



MONASH University

Free Wives of Convicts: 'The Really Forgotten Women of Botany Bay'

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Abstract

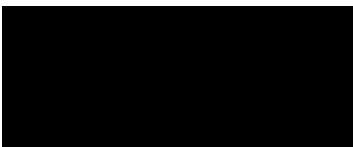
The British and Irish free wives who accompanied or joined their convict spouses sentenced to transportation to the newly established penal colony of New South Wales from 1788 to 1814 were a legal anomaly. Because of their legal and civil status as free wives and their husbands' status as convict, this group of married women was accorded the same legal rights as widows and spinsters under the common law of coverture, rights typically denied to other married women. This provided them with significant agency in legal, commercial and land matters that had far reaching consequences for them. Yet such rights were only temporary and were rescinded upon the emancipation of their convict husbands. The story of the 106 free wives of convicts in the early colony has been concealed behind the skirts of convict women, the shirt tails of their convict husbands and the sometimes authoritarian, sometimes lax, control of the colonial government. While the women are evident in archival records, they are frequently invisible in the historical narrative and, when they are represented, they are tenuously portrayed.

This thesis questions how their status as free women married to felons shaped their lives in the young colony and, subsequently, what this tells us about the society they lived in, especially in relation to status and legal agency. It suggests that their agency was not only predicated on the interruption of coverture, but also on several factors that were unique to the colony in the first three decades of European settlement. These features include the ready availability of land, the need for settlement and the colonial practice of granting land to free wives of convicts; the lack of a formal cash economy and the embryonic monetary system; and access to courts to assert legal rights within a still developing and fluid colonial legal system.

In using a mixed methodological approach that involves microhistory, quantitative and quantitative analysis and case studies, this study not only advances our understanding of how free wives asserted their agency in the early colonial period but corrects an oversight in the scholarship. By placing free wives of convicts in the very centre of historical enquiry, it offers a more nuanced illustration of early colonial society, particularly the activities of women.

Declaration

This thesis contains no material which has been accepted for the award of any other degree or diploma at any university or equivalent institution and that, to the best of my knowledge and belief, this thesis contains no material previously published or written by another person, except where due reference is made in the text of the thesis.



Laura Donati

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Ch 1: A 'Top Side Turvy' World: Free Wives of Convicts in Early New South Wales

*New South Wales is quite "opposite to England and Every thing in Nature plainly appears so even the Moon is Top side Turvy your Summer our Winter."*¹

The story of the 106 free wives of convicts in early New South Wales has been concealed behind the skirts of convict women, the shirt tails of their convict husbands and the sometimes authoritarian, sometimes lax, control of the colonial government. While the women are evident in archival records, they are frequently invisible in the historical narrative and, when they are represented, they are tenuously portrayed.² Robinson aptly described free wives of convicts as the "really forgotten women of Botany Bay," such is their invisibility in history.³ Robinson's description underscores their significance. The British and Irish free wives who accompanied or joined their convict spouses sentenced to transportation to the newly established penal colony of New South Wales from 1788 to 1814 were a legal anomaly.⁴ Because of their legal status as free wives and their husbands' felony, this group of married women was accorded the same legal rights as widows and spinsters since their status as *femes covert* was altered to that of *femes sole*. This temporary suspension of coverture provided them with significant agency in legal, commercial and land matters that had far reaching consequences for them, rights typically denied to other married women. Once their husbands were no longer prisoners, the free wives returned to the status of *femes covert* where they were "under the protection and influence" of their husbands, disabilities which were "for the most part intended for her protection and benefit."⁵

This thesis is an exploration of free wives of convicts, a recognised yet historically neglected group of colonial women in early New South Wales. It questions how their status as free women married

¹ William Noah, *Voyage to Sydney in the Ship Hillsborough 1798-1799 and a Description of the Colony* (Sydney: Library of Australian History, 1978), p. 75.

² See Chapter Two for further discussion on this. For example, see Perry McIntyre, 'The Desire for a Wife: Convict Family Reunion and Remarriage in Colonial New South Wales', *Journal of Australian Colonial History*, 15 (2013), pp.202-222; Grace Karskens, *The Rocks: Life in Early Sydney* (Melbourne: Melbourne University Press, 1997); Alan Atkinson, *The Europeans in Australia: A History* (Melbourne: Oxford University Press, 1997); Robert Hughes, *The Fatal Shore: A History of the Transportation of Convicts to Australia, 1787-1868* (London: Collins Harvill, 1987).

³ Portia Robinson, *The Women of Botany Bay: A Reinterpretation of the Role of Women in the Origins of Australian Society* (Ringwood: Penguin, 1993), p. 298.

⁴ This refers to free wives who joined their husbands in the colony whilst the men were prisoners and had yet to receive a ticket of leave or conditional pardon.

⁵ William Blackstone, *Commentaries on the Laws of England*. Vol. 1 (1765), Online Library of Liberty, pp. 442-445, <<http://oll.libertyfund.org/title.2140>>, [1 October 2015].

to felons shaped their lives in the young colony and, subsequently, what this tells us about the society they lived in, especially in relation to status and legal agency. It endorses the contention put by Bishop, Robinson and Kercher that this group of women were accorded a degree of agency denied to other wives in the colony as a consequence of the suspension of the common law of coverture while their husbands were felons.⁶ The thesis, however, goes further by hypothesising that their agency was not only predicated on the interruption of coverture, but also on several factors that were unique to the colony in the first three decades of its formation. These features include the ready availability of land, the need for settlement and the colonial practice of granting free wives of convicts land; the lack of a cash economy and the embryonic monetary system; and access to courts to assert legal rights within a still developing and fluid colonial legal system.

Located in the academic fields of Australian colonial and legal histories and women's studies, the thesis explores a range of government archives and public library collections to build on feminist and social history's 'from below' approach to historical enquiry. In doing so, it not only advances our understanding of how free wives asserted their agency in the early colonial period but corrects an oversight in the scholarship. As much of the information about them is absent from the secondary sources, the starting point of the dissertation is to retrieve and assemble the original data and records on free wives of convicts before any study of them can commence.

Despite many historical works exploring early colonial New South Wales, free wives of convicts have been largely overlooked as a distinct group of women.⁷ In 1996, Oxley noted the scant treatment of women in colonial history, "bits of their story are understood, but in the grand narrative of colonial growth, women are largely missing. Our lack of understanding is treated as their lack of activity."⁸ This marginalisation of women in general has masked free wives of convicts in particular. As this thesis reveals through several case studies, these women *did* reside in colonial New South Wales and *were* active participants in their communities, particularly in the early formative years. For example,

⁶ Catherine Bishop, 'Commerce Was a Woman: Women in Business in Colonial Sydney and Wellington', (doctoral thesis, Australian National University, 2012), p. 176; Robinson, *The Women of Botany Bay*; Bruce Kercher, *An Unruly Child: A History of Law in Australia* (Sydney: Allen and Unwin, 1995); Kercher, *Debt, Seduction and Other Disasters: The Birth of Civil Law in Convict New South Wales* (Sydney: The Federation Press, 1996).

⁷ For example, see A.G.L. Shaw, *Convicts and the Colonies, A Study of Penal Transportation from Great Britain and Ireland to Australia and Other Parts of the British Empire* (London: Faber and Faber, 1955); Karskens, *The Colony: A History of Early Sydney* (Sydney: Allen and Unwin, 2009); Deborah Oxley, *Convict Maids: The Forced Migration of Women in Australia* (Melbourne: Cambridge University Press, 1996); Kay Daniels, *Convict Women* (Sydney: Allen and Unwin, 1998).

⁸ Oxley, *Convict Maids*, p. 1. See also the discussion in Jenny Hocking and Laura Donati, 'Obscured but not Forgotten: How History Ignored the Remarkable Story of Sarah Wills Howe', *Journal of the European Association for Studies of Australia*, 7.2 (2016), pp. 59-69.

free wife of a convict, Sarah Wills, became a very successful businesswoman in the colony, as did Rosetta Stabler and Sarah Perfect.⁹

Yet this study does more than give free women married to felons their due significance. It demonstrates that for this group of women in early New South Wales, their legal status, through the temporary suspension of coverture, unsettled the constraints of gender in specific ways. In a community that was ordered according to patriarchal and gendered ideals, a person's legal and economic capabilities were largely dictated by the different social expectations and legal capabilities ascribed to men and women.¹⁰ The common law of coverture, through which a woman's legal and economic agency was vested in her husband, is an example of this as explained later in the chapter. Yet in the early colony, being a free wife of a convict revoked some of these gendered expectations and rules, as the biographical case studies demonstrate in the following chapters. This was a direct consequence of the colony's functional requirements as a penal settlement and the fluidity of its developing institutions, rules and behaviours.

A small number of historians have provided glimpses into free wives of convicts in the early period of the colony, particularly Australian colonial historians Oxley and Robinson, and Australian legal historian, Kercher. This thesis builds on their findings and methodologies to create a multi-faceted portrayal of this collective of women.¹¹ It draws on Oxley's quantitative analysis in *Convict Women* and Robinson's qualitative approach in *The Women of Botany Bay* and adopts a mixed methodological approach that explores the activities of the free wives of convicts. In doing so, a detailed and more rounded discourse is established. This multi-framework approach is evident in the use of qualitative and quantitative analysis, biographical methods and microhistory, as detailed in Chapter Two. A quantitative approach based on original archival research enables a 'big picture' assessment of free wives of convicts, thereby allowing them to be contextualised within early colonial New South Wales, while a qualitative method provides detail and depth and acts as a counterweight to the generalities of quantitative analysis. The use of case studies enables the individual voices of the women in question to be heard. Underpinning the three methodologies is

⁹ See Chapters Four and Six for case studies of these women and their legal and commercial agency as free wives of convicts.

¹⁰ Marian Aveling, 'Imagining New South Wales as a Gendered Society, 1783-1821', *Australian Historical Studies*, 25.8 (1992), pp. 1-10.

¹¹ Kercher, *An Unruly Child*; Kercher, *Debt, Seduction and Other Disasters*; Kercher, *Outsiders: Tales from the Supreme Court of NSW, 1824-1836* (Melbourne: Australian Scholarly, 2006); Kercher, 'The Law and Convict Transportation in the British Empire, 1700-1850', *Law and History Review*, 21 (2003), pp. 527-584; Oxley, *Convict Maids*; Robinson, *The Women of Botany Bay*; Robinson, *The Hatch and Brood of Time: A Study of the First Generation of Native-Born White Australians 1788-1828*, vol. 1 (Melbourne: Oxford University Press, 1985).

microhistory, a framework that seeks to answer larger historical questions through the intense and concentrated examination at the micro level.

Through the exploration of free wives of convicts, this thesis provides additional insight into how women in colonial New South Wales lived. It also offers a more nuanced illustration of early colonial society, particularly the activities of women. Since free wives of convicts were positioned on the periphery of two distinct but interconnected worlds, that of the free and the convicted, an understanding of their lived realities can only be ascertained if the two worlds are examined. As a result, the exploration of free wives of convicts enables us to better understand the society they were positioned in, with all its machinations, contests and institutions: “the study of lives and behaviour of those who, for one reason or another, have not trodden the usual path of their time [can reveal] how the institutions of society responded to such departures from the norm.”¹²

Through the examination of free wives of convicts, a greater understanding of colonial relationships between spouses is also developed. It is not possible to provide a thorough depiction of one half of a marriage without acknowledging the other half, especially since one person must necessarily influence the other according to legal doctrines. Kirkby suggested that “taking women seriously involves reconstructing their actions within the context of the relations that men and women instituted between themselves.”¹³ Thus, to garner a deeper understanding of free wives, it is essential to understand them in relation to their convict spouses whose conviction had enabled the temporary suspension of coverture.

The Legal Status of Free Wives of Convicts

Central to the activities and legal capacities of free wives of convicts in colonial New South Wales was the English common law of coverture. More than any other legal doctrine, it was this that shaped women’s legal and economic rights and capabilities. Under coverture, a woman’s legal existence was subsumed, upon marriage, under her husband’s as they became one legal entity – him.¹⁴ William Blackstone, an influential English legal theorist of the eighteenth century, declared:

By marriage, the husband and wife are one person in law: that is, the very being or legal existence of the woman is suspended during the marriage, or at least is incorporated and

¹² Sigurður Gylfi Magnússon and István M Szi-jártó, *What is Microhistory: Theory and Practice* (Hoboken: Taylor and Francis, 2013), p. 152.

¹³ *Sex, Power and Justice: Historical Perspectives of Law in Australia*, ed. by Diane Kirkby (Melbourne: Oxford University Press, 1995), p. xvi.

¹⁴ Nancy Wright and Andrew Richard Buck, ‘The Transformation of Colonial Property: A Study of the Law of Dower in New South Wales, 1836-1863’, *University of Tasmania Law Review*, 23 (2004), 97-127 (p. 100); Kercher, *An Unruly Child*, p. 49.

consolidated into that of the husband; under whose wing, protection, and cover, she performs every thing; and is therefore called in our law-French a *feme-covert* ... or under the protection and influence of her husband, her baron, or lord; and her condition during her marriage is called her coverture.¹⁵

As a *feme covert*, a wife's possessions and assets (excluding freehold land she owned prior to marriage) became the property of her husband.¹⁶ Any profits derived from her freehold land became his as did her savings, business interests and other possessions. As a *feme covert*, a wife was unable to initiate legal proceedings in her own name or sign contracts unless her husband declared her his agent. Unmarried women and widows were deemed to be *femes sole* and were accorded full legal rights and capabilities as single women.¹⁷

For free wives of convicts, however, the suspension of their husbands' legal abilities whilst under sentence theoretically placed them in a legal limbo where neither husband nor wife were able to exercise their legal rights in the colony; "between the disabilities of coverture and the depredation of their husbands' felony, those few free wives who joined their convict husbands on their transportation to New South Wales were ... presumed to be impossibly constrained. The reality however, was quite different."¹⁸ Kercher, Robinson and Atkinson proposed that, to redress this, both the colonial authorities and the developing colonial courts accorded free wives of convicts the temporary status of *femes sole* while their husbands were under sentence.¹⁹ Most significantly, this enabled women married to convicts to acquire land grants in their own name, to initiate businesses and manage them as they deemed most appropriate and to advocate for themselves in court, rights typically denied to other wives.²⁰ As illustrated by Kercher, it also had the potential to alter the relationship and power balance between the married couple in ways that were unique to the penal settlement of New South Wales since convict husbands were frequently assigned to their free wives under the convict labour assignment scheme.²¹ Their treatment as *femes sole*, however, was rescinded once their convict husbands had completed their sentences or were conditionally

¹⁵ Blackstone, *Commentaries on the Laws of England*, pp. 442-445.

¹⁶ Kercher, *An Unruly Child*, p. 49.

¹⁷ See Bishop, 'Commerce was a Woman', pp. 169-183; Hilary Golder and Diane Kirkby, 'Marriage and Divorce Law Before the Family Law Act 1975', in Kirkby, *Sex, Power and Justice*, 150-167 (p. 156).

¹⁸ Hocking and Donati, 'Obscured but not Forgotten', p. 61.

¹⁹ Kercher, *Debt, Seduction and Other Disasters*, p. 66; Atkinson, *The Europeans in Australia*, p. 261; Robinson, *The Women of Botany Bay*, p. 157.

²⁰ Kercher, *An Unruly Child*, p. 50.

²¹ Kercher, *Debt, Seduction and Other Disasters*, p. 70.

pardoned, and they returned to the legally disabled position of *femes covert*. It is for such reasons that Robinson referred to them as “a unique group within Botany Bay society.”²²

Although the suspension of coverture for free wives of prisoners was not unique to New South Wales and occurred throughout England and the British Empire, the implications of it were particular to the young colony.²³ In England, free wives of felons were accorded the temporary status of *femes sole* while their husbands completed their sentences and they could sign contracts, own property, trade in their own names and sue in court. However, upon a husband’s conviction, any property he possessed was forfeited to the Crown, including possessions, lodgings and businesses, regardless of whether his wife and family required them for their livelihood or daily needs.²⁴ This, therefore, made it difficult for wives of prisoners to gather resources to start or continue businesses or acquire land.

Yet the distinctive circumstances of the young penal colony, particularly pertaining to the ready availability of land grants, the need for cultivation and the embryonic monetary and legal systems, enabled free wives of convicts to undertake activities and achieve outcomes that were not possible in Britain or Ireland. Consequently, they could become landholders through the issuing of Crown land grants and leases, establish businesses with promissory notes and assert their rights by defending their interests in court. It was the ability to do all three that also distinguished them from other married women in the colony. This unique coalescence of factors, however, was only so for the first three decades, before legal and administrative procedures became increasingly in step with British practices and after the British legal system and a formal monetary system were established.

The Scene

Early colonial New South Wales was a place of contradictions. It was a gaol without walls, a penal settlement that was also a free settler society, and a society in which its social order was organised according to patriarchal and gendered principles but one where free wives had greater capabilities than their convicted husbands.²⁵ Founded on British traditions, rules, customs and ideologies, the colony was English but unlike England or any place its residents had previously known.

²² Robinson, *The Women of Botany Bay*, p. 157.

²³ Another example of irregular marriages and the overturning of coverture involved free African-American women married to enslaved African-American men in colonial Virginia. With the slave husband’s rights curtailed, the wife was accorded the status of a *feme sole* and could purchase her husband. Terri L. Snyder, ‘Marriage on the Margins: Free Wives, Enslaved Husbands, and the Law in Early Virginia’, *Law and History Review*, 30.1 (2012), pp. 141-171.

²⁴ David Stewart, *Law of Husband and Wife as Established in England and the United States* (San Francisco: S. Whitney Co, 1885), pp. 508-9, 666, 672.

²⁵ Kercher, *Debt, Seduction and Other Disasters*, p. 70.

Together with its contradictions, the early colony was a scene of great fluidity. For the first four decades of European occupation, society and its institutions were in a state of heightened flux as people sought to adapt to their new environment and build and develop the society they envisaged. The line between convict and free settler was blurred by the colonial government's implementation of the ticket of leave system and the use of conditional pardons. A ticket of leave was the first step to emancipation while an absolute pardon was the last. First issued in 1801, the ticket of leave scheme was akin to today's parole and enabled a convict to work and live where they chose while still under servitude. As it could be revoked by administrators, it served as an incentive for good behaviour. Conditional pardons provided prisoners with all the freedoms and entitlements of free settlers with one exception, they could not leave the colony. Once conditionally pardoned, emancipated convicts had their legal agency reinstated and they could obtain land. Absolute pardons provided full emancipation with emancipated convicts able to leave the colony without government consent. Those convicts who behaved well, had much valued skills or came from the upper echelons of society received a ticket of leave or conditional pardon soon after their arrival or before the expiration of their sentence, especially in the colony's first few decades.²⁶

In legal terms, New South Wales was a paradox. It was a penal colony and a military outpost at the furthest reaches of the globe but one where the rule of law stood as a basic principle for all its residents, including the convicted.²⁷ The principle seen as fundamental to eighteenth century notions of British justice decreed that all people, "including the sovereign, were subject to the law; that decisions in disputes should be left to civil courts, headed by independent judges applying consistent laws impartially; and that the law should be obeyed."²⁸ In theory and occasionally in practice, the rule of law extended to the Indigenous population. There is one surviving case of an Indigenous man suing for unpaid wages earned while working on a whaling vessel.²⁹ Governor Macquarie reiterated Indigenous people's right to use the colonial legal system when he stated in 1814 they were "entitled to the protection of the British law, so long as they conduct themselves conformably to them."³⁰

From its establishment in 1788, the colony's laws, governance, institutions and leaders were shaped by its penal function. All of the population was impacted by convictism, yet to varying degrees and

²⁶ Barrie Dyster, 'Public Employment and Assignment to Private Masters, 1788-1821' in *Convict Workers: Reinterpreting Australia's Past*, ed. by S. Nicholas (Cambridge: Cambridge University Press, 1988), 127-151 (p.130); Kercher, *An Unruly Child*, p. 29.

²⁷ David Neal, *The Rule of Law in A Penal Colony: Law and Power in Early New South Wales*, (Cambridge: Cambridge University Press, 1991), p. xii. See also Bella D'Abrera, 'Laws of Conviction', *Institute of Public Affairs*, 69.2 (2017), 44-47 (p. 46).

²⁸ G. D. Woods, *A History of Criminal Law in New South Wales: The Colonial Period 1788-1900* (Sydney: The Federation Press, 2002), p. 2.

²⁹ Kercher, *Debt, Seduction and Other Disasters*, p. 87.

³⁰ Ibid.

in different ways. Features of a free society, such as representative government and trial by jury were absent in the colony's founding decades since it was commonly thought that convicts were unfit for such responsibilities.³¹

English law arrived with the First Fleet, and the first colonial courts — the Court of Criminal Jurisdiction and the Court of Civil Jurisdiction — were established in February 1788. *The New South Wales Courts Act* of 1787 decreed that people had the right to appeal and could expect a fair hearing, regardless of their civil status.³² There were two distinct phases in the creation and development of the colonial legal system and each impacted on women's legal abilities in different ways. The first phase, with which this chapter is concerned, commenced in 1788 and ended in the early 1820s and was a period of heightened fluidity, when its law officers and makers shaped its institutions and edicts to fit the colony's unique and changing needs. The second phase commenced in the 1820s and involved a move towards a legal system more in keeping with that of England as lawyers trained in England began to practice in New South Wales, the Supreme Court was established and greater numbers of emancipists dominated the colony. It resulted in convict freedoms and women's legal abilities being increasingly restricted as common law principles of felony attain (as explained later in this chapter) and coverture were more strictly enforced.

The flexibility of the first phase allowed a space for free women to be heard. A small but significant number of free wives of convicts were active litigants in colonial society as they asserted their rights and place within the colony's legal and business communities. They used the law and its courts to redress wrongs and seek justice. Between 1810 and 1814, of the people that appeared before Judge Advocate Ellis Bent, nearly four per cent of defendants and nearly seven per cent of plaintiffs were women.³³ Interestingly, Kercher suggested that once the women appeared before the court, the outcomes were not affected by their gender, especially in relation to punishment or the seizure of property.³⁴

The distance of the colony from the Imperial courts, no doubt, assisted in this fluidity, as did the appointment of local judge advocates and magistrates with no or little legal training. Legal amateurs were required to preside over court cases and decide on legal issues and technicalities they knew little about since there were no qualified lawyers in the colony in the opening years. There were also

³¹ Neal, *The Rule of Law in A Penal Colony*, p. 56.

³² Alex C. Castles, *An Introduction to Australian Legal History* (Sydney: The Law Book Company Limited, 1971), pp. 31-32; John Thomas Bigge, *Report of the Commissioner of Inquiry on the State of Agriculture and Trade in the Colony of New South Wales* (1823), pp. 4-5, <<http://gutenberg.net.au/ebooks13/1300241h.html>>, [31 October 2014].

³³ Kercher, *Debt, Seduction and Other Disasters*, p. 67.

³⁴ *Ibid.*

few colonial precedents to guide them so cases were decided upon using a mixture of common sense and rudimentary knowledge of the law. Much of the colony's legal understanding came from the published works of Blackstone, namely his *Commentaries on the Laws in England*. A series of books that were published in the mid-eighteenth century and arrived with the First Fleet, the volumes became the colony's manual on legal processes and "they soon acquired such authority that they were treated as reverently as any superior court judgment."³⁵

During the early decades, the Courts of Civil Jurisdiction and Criminal Jurisdiction were the superior courts in the colony. It was, however, the Magistrates' Bench that most residents dealt with. Magistrates performed a range of tasks, such as issuing licences to bakers and publicans, resolving minor law infringements and, at various times and under different governors, dealing with minor debt issues. They were also in charge of disciplining convicts and dealing with their complaints, like those arising between masters or mistresses and servants. Their authority was broad and they "assumed a loose jurisdiction over convicts and the poor, mixing criminal, civil and family law with convict discipline."³⁶ With the civil and criminal courts only situated in Sydney, magistrates presided over legal matters in regional communities, such as Parramatta, Windsor, Evan and Liverpool.

The second phase in the colonial legal system, which is beyond the scope of this thesis, commenced in 1823 when the Imperial parliament passed the *New South Wales Act* (1823). This act not only granted consent for Van Diemen's Land to become a separate colony (this took effect in 1825) but it also provided for the establishment of a new Supreme Court and Legislative Council in both colonies. The ability to make laws, however, continued to reside with the governors although all new laws now had to go before the Chief Justice to ensure it was in keeping with British law, thereby removing room for manoeuvre as seen in the earlier years. The Imperial Secretary of State for the Colonies had the power to annul any colonial law it deemed inappropriate, unwise or in conflict with English law. Trained lawyers with thorough knowledge and understanding of the law arrived from Britain and Ireland at this time, and brought a sense of order, consistency and legal training to the colony's legal practices and processes.³⁷

The archives reveal that the first free wives of convicts arrived in New South Wales in 1790, two years after the penal colony was established. They were Ann Bockerah, Sarah Cobcroft, Elizabeth Connor, Sarah Field, Harriet Hodgetts and Maria Wood who sailed on the *Neptune* while their husbands sailed on the *Scarborough*, both ships forming part of the Second Fleet. From 1790 to 1814, the colony's

³⁵ Kercher, *An Unruly Child*, p. xii.

³⁶ *Ibid.*, p. 51.

³⁷ *Ibid.*, p. 71.

population (both free and convict) increased from 591 men, women and children to 13,116 people.³⁸ In the first four decades of European occupation, New South Wales was a male dominated society and the gender imbalance was clear in the convict population. Between 1788 and 1805, approximately 16,058 male convicts arrived, compared to 4,659 female prisoners.³⁹ The small number of free women who made the colony their home, either temporarily or permanently, included servants of the upper middle class, the wives of senior officers and the military, those seeking reunion with family members or looking for adventure and, of course, the free wives of some prisoners. As time passed, it also included increasing numbers of freed and emancipated women.

During this early period, there was much interaction between the free and the bound as male and female prisoners lived amongst the general community and convicts lived with their families. It was not until the establishment of the male convict barracks in 1819 and the Parramatta Female Factory in 1821 that prisoners were accommodated in their own facilities. Until then, they shared the same lodgings, streetscapes, utilities and services as free residents and, other than the proscribed hours of government labour that convicts were required to complete, prisoners were free to utilise their spare time as they wished.

Colonisation was a process of oppositional forces, a tug of war in which some gained while others lost. The arrival of the First Fleet resulted in the start of a protracted and painful process of displacement and loss for the Indigenous peoples of the land. The original inhabitants were simply no match for guns, diseases, ideas and practices of British Empire building. Their traditional way of life, customs and spiritual practices were now under threat in a myriad of ways. European notions of ownership saw Indigenous peoples become trespassers in their own land; their resources driven away or suddenly unavailable because of European occupation; and their populations diminished as diseases, warfare and murder by the newcomers saw men, women and children die, thereby severing social hierarchies and breaking up communities.⁴⁰

The control of land was the defining feature of colonisation and the centrepiece of European settlement.⁴¹ Through the dispossession of the land from the Indigenous peoples, settlers, soldiers,

³⁸ C.M.H Clark, *Selected Documents in Australian History 1788-1850* (London: Angus and Robertson, 1950), p. 405.

³⁹ Ibid., p. 406.

⁴⁰ Patricia Grimshaw, Marilyn Lake, Ann McGrath and Marian Quartly, *Creating a Nation* (Melbourne: McPhee Gribble, 1994), pp. 726; Henry Reynolds, *With the White People* (Melbourne: Penguin, 1990); R.W. Connell and T.H. Irving, *Class Structure in Australian History: Poverty and Progress*, 2nd edition. (Melbourne: Longman Cheshire, 1992), p. 35; Kercher, *An Unruly Child*, p. 6.

⁴¹ Hilary Golder and Kirkby, 'Land Conveyancing Reform and the Problem of the Married Woman in Colonial Australia' in *Law, History and Colonialism: The Reach of Empire*, ed. by Kirkby and Catherine Coleborne (Manchester: Manchester University Press, 2001), 207- 220 (p. 207).

emancipated felons and free wives of convicts acquired theirs. All land in the penal colony came under the custody of the English monarch, King George III and the Indigenous custodians of the land were denied possession, and thus recompense, as England declared the land its own.⁴² This was a result of the fictional concept of *terra nullius* where the coloniser considered the land to be unpossessed and, therefore, free for the taking.⁴³ Consequently, the Indigenous peoples had neither legal status nor sovereignty over its vast expanse. This meant the land could be settled — as opposed to conquered or ceded — and English authority could reign in the colony with the automatic transplantation of its statutes and laws.⁴⁴ In establishing the Court of Criminal Jurisdiction a month after the colony was established, David Collins, the first judge advocate, wrote:

This court has power to inquire of, hear, determine, and punish all treasons, misprisions of treason, murders, felonies, forgeries, perjuries, trespasses and other crimes whatsoever, that may be committed in the colony; the punishment for such offences to be inflicted according to the laws of England.⁴⁵

However, Collins also made an important qualifier which gave the colony significant legal flexibility when he added, “as nearly as may be, considering and allowing for the circumstances and situation of the settlement and its inhabitants.”⁴⁶ Until the mid-1820s and the passing of the *New South Wales Act* (1823), the colony was autocratically and authoritatively ruled by the governor.⁴⁷

Agency, Class and Gender

Rather than passive actors, free wives of convicts actively determined aspects of their lives as this thesis documents. Conceding that the concept of agency is complex and has a plethora of meanings, sociologists Ayala and Murga explained that female agency occurs when women “adapt, negotiate, resist, and/or transform the meaning of the schemas or normative orientations” that shape and

⁴² NSW Government, Department of Finance and Services, ‘Old System Information and Search Guide’ (Sydney. 2013), p. 5, <http://www.lpi.nsw.gov.au/__data/assets/pdf_file/0018/150705/Old_System_information.pdf>, [6 October 2016]; Alan W. Williams, ‘Colonial Origins of Land Acquisition Law in New South Wales and Queensland’, *Journal of Legal History*, 10.3 (1989), 352-264 (p.352); Peter Bridges, *Foundations of Identity: Building Early Sydney 1788-1822* (Sydney: Hale and Iremonger, 1995), p. 3.

⁴³ Kercher, *An Unruly Child*, p. xi.

⁴⁴ This differed from the situation in other British colonies. Kirsten McKenzie, ‘Defining and Defending Honour in Law’ in *Honourable Intentions? Violence and Virtue in Australian and Cape Colonies, c.1750 to 1850*, ed. by Penny Russell and Nigel Worden (London: Routledge, 2016), 17-30 (p. 18); Kercher, *Debt, Seduction and Other Disasters*, p. 2; Castles, *An Introduction to Australian Legal History*, pp. 3 and 14; David Philips and Susanne Davies, *A Nation of Rogues? Crime, Law and Punishment in Colonial Australia* (Melbourne: Melbourne University Press, 1994), p.6.

⁴⁵ David Collins, *An Account of the English Colony in New South Wales*, <http://gutenberg.net.au/ebooks/e0001_1.html>, [31 October 2014], p. 15.

⁴⁶ Ibid.

⁴⁷ Robinson, ‘The First Forty Years’, in *In Pursuit of Justice: Australian Women and the Law 1788-1979*, ed. by Judy Macinoltz and Heather Radi (Sydney: Hale and Iremonger, 1979), 1-16 (p. 1).

define societal structures, such as patriarchy.⁴⁸ In her article on Indian women, Anagol defined agency as “conscious, goal-driven activities by women that embrace the possibility of change; put more simply, it is purposeful action designed to have an impact.”⁴⁹ Damousi suggested that the forms of power exercised was often gender-specific as men and women sought to utilise what they had at their disposal to obtain what they wanted.⁵⁰ For instance, convict men exercised agency by slowing their pace of work, convict women by mocking authority through humour and free wives of convicts by establishing businesses of their own, becoming landholders and using the courts to seek justice.⁵¹ In doing so, they challenged colonial institutions, order and social expectations. The very fact that free married women chose to follow their convict husbands to New South Wales also suggests this.

In adopting the meaning of agency espoused by Ayala, Murga and Anagol and within the academic departments of cultural studies, sociology and history, this thesis moves beyond the narrow legal definition which can be defined as “the relationship of a person (called the agent) who acts on behalf of another person, company, or government, known as the principal.”⁵² As sketched above and illustrated in the following chapters, free wives of convicts did not act on behalf of their husbands but as individuals with autonomy under coverture. It was only when their spouses were emancipated and the women returned to the status of *femes covert*, that they became assigned agents of their husbands according to the law. By ascribing agency to free wives of convicts, this study does not wish to negate the lack of power the women experienced in their lives and in society generally. However, nor does it endorse the dichotomy of women as agents and women as victims that has played out in much of the literature.⁵³ Such a dichotomy is too simplistic to reflect reality.⁵⁴

The notion of class is important when examining early colonial New South Wales since it guided people’s behaviour, expectations and actions, including that of free wives of convicts.⁵⁵ The precise

⁴⁸ Maria Ayala and Aurelia Murga, ‘Patriarchy and Women’s Multidimensional Agency: A Case Study of a Mexican Sending Village’, *Women’s Studies International Forum*, 59 (2016), 1-8 (p.1); See also *The Feminist History Reader*, ed. by Sue Morgan (London: Routledge, 2006), p. 16.

⁴⁹ Padma Anagol, ‘Agency, Periodisation and Change in the Gender and Women’s History of Colonial India’, *Gender and History*, 20.3 (2008), 603-627 (p. 615).

⁵⁰ Joy Damousi, *Depraved and Disorderly: Female Convicts, Sexuality and Gender in Colonial Australia* (Cambridge: Cambridge University Press, 1997), pp. 62-66.

⁵¹ Ibid.; Atkinson, *The Europeans in Australia*, p. 210.

⁵² Gerald and Kathleen Hill, ‘Agency’, *The People’s Law Dictionary*, <<http://dictionary.law.com/Default.aspx?selected=2370>>, [8 August 2017].

⁵³ For a discussion on the dichotomy, see Judith Bennett, ‘Feminism and History’ in *The Feminist History Reader*, 59-73 (p. 67); Sonya Rose, Kathleen Canning, Anna Clark and Mariana Valverde, ‘Gender History/Women’s History’, in *ibid*, 160-174 (pp.166-7).

⁵⁴ Judith M. Bennett “‘Life Histories’ and the History of Modern South Asia”, *American Historical Review*, 114.3 (2009), 587–595 (p. 567).

⁵⁵ Connell and Irving, *Class Structure in Australian History*, pp. 1 & 5; Penny Russell, ‘Cultures of Distinction’ in *Cultural History in Australia*, ed. by Hsu-Ming Teo and Richard White (Sydney: UNSW Press, 2003), 158-171 (p. 166).

notion of 'class' however was also flexible because the colony was still developing and establishing its own class system that fitted its form and function as a penal colony with free settlers, and one that was not so defined by the elite, kinship and hereditary positions or land possession that shaped England's class system.⁵⁶ Some free wives of convicts experienced a change in their class status in the colony as they shifted from their labouring class backgrounds in Britain or Ireland to the middle class as a consequence of land possession or successful business activities. Therefore, social mobility in the colony owing to land and opportunities away from Britain is well exemplified by these women, though usually successful convicts are the examples emphasised in histories.⁵⁷

Perceiving the early colony through a Marxist perspective, Buckley and Wheelwright noted, "the new colony had no capital class, no free labourers, and no peasantry. In fact, there were no free settlers in the First Fleet" as they were either convicts, civil servants or military men.⁵⁸ Interestingly, Buckley and Wheelwright rendered invisible and status-less the small handful of free wives, children and servants who accompanied the civil servants and military. Conversely, both Young and Russell discussed the middle class in early colonial New South Wales with Russell having defined them as "that amorphous group, encompassing the trading and commercial classes and a growing body of professionals, positioned somewhere between the gentry and the labouring poor."⁵⁹

Coupled with the divide between convict and free, colonial society was also organised according to a gender divide premised on patriarchal ideologies. Gender shaped and ordered society yet such ordering was not constant but shifted as gendered ideologies evolved. Arising from the "struggles and power strategies and contradictions and unintended consequences of a multitude of social groups and individuals and interests," it was in constant flux.⁶⁰ Patriarchy can be defined as a "hierarchical structure of male domination that places a higher status on men's human, cultural, and social capital compared to that of women," but contemporary understanding of patriarchy

⁵⁶ A. Selzer, *Governors' Wives in Colonial Australia* (Canberra: National Library of Australia, 2002), p. 41; Kercher, *Debt, Seduction and Other Disasters*, p. xx.

⁵⁷ See, for example, Daniels, *Convict Women*; D.R. Hainsworth, *The Sydney Traders: Simeon Lord and His Contemporaries 1788-1821* (Melbourne: Cassell, 1971); Gwenda Robb, *George Howe: Australia's First Publisher* (Melbourne: Australian Scholarly Publishing, 2003); Gwyneth M. Dow, *Samuel Terry: The Botany Bay Rothschild* (Sydney: Sydney University Press, 1974).

⁵⁸ Ken Buckley and Ted Wheelwright, *No Paradise for Workers: Capitalism and the Common People in Australia 1788-1914* (Melbourne: Oxford University Press, 1988), p. 34.

⁵⁹ Penny Russell, 'Travelling Steerage: Class, Commerce, Religion and Family in Colonial Sydney', *Journal of Australian Studies*, 38:4 (2014), 383-395 (p.389); Linda Young, *Middle-Class Culture in the Nineteenth Century: America, Australia and Britain* (Hampshire: Palgrave Macmillan, 2003), pp. 5 and 15. For a discussion on class analysis in Australia, see Henry Paternoster, 'Questioning the Legacy of Class Structure in Australian History: An Australian "Historical" Class Analysis?', *Labour History*, 111 (2016), pp. 99-120, <<http://www.jstor.org/stable/10.5263/labourhistory.111.0099>>, [19 February 2018]

⁶⁰ Matthews, 1984, pp. 14-5 in David Carter, *Dispossession, Dreams and Diversity: Issues in Australian Studies* (Sydney: Pearson Education Australia, 2006), p. 381.

acknowledged that women were “key participants in society, regardless of their different statuses.”⁶¹ Pateman defined three forms of patriarchy that were not necessarily mutually exclusive: ‘traditional’ patriarchy was premised on the father at the head of the family and on paternal rule; ‘classic’ patriarchy decreed paternal and political power were naturally ordained; and lastly ‘modern’ patriarchy was based on fraternal (as opposed to paternal) power and formed the basis of capitalist societies.⁶² Free wives of convicts examined in this thesis were influenced by all three forms. In such a patriarchal society, a woman’s identity, self-definition and social standing was taken directly from the men she was dependent on, whether it be her father if she was young and unmarried, or her husband, as well as the male governors and institutional leaders who established the rules by which she lived.⁶³ The domestic ideal featured a woman who was selfless, tirelessly devoted to husband and family and able to exercise superior self-control and moral judgement.⁶⁴

Between the period 1788 to 1814, women were wives, mothers, helpers, assistants, sexual partners and the upholders of morality and virtue, as well as businesswomen, negotiators, providers and financial supporters of their families. Yet in any given society, there is never one set of ideals that people aspire to but numerous ones, competing and vying for supremacy. As argued by Kay, these competing ideals came together to form a loose and workable set of ideologies in which to live by and “although the domestic ideal was strong ... it was never absolute. It is more useful to think of competing ideologies rather than one catch-all dominant ideology to which all sang along.”⁶⁵ In this way, free wives of convicts could uphold the domestic ideal as married women whilst also running their own businesses. However, life was never so clearly delineated along gendered lines. One such view that has permeated the historical literature concerns the notion of separate spheres.⁶⁶ The activities performed in the public realm of employment, citizenship and politics and in the private

⁶¹ Ayala and Murga, ‘Patriarchy and Women’s Multidimensional Agency’, pp.1-2.

⁶² Carole Pateman, *The Sexual Contract* (Cambridge: Polity Press, 1988), pp. 23-25.

⁶³ Miriam Dixon, *The Real Matilda: Woman and Identity in Australia 1788 to the Present*, 3rd edn. (Melbourne: Penguin, 1994), p.106.

⁶⁴ Jennifer Popiel, ‘Making Mothers: The Advice Genre and the Domestic Ideal, 1760-1830’, *Journal of Family History*, 29.4 (2004), 339-350 (p. 343), <<http://journals.sagepub.com.ezproxy.lib.monash.edu.au/doi/abs/10.1177/0363199004268520>>, [accessed 19 February 2018].

⁶⁵ Alison C. Kay, *The Foundations of Female Entrepreneurship: Enterprise, Home and Household in London c.1800-1870* (New York: Routledge, 2009), p.121.

⁶⁶ John Tosh, ‘The Old Adam and the New Man: Emerging Themes in the History of English Masculinities, 1750-1850’, in *English Masculinities 1660-1800*, ed. by Tim Hitchcock and Michele Cohen (London: Longman, 1999), 217-238 (p. 229); Katrina Alford, *Production or Reproduction: An Economic History of Women in Australia, 1788-1850* (Melbourne: Oxford University Press, 1984), p. 2; Catherine Bishop, ‘When Your Money is Not Your Own: Coverture and Married Women in Business in Colonial New South Wales’, *Law and History Review*, 33.1 (2015), 181-200 (p. 182).

realm of the home and family were premised on patriarchal notions of men and women and their respective ascribed activities.

In early colonial New South Wales, the gendered spheres were not so clear cut since many men were required by necessity to involve themselves in the domestic realm because of the gender imbalance. Thus, they tended to their victuals and other domestic needs, looked after their homes and, if widowed, raised their children. As Karskens noted, chores like cooking and sewing, in the early period were not so “rigidly gender specific as they later became. Men cooked meals in the households where they worked as servants, and there are orders for men’s thimbles in government dispatches.”⁶⁷ Likewise, widowed and unmarried women were sometimes required to support themselves financially and became involved in the world of commerce, particularly as hoteliers, shopkeepers and farmers. Whilst acknowledging that there was some difference in the roles performed by men and women, Alford suggested that “the dichotomy [of separate spheres] has been much exaggerated by mainstream ‘history’.”⁶⁸ As illustrated throughout this thesis, free wives of convicts and their felon husbands challenged this ideology as these women occupied many aspects of the supposedly masculine public sphere.

The Boundaries

In this thesis, the phrase ‘free wives of convicts’ denotes those legally married women who accompanied or joined their convict spouses to New South Wales, often with children in tow, during their husbands’ servitude. The term “free women, wives of convicts” was commonly used by the women’s contemporaries, including Governor Macquarie (1810-1821). In 1816, he wrote a letter explaining that “fifteen free women, wives of convicts, arrived ... to join their husbands here.”⁶⁹ However, no single study has examined their number, the circumstances of their arrival or their lives in the colony. It has not previously been known even how many such women were in the colony. For the first time in the history narrative, original research conducted for this thesis quantifies these free wives of convicts and puts their number at 106 over a period of twenty-six years, as discussed in Chapter Three and set out in detail in the appendix’s database, ‘Database of the 106 free wives of convicts who arrived in New South Wales between 1778 and 1814, and their husbands’.⁷⁰

⁶⁷Karskens, *The Rocks*, p. 94.

⁶⁸ Alford, *Production or Reproduction*, p. 2.

⁶⁹ ‘Governor Macquarie to Earl Bathurst’, 18 March 1816, in *Historical Records of Australia (HRA)*, series 1, vol. 9, (Sydney: Library Committee of the Commonwealth Parliament, 1914-1971), p. 56.

⁷⁰ It is worth noting that there were a few incidences of free Indigenous women legally marrying convict men in early colonial New South Wales, such as Maria and Robert Lock in 1824 and Peggy Read and Jonathan Goldspink in 1832. Tanya Evans, *Fractured Families: Life on the Margins in Colonial New South Wales* (Sydney: UNSW Press, 2015), pp. 66-67 and 71.

In restricting the subject matter specifically to this group of women, the thesis does not examine free women who were in de facto relationships with convicts nor freed or emancipated women who married felons once in the colony. This thesis focuses on marriage, to the exclusion of de facto relationships because, in early colonial times, there was a clear and important legal distinction between cohabitation and legal marriage.⁷¹ The temporary suspension of coverture related only to those legally married since women in de facto relationships were classified as *femes sole*, not *femes covert*. The parameters are confined to this small cluster of married women because they all shared the same legal standing. For this reason, I have respected such a delineation by not blurring the line between legal marriages and de facto relationships and have focused my attention on *femes covert*.

Like the women in question, the time frame of the thesis is very specific, 1788 to 1814. It commences in 1788 since the colony was established then and concludes in 1814 as this was the year a general muster was conducted, thereby enabling the number of free wives of convicts in the colony to be ascertained. It was also a time when the colonial legal and monetary systems were substantially redeveloped with the establishment of the Bank of New South Wales and the adoption of the Sterling currency (both in 1817), and when the Court of Civil Jurisdiction was replaced with the first Supreme Court (1814).⁷² As the colony settled, the spaces for women to exercise their agency became fewer and the legal and economic capabilities of free wives were increasingly restrained. Consequently, the twenty-six year time frame provides a brief window of opportunity for the women in question.

Significantly, 1814 was also the start of a marked increase in the number of free wives of convicts who came to New South Wales. This came about with the development of a practice encouraging wives to join their convict husbands in the colony, as discussed in greater detail in Chapter Three. This increase can also be attributed to the cessation of the Napoleonic Wars (c.1803-1814) between Britain and France which resulted in Britain increasing shipping between England and the colony, and the 1812 House of Commons' commissioned 'Report from the Select Committee on Transportation'.⁷³ As a result of the report, Imperial and colonial governments began to formulate a policy concerning the arrival of free wives of convicts for the first time. Where once permission for them to follow their spouses to the colony had been arbitrary and piecemeal, the report noted the merit of their presence in the colony and encouraged their arrival.⁷⁴

⁷¹ Karskens, *The Rocks*, p. 82.

⁷² Clark, *A History of Australia: From the Earliest Times to the Age of Macquarie* (Melbourne: Melbourne University Press, 1963), p. 318; Kercher, *An Unruly Child*, p. 57.

⁷³ Parliament of Great Britain. House of Commons, Select Committee on Transportation, 'Report from the Select Committee on Transportation', (London: House of Commons, 1812), p. 13.

⁷⁴ This is discussed in greater detail in Chapter Three.

Exploration of free wives of convicts is confined to the colony of New South Wales (including Norfolk Island), to the exclusion of Van Diemen's Land. Although free women married to convicts resided in Van Diemen's Land shortly after the secondary colony was established in 1803, they are not discussed as the younger colony's settlement and development lagged some fifteen years behind that of New South Wales. During the opening years of the nineteenth century, Van Diemen's Land was coming to terms with mass shortages of resources (such as food, materials and labour), just as New South Wales had experienced in the late 1780s and early 1790s.⁷⁵ Yet by 1803, Sydney and its satellite towns had overcome such trials and a vibrant social and commercial society was emerging, one that was shaped by convicts, emancipists and free people alike. Van Diemen's Land had yet to reach such legal, social and economic advancement. Also, except for the *Indefatigable* in 1812, the younger colony did not receive its first convict ship direct from England until 1816.⁷⁶

Thesis Structure

In exploring free wives of convicts, several distinct but interconnected themes emerge that reveal aspects of their agency as temporary *femes sole*, namely their legal capabilities, their ability to hold land and their capacity to conduct businesses in their own names. These themes surfaced through preliminary examination of primary and secondary sources. Each of the themes is discussed in relation to free wives of convicts as a collective but also as individuals through the use of case studies. This work does not purport to be a representative exploration of free wives of convicts, but rather a thematic examination into specific aspects of their lives.

Chapter Two establishes the framework of the thesis by discussing the thesis structure, literature review, archival sources and methodological approaches adopted. As will be shown, microhistory provides the guiding framework of the thesis while qualitative and quantitative analyses, together with the use of case studies, enable the women to be examined as both a collective and as individuals. This ensures that singular women are not overlooked in the general view, nor is the group overshadowed by the singular.

Chapter Three provides a qualitative analysis of these women as a group. Using information gathered from original sources uncovered whilst completing this thesis' database, the paper builds a database of all the free wives of convicts who arrived in the colony from 1788 to 1814. By examining data such as age and year of arrival, the chapter not only provides a general understanding of just *who* these women were, but also demonstrates that they came from a cross section of society, from different cultures and socio-economic tiers. As such, it illustrates that there was no stereotypical free wife of

⁷⁵ James Boyce, *Van Diemen's Land* (Melbourne: Black Inc., 2008).

⁷⁶ *Ibid.*, p.105.

a convict as the case studies of Ann Bockerah, Martha Chartres, Ann Crossley and Harriet Hodgetts demonstrate. Such findings both build upon and challenge prevailing notions concerning free wives of convicts.

Having provided a broad overview of free wives of convicts in the previous chapter, Chapter Four narrows the focus to the theme of legal agency and standing under the common law of coverture. As illustrated in the case studies of Sarah Wills, Sarah Fielder, Ann Bartlett and Annie Fox, the women in question retained their legal rights as they were married to men who possessed little legal standing because of their conviction. They pursued legal redress for a range of matters, from signing contracts and seeking maintenance from their husbands to initiating court proceedings, all in their own names. An examination of the original source material of the courts in New South Wales provides rich evidence of this group of women asserting their rights in law.

Chapter Five builds on the legal agency of free wives of convicts through the prism of land possession. The ability to hold land in their own names was a critical factor in providing free wives, like Mary Collitts, Jane Ezzey, and Lydia Austin, with opportunities to financially prosper and exercise a high degree of autonomy. It also enabled them to preside over their husbands under the convict labour assignment scheme. This had the possibility of turning colonial society and patriarchal marital relations on its head as free wives of convicts became managers — they were termed ‘mistresses’ by their contemporaries — of their assigned convict husbands.

