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# Legend and Reality: The Genius of Russel Ward

## The 2009 Russel Ward Annual Lecture
## University of New England, 8 September 2009

**Babette Smith**
**Blackheath NSW**

In *The Australian Legend* (1958) Russel Ward wrote that a people's idea of itself 'is always connected with reality [and] ... springs largely from a people's past experiences'.[1] If he is right — and I believe he is — then we have a major problem. In many areas, Australians' idea of themselves is based on the propaganda of some free settlers whose version of events still infects too much of our thinking. To summarise a long story, a small group of migrants, many of them clergymen, arrived in eastern Australia and Van Diemen's Land between 1839-1843. Here they found flourishing communities created by former convicts over the previous fifty years. Rather than being ashamed of the past, the local citizens were proud of their society and the opportunities it offered their children.

But the expectations of the new migrants had been formed in Britain, influenced especially by the publicity from a Select Committee of the House of Commons on Transportation, established in 1837. Its chairman, Sir William Molesworth, believed that transportation was a form of white slavery and he intended to end it. With sensational press coverage, the Committee deplored the women convicts as useless whores, just as all its predecessors had done. However, this time a new and scandalous element was created when the Committee delved into the sex lives of convict men. One clergyman in particular gave the most highly coloured evidence to the Committee, claiming that homosexuality, then called 'unnatural crime', was rife in the penal colonies. Everyone who lived here was supposedly contaminated by it. Colonial society was polluted by the convicts' depravity.[2]

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[1]    R. Ward, *The Australian Legend*, Melbourne, 1970 [1958], p. 1.

[2]    B. Smith, *Australia's Birthstain: The Startling Legacy of the Convict Era*, Sydney, 2008, Ch. 7; J. Hirst, *Convict Society and its Enemies*, North Sydney (NSW), 1983, pp. 9-27; K. Reid, *Gender, Crime and Empire*, Manchester (UK), 2007, Ch. 5.

The migrants who came to Australia in the years that followed the Committee knew no better. They read the publicity in Britain and believed every word of it. The many clergymen among them were filled with missionary zeal. The campaign they mounted here against transportation was ruthless in its tactics and wild in its allegations. Not only did they use the fear of widespread homosexuality as an argument with the British government. They used it locally as well in a whispering campaign which put moral pressure on people to support them. In the process they trashed the reputation of the convicts, and trampled on the society that had been created here. In a very short space of time, just a few years, the convicts went from being objects of proud rehabilitation to the most obscene people that Victorian society could imagine.[3]

From approximately 1850, it became untenable to identify oneself as a convict or someone with convict connections. Because the opponents of transportation were successful, the ugly template they created has been accepted as fact. Analysis of Australia ever since has been shaped by their propaganda. For example, in 1852, Reverend John West, who led the campaign against transportation, wrote a history book that is still influential. He established an image of our convict era as a system of 'revolting severity and prisoners debased by habit' claiming that it left 'a class embittered by ignorance and revenge'.[4] West's book was a template for the gothic histories produced in the 1880s and 1890s (for example Marcus Clark's *Term of His Natural Life*, which also drew heavily on the report of the Molesworth Committee) and for assumptions about the brutal penal colony displayed in the *Bulletin* magazine at that time. Many of West's distortions have been perpetuated, most sensationally by Robert Hughes in *The Fatal Shore* (1987).[5]

Since about 1970 family historians have researched the convict records in detail and produced evidence that contradicts the picture laid down by John West and his cohort. Family historians quickly

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3      Smith, *op. cit.*, Ch. 8; Reid, *op. cit.*, Ch. 6.

4      J. West, *The History of Tasmania*, Sydney, 1971 [Launceston 1852], p. 473.

5      R. Hughes, *The Fatal Shore: A History of the Transportation of Convicts to Australia, 1787-1868*, London, 1987.

discovered that convicts believed in the future of Australia. It was they and their children who built the social as well as the physical infrastructure. Their children served on the local councils of our cities and towns. Some of those children became community leaders including mayors or Lord Mayor. Some of the convicts and their children were squatters. Some children became professional men. Some were parliamentarians. Some of the convicts started newspapers. Many were small businessmen and women, an occupation with very long roots in Australia.

Russel Ward was not the first to claim that convicts were the founders of modern Australia, but he *was* the first to show how the convicts shaped our culture in defining and positive ways. His view was largely intuitive but he built an argument from published sources such as travellers' journals, ballads and folk songs and official correspondence. He was ahead of his time in trying to find the voice of ordinary people.[6] Access to the convict archives was very limited when Ward was writing *The Australian Legend.* Members of the public were totally prohibited from examining them. Even academics were restricted in what they could use. Today, convict primary sources are fully accessible to academic and public researchers alike. Names of convicts can be published and individual stories told. Facilitating this emphasis on the personal is the discovery since 1958 of the value of history told by a multiplicity of voices, as well as gendered and ethnic perspectives. Through research in the convict records, we now have more facts, more characters and, in the bigger picture, more continuity between the first century of European settlement and the next. As a result, we have far deeper access to the roots and evolution of our society.

