a check shirt and also my bed and blanket I could not distinguish who the men were or how they were dressed, for I was obliged to hide myself to avoid the brick bats my blanket was numbered 179. The above coat, waistcoat, and grey trousers were in a small box and my clothes were tied up in a bundle.

Sworn before us 4 November 1833.
James Glennie JP. Helenus Scott JP

Thomas Hale per Heroine, 7 years, assigned to Mr James Scott being duly sworn deposeth, last Thursday fortnight 17 October I and my companion William Smith were stopping at a sheep station of Mr Mudie's. About 11 o'clock at night I was sleeping outside the hut and I was awoken by a noise, and got up and found that some men were knocking down the hut and throwing bricks and brick bats into the hut. I got up and went into the hut for shelter and two men came in and commenced beating me with sticks. They robbed me of the following articles, namely, a grey cloth jacket and waistcoat, a pair of duck trousers a check shirt a pair of shoes a black cap and a blanket. I saw three men going away from the hut with the above articles, after they have robbed us. The two men that came into the hut and beat me appeared to be about my size and had each a dark jacket and waistcoat on. I did not observe their trousers. The blanket that was stolen from me was numbered 24. The above clothes that were stolen from me were all tied up in a handkerchief.

Sworn before us 4 November 1833.
James Glennie Helenus Scott JP

Ryan denies the charge, he was never away from his station. Hitchcock states that he is innocent, that he went out of his hut to make water, that Rooke has perjured himself he states there were four bundles, and the two strangers state they only had two and a box. Jones has nothing to say in his defence, that he is innocent. Parrott states that he is innocent.

Hitchcock, Jones and Parrott guilty of robbery and assault 12 months to an iron gang and returned to their masters. James Ryan acquitted.

James Glennie JP.

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(4) Proceedings against John Poole per Claudine, life, assigned to Mr Mudie, 4 November 1833.

Present James Glennie and Helenus Scott Esqs. Justices of the Peace.

Mr Larnach being duly sworn deposeth, the Prisoner is a Carpenter Last Wednesday afternoon I sent a man named Powell to the Prisoner who was at work in the shop - Powell had given evidence in Court the Previous Monday against some prisoners under charge of Robbery, the Prisoner began to abuse Powell calling him a false swearing rascal or something to that effect. I went to the Prisoner and reprimanded him, and he then was impertinent to me telling me that he saw I was determined to get him flogged - On Thursday he was at work up at the mill I remarked to him that I thought he had done very little work, and asked him what he had been about - He told me I wished to know too much. I told him I should be obliged to take him to Court if he continued that conduct and he replied 'I see how it is. You are determined to have me punished, & now I give you a chance', at the same time he threw down [illegible] ... him why he had not painted the windshafts according to my orders, and he asked me if I supposed he was going to paint it, and get besmeared with paint himself. His conduct is generally very insolent, and idle. The prisoner told me that if I got him punished I should regret it and that he would make someone look out.

Sworn before us 4 November 1833.
James Glennie JP. Helenus Scott JP.

The prisoner states that he made use of the expression mentioned by Mr Larnach as he thought that Mr Larnach had no business to ask him the questions he did. That he was not away from his work more than an hour and then he went to his dinner. That if he had painted what Mr Larnach desired him he could not have gone on with his work. Never threw down his tools nor threatened Mr Larnach.

Guilty of disobedience and insolence 50 lashes.

James Glennie JP. Helenus Scott JP.