Chapter Six examines the agency of free wives of convicts within the theme of commerce. The legal capabilities of free wives of convicts enabled them to exercise agency pertaining to commercial activities, especially in the form of small business. The business endeavours of Sarah Perfect, Rosetta Stabler, Ann Whitaker and Sarah Cobcroft demonstrate that free wives of convicts were participants in the colony’s early commercial activities, and that their activities extended beyond the realms of the private and home into the public domain.

Chapter Seven re-examines free wives of convicts in light of the discussions and findings of the previous chapters. In particular, it considers how this thesis has augmented the historical literature on colonial women in New South Wales, and conversely, how it has challenged it. Employing the framework of microhistory, the exploration extends beyond the women in question and focuses on the wider colony, thereby further developing our knowledge and understanding of early colonial New South Wales.

The study concludes with an appendix that provides biographical details of the 106 free wives of convicts, together with their spouses, who arrived in New South Wales from 1788 to 1814. For the

first time in the colonial story, each and every free wife of a convict within this time frame is provided with space to reveal herself. No longer is she hidden behind others but is visible for all to see. With information about this group of women scant in the secondary literature, much of the information was obtained from primary records and original archival collections. Thus, before the women could be examined, they first had to be found.

Conclusion

Free wives of convicts have remained elusive figures in Australia's historical narrative. They have been marginalised and their significant agency largely unacknowledged, thereby providing a view of Australia's early colonial history that is incomplete. This thesis addresses this deficit by placing free wives of convicts at the centre of enquiry and demonstrating that not only were they anomalies within a patriarchal society but that they possessed and exercised an unusual degree of agency. This agency was exercised in the domains of land possession, the law and commerce. Using a mixed methodological approach by combining quantitative and qualitative analysis with case studies and microhistory, it demonstrates they were active participants in the colony.

In placing free wives of convicts at the centre of the study, this thesis builds on the work of past scholars who have shaped our understanding of the nation's earliest decades. Colonial and convict historians have provided a great deal of historical insight into the decades following European settlement of New South Wales, but such findings have been filtered through the various lens they employed to view the past with. Consequently, free wives of convicts have not been adequately examined since attention has been focused elsewhere. Free wives of convicts have been positioned outside the historians' fields of vision, despite their visibility in archival records. This thesis redresses this, as discussed in the following chapter, "What an Extraordinary Anomaly': Methodological Approaches and the Historical Narrative'.

Ch 2: 'What an Extraordinary Anomaly': Methodological Approaches and the Historical Narrative

'He married a free woman ... He is her assigned servant, you know', said Sylvia, as if such a condition of things was the most ordinary in the world; 'and if he misbehaves himself, she sends him back to the road gang'.

The Reverend Mr Meekin opened his mild eyes very wide indeed. 'What an extraordinary anomaly! I am beginning, my dear Miss Vickers, to find myself indeed at the antipodes'.¹

To render free wives of convicts visible in the early colonial historical narrative and explore their agency, this thesis adopts a mixed methodological and multi-disciplinary approach. Such an approach not only reflects the complexity and intricacies of the women's lives as temporary *femes sole* under the common law of coverture but also the multiple personas they each embodied at any given time, from wives, mothers or partners to businesswomen, landholders or litigants. In other words, "within every individual there are 'many people' – and every person has many aspects, and within us are many voices."² Therefore, to hear the women's multiple voices, various approaches are employed. The methodologies of qualitative and quantitative analysis, microhistory and case studies ensure a complex and multi-layered understanding of free wives of convicts and colonial society is produced.

While each of the methodological practices has a different emphasis and style of exploration, they are not mutually exclusive but rather complementary, building on one another to enhance understanding.³ By employing such a mixed approach, the large-scale findings of quantitative analysis do not render the activities of an individual free wife invisible nor does the micro gaze obscure the larger picture. This mixed method research enables a higher level of complexity to be explored, a larger array of evidence to be scrutinised and a deeper understanding to be developed than any singular methodology.⁴ Within each of the chapters, case studies are used together with qualitative or quantitative discussion and analysis, each separate but enhancing overall

¹ Marcus Clarke, *For the Term of His Natural Life*, (Hobart: Book Agencies of Tasmania, 1988), p. 115.

² Sigurour Gylfi Magnusson and Istvan M. Szijarto, *What is Microhistory: Theory and Practice* (London: Taylor and Francis, 2013), p. 156.

³ Robert K. Yin, *Case Study Research: Design and Methods*, 4th edn. (California: Sage, 2009), p.13.

⁴ *Ibid.*, pp. 62-63.

understanding of free wives of convicts and the spheres they inhabited. The historical gaze is on both macro and micro horizons, on the grand, large-scale view but also on the intimate and personal.

This thesis moves beyond the delineation of subject descriptions proposed by a singular disciplinary focus and creates an account that is multi-disciplinary as themes, such as the law, gender, economics, migration, families, oppression and agency, are explored. This facilitates greater understanding as themes across genres are studied, irrespective of disciplinary boundaries. As Denning argued, “give something a name, and someone will create an association, a journal, and department and will begin to put boundaries about it. I’m not into boundaries around knowledge.”⁵ In adopting an interdisciplinary approach, the dissertation reflects the complex lives of the women in question, as illustrated in the case studies which transgress “overly rigid academic boundaries.”⁶

The Biographical Approach

The thesis is arranged thematically, with each chapter examining a particular theme — law, land or commerce — which is brought to life through three or four biographical case studies. Case studies can be defined as “the study of the life of an individual, based on the methods of scholarship, with the goal of illuminating what is public, explained and interpreted in part from the perspective of the personal.”⁷ The stories of individual free wives of convicts as both *femes covert* and temporary *femes sole* highlight “the interaction and inter-relation between agency and structure in people’s lives” and “illuminate how individuals manage change and multiple identities.”⁸ Thus, they enable the narrative to move beyond the impersonal descriptions and generalities to in-depth analysis. While “statistics are levellers, blotting out the people they count,” the case studies ensure the women remain in the foreground and are not obscured by numbers or percentages.⁹

The case studies are an illustrative sample of free wives of convicts and are not proposed to be a representative selection. Inclusion is premised on how they best illuminate the central themes of the thesis and the availability of archival evidence detailing the women’s individual stories. Rather than providing a cradle-to-grave style of understanding, the focus is predominantly on specific aspects of their lives that are pertinent to the chapter. However, the lives of the wives are examined beyond

⁵ Greg Denning, ‘Culture is Talk. Living is Story’, in *Cultural History in Australia*, ed. by Hsu-Ming Teo and Richard White (Sydney: UNSW Press, 2003), 226-235 (p.227).

⁶ Barbara Merrill and Linden West, *Using Biographical Methods in Social Research* (Los Angeles: Sage, 2009), p. 54.

⁷ Hans Renders and Binne de Haan, ‘Introduction: The Challenges of Biographical Studies,’ in *Theoretical Discussions of Biography: Approaches from History, Microhistory and Life Writing*, ed. by Hans Renders and Binne de Haan (Lewiston: Edwin Mellen Press, 2013), 1-12 (p. 2).

⁸ Merrill and West, *Using Biographical Methods in Social Research*, p. 95.

⁹ Lenore Frost, *Abandoned Women: Scottish Convicts Exiled Beyond the Seas* (Sydney: Allen and Unwin, 2012), p. 2.

their immediate agency in order to contextualise the individual case studies and provide a 'big picture'. It is neither the intention nor within the capacity of this thesis to provide a complete historical record of the individual women examined in the case studies.

Together with case studies, this thesis also employs a second form of biography — collective biography. Collective biography refers to the examination of people according to set organisational criteria and structure, and typically takes the form of dictionaries, directories and databases.¹⁰ This approach is evident in the creation of the database located in the appendix which lists the 106 free wives of convicts who arrived in New South Wales between 1788 and 1814, together with their felon husbands. By including the database of free wives of convicts and their husbands, this dissertation follows in the footsteps of Flynn and Tipping who each provided biographical entries for individuals who sailed on the Second Fleet and the *Calcutta*.¹¹ While Flynn included entries for free wives of convicts in his collective biography, Tipping listed the fifteen free legally married wives who accompanied their convict spouses to the Port Phillip District and then Van Diemen's Land under their husbands' names.¹²

In what Caine coined, the "biographical turn", biography has become increasingly popular as a methodology, particularly with scholars in the humanities and social sciences.¹³ Merrill and West suggested it was its subjectivity and its ability to view people's agency that has seen its popularity rise, especially as it "denotes ... a reaction against forms of social enquiry that tended to deny subjectivity in research and to neglect the role of human agency in social life."¹⁴ It serves as a counterweight to the impersonal and generalised focus of more quantitative approaches and enables marginalised or neglected subjects in history to be explored in a humanistic manner whilst also eliciting their stories from a variety of records.¹⁵

The Approaches of Quantitative and Qualitative Analysis

In adopting a multi-faceted methodology, this thesis draws on Oxley's *Convict Maids* and Robinson's

¹⁰ Catherine N. Parke, *Biography: Writing Lives* (New York: Routledge, 2002), pp. 111 and 115.

¹¹ Michael Flynn, *The Second Fleet: Britain's Grim Convict Armada of 1790* (Sydney: Library of Australian History, 2001); Marjorie Tipping, *Convicts Unbound: The Story of the Calcutta Convicts and their Settlement in Australia* (Melbourne: Viking O'Neil, 1998).

¹² As the 1803 voyage of the *Calcutta* did not arrive in New South Wales but sailed directly from Portsmouth to Port Phillip (Victoria) and Van Diemen's Land, the 15 free wives of convicts aboard are not included in this thesis since they fall outside of its parameters.

¹³ Barbara Caine, *Biography and History* (London: Macmillan, 2010), p. 1.

¹⁴ Merrill and West, *Using Biographical Methods in Social Research*, p. 17.

¹⁵ *Ibid.*, p. 3; Caine, *Biography and History*, p. 1.

The Women of Botany Bay.¹⁶ Both books are significant works of original research, highly illustrative of early colonial New South Wales and place women at the very centre of their analysis. They also provide contrasting methodological styles that complement each other. Where Oxley largely explored convict women using a quantitative framework, Robinson adopted a more quantitative approach in her wider examination of free, emancipated and convict women. This thesis brings both approaches together.

In detailing the lives of convict women and debunking much of the mythology surrounding them, Oxley scrutinised 7000 convict indents records (the documents that accompanied convicts to the colony and listed details such as name, date of birth, sentence, crime committed and physical description) and completed a quantitative study of the women, from their days in England and Ireland to their new lives in New South Wales, firstly as criminals and then as emancipists. Their criminal backgrounds, employment opportunities, family structures, migration patterns and education were scrutinised and what emerged was a broad and complex picture in which the women were contextualised within early colonial society. In doing so, Oxley depicted both the diversity and the ordinariness of their experiences. For Oxley, this grand narrative was essential as it provided a foundation from which the women as a collective (and the rest of society) could be examined. She explained that “however fascinating and important such personal tales are, the point remains that individual stories alone cannot tell us about the whole. Specific cases need contextualising within the broader picture.”¹⁷ It is only when this is achieved that it is possible to ascertain if a person is unique or ordinary, their experiences unusual or the norm.¹⁸ For Oxley, it is when the broad picture is understood that the specific and the narrow can be explored in all its complexity. This task she left for others to complete.

One of the problems, however, with quantitative frameworks is that the voices of individuals can be difficult to hear above the noise of generalised numerical findings and the din of the group. Consequently, an incomplete picture emerges since the specific is overtaken by the general. Oxley was aware of this drawback in writing *Convict Maids*. She acknowledged that although she “might feel guilty of losing sight of the specific ... an aggregate approach allows me a vision of the bigger picture – a framework of understanding into which individuals may then be placed.”¹⁹

¹⁶ Deborah Oxley, *Convict Maids: The Forced Migration of Women in Australia* (Melbourne: Cambridge University Press, 1996); Portia Robinson, *The Women of Botany Bay: A Reinterpretation of the Role of Women in the Origins of Australian Society* (Ringwood: Penguin, 1993).

¹⁷ Oxley, *Convict Maids*, pp. 2 and 29.

¹⁸ Ibid., p. 29.

¹⁹ Ibid., p. 32.

In contrast to *Convict Maids*, Robinson's *The Women of Botany Bay* employs a qualitative methodology. Rather than providing an overarching, quantitative study of women in New South Wales, Robinson was concerned with the specific, whether the women be convicts, ex-convicts or free. Instead of becoming part of a numerical or statistical equation, the women were examined in detail as individuals and came alive as their activities, concerns and agency were examined. This focus on the specific is evident by Robinson's inclusion of more than a thousand names in an index (separate to the general index) of early colonial women which is titled 'Women Mentioned in the Text'.²⁰ This equates to over three new names being mentioned on nearly every page, not to mention the names that have multiple entries and appear on numerous pages.

However, qualitative analysis also has its limitations. With its narrower focus, it can fail to provide a bigger picture that allows for contextualisation and, thus, greater understanding. In her exploration of free wives of convicts, for example, Robinson explained that "comparatively small numbers of convict wives arrived in New South Wales during the first twenty or so years of settlement."²¹ Yet she did not quantify just how many women did arrive. Instead, readers are left with an uncertainty that makes the placement of free wives of convicts within society difficult. Without detailed context, we do not know how typical or unusual the activities of Anne Fulton, Mrs Garland, Mary McPherson and the other free wives of convicts Robinson discussed were.

By adopting elements of Oxley's quantitative approach and Robinson's qualitative framework, this thesis draws on the strengths of both *Convict Maids* and *The Women of Botany Bay*. By being dual focused, it combines Oxley's 'big picture' quantitative analysis with Robinson's exploration of individuals, thereby enabling the lives and agency of free wives of convicts to be examined in a number of different ways. Consequently, the women are situated within early colonial society and then thematically examined not only as a group but also as distinct individuals with their own, unique stories. The number of 106 free wives of convicts also lends itself to the two approaches, as it is big enough for collective themes and quantitative analysis but small enough for the case studies to be meaningful for the whole.

Although indebted to Oxley and Robinson, this thesis departs from them in two significant ways. The first concerns the attention accorded to men, particularly the free women's convict husbands, while the second involves an ongoing discussion on marriage. It is surprising that both authors gave scant consideration to men, especially given how women's lives were so heavily influenced by their husbands and male relations under coverture and patriarchy. In exploring free wives of convicts, it is

²⁰ Robinson, *The Women of Botany Bay*, pp. 476-485.

²¹ *Ibid.*, p. 173.

imperative to examine both spouses in the relationship as the legal status of husbands had a fundamental impact on the economic and legal agency of the women in question. How can one half of a couple be understood in all its complexities when the other half remains in the shadows? The original database of free wives and their convict husbands developed in this thesis places the basic data about their husbands alongside wives and provides an understanding of them as a couple. In doing so, it is an important original contribution to the field of colonial history.

The Microhistory Approach

‘Free Wives of Convicts’ is guided by the broader methodological framework of microhistory. It provides the foundations on which the other approaches rest. There is no singular, definitive understanding of microhistory but it has a range of meanings according to various regional and scholarly variations. Italian microhistorians differ in emphasis and aim to the French and German scholars as do those from America.²² Caine’s definition of microhistory as “the study of the past on a very small scale” goes some way to describing this approach.²³ Levi, one of its founders, described microhistory thus:

The unifying principle of all microhistorical research is the belief that microscopic observation will reveal factors previously unobserved ... Phenomena previously considered to be sufficiently described and understood assume completely new meanings by altering the scale of observation. It is then possible to use these results to draw far wider generalisations ...²⁴

Essentially, microhistory is a set of principles that challenge the generalisations and reductionist elements of grand narratives while also providing a means whereby the voices of the historically marginalised can be heard. It involves the concentrated and intense study of a subject with clearly defined boundaries (like an event, an object, a group of people or an individual) that is usually the exception to society — the “outlier” as opposed to the “average” — to elucidate understandings on the macro scale.²⁵ By focusing on the micro scale, tensions, fine nuances, relationships and connections are revealed that usually go unnoticed which enhances understanding of the larger picture. Consequently, microhistory uses a bi-focal lens as it illuminates the specific and the general as this thesis also does. Brown employed the analogy of a lake to explain microhistory’s duality:

²² For a discussion of the different regional schools of microhistory, see Chapters 1, 2 and 3 in Magnusson and Szijarto, *What is Microhistory*.

²³ Caine, *Biography and History*, p. 126.

²⁴ Matti Peltonen, ‘What is Micro in Microhistory’, in Renders and de Haan, *Theoretical Discussions of Biography*, 157-177 (pp. 159-160).

²⁵ Sigurour Gylfi Magnusson, ‘The Life of a Working Class Woman’, *Scandinavian Journal of History*, 36.2 (2011), 186-205, (p. 188); Magnusson and Szijarto, *What is Microhistory*, p. 152.

Gross visual inspection, like grand narrative, tells you some important things that you could never learn by dipping an ounce of water – but it conceals important realities. A lake that looks pure may harbor dozens of organic and inorganic materials that are perceptible only through close analysis.²⁶

Ginzburg, another of the founders of microhistory, suggested microhistorians are more concerned with actors or subjects that appear as footnotes rather than those explored in the body of a text.²⁷ By examining the unusual and the peripheral, the normal and the usual are found in the spaces in-between and are viewed from fresh perspectives, thereby offering new insights or interpretations. To assist in this illumination, microhistorians focus on evidentiary “clues” to understand a subject anew as they “provide an understanding, however subjective, of the multiple contexts in which people [make] decisions and [act] out their lives.”²⁸ This is achieved by examining “ephemora, fragments, anecdotes ... ‘insignificant details’ and ‘superficial manifestations’ to achieve ... ‘profane illumination’.”²⁹ It is, therefore, an appropriate guiding framework to follow when documentation concerning free wives of convicts is both scantily detailed and varied, from government ledgers and newspaper notices to the occasional letter.

This thesis follows the Italian school of microhistory which bases the framework on a trinity of essential features: the concentrated exploration of a well-defined subject area with clear boundaries; the objective of solving one of the ‘great historical questions’; and the belief that all people have agency.³⁰ In the case of free wives of convicts, the parameters are defined by both civil (legally married) and legal (free or felon) status, together with time and place. By examining free wives of convicts within such constraints, the wider society is viewed from a fresh vantage point which illustrates what it regarded as sacrosanct and unchangeable and, conversely, malleable and expendable, from legal rules, spousal expectations and marital relation to female agency and notions of power. Thus, in the bi-focal exploration of microhistory, the micro gaze provides a greater understanding of the larger macro picture, in this case, the legal, economic, social and familial workings of the early penal colony. This, in turn, enables questions concerning status, gender and agency to be considered. People’s agency is a central component of microhistory as “people who

²⁶ Richard D. Brown, ‘Microhistory and the Post-Modern Challenge,’ *Journal of the Early Republic*, 23.1 (2003), 1-20 (p. 18).

²⁷ Carlo Ginzburg, John Tedeschi and Anne C. Tedeschi, ‘Microhistory: Two or Three Things That I Know about It,’ *Critical Inquiry*, 20.1 (1993), 10-35 (p. 22).

²⁸ Richard D Brown, ‘Microhistory and the Post-Modern Challenge,’ in Renders and de Haan, *Theoretical Discussions of Biography*, 157 179-194 (p. 193).

²⁹ John Brewer, ‘Microhistory and the Histories of Everyday Life,’ *Cultural and Social History*, 7.1 (2010), 87-109 (p. 99).

³⁰ Magnússon and Szijártó, *What is Microhistory*, pp. 4-5.

lived in the past are not merely puppets on the hands of great underlying forces of history, but they are regarded as active individuals, conscious actors.”³¹ It is this agency that leads to the resolution of larger questions in history. For instance, an exploration of free wives of convicts as temporary *femes sole* enables the interplay between agency, gender and colonial law in early New South Wales to be closely examined and considered.

The juncture of biography and microhistory is an interesting one and although they share similarities, they are not the same. Both focus on the micro level but with different intentions. The biographer’s intention is to illuminate their subject through the exploration of society, events, time and place, while microhistorians examine their subject to resolve questions pertaining to the larger picture at the macro level. Where the biography is “largely founded on a belief in the singularity and significance of an individual’s life and his [or her] contribution to history”, microhistory concedes that “however singular a person’s life may be, the value of examining it lies not in its uniqueness, but in its exemplariness, in how that individual’s life serves as an allegory for broader issues affecting the culture as a whole.”³²

Literature Review

There is a vast amount of literature on Australia’s colonial history. Early New South Wales has been analysed, interpreted and explored through a myriad of themes, from sexuality, the environment and convictism to motherhood, gender and nation building, from commerce and victimhood to fashion and agency, from the bottom down approach to a concentrated gaze on the powerful and influential.³³ The works range from broad, sweeping narratives to narrower, thematically based

³¹ Ibid., p. 5.

³² Renders and de Haan in Renders and de Haan, *Theoretical Discussions of Biography*, p. 7.

³³ See Katrina Alford, *Production or Reproduction? An Economic History of Women in Australia, 1788-1850* (Melbourne: Oxford University Press, 1984); Marian Aveling, ‘Imagining New South Wales as a Gendered Society, 1788-1821’, *Australian Historical Studies*, 25 (1992), pp. 1-12; Catherine Bishop, ‘Commerce was a Woman: Women in Business in Colonial Sydney and Wellington’, (doctoral thesis, Australian National University, 2012); Kay Daniels, *Convict Women* (Sydney: Allen and Unwin, 1998); Miriam Dixon, *The Real Matilda*, 3rd edn (Melbourne: Penguin, 1994); Frost, *Abandoned Women*; Patricia Grimshaw, Marilyn Lake, Ann McGrath and Marian Quartly, *Creating a Nation* (Melbourne: McPhee Gribble, 1994); Margaret Maynard, *Fashioned from Penury: Dress as Cultural Practice in Colonial Australia* (Cambridge: Cambridge University Press, 1994); Monica Perrott, *A Tolerable Good Success: Economic Opportunities for Women in NSW 1788-1830* (Sydney: Hale and Iremonger, 1983); Christina Picton Phillipps, ‘Convicts, Communication and Authority: Britain and New South Wales, 1810-1830’, (doctoral thesis, University of Edinburgh, 2002); Robinson, *The Women of Botany Bay*; Oxley, *Convict Maids*; Anita Selzer, *Governors’ Wives in Colonial Australia* (Canberra: National Library of Australia, 2002); Alan Atkinson, *The Europeans in Australia: A History – Vol. 1 The Beginning* (Melbourne: Oxford University Press, 1997); Frank K. Crowley, ‘The Foundation Years, 1788-1821’ in *Australia: A Social and Political History*, ed. by Gordon Greenwood (Sydney: Angus and Robertson, 1955), pp.1-45; Geoffrey Bolton, *Spoils and Spoilers: Australians Make Their Environment 1788-1980* (Sydney: George Allen and Unwin, 1981); K. W. Robinson, ‘Land’ in *Economic Growth of Australia 1788-1821*, ed. by G. J. Abbott and N. B. Nairn (Melbourne: Melbourne University Press, 1969), pp.74-104.

explorations, from those depicting one-off events to fictionalised accounts.³⁴ Some have fixed their gaze on a singular individual while others have focused on a group of people, like female convicts, women in commerce or passengers of a single voyage.³⁵ Such works not only illustrate the past but also the times in which they were written since historians and scholars cannot understand and interpret the past without referencing it to contemporary society. Clendinnen wrote, “It is a commonplace rediscovered every decade or so that individuals see what they see from their own particular perspective, and that perspectives change through time.”³⁶ What follows is a brief exploration of how women have been scrutinised in the early colonial historiography and how free wives of convicts have been sidelined as trends in scholarly work have turned the gaze elsewhere.

Prior to the 1970s, Australia’s early colonial history was predominantly focused on men, namely government and military officials and male convicts. Much of it was written by men about men and, as Dixon described, the stories became “unacknowledged affirmation[s] of [men’s] present identity through a celebration of their past selves.”³⁷ When women were acknowledged, such as in Shaw’s *The Story of Australia* or Clark’s *A History of Australia I*, they were an aside and secondary.³⁸ In Shaw’s book, the first mention of European women came in Chapter Two (which is incidentally titled ‘Founding a Colony’) when he quoted Watkin Tench, a military officer who arrived in the colony on the First Fleet, “they lived in a state of total idleness,” thereby dismissing women’s contribution to the founding of a colony.³⁹ Both Shaw and Clark rarely used the pronouns ‘she’ or ‘her’ in their grand accounts of the national story (as suggested by their very titles), yet it was a national story that was

³⁴ For broad, sweeping narratives, see A.G.L Shaw, *Convicts and the Colonies: A Study of Penal Transportation from Great Britain and Ireland to Australia and Other Parts of the British Empire* (London: Faber and Faber, 1962); C.M.H. Clark, *A History of Australia I: From the Earliest Times to the Age of Macquarie* (Melbourne: University Press, 1963); Robert Hughes, *The Fatal Shore: A History of the Transportation of Convicts to Australia, 1787-1868* (London: Collins Harvill, 1987); Thomas Keneally, *The Commonwealth of Thieves: The Sydney Experiment* (Sydney: Random House Australia, 2005). For thematic histories, see *Domestic Space: Reading the Nineteenth Century Interior*, ed. by I. Bryden and J. Floyd (Manchester: Manchester University Press, 1999); Noel Butlin, *Forming a Colonial Economy 1810-1850* (Cambridge: Cambridge University Press, 1994); Barrie Dyster, *Servant and Master: Building and Running the Grand Houses of Sydney 1788-1850* (Kensington: New South Wales University Press, 1989); Grace Karskens, *The Rocks: Life in Early Sydney* (Melbourne: Melbourne University Press, 1997); *Convict Workers: Reinterpreting Australia’s Past*, ed. by Stephen Nicholas (Cambridge: Cambridge University Press, 1988). Works that explore one-off events include Flynn, *The Second Fleet*. For fictionalised accounts, see Clarke, *For the Term of His Natural Life*; Eleanor Dark, *The Timeless Land* (Sydney: Collins, 1988); Dark, *Storm of Time* (Sydney: A & R Classics, 2002); Kate Greenville, *The Secret River* (Melbourne, Text Publishing, 2005); John Marsden, *South of Darkness* (Sydney: Pan Macmillan, 2014).

³⁵ Tipping, *Convicts Unbound*; Oxley, *Convict Maids*; Joy Damousi, *Depraved and Disorderly: Female Convicts, Sexuality and Gender in Colonial Australia* (Cambridge: Cambridge University Press, 1997); Flynn, *The Second Fleet*; Bishop, ‘Commerce was a Woman’.

³⁶ Inga Clendinnen, *Dancing with Strangers: Europeans and Australians at First Contact* (Cambridge: Cambridge University Press, 2005), p. 12.

³⁷ Dixon, *The Real Matilda*, p. 12.

³⁸ Shaw, *Convicts and the Colonies*; Clark, *A History of Australia*.

³⁹ Shaw, *Convicts and the Colonies* p. 40.

almost exclusively masculine. Dixon commented in 1976 that “the trickle of references to women in Australian history books comes across, for the most part, as a token gesture ... in all honesty, they cannot ‘see’ women as authentic subjects.”⁴⁰

Some ‘exceptional’ women were, however, visible in the early colonial history prior to the influence of feminist scholars from the 1970s. These were the ‘successful’ women, placed on pedestals and celebrated. Eldershaw’s 1938 book *The Peaceful Army: A Memorial to the Pioneer Women of Australia 1788-1938* illustrates this style of interpretation which was published by the Women’s Executive Committee and Advisory Council of Australia’s 150th Anniversary Celebrations. In 1959, Pownall wrote what was later renamed *Australian Pioneer Women* which told the stories of pioneering stoicism, “of women who faced those spirit-testing hardships.”⁴¹ In exploring the context and place of women in colonial Australia in this manner, the lives of ordinary women were ignored, or as Dixon put it, “when women are discussed [in this way], historians tend to bend over backwards, making women larger than life ... thus, replacing an insult of omission by an insult of commission.”⁴²

From the 1970s, second wave feminist scholars questioned the lack of ordinary women in Australia’s national story. At a time when many female academics and writers were seeking their own voice and questioning their place in contemporary society, some sought to redress the imbalance by placing women squarely in the picture.⁴³ According to Scully, they legitimised “the recovery of people, perspectives and voices obscured by or lost to dominant historical narratives. Women’s and gender history, with all its fracturings of race, class and sexuality, has provided us in the past 30 years or so with a more nuanced landscape of a past populated by women as well as men.”⁴⁴

The new wave of scholars, including Dixon, Alford and Daniels, portrayed colonial women as key figures in the colony’s development, as economic drivers, as bearers and nurturers of future generations and as victims and resisters of a patriarchal, gendered society.⁴⁵ In her 1976 book, *The Real Matilda*, Dixon noted that “unhappily, the concept of woman has to be virtually uncovered,

⁴⁰ Dixon, *The Real Matilda*, p. 190.

⁴¹ Eve Pownall, *Australian Pioneer Women* (Melbourne: Currey O’Neil Ross, 1983); Marilyn Lake, ‘Women’s and Gender History in Australia: A Transformative Practice’, *Journal of Women’s History*, 25.4 (2013), 190-211 (pp. 191-2).

⁴² Dixon, *The Real Matilda*, p.190.

⁴³ See Ibid.; Anne Summers, *Damned Whores and God’s Police* 2nd revised ed., (Melbourne: Penguin, 2002); *Uphill All the Way: A Documentary History of Women in Australia*, ed. by Kay Daniels and M. Murnane (St Lucia: University of Queensland Press, 1980); Helen Heney, *Australia’s Founding Mothers* (Melbourne: Thomas Nelson, 1978); Nancy Keesing, *The White Chrysanthemum: Changing Images of Australian Motherhood* (Sydney: Angus and Robertson, 1977).

⁴⁴ Pamela Scully, ‘Peripheral Visions: Heterography and Writing the Transnational Life of Sara Baartman’ in *Transnational Lives: Biographies of Global Modernity, 1700-Present*, ed. by Desley Deacon, Penny Russell and Angela Woollacott (London: Palgrave Macmillan, 2010), 27-40 (p. 29).

⁴⁵ Alford, *Production or Reproduction*; Dixon, *The Real Matilda*; Daniels, *Convict Women*.

disinterred, inferred, teased out, from the received versions of our national identity” as women had been marginalised in the history.⁴⁶ Dixon and other theorists from this time argued that women’s traditional work and roles were important to colonial society and nation building, that they were worthy of inclusion. As a concern of second wave feminists in Australia, emphasis was placed on women as mothers, convicts and victims of men’s lust and misogynist thinking.⁴⁷

The subject of women and employment gained popularity in the 1980s and 1990s. During this period, labour histories of early colonial New South Wales were particularly popular, as were those written through the lens of “a sort of debased Marxism” which explained society through an economic discourse.⁴⁸ With women in Australia questioning their own place in the paid and unpaid work force, as well as gaining greater financial independence, it is not surprising that historians turned their gaze towards colonial women. For the first time, women as workers in early New South Wales were explored and they were “theorised at length,” with “the relationship between productive and reproductive labour a key focus of analysis.”⁴⁹ Work was redefined to include activities that took place within the home as well as beyond its confines and incorporated the activities society expected wives and mothers to accomplish, namely raising families and managing households and houses, as well as being employees, businesswomen, sole traders, licence holders or one half of a partnership. In essence, it expanded the concept of work beyond the traditional, male-centric definition of physical labour or financial gain to one that included women. Writers, such as Perrott, contributed to this new wave of investigation, as did Oxley, Robinson, Alford, Curthoys and Nicholas but significant gaps in the scholarly research remained.⁵⁰ In 1996, Byrne noted that:

Much work on early colonial Australian women has focused on opportunities for convict and free women, the capacity for women to manipulate the system or to be defined by it, and the skills of convict women. The world of free women who were not wealthy has not been fully

⁴⁶ Dixon, *The Real Matilda*, p. 57.

⁴⁷ For example, see Susanna De Vries, *Females on the Fatal Shore: Australia’s Brave Pioneers* (Brisbane: Piragos Press, 2009), pp. 20, 24 and 28; Baiba Berzins, *The Coming of the Strangers: Life in Australia 1788-1822* (Sydney: Collins Australia and the State Library of New South Wales, 1988); Grimshaw, Lake, McGrath and Quartly, *Creating a Nation*.

⁴⁸ John Hirst, *Sense and Nonsense in Australian History* (Melbourne: Black Inc, 2006), p. 7. For example, Ken Buckley and Ted Wheelwright, *No Paradise for Workers: Capitalism and the Common People in Australia 1788-1914* (Melbourne: Oxford University Press, 1988).

⁴⁹ Lake, ‘Women’s and Gender History in Australia’, pp. 190-211.

⁵⁰ Robinson, *The Women of Botany Bay*; Oxley, ‘Packing Her (Economic) Bags’: Convict Women Workers’, *Australian Historical Studies*, 26 (1994), pp. 57-76; Perrott, *A Tolerable Good Success*; Nichols, *Convict Workers*; Grimshaw, Lake, McGrath and Quartly, *Creating a Nation*; Alford, *Production or Reproduction; Companion to Women’s Historical Writing*, ed. by Barbara Caine, Mary Sponberg and Ann Curthoys (New York: Palgrave Macmillan, 2005).

investigated. There is a space they occupied, a terrain they traversed which can be opened up.⁵¹

At the turn of the new millennium, Australian history became increasingly transnational as scholars in Australia turned their attention outwards. This is evident in the work of Picton Phillips, Murchie and Bishop who examined early colonial New South Wales in relation to Britain, Ireland and New Zealand respectively.⁵² Lake suggested that scholars were engaging with each other on an international level like never before through conferences, publications, forums and e-books.⁵³ The digital age has significantly influenced this shift as it has reduced many of the difficulties of examining events that occurred in different cities, regions or countries, as well as making collaboration across continents easier. Where once it was both expensive and time consuming to travel from one locale to another in search of records, it is now possible to more readily and inexpensively procure an enormous range and volume of digital records via the Internet and collaborate with scholars elsewhere.

Within the historiography of early colonial Australia, free wives of convicts are often tenuously depicted or omitted as historians and scholars focus their attention elsewhere. This is exemplified in books, such as *Convict Workers, Nineteenth Century Sydney, Freedom on the Fatal Shore, The Sydney Traders, A Nation of Rogues, The Real Matilda, Forming a Colonial Economy, A Difficult Infant, Depraved and Disorderly* and *Law, History and Colonialism*.⁵⁴ Consequently, the women's activities, agency, influence and presence in the colony are rendered invisible or side-lined even though archival records clearly reveal their active presence. *The Colony* typifies the missed opportunities to insert free wives of convicts into the literature. Karskens wrote, "while convict women were creating culture, businesses and community in town and country, the wives of military and civil officers,

⁵¹ Paula J. Byrne, 'Economy and Free Women in Colonial New South Wales', *Australian Feminist Studies*, 11.23 (1996), 80-97 (p. 89).

⁵² Picton Phillips, 'Convicts, Communication and Authority'; Clare Murchie, 'Rehabilitating 'a Few Disaffected Characters': Ireland's Men of '98 From a Transnational Perspective' (honours thesis, University of Sydney, 2012); Bishop, 'Commerce was a Woman'; Ann Curthoys and Marilyn Lake, *Connected Worlds: History in Trans-National Perspective* (Canberra: ANU E Press, 2005).

⁵³ Lake, 'Women's and Gender History in Australia', pp. 200-2.

⁵⁴ Nicholas, *Convict Workers; Nineteenth Century Sydney: Essays in Urban History*, ed. by M. Kelly (Sydney: Sydney University Press, 1978); John Hirst, *Freedom on the Fatal Shore: Australia's First Colony* (Melbourne: Black Inc., 2008); Damousi, *Depraved and Disorderly*; Dixon, *The Real Matilda*; Graeme Alpin, *A Difficult Infant: Sydney Before Macquarie* (Sydney: Sydney History Group, 1988); David Philips and Susanne Davies, *A Nation of Rogues: Crime, Law and Punishment in Colonial Australia* (Melbourne: Melbourne University Press, 1994); Daniels, *Convict Women*; D. R. Hainsworth, *The Sydney Traders: Simeon Lord and His Contemporaries 1788-1821* (Melbourne: Cassell, 1971); *Law, History and Colonialism: The Reach of Empire*, ed. by Diane Kirkby and Catharine Coleborne (Manchester: Manchester University Press, 2001); Butlin, *Forming a Colonial Economy*.

clergymen and the earliest merchants were similarly busy with their homes, families, gardens and farms, as well as public projects.”⁵⁵ In this explanation, where were free wives of convicts?

Some historians acknowledged free wives of convicts as a group or as individuals but provided little insight. This can be characterised by Irving and Connell, “some married women, though it is not clear how many, came out at government expense to set up house with their convict husbands.”⁵⁶ Another similarly hesitant acknowledgement is “many prisoners hoped their wives would go into Australian exile with them, although few actually did.”⁵⁷ Both examples act as tantalising teasers of intriguing histories but provide little substance. Forell contained her acknowledgement of the agency of free wives of convicts as temporary *femes sole* to several lines in a footnote:

When a male convict married a free woman, she was permitted to enter into contracts, and own property in her name. If her husband became free, she became like other wives under coverture, losing the rights she had held. A woman who wanted to continue to ‘wear the pants in the family’ therefore was well advised to marry a convict with a life sentence.⁵⁸

Statements concerning this distinct group of women were also frequently erroneous, no doubt a consequence of the paucity of information about them in the secondary literature. As Chapter Three demonstrates, Crowley’s contention that “wives and children of convicts were frequently sent out to the Colonies at the public expense when the husbands had been well behaved for a number of years” is simply incorrect, as were Oxley’s claims that “there was no government-assisted free immigration until 1832” and that all free wives of convicts were members of the casual poor.⁵⁹ Teale conflated free wives of convicts with felonry by placing his brief discussion of them in a chapter titled ‘Convict Women’, rather than that called ‘Free Women’, as if the women shared their husbands’ legal status.⁶⁰

In the historiography of early colonial Australia, free women in relation to class is another subject that has been largely overlooked or underexamined. One of the main criticisms of Connell and Irving’s *Class Structure in Australian History* was their ignoring of the middle class.⁶¹ Female gentry

⁵⁵ Karskens, *The Colony: A History of Early Sydney* (Sydney: Allen and Unwin, 2009), p. 339.

⁵⁶ Raewyn Connell and Terry Irving, *Class Structure in Australian History: Poverty and Progress*, 2nd edn. (Melbourne: Longman Cheshire, 1992), p. 47.

⁵⁷ Hughes, *The Fatal Shore*, p. 131.

⁵⁸ Caroline A. Forell, ‘Convicts, Thieves, Domestic and Wives in Colonial Australia: The Rebellious Lives of Ellen Murphy and Jane New’, from ‘The Selected Works of Caroline A. Forell’, University of Oregon, 2012, p. 18, <http://works.bepress.com/caroline_forell/4/>, [4 June 2017].

⁵⁹ Crowley, *A Documentary History of Australia*, p. 42; Oxley, ‘A Strange Society for a Woman’, in anon, *The World Upside Down: Australia 1788-1830* (Canberra: National Library of Australia, 2000), 20-25 (p. 21); Oxley, *Convict Maids*, p. 85.

⁶⁰ *Colonial Eve: Sources on Australian Women*, ed. by Ruth Teale (Melbourne: Oxford University Press, 1978), pp.34-37.

⁶¹ Terry Irving and Raewyn Connell, ‘Scholars and Radicals: Writing and Re-thinking Class Structure in Australian History’, *Journal of Australian Studies*, 40.1 (2016), 1-13 (p. 8).

and labouring class women convicts have garnered some attention by such scholars as Selzer, Oxley, Dixon and Daniels.⁶² Yet free women who fell between these camps have not been sufficiently explored, particularly those from the middle class in which some free wives of convicts came to belong in the colony.⁶³ Those scholars who do discuss free women from this class, particularly Russell, Alford, Young and Irving and Connell, either did not acknowledge free wives of convicts or did so briefly.⁶⁴

In failing to adequately explore free wives of convicts (or in some instances, free wives of any description), a simplified and incomplete colonial society has been portrayed. As Pateman noted, “telling stories of all kinds is the major way that human beings have endeavoured to make sense of themselves and their social world,” yet what does this mean when sections of society are excluded or sidelined in the story.⁶⁵ Were their activities and capabilities of little consequence or importance? While the secondary sources suggest this, the evidential records say otherwise.

Despite this general absence of free wives of convicts in the literature, some authors have redressed this marginalisation by including the women in their studies and providing some in-depth analysis and information about them. Robinson, Karskens in her later work on Sydney’s Rocks district, Atkinson and McIntyre have all woven these women into a larger discourse concerning colonial women, while Perrott has demonstrated their economic agency.⁶⁶ Legal historian, Kercher, has provided valuable insight into how such women fared under the colonial legal system and how the common law of coverture and attainment had a profound impact on married women, both convict and free.⁶⁷ Kercher’s work has identified the critical aspect of the suspension of coverture and the significant position this gave free wives of convicts. In a rare example of completeness, Robinson devoted a whole chapter to this group of women.⁶⁸ In the preface to the book, Robinson explained *The Women of Botany Bay* was “a history of the European women who came to New South Wales as convicted felons, or as the free wives of convicts. Its aim is to allow these women to speak for

⁶² Selzer, *Governors’ Wives in Colonial Australia*; Oxley, *Convict Maids*; Dixon, *The Real Matilda*; Daniels, *Convict Women*.

⁶³ Henry Paternoster, ‘Questioning the Legacy of Class Structure in Australian History: An Australian “Historical” Class Analysis?’, *Labour History*, 111(2016), 99-120 (p.103), <<http://www.jstor.org/stable/10.5263/labourhistory.111.0099>>, [19 February 2018].

⁶⁴ Linda Young, *Middle-Class Culture in the Nineteenth Century: America, Australia and Britain* (Hampshire: Palgrave Macmillan, 2003); Penny Russell, ‘Travelling Steerage: Class, Commerce, Religion and Family in Colonial Sydney’, *Journal of Australian Studies*, 38:4 (2014), pp. 383-395; Connell and Irving, *Class Structure in Australian History*; Alford, *Production or Reproduction*.

⁶⁵ Carole Pateman, *The Sexual Contract* (Cambridge: Polity Press, 1988), p. 1.

⁶⁶ Oxley, *Convict Maids*; Perry McIntyre, ‘The Desire for a Wife: Convict Family Reunion and Remarriage in Colonial New South Wales’, *Journal of Australian Colonial History*, 15 (2013), pp. 202-222; Perrott, *A Tolerable Good Success*; Karskens, *The Rocks*.

⁶⁷ Atkinson, *The Europeans in Australia*.

⁶⁸ Robinson, *The Women of Botany Bay*, Chapter 7 ‘A Great and Bitter Grief’.

themselves after some 200 years of silence, neglect and misinterpretation.”⁶⁹ Until now, there has been no in-depth, large-scale scholarly work that has placed free wives of convicts at the very centre of enquiry.

It is curious to note that, despite their absence in much of the historical literature, free wives of convicts appear frequently in literary and popular novels depicting early colonial New South Wales.⁷⁰ Usually, they are marginal characters and sometimes included in the story to demonstrate the strangeness and uniqueness of the colony, as in Clarke’s 1874 novel *For the Term of His Natural Life* and Dark’s *The Timeless Land* (1941) and its sequel, *Storm of Time* (1948). At other times, they are utilised to further a male protagonist’s story as, for example, Grenville’s 2005 novel, *The Secret River*. The main character in Grenville’s novel is a convict who is transported to New South Wales and is assigned to his free wife as a servant, and through hard work and sacrifice, eventually finds material success in his adopted country. In detailing the story of the fictitious Thornhill and his wife — which are loosely based on Grenville’s ancestors, free wife Jane Wiseman and her convict spouse Solomon Wiseman who arrived together in New South Wales in 1806 — Grenville did not delve into the rich material that the free wife-mistress and convict husband-servant relationship offers but provides only a cursory look into it through a fictionalised account.

It is not surprising that free wives of convicts appear in fictional renderings of the colony. The shifts in agency and power within the married couple that arose from the assignment of convict husbands to their wives, coupled with their unique legal and economic capabilities, makes for interesting, complex and rich characters. The fiction writer is not hamstrung like historians by the long line of scholars who have marginalised free women married to convicts, the scatterings of evidential material gathering dust in archives or the time and the resources required to uncover, understand and explain such documentation. Instead, they are bound only by plot lines and imagination.⁷¹

Sources

As this thesis makes clear, although they are downplayed in secondary literature, free wives of convicts are readily visible in archival records. In a burgeoning colony where officials were required to keep a watchful eye on its convict inhabitants and alleviate the concerns of an Imperial government that was forever anxious to reduce the colony’s expenditure, people’s lives were often

⁶⁹ Ibid., p. viii.

⁷⁰ Clarke, *For the Term of His Natural Life*; Dark, *The Timeless Land*; Ibid., *Storm of Time*; Grenville, *The Secret River*.

⁷¹ For a discussion on the differences between history and fiction see the dispute between Kate Grenville and Inga Clendinnen. For further information on this see Kate Grenville, ‘Facts and Fiction’, ‘Kate Grenville – Australian Author – Official Web Site’, <<http://kategrenville.com/node/75>>, [2 October 2017]; Clendinnen, ‘The History Question’, *Quarterly Essay*, 23 (2006).

well recorded.⁷² The colonial government detailed the existence of free wives of convicts in government censuses called musters; their relationships were recorded in documents pertaining to births, deaths and marriages; *The Sydney Gazette* noted their business grievances, concerns and activities; Imperial and colonial governments recorded their pleas and petitions; and their agency as temporary *femes sole* was documented in land grants, ledgers and court papers. These primary documents form the evidential building blocks of this thesis. While online databases assisted in uncovering records and information utilised throughout this study, most of the documents were sourced individually whilst visiting various archives and libraries, including Sydney's Mitchell Library and State Records Office of New South Wales and Melbourne's State Library, and came in various formats, including books, uploaded records, microfiche and loose papers.

Although free wives of convicts do appear in archival material, their appearances are brief. This is because of their gender and activities as they did not hold high offices, amass great riches (although there are some exceptions) or become key political figures in the colony. Elite men and their families "self-consciously left historical evidence — print, pictorial and material — in order to cement their legacies and their cultural and political power. Cultural repositories, museums and galleries reinforced the process."⁷³ There are no memoirs, diaries or paintings depicting the lives of free wives of convicts in archives or galleries and it is largely through others that we learn about these women. Their activities as *femes covert* after their husbands' servitude are particularly difficult to ascertain as they were hidden by their freed or emancipated husbands who were reinvested with the couple's legal and commercial agency and capabilities under coverture.

With little detailed information or analysis concerning free wives of convicts in the secondary literature, the individual women and their felon husbands had first to be uncovered in the primary sources before they could be examined as a group and placed within context of wider colonial society. As there was no central register or list of free wives who accompanied or followed their felon husbands from Britain or Ireland to New South Wales, the 106 free wives of convicts were discovered through fine toothed research and crosschecking of musters and ledgers with indents, databases and other documentation over a period of some four decades. Only once the women were identified, basic biographical data extracted and their individual stories gathered, could their activities and importance in the colony be examined.

⁷² Tanya Evans, *Fractured Families: Life on the Margins in Colonial New South Wales* (Sydney: NSW Press, 2015), p. 5.

⁷³ *Ibid.*, p. 12.

Secondary sources examining early colonial New South Wales and Britain are invaluable to the thesis as they provide context and scholarly debates about the colony and Empire and their evolving legal and convict systems. Online databases enable connections to become visible, thereby opening up new avenues of enquiry and possibilities that previously would not have been considered. Throughout this study, they provided an important means of cross checking and gathering supplementary information from material uncovered whilst visiting archives and libraries. Uploaded material made available to online viewers by leading national and international institutions and organisations greatly enhances the primary evidence available to scholars, especially from archives including State Records of New South Wales and the Old Bailey Online, libraries like the State Library of New South Wales, State Library of Victoria and the National Library of Australia and databases such as *Trove*, *Ancestry* and *Biographical Database of Australia*.⁷⁴ Other online records include uploaded files and genealogical accounts of early colonial families, such as Mackey's family history research into free wife Harriet Hodgetts and her convict husband, Thomas.⁷⁵

Yet, while the digital age provides a richness of understanding through the access of national and international records, it also brings with it certain dangers. For one thing, the distinction between fiction and non-fiction can become blurred. For example, in researching Harriet Hodgett's story, family historian, Nola Mackey, wrote "how can I write up her 'experience' of the voyage itself? It may be fiction, but it needs to be credible fiction."⁷⁶ While she documented and referenced some of the archival findings concerning Harriet, other were unreferenced so it is difficult to ascertain what is "credible fiction" and fact. Goldman advised that the "serendipitous nature of the internet may only assist us in piling up irrelevant or unnecessary detail at the risk of losing contact with the major themes", or perhaps more importantly, losing the document's original context or failing to show what other information it contains.⁷⁷ He argued that to do so "is to objectify, to vulgarise, to disrespect and to invite error," especially when the document's intent, authorship and circumstances

⁷⁴ New South Wales Government, *State Archives and Records*, <<https://www.records.nsw.gov.au/archives/collections-and-research/guides-and-indexes/indexes-a-z>>; *The Old Bailey Proceedings Online, 1674-1913* (revised March 2012), <www.oldbaileyonline.org>; National Library of Australia, *Trove*, version 8.1, <https://trove.nla.gov.au/>>; Ancestry.com Inc., *Ancestry*, <<https://www.ancestry.com.au/>>; Australian Dictionary of Biography, *BDA Online*, <<http://www.bda-online.org.au/>>.