As I said at the start — and this time I'll give you the full quotation — according to Russel Ward:

> National character is ... a people's idea of itself and this stereotype, though often absurdly romanticised or exaggerated is always connected with reality in two

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[6]    For full coverage, see D. A. Roberts, 'Russel Ward and the Convict Legend', *Journal of Australian Colonial History*, Vol. 10, No. 2, 2008, pp. 37-58.

ways. It springs largely from a people's past experiences,
and it often modifies current events by colouring men's
ideas of how they ought 'typically' to behave.[7]

Since *The Australian Legend* was published, many of Ward's
arguments have been debated, some of them derided. Two that have
been especially controversial were his conclusion that the legendary
Australian Bushman originated with the convicts and, secondly, that
our distinctive egalitarianism was also a product of the convict era.[8]
My own research in the convict archives provides evidence for
Ward's claim that the iconic figure of the Australian Bushman dates
back to the penal era. Here is his prototype.

In 1831, a freckled-faced teenager named Henry Alphan grabbed
a handful of jewellery from a shop in Westminster. Spotted by the
shopkeeper's daughter, he fled through the streets of London with a
posse of people at his heels calling 'Stop thief'. Three weeks later,
Henry was in the Old Bailey denying he had stolen anything. 'I am
only fifteen', he pleaded to the court. 'I lost my job last week and
only went to the shop in search of work'. But there were plenty of
witnesses to describe how they chased Henry and how they found
the gold rings and gold eyeglass and eleven gold brooches that he
threw on the ground as he ran. London juries had heard every kind
of excuse. They didn't believe Henry and found him guilty. The law
required the judge take account of the value of the stolen goods, so
although it was Henry's first offence, the judge sentenced him to
death.[9]

A month later, Henry's petition for mercy landed at the Home
Office. He was no longer claiming innocence, but describing himself
as a penitent sinner who was only fourteen years old. In the
desperate intervening weeks he — or perhaps his family — had
rounded up as much support as they could. Eight people testified to

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7    Ward, *op. cit.*, p. 1.
8    Most particularly, Ward's ideas on the convict origins of Australian egalitarianism
     were critiqued in H. McQueen, *A New Britannia: An Argument Concerning the Social
     Origins of Australian Radicalism and Nationalism*, Ringwood (Vic), 1970.
9    Trial of Henry Alphan, 8 September 1831, Proceedings of the Old Bailey, No. 1532,
     t18310908-3 <http://www.oldbaileyonline.org/> (1 December 2009)

his good character by putting their names to his petition. One of them went so far as to say 'Henry Halpin lived with me for one year and three months and behaved himself - a very good boy.' It was enough to persuade the authorities that Henry's death sentence should be commuted. They changed it to transportation for life.[10] Henry landed in NSW in May 1832, telling the Muster Clerk he was 17, so he had apparently aged three years in the eight months since he wrote his petition. On arrival he stood only 154 cms high and had brown hair, grey eyes and a freckled face that was ruddy from the sunshine at sea. Henry also told the clerk that he was trained to make hats. Despite this urban occupation, he was assigned to work on a pastoral station in the Hunter Valley.[11]

On the face of it, there could have been few men less suited to life in the New South Wales (NSW) bush. No doubt Henry thought so too at first. Perhaps his employer, Alex Flood, decided he was a useless station hand and returned him to government. One way or another, by 1836 Henry was working in Sydney. Then in 1840 he obtained his first ticket-of-leave and a strange thing happened: the Londoner chose the bush after all. Returning to the Hunter Valley, he took a job with the settler Patrick Leslie at Scone. In 1842, when Leslie moved to the new frontier of the Darling Downs, he obtained a passport for Henry to go with him. Henry's new wife Ellen went too.[12]

Henry was still only in his mid-twenties. His master, Patrick Leslie was 27, and the Leslie brothers, Walter and George, were 24 and 22 respectively. While not forgetting that for the Aboriginal people of the area this expedition was a terrible invasion, for the Europeans it was a young man's adventure. With his life in the London metropolis a decade behind him, Henry was now a competent stockman and very familiar with the bush. With these

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10    Henry Halpin [sic], Petitions to Home Office 1831, HO 17/41, Fq12, National Archives of the United Kingdom.