⁷⁵ Nola Mackey, *Nola Mackey – Family History* <<https://nolamackey.wordpress.com/category/family-history/hodgetts-family/>>.

⁷⁶ Ibid.

⁷⁷ Lawrence Goldman, 'Virtual Lives: History and Biograph in an Electronic Age', *Australian Book Review*, 292 (2007), 37-44 (p. 38).

may not be clearly recorded or ascertained.⁷⁸ Subsequently, judgement and caution was exercised when using online sources, especially concerning relevancy and accuracy.

The story of free wife, Harriet Hodgetts, and her convict husband, Thomas Hodgetts (as explored in greater detail in Chapter 3), illustrates both the richness and challenges of secondary material. Harriet's plight in England and her emigration to New South Wales is briefly examined by historian Flynn and novelist Keneally and in greater depth by family historian Mackey. The differences in how the story is conveyed arises from the writers' objectives and their differing sources. Keneally sought to tell a true tale that was engaging and gripping and so used emotive language. For example, he wrote that Harriet lived "in acute squalor in Whitechapel" and had "no other prospects at all" if she remained in England. Mackey also sought to tell an interesting and emotive story but one that was based on her version and understanding of resources. In writing her subjective "interpretation of the documents and information", she explained on her blog site, "how close it is to the 'real thing' I do not know, but believe it is a possible explanation of the events of that time." In comparison, Flynn's account read like a list of factual biographical events and less like a story. Consequently, his language was more restrained, less emotive and cautious, with the insertion of words like 'suggested' and 'may'. As a historian, Flynn was principally guided by evidence and his chief objective was to examine and communicate his findings. While Keneally and Mackay may have shared similar objectives, they were not necessarily as ethically bound to them as Flynn was and so could be more florid and less circumspect with the truth.⁷⁹

Flynn, Keneally and Mackey demonstrate the challenges of secondary sources by providing conflicting accounts of the same story. With Keneally sourcing his material about Harriet directly from Flynn (as acknowledged in an unnumbered note⁸⁰), both the novelist and historian suggested it was the London parish of St Mary that helped Harriet with the poor relief during Thomas's imprisonment. Mackey, on the other hand, claimed it was the parish of Wednesbury in Staffordshire. Mackey supported her claim by explaining it was based on Hodgett's Examination Certificate in the parish Chest Records, a document she said she transcribed but did not post online nor provide additional references details. Flynn based his claim on correspondence received by England's Home Office and held in the Public Record Office Archives. So who is correct? Flynn or Mackey? Both or neither? Thus, the reader is left wondering about the truth while Harriet's story remains uncertain.

⁷⁸ Ibid.

⁷⁹ Flynn, *The Second Fleet*; p. 335; Keneally, *The Commonwealth of Thieves*, p. 268; Nola Mackey, *Nola Mackey – Family History* <<https://nolamackey.wordpress.com/category/family-history/hodgetts-family/>>.

⁸⁰ Keneally, *The Commonwealth of Thieves*, p. 475.

Conclusion

This thesis employs inter-disciplinary and mixed methodological approaches to examine the lived experiences, activities and agency of free wives of convicts. Through the framework of microhistory and the methodologies of case studies and qualitative and quantitative analysis, the complexity of free wives of convicts and early colonial society is thoroughly explored. In adopting such a mixed approach, the women are examined as a collective and as individuals through both macro and micro lenses as numerous vistas and perspectives are viewed. By placing free wives of convicts in the very centre of historical enquiry, this thesis redresses a significant oversight in the historiography of the early colonial period, namely the marginalisation of free wives of convicts. Despite their presence in the archives, historians and scholars have rendered this group of women largely invisible and overlooked their significance. As a result, they have faced competing discriminations — not only from their contemporary society as female figures in a highly patriarchal world but also by historians who have downplayed their significance and place in history and ignored their presence in the archives.

What follows in the next chapter is an examination of just who these free wives of convicts were. In adopting a quantitative methodological approach and combining it with intimate and individualised case studies, Chapter Three: ‘Hath Ever Been Virtuous’: Free Wives of Convicts in Early New South Wales’ examines how this significant group was both a minority and a colonial anomaly. It demonstrates that although they shared at least one commonality — the felony of their husbands — there was as much that differentiated them from each other as brought them together.

Ch 3: 'Hath Ever Been Virtuous': Free Wives of Convicts in Early New South Wales

No tongue can express the joy and sorrow that afflicts the heart of a virtuous and loving wife at meeting or parting with her husband when they live in love.¹

In early New South Wales free wives of convicts were an anomaly. The 106 free women identified in this thesis who accompanied or followed their convicted husbands to Sydney from 1788 to 1814 were unusual in the penal colony because they were both free *and* married to convicts. Although this group of women shared at least one commonality — being married to felons — they were neither a cohesive nor unified group. Instead, they were an accidental collective and there was much that differentiated them from each other. Through the examination of primary evidence, this chapter demonstrates that free wives of convicts cannot be stereotyped nor made to fit a neat, all-encompassing description. Instead, such factors as age, class and ethnicity distinguished them from one another, as did their mobility and if they had children or not. The accumulation and analysis of raw data is central to this chapter since it not only provides shape and form to these women but enables them to be contextualised and placed within wider colonial society. To do this, the chapter first examines aspects of the ideologies and practices that shaped the women's lives, namely patriarchy, marriage and emigration. Once the scene is set, free wives of convicts are then introduced and examined as a distinct group and some individuals are singled out in cases studies. Through the use of quantitative and qualitative analysis, empirical data paints broad brushstrokes of understanding while the case studies of Ann Crossley, Martha Chartres, Harriet Hodgetts and Ann Bockerah illustrate the intimate and the individual.

Much of the information sourced in this chapter derives from government created records, such as musters. General musters, or population censuses, listed every European man, woman and child in the colony, regardless of gender, age or status. Indigenous people were excluded. Musters recorded a person's place of residence, civil and marital status, familial relationships and whether they were victualled by the colonial government, that is, on or off 'the stores', as well as their status as 'came free', 'convict', 'emancipated' or 'born in the colony'.

¹ Joseph Holt, *A Rum Story: The Adventures of Joseph Holt Thirteen Years in New South Wales*, ed. by Peter O'Shaughnessy (Kenthurst: Kangaroo Press, 1988), p. 101.

Being a penal colony, the movements and activities of its residents, both free and bound, were well recorded and in the colony, the written word yielded power.² Musters enabled the colonial authorities to keep track of its prisoners and provided a record of the colony's population development. This served as a tool for the colonial government to justify its requests to the Imperial government for evermore resources, as discussed later in this chapter. The documents were deemed to be such important records that the colonial government implemented a range of punishments for those who failed to attend them, such as twelve months in a gaol gang for a male prisoner or a period of hard labour for a free man.³ Musters are particularly important when examining free married women because they provide original, empirical information about them as individuals since they were neither hidden nor obscured by their husband's status nor the broader family group.

Yet as Inwood and Maxwell-Stewart acknowledged, "data quantity is no guide to quality" and gender bias influenced the quality of the information gathered.⁴ There are many knowledge gaps in the archival records where data referring to free wives of convicts is absent and silences stretch over threads of fact and evidence. This chapter demonstrates the silence arising from the gender divide in colonial data collection, as do blank entries in this thesis' database that features in the appendix. As the new century progressed and the population swelled, such fissures increased. This lack of understanding, however, is not unique to free wives of convicts nor to the study's timeframe. In her examination of the migration scheme of free women to the colony from 1833 to 1837, Rushen could not trace the colonial movements of approximately third of the 956 participants in the scheme.⁵ This thesis faces similar challenges.

The study also asserts that knowledge gaps relating to free wives of convicts arose not only because of gender bias but as a result of their status as free emigrants. For example, Hannah Robinson, a free wife of a convict, was not uncovered and included in this study until very late in the project, even after countless archival records, databases and secondary material had been consulted. She, therefore, serves as an example of just how easy such women are to miss in the records. Whereas

² Alan Atkinson, *The Europeans in Australia: A History – Vol. 1 The Beginning* (Melbourne: Oxford University Press, 1997), p. 21.

³ George Howe (comp.) *New South Wales Pocket Almanack and Colonial Remembrancer, 1806* (Facsimile ed) (Sydney: Public Library of New South Wales, 1966), pp. 45 and 50, <<https://trove.nla.gov.au/work/10726996?selectedversion=NBD684775>>, [3 February 2015]; *Historical Records of Australia Series I, Governors' Despatches to and from England [HRA]*, vol. 3, (Sydney: Library Committee of the Commonwealth Parliament, 1914-1971), p. 257.

⁴ Kris Inwood and Hamish Maxwell-Stewart, 'Prison and the History of the Family', *The History of the Family*, 20.2 (2015), 159-162 (p.161), <10.1080/10811602X.2015.1033737>, [15 November 2016]; Penny Russell, 'Travelling Steerage: Class, Commerce, Religion and Family in Colonial Sydney', *Journal of Australian Studies*, 38:4 (2014), 383-395 (p. 393).

⁵ Elizabeth A. Rushen, 'Free, single and female: The women of the first scheme for female emigration to Australia, 1833-1837', (doctoral thesis, Monash University, 1999), p. 232.

convicts arrived with detailed documentation called indents, left behind court records and amassed new ones in the colony, free women did not. Convict indents were compiled in England, Scotland or Ireland and delivered to the governor of New South Wales upon the convicts' arrival. They detailed some of the prisoners' biographical history, such as their name, age, occupation, physical appearance, marital status, religion, place of residence, place of conviction, length of sentence, date of arrival and the ship they arrived on. The discrepancy in the records of free people and convicts is illustrated by the fact that of the 106 couples recorded in this thesis's database, twenty-eight free wives and sixteen convict husbands had three or more of the nine basic biographical categories left blank since information could not be ascertained.

Although this chapter is an exploration of free wives of convicts, it also acknowledges the women's husbands. In a patriarchal society, married women were defined by their relationship with their husbands, as discussed in the opening chapter of this thesis. In the 1812 'Ration Book' for the colonial district of Windsor, women were classified according to their husbands' status, for example, "women of free people and settlers", "women of military" and "women of civil officers."⁶ Likewise, in the 1800 'Return of Land Grants', Ann Sherwin was described as a "free woman, wife to a sergeant in the NSW Corps" and Ann Gilbert, a "Marine's widow." Female convicts, conversely, were simply described as "convict".⁷ Consequently, a complex and fuller understanding of free wives of convicts cannot be reached without recognition of their husbands. To not acknowledge their husbands is to paint an incomplete picture, one that fails to illustrate the fine nuances and rich textures that made colonial society, and particularly free wives of convicts, so complex.

Patriarchy, Marriage and Free Wives of Convicts

Constructed notions of gender were at the centre of patriarchy, an ideology that was at the very core of early colonial society. Women and men were regarded as being "naturally" different from one another and each were accorded roles and activities that supported their strengths.⁸ For women, this often involved the home and family while, for men, it focused on activities beyond the home, namely commerce, government, formal politics and the law.⁹ As this chapter demonstrates, however, there was much fluidity between the two and the gendered roles were complimentary. In an address to his daughter in 1774, an English father wrote, "what an honourable point of view I

⁶ 'Ration Book, Windsor, 1812-1822', call no. 803, reel CY 369, State Library of New South Wales (SLNSW).

⁷ 'An Account of Lands Granted or Leased in His Majesty's Territory of New South Wales', 6 February 1800, *HRA*, 2, pp. 454-464.

⁸ Marilyn Yalom, *A History of the Wife* (London: Pandora, 2001), p. 147.

⁹ Patricia Crawford, 'Women and Citizenship in Britain 1500-1800', p. 48-82, in *Women as Australian Citizens: Underlying Histories*, ed. by Patricia Crawford and Philippa Maddern (Melbourne: Melbourne University Press, 2001), pp. 65-6.

have considered your sex; not as domestic drudges, or the slaves of our pleasures, but as our companions and equals.”¹⁰ In the ideal of patriarchy, husband and wife created a union where both the spheres of the home and events outside it were well managed, thereby creating a supposedly cohesive society.¹¹

For a woman, marriage was one of the most defining acts in her life and fundamentally shaped her very identity and lived experiences. Upon marriage, a wife’s legal agency was suspended as it was fused into and with her husband and she became a *feme covert*, as discussed in the next chapter.¹² Marriage drew a woman “from a purposeless existence” and changed her, “by Christian authority, into a fully ordered and useful being, to save her with a husband who would be, all at the same time, her companion, her guardian and her guide.”¹³ Consequently, the choice of husband was particularly important as it would profoundly influence her life, especially since divorce was very difficult to obtain and its costs prohibitive for many.¹⁴

Marriages between free people and convicts in the early decades of the colony were not so unusual as prisoners lived amongst free settlers and there was much interaction between them. In examining the 1828 census, Bowd suggested that 642 married couples, at one stage or another, comprised a free woman and a convict husband, with the marriage occurring in Britain, Ireland or in the colony.¹⁵ As prisoners required government approval to marry, marriage between free and convict men and women was often endorsed by officials during this early period.

For the colonial government, marriage was encouraged and considered a balm that would reform errant convicts, prevent men going astray, preclude homosexuality and provide stability to society.¹⁶ In 1807, Governor Bligh wrote in a letter, “the inhabitants are healthy and marriages increase; in my late survey I ascertained the married women were 395.”¹⁷ Through marriage, it was expected that

¹⁰ John Gregory, *A Father’s Legacy to his Daughter*, 1774. in *Women in the Eighteenth Century: Constructions of Femininity*, ed. by Vivien Jones (London: Routledge, 1990), p. 45.

¹¹ Jane Long, ‘Charting the Landscape of ‘Progress’: Women in Nineteenth-Century Britain’ in Crawford and Maddern, *Women as Australian Citizens*, 83-114 (p. 99).

¹² Marriage, too, was important for men and provided economic, financial and social stability and comfort. Rushen, ‘Marriage Options for Immigrant Women in Colonial Australia in the 1830s’, *Journal of Australian Colonial History*, 16 (2014), 111-126 (p. 112); Joy Damousi, *Depraved and Disorderly: Female Convicts, Sexuality and Gender in Colonial Australia* (Cambridge: Cambridge University Press, 1997), p. 15.

¹³ Atkinson, *The Europeans in Australia*, p. 128.

¹⁴ Hilary Golder and Diane Kirkby, ‘Marriage and Divorce Law Before the *Family Law Act 1975*’ in *Sex, Power and Justice: Historical Perspectives of Law in Australia*, ed. by Kirkby (Melbourne: Oxford University Press, 1995), 150-167 (p. 155).

¹⁵ Lynne Bowd, ‘On Her Own: Women as Heads of Family Groups in the 1828 Census’, *Australian Historical Studies*, 27.107 (1996), 303-322 (p. 305), <<http://www.tandfonline.com/doi/abs/10.1080/10314619608596015>>, [11 January 2016].

¹⁶ Damousi, *Depraved and Disorderly*, p. 155.

¹⁷ ‘Governor Bligh to the Right Hon. William Windham’, 7 February 1807, *HRA*, 6, p. 123.

men would settle down, raise families and lead quiet, steady, morally upright lives.¹⁸ In 1817, Governor Macquarie wrote that free wives of convicts residing with their felon husbands in the colony was “highly advantageous in view of the improvement of the morals of the husbands.”¹⁹ In 1822, John Thomas Bigge’s report into the state of the colony provided a justification for free wives to join their convict spouses in New South Wales: “It is the opinion of the Rev. Mr Marsden, that marriage, even in New South Wales, operates as a corrective of vicious propensities; and in that point of view is to be encouraged, by giving as early permission as possible to the wives of convicts to follow their husbands to the colony.”²⁰

For colonial officials, marriage was encouraged while de facto relationships were frowned upon.²¹ This is evident in the compilation of the 1806 female muster by the colony’s chief religious figure, Reverend Marsden. In compiling the list of the colony’s free and convict female population, women’s marital status was recorded and children were listed as “legitimate” if their parents were married or “illegitimate” if born out of wedlock. Women were labelled as “wife” (eight entries), “married” (383) or, if cohabitating with their partner, the emotive and morally charged term “concubine” (1016). Twenty-two women did not have their marital status listed.²² Although the muster deemed de facto relationships to be morally questionable, it failed to acknowledge that cohabitation was the only recourse for many people as they frequently had spouses in Britain or Ireland and divorce was neither a viable nor practical option for them.

Migration and New Identities

Mirroring the general lack of policy or practice for the emigration of free people (male or female) to the colony in the founding decades, there was no coordinated administrative effort nor predictable pattern for the resettlement of free wives of convicts.²³ Robinson suggested a “lack of policy, rather than any direct recommendations or instructions to colonial governors continued to characterise decisions regarding passages” for free wives of convicts.²⁴ The very notion of allowing free wives to accompany or follow their convict husbands to a colony that was essentially a gaol may be somewhat

¹⁸ Damousi, *Depraved and Disorderly*, pp. 154-155.

¹⁹ ‘Governor Macquarie to Earl Bathurst’, 31 March 1817 in *HRA.*, 9, p. 241.

²⁰ John Thomas Bigge, ‘Report of the Commissioner of Inquiry into the State of the Colony of New South Wales’, 19 June 1822, p. 114, < <http://gutenberg.net.au/ebooks13/1300181h.html>>, [31 October 2014].

²¹ Rushen, ‘Marriage Options for Immigrant Women in Colonial Australia in the 1830s’, p. 111; A. Salt, *These Outcast Women: The Parramatta Female Factory 1821-1848* (Sydney: Hale & Iremonger, 1984), p. 12; D. Kent and N. Townsend, ‘Some Aspects of Colonial Marriage: A Case Study of the Swing Protesters’, *Labour History*, 74 (May 1998), 40-53 (p. 40).

²² *1805-06 Musters of New South Wales and Norfolk Island*, ed. by Carol Baxter (Sydney: ABGR and SAG, 1989).

²³ Portia Robinson, *The Women of Botany Bay: A Reinterpretation of the Role of Women in the Origins of Australian Society* (Melbourne: Penguin Books, 1993), p. 178.

²⁴ *Ibid.*, p. 173.

surprising, especially in the early decades when the number of free settlers was still very small and the colony had not yet become a free settler society. Yet, as this thesis shows, 106 free wives of convicts did arrive, at times even with their children, choosing to remain with their convict husbands.

The arrival of free wives of convicts was not constant but ebbed and flowed. As a colonial outpost of the British Empire, New South Wales was directly and indirectly affected by international events the Imperial government was involved in. The colony itself was established in part because of the American War of Independence (1775-1783) which ended the transportation of British and Irish prisoners to the American colonies.²⁵ With the cessation of transportation there, British and Irish gaols and hulks quickly became overcrowded and pressure mounted to find a new suitable destination to house its criminals. To relieve the situation, the Imperial government decided in 1786 to establish a penal settlement in Botany Bay.²⁶ Thus, the first shipload of Europeans arrived in New South Wales in January 1788 and were followed by an inconsistent stream of convicts and free settlers. From the arrival of the First Fleet in 1788 to the last shipment of prisoners in 1840, 80,004 male and female felons were transported to New South Wales. Other prisoners were transported to Tasmania (1803-1853), Queensland (1824-1839) and Western Australia (1849-1868).²⁷

In the mid-1790s and early 1800s, war (this time with revolutionary France and its allies) again impacted on transportation to Sydney with the number of arrivals dramatically decreasing. When England was at war, there were fewer ships, resources and men to deploy to New South Wales as they were required to fight for the Empire. There was also less need for transportation since felons could serve their time as soldiers in the British military as an alternative to imprisonment, thereby preventing the overcrowding of its jails. This is illustrated by the 1804 petition of William Nowlan, an Irish coachman, husband, father of three and a prisoner sentenced to transportation to New South Wales for the theft of a saw. In a petition, Nowlan requested he fight in the war as an alternative to transportation:

[Since the] aforesaid charge being his first offence, [he] should be permitted to go into the army or navy to serve the king and country, which your petitioner is ready and willing and able to do. May it therefore please your Excellency to take your petitioner's case and his wife

²⁵ Stephen Nicholas and Peter R. Shergold, 'Convicts as Migrants', in *Convict Workers: Reinterpreting Australia's Past*, ed. by Stephen Nicholas (Cambridge: Cambridge University Press, 1988), 43 – 61, (p. 51).

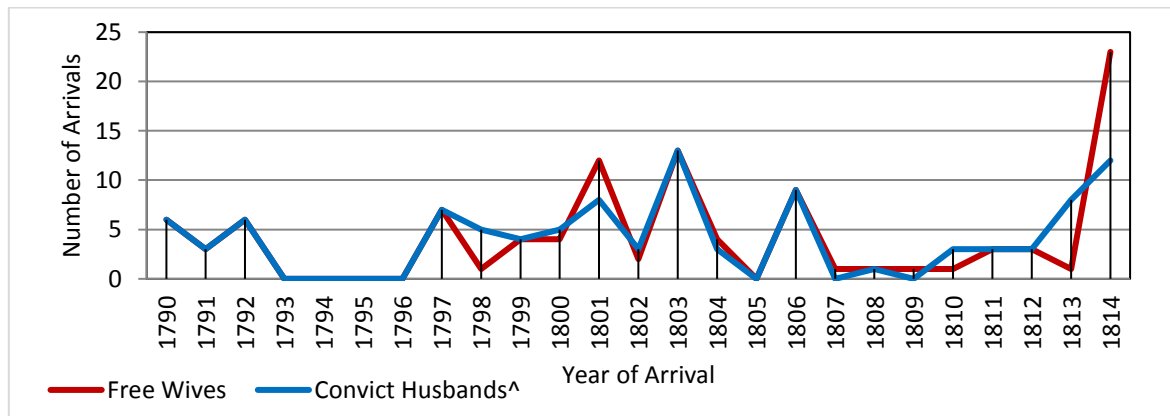
²⁶ 'Lord Sydney to the Lords Commissioners of the Treasury', 18 August 1786 in Clark, *Select Documents in Australian History* (Sydney: Angus and Robertson, 1950), pp. 34-35.

²⁷ Robson, *The Convict Settlement of Australia*, p. 170, in David Neal, *The Rule of Law in A Penal Colony: Law and Power in Early New South Wales* (Cambridge: Cambridge University Press, 1991), appendix 3.

and family into consideration and commute his said sentence, and to other your petitioner into the army or navy²⁸

Fluctuations in the arrival of free wives and their convict husbands arising from war is evident in Table 3.1. Original research shows that no free wives or their convict husbands arrived in the colony between 1793 and 1796 when England was at war with France. The battle between France and Britain that was fought in Spain and Portugal and became known as the Peninsula War (1807-1814) also explains why only a few convict husbands and free wives arrived in Sydney between 1807 and 1813.²⁹ After the cessation of hostilities, however, at the turn of the century and again in 1814, the arrival of convicts increased considerably, as did a corresponding increase in their free wives.

*Table 3.1: The Arrival of Free Wives and Their Convict Husbands in New South Wales, 1790-1814.*³⁰



^ Not included is a convict who died on route and another whose date of arrival could not be ascertained.

For free wives of convicts, motivations for following their convict spouses to the colony varied. Some women sought to retain the protection and financial support of their principal provider, their husbands, and avoid a life of poverty and destitution. For others, the colony was a place where a better life supposedly awaited.³¹ Other free wives willingly sailed to New South Wales because they welcomed a sense of adventure. As novelist and popular historian, Keneally argued, there were women who were “willing to take the step ... into the void” or had a genuine sense of affection or

²⁸ ‘Transportation Records Ireland to Australia 1788-1868: Prisoners’ Petitions and Cases 1778-1835’, GM 36, M2133, State Library of Victoria (SLV).

²⁹ Charles Arnold-Baker. ‘Peninsula War 1807-14’, in *The Companion to British History*, 3rd ed (London: Longcross Denholm Press, 2008), pp. 997-999.

³⁰ Refer to Appendix for full list of references.

³¹ Robinson, *The Women of Botany Bay*, p. 182.

love for their spouses and did not wish to part from them.³² For some, the duty of a wife to follow her husband was paramount as was the desire to keep the family together. In her 1843 instructional book, *The Wives of England: Their Relative Duties, Domestic Influence and Social Obligations*, Sara Ellis explained that a woman “is identified in everything with her husband” and that the life of a wife was one of self-sacrifice, “it is her sacred privilege to forget herself, to count no item of her loss, to weigh no difficulty, and to shrink from no pain, provided she can suffer for, or even with, the companion whose existence is bound up with hers.”³³ Thus, to be a wife was to be inseparable from her spouse, to be bound to *his* life, wherever that may be and in whatever form it took.

For some free wives, the decision to follow their convict spouses to the colony was made even more difficult if they had children as sometimes free passage was denied for their offspring.³⁴ Only those who could pay for their children’s journey were guaranteed to emigrate with all their immediate family. Consequently, some free wives of convicts were placed in the situation of having to decide between their spouses and their children. Mary Box followed her convict husband to the colony in 1814, leaving behind their son, Stephen Junior.³⁵ Interestingly, Stephen Junior relocated to the colony as a free young man in 1827 after thirteen years of separation.³⁶ Mrs Garland provides another example of how families were divided. In the early 1820s, Mrs Garland was granted a free passage to travel to the colony to be reunited with her convict husband as were six of her children. Her eldest son, aged fifteen, however, was not. Mrs Garland wrote a petition requesting his passage but it was denied. This was followed by a letter to the British Home Secretary, Robert Peel, “... the boy has been a special comfort under the disgrace brought upon them which she bitterly feels. The

³² Thomas Keneally, *The Commonwealth of Thieves: The Sydney Experiment* (Sydney: Random House Australia, 2005), p. 268.

³³ Sara Ellis, *The Wives of England: Their Relative Duties, Domestic Influence, and Social Obligations* (New York: D. Appleton and Co., 1843), pp. 61 and 78-79, <<https://archive.org/details/wivesenglandthe00elligoog>>, [1 March 2016].

³⁴ Such anguish arising from the separation of mothers from their children was not confined to free wives of convicts but was also experienced by some convict women. In 1809, the *London Times* reported: “Wed, at the Thames Police Office, a young woman of interesting appearance was charged with being a returned transport from New South Wales, where she was doomed for 14 years, but only served 7. A strong desire to see her children accused her to take the resolution to come to her native country in the most awful manner.” *The Times* [London], 8 December 1809, p. 3, from National Library of Australia (NLA), *Trove*, version 8.1, <<https://trove.nla.gov.au/>>, [30 April 2015]. ‘Governor Macquarie to Earl Bathurst’, 4 April 1817, *HRA*, 9, p. 350.

³⁵ ‘Names of the Passengers, Convicts Wive [sic] and Children Disembarked from H. M. Colonial Brig Kangaroo the 12th Day January 1814’, ‘Colonial Secretary: Papers: Main Series of Letters Received 1788-1826’, NRS 897, reel 6044, 4/1729-31, State Records Office of New South Wales [SRNSW], pp 10-12; ‘Box, Stephen’, Australian Dictionary of Biography, *BDA Online*, <<http://www.bda-online.org.au/>>, [14 March 2017].

³⁶ ‘Box, Stephen’, *BDA Online*, [14 March 2017].

idea of parting with him for ever occasions the deepest distress ...”³⁷ Again, her petition was unsuccessful and she subsequently sailed to Sydney without him.

In following their convict husbands to the colony, some free wives experienced a contest between their primary roles. Were they principally mothers who were expected to take care of their children or wives who were expected to support their husbands? If it is the former, then leaving children behind was almost a dereliction of their motherly duties while to remain was to not be a ‘good’ wife. For many, it was a conundrum that was impossible to resolve. Some sought to have their children accompany them to New South Wales. Amelia Wood’s convict husband, Joseph, was transported to the penal colony in 1809. Amelia successfully petitioned to join Joseph in the colony and was granted free passage for herself and her daughter on the *Friendship* in 1817. After embarking, she was discovered to have concealed a second younger daughter, aged about five. Picton Phillipps concluded that Amelia deliberately kept quiet about her second daughter out of fear that the little girl would be denied passage, especially as Joseph was not her father.³⁸

For free wives of felons, the granting of permission and passage to New South Wales was neither certain nor guaranteed but rather a considered indulgence.³⁹ In the colony’s earliest decades, a petition’s success or failure was initially piecemeal and arbitrary. As the decades progressed, however, a clearer pattern emerged that provided some guidance for those wishing to be reunited. From the 1810s, the principal prerequisite for success hinged on if the wife (and any accompanying children) would be a financial burden on the colonial government or not. Robinson wrote:

Personal distresses, complete destitution of wife and family, proven industrious behaviour of the husbands in the colony, the supporting testimonials from colonial employers or British parish officials, all were secondary to the question of whether or not it would be necessary to maintain the family in the colony at government expense.⁴⁰

The ability to be financially self-supporting was particularly important for both colonial and Imperial governments as colonial expenses were high and cost cutting was continually on the agenda for those in England and New South Wales. In 1815, at the cost of £12,787.15.0 per annum, New South Wales (including Van Diemen’s Land) was the second most costly of England’s ten colonies, coming behind

³⁷ ‘W A Minton to Robert Peel, for Mrs Garland’, 1823 *PC*, 1:71, PRO 941 in Robinson, *The Women of Botany Bay*, pp. 161-2.

³⁸ Christina Picton Phillipps, ‘Convicts, communication and authority: Britain and New South Wales, 1810-1830’, (doctoral thesis, University of Edinburgh, 2002), p. 99.

³⁹ Robinson, *The Women of Botany Bay*, p. 178.

⁴⁰ *Ibid.*, p. 184.

Sierra Leone (£15,760).⁴¹ Settlers who required government assistance with food, shelter and land provisions would only add to the colony's mounting expenses.⁴²

Upon sailing to New South Wales, all residents, regardless if they were free or felon, were reborn as they were classified according to their legal status and how they came to be in the colony. This new identity was akin to a badge that was permanently affixed to their colonial records. Together with their name and the ship they arrived on, their status as 'convict' (C), 'free by servitude' (FS), 'came free' (CF) or 'born in the colony' (BC) were noted on their pins and it was such details that were listed in government correspondence and records, from musters and lists of land grantees to those on 'the stores'. Free wives of convicts were identified as 'CF' (came free) while their husbands and other prisoners were 'C' (convict).

While this thesis is an exploration of free wives of convicts *in* New South Wales it is important to understand that this is but one thread in a transnational and complex chronicle of free women married to convicts.⁴³ The fate of those women who remained in Britain and Ireland must also be acknowledged, if only to understand why some free wives chose to sail to the colony, and in doing so, leave behind all they knew. Although a small number of free wives of convicts accompanied or followed their felon husbands to the colony, the vast majority did not.⁴⁴ Of the convict men who were transported, Nicholas estimated that twenty-eight per cent admitted to being married in Britain or Ireland.⁴⁵ No longer bound by old ties, people could recast themselves anew and convicts with spouses in Britain or Ireland could suddenly be single once again. Bigge commented that "as no information is transmitted ... of the single or married status of the convicts, and when there are so

⁴¹ 'Estimates of the charge for defraying the civil establishments of the following colonies, for one year from the 1st January to 31st Dec 1815: viz St John's, Newfoundland, New South Wales, Sierra Leone', House of Commons Sessional Papers, House of Commons Parliamentary Papers Online, SLNSW.

⁴² 'Earl Bathurst to Governor Macquarie', 11 May 1816, *HRA.*, 9, pp. 120-121.

⁴³ Robinson, *The Women of Botany Bay*, p. 156.

⁴⁴ As an interesting note, free husbands in Britain and Ireland were also separated from their convict wives who were transported to New South Wales. In 1792, convict Susannah Riley arrived in New South Wales on the *Kitty* while her husband, Edward Riley, remained in London. As Edward did not join his convict wife in the colony, he never saw his son who was born around the time Susannah arrived in Sydney. Despite already being legally married, Susannah married convict Robert Wells in Parramatta in 1793. Other convict women sought permission for their free husbands to accompany them to the colony. In 1813, the free husband of convict Catherine Harvey was granted permission to follow his wife to the colony if he worked for his passage aboard the *Fortune* while, in 1815, convict Susannah Blake sailed to the colony on the *Northampton*, accompanied by her blacksmith free husband. *Fourth Fleet Families of Australia: Containing Genealogical Details of Two Hundred and Five Fourth Fleeters, their Children and Grandchildren*, ed. by C.J. Smee (Sydney: Artarmon, 1992); Robinson, p. 25.

⁴⁵ Nicholas and Shergold, 'Convicts and Migrants', p. 48.

many motives in New South Wales for concealing it, it is very difficult, almost impossible, to ascertain" a person's marital status.⁴⁶

For some free wives of convicts, it was a conscious choice to remain in Britain or Ireland while their spouses served their sentences in the colony as they did not seek permission to emigrate to New South Wales. For others, it was imposed upon them after their requests to join their husbands in the penal colony were refused.⁴⁷ Such separation altered the women's lives in many different ways and to varying degrees depending on their individual circumstances. Some free wives of convicts in Britain or Ireland lived in a sort of limbo because they did not know the fate of their transported spouses, or whether they were widowed and able to remarry. Without knowing the fate of her husband, a free wife of a convict who remained in England, Ireland or Scotland could not remarry and she "had an equivocal social status; she was neither widowed, nor single. Unless, and until, she had heard of her husband's death she was technically married, but without a physically visible husband."⁴⁸ In 1813, James Knowles arrived in New South Wales on the *Fortune* after being transported for a period of seven years. His wife in England wrote to London's Home Office in 1822 seeking news about him as she had not heard from him since his departure. A curt reply followed, "This Office cannot furnish this information."⁴⁹

Harriet Hodgetts, a Free Nomad

With arrivals to the penal colony heavily regulated by colonial and Imperial governments, there were three ways Harriet Hodgetts and the other free wives of convicts could obtain permission and passage to follow or accompany their felon husbands to the colony. Firstly, free wives with financial means could appeal directly to either governments and pay their own passage to New South Wales and that of any kin accompanying them. In some cases, they even paid for the upgrading of their convict husbands' facilities, as demonstrated by Ann Crossley (as discussed later in the chapter) and Mrs Palmer. During his transportation to the penal colony for theft in 1800, convict Joshua Palmer was in a privileged position aboard the *Royal Admiral* as he did not reside with the other convicts below deck nor ate the slops that were the convicts' daily meal. Instead, he boarded with his free wife in a private cabin and ate at the captain's table, indulgences which his wife paid for.⁵⁰

The second, and most frequent, manner in which free wives of convicts sought permission and passage to New South Wales was as individuals. They wrote letters in the form of petitions to the

⁴⁶ Bigge, *Report of the Commissioner of Inquiry into the State of the Colony of New South Wales*, p. 115.

⁴⁷ Robinson, *The Women of Botany Bay*, p. 156.

⁴⁸ Picton Phillipps, 'Convicts, Communication and Authority', p. 144.

⁴⁹ 'Jno Mawsley to Robert Peel', 30 March 1822, *PC*, 1:67 in Robinson, *The Women of Botany Bay*, p.166.

⁵⁰ Atkinson, *The Europeans in Australia*, p. 209.

Imperial and colonial governments requesting permission to join their convict husbands in the colony, often with children in tow, at the government's expense. In 1810, Under Secretary Peel wrote to Governor Macquarie:

Sir, I am directed by Lord Liverpool to acquaint you that his Lordship has been pleased to give permission to Mrs Tyndale, the wife of a convict lately sent to New South Wales, to join her husband and that a passage has been provided for her and her children on board one of the ships recently taken up for the conveyancing of convicts to the colony.⁵¹

In 1812, Peel issued similar statements concerning Sophia Warner, Susannah Tindale, Sophia Simpson, Mrs Jemmott and Mrs McCoy.⁵²

The third way in which free wives of convicts were allowed to journey to New South Wales involved accepting the Imperial government's rare offer to settle in the colony. Prior to the departure of the Sydney-bound *Neptune* in England in late 1789, the English Secretary of State advised the fleet's naval agent that "the number of female convicts bearing a great disproportion to that of the males, it was thought adviceable [sic] that such of the latter as were married should be allowed to take their wives with them on board the ships in which they have embarked, or even women that cohabited with them."⁵³ Elizabeth Connor, Ann Bockerah, Sarah Cobcroft, Sarah Fielder, Harriet Hodgetts and Maria Wood, together with some of their children, took up the offer, two of which feature in this chapter's case studies. The free wives were provided with the same food, clothing and accommodation as the ship's female prisoners.⁵⁴ A similar event occurred in 1803 when the Imperial government notified Lieutenant-Governor Collins that "about thirty women, to whom, in consideration of some favourable circumstances which have appeared in the characters of their husbands, it has been judged proper to allow the permission of accompanying them into exile, and of taking with them their children to the number of ten."⁵⁵ Thus, they sailed on the *Calcutta* which landed in Port Phillip (Victoria) before finally disembarking in Van Diemen's Land.

In 1788, Harriet Hodgetts was twenty-four years of age when her blacksmith husband, Thomas Hodgetts, was found guilty of theft and sentenced to seven years transportation to New South Wales. Harriet and her three small children lived in London's slum area of Whitechapel, having relocated

⁵¹ 'Under Secretary Peel to Governor Macquarie', 31 December 1810, *HRA*, 7, p. 350.

⁵² 'Under Secretary Peel to Governor Macquarie', 12 March 1812, 18 March 1812, 16 April 1812 and 2 April 1812, *ibid.*, pp. 459, 462, 465.

⁵³ 'Copy of a letter from Mr Sec Dundas to the Lords Commissioners of the Treasury', 23 June 1791, 'Accounts and papers relating to convicts on board the hulks and those transported to New South Wales', 1792, SLNSW.

⁵⁴ *Ibid.*

⁵⁵ 'Lord Hobart to Lieutenant Governor Collins', 7 February 1803, *HRA*, 4, p. 10.

from Staffordshire. With Thomas in gaol and about to be transported, Harriet was required to rely on the charity of poor relief administered by Whitechapel's parish of St Mary.⁵⁶

Some free wives of convicts, like Harriet, became the concern of charitable and welfare organisations as they sought financial relief and assistance for themselves and their families. Some benevolent institutions, such as the London based Philanthropic Society, were established primarily to assist families adversely affected by prison.⁵⁷ In England, each parish was required by law to administer to the needy in the form of Poor Relief which took numerous forms depending on the needs and circumstances of the family or individual, from employment and the provisions of shelter or food to the temporary or permanent care of children. While the poor in England had the Poor Laws, Ireland had no public relief and had to rely on the charity of private organisations. It was not until 1838 that the Irish poor were assisted by a public relief scheme.⁵⁸ Prior to the departure of Harriet's convict husband, a petition was forwarded to the Home Office by the men in charge of St Mary's parish poor relief, requesting the mitigation of Thomas's sentence as Harriet and their three children were "in want of subsistence" and were in "deepest distress." When this was unsuccessful, a second petition was sent, this time by Thomas's criminal accomplice, who explained that Thomas had not participated in the theft but had been a witness to the sale of the stolen goods. Again, this was unsuccessful and Thomas sailed to New South Wales on the *Scarborough* in November 1789.⁵⁹

Harriet then accepted the Imperial government's offer of free passage to New South Wales aboard the *Neptune*. We do not know if her decision was premised on relieving her poverty, mounting pressure from the administrators of the poor relief or for other reasons. Flynn suggested Harriet's three children either remained in England or died on the voyage as there is no trace of them in the colony.⁶⁰ Flynn's suggestion appears likely as the children are not listed in the Biographical Database of Australia under the name of 'Hodgetts' and its derivatives.⁶¹

⁵⁶ Keneally, *The Commonwealth of Thieves*, p. 268; Michael Flynn, *The Second Fleet: Britain's Grim Convict Armada of 1790* (Sydney: Library of Australian History, 2001), p. 335.

⁵⁷ For example, *An Account of the Nature and Views of the Philanthropic Society for the Prevention of Crimes, by the Admission of the Offspring of Convicts, and for the Reform of Criminal Poor Children* (1797), pp. 1, 3 and 18, <www.ebooks.mpg.de/ebooks/Record/EB000434468>, [24 March 2016].

⁵⁸ Lynn Hollen Lees, *The Solidarities of Strangers: The English Poor Laws and the People, 1700-1948* (Cambridge: Cambridge University Press, 1998), p. 12.

⁵⁹ Flynn, *The Second Fleet*, pp. 335-6. Nola Mackey disputes Flynn's claim about the parish of St Mary and argued that Harriet received assistance from the parish of Wendesbury in Staffordshire. Flynn acknowledged Mackey's claim that Harriet's real name was Ann but said it was circumstantial. Nola Mackey, *Nola Mackey – Family History* <<https://nolamackey.wordpress.com/category/family-history/hodgetts-family/>>.

⁶⁰ Flynn, *The Second Fleet*, p. 335.

⁶¹ *BDA Online*, [20 July 2015].

For Harriet and the other passengers on the *Neptune*, the journey from Plymouth, England, to New South Wales was a dangerous endeavour and the 160 day voyage was harrowing. The very act of sailing across such vast distances was not to be taken lightly as shipwrecks, death, sickness (from nausea and scurvy to a myriad of infectious diseases) and storms awaited free and convicted passengers alike.⁶² The Second Fleet, however, faced additional difficulties as illness and the harsh and cruel treatment of convicts increased the rates of sickness and death.⁶³ Of the approximate 1006 prisoners aboard the fleet's six ships, 267 died whilst at sea, a further 150 died shortly after landing in Sydney and 491 people were hospitalised upon arrival.⁶⁴

*Table 3.2: The Length of Time between the Arrival in New South Wales of Free Wives and Their Convict Husbands, 1790-1814.*⁶⁵

Time	No. of People
Arrived together on the same ship	58
Free wives arrived within a year of their convict husbands	36
Free wives arrived 2 years after their convict husbands	1
Free wives arrived 3 years after their convict husbands	1
Free wives arrived 4 years after their convict husbands	6
Free wives arrived 5 or more years after their convict husbands	2
Unknown	1

Sailing on different vessels but within the same fleet, Harriet arrived in the colony two days after her husband. This, however, was not so unusual. Through the examination of primary records and secondary material, original research has discovered that nearly sixty per cent of free wives and their convict husbands arrived together on the same ship (See Table 3.2). Thirty-three per cent of free wives arrived within a year of their husbands, followed by nearly eight per cent who arrived between two and four years of each other. Such findings call into question Robinson's claim that most free

⁶² For a list of convicts who died during the voyage to the colony, see 'An account of the number of convicts who have died in their passage to New South Wales, since the year 1810, distinguishing the names of the ships in which the deaths have occurred', 1816, 'House of Commons Sessional Papers', House of Commons Parliamentary Papers Online, SLNSW.

⁶³ High mortality rates followed subsequent journeys, like in 1814 with the sailing of the *General Hewitt* (thirty-four prisoners died out of 300), *Surrey* (36 out of 200) and *Three Bees* (ten out of 220). Ibid.

⁶⁴ Out of c.254 convicts, c.36 died on the *Surprise*, c.153 out of c.499 convicts died on the *Neptune* and c.73 out of c.253 convicts died on the *Scarborough*. The figures vary slightly between texts. Robert Hughes, *The Fatal Shore: A History of the Transportation of Convicts to Australia, 1787-1868* (London: Collins Harvill, 1987), p. 145; Flynn, *The Second Fleet*, pp. 46 and 737-8.

⁶⁵ Refer to Appendix for full list of references.

wives of convicts came to the colony a year or more after their husbands.⁶⁶ In all the cases, the wives arrived while their husbands were under servitude.

In Sydney, Harriet was able to rely on Thomas's financial support even though he was a prisoner. In the colony, a convict husband could serve his sentence and simultaneously financially provide for his free wife and family to some degree because he could earn wages. Outside the prescribed hours of government sanctioned work (from road making and bridge construction to food cultivation and animal husbandry), a convict could sell his labour and skills for a nominated fee or hourly rate.⁶⁷ The need to seek paid employment came about partly because male and female prisoners were required to provide for their own accommodation.⁶⁸ Unlike Britain and Ireland, prisoners were not housed in gaols in the early colonial period but in the general community according to their financial means, from a tent, single bed or a room to a house or farm. To pay for such premises, convicts were required to earn regular wages.

Between 1791 and 1811, Harriett gave birth to seven daughters and two sons in various locations in the colony, including Sydney and Norfolk Island. While there is no mention of Harriet in court records, Thomas appeared numerous times. In 1800, he was charged in Sydney's Criminal Court with using insulting language which he blamed on drunkenness.⁶⁹ In 1811 and 1812, he was brought before the courts for the non-payment of two debts which he was ordered to pay, one amounting to £8, the other to emancipated George Crossley worth £54.12.4.⁷⁰

By 1805, Thomas was emancipated and was employed, at various times, as a constable and a blacksmith in both Norfolk Island and Sydney. Harriet became a teacher as she was both literate and educated. In 1809, while eight months pregnant with her eighth child, Harriet advertised her services as a tutor for young girls in the *Sydney Gazette*:

Mrs H. will carefully attend to the improvement of her pupils in the various kinds of needlework, a principal but too much neglected branch of female accomplishment; and with the inculcation of moral principles will studiously attend to the necessary routine of reading, writing, arithmetic, &c.⁷¹

⁶⁶ Robinson, *The Women of Botany Bay*, p. 173.

⁶⁷ David Collins, *An Account of the English Colony in New South Wales*, 1798, p. 121, <<http://gutenberg.net.au/ebooks/e00011.html>>, [31 October 2014]; 'Government and General Order', 23 December 1804, *HRA*, 5, p. 278.

⁶⁸ Kay Daniels, *Convict Women* (Sydney: Allen & Unwin, 1998), p. 78; C.M.H. Clark, *A History of Australia I: From the Earliest Times to the Age of Macquarie* (Melbourne: Melbourne University Press, 1963), p. 239.

⁶⁹ Flynn, *The Second Fleet*, p. 336.

⁷⁰ Court of Civil Jurisdiction, NRS 2659, 5/1106, 94, SRNSW; Court of Civil Jurisdiction, NRS 2659, 5/1108, 357, SRNSW.

⁷¹ *Sydney Gazette*, 2 April 1809, p. 2.

In 1819, the Hodgetts relocated to Van Diemen's Land where they established a farm at Longford. Prior to their relocation, a notice was placed in the *Sydney Gazette* requesting people settle their accounts with the couple.⁷² In Longford, the family established themselves as wheat farmers, submitting a hundred bushels at Port Dalrymple in 1821.⁷³ There Thomas died in 1823, aged about sixty, while Harriet died in 1850, at the age of ninety-five.⁷⁴

Harriet and her husband illustrate that New South Wales was a highly mobile population. Some were already seasoned travellers, having travelled around Britain in search of employment opportunities, with more than thirty-eight per cent of English and Irish convicts having migrated prior to their convictions, "for many of those uprooted and enchained, imprisonment and transportation may have been a trauma; migration was not."⁷⁵ The Hodgetts, after landing in Sydney, settled in or near Parramatta, then Norfolk Island, Upper Pitt's Row in Sydney, Pitt Town in the Hawkesbury area and, lastly, Van Diemen's Land, all within three decades.⁷⁶ With the colony expanding, people moved to where employment opportunities lay, where land was offered, and where business ventures were possible. Tables 3.3 and 3.4 illustrate the mobility of the colony's early residents. Out of the seventy-five women and eighty-five men where a place of death could be ascertained, forty-six free wives and fifty-two convict husbands died outside Sydney where they first settled. Seven women and ten men died outside of New South Wales's nineteen counties as listed in Table 3.3.⁷⁷

Ann Crossley, of the 'Middling' Class

Free wives of convicts in early New South Wales were not a homogenous cohort of women inhabiting the same social-economic strata but were a diverse group occupying both the labouring and middle classes. As Perrott noted, "the women who 'came free' to the colony of New South Wales in the years 1788 to 1830 were from all levels of British society. They had diverse backgrounds, attitudes and expectations from life which influenced the type of life adopted by the women and their families in the colony."⁷⁸ Robinson also described the nuances in the colony's class structure and that "the minority of colonial women who had come free ... were not a uniform class of women and differed in their social and economic status even more than the women who had been transported."⁷⁹ These

⁷² *Sydney Gazette*, 13 February 1819, p. 3 in *Trove*, [20 July 2015].

⁷³ *Hobart Town Gazette and Van Diemen's Land Advertiser*, 17 March 1821, p. 1, in *Trove*, *ibid*.

⁷⁴ Flynn, *The Second Fleet*, pp. 335-6; *BDA Online*, [20 July 2015].

⁷⁵ Elizabeth Rushen, 'Free, Single and Female', p. 69; Nicholas and Shergold, 'Convicts and Migrants', p. 8.

⁷⁶ *Ibid.*; *Sydney Gazette*, 2 April 1809, p. 2.

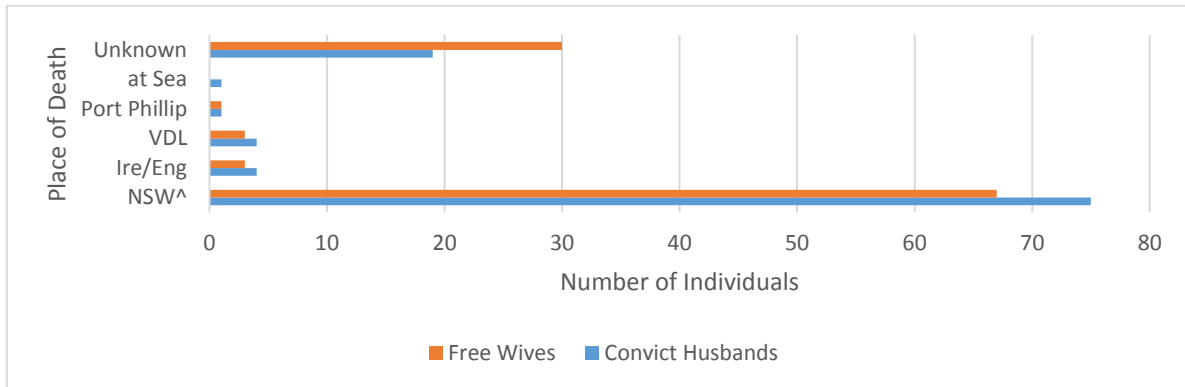
⁷⁷ T. M. Perry, *Australia's First Frontier: The Spread of Settlement in New South Wales 1788-1829* (Melbourne: Melbourne University Press, 1963), p.8.

⁷⁸ Monica Perrott, *A Tolerable Good Success: Economic Opportunities for Women in NSW 1788-1830* (Sydney: Hale and Iremonger, 1983), pp. 67-68.

⁷⁹ Robinson, *The Women of Botany Bay*, p. 13.

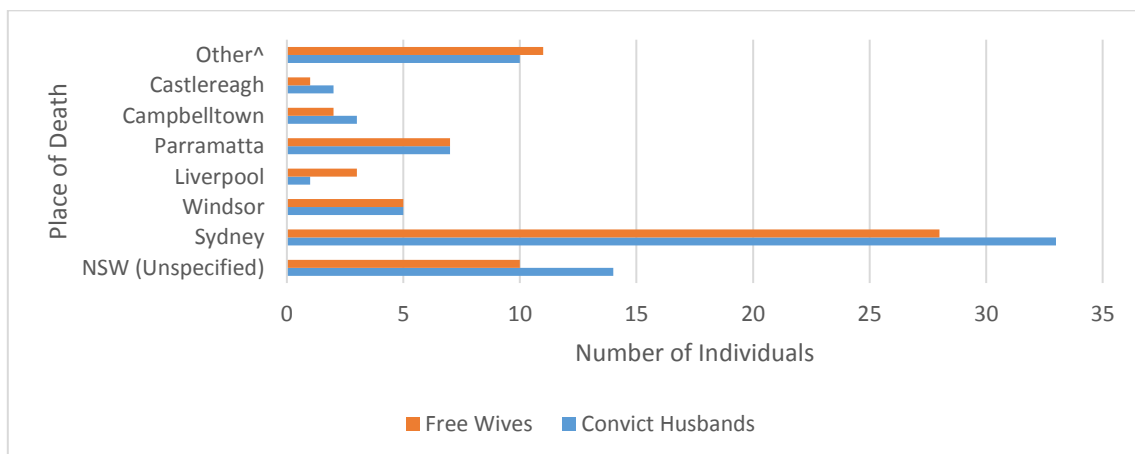
included wives and servants of government officials, free wives of convicts and wives of marines. As the case of Ann Crossley illustrates, some were positioned higher on the social pyramid than others and occupied the middle class.

Table 3.3 Place of Death for Free Wives and Their Convict Husbands, 1790-1814.⁸⁰



^ See Table 3.4 for a breakdown of places in New South Wales

Table 3.4 Place of Death in New South Wales for Free Wives and Their Convict Husbands, 1790-1814.⁸¹



^ For free wives of convicts, this included one each in Wilberforce, Mt York, Menagle, Pennant Hills, Rouse Hill, Minto, Wiseman's Ferry, Penrith, Sackville, Glebe, and St Albans. For convict husbands, this included one each for McDonald River, Bankstown, Hartey, Wiseman's Ferry, Camden, Hawkesbury, West Maitland, Nepean, Penrith and St Albans.

Whilst acknowledging that the middle class as a concept is difficult to define, Young categorised this group as people who earned a living through non-manual labour. This, according to Young, separated them from the upper class who lived off the labour of others in leisure and the labouring class who

⁸⁰ Refer to Appendix for full list of references.

⁸¹ Ibid.

performed manual labour.⁸² In her major study of this group, Russell defined the 'middling' class as "that amorphous group, encompassing the trading and commercial classes and a growing body of professionals, positioned somewhere between the gentry and the labouring poor."⁸³ Accordingly, Annie Fox, a free wife of a convict and laundress, was from the labouring class while Ann Crossley whose husband was a lawyer and she herself a retailer, was of the middle class.

In describing class, Connell and Irving stated that class could be defined by divisions in work but also as "a way of acting" since "people act in response to their class-structured experience. They co-ordinate their actions, act together and against each other."⁸⁴ With one of its central tenets being self-improvement, the middle class was not fixed and those who occupied it were in unstable positions: "The very nature of middle classness was to be better, and further better, oneself. Consequently, middle class status in the early nineteenth century was a fluid, dynamic state, always open for individuals to advance, while risking descent, and constantly contested."⁸⁵

According to Perrott, free wives of senior government officials and wealthy land owners were positioned at the very top of the female social pyramid in early colonial New South Wales. Below them were situated free women married to marines and soldiers, then (in descending order) free settlers which included free wives of felons, emancipated convicts and, at the very bottom, convicts.⁸⁶ Omitted from Perrott's list were Indigenous women. Within each strata, wives and widows were usually held in higher regard than single women. Aside from those few women at the very top of the pyramid, the size of the tiers was ever changing depending on migratory patterns of both convicts and free settlers and the maturity of those born in the colony.

Free wife, Ann Crossley, and her felon husband, George Crossley, came from the middle class of English society as George had practiced as a lawyer in London. In 1797, he was convicted of perjury after pre-stamping and signing an unsworn affidavit and was sentenced to seven years transportation.⁸⁷ This, however, was not his first brush with the law. In 1772, George was imprisoned for twelve months for "endorsing dishonoured bills of exchange", valued at £1050. Four years later,

⁸² Ibid., p. 5.

⁸³ Russell. 'Travelling Steerage', p. 389.

⁸⁴ Raewyn Connell and Terry H. Irving, *Class Structure in Australian History: Poverty and Progress*, 2nd edn. (Melbourne: Longman Cheshire, 1992), p. 5.

⁸⁵ Linda Young, *Middle-Class Culture in the Nineteenth Century: America, Australia and Britain* (Hampshire: Palgrave Macmillan, 2003), p.14.

⁸⁶ Perrott, *A Tolerable Good Success*, pp. 68-70.

⁸⁷ Jonathan Solomon, 'Crossley, George', *Dictionary of Sydney* (2008), <http://dictionaryofsydney.org/entry/crossley_george>, [14 March 2017].

he was again before London's courts when he was found not guilty of forging the will of a deceased man.⁸⁸

Ann, her husband and their young daughter, Hannah, left England for the colony on the *Hillsborough* in December 1798. On the ship were other free wives of convicts and their spouses, including Rosetta and Edward Madden, Mary and Samuel Warner and Sarah and Edward Wills. The journey was dreadful and conditions for the convicts deplorable. Ninety-five convicts out of three hundred died during the 212 day voyage while more died after disembarking.⁸⁹ Amongst the dead at sea was Rosetta Madden's convict husband which felon William Noah noted in his journal, "Departed this life Edward Madden and at night his corpse taking in a boat and buried a little way out at sea."⁹⁰

Free wife, Ann Crossley arrived in the penal colony in 1799 when the arrival of free wives of convicts was beginning to slowly increase. During the journey, the Crossleys were in a privileged position as they had paid for their passages, thereby providing them with the very best rooms, provisions and services the *Hillsborough* offered, at a cost of £157.⁹¹ As a result, George did not reside with the other convicts but in the comfort of a shared berth with his wife and daughter. Ann's status as a 'gentlewoman' did not restrict her from interacting with other passengers on the ship, including convicts. Writing in his diary after temporarily docking in a port on route to the colony, Noah wrote of two occasions in which Ann went ashore, once with two convict wives, and another time with seamen. In May 1799, Noah noted "Mrs Crossley went onshore & particular Indept'd we was to her for taking our paper Money to change being mostly 20 Dollar Note that we could not pay one another."⁹²

Upon arriving in Sydney, the thirty-five year old Ann and her felon husband retained their privileged positions. As there was a shortage of people with legal knowledge and experience in the colony, George's emancipation was fast tracked and he was conditionally pardoned by 1801.⁹³ Such practices resulted in an informal and inadvertent two-tiered convict system where those with much needed and valued skills, including lawyers and qualified tradesmen, became the convict elite, "these English labour aristocrats retained their jobs, values and self-perceptions as elite workers in New South Wales."⁹⁴ This collection of male prisoners who were positioned at the apex of the convict hierarchy

⁸⁸ *ibid.*

⁸⁹ 'Governor Hunter to Duke of Portland', 27 July 1799, *HRA*, 2, p. 376.

⁹⁰ William Noah, *Voyage to Sydney in the Ship Hillsborough 1798-1799 and a Description of the Colony* (Sydney: Library of Australian History, 1978), p. 38.

⁹¹ *Ibid.*, p. 19.

⁹² *Ibid.*, pp. 42 and 46.

⁹³ 'Crossley, George', *BDA Online*, [14 March 2017].

⁹⁴ Nicholas and Shergold, 'Convicts and Migrants', p. 10.

consisted of between six and fourteen per cent of convicts transported.⁹⁵ Ann's husband's legal skills propelled him into this category.

In the colony, Ann and George established themselves as retailers of "a respectable shop."⁹⁶ In 1803, an advertisement for their business advertised the sale of "articles, imported per the *Rolla*", which included "capital Irish sheeting of an excellent quality and width", clothing, men's hats, "remarkably strong knives and forks of various qualities and prices," nails, "stock and padlocks in thorough condition" and hand saws.⁹⁷ In 1815, another advertisement for Crossley's retail business was placed in the *Sydney Gazette* yet, this time, alcohol was the only item sold: "Full proof rum, on sale by G. Crossley, of Pitt Street in quantities of not less than two gallons, at thirty shillings currency per gallon."⁹⁸ Three months later, George advertised his services as a legal agent and conveyancer in the local press.⁹⁹

Although Ann's legal capabilities and agency as a *feme sole* was dissolved upon the rapid emancipation of her husband by 1801, she took control of the family's business interests nearly a decade later after George was imprisoned for perjury. Following the 1808 Rum Rebellion and the arrest of Governor Bligh by the New South Wales Corps, George was charged with perjury by the Corps and sentenced to the colony's secondary penal institution in Newcastle for seven years. He was, however, released in 1810 by Governor Macquarie.¹⁰⁰ During this period, Ann assumed control of George's assets as a temporary *feme sole*. Even though the newly imprisoned George was not classified as attainted (since his secondary sentence did not result in transportation), Ann resumed the position of *feme sole* under the English conditions described by Stewart and replicated in the colony: "Capacities of wife whose husband is civilly dead. When one is outlawed, banished, imprisoned for life, etc, he is civilly dead, and his wife has the capacities of a femme sole. Thus, she may contract, will sue and be sued as if unmarried."¹⁰¹ In 1808, she placed a notice in the *Sydney Gazette* which clearly illustrated her agency in business affairs and as an employer "Wanted, a sober steady man who understands the care of stock, as Overseer to a Farm at Richmond Hill. - Applications to be made to Mrs. Crossley."¹⁰² Six months later, Ann placed another notice in the newspaper concerning the property, having made the decision to cease farming and to lease it out instead, "To

⁹⁵ Ibid.

⁹⁶ *Aldine History of South Australia 1890* in 'Crossley, George', *BDA Online*.

⁹⁷ *Sydney Gazette*, 26 June 1803, p. 3.

⁹⁸ Ibid., 24 February 1816, p. 1, in *Trove*

⁹⁹ Ibid.

¹⁰⁰ 'Crossley, George', *BDA Online*; Solomon, 'Crossley, George'.

¹⁰¹ David Stewart, *Law of Husband and Wife as Established in England and the United States* (San Francisco: S. Whitney Co, 1885), p. 509.

¹⁰² *Sydney Gazette*, 31 July 1809, p. 1.

be Let in one of the best situations at Richmond Hill, 4 acres of clear ground ready for cultivation. Also, to be Let on clearing Leases, a Farm at Toongabbee, called Try-on Farm. Enquire of Mrs. Crossley.”¹⁰³ By late 1810 and after the emancipation of her husband, Ann assumed the legal condition of *feme covert* yet again and her legal rights and capabilities were subsumed under those of George.¹⁰⁴ This is evident by an advertisement that appeared in the press in 1811, “Wants a situation, as coachman or groom, [who] can take the charge of a farm, a man of undeniable character. Apply at Mr Crossley’s Pitt Street.”¹⁰⁵ Whereas Ann had overseen the employment of an overseer and the lease of a farm while George was in Newcastle’s gaol, it was now George who exercised authority. Ann died in 1817, aged fifty-two, while George died in 1823 at the age of seventy-five, in debt and with creditors clamouring for his estate.¹⁰⁶ As requested in his will, he was buried next to his wife.¹⁰⁷

Ann and her husband are an example of how some free wives of convicts and their families occupied the middle class of colonial society. They also demonstrate that the road from conviction to emancipation was not always linear as some people, like George, were convicted of secondary offences in the colony and returned to the status of felon. This also meant that their free wives changed status between *feme sole* and *feme covert* several times and their legal and financial abilities and disabilities altered accordingly. Thus, Ann had to adjust to the change in her legal and financial capabilities, from empowerment to disempowerment and back again.

Ann’s case also illustrates a noted deficit in Australia’s early colonial history — the exploration of the middle class in early colonial society. Young wrote that attention has largely focused on the “virtuous working class and the glamorous nobility” to the detriment of the middle class while Russell argued that “their invisibility, it seems, lay not in themselves but in categories of historical significance and a gradual accretion of neglect that excluded their kind from Australia’s principal stories.”¹⁰⁸ Thus, while visible to their peers, scholars and historians have marginalised them, just as they have with free wives of convicts. This oversight produces a polarised image of early colonial New South Wales where the elite was positioned at one end and the emerging working class at the other. In reality, however, there were people who occupied the middle ground, who influenced and shaped society

¹⁰³ Ibid., 26 February 1810, p. 1.

¹⁰⁴ ‘Crossley, George’, *BDA Online*.

¹⁰⁵ *Sydney Gazette*, 17 August 1811, p. 2 in *Trove*.

¹⁰⁶ As in England, George became embroiled in a few unsavoury and shadowy legal activities in the colony. He was involved in a very lengthy and costly legal dispute with the colony’s surgeon, D’Arcy Wentworth, that went all the way to England’s Privy Council. In 1821, George was again found guilty of perjury concerning a deceased estate and was fined £50.

¹⁰⁷ Solomon, ‘Crossley, George’.

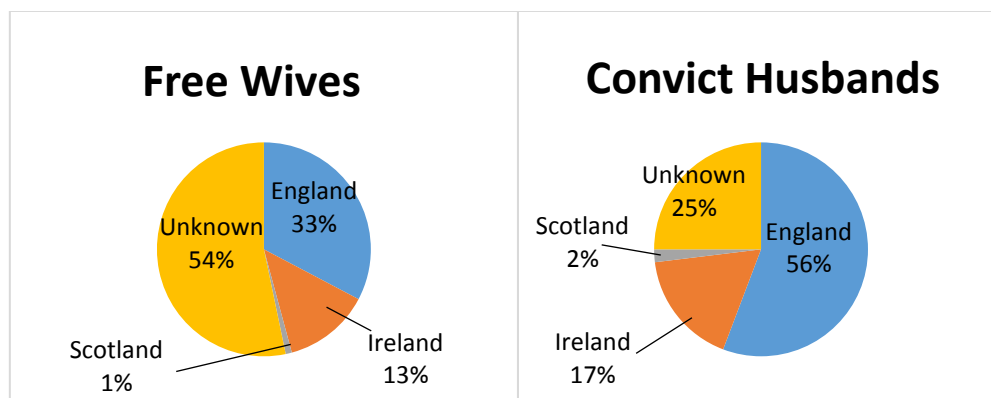
¹⁰⁸ Young, *Middle Class Culture in the Nineteenth Century*, p. 6; Russell, ‘Travelling Steerage’, p. 388.

to serve their needs and ideals. This is especially important for women as it was the middle and upper class ideals of gentility that shaped notions of what women should aspire to, as discussed in the next chapter.¹⁰⁹

Martha Chartres, an Irish Free Wife

Free wives and their convict husbands predominantly came from England while a smaller minority, such as Martha Chartres and her spouse, George Chartres, came from Ireland. Only a few couples originated from Scotland (See Table 3.5).¹¹⁰ Of the 106 free wives of convicts in this study, at least thirty-six were English, fourteen were Irish, one was Scottish and fifty-five were of unknown nationality. The figures for their felon husbands were fifty-nine English, eighteen Irish, two Scottish with twenty-seven having unspecified birthplaces. Of the ships that carried free wives and their husbands from 1790 to 1814, seven sailed from Ireland, thirty-eight from England and at least two visited ports in both countries.¹¹¹

Table 3.5: Place of Birth of Free Wives and their Convict Husbands, 1790-1814¹¹²



In 1811, free wife, Martha Chartres, and her Dublin native and convict husband, George, arrived in New South Wales on the *Providence* after a 162-day voyage from Falmouth, England, to Port Jackson. George, a practicing attorney in Dublin was sentenced to transportation for seven years after being

¹⁰⁹ Young, *Middle Class Culture in the Nineteenth Century*, p. 15.

¹¹⁰ Place of birth has been difficult to ascertain, especially for the free wives, as such details were often not recorded. The altering of the spelling of names has further complicated this since database searches frequently come up blank. It is further complicated by travel and migration prior to emigration to the colony. Thus, an address in England does not necessarily mean that a person was born there.

¹¹¹ Between 1790 and 1810, 2,159 Irish male convicts and 498 female convicts arrived in the colony. The figures for Scottish prisoners was ninety-four and twenty-four respectively. C.M.H. Clark, *Select Document in Australian History 1788-1850* (Sydney: Angus and Robertson, 1950), pp. 90-91.

¹¹² The category of 'unknown' is high, particularly for free wives due to lack of birth details in available archival records. With further research in the future, this will be reduced as additional data will continue to build on the study's findings and information. Refer to Appendix for full list of references.

found guilty of fraud.¹¹³ Similar to George Crossley, Martha's husband was in a privileged position in the colony as he had valuable legal skills and he was immediately granted a ticket of leave or pardon upon arrival. He subsequently became a clerk in the police office and a law agent.¹¹⁴

In February 1813, George's conditional pardon was cancelled when he was found guilty of misconduct after shipping prohibited alcohol to Van Diemen's Land. He was subsequently sentenced to a period of confinement at the Newcastle gaol but returned with a ticket of leave in December that year. He was conditionally pardoned the following June.¹¹⁵ After his conditional pardon, George continued with his clerking and legal work and established a new business as retailer. Seven months after purchasing John Blaxland's house at 68 George Street, Sydney, George placed the first of a number of notices in the newspaper advertising his business. In 1815, "a few hundred gallons of rum" was available for sale while later that year he expanded his stock to include cognac brandy, Bengal rum, Teneriffe wine and other articles, including shoemaker's hemp and Russia hair.¹¹⁶ Although Martha may have assisted in the running of the shop, her involvement was not recorded since her legal capabilities were subsumed under that of her husband as a *feme covert*. However, a "M Chartress" was issued with a publican's licence in 1815.¹¹⁷ The Biographical Database of Australia (BDA) and Allars attributed the licence to George, while Perrott did not list "M Chartress" in her list of female liquor licence grantees, thereby dismissing Martha's involvement and agency in the family's business activities.¹¹⁸

In 1817, the couple decided to return to Ireland since George was now a free man and legally able to leave the colony. After selling all their assets, Martha and George, together with their servant, left the colony on the *Harriet*. Speculation was that George was facing bankruptcy in the colony.¹¹⁹ Allars asserted that the decision was also premised on the fact that George was unable to practice as a lawyer in court due to his emancipated status.¹²⁰

Martha is an illustrative case study of not only an Irish free wife of a convict but also a person who left the colony once her husband was emancipated as she *did* return to Ireland. It has been estimated

¹¹³ Allars, 'Chartres, George (?-?)' in *Australian Dictionary of Biography*, (1966), <<http://adb.anu.edu.au/biography/chartres-george-1891/text2179>>, [14 January 2017].

¹¹⁴ 'Chartres, George', *BDA Online*, [14 January 2017]; *Sydney Gazette*, 2 July 1814, p. 1 in *Trove*, [14 January 2017].

¹¹⁵ Allars, 'Chartres, George'.

¹¹⁶ *Sydney Gazette*, 7 January 1815, p. 2 in *Trove*, [14 January 2017]; *Ibid.*, 25 November 1815, p. 1.

¹¹⁷ 'Chartres, George', 'Chartress, Martha' 'Colonial Secretary Index, 1788-1825', <http://colsec.records.nsw.gov.au/c/F10c_cas-ci-10.htm#P4635_142269>, [14 January 2017].

¹¹⁸ *Ibid.*; Allars, 'Chartres, George'; Perrott, *A Tolerable Good Success*, pp. 113-118.

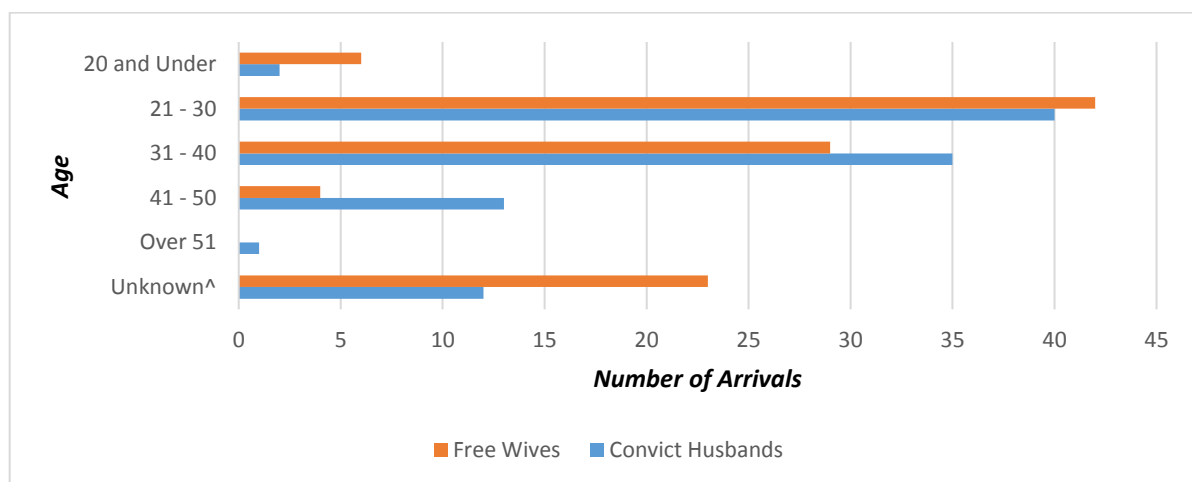
¹¹⁹ Allars, 'Chartres, George', *BDA Online*, [14 January 2017].

¹²⁰ *Ibid.*

that some ten per cent of convicts left the colony once their period of servitude was over.¹²¹ However, the return of the Chartres was only possible because they had the financial means to do so. That they could afford to pay for not only their own tickets but also that of their domestic servant attests to this, as does the fact they did not have to work for their passage to England or Ireland as part of the ship's crew, domestic servant or governess.¹²²

Yet Martha also demonstrates that not all free wives of convicts were mothers.¹²³ In *Convict Maids*, Oxley claimed that out of nearly 2570 female convicts who were married or widowed, some eight hundred (approximately 31%) were without children.¹²⁴ Out of the ninety-seven free wives in this study where it is possible to ascertain if they were mothers or not, eleven (10.5%) were childless, twenty-four (23%) had one or two children in the colony with their convict husbands, twenty-one (19.2%) had three or four, twenty-four (23%) had five or six, and nineteen (17.5%) had seven or more children.¹²⁵ These figures do not include children who remained in Britain or Ireland.

*Table 3.6: Age of Free Wives and their Convict Husbands on Arrival in NSW.*¹²⁶



^ Age could not be determined as date of birth and/or arrival are unknown

The fact that the majority of free wives of convicts bore a number of children corresponds with one of the early colony's most prominent characteristics, the predominance of men and women (both

¹²¹ BDA, 'BDA Source Description Pages', p. 10, <http://www.bda-online.org.au>, http://www.bda-online.org.au/files/MC1800_Muster.pdf, [21 June 2017].

¹²² Collins, *An Account of the English Colony in New South Wales*, p. 121; E. Pownall, *Australian Pioneer Women* (Melbourne: Currey O'Neil Ross, 1983), p. 40.

¹²³ There is no listing for possible children under the surname of Chartres (and variant spellings) in the *BDA Online* database.

¹²⁴ Deborah Oxley, *Convict Maids: The Forced Migration of Women to Australia* (Melbourne: Cambridge University Press, 1996), p. 255.

¹²⁵ Refer to Appendix for full list of references.

¹²⁶ Ibid.

free and convict) who arrived at the peak of their productivity, especially in relation to fitness, age, fertility and health.¹²⁷ For free wives of convicts, this equated to their peak child-bearing years as the vast majority of them arrived in the colony aged in their twenties and thirties as illustrated in Table 3.6. Interestingly, while (25.9%) convict husbands were aged over forty-one, only four (3.8%) free wives of convicts were older than this.¹²⁸ Such ages are estimates since there was a widespread lack of knowledge of age or accurate birth dates during this period.¹²⁹ This is illustrated in the example of Martha Chartres as colonial documentation does not specify when she was born.

Ann Bockerah, a Short Life

For some free wives of convicts, such as Ann Bockerah, their time in the colony was brief because of their premature deaths. Following her Jewish convict husband, Solomon Bockerah, Ann sailed to Port Jackson on the Second Fleet's *Neptune*, arriving in the colony in 1790.¹³⁰ The couple left their one year old son behind in England.¹³¹ Solomon had been charged in November 1788, together with his accomplice, Robert Hobbs, with stealing thirty-nine yards of velveteen from James Pinkinton's London shop which was later recovered from a pawn broker. The material was valued at £8 4s. Despite declaring his innocence, Solomon was sentenced to death which was commuted to transportation for life while Robert was found not guilty.¹³² After arriving in the colony, the couple's time, however, was short with Solomon dying in 1791 and Ann two years later. She died during childbirth after establishing a relationship with a free man who occupied one of the colony's most senior legal positions.

Solomon's untimely death meant that Ann had to find a means of supporting herself in a new and foreign environment. Her situation was further complicated by the fact that she gave birth to a daughter very soon after Solomon's death. This left Ann a widowed single mother with no family support and little government assistance. Other than being put on 'the stores' for food and clothing and surrendering their children to state care (such as the orphanage), widows received little government support although they could request land as *femes sole*.¹³³ This differed to England where people could seek assistance through the Poor Law as discussed earlier in this chapter.

¹²⁷ Nicholas and Shergold, 'Convicts and Migrants', p. 51.

¹²⁸ Refer to Appendix for full list of references.

¹²⁹ Rushen, 'Free, Single and Female', p. 27.

¹³⁰ Ann's religion was not noted in colonial records. 'Ann Bockerah', *BDA Online*, [14 January 2017].

¹³¹ 'Solomon Bockery', *Ancestry*, <<https://www.ancestry.com.au/>>, [14 January 2017].

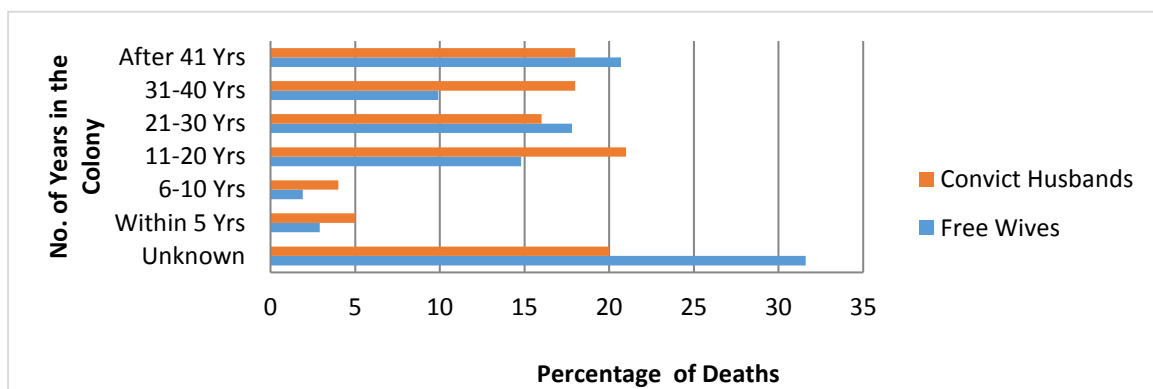
¹³² 'Solomon Bockerah, Robert Hobbs, Theft > burglary, 10th December 1788', *The Old Bailey Proceedings Online, 1674-1913* (revised March 2012), <www.oldbaileyonline.org> [14 January 2017]; Flynn, p. 163.

¹³³ Damousi, *Depraved and Disorderly*, p. 125.

As a consequence of early widowhood, some women remarried or established de facto relationships as a means of support and companionship.¹³⁴ Soon after Solomon's death, Ann Bockerah commenced a relationship with Richard Atkins, the colony's Judge Advocate. Since Richard had a wife in England, the couple maintained a de facto relationship.¹³⁵ From the 106 free wives of convicts involved in this study, it is possible to ascertain that more than forty wives outlived their husbands, and of these women, at least sixteen remarried. Of those sixteen women, two married within the same year as their husbands' deaths, seven a year later and four two years later. For convict men, widowhood was a different matter as they were not so reliant on others for support. Of the more than thirty-two husbands in this study who outlived their free wives, at least eight remarried, only two married within a year of their spouses' death and six did so five or more years later.¹³⁶

In early 1793, Ann died while giving birth to a daughter, Penelope, and was buried in Parramatta's Church of England cemetery, the only officially sanctioned religion in the colony at that time.¹³⁷ Sarah, Ann and Solomon's infant daughter, was placed in Sydney's orphanage where she remained until she was discharged and became the employee of a Mrs Atkins.¹³⁸

Table 3.7: Deaths (%) of Free Wives and their Convict Husbands After their Arrival in New South Wales¹³⁹



¹³⁹ ^ One convict husband died on route to New South Wales.

As evident in Table 3.7, Ann's early death was not typical of free wives of convicts. Original research has discovered that, of the sixty-nine free wives who died in the colony (including Van Diemen's Land and the Port Phillip District) and whose date of death could be ascertained, only three died within the

¹³⁴ Rushen, 'Marriage Options for Immigrant Women', p. 125.

¹³⁵ Christine Maher, *Richard Brooks: From Convict Ship Captain to Pillar of Early Colonial Australia* (Sydney: Rosenberg, 2016), pp. 63-64.

¹³⁶ Refer to Appendix for full list of references.

¹³⁷ 'Samuel Marsden essays concerning NSW 1807-18-, with list of females in the colony, 1806'. ML MSS 16, microfilm 369, SLNSW; Kent and Townsend, 'Some Aspects of Colonial Marriage', p. 43.

¹³⁸ Maher, *Richard Brooks*, pp. 63-4; Flynn, *The Second Fleet*, p. 163.

¹³⁹ Ibid.

first five years of arriving in the colony. Two free wives of felons died within six to ten years of emigrating, fifteen within eleven to twenty years, eighteen within twenty-one to thirty years, eleven within thirty-one to forty years and twenty-one after forty-one years or more in the colony. Such figures, however, need to be qualified since nearly a third of women's deaths were untraceable.¹⁴⁰

An upending of Imperial-colonial realities is evident in New South Wales' mortality rates for European residents. Despite being a newly established penal colony, the early colony's rates of death for both adults and children was lower than in England.¹⁴¹ This was a result of a healthier diet and environment, especially as there was less overcrowding which prevented the rampant spread of diseases.¹⁴² This, however, did not take into account the death rate through introduced disease of Indigenous peoples of Sydney and adjacent areas. In his memoirs of the colony, Judge Advocate Collins maintained a ledger of the yearly deaths and in 1790, he wrote:

The number who died by sickness in the year 1790 were two seamen, one soldier, 123 male convicts [many as a result of the voyage to the colony], seven females and ten children. In the above time, four male convicts were executed; one midshipman, two soldiers, and six male convicts were drowned; one convict perished in the woods and two absconded; making a total decrease of 159 persons.¹⁴³

By 1794, however, the colony's health had improved and Collins stated, "the settlement had been so healthy, that no loss by death had happened since their last account ... only 63 persons had died in the last two years and 63 days; in which time 95 children had been born."¹⁴⁴ For the three years from 1817 to 1819, there were more births in the colony than deaths.¹⁴⁵

Ann's case study illustrates the variations in the life stories of free wives of convicts. Not only was her husband one of the few Jews in the colony — in 1828, only eighty-six people stated they were Jewish in a census of more than 36,300 people — but she died soon after arriving in the colony.¹⁴⁶ Her story also reveals the vulnerabilities of women who became early widows, who suddenly found

¹⁴⁰ Refer to Appendix for full list of references.

¹⁴¹ Nicholas and Shergold, 'Convicts and Migrants', p. 12; Max Roser, 'Life Expectancy 1543 to 2011', *Our World in Data* (2017), <<https://ourworldindata.org/life-expectancy/>>, [2 December 2017].

¹⁴² John Gascoigne, *The Enlightenment and the Origins of European Australia* (Cambridge: Cambridge University Press, 2002), p. 11.

¹⁴³ Collins, *An Account of the English Colony in New South Wales*, p. 106.

¹⁴⁴ *Ibid.*, p. 213.

¹⁴⁵ In 1817, there were 265 births and 238 deaths. In 1818 the figures were 282 and 242 respectively, and in 1819 the numbers were 340 and 295, 1821, Paper No. 194. 'New South Wales Return of the Number of Marriages, Births and Deaths in the Colony of New South Wales', House of Commons Sessional Papers, House of Commons Parliamentary Papers Online, SLNSW.

¹⁴⁶ 'BDA Source Description Pages', p. 9.

themselves with young families, no providers to support them and limited government intervention. Thus, they sought support by establishing relationships with other men.

A Change in Thinking

As the 1810s progressed, free wives of convicts began to arrive in New South Wales in greater numbers. This was due to a number of interrelated factors, including the cessation of the Napoleonic Wars, a rise in the number of transported prisoners, the colony's slow shift from a penal settlement to a free settler society and a change in governmental attitude to free women married to felons. This shift in attitude largely stemmed from the 1812 House of Commons report on transportation. The report unequivocally "recommended that further facility should be given to the wives of convicts to follow their husbands to New South Wales," a practice it referred to as an "experiment."¹⁴⁷ This was the first time a policy concerning the settlement of free wives of convicts to New South Wales had been formulated, even if it was somewhat vague. The report suggested:

Applications of this kind have ... [been] discouraged from an apprehension of increasing the number of rations issued in the colony at the public expense. But the women now about to embark having been recommended as of good character and industrious, it is hoped that few or none of them will become a burthen on the public stores, but on the contrary that their own labour, added to that of their husbands at extra hours, will be sufficient to procure them the means of subsistence; and they have all been informed that they are not to be victualled at the public expense after their arrival in the colony.¹⁴⁸

The Select Committee's concern about free wives of convicts becoming a burden on the government's resources was echoed throughout the 1810s and 1820s by the colonial government, with ever increasing volume. A free wife's ability to be provided for by her convict husband (and not the colonial government) was central to the success or failure of her petition.¹⁴⁹ For colonial administrators, it was the possibility that the wives may become dependent on government rations, thereby increasing the colonial government's already steep financial costs, which concerned them most, especially as England continually sought to reduce colonial expenditure.¹⁵⁰

Despite Governor Macquarie's best efforts to ensure free wives of convicts were provided for by their spouses, he conceded that some were, nevertheless, victualled by the colonial government. In

¹⁴⁷ Parliament of Great Britain. Parliament, House of Commons, Select Committee on Transportation, 'Report from the Select Committee on Transportation', (London: House of Commons, 1812).

¹⁴⁸ 'Earl Bathurst to Governor Macquarie', 10 November 1812, *HRA*, 7, pp. 539-40.

¹⁴⁹ Robinson, *The Women of Botany Bay*, p. 184.

¹⁵⁰ 'Duke of Portland to Governor Hunter', 18 May 1798, *HRA*, 2, p. 148; 'Governor Hunter to Duke of Portland', 10 January 1798, *Ibid*, p. 119.

1814, he wrote to England that he had been required to provide rations for a number of free people, including those married to convicts, as they were in need.¹⁵¹ To ensure this was not a common occurrence, Macquarie enforced a new regulation in 1816 that required all requests for free spouses to be reunited with their convict partners be approved by the colonial governor himself to ensure the husbands had the means to support them.¹⁵² This entailed the periodic drawing up of lists of those convict husbands who wished to have their free wives sent out to the colony, and if they had the means to support them.¹⁵³ Only those convicts who had the ability to do so had any hope of being reunited with their free wives. From 1817, the colonial government intermittently published a notice in the *Sydney Gazette* for convict husbands:

In making this notification it is to be clearly and distinctly understood, that unless such applicants shall give the most satisfactory proof here that they have the means of supporting their wives and children in the event of their being permitted to proceed to this colony, without incurring any charge or expence [sic] to government after their arrival, their applications will not be forwarded.¹⁵⁴

In December 1817, twenty-two convicts forwarded the names of their free wives and children they wished to join them in the colony and Macquarie verified that each of the men had the ability to financially support them upon arrival.¹⁵⁵ In 1821, Governor Brisbane sent the Imperial government the names and details of forty-five free wives of convicts who wished to settle in the colony. In February 1822, the number was a hundred while in November 1823 it was eighty-nine.¹⁵⁶ Such figures demonstrate there was a desire for convict husbands in the colony to be reunited with their spouses from Britain and Ireland. It is interesting that the government was only concerned with costs once the women and children reached New South Wales and not the considerable expenses incurred during the voyage itself.

Towards the end of Governor Macquarie's administration, further restrictions were placed on free wives migrating to New South Wales. From 1817, only those convicts who had obtained tickets of leave were eligible to have their free wives follow them from Britain and Ireland, even if they had

¹⁵¹ Robinson, *The Women of Botany Bay*, p. 175.

¹⁵² *Ibid.*, 176.

¹⁵³ 'Earl Bathurst to Governor Macquarie', 11 May 1816, *HRA*, 9, pp. 120-121.

¹⁵⁴ *Sydney Gazette*, 1 March 1817, p. 1.

¹⁵⁵ Robinson, *The Women of Botany Bay*, pp. 178-179.

¹⁵⁶ 'Public notice', 17 January 1822, Colonial Secretary: Papers: Special Bundles and Other Records, Proclamations, Government and General Orders and Related Records, 20 Dec 1825, SZ756, 4/424, 4/426, 4/454, reel 6039, SRNSW; 'Governor Brisbane to Earl Bathurst', 9 February 1822, *HRA*, 10; 'Governor Brisbane to Earl Bathurst', 28 November 1823, *HRA*, 11, p. 178.

the means of supporting them.¹⁵⁷ Couples were also required to prove they were legally married and not in de facto relationships.¹⁵⁸ Mere hearsay was no longer enough to qualify for free passage for a free wife of a convict. In New South Wales between 1817 and 1852, McIntyre estimated that 2,047 convict husbands petitioned for their families to be relocated from Britain or Ireland, of which 842 were successful.¹⁵⁹

Conclusion

Free wives of convicts were not a homogenous group but an ad hoc collective who shared one central feature — their husbands were felons. Differences in class, nationality, age, familial circumstances and experiences (both before and after emigration) ensured their lives as free wives of convicts were as varied and individual as the women themselves.

Such differences are illustrated in this chapter's demographic data and the four case studies. Harriet Hodgetts provides insight into how some free wives of convicts were placed under acute financial distress in England after their husbands' conviction and transportation. She highlights how their emigration enabled them to turn their lives around, from being a recipient of Poor Relief in England to being self-employed in the colony as a teacher and farmer. She also demonstrates the mobility of free wives and their convict or emancipated husbands as they sought opportunities to improve their circumstances throughout the colony and its outlying regions. Ann Crossley provides a counterweight to Harriet by illustrating that not all free wives of convicts came from the lower classes of British or Irish society but from the middle tiers. Thus, class influenced their lives in the colony and differentiated them from one another. She also shows that the legal and financial agency and capabilities bestowed on the women as free wives of convicts and, therefore, *femes sole*, could be taken away and reinstated numerous times, depending on the criminal activities of their husbands. Thus, the journey from free wife of a convict to free wife of an emancipist was not always linear. The exploration of Martha Chartres provides insight into free wives of convicts who were minorities within this ad hoc group, that is, they were Irish and childless. Martha also highlights another important distinction, she did not remain in the colony once her husband was emancipated. Lastly, Ann Bockerah demonstrates that for some women, their time in the colony was brief while for others it was long and fruitful.

¹⁵⁷ Perry McIntyre, 'The Desire for a Wife: Convict Family Reunion and Remarriage in Colonial New South Wales', *Journal of Australian Colonial History*, 15 (2013), 202-222 (p. 203).

¹⁵⁸ Ibid.

¹⁵⁹ Ibid.

Having provided an overview of free wives of convicts in early colonial New South Wales through analysis of data, the following chapter narrows the focus by examining the women's unusual legal agency. It examines how they utilised their legal rights and capabilities as temporary *femes sole*, rights and abilities legally denied to other married women under the English common law of coverture.

Ch 4: 'Women are Not Often Run After for a Powerful Intellect': The Legal Activities of Free Wives of Convicts

*Our law considers marriage in no other light than as a civil contract.*¹

Having provided an overview of free wives of convicts and established their place in the early penal colony, this chapter narrows the focus and examines the women's legal agency and activities.² According to the English common law of coverture, their agency as temporary *femes sole* whilst their husbands were under servitude served to differentiate this distinct group of women from other free wives. It enabled them to assert their rights as informal subjects and to prosper in their own names without the legal authority of their husbands. Nevertheless, such abilities were short lived since they were rescinded upon the emancipation of their convict husbands, as evident in the case studies of Sarah Wills, Ann Bartlett, Sarah Fielder and Annie Fox.

According to the common law of coverture, women became *femes covert* upon marriage and their legal abilities were subsumed under their husbands. Therefore, all non-freehold land, assets, profits and money they possessed prior to marriage became the possession of their husbands, as did their debts. Although they retained ownership of any freehold land they had acquired prior to marriage, any profits or goods the land produced during the union belonged to their spouses. Legal proceedings could only be entered into on behalf of their husbands and they were unable to sign contracts (including wills) unless granted permission by their husbands to act as their agents.³ Wives were unable to sue in their own names for the non-payment of promissory notes, nor could they collect rent, purchase property or operate businesses as independent women without their husbands' consent. While married women had their legal and economic rights and abilities merged with those

¹ William Blackstone, *Commentaries on the Laws of England*. Vol. 1 (1765), p. 274, <<http://oll.libertyfund.org/title.2140>>, [1 October 2015].

² To ensure there is no confusion, the term 'agency' is used within a historical context and not within legal terms. The term denotes individual power and autonomous actions, as opposed to the legal agency which describes a person who acts as an agent after being granted authority to act on another person's behalf. For the differences, see Karen Pearlston, 'At the limits of coverture: Judicial imagination and women's agency in the English common law', (doctoral thesis, York University, 2007), pp. 60-61.

³ Bruce Kercher, *An Unruly Child: A History of Law in Australia* (St Leonards: Allen and Unwin, 1995), p. 50; Nancy Wright and Andrew Richard Buck, 'The Transformation of Colonial Property: A Study of the Law of Dower in New South Wales, 1836-1863', *University of Tasmania Law Review*, 23.1 (2004), 97-127 (p. 100); Catherine Bishop, 'When Your Money is Not Your Own: Coverture and Married Women in Business in Colonial New South Wales', *Law and History Review*, 33.1 (2015), pp. 181-200.

of their husbands, single women and widows were classified as *femes sole* and were accorded full legal autonomy and capabilities.

In the fluid and rapidly changing environment of the early penal colony, the legal system and its rules were dynamic and often contradictory. At times they were fluid, adaptive and progressive, and at other times, autocratic and unyielding. With numerous factions — including felons, freewomen, settlers and the military, and each with their own beliefs, codes of conduct and expectations — its progression of change was not always linear nor consistent. As described by Kercher, “the law gave conflicting messages because there was no single dominant vision of the colony.”⁴ The court structure was military in nature with a panel of military officers, including the presiding judge advocate, taking the place of judge and jury.

Although stemming from English law, New South Wales’ legal system was not an exact replica of it.⁵ The colony’s social conditions, style of governance, population and idiosyncrasies made it impossible to simply replicate without alteration English law. Unlike England, there was no local power other than the governor in the colony, no aristocracy nor long-held legal customs or colonial precedents to follow. As such, what developed in New South Wales was a uniquely colonial legal system, one that was particular to a penal colony.

The law was fundamental to the colony and no one was immune from its impact. Robinson persuasively argued “the interrelation between law and society directly affected every man and woman in the colony, for it was civil conditions which influenced legal standing and subsequent rights, duties, obligations, privileges and disabilities.”⁶ For example, women’s legal and commercial abilities and activities were directly influenced by their status as *femes sole* or *femes covert*, free or under servitude. The law created a dichotomous society, whether it be free or convicted, male or female, married or single, a free wife of a convict or a free wife of a free man.⁷ Each group had different legal capabilities and identities. Such identities were, however, flexible as the convicted became free, the spinster married, and the free wife’s husband was emancipated, thereby revising their legal capabilities.

⁴ Bruce Kercher, *Debt, Seduction and Other Disasters: The Birth of Civil Law in Convict New South Wales* (Sydney: Federation Press, 1996), p. xxi.

⁵ G. D. Woods, *A History of Criminal Law in New South Wales: The Colonial Period 1788-1900* (Sydney: The Federation Press, 2002), p. 26; Kercher, *Debt, Seduction and Other Disasters*, p. xx; Alex. C. Castles, *An Introduction to Australian Legal History* (Sydney: The Law Book Company Limited, 1971), p. 25.

⁶ Portia Robinson, ‘The First Forty Years’ in *In Pursuit of Justice: Australian Women and the Law 1788-1979*, ed. by Judy Macinoltz and Heather Radi (Sydney: Hale and Iremonger, 1979), 1-17 (p. 1).

⁷ To understand the law and its construction of sexual differences, see *Sex, Power and Justice: Historical Perspectives of Law in Australia*, ed. by Diane Kirkby (Melbourne: Oxford University Press, 1995), p. xviii.

The centrality of the law to people's everyday lives is exemplified by Sarah Wills. Sarah (as discussed later in this chapter) was a wife of a convict, a free settler and a mother but also an entrepreneur, publican, landowner and frequent litigant. Each of these identities impacted on her life in different ways and influenced how she operated socially, economically, legally, and within her family circle. Sarah's legal actions were directly affected by her gender and her status as a free wife married to a convict. This, in turn, had a profound impact on her legal and economic abilities. Thus, to examine the law in isolation and without context of the larger vista is to tell only part of her story. Likewise, to examine Sarah's experiences without reference to her shifting legal status under coverture is to not acknowledge the complexities of women's relationship with the law.

The contrariness of early colonial law poses a challenge for historians since it makes legal practices and policies difficult to pin down, especially since reality did not always reflect theory. Where there are examples illustrating the enforcement of a law, there are ample examples showing its inconsistent application, sometimes tacitly endorsed by the colonial government and its courts. While archival evidence illustrates such breaches, it rarely discloses the reasoning behind it, leaving historians to surmise why. A case in point is the legal doctrine of felony attain and the very first civil case heard in New South Wales, *Kable v. Sinclair* (1788) as examined later in this chapter.

Much of the scholarly discourse concerning coverture has addressed the question of whether, and to what extent, the common law was disempowering for married women. While most scholars have viewed coverture as an oppressive law that victimised married women and led to their legal and economic passivity and powerlessness, others have claimed the common law was not fully endorsed and was more a theory than a practice.⁸ This chapter is not so much concerned with polarising the discussion into opposing factions but in understanding how coverture impacted on free wives of convicts in colonial New South Wales.

A small number of scholars have broadened their field of interest and acknowledged the unique situation concerning free wives of convicts and coverture. The work of Kercher, Robertson, Atkinson, Byrne and Bishop examine the interplay between the common law and free wives of convicts in

⁸ Claudia Zaher, 'When a Woman's Marital Status Determined Her Legal Status: A Research Guide on the Common Law Doctrine of Coverture', *Law Library Journal*, 94: 3 (2002), 459-486 (p. 460); G.S. Rowe, 'Femes Covert and Criminal Prosecution in Eighteenth-Century Pennsylvania', *The American Journal of Legal History*, 32 (1988), pp. 138-156, <<http://www.jstor.org/stable/845700>>, [3 May 2015]; Marisha Christine Caswell, 'Criminal wives in the Old Bailey: Crime and coverture in eighteenth-century London', (master's thesis, Saint Mary's University, 2006); Joanne Bailey, 'Favoured or Oppressed? Married Women, Property and 'Coverture in England, 1660-1800', *Continuity and Change*, 17.3 (2002), pp. 351-372, <10.1017/S0268416002004253>, [19 July 2015].

various degrees of complexity.⁹ In doing so, they not only demonstrate the complexities of the colonial legal system but also how a woman's civil status profoundly impacted on her abilities and activities.