11    Convict Indents, *John,* 1832, 4/4017, State Records of New South Wales (SRNSW), Sydney.

12    Ticket-of-leave, 40/2139, 4/4144, SRNSW; Ticket of Leave Passport, 42/303, SRNSW; New South Wales Births Deaths and Marriages, marriage of Henry Elphin to Ellen O'Donald, 22 January 1842, No. 727 Vol. 26c.

skills he made his mark, discovering a new stock route from the Darling Downs to the coastal plains. It was named Spicer's Gap. Recalling those times many years later, Patrick Leslie could not praise the men who worked for him too highly. 'We had twenty-two men, all ticket-of-leave, or convicts, as good and game a lot of men as ever existed, and who never occasioned us a moment's trouble: worth any forty men I have ever seen since'.[13]

Henry Alphan's personal story was part of a larger pattern. His choice of a life in the bush confirmed the evidence given to a Royal Commission in Sydney in 1819 by the Superintendent of Convicts, William Hutchinson. Asked by Commissioner John Thomas Bigge, 'How long does it take to make a London thief a good farming man?' Hutchinson replied, 'Two or three years'. When the Commissioner probed further about how often such transformations occurred, the Superintendent added, 'Very frequent'.[14] Convicts like Henry who were assigned to the bush found themselves in circumstances unlike any gaol they had ever experienced. With settlement pushing steadily outwards, the home station was often far away, and the prisoners were sent by their masters to newly acquired land further out. They were frequently unsupervised, sometimes with just one other man for company, or maybe a small group of three or five, visited at irregular intervals by an overseer. In 1832, for instance, the upper reaches of the Hunter Valley where Henry Alphan was assigned were very remote and strange to a Briton far from home. A man was thrown on his own resources. To survive, he must adjust to the weird trees and strange rock formations, turn the daring and nerve deployed as a criminal in Britain into steadfastness against new or imagined terrors. Summon his courage against fear of a native spear and his wits in the hunt for lost livestock in unknown territory. Turn the skills previously used in a crowded, damp unforgiving city into resourcefulness that could fashion his situation

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13    Leslie, in Ward, *op. cit.*, p. 82. Original source given as H. S. Russell, *The Gensis of Queensland,* Sydney, 1888 p. 166. The discovery of Spicer's Gap was reported in *Moreton Bay Courier*, 10 April 1847, and *Maitland Mercury*, 28 April 1847.

14    Appendix to the Bigge Report, reproduced in L. Evans and P. Nicholls (eds), *Convicts and Colonial Society 1788-1868*, Melbourne, 1984 p. 31.

to his needs — make a table from a piece of wood, build a shelter from bark and branches, husband a fire when the leaves were damp.

Some men recognised that the peaceful life had advantages. In everyday life their lowly status meant they were harassed unmercifully both before and after they became prisoners. Martin Cash, who would later be a notorious bushranger, served his original seven-year sentence in the Upper Hunter in the 1830s. He described the relief provided by the space and the solitude of the bush. 'Though a measure cut off from society at the time, our calm and undisturbed mode of life [was] free from the daily annoyances and petty tyranny which at that time men of my class were generally subjected to and which has ever been the bane of my existence'.[15] His words make it vividly clear what it was like to be on the bottom layer of English or Scottish or Irish society and the constant target for chivvying or admonishment or suspicion that even the law-abiding from the lower classes endured. No wonder they fought so hard to keep it from being replicated in Australia.

Forced to travel vast distances alone, the prisoners became adept at living in the bush. Some became friendly with Aborigines, finding them 'always friendly and obliging'. But they learned new skills from Indigenous people too, as Cash recorded. 'In the enjoyment of comparative liberty, I fraternised with the natives, and in a little time became thoroughly acquainted with their manners and customs'.[16] Fishing, for example, was a favourite occupation for the local people, particularly the mullet that was so popular with Aborigines they refused to barter it with convicts. With their own attempts to catch mullet far less successful, Cash describes how the prisoners watched and learned from the Indigenous people.[17] Of course we know that not all encounters between the two races were so benign. Only a few years later, convicts, emancipists and a free man slaughtered Aborigines at Waterloo Creek and Myall Creek, murders for which some of them were hanged. At least two of those

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[15]  M. Cash, *The Uncensored Story of Martin Cash the Australian Bushranger*, J. D. Emberg and B. R. Emberg (eds), Launceston (Tas), 1991, p. 8.

[16]  *Ibid*., p. 7.

[17]  *Ibid*., pp. 9-10.

men were in the upper Hunter when Cash, and Henry Alphan, were there.[18] Nevertheless, as the mullet-catching episode shows, there was also friendly interaction between the two races.

Later generations would depict these convicts as aliens in a foreign world, but that judgment underestimated the men. There were thousands of convicts like our prototype bushman, Henry Alphan. Most of them were young men, many only boys. Their stories provide evidence that Russel Ward was right when he claimed our legendary Bushman dated back to the penal era. The convicts *were* the creative wellspring for iconic figures like Clancy of the Overflow, the Man from Snowy River, for *The Bulletin's* Bushman, and more recently for Crocodile Dundee. The Bushman was definitely not, as Graeme Davison has claimed, the invention of urban bohemians in the 1880s.[19]

Ward was right about the Bushman's convict roots but he was wrong in thinking it necessarily equated with becoming, as he put it, a wandering nomad. On this point Ward was misled by Anthony Trollope who had himself been the classic victim of what magicians call misdirection. In the early-1870s, when the novelist asked the locals where the convicts had gone, they waved their hands airily in the direction of the bush and muttered something about how they had 'wandered away whither they could'. Keenly examining the bush workers who moved from job to job around the pastoral backblocks, Trollope missed the ex-convict storekeeper, publican, tradesman and farmer. Not to mention the mothers and grandmothers.[20]

*The Australian Legend* is permeated by Ward's arguments that Australia's distinctive egalitarianism also began in the convict era. Some young historians in the sixties were outraged at this. In their opinion, class shaped everything. My support for Ward's thesis still incenses some people on this basis today. The image of early Australia as a class-riddled slave colony where brutal masters

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18    *Ibid*., p. 11. See also N. Townsend, 'Masters and Men and the Myall Creek Massacre', *Push From the Bush*, No. 20, April 1985, pp. 4-32.