Another challenge that arises when exploring the colony's early legal institutions concerns "a sort of disciplinary apartheid [that] has been practiced whereby the law and the constitution are confined in a separate category of historical enquiry."¹⁰ Little interdisciplinary scholarship has been conducted regarding early colonial society and the law, save for a few exceptions among legal historians, most notably Kercher, Neal and Kirkby.¹¹ This is problematic since an incomplete story is revealed as neither history nor the law are independent, stand-alone entities. Without such interdisciplinary reflection, the culture, ideals and people that shaped the laws remain hidden as do the reasons behind the law's contestations and endorsements.

The "disciplinary apartheid" in relation to colonial legal history has created a situation where the prevalence of scholarly insight concerns men, and to a lesser extent, convict women. Apart from coverture, and to some degree dower, there has been very little examination of free women and the law in Australia's colonial history.¹² This reflects the dominance of men as subject matter as explained in Chapter Two. This oversight is significant since free women had different legal capabilities from convict women and, as demonstrated by coverture, from free men. Yet within the category of free women, there were marked differences in legal agency depending on their civil status and, if married, the legal status of their spouses. Therefore, free women's relationship with the law was complex and fluid. In exploring the nature and impact of the changed legal status of free wives of convicts, this chapter redresses this imbalance and, in doing so, portrays a more interconnected and nuanced relationship between the legal system and colonial society.

⁹ Alan Atkinson, *The Europeans in Australia: A History – Vol. 1 The Beginning* (Melbourne, Oxford University Press, 1997), pp. 261 and 273; Paula J. Byrne, 'A Colonial Female Economy: Sydney, Australia', *Social History*, 24.3 (1999), pp.287-293; Robinson, *The Women of Botany Bay: A Reinterpretation of the Role of Women in the Origins of Australian Society* (Melbourne: Penguin Books, 1993); Kercher, *Debt, Seduction and Other Disasters*; Kercher, *An Unruly Child*; Bishop, 'Commerce was a woman: Women in business in colonial Sydney and Wellington', (doctoral thesis, Australian National University, 2012).

¹⁰ David Neal, *The Rule of Law in A Penal Colony: Law and Power in Early New South Wales*, (Cambridge: Cambridge University Press, 1991), p. xii.

¹¹ Ibid.; Kercher, *Debt, Seduction and Other Disasters*; Kercher, *An Infant Colony; Law, History and Colonialism: The Reach of Empire*, ed. by Diane Kirkby and Catherine Coleborne (Manchester: Manchester University Press, 2001); Kirkby, *Sex, Power and Justice*; Bishop, 'When Your Money is Not Your Own'.

¹² See, for example, Kay Daniels, *Convict Women* (Sydney: Allen & Unwin, 1998); Castles, *An Introduction to Australian Legal History*; Grace Karskens, *The Rocks: Life in Early Sydney* (Melbourne: Melbourne University Press, 1997).

The Civil Contract of Marriage and the Common Law of Coverture

For women in the late eighteenth and early nineteenth centuries in Britain and its colonies, the law was not some abstract entity far removed from their day-to-day existence but a set of rules and processes that framed their very lives and established boundaries of legally acceptable and unacceptable behaviour. The very act of marriage was a legally binding civil contract. Blackstone stated, “Our law considers marriage in no other light than as a civil contract.”¹³ In England and Wales, the legislation that governed marriage, the *Hardwicke Act* of 1753, stated that only people over the age of twenty-one (unless they had the consent of parents or guardians) who were married by a Church of England minister would be legally married. However, an exception was made for Jews and Quakers, but not Catholics. This not only invalidated common law marriages — where a marriage was valid after the bride and groom exchanged promises — but bound marriage to religion and the law.¹⁴ Like all contracts, marriage came with conditions and clauses, both within private and public domains. As Susan Staves reminded us, “it has never historically been the case and is not now the case that marriage can be regarded as a private relationship not subject to public definition and public control.”¹⁵ The common laws of coverture and dower are just two examples of how law and marriage impacted on women’s lives through the intersection of private and public interests.¹⁶

Coverture resulted in obligations for both husband and wife. While a wife subordinated her legal identity under that of her spouse, her husband became responsible for her actions, her debts became his and he became liable for any contracts or crimes she committed in his presence.¹⁷ He was also required to provide her with the essentials of life, such as food and clothing, under the law of necessities (Bailey referred to it as the law of agency).¹⁸ Through the law of necessities, married women could enter into contracts as agents of their spouses to procure the goods they required to maintain their daily existence.¹⁹ It is this qualification of married women’s legal disabilities under

one, *Commentaries on the Laws of England*, p. 274.

¹⁴ Henry Finlay, ‘Victorian Sexual Morality: A Case of Double Standards’, *Australian Journal of Law and Society*, 14 (1998-1999), 43-63 (p. 45); T.G.A. Nelson, ‘Rash Actions Done in a Hurry’: The 1753 Marriage Act in Relation to Eighteenth-Century Drama and Fiction’, *Australian Journal of Law and Society*, 9 (1993), 55-80 (pp. 56-57), <<http://www5.austlii.edu.au/au/journals/AUJLawSoc/1993/6.pdf>>, [4 December 2016]; Susan Staves, *Married Women’s Separate Property in England, 1660-1833* (London: Harvard University, 1990), p. 18.

¹⁵ Staves, *Married Women’s Separate Property in England*, p. 6.

¹⁶ A discussion on dower is located at the end of this chapter.

¹⁷ Hilary Golder and Kirkby, ‘Marriage and Divorce Law Before the *Family Law of 1975*’, in Kirkby, *Sex, Power and Justice*, 150-167 (p. 156). For an example of a wife being found not guilty after the court found she was influenced by her husband, see *R v. Fennel and others* (1820) in Kercher and Salter, *The Kercher Reports*, pp. 652-655.

¹⁸ Kercher, *Debt, Seduction and Other Disasters*, p. 67; Bailey, ‘Favoured or Oppressed’, p. 353.

¹⁹ Finn, Margot, ‘Women, Consumption and Coverture in England, c.1760-1860’, *The Historical Journal*, 39.3 (1996), 703-722, (p. 707), <http://journals.cambridge.org/abstract_S0018246X0002450X>, [15 November 2016].

coverture that enabled married women to legally engage in the economy as consumers for their limited necessities only, on the understanding that they did so as agents of their husbands who would pay.

In colonial New South Wales, however, free wives of convicts were treated as *femes sole* as a direct consequence of their husbands' felony. This was to ensure one person in the relationship retained legal agency since coverture and the restricted legal rights of felons, especially under felony attain, would otherwise leave the couple with no legal capabilities. In assigning the temporary status of *femes sole* to free women married to felons, the colonial courts and government followed the English convention as advocated by Blackstone who thought "it would be most unreasonable" to prevent free wives of convicts exercising their legal abilities if their husbands were "banished, for then he is dead in law."²⁰ Stewart explained that when a husband was banished (including convicts transported to New South Wales), outlawed or imprisoned for life, a wife was accorded the status of a *feme sole* and could enter into contracts and sue and be sued like spinsters and widows. He wrote that "the inconvenience of the strict application" of coverture "gave rise to exceptions", including when a woman was "permanently abandoned by her husband, when her husband was civilly dead, or when she was divorced a *mensa e thoro*."²¹

The different legal abilities of free women in the colony according to their status as spinsters, widows, wives of convicts and wives of free men is illustrated in the cases heard in the colony's civil court. By conducting original research into the Court of Civil Jurisdiction index for the period 1799 to 1814, listing all the cases that involved female litigants (either as sole defendants or plaintiffs or in partnership) and then ascertaining the civil status of each woman (and her spouse if married), it is possible to assess how coverture and its suspension worked. Of the 2876 cases listed, approximately 376 (13%) cases involved women — 252 (8.7%) cases as plaintiffs and 124 (4.3%) as defendants — over these fifteen years.²² Of these cases, an estimated 106 women were litigants (some women appeared numerous times while others appeared before and after marriage under different names).

The inability of *femes covert* to represent themselves in court was upheld in the colonial Court of Civil Jurisdiction up to 1814, as illustrated in Tables 4.1 and 4.2. Table 4.1 shows that where it was possible to ascertain the marital and civil status of the 105 female litigants and their spouses, sixty-nine were *femes sole* (spinsters, women in de facto relationships and widows) and eighteen were married. Of the eighteen wives, Table 4.2 illustrates that nine jointly sued with their husbands as

²⁰ Blackstone, vol. 1, p. 443 in Kercher, *Debt, Seduction and Other Disasters*, p. 66.

²¹ David Stewart, *Law of Husband and Wife as Established in England and the United States* (San Francisco: S. Whitney Co, 1885), p. 508.

²² Refer to Appendix for full list of references.

necessitated by coverture, one was represented by a man who was not her spouse, five were married to convicts and, therefore, temporary *femes sole*, and three were married to free men. On first glance, these three women appear to contravene coverture as they were married to free men yet sued as if they were *femes sole*. Kercher, however, explains these *femes covert* could act as *femes sole* in the civil courts if their husband had permanently or temporarily left the colony, which was the case for at least one of these women, Elizabeth McArthur who was both plaintiff and defendant in 1814.²³

*Table 4.1: Civil Status of Free Female Litigants in the Court of Civil Jurisdiction Index, 1799-1814.*²⁴

<i>Civil Status</i>	<i>No. of Women</i>
Unknown	23
Single or de facto	46
Widow	18
Wife®	18
Total	105

®Refer to Table 4.2 for a further breakdown of this category.

*Table 4.2: Characteristics of the Free Married Female Litigants Listed in the Court of Civil Jurisdiction Index, 1799-1814.*²⁵

<i>Characteristics</i>	<i>No. of Wives</i>
Married to free men and appeared jointly with husbands	9
Married to convicts and appeared independently	5
Married to free men and appeared independently	3
Married to free men and represented by men other than husband	1
Total	18

²³ Kercher, *An Unruly Child*, p. 50.

²⁴ Ibid.

²⁵ Ibid.

Felony Attaint and Free Wives of Convicts

For free wives and their convict spouses, felony attaint had significant implications since it led to the legal empowerment of one and the disempowerment of the other. As Bishop noted, felony attaint technically applied to convicts whose sentences had been commuted from death to transportation.²⁶ In New South Wales, however, it was common practice to treat all prisoners who received a sentence of transportation to New South Wales as attainted, regardless of their initial sentence. Befitting the inconsistent and fluid treatment and practice of the law in the colony, convicts did sue (as illustrated by Kable and Kable) but as Kercher and Castles noted, it was generally practiced. Kercher explained “this ‘felony attaint’ was not removed when their sentence was commuted to transportation to the penal colony” while Castles wrote, “under the English law of the day it seems clear that felons ..., whose punishment had been commuted to transportation, could not be allowed to sue in a civil court.”²⁷ This meant that a male or female convict’s legal agency and capacity was largely interrupted until they had completed their sentences or, if well behaved, received a conditional pardon, at which time, their legal rights and abilities were reinstated, as explained in the 1812 ‘Report from the Select Committee on Transportation’.²⁸ It was then that free wives of convicts resumed the status of *femes covert*. As a consequence, attainted felons could not initiate legal proceedings in a civil court, sign contracts or own property. This last point was particularly problematic for a colony in urgent need of land settlement and development as discussed in the next chapter.

The complex intersection between the workings of coverture and felony attaint in New South Wales is illustrated in the case of *Underwood v. Ford* (1812). Before Judge Advocate Bent in the Court of Civil Jurisdiction, Joseph Underwood, a freeman and merchant, sued convict Thomas Ford and his emancipated wife, Mary, for £72 for the non-payment of a debt. Mary had purchased sugar, tea and other items from Joseph which was paid with a promissory note signed by Thomas on Mary’s behalf since she was a free wife of a convict with full legal entitlements. Appearing before the court as a witness, Joseph’s clerk, James Frost, explained that the note “was signed by Thomas Ford for Mary Ford his wife. The signature in the handwriting of Thomas Ford. They are married ... she trades as a single woman and issued notes as a single woman.” The transcript of the case noted that James thought “Mary Ford could not write herself and that the note was signed [by Thomas for Mary] on account of [her] husband being a prisoner.” Despite some discrepancies over dates and Thomas and Mary’s denial of ever signing the promissory note, judgment was found for the plaintiff and the Fords

²⁶ Bishop ‘When Your Money is Not Your Own’, p. 186.

²⁷ Kercher, *An Unruly Child*, p. 22; Castles, *An Introduction to Australian Legal History*, p. 96.

²⁸ Kercher, *Debt, Seduction and Other Disasters*, p. 58; Castles, *An Introduction to Australian Legal History*, p. 112; Great Britain. Parliament, House of Commons, Select Committee on Transportation, ‘Report from the Select Committee on Transportation’ (London: House of Commons, 1812), pp. 7, 43.

were required to pay Joseph £67.1.0 and costs of £2.16.4.²⁹ The case was significant as it sanctioned the activities of a free wife of a convict who had acted as a *feme sole* while her husband served his sentence. In other words, it gave legal capacity to Mary whilst recognising that Thomas's legal abilities were disabled while he completed his sentence. Indeed, the traditional roles of husband and wife had been reversed, with Thomas signing for Mary as the authorising party.

The most striking example of the fluidity of felony attainder is illustrated by the very first civil case heard in New South Wales, *Kable v. Sinclair* (1788). In July 1788, two convicts, Henry Kable and his wife Susannah, successfully sued Duncan Sinclair, master of the transport ship, the *Alexander*, for the loss of their property which they had loaded onto the ship prior to sailing to the colony. Upon arriving in Sydney, the plaintiffs claimed that some of their possessions were missing. Being unable to find the missing items, the couple took Sinclair to the Court of Civil Jurisdiction and he was ordered to pay Henry and Susannah £15.³⁰

In hearing the case and finding in favour of the Kables, the colonial court disregarded the legal convention of felony attainder and recognised both convict husband and wife as litigants and sought to adapt the English law to colonial circumstances and the situation at hand. The case is interesting for a number of reasons. Not only was it the first civil court case conducted in New South Wales, but it also established the rule of law in the colony, including over convicts. In enabling the case to take place, "the colony began with the rule of law rather than the simple rule of the lash" and demonstrated that enforcement rights "were available even to those at the bottom of the social heap."³¹ What is more surprising, however, is the fact that two convicts sued for recompense in the first place. As felons, neither Susannah nor Henry Kable technically had the right to sue as they were attainted convicts and were dead in law. By hearing the case, the colonial court adapted English law to fit the particular needs of the penal colony and in finding in favour of the Kables, they demonstrated a universality before the law where litigants were not denied access because of their convictism.

The slippery nature of felony attainder, coverture and the colonial legal system is further illustrated in the case of *Doe dem Jenkins v. Pearce* (1818). The case concerned a government grant of freehold land and if it belonged to a wife who was given the land as a free wife of a convict while a temporary *feme sole* or to the convict husband who claimed to have acquired it through his wife's coverture once he was conditionally pardoned. The Supreme Court's Justice Field found that "unless the lease

²⁹ Kercher and Salter, *The Kercher Reports*, pp. 472-3.

³⁰ For a full account of the case, see *Ibid*, pp. 15-20; Neal, *The Rule of Law in a Penal Colony*, pp. 1-5; Kercher, *Debt, Seduction and Other Disasters*, p. xix.

³¹ Kercher and Salter, *The Kercher Reports*, p. 16; Kercher, *Debt, Seduction and Other Disasters*, p. xix.

had been made to trustees for the wife's separate use, no power could prevent the chattel from becoming the husband's by operation of law, and that the husband might dispose of it without the wife's consent."³² Field decided that coverture was to be upheld and the land was the property of the husband upon the reinstatement of his freedom.³³ Thus, the wife's possession of the land as a *feme sole* was short lived.

Sarah Fielder, the Plaintiff

The first free wife of a convict to assert her legal rights as a temporary *feme sole* in colonial New South Wales was Sarah Fielder. Sarah arrived in New South Wales in 1790 on the *Neptune* while her convict husband, William Fielder — alias Tubby Fielder, William Fubbs, Jack the Gardener — arrived the same year on the *Scarborough*.³⁴ Both were government-paid passengers of the Second Fleet. In London, William had been convicted of highway robbery with two accomplices, John Wood and John Cobcroft. Highway robbery was considered one of the worst offences as it not only put people's lives and possessions in peril but threatened commerce.³⁵ The three men were subsequently found guilty and sentenced to death but had their sentences commuted to transportation to New South Wales for life.³⁶ As a consequence of his sentence, the English common law of felony attain was applicable to William and he arrived in the colony "legally dead."³⁷

The Fielders were well acquainted with London's courts. In 1786, the twenty-six year old Sarah and the thirty year old William were charged, together with a female accomplice, with grand larceny after being accused of stealing five beer pots. Pleading their innocence, they were subsequently found not guilty.³⁸ Sarah came, therefore, as a free wife of a convict.

In 1795, Sarah sued Lieutenant Cummings, from the New South Wales Corps, for failing to "pay her £20 owed her on a promissory note."³⁹ With William still attainted, Sarah initiated the legal proceedings under her own name as a *feme sole*. The records concerning the case do not survive and

³² Kercher and Salter, *The Kercher Reports*, p. 610.

³³ *Ibid.*, p. 609.

³⁴ *1800-1802 Musters and Lists New South Wales and Norfolk Island, 1800-02*, ed. by Carol Baxter (Sydney: ABGR and SAG, 1988); 'Fielder, William' and 'Fielder, Sarah', *BDA Online*, [30 July 1815].

³⁵ J.M. Beattie, *Crime and the Courts in England, 1660-1800* (Oxford: Clarendon Press, 1986), p. 148.

³⁶ 'John Wood, John Cobcroft, William Fubbs', 7 May 1788, *The Old Bailey Proceedings Online, 1674-1913*, <<https://www.oldbaileyonline.org/browse.jsp?id=t17880507-45-defend358&div=t17880507-45#highlight>>, [30 July 2015].

³⁷ Kercher, *Debt, Seduction and Other Disasters*, p. 50; Kercher, *An Unruly Child*, p. 54.

³⁸ 'William Fielder, Sarah Fielder, Elizabeth Jones', 25 October 1786, *The Old Bailey Proceedings Online, 1674-1913*, <<https://www.oldbaileyonline.org/browse.jsp?id=t17861025-82-defend1086&div=t17861025-82#highlight>>, [30 July 2015].

³⁹ Michael Flynn, *The Second Fleet: Britain's Grim Convict Armada of 1790* (Sydney: Library of Australian History, 2001) p. 271.

so details of the hearing are unknown.⁴⁰ What is known, however, is that it was Sarah's status as a free wife of a convict that enabled her to instigate legal proceedings independently of her husband. Under coverture, wives married to free men could only become plaintiffs or defendants if they did so jointly with their husbands, as exemplified in *Lewin and wife v. Thompson* (1799), Thomas Abbott against Harry and Elizabeth Henry in 1812 and George and Sarah Howe against Michael Nowland in 1813.⁴¹

In the absence of formal currency, the use of promissory notes, "sometimes printed, sometimes a mere scrawl in indifferent penmanship", was widespread in the early colony.⁴² The notes were essentially like IOUs which promised payment, usually by a mutually agreed upon date, in either money (often sterling but also in copper), goods (such as wheat or other food stuffs) or in kind. They created a society based on credit and aroused much legal haggling and disputes, especially over the terms or payment of the debt. As Kercher noted, promissory notes were used by all tiers of people, from the convict, poor and illiterate to the free, wealthy and educated male and female residents.⁴³ The fact that any man or woman could draw up a promissory note alarmed the early governors who were "appalled at the casual way in which illiterate convicts and ex-convicts, financially men of straw, were able to get their promissory notes into circulation" and, thereby, become part of a trading economy that more formal structures of banking might deny them.⁴⁴ They created a dual currency system where promissory notes operated in conjunction with sterling and other forms of money then circulating, each with different values.⁴⁵ Despite government attempts to regulate their usage, they were widely circulated and resulted in hundreds of civil court cases.⁴⁶ The availability and ease of writing and exchanging promissory notes made them readily accessible to women that notably ended once formal currency and the banking system commenced.

In the colony, Sarah and William established a market garden and orchard, most likely on the sixty acres of land Sarah was granted in 1798 as a *feme sole*.⁴⁷ This was familiar work to William (although under very different growing and seasonal conditions) as he had been a gardener in England prior to

⁴⁰ Flynn does not reference where he obtained information about the court case other than writing "some details contributed by K. Stokes." Ibid., p. 271.

⁴¹ Kercher and Salter, *The Kercher Reports*, pp. 233-240; 'Court of Civil Jurisdiction Index 1799-1814', New South Wales Government, State Archives and Records, <<https://www.records.nsw.gov.au/archives/collections-and-research/guides-and-indexes/indexes-a-z>>, [20 January 2018].

⁴² D.R. Hainsworth, *The Sydney Traders: Simeon Lord and His Contemporaries 1788-1821* (Melbourne: Cassell, 1971), p. 58.

⁴³ Kercher, *Debt, Seduction and Other Disasters*, p. 131.

⁴⁴ Hainsworth, *The Sydney Traders*, p. 58.

⁴⁵ Kercher, *Debt, Seduction and Other Disasters*, pp. 131-33.

⁴⁶ Ibid., p. 131.

⁴⁷ Ryan, *Land Grants*, p. 110.

his transportation.⁴⁸ Two years after acquiring the property, Sarah sold it.⁴⁹ As a free wife of a convict, Sarah managed and possessed the land, including any debts or profits that it produced. It was Sarah and not her husband who was legally responsible for contracts relating to its cultivation, such as the hiring of staff or the issuing of promissory notes, and Sarah who sold it in her own name.⁵⁰

The couple also supplemented their income by taking in boarders. As a free wife of a convict, Sarah was legally in control of the accommodation fees the couple reaped and it was her responsibility, at least in law, to control and manage them whilst her husband's legal abilities were suspended as *Underwood v Ford* (1812) also showed. It is only because the Fielder residence was robbed and the accused was brought before the Court of Criminal Judicature in 1794 that we know that Sarah and William took in lodgers. Without the trial manuscript, knowledge of such activities would now be lost. The robbery occurred while the six occupants — Sarah, William, their two sons and two boarders named John Smith and John Joseph — were asleep. John Bevan, a labourer, stood accused of breaking into the "house with the intent of stealing a number of items, including goods stored in a chest and a locket that Sarah kept under her pillow at night for safekeeping. The trial was heard before the Judge Advocate and six members of the New South Wales Corps. Despite pleading not guilty, Bevan was found guilty and sentenced to death."⁵¹

The 1794 criminal trial concerning the robbery at Sarah and William Fielder's house also illustrates that even though Sarah had greater legal and economic agency than her attainted husband, social conventions and practices continued to assert William's social agency. Despite still being a prisoner, the transcript of the court case noted it was the "dwelling house of William Fielder" that was broken into — not Sarah's — and even Sarah herself referred to their home as "her husband's house."⁵² While the house was lawfully Sarah's legal responsibility, in other respects, it was still William's house, thereby illustrating that social understanding and legal ownership were not always aligned with one another.

By 1806, William had received his conditional pardon. Thus, the assets Sarah had acquired as a *feme sole* were incorporated and consolidated into William's as she was now a *feme covert*. After this time, there were no more instances of Sarah engaging in the legal activities of landowner, litigant or

⁴⁸ 'Mathew Hawkins', 12 January 1785. *The Old Bailey Proceedings Online, 1674-1913*, <<https://www.oldbaileyonline.org/browse.jsp?id=t17850112-68-person745&div=t17850112-68#highlight>>, [30 July 2015]; Flynn, *The Second Fleet*, p. 271.

⁴⁹ 'Fielder, Sarah', *BDA Online* [30 July 2015]; Flynn, *The Second Fleet*, p. 271.

⁵⁰ A more detailed explanation of free wives of convicts and land possession is in Chapter 5.

⁵¹ '*R. v. Bevan*', 1 October 1794, Macquarie University, <http://www.law.mq.edu.au/research/colonial_case_law/nsw/site/scnsw_home/>, [14 February 2016].

⁵² *Ibid.*

business operator in primary records. William was listed in the 1806 muster as being a self-employed gardener while, conversely, Sarah's occupation was not listed. What was mentioned though, was that she "live[d]" with William.⁵³ Not only had her occupational status been ignored, so had her marital status. William received an absolute pardon in 1810. Sarah died at Sydney that same year, aged fifty, and William's death followed two years later, at the age of fifty-five.⁵⁴

Sarah's story demonstrates the temporary legal agency of free wives of convicts. Through her legal capabilities as a *feme sole* Sarah was able to not only exercise her legal abilities and rights to assert what was rightfully hers in court but also to acquire land. Sarah's case study, however, also highlights how the law and social conventions were not always aligned with one another, as demonstrated by the house for which she was legally responsible but nevertheless, at times, was still referred to as her husband's.

Ann Bartlett, the Administratrix

The story of Ann Bartlett illustrates the shifting nature of coverture and the changing legal agency and disability free wives of convicts experienced. Ann progressed from becoming a *feme covert* upon marriage to a temporary *feme sole* with her husband's criminal conviction, then a *feme covert* after his conditional pardon, and finally a *feme sole* after his death. Each shift in the status of her husband saw a reversal of her legal agency and capabilities.

In 1801, the thirty-nine year old Ann Bartlett sailed to the colony aboard the *Nile*. There she was reunited with her English husband, Thomas Bartlett, who had arrived on the *Barwell* in 1798 as a convict serving a life sentence. In the 1806 muster, Thomas was listed as a self-employed shingle splitter and Ann was noted as having two 'legitimate' daughters and being the wife of Thomas. Sometime between 1812 and November 1814, Thomas was listed as being free but just when he received his conditional pardon is difficult to ascertain. For Ann, this date was significant as it resulted in the reinstatement of her legal disabilities as a *feme covert*. With Thomas's death in January 20, 1817, Ann's legal capabilities and full rights were reinstated as she was now a widow with all the legal agency allowed a *feme sole*.

As a free wife of a convict and a temporary *feme sole* in 1811, Ann Bartlett became sole administratrix of Richard Cadman's estate. At the time, it was not unusual for administrators to be appointed by individuals. Richard was a Welshman transported for life who arrived in the colony in 1803 on the

⁵³ *1805-1806 Musters of New South Wales and Norfolk Island*, ed. by Carol J. Baxter (Sydney: ABGR and SAG, 1989).

⁵⁴ 'Fielder, William' and 'Fielder, Sarah', *BDA Online*, [30 July 2015].

Glatton. He died in Sydney in April 1811, aged sixty.⁵⁵ Primary and secondary records do not explain the relationship between Ann and Richard, nor how Ann became administrator of his estate. In June and July 1811, Ann inserted a series of duplicate notices in the *Sydney Gazette*, explaining that:

Letters of Administration to the Estate and Effects of the late Richard Cadman, deceased, having been granted unto Ann Bartlett, all Persons who have any claims or Demands upon the said Estate and Effects, are requested to present the same for Liquidation within One Month from the date hereof, and all Persons who stand indebted to the said Estate and Effects, are requested to come forward and settle their Accounts within the Period above-mentioned, otherwise coercive measures will be resorted to.⁵⁶

The role of administrator required legal agency and was one Ann could only perform while her husband remained attainted and she a temporary *feme sole*. It was also a role women in New South Wales usually performed as widows when they were required to administer their dead husbands' estate.⁵⁷ In assigning her administrator, Richard most likely regarded Ann as having enough legal acuity to settle his estate beyond his death. In 1812, Ann brought Edward Quin before the Court of Civil Jurisdiction in her role as administratrix for a debt, specifically for failing to pay over £29 for goods Richard sold to him. Judgement was made for the defendant.⁵⁸

In seeking payment, Ann asserted her rights as both administrator of the estate and as a temporary *feme sole* with full legal agency. Although Ann's litigious action was undertaken on behalf of a third person, it relied on her empowerment. In nominating Ann as administrator of his estate, Richard not only illustrated his belief in Ann's legal capabilities but also that he was aware of her legal agency as a free wife of a convict.

Annie Fox, enacting the Law of Necessaries

Coverture was a legal arrangement where both husband and wife contributed to the marriage, albeit in different and fundamentally unequal ways. While the wife transferred ownership and management of her goods and assets to her husband, he was required to provide for her daily needs, including food and clothing. This was called the law of necessities. In detailing the law, a mid-eighteenth century writer explained:

⁵⁵ 'Richard Cadman', *BDA Online*, [2 October 2017].

⁵⁶ *Sydney Gazette*, 16 June 1811, p. 3.

⁵⁷ See, for example, the four cases with Mary Reibey as plaintiff and administratrix of Thomas Reibey, 8 July 811; Elizabeth Driver, executrix of John Driver, 20 August 1810; the 7 cases with Sarah Wills, executrix of Edward Wills, 4 November 1811; Mary McDonough, administratrix of Matthew McDonough, 24 April 1811; 'Court of Civil Jurisdiction Index'. Refer to Appendix for full list of references.

⁵⁸ 'Ann Bartlett, Administratrix of Richard Cadman', Court of Civil Jurisdiction: Minutes of Proceedings, NRS 2659, item 5/1107, SRNSW, pp. 186-188.

The husband's consent to his wife supplying herself with necessities suitable to his own station in life, is implied, whether she lives with him, or parts under circumstances which justify her in so doing, provided she be chaste, since a husband is bound to maintain and protect his wife, seeing that he acquires all her available property (if any) by force of his marital rights.⁵⁹

The law enabled wives to legally engage in commerce other than as agents of their husbands through the law of necessities. Finn regarded the law of necessities as "perhaps the most significant ... qualifications of coverture within the law."⁶⁰ Her addition of 'within the law' is noteworthy as women were *legally* able to engage in commerce if using this particular law in order to ensure the necessities articles of life. In doing so, they were neither circumventing coverture nor engaging in illicit activities but acting within its boundaries.

The law of necessities is illustrated in the court case of free wife, Annie Fox, against her convict husband, Patrick Fox. In 1797, Annie and Patrick arrived in the colony on the *Britannia*, after Patrick was convicted in Ireland in 1796 and given a life sentence. In August 1798, Annie appeared before the Magistrates' Court and requested maintenance from her convict husband "for leaving her destitute and unprovided for." The Court found in favour of Annie and ordered Patrick to pay five shillings a week "for the support of herself and infant."⁶¹ In supporting Annie's claim and other maintenance issues, the Magistrates' Court acted without Imperial authority and illustrates how the courts became involved in family matters and domestic issues.⁶² A week later, the married couple again appeared before the courts after Annie asserted that Patrick had not complied with the judge's decision:

Hannah Fox complained of her husband refusing to maintain her according to an order ... made the 11th August but as it appeared that she had cohabited with her husband since that period, the court ordered the man (Patrick Fox) to allow her according to the original order 5s every week and cautioned the woman against ... troubles on to her husband whilst he continued to allow her the sum directed.⁶³

⁵⁹ J.J.S. Wharton, 'An Exposition of the Laws Relating to the Women of England; Showing their Rights, Remedies, and Responsibilities, in Every Position of Life' (London, 1853), p. 369 in Finn, 'Women, Consumption and Coverture', p. 709.

⁶⁰ Ibid.

⁶¹ 11 August 1798, Bench of Magistrates: Minutes of Proceedings, series 3397, SZ766-SZ767, reel 655, SRNSW, pp. 42-43.

⁶² Kercher, *Debt, Seduction and Other Disasters*, p. 20.

⁶³ 17 November 1798, Bench of Magistrate, reel 655, p. 158.

Whatever the reason for Patrick's separation from Annie, the move was temporary. In 1806, the couple were once again living together in Sydney with their child, a son. Patrick worked as a ship's carpenter and, later, a labourer.⁶⁴

The legal case concerning Annie and Patrick Fox demonstrates the unusual nature of early colonial legal practices. In the colony, prisoners were able to be sued so Patrick being sued for not providing for his wife was consistent with local practice. Theoretically, Patrick should not have been able to provide for his wife and young child as he was attainted and 'dead in law' and, consequently, unable to possess property. Yet in the colony, prisoners were able to earn wages by working for others once their government-sponsored daily labour was completed. This was a necessity since prisoners were not housed in government barracks or gaols but had to find and fund their own accommodation. This is not only an example of how felony attainder differed in the young colony to England, but also how the law could be adapted to meet local and practical needs. In England, for example, prisoners were not able to work as they were confined to prisons during their sentences. They were also required to relinquish all their goods and assets upon sentencing. In early New South Wales, however, as noted in Chapter One, convicts could work during set times and receive wages.⁶⁵

In 1804, Annie Fox instigated another legal case in the Magistrates' Court, this time against Robert Hampton, a former soldier who arrived in the colony in 1797. Annie claimed Hampton had stolen two shirts valued at sixteen shillings after she had left some washed linen in his possession. Despite Hampton's attempts to recompense Annie for her loss, the matter went before the magistrate. The *Sydney Gazette* reported that Annie:

Obliquely challenging the prisoner with the theft ... had at length openly threatened him with a Complaint to the Magistrates ... he strenuously endeavoured to dissuade her, but finding her intent upon putting her threats in execution, the prisoner at length made an overture of six bushels of wheat as a composition, which the complainant refused to accept, and therefore laid a formal complaint before the Court ... the Bench thought it proper ... to order the prisoner to pay the amount of the loss by way of Fine, and to be committed to the Goal Gang until the sum be paid.⁶⁶

As Patrick had yet to receive his emancipation — he received his conditional pardon in early 1812 — Annie was a temporary *feme sole* and was required to act as sole plaintiff in the dispute even though

⁶⁴ 1805-1806 Muster.

⁶⁵ K.J., Kessling, 'Felons' Effects and the Effects of Felony in Nineteenth-Century England', *Law and History Review*, 28.1 (2010), 111-139 (p.111), <<https://doi.org/10.1017/S0738248009990058>>, [18 July 2017].

⁶⁶ *Sydney Gazette*, 22 January 1804, p. 2.

she was married. Had Patrick been a free man, Annie could only have initiated the proceedings with her husband under his name.

The case illustrates how some women were aware of their legal rights and asserted them when breached. In initiating the case against her husband, Annie understood she was entitled to be provided for with the necessities of life by her husband and attempted to acquire them. This case study portrays Annie as a formidable woman who was not one to quietly or quickly back down. Nor was she intimidated by the court system, especially as this was her second appearance before the colonial courts.

Sarah Wills, the Reluctant *Feme Covert*

The suspension of coverture was an opportunity that women utilised to differing degrees. Free wife, Sarah Wills (nee Harding), arrived in the colony in 1799 on the *Hillsborough* with her convict husband, Edward, and their young child. Edward had received a death sentence, commuted to transportation for life, after being convicted of highway robbery in the English county of Surrey in 1797. Edward was, therefore, an attainted convict. As such, it was Sarah who was accorded full legal agency.

Sarah's agency as a temporary *feme sole* was quickly demonstrated in her acquisition of land shortly after her arrival in the colony when she was granted thirty acres in her own name. By mid-1801, seven acres had been cleared and six acres planted with maize or wheat while five hogs roamed the property.⁶⁷ This, though, was not her only property as she had also bought land in Sydney's Rocks district. In 1802, Sarah sold the property to Lewis Jones for £25.⁶⁸ The payment in cash enabled her to increase her capabilities as a businesswoman and purchase goods to sell from merchants and newly arrived boats.

Aside from being a landholder, Sarah also became an astute and very successful businesswoman while Edward was still under sentence as she established a store and warehouse in George Street, Sydney, where a large variety of goods were sold. Records do not clarify when the business commenced nor do they explain who was involved in it or the activities and responsibilities assigned to Sarah.⁶⁹ It is possible that the business operated before Edward received his conditional pardon in June 1803.⁷⁰ Only a few weeks after his emancipation, a case appeared before the Magistrates

⁶⁷ 'Governor King's Lists – List 2' in *1800-1802 Musters*, p. 101.

⁶⁸ 'Judge Advocate's Bench, Register of Assignments', ML A3609 Book 1, No. 205 p.45, SLNSW.

⁶⁹ The newspaper that provided much of the information pertaining to the business only started printing in March 1803.

⁷⁰ In the colony, Edward was somewhat of a roguish character and appeared before the criminal court on numerous occasions. Between August 1803 and April 1804, Edward was fined four times: for a breach of the peace, possessing stolen goods, buying stolen goods and for riotous and disorderly conduct after a session of

court detailing that Sarah — in reporting the story, the newspaper importantly listed her name, not Edward's — had been offered a fraudulent promissory note in Sydney worth 7s.10d.⁷¹ Although the circumstances of the transaction are not known, it is possible the note was offered in exchange for goods bought at her store. The store operated for a number of years and its advertisements appeared in the *Sydney Gazette* from 1804 to at least 1810.⁷² In one advertisement, readers were informed that “for sale at E. Wills’s, near the hospital wharf” was an eclectic array of goods for purchase, from sugar, calico, leather caps and tobacco to wine glasses, books, jewellery and small tooth combs.⁷³ Edward’s name in the notice adhered to the principles of coverture as Sarah’s legal agency was consolidated under his upon his emancipation when she reverted to the status of a *feme covert*.

Sarah’s coverture, however, lapsed between the time of Edward’s emancipation in 1803 and his death in 1811. In May 1805, nearly two years after she had returned to the legal status of *feme covert*, Sarah sued James Underwood in her own name for expenses incurred in the construction of a dwelling in *Wills v. Underwood* (1805).⁷⁴ Why the court enabled her to act as plaintiff and not appear jointly with her husband is not apparent. Was Edward overseas on one of his regular business trips, thereby allowing her to represent herself?⁷⁵ In 1806, she purchased a twenty-two acre property even though, as a *feme covert*, she had no legal standing to independently enter into such a contract nor to amass such fortunes.⁷⁶ Yet she did. Soon the land was farrowed and housed a bull, ten cows and 150 sheep.⁷⁷

In 1811, Sarah again sought redress in the courts but this time she operated as a *feme sole* since she was now a widow with full legal capabilities. She successfully sued Mary Dignum for £45.14.7 plus costs for failing to honour a promissory note for goods sold by her now deceased husband, Edward.⁷⁸ In fact, from Edward’s death in May 1811 to her 1812 marriage to *Sydney Gazette* editor, George Howe — a period of nearly seventeen months — Sarah instigated five civil cases and was a defendant in one case.⁷⁹ It was in this capacity that she controlled her assets which, in 1812,

sustained drinking. Bench of Magistrates: Minutes of Proceedings: Bench Book, series 3397, reel 656, 1/299-300; *Sydney Gazette*, 2 October 1803, p. 2.

⁷¹ *Sydney Gazette*, 17 July 1803, p. 4.

⁷² See, for example, *ibid.*, 2 September 1804, p. 4; *Ibid.*, 20 October 1810, p. 3.

⁷³ *Ibid.* 2 September 1804, p. 4.

⁷⁴ *Ibid.*, 19 May 1805, p. 2; Kercher and Salter, *The Kercher Reports*, pp. 321-323.

⁷⁵ Kercher, *An Unruly Child*, p. 50.

⁷⁶ ‘Land & Stock Muster’ in *1805-1806 Musters*.

⁷⁷ *Ibid.*

⁷⁸ ‘Court of Civil Jurisdiction: Minutes of Proceedings’, NRS 2659, item 5/1106, pp. 152-3.

⁷⁹ *Hughes v. Wills*, 4 July 1811, *ibid.*, pp. 52-53; *Wills v. Dignum*, 22 July 1811, *ibid.*, pp. 152-3; *Wills v. Thompson*, 14 January 1812, *ibid.*, item 5/1107, pp. 4-5; 14 January 1812, *Wills v. Guest*, *ibid.*, p. 5; 21 January 1812, *Wills v. Barker*, *ibid.*, p. 36; 29 January 1812; *Wills v. Clarkson*, *ibid.*, pp. 103-4, ‘Court of Civil Jurisdiction Index’.

amounted to over £5000 and included a house, warehouse, two farms, stock and a brig called the *Mary and Sally* (complete with elephant seal oil), valued at £2500.⁸⁰ In 1819, her assets expanded when she obtained a further 270 acres in Bringelly, New South Wales, whilst married to George Howe.

George Howe was an emancipated convict who had been sentenced to transportation after being found guilty of stealing from a shop in 1799. Accompanying him on his 1800 journey to New South Wales on the *Royal Admiral* was his free wife and young son, Mary and Robert Howe. During the journey, Mary contracted typhus and her death was recorded in the ship's log book, "Wednesday 2 July 1800 ... at half past 11 departed this life Mrs Mary Howe wife of Robert How[e] (als) George Happy a convict ... her disorder was a fever of a more putrid nature than on any who had died before her, she had struggled with 8 or 9 days."⁸¹ Together with the body, all of Mary's possessions, including her bedding and clothes, were tossed overboard in an unsuccessful bid to reduce the spread of the disease. Upon arriving in the colony, George Howe had three seemingly incompatible roles to fulfil, that of being a convict, government printer and newly widowed sole parent.⁸²

After her marriage to George Howe, Sarah continued to assert her rights in the courts but operated again within the conventions of coverture. Now the cases were instigated in joint names with George, as demonstrated in the case of *George Howe and Sarah Howe, his wife, Extx. of Edward Wills v. Joseph Smallsalts* (1813), a proceeding for the recovery of unpaid debts. In two days alone in 1813, Sarah and George Howe jointly appeared in the Court of Civil Jurisdiction as plaintiffs in six cases.⁸³

Within the confines of coverture, a small number of women in New South Wales protected their assets prior to marriage by signing deeds of settlement (a type of pre-nuptial agreement) or establishing trusts. These were typically the preserve of the wealthy in Britain where they were set up to protect assets against common laws, such as coverture.⁸⁴ A month prior to her 1812 marriage to George Howe, Sarah created a deed of trust that left her extensive property to her children with Edward Wills, not to her second husband, George. The deed was drawn up by William Charles

⁸⁰ Karskens, *The Rocks*, p. 85; 'Howe v Underwood and Robinson [1832]'

⁸¹ Gwenda Robb, *George Howe: Australia's First Publisher* (Melbourne: Australian Scholarly Publishing, 2003), p. 25.

⁸² *Ibid.*, pp. ix-x.

⁸³ *Howe and Howe v. Broadhurt*, 21.4.1813; *Howe and Howe v. Shute*, 21.4.1813; *Howe and Howe v. Horner*, 21.4.1813; *Howe and Howe v. Jones*, 21.4.1813; *Howe and Howe v. Philip and Coates*, 27.4.1813; *Howe and Howe v. Nowland*, 27.4.1813; 'Court of Civil Jurisdiction Index'.

⁸⁴ Staves, *Married Women's Separate Property in England*, p. 4.

Wentworth, an English-trained, colonial-born lawyer who had recently returned from a visit to England.⁸⁵ The document declared:

The lands, houses, tenements, warehouses, goods, property, chattels, stock in trade, credits and effects, set forth in a schedule annexed thereto, were conveyed and assured ... in trust for all her then children ... By the same deed it was agreed, that all the property which should after the marriage be acquired by the said Sarah Wills ... should be held upon the same trusts as are limited as to the property enumerated in the schedule and or led upon the trust Deed.⁸⁶

After Sarah's death in 1823, George sought to breach the settlement by claiming ownership of a property at 96 George Street, Sydney. Contesting the claim, the trustees of Sarah's estate brought the matter before the Supreme Court in 1832. In the case of *Howe v. Underwood and Robinson* (1832), Chief Justice Forbes and Justice Dowling ruled against George's claim that the property was his. The court ruled that George was acting for himself and not as a trustee for the children, thereby circumventing Sarah's original intention. In their findings, the justices wrote, "the taking of the absolute grant of George Howe in his own name, was in our opinion fraudulent, he not being entitled thereto and if he took it at all, he could take it only in trust for the benefit of his wife and her children."⁸⁷ The case was important as it reasserted married women's property claims by not only upholding deeds of settlement but also declaring that a husband's rights to his wife's property was not absolute.⁸⁸

The case study of Sarah Wills demonstrates a woman with great legal sharpness. As a temporary *feme sole* whilst Edward served his sentence, she not only bought property and got George Street as a freehold land grant from Governor Macquarie but established a successful business in her own name and with full legal autonomy. This enabled her to further develop her commercial interests and broaden her wealth. As a *feme covert* — either upon Edward's emancipation or after her second marriage to George Howe — she could no longer assert her legal rights. Any legal actions could only be taken in partnership with her husband according to coverture. Sarah's knowledge and use of the

⁸⁵ Michael Persse, 'Wentworth, William Charles (1790–1872)', in Australian National University, Australian Dictionary of Biography [ABD], <<http://adb.anu.edu.au/biography/wentworth-william-charles-2782/text3961>>, published first in hardcopy 1967, [23 January 2018].

⁸⁶ 'Howe v. Underwood and Robinson [1832], Kercher and Salter, *The Kercher Reports*.

⁸⁷ Ibid.

⁸⁸ Another woman who drew up a type of pre-nuptial agreement was Rosetta Madden. Rosetta set sail on the Hillsborough as a free wife of a convict but arrived in the colony in 1799 a widow after her husband died en-route. As a widow, she formed a long term relationship with Henry Marsh and took on his name, even though they were not legally married. She also became a successful entrepreneur and businesswoman. Prior to her second marriage to Samuel Terry in 1810, she created a deed of settlement to protect her assets from her second husband, like Sarah Wills. This ensured her assets, including the proceeds from her lease of land and activities as a publican, were not consolidated into Samuel's property. Atkinson, *The Europeans in Australia*, p. 329.

law to further her own interests is perhaps best illustrated by the deed of settlement she drew up just prior to her marriage to her second husband which ensured her assets did not become his.

Restrictions and Freedoms from the 1820s

From the 1820s, the spaces where free wives could raise their legal and litigious voices became fewer as the colonial legal system evolved into a formal structure marked by the establishment of the Supreme Court of New South Wales in 1814. According to Kercher, “the frontier period of informal law ended in Sydney with the arrival of Francis Forbes” in 1824, the Supreme Court’s first Chief Justice.⁸⁹ This shift was not only the result of Forbes’ appointment but other factors. For instance, judge-advocates who had presided over cases with only a rudimentary understanding of the law were replaced by trained professionals who understood the intricacies and complexities of the legal system and its rules. There was also greater supervision from England and a shift to more English style legal practices and findings in the colony.⁹⁰ As a result, the fluidity that had characterised early colonial New South Wales all but disappeared. The Imperial and colonial legal institutions and governments were unwilling to turn a blind eye or look the other way while laws were either ignored or manipulated, as they had previously done with, for example, coverture and conveyancing practices (as explained in the following chapter). For the first time, colonial law was now more in keeping with British law.

As Kercher noted, the “coming of a more formal version of the rule of law was not necessarily a triumph of freedom over the restrictions of a penal colony. Convicts and women both found that English law was much more restrictive than locally developed legal customs.”⁹¹ The law was slow to provide women with greater capabilities and it was only in 1878 that they could finally retain their property upon marriage.⁹² Married women also had their rights to dower after their husbands’ deaths reduced under the common law of dower to accommodate land settlement.⁹³

The common law of dower is one example of how women’s legal rights were curtailed from the late 1810s. The relationship between husband and wife formalised by coverture was recognised under

⁸⁹ Kercher, ‘Why the History of Australian Law is not English: Second Alex Castles Lecture in Legal History, October 2000’, *Flinders Journal of Law Reform*, 7 (2004), 177-204 (p. 201), <http://heinonline.org/HOL/Page?handle=hein.journals/flinlj7&div=23&g_sent=1&casa_token=&collection=journals>, [3 March 2016].

⁹⁰ Kercher, *An Unruly Child*, p. 44; Atkinson, ‘The Free-Born Englishman Transported: Convict Rights as a Measure of Eighteenth-Century Empire’, *Past and Present*, 144 (1994), 88-115 (p. 88), <<https://www.jstor.org/stable/651144>>, [11 February 2016].

⁹¹ Kercher, *An Unruly Child*, p. 59.

⁹² This occurred with amendments to the *Married Women’s Act* (1878). Bishop, *Minding Her Own Business: Colonial Businesswomen in Sydney* (Sydney: New South Publishing, 2015), p. 31.

⁹³ Kercher, *An Unruly Child*, pp. 142-143.

the law of dower. Essentially, dower entitled a wife to the use of an equivalent of a third share of her husband's freehold property upon widowhood for the remainder of her life. It was a moral entitlement that provided her with a means of financial security and maintenance. While the widow could not sell the land, she could lease, cultivate or use it as she deemed most appropriate.⁹⁴ Initially, the wishes of the deceased or his heirs could not override dower but this changed in the colony as land became viewed as a desirable commodity rather than in terms of morality or reciprocal relationships.⁹⁵

In the colony's early, formative decades, dower was generally upheld as land was plentiful and the demand for ownership of it was easily met. This changed, however, when land use and exchange dramatically increased and the desire for land intensified, especially with the increase in population numbers. Dower became an impediment to the use of land as a commodity since a free widow was entitled to a life interest in her share, something that could not be rescinded. Golder and Kirkby argued that dower was an impediment to immigration where "the fictional availability of land was an incentive" to migrate.⁹⁶ To redress the situation, Governor Macquarie passed a declaration in 1819 proclaiming that women would forfeit their dower rights "or to the sale of lands which they brought to the marriage."⁹⁷ In 1836, a widow could no longer claim her deceased husband's estate by right, thereby removing an impediment to the sale of land and its reciprocal relationship with coverture.⁹⁸ New thoughts concerning punishment and prisoners also saw convicts' freedoms and liberties curtailed in New South Wales. This served to heighten their separation and difference from free settlers. For example, in 1826, ticket of leave holders had their rights reduced and they were no longer able to obtain a publican's licence.

Conclusion

As the case studies illustrate, free women married to felons were accorded a status that enabled them to exercise agency as legally autonomous individuals. With her convict husband attainted, and thus 'legally dead', Sarah Fielder initiated a court case in her own name, as well as acquiring and selling property. Likewise, Ann Bartlett commenced legal proceedings as a *feme sole* and administrator of a deceased estate. Conversely, Annie Fox not only defended her right under coverture and the law of necessities to procure items required for daily living by taking her husband to court, but she also sued a man for the theft of clothing items. An astute businesswoman and

⁹⁴ Golder and Kirkby in Kirkby and Coleborne, *Law, History and Colonialism*, 207-220, (p. 208).

⁹⁵ Wright and Buck, 'The Transformation of Colonial Property', pp. 98-99.

⁹⁶ Golder and Kirkby in *Law, History and Colonialism*, p. 209.

⁹⁷ Bishop, *Minding Her Own Business*, p. 212.

⁹⁸ Ibid.

landholder, Sarah Wills used her legal agency not only to prosper as an entrepreneur and property owner but also to ensure her assets were protected and managed as she deemed most appropriate, as evident by the deed of settlement she drew up on the eve of her second marriage. In employing their legal capabilities to assert their rights and to prosper, these women demonstrated a sophisticated knowledge of the law and their place within it, and in particular, how their shifting identities as *femes sole* or *femes covert* shaped their agency.

For free wives of convicts, one of the most significant outcomes of their status as temporary *femes sole* was the ability to possess land in their own names. Whether bought by private means or obtained through a government grant or lease, becoming landholders not only enabled this group of women to participate in the economy and prosper both financially and materially, but also to keep the family intact. For those free wives who were allocated their felon husbands as assigned labourers, it also overturned the patriarchal notion of husband and wife in a manner that was particular to the colony. Such themes are examined in the next chapter, “A Wife is to Be Commanded by Her Husband’: Free Wives of Convicts and the Possession of Land’.

Ch 5: 'A Wife is to Be Commanded by Her Husband': Free Wives of Convicts and the Possession of Land

it is not customary to give land to females.¹

For free wives of convicts, the most significant aspect arising from their temporary suspension of coverture was the capacity to be granted land in their own right, a capacity that flowed from their civil and legal status, and that of their felon husbands. Land possession and cultivation was a central and fundamental characteristic of early New South Wales and it was this that gave weight to the women's legal capacity. Through land, they were accorded a voice, independence as landholders and a means of participating in the colony's emerging economy, either as buyers or sellers of property or as primary producers. It also enabled them to keep the family intact and, in some cases, upended the usual patriarchal relations between husband and wife. The suspension of coverture was key to their landholding since, "nothing else so clearly indicates legal subordination" than the inability of married women to hold property as the case studies of Lydia Austin, Jane Ezzey, Mary Collitts and Mary Collicott reveal.²

This chapter examines land ownership, control, exchange and production as a key component of their legal agency as temporary *femes sole*. Free women married to felons had restored to them the capacity to possess land (either by grant, lease or purchase) in their own names with full legal and commercial autonomy and abilities. They could sell, lease, subdivide or manage their properties without having to acquiesce to their husband's legal agency or control. Consequently, they became accustomed to acquiring land earlier in their adulthood than widows and, as the data set out in Chapter Three indicates, they were on average relatively young women in their twenties and thirties. These younger women developed skills around such possession, management and disposal which, in turn, influenced their business opportunities and financial situation. Their legal capacity in relation to land was further enhanced by the master-servant relationship that saw some free wives become mistresses of their convict spouses and, at other times, other felons under the colonial convict labour assignment scheme.

¹ 'Colonial Secretary Office to Sarah Middleton', 14 February 1825, Colonial Secretary In-Letters, NRS 937, 4/3513, reel 6014, State Records Office of New South Wales (SRNSW), p. 429.

² Bruce Kercher, *An Unruly Child: A History of Law in Australia* (St Leonards: Allen and Unwin, 1995), p. 143.

As landholders, some free wives of convicts were also accorded a voice which they used to advocate for their interests and rights. Their authority to speak out was strengthened and legitimised by the fact that they were both free and holders of property in their own names as *femes sole*. This position legitimised women's political activities and saw them traverse the public domains of governance, formal politics and the law.³

The possession of land, however, was about more than just legal abilities and disabilities as it was also bound with colonial perceptions of morality.⁴ In early New South Wales, the colonial government granted land to those they deemed *deserving* of such actions. Grants and leases were issued to free and emancipated men and women of good behaviour and character, who were industrious and conducted themselves with sobriety. Upon becoming governor of the colony, Captain John Hunter (1795 - 1800) was instructed by the Imperial government to issue additional land grants to "any particularly meritorious settler or well-deserving emancipated convict."⁵ In 1806, Mrs Chapman, a "widow lady" wrote to William Windham, the Imperial government's Secretary of State for War and the Colonies, for permission to emigrate to New South Wales to establish herself as a governess and teacher. Windham granted her request and commanded Governor Bligh to grant her fifty acres, "As there can be no doubt but that benefit may accrue to the settlement from the residence of a respectable person of Mrs Chapman's description, it is highly proper that she should receive suitable encouragement and I am to desire that you will have a grant of land."⁶

While some scholars have examined the agency of free women arising from their legal status, others have explored the significance of gender in the form of patriarchy as the principal factor which shaped women's agency.⁷ This is exemplified in Aveling's contention that early colonial New South Wales was ruled by a "patriarchal political and gender order ... ruled publicly by the head of state,

³ *Sex, Power and Justice: Historical Perspectives of Law in Australia*, ed. by Diane Kirkby (Melbourne: Oxford University Press, 1995), p., xviii.

⁴ Paula Byrne, 'Freedom in a Bonded Society: The Administrative Mind and the 'Lower Classes' in Colonial New South Wales', *Journal of Australian Studies*, 21.53 (1997), 51-68 (p. 51).

⁵ 'Governor Hunter's Instructions', *Historical Records of Australia. Series I, Governors' Despatches to and from England [HRA]*, vol. 1, (Sydney: Library Committee of the Commonwealth Parliament, 1914-1971), p. 523.

⁶ 'The Right Hon. William Windham to Governor Bligh', 18 September 1806, *HRA*, 6, pp. 24- 25.

⁷ Scholars who have discussed free women and agency include Lynne Bowd, 'On Her Own: Women as Heads of Family Groups in the 1828 Census', *Australian Historical Studies*, 27.107 (1996), pp. 303-322, <<http://www.tandfonline.com/doi/abs/10.1080/10314619608596015>>, [11 January 2016]; Katrina Alford, *Production or Reproduction? An Economic History of Women in Australia, 1788-1850* (Melbourne: Oxford University Press, 1984); Paula J. Byrne, 'Economy and Free Women in Colonial New South Wales', *Australian Feminist Studies*, 11.23 (1996), pp. 89-97, <[10.1080/08164649.1996.9994807](http://www.tandfonline.com/doi/abs/10.1080/08164649.1996.9994807)>, [15 November 2016]; Monica Perrott, *A Tolerable Good Success: Economic Opportunities for Women in NSW 1788-1830* (Sydney: Hale and Iremonger, 1983); Portia Robinson, *The Women of Botany Bay: A Reinterpretation of the Role of Women in the Origins of Australian Society* (Melbourne, Penguin Books, 1993); For a discussion on patriarchy, see Chapter 1.

privately by heads of families.”⁸ Thus, the governor and husbands reigned over women. Others have observed that there was “an assumption that the proper function of women, white and black, was to serve male needs.”⁹ While this thesis supports the contention that gender and patriarchy were critical determinants in the curtailment of women’s abilities and rights, it suggests that these were not the only factors.

Under coverture, women’s possession of land was not only dependent on their own marital status (single, widow or wife) but, in the context of the penal colony, also their husband’s legal status (free or convict). In 1813, Governor Macquarie reiterated the suspension of a convict’s legal rights when he stated “while a man is under the sentence of the law, he is not eligible to be employed in any place of trust. He is incapable of holding a grant of land.”¹⁰ When examining the suspension of coverture and land ownership in 1831, Chief Justice Dowling acknowledged this when he wrote of convict husbands:

During the continuance of his sentence ... his marital rights were suspended, and ... he was incapable of acquiring property at that time ... [U]pon the expiration of his sentence or pardon ... [he] w[ould] become then entitled to such property of his wife ... unless settled upon her before marriage.¹¹

Thus, in patriarchal New South Wales, land ownership was not only tied to gender but also to a number of shifting legal identities that, at times, enabled married women whose husbands had convict status to own and manage property, the most important being the felony of her husband. It was only once convicts had received a conditional pardon or had served their term could they obtain land from the government either through lease or grant. It is interesting to note that in the shifting legal landscape of the early penal colony, the practice of not allowing convicts to acquire Crown land was one of the most consistent practices followed by the colonial government.

⁸ Marian Aveling, ‘Imagining New South Wales as a Gendered Society, 1783-1821’, *Australian Historical Studies*, 25.98 (1992), 1-12 (p. 5), <10.1080/10314619208595890>, [19 July 2015].

⁹ *Freedom Bound I: Documents on Women in Colonial Australia*, ed. by Patricia Grimshaw, S. Janson and Marian Quartly (Sydney: Allen and Unwin, 1995); Patricia Grimshaw, Marilyn Lake, Ann McGrath and Marian Quartly, *Creating a Nation* (Melbourne: McPhee Gribble, 1994); Anne Summers, *Damned Whores and God’s Police*, 2nd revised ed. (Melbourne: Penguin, 2002); Babette Smith, *A Cargo of Women: Susannah Watson and the Convicts of the Princess Royal* (Kensington: NSW Press, 1988); *Stepping Out of History: Documents of Women at Work in Australia*, ed. by Aveling and Joy Damousi (Sydney: Allen and Unwin, 1991).

¹⁰ ‘Copy of a dispatch from Governor Macquarie to the Earl Bathurst,’ 28 June 1813, House of Commons Sessional Papers, House of Commons Parliamentary Papers Online.

¹¹ ‘Notes to *Cooper v Clarkson* (1831)’ in Nancy E. Wright and Andrew Richard Buck, ‘The Transformation of Colonial Property: A Study of the Law of Dower in New South Wales, 1836-1863’, *University of Tasmania Law Review*, 23.1 (2004), 97-127 (p. 111).

The unique situation of free wives of convicts in colonial New South Wales in relation to the suspension of coverture, and its impact on their ability to possess land, is illustrated by the case of Sarah Bockerah. Sarah was an orphaned daughter of Ann and Solomon Bockerah, the free wife and convict husband discussed in Chapter Three. As a single woman, Sarah was granted fifty acres of land as a *feme sole* during the unruly period following the ousting of the Bligh government prior to 1810. When she sought confirmation of her grant from Governor Macquarie, her legal status had changed since she was now married to an emancipated man and the land was unable to be granted in her name. Macquarie confirmed she had indeed been the legitimate owner of the property but wrote that the grant was “to be renewed in the name of her husband John Lawrence, now free.”¹² Thus, Sarah lost possession of the land originally granted to her in her own name, solely as a consequence of marriage under the common law of coverture, thereby severely curtailing her economic agency and independence.

This chapter also asserts that class status did not impede a *feme sole's* ability to acquire land in the colony's early period, so long as they were deemed “deserving”. Class appeared to impact not on the issuing of the grant of land itself but on the size of it. Even members of the lower classes of labourers and emancipated convicts could receive a grant of land. While women of the lower labouring classes could be provided with land grants in their own names, it was a woman's wealth and class status that determined the size of the grant.¹³ For example, under the administration of Governor King (1800 - 1806), Mary Putland, the widowed daughter of Captain William Bligh who had replaced King as governor of the colony was provided with a large Crown land grant of six hundred acres. While Putland represented colonial gentry, women of lesser social status were also provided with land, such as Mary Post, a free wife of a convict, and Jane Trotter, an emancipated unmarried woman, each receiving thirty acres in 1809.¹⁴

While Bishop, Robertson and Kercher have examined aspects of coverture and women's land ownership in early colonial New South Wales, the subject of land possession calls for further exploration in relation to free wives of convicts as it is underrepresented in the scholarly historiography, especially considering the impact and significance both the common law and land possession had on people's lives.¹⁵ Although Golder and Kirkby examined women, land and the

¹² Colonial Secretary Papers, 4/1821, no. 27 in Michael Flynn, *The Second Fleet: Britain's Grim Convict Armada of 1790* (Sydney: Library of Australian History, 2001), p. 163.

¹³ Raewyn W. Connell and Terry H. Irving, *Class Structure in Australian History: Poverty and Progress*, 2nd edn. (Melbourne: Longman Cheshire, 1992), p. 35.

¹⁴ *Land Grants: 1788-1809*, ed. by R. J. Ryan (Sydney: Australian Documents Library, 1981); Australian Dictionary of Biography [BDA], *BDA Online*, <<http://www.bda-online.org.au/>>.

¹⁵ Catherine Bishop, 'Commerce was a woman: Women in business in colonial Sydney and Wellington', (doctoral thesis, Australian National University, 2012); Robinson, *The Women of Botany Bay*; Kercher, *Debt*,

slippery nature of coverture in the colony, the specific circumstances of free wives of convicts was not considered.¹⁶ Nor were they included in Wright and Buck's discussion of dower.¹⁷

Archival evidence illustrates that free wives were landholders yet this has been marginalised in the historical scholarship of colonial New South Wales with their activities largely overlooked or ignored.¹⁸ Primary documents suggest Alford's assertion that "very few women" received land grants, namely "a few female ex-convicts", requires qualification.¹⁹ While the majority of recipients were male, Alford's narrative is incomplete as it was not only female emancipists who received land. Australian economic historian, Williams, discussed land ostensibly in relation to both men and women by using gender neutral language. However, the issues raised centred on men and male landholders (such as civil and military officers, squatters and emancipists) while issues pertaining specifically to women and land, such as coverture and dower, remained unexplored.²⁰ Hirst noted that, "according to English law a convict could not own property. For the first thirty years of the colony's history this principle was simply ignored and the courts operated on the contrary assumption."²¹ In making such a claim, Hirst misrepresented both the position of felons and the agency of free wives of convicts as this study so clearly illustrates.

The acknowledgement and study of free women as landholders is important. By placing female landholders in the centre of inquiry, this chapter redresses the androcentric focus of men as property owners in the historiography. By doing so, it demonstrates women's contribution to New South Wales' early settlement, commercial development and commerce for the production of land was intimately bound with the colony's early markets, especially since grants provided by the colonial government were principally designed to secure colonial self-sufficiency and develop a colonial economy.²²

Seduction and Other Disasters: The Birth of Civil Law in Convict New South Wales (Sydney: Federation Press, 1996); Kercher, *An Unruly Child: A History of Law in Australia* (Sydney: Allen and Unwin, 1995), p. 50.

¹⁶ Hilary Golder and Diane Kirkby, 'Land Conveyancing Reform and the Problem of the Married Woman in Colonial Australia' in *Law, History and Colonialism: The Reach of Empire*, ed. by Kirkby and Catherine Coleborne (Manchester: Manchester University Press, 2001), pp. 207-220.

¹⁷ Wright and Buck, 'The Transformation of Colonial Property', p. 112.

¹⁸ See, for example, Alford, *Production or Reproduction*; Ryan, *Land Grants*; Alan Williams, 'Colonial Origins of Land Acquisition Law in New South Wales and Queensland', *The Journal of Legal History*, 10.3 (1989), pp. 352-364, <10.1080/01440368908530973>, [28 January 2015].

¹⁹ Alford, *Production or Reproduction*, p. 75.

²⁰ Williams, 'Colonial Origins of Land Acquisition Law in New South Wales and Queensland'.

²¹ John Hirst, *Freedom on the Fatal Shore: Australia's First Colony* (Melbourne: Black Inc., 2008), p.115.

²² *Ibid.*, p. 354.

Only a small number of historians have accorded free wives of convicts agency as landholders in their own right.²³ Robinson wrote:

The most attractive [occupation] to colonial wives was that of farmer or landholder, either as the recipient of a land grant in their own right or as the wives of convict men ineligible to own land while under sentence of the law. In either case, the free or freed woman was the legal owner of the property, the 'master' of any assigned convict servants and responsible to government for the land granted.²⁴

Kercher discussed their land possession from a legal perspective, examining how their empowerment as temporary *femes sole* enabled them to acquire land in their own names. Therefore, the capacity of free wives of convicts to acquire such an asset not only highlights their agency as landholders but also the difference their temporary status under coverture made compared to other wives accorded the status and capabilities of *femes covert*.

Free Wives and Land

Land settlement and possession commenced in Sydney and haphazardly spread its tentacles across the New South Wales landscape. Rather than being deliberately and strategically planned, expansion occurred because of need, a need to find suitable land for crop cultivation and grazing, coupled with people's desire to seek homes and farms for themselves.²⁵ For the first three decades, settlement was confined largely to the Cumberland Plain which "was the vital centre of the colony" and where the towns of Sydney, Liverpool, Appin, Parramatta, Penrith and Windsor were located.²⁶

In early colonial New South Wales, the value of land lay in what it could produce, rather than as a commodity in itself.²⁷ Initially, land was not regarded as being of high value since it was so readily available as a consequence of the dispossession of the Indigenous peoples under the legal fiction of *terra nullius*. Even domestic animals and grain had greater worth than land as they were scarcer and more sought after. Farms usually grew wheat and maize, with seventy-five per cent of landholders

²³ Kercher, *Debt, Seduction and Other Disasters*; *Ibid.*, *An Unruly Child*; Paula Byrne, 'A Colonial Female Economy', *Social History*, 24.3 (1999), 287-293; Robinson, *The Women of Botany Bay*; Grace Karskens, *The Rocks: Life in Early Sydney* (Melbourne: Melbourne University Press, 1997).

²⁴ Robinson, *The Women of Botany Bay*, p. 226.

²⁵ T. M. Perry, *Australia's First Frontier: The Spread of Settlement in New South Wales 1788-1829* (Melbourne: Melbourne University Press, 1963), p. 47.

²⁶ *Ibid.*, p. 17.

²⁷ Kercher, *Debt, Seduction and Other Disasters*, p. 30; Lynne McLoughlin, 'Landed Peasantry or Landed Gentry: A Geography of Land Grants' in *A Difficult Infant: Sydney Before Macquarie*, ed. by Graeme Alpin (Sydney: Sydney History Group, 1988), 120-147 (p. 127).

managing to cultivate ten acres or less of wheat.²⁸ By 1820, nearly 55,000 acres had been cleared and were planted with wheat (16,706 acres), maize (11,270), barley (1230), orchards and garden vegetables (1094), rye and oats (379), potatoes (504) and pease and beans (213).²⁹ Initially, farmers were expected to cultivate their crops and place any surplus stock in the hands of the colonial government which would use it to feed people on 'the stores'. Many farms also kept livestock, including chickens, pigs and goats, and supplied their local communities with fresh goats' milk, cows being rare.³⁰ It was these products arising from land cultivation that it was hoped would enable free wives of convicts and their families to become self-sufficient and no longer reliant on government stores, whilst also providing them with a means of assisting in the development of the economy.

Through the possession of land, landholders had the opportunity of achieving a degree of financial independence and security. While rural allotments were cultivated with crops or grazed for animal products for local markets or to barter with neighbours, town properties were rented or leased. Some free wives of convicts, like Rosetta Stabler and Catherine Fitzpatrick, established accommodation houses and set themselves up as landladies.³¹ Being a landlady was a profitable business for some as rentals were high. Writing in 1820, William Wentworth commented that rent in the town of Sydney was "exorbitantly high. It is very far from being a commodious house that can be had for a hundred a year unfurnished."³² The sale of land enabled free wives of convicts to increase their business activities and holdings by providing funds, acting as loan collateral and demonstrating their creditworthiness, thereby increasing their availability to credit and business opportunities. It was only with the expansion of the population from the 1820s and the colonial government's belief that accessible land was running out that land itself began to hold significant monetary value. As demand for land intensified and supplies became increasingly limited, property became a commodity, something to buy and sell. Wentworth suggested that improved land on the lucrative Hawkesbury River sold for as high as £10 an acre and, for unimproved land, £5 an acre.³³

Free wives of convicts acquired property in a variety of ways. As head of the household with full legal entitlements as temporary *femes sole*, they either bought property or were granted it. Other wives obtained it through inheritance, the death of parents or as a form of settlement, such as a separation

²⁸ Alan Atkinson, *The Europeans in Australia: A History – Vol. 1 The Beginning* (Melbourne: Oxford University Press, 1997), p. 196.

²⁹ John Thomas Bigge, *Report of the Commissioner of Inquiry on the State of Agriculture and Trade in the Colony of New South Wales*, (1823), p. 12, <<http://gutenberg.net.au/ebooks13/1300241h.html>>, [31 October 2014].

³⁰ Atkinson, *The Europeans in Australia*, p. 196.

³¹ *Sydney Gazette*, 26 June 1803, p. 4; *Census of New South Wales - November 1828*, ed. by Malcom R. Sainty and Keith A. Johnson (Sydney: Library of Australian History, 1980).

³² W. C. Wentworth, *A Statistical, Historical and Political Description of New South Wales*, 2nd edition. (London: G and W. B. Whittaker, 1820), p. 8.

³³ *Ibid.*, p. 141.

agreement. In 1808, Benjamin Pate put a notice in the local newspaper explaining his estrangement from his wife:

I Benjamin Pate have this day mutually agreed with Mary Blamy, otherwise Pate, my wife, to separate, &c. from bed and board for ever – in consideration of which I have also agreed to give her the said Mary the stone house I lived in on the Rocks, with all the furniture, &c. forever, as a permanent support for her.³⁴

It was through Crown land grants and leases that the colonial government had the greatest influence in shaping the colony's early landholders since the Crown had the right, under English law, to provide people with land, either permanently as freehold or provisionally under lease.³⁵ Prior to leaving for Botany Bay, the English government instructed the colony's first governor, Governor Phillip, to emancipate male convicts "who shall, from their good conduct and a disposition to industry, be deserving of favour" and grant them land. He was told that "to every male shall be granted 30 acres of land, and in case he shall be married, 20 acres more; and for every child who may be with them at the settlement at the time of making the said grant, a further quantity of 10 acres."³⁶ Successive governors were issued with similar instructions.³⁷ There were no such specific instructions for women, regardless of their civil or legal status or class.

Aside from the instructions concerning the granting of land to emancipists, directions issued by Imperial and colonial governments concerning the provision of land to grantees were often gender neutral. Governor Hunter was advised by the English government that free "subjects ... desirous of becoming settlers" who "shall apply to you for grants of land, you do afford them every encouragement that can be given in that undertaking without subjecting the public to expence [sic], and that grants of land to such amount as you shall judge proper be made out for each person applying."³⁸ For the colonial government, the ability to be self-sufficient was more important than gender and, as Kercher purported, there was an "egalitarian approach to land holding rather than an aristocratic one."³⁹ This explains why, of the twenty free settlers from England who were listed as having been granted land between 1794 and 1800, nearly a third were women, contrary to Alford's

³⁴ *Sydney Gazette*, 1 January 1809, p. 1.

³⁵ Williams, 'Colonial Origins of Land Acquisition Law in New South Wales and Queensland', p. 352.

³⁶ 'Governor Phillip's Instructions', *HRA*, 1, p. 14.

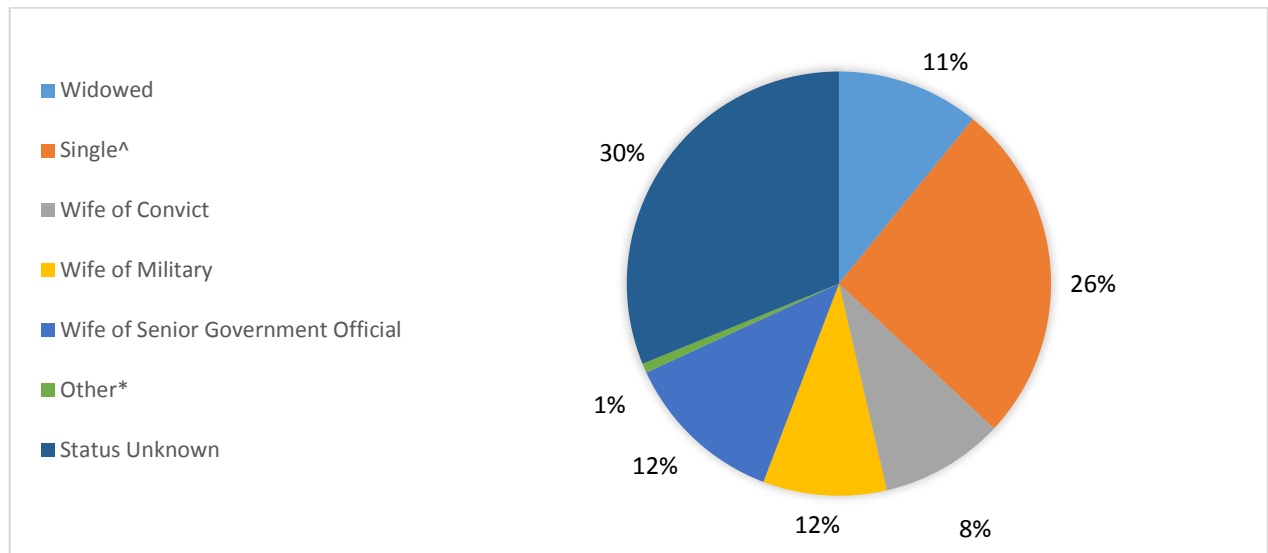
³⁷ 'Governor Hunter's Instructions', *Ibid.*, p. 523.

³⁸ *Ibid.*, p. 524.

³⁹ Kercher, *An Unruly Child*, p. 52.

contention that there were few.⁴⁰ This, however, had rarely been noted by historians or other scholars examining early colonial New South Wales.

Figure 5:1 Breakdown (in %) of the 138 Land Grants Issued to Free Women in New South Wales, Norfolk Island and Van Diemen's Land, 1788 to 1814.⁴¹



Single^ - Includes single women and those in de facto relationships.

Other* - Refers to a wife who remained in the colony after her husband returned to England

Through the ability to issue or reject a request for a Crown land grant, the colonial government had some control in land ownership. Between 1788 and 1814, the colonial administration issued 138 Crown land grants or leases to free women, as illustrated in Figure 5.1. Original research from data compiled from archival records and secondary sources for this thesis has found that, of these grants, thirty-six were given to single women or those in de facto relationships, fifteen to widows, one to a woman who remained in the colony after her husband returned to England, and forty-three to married women. The marital status of forty-three women could not be ascertained.⁴² Of the married women, thirteen were married to felons, thirteen to men in the military and seventeen to men who were neither convicts nor in the military.

⁴⁰ 1801-1802 *Musters and Lists New South Wales and Norfolk Island*, ed. by. Carol J. Baxter (Sydney: ABGR andSAG, 1988), p.101.

⁴¹ K. Johnson Sainty, *Land Grants 1788-1809: New South Wales, Norfolk Island, Van Diemen's Land* (Sydney: Genealogical Publications of Australia, 1974); 'Land Grants New South Wales 1811-1826', GM103, State Library of Victoria (SLV); 'Misc. Papers re. New South Wales and Tasmania Land Grants, 1810-c.1850', GM 102, State Library of Victoria [SLV].

⁴² Ibid.

At first glance, wives of military men receiving land grants appear to contravene the practice under the common law of coverture as they were *femes covert* and could not, therefore, be granted land in own names. Yet the military were a special category in the early colony and their ability to possess land shifted. In 1792, the Imperial government consented to military officers receiving land grants after much urging by the men in question.⁴³ Yet in 1803, a notice was printed in the local press stating Crown land would only be:

granted to the Discharged Non-commissioned Officers and Soldiers, under the express stipulation of their proceeding to the immediate clearing and cultivating thereof, otherwise to revert to the Crown; and that any sale or conveyance of such land before the expiration of five years is to be null and void.⁴⁴

Despite this, military officers continued to hold their existing land, as illustrated in notices, such as “Officers Civil and Military holding Lands as above, are required to send me separate sealed Returns of their Farms, Stock,” during routine musters.⁴⁵ Considering the fluidity of military officers to become landholders, it is possible their free wives received land grants because their husbands were ineligible. Interestingly, after receiving the land, the women were not recorded as landholders in subsequent records since the grants became the property of their husband under coverture. For example, in 1803, Ann Hobby, whose husband was a lieutenant in the army, was provided with a lease in Sydney while Lilla McKellar, who was a free wife of a military officer, was granted land in Mulgrave Place in 1804. Yet neither women were listed in the 1806 land muster but their husbands were.⁴⁶ It appears the land was issued in the name of their wives since land grants to serving military officers from 1803 was not allowed.

Lydia Austin, Landholder

In 1792, free wife Lydia Austin and her convict husband, John Austin, arrived in New South Wales after sailing from England on the *Royal Admiral*. In February 1792, John had been found guilty of breaking into a house and stealing a watch, two silver shoes buckles, a stone breast buckle and some money. He was nineteen years of age. He was subsequently sentenced to death but this was

⁴³ Williams, ‘Colonial Origins of Land Acquisition Law in New South Wales and Queensland’, p. 353.

⁴⁴ *Sydney Gazette*, 19 March 1803, p. 1.

⁴⁵ *Ibid.*, 10 August 1806, p. 1. Similar notices were placed in the newspaper in other years, such as 28 January 1810, p. 1.

⁴⁶ *Of James McClelland’s Authentic Australian Convict and Pioneer History*, ed. by James McClelland, (Silverdale: J. James McClelland, 1978); *1805-1806 Musters of New South Wales and Norfolk Island*, ed. by Carol Baxter (Sydney: ABGR and Society of Australian Genealogists, 1989); ‘Hobby, Ann’, ‘Hobby, Thomas’ and ‘McKellar, Lilla’, *BDA Online* [3 June 2017].

commuted to transportation for life.⁴⁷ Lydia accompanied him to New South Wales as a free wife of a convict and, therefore, able to hold land in her own name.

In March 1800, Lydia purchased a sixty acre property in Mulgrave Place on the Hawkesbury River from William Webster, a private in the New South Wales Corps. As a temporary *feme sole*, the sale was made in her name as she was the legal head of the family unit while her attainted husband completed his sentence.⁴⁸ In the 1801 muster, fifteen acres were noted as having been cleared, four acres were sown, twenty-five hogs roamed the farm and the childless couple were off 'the stores'.⁴⁹ A year later, the farm had been further developed with twenty acres cleared and cultivated with grain, and housed twenty-five hogs and three family members who were off 'the stores'.⁵⁰ This not only meant that Lydia and her husband were self-sufficient but that they could sell their goods in the markets or to the government for profit. As Bigge reported in 1823, "in the previous and even in the present state of the colony, the possession of a portion of land, however small, to those who live in the country, is an object of importance for the supply of domestic wants."⁵¹

The location of Lydia's property on the fertile Hawkesbury River was both a blessing and a curse. In early 1794, settlement along the river commenced and land was informally granted. Earlier governors had been reluctant to settle people in the area as its remoteness put residents out of reach of both the law and protection of administrators in Sydney.⁵² Before a road had been cleared, travel to the Hawkesbury district from Sydney was a two day trek on foot or a three day boat ride. The rich soil of the river banks provided abundant crops of wheat, maize and other food staples. While the clay soils of other locations may have produced about thirteen bushels of wheat an acre, the land on the river yielded between twenty-five and thirty-five bushels an acre.⁴⁸ Hearing of such bountiful crops, people flocked to the region and, by 1800, approximately half of the 420 farms in New South Wales were located along the Hawkesbury River.⁴⁷

Yet such abundance was tempered by the semi-regular floods that not only destroyed crops but kept many of the Hawkesbury residents in a state of near poverty.⁵³ In 1795, the river rose seven metres and in 1799, fifteen metres, thereby sweeping away houses, crops, animals and anything else in its

⁴⁷ 'John Austin', *The Old Bailey Proceedings Online*, 1674-1913 (revised March 2012), <www.oldbaileyonline.org>, [1 September 1815].

⁴⁸ 'Colonial Secretary Papers', 9/2731, fiche 3267, SRNSW, pp. 114-5; 'Webster, William', *BDA Online*.

⁴⁹ *1800-1802 Musters and Lists New South Wales and Norfolk Island*, p. 101.

⁵⁰ Bonwick Transcripts, BT 1-88/series 1/box 88, State Library of New South Wales (SLNSW).

⁵¹ Bigge, *Report of the Commissioner of Inquiry on the State of Agriculture and Trade in the Colony of New South Wales*, p. 73.

⁵² 'Governor Hunter to Duke Portland', 10 June 1797, *HRA*, 2, p. 19; Grace Karskens, *The Colony: A History of Early Sydney* (Sydney: Allen and Unwin, 2009), pp. 47 and 118.

⁵³ Perry, *Australia's First Frontier*, pp. 22-23.

path.⁵⁴ Floods again occurred in 1800, 1806 and twice in 1809. Regular flooding not only destroyed farmers' crops and their source of income, but also much of the colony's grain supply. In 1807, Elizabeth Bligh wrote: "they had seen [the colony] to great disadvantage as a dreadful scarcity of provisions then prevailed [after] an inundation of the Hawkesbury River district had swept away all their store houses."⁵⁵ In describing the Hawkesbury region, Bigge wrote:

The farms, or rather allotments, in these districts are small; the houses generally ill-built, and exhibiting the traces of former inundations. The fields are without fences; but the vigorous and thriving condition of the horses and cattle, even in the confined state in which they are necessarily kept, bears testimony to the richness of the vegetation and pasturage.⁵²

Lydia's land purchase was under her name as she, and not her husband, was the legal title holder during his servitude. Thus, she could manage and sell the property how and when she liked. When John was emancipated in 1801, the muster recorded his occupation as a self-employed shoemaker on the Hawkesbury. As well as being a shoemaker, John had also acquired the land, stock and other assets Lydia had purchased or been granted during his conviction as she was once again bound by coverture. Although Lydia's possession of the farm was fleeting, the consequences of her agency as a married *feme sole* were long lasting as profits from her farm enabled her husband to acquire additional land. In 1806, John jointly owned a sixty acre site in Austin Creek with Richard Clifton, an emancipated convict who arrived in the colony the same year as John and Lydia.⁵⁶

As a property owner, Lydia was accorded not only a degree of autonomy but also authority and a political voice which she sought to use to her advantage. In January 1801, she was one of two women landholders among the nineteen signatories who sent a petition to the governor for leniency and intervention after flooding of the Hawkesbury River destroyed their crops. The other female petitioner, Jane McManus, was a former convict and widow. The petitioners:

Most humbly begs leave to lay before Your Excellency a statement of our losses and present unhappy circumstances – earnestly imploring Your Excellency to ... exercise Your Authority in preventing the sale of our Farms, the imprisonment of our persons, and the consequent total ruin and distress of ourselves and families ... our creditors, also request for their dues and threatening to sell our farms and [put] us in gaol if we ... [don't] immediately pay them. It is our [wish] to give up all we have ... only spare us our farms, and persons from gaol [for]

⁵⁴ Karskens, *The Colony*, p. 131.

⁵⁵ 'Elizabeth Bligh to Mr Bond', 14 September 1807, Elizabeth Bligh Letters 1781-1807, ML MSS 1016, CY2035, frames 4876, SLNSW.

⁵⁶ 'Austin, John', *BDA Online*, [1 September 1815].

another [season] which by hard labour, diligence and frugality we will cultivate one more [crop] ... we hope with the blessing of providence to be able to pay our debts.⁵⁷

Although women petitioning the governor for favour was not so unusual, Lydia's signature was significant and was accorded weight precisely because she was a landowner. As Atkinson wrote, "property established interests, and interests led to active rights" and a corresponding heightened degree of authority, an authority Lydia exercised.⁵⁸ Possessing land provided her with a political voice which she utilised as a political and economic subject of the colony. In adding her name to the petition, Lydia sought to exercise power, a power derived from a "capacity to control the action of other people," namely the governor and her creditors.⁵⁹ If the term 'politics' is defined as "the making, preserving and mending of general social rules," then the very act of sending petitions was a political activity born from a sense of power as landholders. It involved conflict and cooperation as landholders and Imperial and colonial governments sought to resolve their competing needs, desires and interests concerning the written and unwritten rules in which they all lived by.⁶⁰ As Heywood explained, "while human needs and desires are infinite, the resources available to satisfy them are always limited. Politics can therefore be seen as a struggle over scarce resources, and power can be seen as the means through which this struggle is conducted."⁶¹ In essence, Lydia's signing of the petition was political because she, together with the other petitioners, sought to use their collective power to retain the farms they possessed and seek leniency from creditors.

Mary Collitts, Mistress of her Husband

The possession of land by free wives of convicts gave rise to a most unusual situation and one that was particular to New South Wales — that of free wives, such as Mary Collitts, becoming female masters (or "mistresses" as they were called) to their prisoner husbands under the assigned convict labour system. To assist in the economic development of the colony, the production of food and the cultivation of land, the Imperial government declared that land grantees were to be offered the free labour of well-behaved female and male assigned convicts. Echoing earlier instructions, the British government instructed Governor Bligh in 1805:

And whereas such persons as are or shall become settlers ... may be desirous of availing themselves of the labour of part of the convicts ... it is our will and pleasure that, in case there

⁵⁷ Colonial Secretary: Papers: Special Bundles and Other Records, Various Correspondence: 1800-24, NRS 898, reel 6020, 2/8130, SRNSW, pp. 363-6.

⁵⁸ Atkinson, *The Europeans in Australia*, p. 228.

⁵⁹ Connell and Irving, *Class Structure in Australian History*, p. 3.

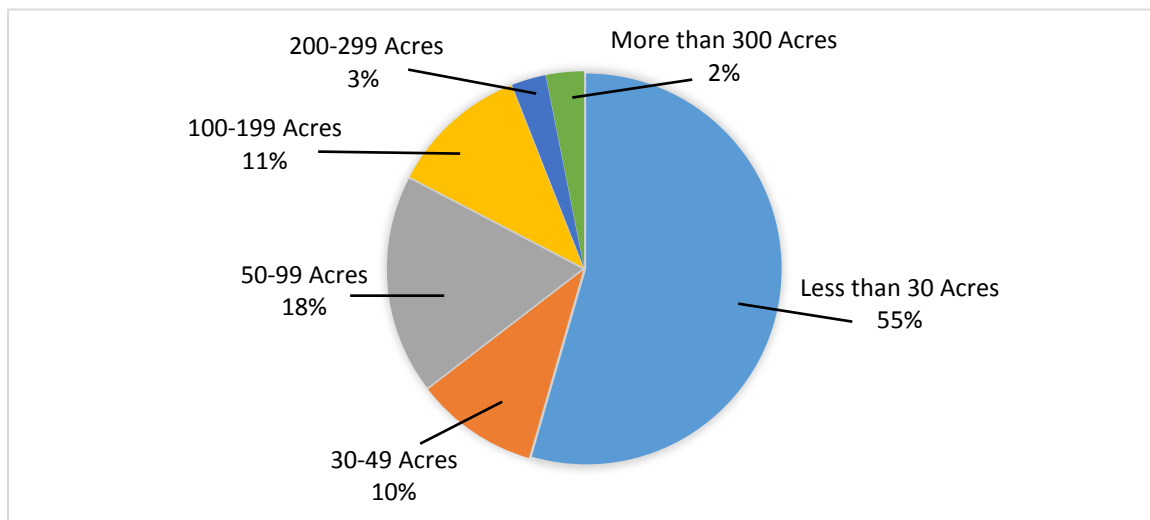
⁶⁰ Andrew Heywood, *Politics*, 4th ed. (New York: Palgrave, 2013), p. 2.

⁶¹ *Ibid.*, pp. 9-10.

should be a prospect of them employing any of the said convicts to advantage, that you assign to each grantee the service of any number of them that you may judge sufficient to answer their purpose.⁶²

Assigned female felons were used principally as domestic servants while their male counterparts performed an array of tasks, from working the land and tending livestock to assisting within the home.⁶³ For the use of such services, the master or mistress of the assigned prisoner was required to feed, clothe and shelter the prisoner-cum-labourer or servant.⁶⁴ This was an extension of male convicts working on public farms and assisting in government projects that commenced with the arrival of the First Fleet, such as land clearing, road construction and the erection of public buildings.⁶⁵ The practice of assigning convicts to free people commenced when free settlers and emancipated convicts began to acquire land, starting with freed convict James Ruse in 1789.⁶⁶

Figure 5.2: Percentage of Farm Sizes in New South Wales, 1807.⁶⁷



Farming was labour intensive in early New South Wales and it was the need to work the land that the assignment system was partly created to resolve. Land was initially worked manually as the twelve ploughs that arrived with the First Fleet were useless due to the initial lack of animals to pull

⁶² 'Instructions to Governor Bligh', 25 May 1805, *HRA*, 6, p. 10; 'Phillip to Sydney', 13 February 1790, 'House of Commons Sessional Papers', House of Commons Parliamentary Papers Online, SLNSW; Colonial Secretary Papers, 11 June 1801, NRS 898, SZ988, reel 6037, SRNSW.

⁶³ Kay Daniels, *Convict Women* (Sydney: Allen & Unwin, 1998), p. 72; Hirst, *Freedom on the Fatal Shore*, pp. 44, 48-49.

⁶⁴ Atkinson, *The Europeans*, p. 210; 'Instructions to Governor Bligh', 25 May 1805 in *HRA*, 6, p. 13.

⁶⁵ Atkinson, 'The Free-Born Englishman Transported: Convict Rights as a Measure of Eighteenth-Century Empire, *Past and Present*, 144 (1994), pp. 88-115, <<https://www.jstor.org/stable/651144>>, [11 February 2016].

⁶⁶ Alpin, *A Difficult Infant*, p. 11

⁶⁷ 'Return of the Number of Acres of Land Sown etc.', 31 October 1807, *Ibid.*, 6, p. 167.

them and the large amount of tree stumps that lay in place. Farmers quickly realised that it was far easier to cut the trees down and work around the stumps than to remove the trees, roots and all.⁶⁸ Governor Hunter wrote to London explaining “tillage of land in this country is conducted in a different manner from what it is in Europe — the latter, with the assistance of horses or oxen, the former wholly by men.”⁶⁹ In 1807, the 703 farms in the colony (See Figure 5.2) required many people to clear the ground and prepare and cultivate it for crops, to build homes and other structures, to attend to livestock and perform the time consuming tasks of daily life, from chopping wood to travelling to markets to sell or buy goods.

The assignment scheme did not differentiate between genders, meaning that male and female grantees were offered the same number of convicts. Rather, it was the size of the property that determined the number of prisoners assigned.⁷⁰ The bigger the grant, the greater the number of convicts offered, regardless of whether the property holder was male or female. For both colonial and Imperial governments, the assignment system was a win-win situation as the convicts were taken off ‘the stores’ and became the expense of the landholders, thereby reducing government expenditure. It also ensured the rapid development of the colony and encouraged the immigration of settlers who relished one of the colony’s greatest assets, the use of free labour.

The labour scheme enabled free wives to live and work beside their convict husbands, to keep the family together and develop the land. However, this was not necessarily a given as spouses were not always assigned to one another. For a convict husband to be assigned to his free wife, the wife had first to assert her rights as landholder and formerly apply to the governor for this to occur and it was the official’s decision to grant the request or not. If the convict husband had much needed skills that would benefit the colony or government, the request was likely to be declined.⁷¹ By 1817, when the population had grown significantly and the need for skilled labour was not so acute, Governor Macquarie advised that convict husbands were “always assigned to their wives off the store.”⁷²

One such free woman who had her convict husband assigned to her was Mary Collitts. She arrived in the colony with her convicted husband, Pierce Collitts, on the *Minorca* in 1801, both aged twenty-nine. Pierce had been sentenced to fourteen years transportation. Upon arrival, Mary — and not Pierce — was head of the family group as she was free while her husband was a prisoner.⁷³ In 1803,

⁶⁸ Bigge, *Report of the Commissioner of Inquiry on the State of Agriculture and Trade in the Colony of New South Wales*, p. 14; Karskens, *The Colony*, pp. 112-113.

⁶⁹ ‘Governor Hunter to Duke Portland’, 1 February 1800, *HRA*, 2, p. 442.

⁷⁰ Connell and Irving, *Class Structure in Australian History*, p. 43.

⁷¹ Robinson, *The Women of Botany Bay*, pp. 280-281.

⁷² ‘Governor Macquarie to Earl Bathurst’, 31 March 1817, *HRA*, 9, p. 241.

⁷³ ‘Collitts, Mary’, *Free Passengers NSW Arrivals 1788-1825* in *BDA Online* [11 February 2016].

“a very peculiar form of marriage resulted, one unique to penal colonies.”⁷⁸ In a typical patriarchal marriage of the period (as discussed in Chapter Two), a wife’s actions, standing and authority rested largely upon her husband since “the relation of marriage produces authority on one side, and exacts obedience on the other” under coverture.⁷⁹ Under the assignment system, the basis of authority was legally subverted where a convict husband was assigned to his wife. It was now Mary’s responsibility as directed by the government and the law to ensure that Pierce was adequately fed, clothed and housed according to government standards. It was *her* right to put him to work in a manner she deemed most appropriate, either on the farm or within the home. It was *her* right to seek redress in court if he disobeyed the law or worked unsatisfactorily. Pierce, though, was not powerless in this mistress-servant relationship. Although he had to succumb to the shift in the power balance between the couple, he had some rights that he could exercise, both within the court system and outside it. If he believed his mistress-wife was treating him unfairly, he could take the matter to court and ask for a new assignment. Conversely, he could slow down the pace of his work as some assigned convicts did as a form of protest.⁸⁰

The legal agency and capabilities of free wives of convicts as mistresses of their husbands is acknowledged and explored by only a small number of historians.⁸¹ Hirst referred to the relationship as “the colony’s most notable humane innovation in penal practice” since it kept the family intact. Hirst then marginalised the free wife’s agency when he wrote that, “in law, she was the master; in practice, of course, he was.”⁸² Unfortunately, Hirst did not support his assertion with evidence, so despite his presumptive ‘of course’, readers are unable to ascertain if this is fact or mere supposition. In his assertion he also implied the law was far removed from everyday practice yet records show otherwise. Court records indicate that mistresses did take their male assigned labourers and servants to court for breaches of work. For example, in 1812, Mrs Hannah Laycock brought assigned convict William Lansdowne before the Magistrates Court for “neglect of duty and insolent behaviour”, that is, not following her orders.⁸³ As a result, mistresses had actual and potential agency over their assigned labourers, an agency that was acknowledged by both the government and the courts.

⁷⁸ Kercher, ‘The Law and Convict Transportation in the British Empire, 1700-1850’, *Law and History Review*, 21.3 (2003), 527-584 (p. 581).

⁷⁹ A.M., *Moral Essays, Chiefly Collected from Different Authors* (1796), p. 23, <<http://find.galegroup.com.ezproxy.lib.monash.edu.au/ecco/infomark.do?&source=gale&prodId=ECCO&userGroupName=monash&tabID=T001&docId=CW123530794&type=multipage&contentSet=ECCOArticles&version=1.0&docLevel=FASCIMILE>>, [26 September 2016].

⁸⁰ Connell and Irving, *Class Structure in Australian History*, p. 52.

⁸¹ See Kercher, ‘The Law and Convict Transportation in the British Empire’; Bowd, ‘On Her Own’.

⁸² Hirst, *Freedom on the Fatal Shore*, p. 73.

⁸³ 12 December 1812, Bench of Magistrates Court 1788-1822, series 3397, SZ773, reel 658, SRNSW.

Pierce received his ticket of leave in 1806 and Mary's brief respite from the strictures of coverture ended. Mary's grant was then incorporated and consolidated into her husband's assets and Pierce was described that year as possessing a seventy acre cultivated farm with some livestock, including a female goat, twelve male hogs and eight female hogs.⁸⁴ The farm was somewhat prosperous as both Mary and Pierce were off 'the stores' while their children were on 'the stores'. In 1816, Pierce was given an additional land grant at Castlereagh. In 1825, with his emancipation long passed, Pierce became a master of convict William Powell, thereby completing the colonial circle of convict disempowerment and re-empowerment. In the 1828 census, he was listed as a publican in the Bathurst region with Mary and two of their children living with him.

As a free wife of a convict, Mary's acquisition of land was advantageous for two reasons. Through land, Mary provided the means for the family to prosper as farmers and landholders, and later as publicans. Importantly, as a landholder, Mary also enabled the family to remain intact by having Pierce assigned to her under the convict labour scheme. Although Mary's agency as landholder and mistress was temporary and was rescinded when Pierce obtained his freedom, she provided the initial spark that enabled them to become self-employed in the colony, a crucial part of the ladder of social mobility and economic security.

Jane Ezzey, Holder of Contested Land

Reflecting the fluidity of the early decades of the colony, the transfer of land between private individuals or parties was often transacted in such a haphazard manner that it was difficult to substantiate. As Crundwell et al noted, "sometimes details of a sale were written on the back of a land grant, in other cases ownership changed hands without any written evidence at all. Clearly the authorities had not anticipated the brisk traffic in grants which developed in the 1790s."⁸⁵ Such haphazard practices occurred despite government orders from 1800 explicitly stating that all land transfers were to be registered.⁸⁶ The problems that resulted from such unconventional conveyancing practices is illustrated in the case of Jane Ezzey, a free wife of a convict who publicly asserted her contested possession of a property.