19    G. Davison, ' Sydney and the Bush: An Urban Context for the Australian Legend', *Australian Historical Studies*, Vol. 18, October 1978, pp. 191-209.

20    A. Trollope, *Australia,* Vol. 1, New York, 1987 [London 1873], p. 230.

exercised their despotic power, grinding men down with the lash and the chain gang, will not be relinquished easily. That is not to say this image is entirely untrue. Some masters or overseers were indeed harsh. Flogging and other punishments were common. Places like Norfolk Island, Macquarie Harbour and Moreton Bay were certainly brutal but they were a small proportion of the whole. It is due to the anti-transportation campaign that so much of our history has been based on their image. On a broader level, as Russel Ward correctly supposed, Australian society was surprisingly free and remarkably egalitarian even during the convict era.

Let me lay out my arguments for the convict origins of egalitarianism. The first major contributor to Australian egalitarianism was the culture the prisoners brought with them. My research for *Australia's Birthstain* included studying the convicts' crimes in Britain, as well as their transportation and experiences in Australia. It revealed our founders to be pragmatic, opportunistic, streetsmart, cynical and worldly-wise, all traits developed in the struggle to survive at the bottom layer of British society. With the desperation of people who had nothing to lose, bravado — often in the form of cheek — was their first defence. They were defiantly unrepentant, making a virtue of necessity by boasting about their crimes and quickly ridiculing anyone who appeared self-righteous. In their view, some people just didn't get caught. In the 1820s, surgeon Peter Cunningham, who had made several voyages on convict ships, noted how 'Thieves generally affect to consider all the rest of mankind equally criminal with themselves, only being either lucky enough not to be found out'. It was 'their constant endeavour to reduce everyone … to the same level with themselves'.[21]

Until we looked hard at the convict records we could pretend that educated prisoners like Dr William Redfern, architect Francis Greenway or lawyer Edward Eager were an aberration, just colourful exceptions in early colonial life. In fact, they were examples of a continuous phenomenon. The levelling attitude of everyday poachers, burglars and street thieves was reinforced by the presence

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[21]    Ward, *op. cit.*, p. 42; P. Cunningham, *Two Years in New South Wales*, Adelaide, 1966 [London 1827], pp. 238-9.

among them on nearly every ship of a lawyer or two, or a doctor or architect, sometimes a couple of merchants, even the occasional clergyman — middle-class people rendered equal by criminal conviction. If they were given special treatment, other convicts complained.[22] In crowded, hierarchical Britain, the sceptical criminal ethos was scattered through society and had no broad influence. It is our good fortune that Britain decided to put all its bad eggs in one basket, which reinforced their levelling instinct and, given the weight of numbers on their side, enabled them to create a community in their own image.

Another observer of the transportees claimed disapprovingly that they had 'a sort of spirit of bravado, pride, and an *esprit de corps*'.[23] During the first fifty years of European settlement, the prisoners and emancipists discovered the perfect description for their camaraderie. My research in the penal archives found many instances of convicts and Aborigines confined together in gaol before being tried at Quarter Sessions or the Supreme Court. It was very likely *in* gaol, when trying to explain English law to their Aboriginal cellmates, that European prisoners first heard the word 'cobha'. According to historian Vicki Grieves, the term was used by Indigenous people who had 'been through the law together'.[24] Grieves suggests that its widespread use in WWI refers to that war as a baptism of fire similar to the trials of manhood, which the word described in Aboriginal culture. No doubt this is so, but I am convinced that its original use by Europeans goes even further back to convict days. Cobha or 'Been through the law together' perfectly summarised the bond between the transported felons.

Once in Australia, events conspired to reinforce the wistful egalitarianism of criminals. Perhaps most startling to people who

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22   D. A. Roberts, '"The Valley of the Swells", "Special" or "Educated" convicts on the Wellington Valley Settlement 1827-1830', *History Australia*, Vol. 3 No. 1, 2006, pp. 11.1-11.21.

23   W. Ullathorne, 8 February 1838, 'Report of the Select Committee on Transportation: Minutes of Evidence', *Parliamentary Papers*, Vol. 22, 1838, p. 14.

24   V. Grieves, review of H. Reynolds, *Nowhere people: how international race thinking shaped Australia's identity*, in *Journal of Australian Colonial History*, Vol. 10, No. 1, pp. 191-7.

were used to being disregarded outcasts was Governor Phillip's order in 1788 that the limited rations in the starving settlement be shared equally by everyone regardless of rank.[25] The effect of this on the prisoners must have been electrifying. In issuing that order, Phillip overturned every expectation of the class-ridden society from which the colonists had come, making it clear that the humanity of the most lowly convict was as important as his own. By this, he conferred value on the prisoners in their own eyes as well as others. The significance they placed on Phillip's decision can be judged by its long-lasting effects. The practice of giving everyone equal worth and sharing equally was cherished from Phillip's day. The convicts made it the pattern for how Australians related to each other. By the 1830s it was deeply entrenched. For instance when their master short-changed the prisoners' rations, the men themselves implemented an egalitarian practice which took care of everyone. Martin Cash reported how:

> At Captain Pike's farm I have seen the rations of meat for forty men weighed off in a lump, which then had to be divided into individual shares by the men themselves. Some of them by this process could not possibly receive the authorized weekly amount ... here let me observe that amongst Captain Pike's servants were men of all trades: blacksmiths, shipwrights, carpenters, wheelwrights, all of whom shared alike. I believe it to be a fair representation of nearly all others throughout the colony.[26]

Cash was right. What he saw was not an isolated example. For instance, out on a reconnaissance with Major Thomas Mitchell, sharing the freezing conditions on a mountaintop in south-east NSW, five convicts who made up the scouting party divided the remaining ration of one of their number into five equal, if tiny, portions. It got them through the night until they reached the main depot the following day.[27] The enduring nature of Phillip's decision was also

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25    Smith, *op. cit.*, p. 111.
26    Cash, *op. cit.*, p. 29.
27    G. W. C. Stapylton, *Stapylton: With Major Mitchell's Australia Felix Expedition*, A. E. J. Andrews (ed.), Hobart, 1986 [1836], p. 132.

on display among Australian men in Japanese prison camps during WWII where the practice of sharing resources regardless of rank is well documented.[28] We can see the same influence today in the community consensus that our government should always provide a 'safety net' for the less fortunate. These qualities in our society are not accidental. They arise from our past experience.

Another factor in developing Australia's egalitarianism was the sparse information which the British government sent here about its transportees. For over thirty years, colonial authorities managed the penal colonies with little or no information about the prisoners' crimes. At first, only the date of trial and length of sentence was sent. Later the convicts' occupations were added, and their age and appearance. Details of their crime were not provided until the mid-1820s. In the vacuum, a culture developed here of judging a man or a woman by their character and behaviour on the spot rather than by their background. Judgment by what you saw suited the prisoners perfectly. Many convicts arrived here sporting a favourite tattoo which read, with Shakespearean echoes: 'Speak of me as you find'. Eventually, what began inadvertently became a defining characteristic of our society. In the 1850s it was evident again when an ex-convict digger displayed the slogan 'Live and let live' above his goldfields business.[29]

In Australia, the traditional markers of birth, education, wealth and religion were not the passports to status that they were in Britain, even after a later influx of educated middle-class migrants. In the 1870s, Trollope commented with fascination: 'Men are constantly hired without any "character" but what they give themselves; and the squatters find from experience that the men are able to do [what they claim]'.[30]

Try as they might in the early years, the 'authorities' never succeeded in bending the convicts entirely to their will or to the

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28  G. Daws, *Prisoners of the Japanese*, 1994, in J. Hirst, *The Australians: Insiders and Outsiders on the National Character Since 1770*, Melbourne, 2007, pp. 144-5.

29  H. Maxwell-Stewart, 'The Search for the Convict Voice', *Tasmanian Historical Studies*, Vol. 6, No. 1, 1998, p. 82; Smith, *op. cit.*, p. 53.

30  Trollope, *op. cit.*, p. 195.

policies devised in London. Sheer weight of numbers combined with the obstreperous nature of the transportees meant the penal colonies had to be largely a co-operative venture with the prisoners. The various governors managed by interpreting or ignoring their instructions according to local conditions, resulting in a far more fluid society than was envisaged in London.[31] From 1788, individual relationships broke down what elsewhere would have been ranks of power and status. Officers and convict women became lovers. 'Infatuated soldiers' from the other ranks chose to settle with their convict partners when the original guard returned to Britain. In NSW, a notorious London pickpocket became Superintendent of Convicts. Prisoners and ex-prisoners became policemen, soldiers in the NSW Corps, farmers on their own land, and householders. Many disregarded instructions or policies to do what they wished. James Ruse, for example, who successfully farmed on behalf of the government, later dropped his co-operative facade and led a band of convicts and emancipists to farm on the Hawkesbury without authority. Court-martialled soldiers transported as convicts were another element in blurring discrepancies of power and class and many of them were Irish, which increased their propensity to disregard their hated British overlords. Deals were done and liberties taken because so often the gaolers found common ground with the people they guarded.[32]

British expectations of hierarchy, control and orderliness were turned upside down. Each boatload of newly arrived prisoners was confronted with a society where there was in effect no 'Us' and 'Them'. It was evident for all to see in the police constables, the scourgers, the ships' crews and military guards, the clerks and employers, the pastoralists and squatters, the wealthy as well as the poor, that 'Them' was 'Us'. They were one and the same. The convicts and emancipists intended to keep it that way.