Disputes over land ownership were common in the early colony. Atkinson claimed that the government was so disorganised in issuing grants that "they were only consistent in being

⁸⁴ William Noah, *Voyage to Sydney in the Ship Hillsborough 1798-1799 and a Description of the Colony* (Sydney: Library of Australian History, 1978), p. 75; *1805-1806 Musters of New South Wales and Norfolk Island*; 'Pierce Collett', *BDA Online*, [11 February 2017].

⁸⁵ Robert Crundwell, Hilary Golder and Robert Wood, *From Parchments to Passwords: A History of the Land Titles Office of New South Wales* (Sydney: Hale and Iremonger, 1995), p. 3.

⁸⁶ Kercher, *An Unruly Child*, p. 51; *Ibid*, *Debt, Seduction and Other Disasters*, pp. 123-124.

arbitrary.”⁸⁷ They were frequently contested in court and notices were placed in the *Sydney Gazette* notifying the public of assertions of rightful ownership. Sarah Reynolds had come to the colony on the *William Pitt* as a free wife in 1806 to be with her convict husband, Edward. In 1808 Sarah placed a notice in the newspaper against Edward who was claiming ownership of her land:

Caution – It having been reported to me that Edward Reynolds, of Hawkesbury, has tendered a security in his own behalf upon a house situated on the Rocks at Sydney, the same being my property, I do hereby warn all persons against accepting any security whatever thereupon, as the said Edward Reynolds has no title to, or property in the said house, which was purchased on my account, of and from one Michael Keaton, and so registered in due form.
Sarah Reynolds.⁸⁸

Despite Edward’s claim, Sarah had purchased the property as a *feme sole* and continued to own it since her convict husband had yet to receive a conditional pardon. The placement of notices like this in the newspaper ensured private issues between husband and wife became public matters as they were played out in public forums. Similar to the courts assigning felon husbands to their convict wives, the division between the private or personal and the public became harder to define for free wives of felons.

Another free wife who asserted her property rights was Jane Ezzey. In 1792, Jane, her convict husband, William Ezzey, and their newborn daughter sailed to New South Wales aboard the *Royal Admiral*. At the time, Jane was twenty-two years of age while William was twenty-seven. William had been sentenced to seven years transportation for the crime of stealing a wooden cask and a quantity of yeast from his employer, valued at five shillings and sixteen shillings respectively.⁸⁹ During the 130 day journey, Jane was kept company by a number of other free wives of convicts, including Lydia Austin, Anne Kennedy and Elizabeth Waring.

In May 1797, Governor Hunter granted Jane, in her own name and as a free wife of a convict, thirty acres of Crown allotment seventy-one in Mulgrave Place, located in the Parish of St Matthew, with an annual rent of a shilling per year to commence after five years (See Figure 5.4). The site was located near the Hawkesbury River but did not directly back on to its banks. In July 1800, nine acres of wheat and an acre of barley had been cultivated and four acres of Indian maize were soon to be

⁸⁷ Alan Atkinson, ‘Taking Possession: Sydney’s First Household’, in Alpin, *A Difficult Infant*, p. 80.

⁸⁸ *Sydney Gazette*, 4 September 1808, p. 1.

⁸⁹ ‘Robert Tiresman, William Izzy, Thomas Watmore’, 7 December 1792 in *The Old Bailey Proceedings Online*, <www.oldbaileyonline.org>, [14 July 2016].

cultivated, including twelve acres of wheat and twelve of barley, and the farm held twenty bushels of wheat, eighty bushels of maize and twenty hogs.⁹¹ In 1804, William was granted 130 acres of Crown portion sixty-three in Windsor. The land was situated a few properties south of Jane's farm (See Figure 5.4). The property was well positioned as it was on the road from Sydney to Richmond. Together with fifteen other men who received similar grants at the same time, this land was granted by Governor King "in trust for the benefit of their children."⁹² No explanation was provided for the reasons for this. Two years later, William acquired, through both grant and purchase, 159 acres at Hawkesbury where he resided with Jane, their six children and an assigned servant named Christopher Savage. The 1814 muster listed William as a landholder in Windsor while Jane was simply noted as living with a J. Bolton in Sydney. There he remained until his death in 1830.⁹³

Until the 1810s, Jane and William remained together, living as a couple and raising their six children. By 1814, though, Jane was living with John Bolton, an emancipated convict who arrived in the colony in 1799 aboard the *Hillsborough*. John was well acquainted with the Ezzeys as some years before, John and William had acquired a farm together at Windsor. As a further testament to their friendship, John was charged in 1812 with illegally harbouring Jane and William's son, William Junior, who had absconded from an apprenticeship.⁹⁴ In October 1811, John and William advertised the sale of their jointly owned property in the *Sydney Gazette*, which came complete with a commodious house, fourteen head of cattle, seven horses, pigs, a cart, chaise and harness, agricultural equipment and house furniture. At the same time, William put an additional advertisement in the newspaper, informing the public of the sale of his 130 acre "capital stock farm", fifty acres of which was fenced. Both sales were initiated because the two men (no mention was made of their families) were preparing to leave the colony in 1812, though neither did.⁹⁵

In 1816, Jane and William separated, colonial style. Although divorce was only granted under the most exceptional of circumstances, married couples could informally suspend their legal obligations under coverture by placing notices in the local press informing the public of their split. While such notices did not legally end the marriage — they were still technically husband and wife and unable to remarry — it did sever financial bonds, in particular, the husband's responsibility for his wife's debts. In October 1816, William put a notice in the *Sydney Gazette* informing people that:

⁹¹ *1800-1802 Musters and Lists New South Wales and Norfolk Island*.

⁹² *Sydney Gazette*, 4 November 1804, p. 3.

⁹³ *1814 General Musters of New South Wales*, ed. by Carol Baxter (Sydney: ABGR and Society of Australian Genealogists, 2006); 'Ezzey, William', *BDA Online*, [14 July 2016].

⁹⁴ 2 May 1812, Bench of Magistrates: County of Cumberland: Minutes of Proceedings: Bench Book, series 3397, reel 658, 1/302-4, SRNSW.

⁹⁵ *Sydney Gazette*, 26 October 1811, p. 1.

Whereas my wife, Jane Ezzey, has absented herself from my house at Mulgrave Place; the inhabitants are hereby cautioned against giving credit to the said Jane Ezzey on my account, after this notice, as I will not be responsible for any debts she may contract.⁹⁶

On that very page, Jane and William's son, John, placed a notice contesting Jane's possession of the Bolton-Ezzey farm:

The public are hereby cautioned against purchasing, taking any manner of security on, or entering into any agreement with my mother, Jane Ezzey, for a moiety or half that farm and premises situate at Windsor, known by the name of Bolton [sic] and Ezzey's Farm, she having possessed herself of the deeds, thereof, contrary to the wish of me ... and my father, William Ezzey of Windsor, who had duly conveyed to me, by a written indorsement, a due right and title to the said land and premises: therefore I will not acknowledge nor accede to any contract or agreement she may make concerning it.⁹⁷

It is unclear whether this was the farm granted to William in trust for their children, the land purchased jointly by William and John or a portion of land acquired by Jane.

The fact that it was Jane and William's son that was claiming entitlement illustrates the patriarchal nature of the colony. It was not the couple's first two children (Louisa and Lucy) who sought possession but their first born son. In seeking the land, John's actions substantiate the notion advocated by Evans and Thorpe that "the ideologies and practices embedded" in patriarchy "assumed and accentuated a binary divide between certain, publicly heterosexual men who claimed for themselves all kinds of civil rights, and a range of 'others'", including women.⁹⁸ Thus, it was the first born son who claimed the land as his supposedly given right under patriarchy, as opposed to his mother or sisters.

A week after her son's notice appeared in print, Jane placed a notice in the newspaper defending her entitlement to what she regarded as her land and her credibility:

I, the undersigned, in reply to a notice that appeared in the *Gazette* of last week, signed 'Wm Ezzey;' wherein the said William Ezzey has wantonly and maliciously attempted to injure my credit in the colony, I hereby call to remembrance of all with whom I have had dealings in trade, that I always received, paid, and contracted as a *feme sole*, and not as the wife of the aforesaid Wm. Ezzey; who has in consequence no claim upon me whatsoever, and no right

⁹⁶ Ibid., 26 October 1816, p. 4.

⁹⁷ Ibid, 26 October 1811, p. 2.

⁹⁸ Raymond Evans and Bill Thorpe, 'Commanding Men: Masculinities and the Convict System', *Journal of Australian Studies*, 22.56 (1998), 17-34 (p. 19), <<http://www.tandfonline.com/doi/abs/10.1080/14443059809387358>>, [1 November 2015].

whatever with any part of my business; and in answer to another advertisement in the same *Gazette*, signed 'John Ezzy,' cautioning persons against covenanting with me for the purchase of a moiety of a farm near Windsor, called Bolton and Ezzy's Farm, because of his having received the same as a gift from William Ezzy, I the undersigned do hereby positively aver, that the purchase of the whole of the said farm was originally made by me, and that the right of possession to the said moiety is now vested in me, and me only, as it is my intention more fully to make [known] on the opening of the Supreme Court.⁹⁹

Jane's notice illustrates a number of interesting points. It is her identity as a businesswoman that she defends. Thus, it is her livelihood and financial security she asserts, rather than her honour and performance as a married woman or a mother. In disputing her son's claim, she also resisted patriarchal ideals of authority and entitlement as she sought to protect her legacy as a *feme sole* during her husband's servitude and her authority when she obtained the land in question. Alternatively, if Jane was not the rightful legal owner of the land as claimed by her son, Jane may have attempted to retain possession of something she no longer had any entitlement to under the common law of coverture. While the outcome of the dispute is unknown, it appears it was settled outside of the courts prior to Jane's death in Windsor in 1821 as no court cases were listed as having been heard under the Ezzey name.¹⁰⁰ Archival records are silent on whether Jane owned the land at the time of her death.

In attempting to secure her land entitlement, Jane utilised colonial procedures and customs, especially those unique practices pertaining to free wives of convicts, such as the temporary suspension of their legal disabilities as *femes covert*. This is evident in her use of the legal term *feme sole*. Jane was fully aware of her legal situation and rights. Her actions not only illustrate a shrewd and intelligent woman but also a woman who understood the fine nuances of the colony's legal system and culture and utilised them to improve her circumstances. Her story also illustrates the importance of property for a family. The Ezzey family's farming prosperity, commencing with Jane's land grant, is an example of the economic and material success that was possible through the possession of land. Jane Ezzey's continued assertion of her legal rights following her separation from her husband highlights the complex legal position of free wives of convicts at that time.

⁹⁹ *Sydney Gazette*, 2 November 1816, p. 2.

¹⁰⁰ There are no listings involving property disputes for the Court of Civil Jurisdiction or the Supreme Court under the names of Jane and William Ezzey or John Bolton (including variant spellings) in the SRNSW databases.

Mary Collicott and the Curtailment of Free Women's Access to Land

Notions governing the granting and possession of land were not static but evolved over time, as did the ability of free wives of convicts to access it. As New South Wales developed from a rudimentary penal colony in 1788 to a society comprising ever more free and emancipated settlers from the mid-1810s, the quest for land intensified. Together with increasingly advanced bureaucratic and administration processes, a general tightening of laws and stricter observance of British legal principles and practices, the ability of free married women to procure land became increasingly difficult.

Such change is evident in the case of free wife, Mary Collicott. Although her arrival falls outside the time frame covered in this thesis, her story provides a fitting example of the way in which land became harder for free wives to acquire. In 1816, Mary Collicott, together with some of her children from a previous marriage, arrived in Sydney on the *Mary Ann* to be reunited with her convict husband, Thomas Collicott. The couple had married in England in 1809 and lived in London where Thomas sold medicine. After having received a life sentence in 1812 for stamp duty irregularities, Thomas arrived in the colony in 1813 aboard the *Earl Spencer*. He later became the master of the Female Orphan School in Windsor and, as a consequence of good behaviour, received his ticket of leave in 1814.

Within ten months of arriving in New South Wales, Mary applied for both the mitigation of her husband's sentence and a town allotment. With a growing family and her husband still serving his sentence, Governor Macquarie sought to lessen Collicott's hardships by providing her family with additional land. The land, however, was not given to her but to her son, thereby demonstrating his reluctance to grant land to women if an older male could equally receive it. He wrote:

Mrs Collicott is an interesting respectable woman and with so large a family to provide for is much to be pitied. I have put herself and her whole family in the meantime on the store, and intend giving her eldest son a grant of land very soon with the usual indulgence granted here to free settlers, the father not being yet eligible for receiving a grant of land in his own name, on account of his still labouring under the sentence of the law ...¹⁰¹

Mary Collicott's request for a grant of land was very similar to that of Sarah Toole, another free wife of a convict who also petitioned the colonial government for land.¹⁰² Sarah was a free wife of a convict who arrived in the colony with her two small children in 1814 and was soon reunited with her convict husband, Bernard Toole. In the colony, Sarah and Bernard struggled to make a go of

¹⁰¹ 'Governor Macquarie to Goulburn', 22 March 1816, *HRA*, 9, pp. 97-98.

¹⁰² Colonial Secretary: Memorials, 1820, NRS 899, 4/1825B, fiche 3032, SRNSW.

things and she was given land in 1817 after appealing directly to Governor Macquarie for assistance in the form of a grant. She wrote:

The most humble memorial of Sarah Toole sheweth that memorialist came to this colony a free woman three years back in the ship [*Broxbornebury*] being with two infant children. That memorialists husband came at the same time (Bernard Toole) in the *Somersetshire* a prisoner ... That a memorialist and husband [since] their arrival in the colony lived in the neighbourhood of Castlereagh and Windsor during which [time] they had conducted themselves honest and industrious. That memorialists husband has been [laboring on farms] ... and this earning being inadequate to the support of his wife and children most humbly solicits a portion of land for the future support of memorialist and children. May it therefore please your excellency to grant her such indulgences.¹⁰³

Why was Mary denied the land while Sarah was granted it in her own name, even though it was issued a year after Mary's? The answer partly lies with their family structures. In Sarah's situation, there was not an available male adult to issue the grant to. Sarah's sons were too young to acquire land and her husband was serving a fourteen year sentence, so to deny her the grant would be to deprive the Toole family of a means of a sustainable living. On the other hand, to deny Mary the grant was not as potentially ruinous since it could be granted to her adult son with an implied expectation that he would assist his free mother and convict father.

To understand the curtailment of free wives' ability to possess land from the mid-1810s it is necessary to understand how land became much desired and of ever-increasing worth. With more free settlers residing in the colony, the desire for land intensified and demand outstripped supply. Where once its value lay in what it could produce, property was now a valuable commodity in itself and the colonial government was keen to have it used in the most industrious and profitable of ways.

In 1821, Eliza Walsh, a single free woman who arrived in the colony in 1819, requested a grant of land to expand her land holding for cultivation and the rearing of cattle. What is particularly significant in Eliza's application for land is the response by Governor Macquarie. Her application was denied since it was "contrary to late regulations to give grants to ladies."¹⁰⁴ Macquarie was referring to the tightening of the practice of granting land to free women as he explained in a letter in 1821:

I consider it a very bad practice (except in some extraordinary and pressing cases of necessity) and very injurious to the interests of the colony to give grants of land to single women, I have

¹⁰³ Ibid.

¹⁰⁴ 'Earl Bathurst to Governor Macquarie', 17 January 1821, *HRNSW*, 7, pp.348-55 in Aveling and Damousi, *Stepping Out of History*, p.17.

declined for some time past making such grants, on the ground that such persons are incapable of cultivating land, and thereby not adding to the resources of the colony. Some tracts of land, granted by my predecessors to women and children many years since, remain still unimproved and unprofitable.¹⁰⁵

Unsatisfied with this, Eliza provided a somewhat feisty reply, stating she had been told:

That his Excellency the Governor has been in the habit of granting land to females ... which would not only tend to my own benefit ultimately, but must be of considerable advantage to the colony ... the Governor lately granted land to Mrs Ward, Mrs Gore and even Mrs Ellen and it does not appear altogether a just measure to exclude ladies from making use of their money for the benefit of the colony in consequence of their sex, nor can it be deemed a real objection that a lady could not be able to conduct a farm as well as a gentleman.¹⁰⁶

As this letter demonstrates, Eliza sought to assert her rights at a time when the legal and economic capabilities of free women were being curtailed and she protested when she was impeded from securing them. Despite the colonial government's initial reluctance, Eliza did receive a grant of 338 acres in 1823 from Macquarie's replacement, Governor Brisbane (1821 – 1825).¹⁰⁷ Records do not provide information on why the government relented on its initial decision. Eliza's success in securing the grant may have been predicated on the fact that she came free to the colony and the heightened status this provided her, as well as her class status. Eliza's mention of Mrs Ward, Mrs Gore and Mrs Ellen is illustrative of her awareness of just how important such status was in the colony, especially for women, and how she used it to her advantage since the three ladies cited came to the colony as free married women.¹⁰⁸

Stricter legal practices and more rigid bureaucratic and business activities also hampered free women's access to the possession of land. By the 1820s, with the establishment of the Supreme Court in 1814 and the influx of British trained lawyers, the malleable legal system of the early colony gave way to a more fixed and exact system, as discussed in the previous chapter. Combined with increasingly bureaucratic and fastidious colonial administration procedures, it became harder for free wives of convicts to avoid the legal and economic disabilities of coverture. Of particular significance in this regard was the introduction of currency which superseded the haphazard use of promissory notes.

¹⁰⁵ Ibid., pp. 17-18.

¹⁰⁶ Ibid.

¹⁰⁷ 'Colonial Secretary', 'Alphabetical Index of Memorials for Grants of Land 1810-26', Roll no. 1480, GM 168, microfilm, SLV.

¹⁰⁸ *BDA Online*, [4 October 2017].

Until the 1810s, the sale of land often simply entailed exchanging the land title or grant for money through use of promissory notes without formally registering the change in ownership. Women's access and use of promissory notes (as discussed in the previous chapter) further facilitated this. Therefore, if a free wife of a convict had the money or goods to acquire land she could simply purchase it from someone who possessed a title of land, with or without her husband's approval or assistance. Conversely, she could also sell it. This means of exchange occurred despite governors' repeated requests from 1800 to desist with such confusing practices, activities which the Court of Civil Jurisdiction actively supported, despite the more rigorous English conveyancing laws.¹⁰⁹ With all land transactions registered from the mid-1810s, common law doctrines like coverture and those governing conveyancing practices, could no longer be ignored. Even the decline in the use of promissory notes made it harder for women to acquire land independently of their spouses.¹¹⁰ This closure of loop holes that enabled women to acquire land and exercise their capabilities has not been given the attention it merits in the historical literature, especially in relation to free wives' heightened capabilities in the first three decades of the colony's development.¹¹¹

Conclusion

Through the ability to possess land in their own names, free wives of convicts actively pursued their legal agency, rights and capabilities as *femes sole* during their husbands' servitude. As the case studies of Lydia Austin, Mary Collitts and Jane Ezzey illustrate, these women bought, leased, managed and sold land as independent land titleholders, while their coverture was suspended during their husband's sentence. Their ability to do so illustrates they were important players in the early colonial economy as primary producers and as land buyers and sellers.¹¹² While married women were restricted by coverture, free wives of convicts were not. In fact, they were empowered by its absence. The capacity to hold land was also significant for its additional enabling of a political voice to these women as landholders. As a landholder and producer of primary goods, Lydia Austin asserted her voice and agency as a political and economic subject of the colony, an identity that was intrinsically tied to land which she possessed as a free wife of a convict. Conversely, Mary Collitts' agency was not only as a landowner but also as 'mistress' of her convict husband. This authority over her felon spouse was a position sanctioned by the colonial government and could upend patriarchal expectations and practices, even if only temporarily. Lastly, Jane Ezzey exercised her unique agency as a free wife of a convict by publicly defending her capability to own land as a *feme sole*, as played

¹⁰⁹ Kercher, *An Unruly Child*, p. 51; Kercher, *Debt, Seduction and Other Disasters*, p. 152.

¹¹⁰ Byrne, *Economy and Free Women in Colonial New South Wales*, p. 43.

¹¹¹ See Bowd, 'On Her Own', Wright and Buck, 'The Transformation of Colonial Property'; Kercher, *An Unruly Child*; Alford, *Production or Reproduction*.

¹¹² Daniels, *Convict Women*, p. 12.

out in advertisements in the *Sydney Gazette*, as she sought protection from her eldest son's claim to her land.

Such activities and capabilities, however, were only possible while their husbands served their sentences. This temporary agency of free wives of convicts not only illustrates the fluidity of the early colony but also the importance of legal and civil status. It was this status, whether it be free or convict, married or single, that influenced the lives of the colony's residents and led to free wives of convicts exercising such distinctive agency. They asserted their rights as temporary *femes sole* and sought to provide for their families by using their unique legal situation to their advantage. The case of Mary Collets shows that once the interests of the rudimentary colony were no longer met by free wives of convicts being granted land, the curtailment of that practice quickly followed.

The free wives of convicts examined in this chapter reinforce Robinson's contention that archival records — from memorials and newspaper advertisements to store receipts issued by the Commissariat — “give a clear and as yet unrecognised picture of the role of the freed woman and the [free] convict wives within the development of agriculture and grazing in New South Wales.”¹¹³ Their activities as landholders are clearly apparent in the archival records but are less evident in the historical narrative of the early colony. This chapter redresses this gap in the history of the colony's founding decades.

The agency of free wives of convicts, however, stemmed not only from their possession of land but also from other commercial activities they conducted as small business owners, employers and publicans in their own names. In doing so, they exercised a form of economic agency as businesswomen that not only improved their financial situation and that of their families, but also encouraged other free women to become business proprietors, as demonstrated by the activities of free wives of convicts, Sarah Perfect, Sarah Hitchcock, Rosetta Stabler and Ann Whitaker. Consequently, the influence of free wives of convicts extended beyond their small but powerful cohort. Such themes are discussed in the next chapter, titled “She Made the Purchase’: The Commercial Activities of Free Wives of Convicts’.

¹¹³ Robinson, *The Women of Botany Bay*, pp. 226-227.

Ch 6: 'She Made the Purchase': The Commercial Activities of Free Wives of Convicts

[The promissory note] was signed by Thomas Ford for Mary Ford his wife ... He is a prisoner and she is a free woman ... She trades as a single woman and issues notes as a single woman.¹

Many free wives of convicts were active participants in New South Wales' early commercial scene as they traded and conducted businesses in their own names. The case studies of teacher Sarah Perfect, restaurateur Rosetta Stabler and publican Ann Whitaker illustrate that they plied their skills and trades in an array of occupations and became small business proprietors using their temporary status as *femes sole* with full legal autonomy. This enabled them to legally enter into contracts, act as litigants in a court of law, own assets including all profits derived from business activities and make legally binding decisions involving commercial enterprises — all activities required to run a successful business in the formal economy of early New South Wales.² Other women, as the story of Sarah Cobcroft illustrates, other free wives operated in the informal female economy. As Robinson described:

It was the convict wife who [applied] for licences to brew, to bake, to distil, to run inns or public houses ... for the husband as convict was legally ineligible to ... engage openly in many economic activities. It was the convict wife, therefore who had duties, responsibilities and opportunities which were in complete contrast to those normally associated with the family woman in her native land.³

While this chapter acknowledges that the involvement of free wives of convicts in the colony's economy was both paid and unpaid, commercial and domestic, this chapter's focus is largely on the formal economy and self-employment. Commerce is defined as services rendered or goods produced for some type of recompense, whether it be sterling coins, a promissory note, rum or for services employed. In defining commerce in such a way, both the formal and the more informal commercial activities can be considered, from running a hotel to being a midwife, as illustrated by the case study of Sarah Cobcroft. Free women worked in a variety of occupations, some for wages, others for profit

¹ 13 July 1812, Court of Civil Jurisdiction: Minutes of Proceedings, 1812, NRS 2659, item 5/1108, State Records New South Wales [SRNSW], pp. 103-105.

² Portia Robinson, *The Women of Botany Bay: A Reinterpretation of the Role of Women in the Origins of Australian Society* (Melbourne: Penguin Books, 1993), p. 157.

³ Ibid.

as proprietors. Employment for the labouring classes was predominantly in roles that reflected their activities as keepers of the home, such as servants and housekeepers.⁴ Those free women with some skills, education or business acumen occupied the middle tiers of employment, establishing their own businesses in areas like dressmaking, retailing and dealing, education or hospitality.⁵ Sometimes, the activities were performed within the confines of the home, other times beyond it. For some women, the activities occurred on a seasonal or casual basis, while for others it was a part time or full time commitment.⁶

One of the limitations in exploring women and business is the marginalisation of businesswomen in both primary records and secondary literature.⁷ Bishop noted that, in archival documents, such as musters, the women are often hidden behind their husbands or their business activities are simply not listed since they were not regarded as employment by their contemporaries.⁸ For these reasons, Alford described censuses, such as the 1828 muster, as the “systematic unenumeration, underenumeration and misrepresentation of female labour.”⁹ Perrott estimated that seven per cent of free women were self-employed in 1806 but the “depreciation of women’s work produced significant understatements and distortions in the ‘objective’, numerate evidence regarding female labour.”¹⁰ As a result, the figure of seven per cent is most likely understated, especially when pertaining to married women.¹¹ The underrepresentation of the female workforce is evident in the 1806 muster that listed the two hundred free women in the colony. Under the column of “how employed,” forty-five free women were listed as “wives”, six as housekeepers, three as servants and one each of “self-employed”, hotelkeeper, dealer, settler, midwife and “factory worker.”¹² The

⁴ Lynne Bowd, ‘On Her Own: Women as Heads of Family Groups in the 1828 Census’, *Australian Historical Studies*, 27.107 (1996), 303-322 (p. 313),

<<http://www.tandfonline.com/doi/abs/10.1080/10314619608596015>>, [11 January 2016].

⁵ Monica Perrott, *A Tolerable Good Success: Economic Opportunities for Women in New South Wales 1788-1830* (Sydney: Hale and Iremonger, 1983, (p. 15); Robinson, *The Women of Botany Bay*, pp. 218-219; Katrina Alford, *Production or Reproduction: An Economic History of Women in Australia, 1788-1850* (Melbourne: Oxford University Press, 1984), pp. 6-7; Catherine Bishop, *Minding Her Own Business: Colonial Businesswomen in Sydney* (Sydney: New South Book, 2015), p. 103.

⁶ Paula Byrne, ‘Economy and Free Women in Colonial New South Wales’, *Australian Feminist Studies*, 11.23 (1996), 89-97 (p. 90), <[10.1080/08164649.1996.9994807](http://www.tandfonline.com/doi/abs/10.1080/08164649.1996.9994807)>, [15 November 2016]; Grace Karskens, *The Rocks: Life in Early Sydney* (Melbourne: Melbourne University Press, 1997), p. 164.

⁷ Bishop, ‘When Your Money is Not Your Own: Coverture and Married Women in Business in Colonial New South Wales’, *Law and History Review*, 33.1 (2015), 181-200 (p. 183).

⁸ Perrott, *A Tolerable Good Success*; Alford, ‘Colonial Women’s Employment as Seen by Nineteenth-Century Statisticians and Twentieth-Century Economic Historians’, *Labour History*, 51 (1986), pp. 1-10, <<http://www.jstor.org/stable/27508793>>, [11 February 2016]; Paula Byrne, ‘A Colonial Female Economy’, *Social History*, 24.3 (1999), pp. 287-293.

⁹ Alford, ‘Colonial Women’s Employment’, p. 4.

¹⁰ Perrott, *A Tolerable Good Success*, p. 88.

¹¹ Alford, *Production or Reproduction*, p. 175.

¹² *1805-1806 Musters of New South Wales and Norfolk Island*, ed. by Carol Baxter (Sydney: ABGR and Society of Australian Genealogists, 1989).

remaining women's employment activities were not recorded even though other archival records indicate some did, in fact, engage in commercial enterprises. For example, there was no indication in the 1806 muster that Rosetta Stabler ran a restaurant, Annie Fox was a laundress or Sarah Cobcroft was a midwife. Other women, like the casual laundress, occasional landlady, sly grog seller, prostitute or the wife who ran the family shop, did not have their occupations recorded because the activities were not considered work, were illegal, regarded as unsavoury or perceived as secondary to that of their spouses.

Some earlier scholars of colonial Australian history perpetuated the marginalisation of free businesswomen by sidelining their business activities and achievements and focusing on men.¹³ Most notable is that the documented businesses of some women have been ascribed to their husbands. For example, Ville discussed the highly developed (and successful) business acumen of Elizabeth Macarthur and Rosetta Madden in connection with their husbands and not in the women's own rights.¹⁴ In 1986, Alford attributed economic history's inability to uncover women's employment and labour to "a tendency to regard colonial women workers as economically and industrially unimportant."¹⁵ Businesswomen were typically regarded as being unimportant or secondary because their numbers were small, their agency under coverture was complex and they operated on a different scale and (sometimes) in a different manner to men. Despite the image created by the accounts penned by Holcombe, Hainsworth and Ville, women *were*, in fact, involved in early commerce. Elizabeth Graham, Rosetta Marsh, Sarah Wills, Mary Reibey, Ann Mash, Ann Grant and many others, were merchants, entrepreneurs, boat owners, publicans, dealers, retailers and involved in the sealing industry.¹⁶ The free wives of convicts examined for this thesis attests to this. Bishop echoed similar sentiments when she asserted "far from being merely wives and mothers, ensconced in the domestic sphere, married women in colonial cities were also active in the economic sphere in small business, in spite of the legal disability of coverture."¹⁷

¹³ Leanne Johns, 'The First Female Shareholders of the Bank of New South Wales: Examination of Shareholdings in Australia's First Bank, 1817-1824', *Accounting, Business and Financial History*, 16.2 (2006), 293-314 (p. 295), <10.1080/09585200600756308>, [15 January 2016]; For example, see Andrew Wells, *Constructing Capitalism: An Economic History of Eastern Australia, 1788-1901* (Sydney: Allen and Unwin, 1989).

¹⁴ Simon Ville, 'Business Development in Colonial Australia', *Australian Economic History Review*, 38.1 (1998), 16-41 (p. 23), <10.1111/1467-8446.00023>, [3 May 2015].

¹⁵ Alford, 'Colonial Women's Employment', p. 7. This is reinforced by the exclusion of gender in Tim Jetson, 'Economic History – the Neglected Relative of Australian Historiography', *Tasmanian Historical Studies*, 15 (2010), pp. 7-37.

¹⁶ For example, see Janette Holcombe, *Early Merchant Families of Sydney* (London: Anthem Press, 2014); D. R. Hainsworth, *The Sydney Traders: Simeon Lord and His Contemporaries 1788-1821* (Melbourne: Cassell, 1971); Ville.

¹⁷ Bishop, 'When Your Money is Not Your Own', p. 199.

This lack of female representation in scholarly narratives concerning commerce and business was addressed from the 1980s when feminist historians began to re-examine women's involvement in the colony's early businesses. They placed these early colonial women in their own 'female economy' of the largely unpaid work of the home and domesticity as wives and mothers, a domain separate to that of men.¹⁸ Byrne defined the female economy as one of makeshift, care and treating while Alford and Bowd confined it largely to the "domestic or household sector."¹⁹ While some women occupied the realm of the female economy, others crossed over into the formal commercial sphere where men and women were employers and employees, small business holders and commercial actors. The female economy is reflected in the influential 1994 book, *Creating a Nation*, which recognised and endorsed women's role in the creation of European Australia, including in the early period when "transportation treated men as workers and women as reproducers – lovers and mothers."²⁰ The female and formal economies were not mutually exclusive nor necessarily complimentary. Alford, in an earlier work, confirmed that women's economic agency was sometimes dependant on their spouses, "economic imperative dictated a more direct economic function (that is, outside the family) for working-class women and in families where the husband was unable to fulfil the male role", such as when they are absent for long periods of time.²¹ She, however, did not consider free wives of convicts in this scenario even though their husbands were without legal capabilities.

So where do free wives of convicts fit into the evolving historical narrative of commerce and business in early colonial New South Wales? Similar to the themes of law and land examined in the two previous chapters, consideration of the business activities of this particular group of women is scant in the secondary sources. There is, however, a growing number. Both Johns and Bishop acknowledged the women's legal and business agency and capabilities as temporary *femes sole* in their recent works and considered their significance in detail.²²

The reliance on archival records poses a constraint on the examination of free wives of convicts in commerce since it illuminates only those women who had their business activities recorded. Only women who advertised in the newspaper, appeared before a court of law, sought a government licence to run a business (such as a hotel or bakery) or wrote to the governor about an issue are now visible in the archives. The women who plied their trade without the attention of government

¹⁸ See, for example, Byrne, 'Economy and Free Women in Colonial New South Wales'.

¹⁹ Ibid.; Alford, 'Colonial Women's Employment', p. 7; Bowd, 'On Her Own', p. 313.

²⁰ Patricia Grimshaw, Marilyn Lake, Ann McGrath and Marian Quartly, *Creating a Nation* (Melbourne: McPhee Gribble, 1994), p. 49.

²¹ Alford, *Production or Reproduction*, p. 54.

²² Johns, 'The First Female Shareholders of the Bank of New South Wales', pp. 295 and 297; Bishop, 'When Your Money is Not Your Own', pp. 186-187.

officials, the media or the courts have long since vanished. This not only includes the women who went about their businesses adhering to the law, but also those women who were involved in less than salubrious and law abiding activities and were never caught, such as sly grog sellers and prostitutes. This provides a less than realistic interpretation of women's involvement in the economy as businesswomen in their own right.

Free Women and Commerce

For many free women, the line between employment and home, the public and the private, was blurred with domestic and feminine ideals — such as those endorsed by patriarchy and coverture — influencing their behaviour and activities as businesswomen.²³ Laundresses set up laundries in their backyards, lodgers let out their rooms to needy patrons, victuallers set places at their table for hungry diners, publicans ran hotels in their houses and retailers stored their merchandise in their homes.²⁴ Wright asserted that early hotels were “domestic enterprises run for commercial gain” where “female publicans were paid for their feminine skills and labour.”²⁵

For some free wives, their commercial activities had to coincide with their domestic labours and duties as both wives and mothers. Thus, children had to be tended to, and time consuming domestic chores accomplished whilst running their businesses. Self-employment, as opposed to working for wages, offered advantages since it allowed women to shape their commercial activities around their domestic and family commitments. This enabled them to conduct their commercial activities whilst performing such tasks as supervising young children, accommodating babies' feeding needs and caring for the sick or injured. Importantly, running their own businesses also enabled women to change their business models to meet their shifting needs, such as the expansion of their family, the emancipation of their husbands or the relocation to new premises. It must be remembered, though, that not all women were mothers in early colonial New South Wales as discussed in Chapter Three. It is interesting to note that of the four case studies considered in this chapter, two of the successful businesswomen were childless, Sarah Perfect and Rosetta Stabler.

For women, self-employment not only offered greater flexibility than being an employee but also the potential for greater financial reward. Women's wages were below that of men since there was an assumption that there would be a male to financially support them.²⁶ Oxley noted that women's

²³ *Sex, Power and Justice: Historical Perspectives of Law in Australia*, ed. by Diane Kirkby (Melbourne: Oxford University Press, 1995), p. xviii.

²⁴ Claire Wright, 'Of Public Houses and Private Lives: Female Hotelkeepers as Domestic Entrepreneurs', *Australian Historical Studies*, 32.116 (2001), 57-75 (p. 62), <10.1080/10314610108596147>, [10 March 2016].

²⁵ *Ibid.*, p. 62.

²⁶ Deborah Oxley, 'Female Convicts' in *Convict Workers: Reinterpreting Australia's Past*, ed. by Stephen Nicholas (Cambridge: Cambridge University Press, 1988), 85-97 (p. 95).

“labour — when it was financially rewarded — received even less remuneration than that of their poorly-paid male counterparts ... Female labour was not only low paid, it was often erratic as well, whereas women’s responsibilities were not.”²⁷ It is not surprising, then, that some women, if they had the legal capacity to do so, took charge of their economic situation and set up commercial enterprises of their own, where they could work as much as they needed or wanted to and where they could obtain some stability. It must be remembered, however, that under coverture, they could not work independently in a formal economic setting unless their husbands granted them the authority to act as their agents.

The desire for wealth also shaped commerce in the early colony and influenced free women’s participation in it. In a landscape that had yet to establish a coherent and consistent pattern of law and commerce, financial prosperity was possible for some who were industrious, hardworking and willing. As Johns wrote, “society in the colony was based on wealth, position and acquisition, not on hereditary aristocracy as in Britain.”²⁸ Therefore, unlike Britain or Ireland where wealth was frequently associated with blood lines, inherited land or marriage, anyone in the early colonial period, whether an emancipist, a woman or a labourer, had the opportunity of obtaining a degree of financial prosperity. Although some free wives of felons were required to work to support their families, others worked to become financially independent and well off. As previously mentioned, Sarah Wills, who arrived in the colony as a free wife of a convict in 1799, became a successful businesswoman in the early 1800s, particularly as a dealer and buyer and seller of property and operator of a large warehouse and retailer. In 1808, she wrote to her mother in England which provides some insight into the effect of her business activities, “I must tell you, my dear Mother, that we are still making money very fast, and when we think we have got enough to live at ease we will come home to give our dear friends a party.”²⁹

Employment was also attached to class. Those women occupying the highest echelons of colonial society, such as the wives of governors, senior officers and officials and the colony’s elite, did not engage in employment other than philanthropic work. Mrs King, the wife of Governor King (1800-1806), became so involved in the management of the Female Orphan School (established in late 1800) that it was colloquially known as Mrs King’s Orphanage.³⁰ Conversely, those at the bottom of the ladder, such as newly emancipated women, usually sought employment as domestic servants or busied themselves raising families. The upper labouring and lower middle classes were frequently

²⁷ Ibid.

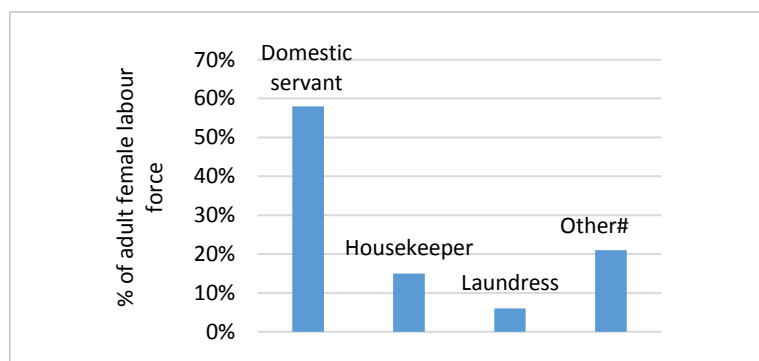
²⁸ Johns, ‘The First Female Shareholders of the Bank of New South Wales’, p. 297.

²⁹ Sarah Wills Letter to Her Mother, 1 May 1808, doc no. 8080501, Terry Wills Cook Collection.

³⁰ Alan Atkinson, *The Europeans in Australia: A History – Vol. 1 The Beginning* (Melbourne: Oxford University Press, 1997), p. 271.

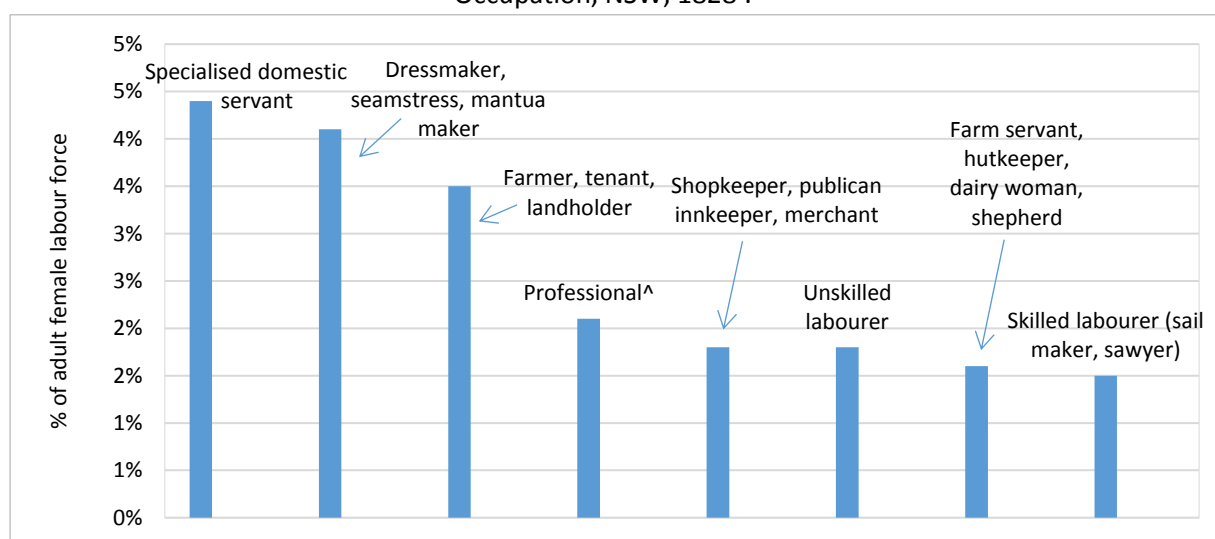
the women who involved themselves in small businesses and self-employment, either on their own, with their husbands or in partnership with others.

Table 6.1: Free Adult Women Workers by Occupation, NSW, 1828.³¹



Other# - See Table 6.2 for a breakdown of this category

Table 6.2: The Breakdown of the 'Other' Category in 'Table 6.1: Free Women Workers by Occupation, NSW, 1828'.³²



^ Professional = teacher, governess, nurse, midwife, matron and office keeper

Alford's detailed analysis of the employment status of married and single free women listed in the 1828 census was one of the first detailed analyses of free women's employment in the early colonial historical literature. Although it falls outside the time frame of this thesis, it provides a valuable

³¹ Alford, *Production or Reproduction*, p. 162.

³² Ibid.

snapshot of the types of occupations that free women were engaged in. Her findings set out in Table 6.1 indicate that the overwhelming majority of paid work for free women was as domestic servants, followed by housekeepers, laundresses and, lastly, 'other' occupations. Table 6.2 breaks down the category of 'other' into eight sub-categories. Other than 'unskilled labour', the occupations in Table 6.2 required some training or knowledge and a significant number could have performed their work from home as self-employed, small business proprietors, especially laundresses, dressmakers, merchants and farmers.

Of the 106 free wives of convicts listed in this thesis' database, it is possible to ascertain a tentative occupation for more than forty-six of them. Of these women, thirteen were publicans, at least thirteen were landowners and/or farmers, seven operated shops, five were teachers, four were laundresses, one each for dressmaker, restaurateur, market gardener and 'self-employed', as well as landladies and suppliers of accommodation.³³ Such figures suggest that free wives of convicts overwhelmingly operated their own businesses, as opposed to working for wages or as domestic servants. They also suggest that many operated businesses that their husbands and other family members could participate in, such as in a restaurant, shop, or hotel.

Such findings are markedly different from Alford's findings in Tables 6.1 and 6.2 show. Employing Alford's occupational categories, the largest areas free wives of convicts focused their business activities in were 'farmer, tenant, landholder', 'shopkeeper, publican, innkeeper, merchant', 'professional' and 'laundress'. Notably, there were no listings as servants or skilled and unskilled labourers. The differences can be partly attributed to the women's heightened legal status as free (especially important in the ability to receive Crown land grants and leases), their marital status (wives rarely worked as domestic servants since it was a domain typically occupied by unmarried women and emancipated female convicts) and their heightened agency as *femes sole*.

Free women's participation as small business operators in the colony's early decades was assisted by New South Wales' informal monetary practices. The First Fleet intentionally arrived without money or a financial system to prevent corruption amongst the convicts and to increase the colony's moral standing.³⁴ Reality, however, was not so utopian and three years after settlement, Governor Phillip complained that "the inconvenience ... [of] not having any money in the colony still persists."³⁵ Despite initial intentions, numerous forms of money circulated in the colony. Instead of a fixed

³³ Refer to Appendix for full list of references.

³⁴ Alan Atkinson, *The Europeans in Australia*, p. 69.

³⁵ 'Governor Phillip to Under Secretary Nepean', 18 November 1791, *Historical Records of Australia. Series I, Governors' Despatches to and from England [HRA]*, 1 (Sydney: Library Committee of the Commonwealth Parliament, 1914-1971), p. 310.

currency, a variety of currencies brought over by residents and passing ships were in circulation, thereby creating a confusing situation where transactions were undertaken like foreign exchanges. In 1800, the guinea, half-Johanna and Johanna, gold mohur, Spanish dollar, ducat, pagoda, rupee, Dutch gilder, English shilling and copper coin were all acceptable tender.³⁶ In conjunction with money, bartering and the use of promissory notes were also used in commercial transactions, as discussed in Chapter Four. Importantly, promissory notes allowed married women to participate in commerce and establish businesses of their own even if they did not have ready access to money although the debt was not enforceable if they were married to free men (in which situation it became the concern of their husbands). Without money, they could purchase goods and services since a promise to repay the debt and a signature (or a mark if unable to sign their name) was all that was required. This gave free wives some autonomy and agency as they could establish businesses of their own without having to rely on funds their husbands legally controlled under the common law of coverture.

Befitting the legal and commercial fluidity of early colonial New South Wales, free wives of convicts were not the only married women to become businesswomen. Some free wives married to free (including emancipated) men also ran businesses in their own names, thereby circumventing some aspects of coverture and exceeding their capabilities as *femes covert*. For example, Mrs Ikin ran a bakery in her own name, Mrs Ann Robinson was issued a wine and spirit licence as an independent woman and Mrs Driver traded as a *feme sole*.³⁷ Archival records do not explain why they traded as independent women nor why the colonial government tacitly endorsed such actions. However, what separated these women from free wives of convicts was that their legal capabilities were only partial since they were not accorded *complete* legal agency as commercial operators. While free wives married to free men established businesses in their own names, they could not settle business disputes in court as independent litigants but were required to do so jointly with their husbands. Nor were they responsible for their debts or profits. In the highly litigious environment of the early colony, the ability to seek redress in the courts was important, especially as the common use of promissory notes generated a large number of disputes that were settled by the judiciary.³⁸ If their husbands were too busy, temperamental or did not wish to participate, then the wife was powerless to seek restitution.

³⁶ 19 November 1800, *HRA*, 3, p. 39.

³⁷ Australian Dictionary of Biography, *BDA Online*, <<http://www.bda-online.org.au/>>; *Sydney Gazette*, 9 November 1806, p. 1; *Ibid.*, 26 February 1809, p. 1; *Ibid.*, 26 August 1809, p. 1.

³⁸ Bruce Kercher, *Debt, Seduction and Other Disasters: The Birth of Civil Law in Convict New South Wales* (Sydney: Federation Press, 1996), p. 62.

The partial agency of *femes covert* operating their own businesses is illustrated by Elizabeth Henry, an emancipated married woman. In 1813, Elizabeth set up a shop after she purchased £45 worth of goods with a promissory note from the auctioneer, David Bevan. Elizabeth, though, was unable to repay the debt and, in 1816, her husband, Henry Henry, appeared before the debtors' court for the non-payment of the promissory note. The matter was resolved when Henry agreed to pay the minimum of £4 a month.³⁹ If Elizabeth had been a free wife of a convict, she would have been sued under her own name independently and it would have been her, not her husband, who was ordered to repay the debt. Yet as a *feme covert*, her husband was responsible for any debts she incurred.

Kercher and Bishop both hypothesised that the fluidity of the early colony and the ability of free wives of convicts to actively partake in commercial activities encouraged *femes covert* to engage as self-employed business operators themselves. In response to free women married to free men being granted licences, and therefore subverting the common law of coverture, Bishop intimates that perhaps this occurred "because licensing magistrates found it difficult to declare a free settler's wife less eligible, respectable or competent than a convict's wife."⁴⁰ Kercher noted that free wives married to free men openly engaged in commercial activities but added that they could only instigate litigation under their own name if their husbands were out of the colony. Otherwise, they had to sue jointly with their husbands.⁴¹ Thus, the economic activities of free wives of convicts spurred other free wives to openly commence small businesses of their own. This illustrates the fluidity of the early colony and how coverture was initially a slippery legal construct.

Sarah Cobcroft, the Midwife

New South Wales' early colonial workforce reflected the gendered expectations, practices and beliefs of colonial society. Gendered ideals prescribed complimentary roles for men and women, both occupying different realms but working together to meet all the needs of a family and society at large. Men, including husbands, brothers or fathers, were expected to be providers for the household through labour and employment while wives, sisters and mothers involved themselves with the domestic realm.⁴² Women were typically the keepers of the home and the carer for all those within it, an ideal expressed in a 1796 essay:

To men and women the Almighty has allotted different occupations. All ages and nations have considered household cares to be the proper sphere of female employment ... She ought

³⁹ David Bevan v Henry Henry, 10 February 1816, in Byrne, 'A Colonial Female Economy', p. 291.

⁴⁰ Bishop, *Minding Her Own Business*, p. 106.

⁴¹ Bruce Kercher, *An Unruly Child: A History of Law in Australia* (St Leonards: Allen and Unwin, 1995), p. 50.