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[31]  G. Karskens, *The Colony: A History of Early Sydney*, Crows Nest (NSW), 2009, Chs. 3-7, on how governors varied according to local conditions.

[32]  Smith, *op. cit*., pp. 140-2, 174; E. Christopher, '"Ten Thousand Times Worse than the Convicts": rebellious sailors, convict transportation and the struggle for freedom, 1787-1800', *Journal of Australian Colonial History*, Vol. 5, 2004, pp. 30-46, explores this in relation to the seamen engaged to transport convicts to the colonies.

In the approximately thirty years that passed between the First Fleet and the arrival of free settlers in any significant numbers, the colonists in NSW and Van Diemen's Land became distinctly possessive about the society they had created. Traditionally we have been led to believe that Australians fear foreigners, but examination of our convict years reveals that 'foreign' had nothing to do with it. The convicts feared being overwhelmed by the British class system which would return them to outcast status. They waged a relentless campaign that forced free migrants to take on the local ethos. 'New chums', they called them. Or even more insultingly 'Self-imported devils'. This 'colonization' process, which could often be harsh or even cruel to newcomers, was well known at the time. As James Macarthur commented in 1837, they felt 'that the colony was *theirs by right*, and that the emigrant settlers are interlopers upon the soil'.[33]

Most free settlers were from the same socio-economic group as the prisoners and, although sometimes quite ruthlessly indoctrinated, they conformed in order to fit in. Middle-class settlers bitterly resented the attitudes of the locals. In 1834 George Bennett wrote: 'It is well known that free emigration is detested by most of the convict party, and a wealthy individual of this class once remarked, "What have the free emigrants to do here? The colony was founded for us. They have no right here"'. Twenty years later, Reverend John West commented resentfully that 'A community of little more than half a century old cannot be entitled to denounce Englishmen as foreigners or to complain that strangers usurp the rights of the country born'. Less self-righteously, in the 1870s, Anthony Trollope ruefully confessed that he had been trying to emulate the locals. 'Camping out was ... pride on our part to show the Australians that we Englishmen ... could sleep on the ground ... do without washing, and eat nastiness out of a box as well as they could'.[34]

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[33]  J. Macarthur, *New South Wales, its Present State and Future Prospects*, London, 1837, p. 27.

[34]  Bennett, in Ward, *op. cit.*, p. 51; West, *op. cit.*, p. 525; A. Trollope, *Australia,* Vol. 2, New York, 1987 [London 1873], p. 205.

Another contributor to egalitarianism was work practices and attitudes that sprang from the power the prisoners possessed in the early years when the government needed their help to put the colony on a sustainable footing. Many continued throughout the convict era even after the system tightened. It was thirty-two years before a barracks was built in Sydney to house the convicts and the more *ad hoc* arrangements before then encouraged autonomy outside the regulated system. Until other accommodation was built, convicts and soldiers lived in their own houses where they developed private lives and private possessions. Convicts who were tradesmen and women opened businesses in their homes. The households they created became essential to the convict system because they provided board and lodgings and, in many cases employment, for later convict arrivals.[35]

Being assigned to work for one of his or her own kind must be counted as a major contributor to our culture of egalitarianism. It was not just a feature of the early years. In 1819, when Commissioner Bigge was sent to investigate what was going on in NSW and Van Diemen's Land, all but the wealthy emancipists were totally unconcerned by the convict 'stain'. They usually shared their living arrangements with their convict servants and, Bigge was told, maintained 'little if any Distinction' between them. The phenomenon of convicts working for other convicts or for ex-convicts never vanished because so many of the available employers of all types continued to be emancipists. Convicts were still assigned to farmers, publicans and storekeepers, to quarrymen and brickmakers, who had themselves been prisoners. The wealth of some emancipist employers such as ex-convict merchant Samuel Terry or brewer Daniel Cooper in NSW, or lawyer William Brodribb and orchardist/brewer George Gatehouse in Van Diemen's Land, continued the levelling process ashore that began on the convict ships.[36]

Feisty women convicts also played their part in social levelling. The records are littered with examples of women giving their

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[35]   Karskens, *op. cit.*, pp. 77-8; Smith, *op. cit.*, p.122; J. Boyce, *Van Diemen's Land*, Melbourne, 2008, pp. 123-4.
[36]   Smith, *op. cit.*, pp. 119, 124.

employers as good as they got with fine disregard for the master/servant relationship or a discrepancy of power. Some insulted their employers' social status, claiming it was less than their servant was used to. Others took more direct action. In NSW, one was punished for a physical tug-of-war with her employer. Another woman, assigned to a laundry business run by ex-convicts, dunked her master's head in a bucket of water. Kirsty Reid has revealed the extent to which women set the conditions of their service in Van Diemen's Land and the speed with which they upped and left if these were breached. 'Recognition that their power was workplace-based allowed the women to manoeuvre within the system and thus to subvert its meaning at every turn', she writes. 'Female convict workers transformed the assignment system … by substantially constraining its coercive demands. Far from strengthening their "ideological shackles", convict women were able to undermine the entire premise of the system'.[37]

In Governor Phillip's day the convicts insisted that they would not work regular hours. They announced that they would 'sooner perish in the woods than be obliged to work' in that manner and demanded the task-work system instead. As Karskens notes, this 'meant that once the daily task was completed, they were allowed free time to earn money, plant their gardens, play or wander as they chose'. They were still working under the task system thirty years later.[38] Initially, convicts were paid wages only for *extra* work. By the early 1820s, however, pastoralists were obliged to pay their convict workers a wage set by government regulation. When this policy changed in 1823, many masters continued to pay wages as an incentive and the practice faded slowly. The provision of incentives such as sugar or tobacco became entrenched in the system of convict

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[37]   K. Reid, 'Contumacious, Ungovernable and Incorrigible; Convict Women and Workplace Resistance, 1820-1839', in I. Duffield and J. Bradley (eds*), Representing Convicts: New Perspectives on Convict Forced Labour Migration*, London, 1997, pp. 106-23. See also Smith, *A Cargo of Women: Susannah Watson and the convicts of the Princess Royal,* 2nd ed., Crows Nest (NSW), 2008, [1988], pp. 75-7; K. McCabe, 'Discipline and Punish: Female Convicts on the Hunter', *Journal of Australian Colonial History*, Vol. 1, No. 1, 1999, pp. 38-61.

[38]   Karskens, *op. cit.*, p. 78.

management. In some instances if these were not provided prisoners went on strike.[39]

The convicts recognised that the withdrawal of labour gave them power and used it more frequently and effectively than we have realised. Combined with a refusal to defer, a disregard of rules or orders and a determination to do only what suited them, it could leave even a commandant with theoretical arbitrary power at his wits end. On the remote settlement at Wellington Valley in the 1820s, for example, convicts exercised substantial power, and the commandant was practically undone by what he described as 'the insolence and treachery' of the prisoners, eventually conceding that 'It must appear strange that from the civil and military situation I had held for some years before, I should now find it difficult to manage a few convicts'.[40] The subversive power of convicts even prevailed at Macquarie Harbour where, as Hamish Maxwell-Stewart notes, 'The death of the station was the product of many things but most could be traced to the work of the prisoners themselves'.[41]

Through experience, prisoners developed a technique of enforcing their wishes from below, which extended eventually to the style of leadership they were prepared to accept. One of the clearest examples of this can be found in the way convict members of Major Mitchell's exploratory party treated Assistant Surveyor Granville Staplyton, the blacksheep of an aristocratic family, who expected deference and obedience. By comparison, Mitchell treated the men according to how they performed on the spot and, in return, they respected and supported him.[42] In the 1840s, squatter Arthur Hodgson described what was required to get the best from his convict workforce when he said 'They must be led not driven. They

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[39]   B. Walsh, *Voices from Tocal: convict life on a rural estate*, Tocal (NSW), 2008, pp. 52, 62.

[40]   D. A. Roberts, '"A sort of inland Norfolk Island"? Isolation, Coercion and Resistance on the Wellington Valley Convict Station, 1823-1826', *Journal of Australian Colonial History*, Vol. 2, No. 1, April 2000, pp. 50-73.

[41]   H. Maxwell-Stewart, *Closing Hell's Gates: the death of a convict station*, Crows Nest (NSW), 2008, pp. 266-7.

[42]   Stapylton, *op. cit.* The journal is studded with contrasts between the men's reaction to Mitchell and Stapylton's revelations about how the men are behaving to him.

must be humoured not ordered; for knowing their own worth they will only exert themselves [according to] the treatment they receive'. On the NSW goldfields in the fifties, Commissioner Hardy realised that it was only this style that would ensure the co-operation of the ex-convict diggers. In 1918, General Monash echoed this legacy of enforced egalitarianism when he said about the Australian soldier digger: 'Psychologically he was easy to lead but difficult to drive'.[43]

Those who believe that being a convict in Australia was the equivalent of slavery maintain that a comparison with the slave colonies of Jamaica, Trinidad or Barbados proves that the discrepancy in numbers in Australia between a tiny middle class and a large convict population did not eliminate class. This point demonstrates the danger of applying a remote British Empire yardstick to Australia, carrying within it assumptions that are the product of the dominant class in Britain. More than one group participates in the creation of class. It is not simply the product of beautiful Georgian houses, wealth and carriages and lots of sheep. Attitudes count. Self-assertion of class is meaningless, its power circumscribed, if it is not accepted by those excluded from the privileged group. And, unlike Britain, in Australia it never was.

Evidence for the rejection of class is scattered throughout the records in a variety of ways, in different situations, at different times and locations. It began early with help from Phillip's decision to share the rations, and was boosted further by interrelationships and joint business enterprises between officers and convicts. Thereafter, the intense colonization the locals inflicted on the newcomers to sustain the egalitarian ethos is well documented. Free settlers did not displace this, however hard some tried. Using humiliation and mockery, convict society ensured that social class designators were kept at bay. One example offered by James Boyce describes how '[Bushranger] Matthew Brady targeted the social pretensions of the free settlers' by having them 'assume the roles of their servants'.

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43    Hodgson, in M. Cannon, *Australia in the Victorian Age: 2. Life in the Country*, Melbourne, 1973, p. 40; Hardy, in J. Hirst, *Freedom on the Fatal Shore: Australia's First Colony*, Melbourne, 2007, pp. 375-92; Monash, in R. White, *Inventing Australia*, Sydney, 1981, pp. 133-4.

According to Boyce, the 'enormous popular support Brady received, and the speed with which his exploits became legend, reflected how deeply this challenge to the pretensions of the élite resonated in popular culture'.[44] It was no different in NSW.

From the earliest times, prisoners kept the pressure on otherwise middle-class people to act as if they were equals. Martin Cash described the ethos operating in the 1830s in the Hunter Valley, where 'any … gentleman travelling through the bush was not above sharing our hospitality, it being a general understanding through the colony'.[45] This pressure for classlessness is a legacy which continued after the convict era. Evidence at the other end of the social scale was revealed in 1902. When Henry Montgomery returned to England from his post as Bishop of Tasmania, it was very clear that he had absorbed the enforced democracy of the ex-convict community. In his manual for clergymen who were heading to the colonies, he told them to make sure 'to clean your own boots when in Australia and learn to shoe a horse. Don't use "the affected voice or manner". And never speak about "the lower classes". Australians don't like it'.[46] In 1974, author Craig McGregor observed the same phenomenon and puzzled about why 'the wealthy feel under some pressure to be accepted by ordinary working Australians rather than the other way round'.[47] Russel Ward said that national character colours men's ideas of how they ought 'typically' to behave. Today, the same pressure, its source unrecognised, obliges the Prime Minister to sit in the front beside his driver. Dig deep in our penal history and you find the underlying dynamics of Australian society.

Two external observers vividly described the distinctive nature of Australian egalitarianism. Visiting one of the many Sydney pubs in the early 1840s, Alexander Harris, author of *Settlers & Convicts* (1847), commented on what he called 'one remarkable peculiarity' common to ordinary Australians where 'every man seemed to consider himself just on a level with all the rest'. Approximately

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44    Boyce, *op. cit.*, pp. 159, 167-8.
45    Cash, *op. cit.*, p. 29.
46    Montgomery, in L. Carlyon, *Gallipoli,* Sydney, 2001, p. 114.
47    McGregor, in Hirst, *The Australians*, p. 165.

eighty years later, the novelist, D. H. Lawrence, observed our egalitarian quality precisely. 'There was really no class distinction', Lawrence concluded. 'There was a difference of money and of "smartness". But nobody felt *better* than anybody else, or higher, only better off. And there is all the difference in the world between feeling *better* than your fellow man, and merely feeling *better-off* '.[48]

One misleading legacy of the anti-transportation campaign is our assumption that a significant middle class existed during the penal era. In fact, for many decades, no free settler could come to the convict colonies without permission. This delayed the creation of a middle class for three decades. The vacuum allowed the prisoners' ethos to consolidate. Even after free settlers began to arrive from the 1820s, convicts and emancipist families and their descendants still substantially outnumbered them, not just for decades but throughout the nineteenth century. The free settler figures have always been fudged because later generations wanted to promote the idea that the convict element had become insignificant.

Convict influence was not confined to the official penal colonies. The mobility of convicts around Australia has been underestimated since the threat of their 'contamination' was a key plank in John West's scaremongering. With much hysteria, Victoria and South Australia passed legislation not only to keep out serving convicts but also those who had become free. As late as 1870, Anthony Trollope was required to get a passport from Western Australia which certified he had never been a prisoner. South Australia and Victoria would not allow him to land without it.[49] In this as everything else, the convicts proved adept at outwitting the state. Even before transportation ended, thousands of prisoners, often with families, moved around the continent following gold or escaping the stigma of convictism that could occur in the community where they had served their sentence. Thankfully for us, they took their insistence on an egalitarian culture with them.

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48  A. Harris, *Settlers and Convicts,* Parkville (Vic), 1964 [London 1847], p. 5; D. H. Lawrence, *Kangaroo*, London, 1950 [1923], p. 27.

49  Convict Prevention Act 1853-54 [Victoria], in F. Crowley (ed.), *Colonial Australia, A Documentary History of Australia: 1841-1874*, Melbourne, 1980, p. 228; Smith, *Australia's Birthstain*, pp. 259-60.