⁴² Bishop, 'When Your Money is Not Your Own', p. 182; Johns, 'The First Female Shareholders of the Bank of New South Wales', p. 295; Byrne, 'Economy and Free Women in Colonial New South Wales', p. 93.

likewise to learn how to dress meat, take up linens, and have a competent knowledge of the prices of every thing needful for a family ... She should be cleanly in her house and furniture; understand how to deal with domestics, tradesmen, and others. Above all, she should obtain every light possible with relation to nursing, managing and bringing up children. These, and such like things, are particularly necessary to those who have to serve, or superintend a family.⁴³

Some free wives of convicts, such as midwife Sarah Cobcroft, engaged in what Alford, Oxley and Byrne termed the 'female economy', an economy built around women's domesticity and the reliance on the representation of money, whether that be bartering or in-kind support or services.⁴⁴ Aveling and Damousi suggested that "women in Australia have always done different work from men ... Women's work has been shaped both by their bodies and by the way that men (and to a lesser extent, women) have understood those bodies. Probably ideas of maleness and femaleness have done more to shape women's lives than the time consumed in bearing and rearing children." Clothed within the rhetoric of domesticity and 'natural' characteristics ascribed to women, their business activities were often perceived by their peers "as being merely ... extensions of the private sphere."⁴⁵ This is illustrated in the business of childbirth.

In the early colonial period, childbirth was largely the domain of women, especially as caring occupations were culturally considered women's work.⁴⁶ Although a few doctors did attend births, such as W. Boston, "surgeon and man midwife", they were unusual since it was usually women, including midwives, mothers, neighbours or handywoman, who oversaw the process.⁴⁷ As a result, childbirth "was a private experience in the home attended by women."⁴⁸ With a population predominantly made up of men and women in their twenties and thirties (as discussed in Chapter Three) and thus in their peak reproductive years, coupled with potentially life threatening

⁴³ A.M., *Moral Essays, Chiefly Collected from Different Authors*. Vol. 1 (1796), pp. 121-122, <<http://find.galegroup.com.ezproxy.lib.monash.edu.au/ecco/infomark.do?&source=gale&prodId=ECCO&userGroupName=monash&tabID=T001&docId=CW123530794&type=multipage&contentSet=ECCOArticles&version=1.0&docLevel=FASCIMILE>>, [26 September 2016].

⁴⁴ Oxley, *Convict Maids: The Forced Migration of Women to Australia* (Melbourne: Cambridge University Press, 1996), p. 118; Alford, *Production or Reproduction*, pp. 1-2; Byrne, 'Economy and Free Women in Colonial New South Wales'.

⁴⁵ Alison C. Kay, *The Foundations of Female Entrepreneurship: Enterprise, Home and Household in London c.1800-1870* (New York: Routledge, 2009), p. 104.

⁴⁶ Bishop, *Minding Her Own Business*, p. 96.

⁴⁷ *Sydney Gazette*, 12 October 1816, p. 2; Karskens, *The Rocks*, p. 93; Philomena Gorey, 'Managing Midwifery in Dublin Practice and Practitioners, 1700-1800' in *Gender and Medicine in Ireland 1700-1950*, ed. by. Margaret H. Preston and Margaret Ó Hógartaigh (Syracuse: Syracuse University Press, 2012), p. 123, <<http://www.jstor.org/stable/j.ctt1j1nsmp.14>>, [28 December 2017]; Glenda Strachan, 'Present at the Birth: Midwives, 'Handywomen' and Neighbours in Rural New South Wales, 1850-1900', *Labour History*, 81 (2001), pp. 13-28, <<http://www.jstor.org/stable/27516801>>, [28 December 2017].

⁴⁸ Strachan, 'Present at the Birth', p. 13.

complications for both mother and newborn, midwives were important figures in their communities.⁴⁹ The dangers and problems arising from some births is evident in the following newspaper notice: “wanted, a wet nurse to an infant the mother of which is lately deceased. Liberal terms will be offered to a healthy motherly woman.”⁵⁰

In the early colony, midwifery was an occupation which Alford accorded the same status as female teachers, governesses and nurses.⁵¹ De Brouwere suggested that in urban England — like London where Sarah lived prior to emigration — midwives were experienced, independent and widely respected in the community.⁵² The professionalism and status of midwives is indicated by the fact that Sarah’s occupation was noted in correspondence, especially as so many commercial and business enterprises performed by women went unrecorded.⁵³

Nineteen year old Sarah Cobcroft arrived in Sydney on the *Neptune* in 1790 as a free wife. Her thirty year old convict husband, John Cobcroft, arrived the same month on the *Scarborough* having received a death sentence, later commuted to a life sentence, for the crime of armed highway robbery. During the court case, a victim explained how John had held a pistol to her, her daughter and her husband while his two accomplices threatened to “blow [their] brains out” and demanded money. John’s co-conspirators, John Wood and William Fielder, were also sentenced to transportation to Sydney and sailed on the same ship. William’s free wife, Sarah Fielder (whose case study is included in Chapter Four), sailed with Sarah Cobcroft on the *Neptune*.

From her arrival in Sydney in 1790 to at least 1825, Sarah worked as a midwife throughout New South Wales, including Wilberforce and Windsor.⁵⁴ Records do not explain how Sarah acquired her knowledge of midwifery. Was it learnt through experience over time or was it learnt in an institution or hospital, like the diploma Mrs Turnley received in London prior to her emigration to Sydney where she advertised her services as a midwife?⁵⁵ The effects of Sarah’s temporary status as a *feme sole* on her business while her convict husband was attainted is now impossible to gauge and would depend on how she conducted her business, that is, if it was undertaken as part of the female economy or conducted within the formal economy. If it were the former, then her position as a *feme sole* or a

⁴⁹ Stephen Nicholas and Peter R. Shergold, ‘Unshackling the Past’ in Nicholas, *Convict Workers*, 3-13, (p. 8); Vincent De Brouwere, ‘The Comparative Study of Maternal Mortality over Time: The Role of the Professionalisation of Childbirth’, *Social History of Medicine*, 20.3 (2007), pp. 541-562.

⁵⁰ *Sydney Gazette*, 15 January 1804, p. 3.

⁵¹ Alford, *Production or Reproduction*, pp. 6-7.

⁵² De Brouwere, ‘The Comparative Study of Maternal Mortality over Time’, p. 544.

⁵³ ‘Arrivals & Departures NSW 1788-1825 - Free Persons, Crew, Military and Some Convicts’, fiche 3124; 4/1840c No. 139 p.777, SRNSW; ‘Colonial Secretary’s Papers Index 1788-1825’, Reel 6040; ML C197, pp.23-24, SRNSW; ‘Cobcroft, Sarah’, *BDA Online*, [4 August 2017].

⁵⁴ *Ibid.*

⁵⁵ *The Sydney Monitor*, 6 July 1829, p.3.

feme covert would have been largely inconsequential as midwifery operated in the shadows of the law.

Coupled with her midwifery practice, Sarah gave birth to eight children in New South Wales from 1793 to 1813. In late 1794, John was conditionally pardoned and by 1802, the family lived on a seventy acre property granted to John at Mulgrave Place that included twenty-one acres of cleared land, sixteen acres of wheat, four acres of barley, six acres of maize soon to be sown, as well as thirty bushels of grain in storage, thirteen goats and sixteen hogs. Together with two free servants, John and Sarah maintained their family off 'the stores'. In 1804, John received another grant of land, but this was in trust for the benefit of his children. Henry continued to acquire land and in 1828 he employed thirteen labourers and assigned convicts on his Wilberforce property, which provides some insight into just how extensive his farming activities were. In 1853, Henry died in Wilberforce while Sarah died in 1857, at the age of eighty-six.

Rosetta Stabler, the Restaurateur

In contrast to Sarah Cobcroft, some free wives of convicts, such as restaurateur Rosetta Stabler, operated businesses in the formal economy. Restaurants were visible on the streets of New South Wales and fulfilled an important need for the community. Not only did they provide places where people could have a well-cooked meal, but they also offered a shared space where they could come together, socialise and foster a sense of community. Rosetta and her convict husband, William Stabler, arrived in Sydney on the *Glatton* in March 1803, aged thirty-six and thirty-seven respectively. In England in 1802, William had been sentenced to a term of transportation for seven years for "passing a forged bill of exchange in the country of Northampton."⁵⁶

Only months after arriving in the colony and with full legal agency as a temporary *feme sole*, Rosetta established a restaurant-cum-lodging house in the most densely populated area of Sydney, The Rocks. This was a business she and her husband were familiar with as they had been victuallers in London where they ran the 'Red Lyon'.⁵⁷ Rosetta's first advertisement read:

New eating house. Victuals dressed in the English way. At the house formerly occupied by Michael Knowland, near the new windmill, on the Rocks. Rosetta Stabler respectfully acquaints the public that she prepares boiled mutton and broths every day at 12 o'clock, and

⁵⁶ 'England and Wales, Criminal Registers, 1791-1892', In Ancestry.com Inc., *Ancestry*, <<https://www.ancestry.com.au/>>, [3August 2016].

⁵⁷ 'Insured: William Stabler, the Red Lyon, Silver Street Golden Square, Victualler', 29 March 1791, United Kingdom Government, *The National Archives Database*, <<http://discovery.nationalarchives.gov.uk/details/r/6ced8dea-ae0b-45ae-a6b5-4fea0c823351>>, [4 August 2016].

a joint of meat roasted always ready at one, which, from its quality and mode of serving, she flatters herself will attract the notice of the public. Visitors from remote settlements, mariners etc. will find a convenient accommodation at a moderate expense, and every exertion will be made to render satisfaction.⁵⁸

A month later, the business was relocated to “Pitt’s Row, next door to the Yorkshire Grey,” and continued “to sell dressed victuals at the same reasonable rate as usual.”⁵⁹ Within nine months, however, it had once again moved, this time to “Mr Moore’s house, nearly opposite the Hospital Wharf” where she offered the usual meals and “on Sundays, and every day in the week during the winter season mutton and pork pies at 18d. and 2s. each. Tea and breakfasts at any hour, and draft and bottled beer sold as usual.”⁶⁰

The supply of accommodation provided viable commercial prospects for women seeking self-employment opportunities. Sydney’s shortage of accommodation facilities and high rents meant it could be a lucrative business. The taking in of lodgers was a business enterprise available to women who did not have the capital to become retailers or dealers, the skill or experience to become professional dressmakers or milliners, or the education to become school teachers.⁶¹ It enabled them to tailor their commercial activities to both their personal circumstances and their financial resources. For some women, this may have entailed renting out a bed in their home for a night or a week while for others, it may have been a room or a small cottage. Such activities could be conducted regularly or casually, whenever the need for funds arose. Aside from the first advertisement that appeared in the newspaper, no other advertisements issued by Rosetta or William mentioned providing accommodation.

The commercial enterprise of providing accommodation was largely hidden since it was frequently conducted within domestic spaces. Kay suggested that “boarding and lodging had also been downplayed and interpreted as a ‘needs-must’ activity and essentially passive in nature.”⁶² Yet it was not a passive activity. For it to be a profitable endeavour, women had to ensure the right clientele frequented their businesses, that board was paid, budgets balanced, and rooms attended to. For those seeking to establish genteel clientele, they also had to uphold notions of respectability, both within the lodging house and as proprietors, since a scandal could potentially ruin their business.

⁵⁸ *Sydney Gazette*, 26 June 1803, p. 4.

⁵⁹ *Ibid.*, 24 July 1803, p. 4.

⁶⁰ *Ibid.*, 15 April 1804, p. 3.

⁶¹ Bishop, *Minding Her Own Business*, p. 103.

⁶² Kay, *The Foundations of Female Entrepreneurship*, p. 108.

The frequent movement of Rosetta's restaurant was typical of the period. The town of Sydney was only fifteen years old in 1803 and new streetscapes and districts were developing as the population quickly expanded and commerce increased. Consequently, those who relied on the patronage of passing customers sought locations where the people were and where they could maximise their profits and productivity. Conversely, if business was struggling, premises had to be sought with cheaper rents. Rosetta's move to Mr Moore's house near the busy Hospital Wharf ensured frequent passing traffic.

Although the *Sydney Gazette* did not publish any further advertisements of Rosetta's eatery after 1805, it is probable that it continued since William Stabler was listed as a self-employed cook in the 1806 muster. Conversely, Rosetta was listed simply as the "wife of W. Stabler."⁶³ William's involvement in the enterprise is evident earlier in an 1803 advertisement for Christmas Day, "W. Stabler, at the eating house in Pitts row, begs leave to acquaint the public that he has laid in a stock of prime strong beer, which he has had brewed of superior strength and quality, for the supply of his customers."⁶⁴ In 1810, Rosetta passed away in the district of Windsor, at the age of forty-three. In 1821, William married former convict Margaret Barrow. Two years later, he returned to Surrey, England, leaving Margaret behind who died in Parramatta in 1825.

Despite William's involvement as a cook in the commercial enterprise, it is evident that Rosetta was the proprietor of the business. It is her voice that "respectfully acquaints the public" each time the restaurant was relocated. In the four advertisements placed in the *Sydney Gazette* from June 1803 to April 1804, Rosetta is the only person mentioned in three of them, while William is mentioned in one of the notices.⁶⁵ As a *feme sole*, customers, suppliers and government officials had to defer to Rosetta for issues concerning legal matters, contracts with suppliers, business expenses and profits and losses as she possessed the legal and economic agency in the business. Yet once William received his conditional pardon, the roles reversed, and Rosetta once again became a *feme covert* who was legally required to defer to William on all legal and economic matters. It is interesting to note that, like Sarah and Henry Perfect (as discussed below), the Stablers were without children in the colony.

Ann Whitaker, the Publican

Running a hotel and being a publican were two commercial activities some free wives of convicts engaged in, including Ann Whitaker. Being a publican was favoured by some women as it replicated many domestic tasks they completed at home, including providing for the needs of others,

⁶³ 1805-1806 *Musters of New South Wales and Norfolk Island*.

⁶⁴ *Sydney Gazette*, 25 December 1803, p. 4.

⁶⁵ *Ibid.*; *Ibid.*, 26 June 1803, p. 4; *Ibid.*, 24 July 1803, p. 4; *Ibid.*, 15 April 1804, p. 3.

maintaining a home and accommodating people. In fact, Sydney's first pubs occurred within family homes. As the population grew and commerce developed, hotels progressed from a simple house structure of only a few rooms where customers and the family intermingled to a place with designated areas for customers to drink in and for the family to reside.⁶⁶ By the 1830s, licenced houses were legally required to have two sittings rooms, two bedrooms and separate rooms where the publicans' families lived.⁶⁷ The combination of a hotel being both a home and place of business allowed female publicans to engage in commercial activities whilst also performing the tasks they were required and expected to undertake as wives and mothers, namely looking after children, completing domestic chores, running a household and supervising servants or assigned convicts. While many of the skills women publicans performed replicated those undertaken at home, new skill sets were also required, from balancing books and advertising to sourcing the best deals from suppliers.

Hotels were contradictory environments. They were benevolent places where people gathered, held meetings, partook in business activities and were entertained with gossip and news of the colony and beyond. Yet they were also internal spaces full of threatening vice.⁶⁸ By 1803, The Rocks had already established a reputation for drinking and brawling and hotels were "where gamblers gathered, fugitives were hidden, where the atmosphere was often volatile and the wrong word or song could spark a fight, where prostitutes solicited and the pockets of sleepy, slurring drunks were picked."⁶⁹ Thus, while pubs promoted the intimate and stable atmosphere of a home, they also brought the outside world in, threatening to disrupt its vey equilibrium.

With the consumption of alcohol, a pressing concern for administrators, the colonial government tightly regulated businesses involving liquor, including the granting of publican licences to men and women it deemed fit to run such establishments. Alcohol was perceived by some members of the community as a blight on the colony because it supposedly had "the most mischievous and baneful effects on the morals and industry of the lower parts of the community, and must inevitably lead to a profligacy of manners, dissipation and idleness."⁷⁰ Protestant religious minister, Samuel Marsden, believed "the barter of spirits has long been a very grave and serous evil in the settlement. It has been productive of jealousies, misunderstandings and many unhappy differences amongst the offices, and of litigation, bankruptcies, robberies [and] murders amongst the lower order of the

⁶⁶ Wright, 'Of Public Houses and Private Lives', p. 64.

⁶⁷ Ibid.

⁶⁸ Ibid., p. 59; Diane Kirkby, *Barmaids: A History of Women's Work in Pubs* (Cambridge: Cambridge University Press, 1997), p. 21.

⁶⁹ Karskens, *The Rocks*, p. 204.

⁷⁰ 'Government and General Order', 16 February 1810, *HRA*, 7, pp. 289-290.

community.”⁷¹ Illegal stills, together with the importation and selling of sly grog, fostered a drinking culture the colonial government found difficult to eradicate. Successive governors sought to curtail such activities by establishing a system of legal, licenced drinking houses that could be monitored for breaches of standards of behaviour and, most importantly, controlled by government officials. Gambling, drunkenness and disorder were forbidden within the licenced premises and measurements of drinks had to be strictly upheld. Those who sold liquor in their homes without a licence in 1800 had their alcohol confiscated and were fined £10 per offence. If the fine was not paid, two months hard labour awaited the offender.⁷² The 1806 *New South Wales Pocket Almanack and Colonial Remembrancer* noted it was forbidden for publicans to receive or sell spirits distilled in the colony and to entertain people whilst divine services were being conducted or outside of prescribed opening hours.⁷³ Consequently, the sale of alcohol was a heavily regulated and policed industry.

Alcohol consumption was so great in early New South Wales that the number of people seeking liquor licences rapidly increased. In October 1800, Governor King granted eight people licences “for the retail of spirituous liquors.”⁷⁴ In 1809, the Bench of Magistrates granted wine and spirit licences within Sydney (excluding Parramatta and the Hawkesbury areas) to fifty-four people. By 1810, the colonial government became increasingly alarmed at the number of licenced venues in the colony and issued a government order proclaiming that hotels were to be limited to twenty in Sydney, three in Parramatta, six in the Hawkesbury area and one on each of the two main roads out of Sydney.⁷⁵

Initially, the granting of licences was not gender specific, thereby allowing women to become publicans.⁷⁶ Bishop noted, “until 1849 there were clauses in the legislation specifically referring to the licensee as ‘he or she’.”⁷⁷ Consequently, spinsters, widows and free wives of convicts became licensees in their own names. Of the fifty-four people granted wine and spirit licences in Sydney (excluding Parramatta and the Hawkesbury) in 1809, forty-nine were men and five were free women.⁷⁸ Of the women, two were or had previously been free wives of convicts, one was a free woman married to a military man and the other was an emancipated convict. Only three of the women were wives at the time and their husbands were most likely away from the colony. In 1815,

⁷¹ ‘Samuel Marsden essays concerning NSW 1807-1818 – with list of females in the colony, 1806’, ml mss16, microfilm 369, State Library of New South Wales (SLNSW).

⁷² ‘Government and General Order’, 27 October 1800, *HRA*, 3, p. 35.

⁷³ George Howe (comp.) *New South Wales Pocket Almanack and Colonial Remembrancer, 1806* (Facsimile ed.) (Sydney: Public Library of New South Wales, 1966), p. 44, <<https://trove.nla.gov.au/work/10726996?selectedversion=NBD684775>>, [3 February 2015].

⁷⁴ ‘Government and General Order’, 19 October 1800, *HRA*, 3, p. 34.

⁷⁵ ‘Government and General Order’, 16 February 1810, *ibid.*, 7, pp. 289-290.

⁷⁶ Clare Wright, *Beyond the Ladies Lounge: Australia’s Female Publicans* (Melbourne: Text, 2014), p. 22.

⁷⁷ Bishop, *Minding Her Own Business*, p. 106.

⁷⁸ *Sydney Gazette*, 5 March 1809, p. 2.

of the sixty-six publican licences issued in Sydney, thirteen of the licensees were women. At least three of the women were emancipists, four were free wives of convicts (three of whom were married in England or Ireland and the other in Sydney), one was the wife of a soldier and one was a former free wife of a convict. Only one of the women was widowed at the time of the grant.⁷⁹

Ann Whitaker, free wife of felon, Thomas Whitaker, was one of the thirteen women to be issued a liquor licence in Sydney in 1815. Together with their two sons, Thomas (aged four) and Robert (aged two) she arrived in New South Wales from England aboard the *Broxbornebury* in mid-1814, aged twenty-six. Thomas, the forty year old former wood stapler and publican from Warwick, England, arrived in the colony on the *Surry* that same month having received a sentence of fourteen years.⁸⁰

Less than a year after her arrival, the industrious Ann was the licensee of a drinking house, the *Labour in Vain*, in Harrington Street, The Rocks.⁸¹ While Thomas worked for Mr Wall during the day under the assigned convict labour scheme, Ann ran the pub while also looking after her family and home.⁸² From 1815 to 1819, the annual licence was renewed under her name and she was listed in the musters during that time as a publican.⁸³ When Thomas received his conditional pardon in 1819, he took over the business. Thomas's emancipation meant that Ann was no longer able to trade as a *feme sole* and her property, including the business, came under the ownership and management of her now free husband. Consequently, the 1820 and 1822 liquor licences for the *Labour in Vain* were issued under Thomas's name. Curiously, though, the 1821 licence was granted in Ann's name because Thomas was unable to receive a licensee for reasons now unknown.⁸⁴ In 1823, the year of Thomas's death, Ann was again listed in colonial government correspondence as a "publican at the Rocks."⁸⁵ Ann's involvement in the hotel industry continued through her family. In 1831, her son, Thomas, became a licensee. After three years, the licence lapsed but was resumed by Alexander Duncan, Ann's second husband whom she married in 1825.⁸⁶

⁷⁹ BDA Online, [25 August 2017].

⁸⁰ 'Whitaker, Ann' and 'Whitaker, Thomas', BDA Online, [12 March 2016]; 1814 General Musters of New South Wales, ed. by Carol Baxter (Sydney: ABGR and Society of Australian Genealogists, 2006); 'Convict Indents & Ship Musters', 4/4004 - 4/4013, SRNSW.

⁸¹ 'Colonial Secretary's Papers Index 1788-1825', Reel 6038, SZ759, SRNSW.

⁸² 'Whitaker, Thomas' and 'Whitaker, Ann', BDA Online, [12 March 2016]; 1814 General Musters of New South Wales.

⁸³ 'Colonial Secretary's In-letters Index 1788-1825'; 'Bigge's Appendice', Bonwick Transcripts, series 1, CY 1303, pp.266-267, SLNSW.

⁸⁴ 'Bigge's Appendice', pp. 266-267; Colonial Secretary Papers, 10 February 1820, Reel 6007, 4/3501, p. 250.

⁸⁵ As I cannot ascertain the exact date of Thomas's death, it is unclear whether Ann was listed as publican of the hotel before or after his death. 'Whitaker, Ann' Colonial Secretary's In-letters Index 1788-1825 in BDA Online, [13 June 2016].

⁸⁶ 'Whitaker, Ann', BDA Online, [12 March 2016].

Ann Whitaker illustrates the shifting legal identities and capabilities of women as *femes sole* and *femes covert* under coverture in early colonial New South Wales. Overnight, Ann's legal and economic agency and rights as a *feme sole* were rescinded when her husband received his conditional pardon. With his death and her ensuing widowhood, Ann was again a *feme sole* but resumed the status of *feme covert* when she married for the second time. The fact that she had been successfully managing the *Labour in Vain* for four years while Thomas served his sentence was inconsequential in the eyes of the law. Where one day Ann had full legal and commercial agency for the business, the next she did not. This created a legally recognised power shift in the marriage which both spouses had to accommodate and adjust to. It was also a shift customers, creditors, suppliers and staff had to accommodate since only one person in the marriage was provided with legal agency and authority under coverture.

Sarah Perfect, the Teacher

As Table 6.2 shows, teaching was a popular occupation for educated free women, like free wife of a convict, Sarah Perfect. In 1800, the population of children in the colony had reached 936 and private tuition was sought after by parents of both the labouring and middle classes since a formal education system had yet to be established.⁸⁷ While education in the penal colony was about the fundamentals of reading, writing and maths, it was also about virtuous behaviour and morals, about fostering upstanding individuals, and for girls, about taking their place as expected women. In a colony tainted by convictism, this was particularly important. In 1797, former Judge Advocate, Captain David Collins lamented the lack of institutions to educate the colony's children since he believed education would enable children to choose a different path than their convicted parent(s), especially as it would separate "these (at present innocent) members of the community from their vicious parents [and] their propensities to evil corrected ... which should secure them a stock of useful knowledge."⁸⁸ Thus, in 1805 when "the children attending several schools in the town of Sydney, with their respective teachers, made their annual appearance at Government House before His Excellency, by whom the pupils were separately examined, and ordered a present of clothing," the governor was examining the future morality of the colony.⁸⁹

Although often couched in terms of morality and benevolence, running a school was a business, one that had to be sustainable and profitable, with its books balanced like any other commercial endeavour. It was a commercial enterprise in a competitive market and school masters and

⁸⁷'Total Numbers in the Colony as Appeared at the Muster', *HRA*, 2, p. 617.

⁸⁸ David Collins, *An Account of the English Colony in New South Wales* (1798), p. 366, <<http://gutenberg.net.au/ebooks/e00011.html>>, [31 October 2014].

⁸⁹ *Sydney Gazette*, 6 January 1805, p. 2.

mistresses espoused their skills and competitive rates. Women, though, had to tread a fine line between creating a financially viable business and appearing to serve the community through the teaching of morals and other skills and “had to carefully guard against accusations of self-interested profiteering.”⁹⁰ Mrs Williams’ 1806 advertisement is an example of how some women walked that narrow line. She put a notice in the local newspaper concerning her newly established girls’ academy on The Rocks, “to whose morals and external deportment the most scrupulous attention will be paid” but then added “on terms which she flatters herself will not be considered exorbitant.”⁹¹ Thus, she could charge a fee, so long as it was not perceived as being too generous.

In early New South Wales, education was a business that both men and women were involved in, as illustrated by Sarah Perfect and her convict husband, Henry Perfect. In 1806, Henry and Sarah arrived in New South Wales on the *William Pit*, after nearly eight months at sea. Sarah was thirty-six years of age while Henry was fifty-eight.⁹² In England, Henry had acquired some property through his two previous marriages and had been a lieutenant in the military.⁹³ In 1805, Henry had been sentenced to seven years transportation after being found guilty of obtaining money under false (and imaginative) pretences. He had:

Personated the various and imaginary characters of the Rev. Mr Paul, the Rev. Daniel Bennet, Mrs Grant, Mrs Smith, etc. [and] ... When his lodgings were searched a book was found, in his own handwriting, giving an account of money received (by which it appeared that he had plundered the public to the amount of four hundred and eighty-eight pounds within two years), with a list of the donors’ names, among whom were the Duchess of Beaufort, Lord Willoughby de Broke, Lord Littleton, Lady Howard, Lady Mary Duncan, Bishops of London, Salisbury and Durham, Earls of Kingston, and Radnor, Lord C Spencer, Hon. Mrs Fox etc.⁹⁴

Sarah was given permission to accompany her spouse to New South Wales, her steerage paid by the Imperial government. On the ship’s indent, Henry was listed as self-employed but it did not elaborate further.⁹⁵

In June 1806, nearly two months after arriving in the colony, the couple placed a notice in the local newspaper advertising their new business:

⁹⁰ Kay, *The Foundations of Female Entrepreneurship*, p. 77.

⁹¹ *Sydney Gazette*, 10 August 1806, p.3.

⁹² Henry and Sarah (formerly Susana Hind) had married in Wiltshire, England in 1793. *Ancestry*, [4 April 2017].

⁹³ D. Wong, ‘Henry Perfect’ in ‘Convict Records’, <<http://www.convictrecords.com.au/convicts/perfect/henry/66172>>, [2 March 2017].

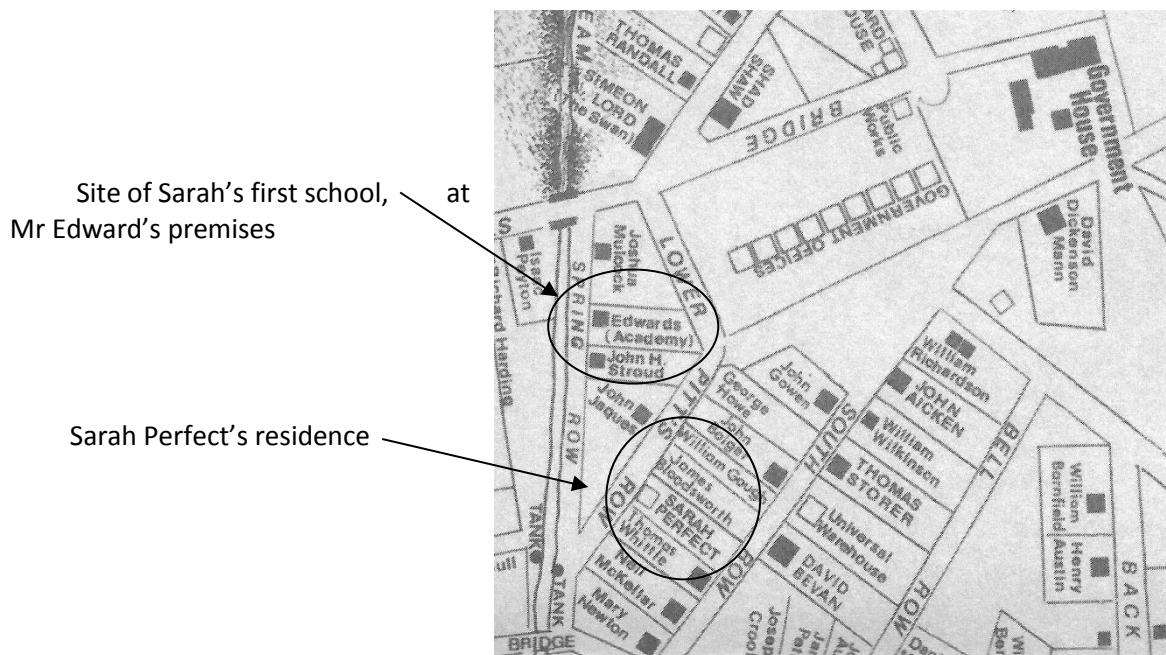
⁹⁴ *Ibid.*

⁹⁵ “Perfect, Henry’, *BDA Online*, [2 March 2017].

An academy will be opened on Monday next the 2d of June, by H and Mrs Perfect, for the instruction of children in reading, writing, merchants accompts [sic], and needle work at Mr Edwards, no. 6, Spring Row Sydney; where every attention will be paid to the morals of the pupil. H Perfect will attend persons of either sex who may wish for private instruction at their own houses.⁹⁶

A similar notice appeared in the *Sydney Gazette* in March 1809 and again in September 1812 and January and June 1814.⁹⁷ As a business, Sarah and Henry's school was a success. This is evident not only by its longevity and the fact that the couple were off 'the stores', but also by the payment of five newspaper advertisements over an eight year period. Perhaps it was their adaptability to new situations and changing populations that assisted them in their success. Every time an advertisement was placed, the school had relocated to new premises or had altered its business structure, from instructing both boys and girls, to only girls, to co-educational and then back to solely girls; from a day school with the offer of private tuition at the pupils' homes to a combined day school and boarding house. Sometimes, boarding was not mentioned in the notices at all.

Figure 6.3: The Premises of Sarah Perfect and Mr Edwards, Sydney, 1803-1810.⁹⁸



While the Perfect's school appeared to be a joint venture (as shown by the above notice), it was Sarah who was legally in charge of the academy since she operated as a *feme sole* while Henry served

⁹⁶ *Sydney Gazette*, 1 June 1806, p. 3.

⁹⁷ *Ibid.*, 26 March 1809, p. 2; *Ibid.*, 12 September 1812, p. 2; *Ibid.*, 8 January 1814, p. 1; *Ibid.*, 2 July 1814, p. 1.

⁹⁸ 'Early Sydney (circa 1802-1809): The Principal Residents of the That Period of Time,' [cartographic material], M2 811.17/1809/1, SLNSW.

his sentence. Thus, it was Sarah who signed the necessary contracts, who was legally in charge of the school's profits and debts and who would appear before a court if a matter with parents, debtors or other parties could not be amicably resolved. Sarah's commanding role is evident from a close reading of the five notices that were placed in the *Sydney Gazette* that advertised the school. In the advertisements, her presence is evident, and she is referred to, at various times, as "Mrs Perfect", "Mrs S Perfect", "Mrs P" and "mrs [sic] Perfect." Conversely, Henry is mentioned in only two of the notices, either as simply "H Perfect" or "Mr Perfect."⁹⁹

Establishing a school was attractive for those with some education since it involved minimal start-up costs and was an acceptable occupation for women of the middle class to engage in.¹⁰⁰ Such acceptance was largely premised on morality, especially as women were deemed to be more morally upstanding than their male counterparts.¹⁰¹ In her 1843 instructional manual to the mothers of England, Sarah Ellis wrote, "It is to woman that we look for so directing the various capabilities with which she is naturally endowed, as to create around her a moral atmosphere, as powerful in its effect upon the mind, as that ... upon the body."¹⁰² In four of the five advertisements published concerning Sarah's school from 1806 to 1814, morality was stressed. In January 1814, she noted that the "strictest attention will be paid to [the students'] morals."¹⁰³ It is no accident that it was Sarah's voice that was heard in the advertisements. As both a wife and a free person, she had the credentials to espouse morality. As a free wife of a convict acting as a *feme sole*, she also had the complete and autonomous legal and economic agency to do so.

Regardless of who commanded the business, it is evident that Sarah and Henry Perfect worked together, with each providing skills and input. The description of the school's proprietors as "H and Mrs Perfect" and "Mr and mrs Perfect" clearly illustrate this. Such teamwork was required when teaching boys and girls since education was gendered. Boys were often tutored by men in subjects that would set them up for business and employment. For boys enrolled in the emancipist Reverend Fulton's boarding school, this included Latin and Greek classics, writing, French and English grammar and maths theory and practice, subjects appropriate for those "intended for commercial, military or naval pursuits."¹⁰⁴ Women frequently taught girls the basics, such as reading, writing and maths, but also sewing, embroidery and other skills they would supposedly need as mothers and wives. In a

⁹⁹ Ibid.

¹⁰⁰ Bishop, *Minding Her Own Business*, p. 256; Alford, *Production or Reproduction*, p. 195; Kay, *The Foundations of Female Entrepreneurship*, p. 77.

¹⁰¹ This is discussed in Chapter One.

¹⁰² Sara Ellis, *The Mothers of England: Their Influence and Responsibility* (London: Fisher, Son and Co., 1843), p. 47, <<https://archive.org/details/mothersofengland00elliuoft>>, [1 March 2016].

¹⁰³ *Sydney Gazette*, 8 January 1814, p. 1.

¹⁰⁴ Ibid., 2 July 1814, p. 1.

telling demonstration of how the colonial government regarded women's employment, Sarah's occupation in the 1814 muster was noted as "wife to H Perfect," with no acknowledgement of her teaching activities, whereas the emancipated Henry was described as a "Schoolmaster."¹⁰⁵ Sarah died in Sydney in September 1818, aged forty-eight. Five months later, Henry requested the colonial government for permission to return to England aboard the *Shipley*.¹⁰⁶

It is somewhat of a paradox that while a strong emphasis was placed on education and morality, it was both acceptable and workable for convicts to be teachers. The scarcity of teachers may have contributed to this. In 1818, Governor Macquarie requested "school masters" be sent to the colony since "school masters [were] very much required for teaching the youth of the colony."¹⁰⁷ The fact that Henry was serving his sentence did not prevent him from being included in the 1806 advertisement, although one could speculate that it may have contributed to the insertion of only his initial. Convict John Tull provides another example. In 1799, John arrived on the *Hillsborough* with a life sentence but soon commenced teaching the young, as noted in his obituary of June 1817, "Died on Tuesday morning last, at Parramatta, Mr John Tull, schoolmaster the duties of which avocation he had for nearly 20 years in this colony performed with an assiduity no less credible to himself than beneficial to the public."¹⁰⁸

Given the strong social hierarchy of the colony, Henry Perfect, John Tull and their convicted or emancipated contemporary school masters and mistresses resigned themselves to a clientele that reflected their own social standing. Teachers from a more gentile social stratum taught boys and girls from that particular tier of society while labouring class teachers educated labouring class children. Interestingly, education was regarded as important by all social groups and for both boys and girls, something that differentiated the colony from England.¹⁰⁹

The Decline of Free Women in Commerce

While this thesis acknowledges that women continued to operate businesses from the 1820s despite being bound by coverture (especially involving childbirth, education, boarding houses and women's

¹⁰⁵ 1814 *General Musters of New South Wales*.

¹⁰⁶ Colonial Secretary's Papers, Reel 6006, 4/3499, SRNSW, p. 341.

¹⁰⁷ 'Governor Macquarie to Earl Bathurst', 28 June 1813, *HRA*, 7, p. 725.

¹⁰⁸ *Sydney Gazette*, 14 June 1817, p. 3.

¹⁰⁹ Robinson, *The Hatch and Brood of Time: A Study of the First Generation of Native-Born White Australians 1788-1828* (Melbourne: Oxford University Press, 1985), pp. 153-154.

fashion, like milliners, laundresses and seamstresses), the spaces in which they did so became fewer.¹¹⁰ Examining businesswomen in the mid nineteenth century, Bishop wrote:

Throughout the nineteenth century, the streets of Sydney bustled with women literally going about their business – not just keeping house and doing the marketing, but running stalls and shops, pubs and schools – and sometimes even scams. They painted portraits, published newspapers and put on plays, gave lectures and concerts and did all manner of things that placed them firmly in the public eye.¹¹¹

However, as explained throughout this thesis, the colony's first three decades were a period of legal, economic and social fluidity which enabled free wives to engage in business activities. As the colony progressed from a penal settlement to an increasingly free society, women found it harder to insert themselves in the economy as businesswomen with legal, financial and social impediments blocking their paths. Alford explained, "it was during the 1820s and 1830s that the overall structure and nature of retailing and business changed" as individually owned businesses were increasingly replaced by partnerships, especially as enterprises became more professional and required ever greater capital.¹¹² The establishment of the Bank of New South Wales in 1817 and the implementation of a formal monetary system (which saw the phasing out of promissory notes that same year) made it harder for women to obtain loans or access funds independent of their husbands. The decline of women in commerce is exemplified by the reduction of female publicans. By the early 1830s, licensees were overwhelmingly men, with the few female publicans usually taking over the business after the death of their husbands.¹¹³ No longer were women, such as Ann Whitaker, becoming licensees in their own right and under their own name. Bishop noted that "there was no legal basis until 1858 for a woman married to a free man to trade as a *feme sole*", unless the husband and wife were estranged or had a formal Deed of Separation."¹¹⁴ Another exception, of course, was being a free wife of a felon.

However, there is another explanation for the decline of free businesswomen from the 1820s, namely, they simply did not want or need to engage in such commercial enterprises. Those women who emigrated in the earlier decades were quite different in their outlook to employment and business from the subsequent generation of women, particularly those born in New South Wales.

¹¹⁰ For a discussion of businesswomen from the 1820s, see Kay, *The Foundations of Female Entrepreneurship*; Bishop, "When Your Money is Not Your Own"; Bishop, *Minding Her Own Business*; Wright, *Beyond the Ladies Lounge*.

¹¹¹ Bishop, *Minding Her Own Business*, p. 256.

¹¹² Alford, *Production or Reproduction*, p. 197.

¹¹³ *Ibid*, p. 196.

¹¹⁴ Bishop, 'When Your Money is Not Your Own', p. 189.

Robinson surmised that “native-born girls displayed a different attitude from that of free immigrants towards employment, with the majority of them working in the home for the benefit of the family and only turning to outside employment in cases of need, such as early widowhood.”¹¹⁵ One reason for this may be that those born in the colony had a network of support to rely on, while those who arrived earlier (either forced or voluntarily) often did not and so had to seek outside employment. Another possible explanation is that by the time colonial born women were able to work, society was less fluid and more regulated, thereby making it harder or less acceptable for free wives to operate in the commercial world.

Conclusion

This chapter has demonstrated that wives of convicts were active participants in the colony’s early commercial landscape and conducted businesses in their own names as temporary *femes sole*. Unlike other free women in the labour force, free wives of convicts dominated the professional, retail and land-dominated occupations and were absent from the servant-type roles. This illustrated not only their agency as temporary *femes sole* but also their class status, their civil status as married women and their ability to acquire land from the colonial government. As the case studies of midwife Sarah Cobcroft, publican Ann Whitaker, teacher Sarah Perfect and restaurateur Rosetta Stabler illustrate, they were small business proprietors operating in the formal colonial economy or within the informal female economy as legally autonomous individuals. Being self-employed provided the women with greater flexibility and control, while also enabling them to accommodate their husbands’ felony and work with them in partnership. The individual stories highlight the shifting legal identities of married women and the implications this had on them as businesswomen. Other than Sarah Cobcroft who worked within the unofficial female economy, the other three wives experienced the end of their legal and commercial capabilities with the emancipation of their husbands when they reverted to the status of *feme covert*.

Although a small number of other free married women operated businesses in the colony as sole proprietors in the founding decades, their situation was not comparable to free wives of convicts. Unlike those wives whose husbands were felons, their agency as businesswomen was only partial since they were not legally responsible for any profits or debts the business generated, nor could they seek redress in court without the assistance of their free spouses. In the highly litigious environment of early Sydney, this differentiation was important and not just semantics.

¹¹⁵ Bowd, ‘On Her Own’, p. 312.

Consequently, as the archived records show, it was only free wives of convicts who were able to operate as *femes sole* in *all* aspects of business, from signing contracts to appearing as a litigant.

The commercial activities of Sarah Perfect, Rosetta Stabler, Sarah Cobcroft and Ann Whitaker, coupled with the agency identified in the previous chapters, calls for a reconceptualisation of free wives of convicts in Australia's early colonial historical account. This reassessment is required to not only accommodate the legal and commercial abilities and activities of this group of married women but also to explore what their stories tell us about early New South Wales. This is the basis of the following chapter, 'A Good and Virtuous Wife is a Jewel of Inestimable Value': Rethinking Free Wives of Convicts in the Colonial Narrative' which draws together the thematic concerns of previous chapters in reassessing women in colonial New South Wales.

Ch 7: 'A Good and Virtuous Wife is a Jewel of Inestimable Value': Reconsidering Free Wives of Convicts in the Colonial Narrative

*the position of a woman must always depend upon that of her husband, where society is so constituted that a man may raise or lower his wife, though no woman, except in very peculiar cases, can effect any material alteration in the rank or station of her husband.*¹

Having examined free wives of convicts in the preceding chapters within the central themes of law, land possession and commerce, this chapter seeks to provide a wider perspective by analysing their findings within context of the historiography of early colonial New South Wales. By repositioning them from the margins of history to the very centre of historical enquiry, it reconceptualises not only this group of women but also the wider society in which they lived. This chapter, therefore, provides a fresh interpretation of the past. In doing so, it reflects what is clearly evident in archival collections, namely that free wives of convicts were notable in Australia's founding decades and worthy of inclusion in the history of it. As Byrne wrote in reference to free women in general, "there is a space they occupied, a terrain they traversed which can be opened up."² In examining the terrain occupied by free wives of convicts in particular, an intricate, complex and representative story is developed, one where power contestations, gendered ideologies, contradictions and relationships can be explored.

Adopting the methodological framework of microhistory described in Chapter Two, this chapter utilises the three principle features of microhistory to engage with scholars and further the discourse in early colonial history. It renders free wives of convicts visible as legally autonomous women. Robinson commented that:

It has taken almost two hundred years for the British and colonial lives of Australia's first women pioneers to be reconstructed. It has taken almost as long for a reinterpretation of their role in and contribution to Australian society on the basis of their own lives within their own times.³

¹ Sarah Ellis, *The Wives of England: Their Relative Duties, Domestic Influence, and Social Obligations* (New York: D. Appleton and Co., 1843), p. 155, <<https://archive.org/details/wivesenglandthe00elligoog>>, [1 March 2016].

² Paula J. Byrne, 'Economy and Free Women in Colonial New South Wales', *Australian Feminist Studies*, 11.23 (1996), 89-97 (p. 89), <10.1080/08164649.1996.9994807>, [15 November 2016].

³ Portia Robinson, *The Women of Botany Bay: A Reinterpretation of the Role of Women in the Origins of Australian Society* (Melbourne: Penguin Books, 1993), p. 7.

As explained in Chapter Two, the theoretical framework of microhistory focuses a myopic lens on a defined subject to illuminate a larger vista. Free wives of convicts are rendered visible through this lens. Traditionally marginalised or omitted from the literature, they move from the periphery to the centre of the exploration where their agency, activities and capabilities are examined in depth. Although microhistory does not have a single, definitive definition, Szi­jártó’s trinity of principle features — narrow and clearly defined parameters, attempting to resolve great historical questions and the agency of its subject(s) — serves as the foundations of microhistory and allows the micro and macro scenes to be examined.⁴ Each of the components build upon one another to create an understanding that is both intimate and broad, micro and macro, affirming and challenging, particular and general. Free wives of convicts, therefore, become the vehicle to examine such things as gender and the importance of status in the young colony, especially those concerning civil (married or not) and legal (free or felon) identities. They enable an exploration of the interplay between marriage, the law and gender through discussions about land possession, commerce and agency.

One of the ways this thesis challenges the prevailing Australian historiography is in the very use of microhistory as a methodological tool. The study positions itself at the intersection of Australian history and microhistory, an intersection that is very slowly gaining attention by scholars. In 2011, Brien acknowledged that microhistory was underutilised in Australia “with no publication classified as such in the Australian National Library’s catalogue. Indeed, McIntyre’s [1998] detailed survey of the Australian discipline of history ... only mentions the term once.”⁵ Today, a key word search of the term ‘microhistory’ on the National Library of Australia’s catalogue yields twenty-one results while a similar search on the State Library of New South Wales’s catalogue reveals sixteen items and the State Library of Victoria, ten items.⁶ One Australian academic who is championing the merits of microhistory is May.⁷ In his exploration of colonisation and politics in the hills of Northeast India, May promoted his choice of microhistory as a methodology by arguing that the “macro and micro approaches to the history of hill tribes can together amplify the lived experiences of individuals and

⁴ Sigurður Gylfi Magnússon and István M. Szi­jártó, *What is Microhistory: Theory and Practice* (London: Taylor and Francis, 2013), pp. 4-5.

⁵ Donna Lee Brien, ‘Four Gastronomic Microhistories’, *Text*, 15.1 (2011), <http://www.textjournal.com.au/april11/brien_rev.htm>, [15 November 2016].

⁶ National Library of Australia [NLA], <<http://www.nla.gov.au/>>, [27 January 2018]; State Library of New South Wales [SLNSW], <<http://www.sl.nsw.gov.au/>>, [27 January 2018]; State Library of Victoria [SLV], <<https://www.slv.vic.gov.au/>>, [27 January 2018].

⁷ See Stephen Foster, *A Private Empire* (Sydney: Murdoch Books, 2010); Andrew J. May, ‘Small Stories of Little Britons: Scale and the Ethics of Imperial Histories’, *History Australia*, 13.1 (2016), pp. 95-108, <<http://www.tandfonline.com/doi/abs/10.1080/14490854.2016.1156209?tab=permissions&scroll=top>>, [27 January 2017].

communities, as well as furnish historical lineages to contemporary political concerns.”⁸ Thus, the duality of microhistory enabled him to achieve a number of different objectives. In reference to free wives of convicts, these insights are expanded upon in this chapter which is arranged according to Szijártó’s three elements of microhistory, the first of which focuses on subject matter.

Free Wives of Convicts, Microhistory and the Focus on Narrow and Clearly Defined Parameters

Szijártó’s first characteristic of microhistory concerns the study of a subject. Microhistorians focus their intense gaze on a subject that is both clearly defined and with clearly defined parameters.⁹ Rather than fixing their gaze on the centre, microhistorians’ vision is typically focused on subjects occupying the margins of society or those who do not fit the usual pattern or order. This enables them to view the past from a fresh perspective. Free wives of convicts are an appropriate subject for a microhistorical study not only because they are situated on the periphery of early colonial historiography (as discussed in Chapter Two and throughout the thesis) but because they are defined by clear parameters. Legal parameters accorded them the common law status of *femes covert* or *femes sole* based on their husbands’ legal identities as free or convicted. For women married in Britain, their very status as wives was defined by the *Hardwicke Act 1753* as discussed in Chapter Four. Yet the parameters surrounding free wives of convicts were not just legal and dependent on the common law of coverture and their husbands’ felony, but also temporal. In examining this group of women from their first arrival in the colony in 1778 to 1814, New South Wales is examined during a time of great fluidity and malleability. The infancy of the colony and its political, governmental and legal institutions, as well as its informal monetary system, assisted free wives of convicts in exercising their agency.

Such a narrow and intense focus on free wives of convicts enables us to understand a particular aspect of the complex nature of the laws that governed and shaped free women’s lives in New South Wales. As the legal and commercial capabilities of free women married to felons moved through layers of complexity, they became entangled in all the contradictions, changes and uncertainty that was law in the early colonial period. Without understanding such intricacies, conclusions advocated in the secondary literature do not align with those found in original sources. For example, Crowley asserted during this time that “the wives and children of convicts were frequently sent out to the

⁸ May, ‘Homo in Nubibus: Altitude, Colonisation and Political Order in the Khasi Hills of Northeast India’, *The Journal of Imperial and Commonwealth History*, 42.1 (2014), pp. 41-60, <<http://www.tandfonline.com/doi/abs/10.1080/03086534.2013.826458>>, [16 November 2016].

⁹ Hilary Golder and Diane Kirkby, ‘Marriage and Divorce Law Before the Family Law Act 1975’, in *Sex, Power and Justice: Historical Perspectives of Law in Australia*, ed. by Kirkby (Melbourne: Oxford University Press, 1995), pp.150-167.

Colonies at the public expense when the husbands had been well behaved for a number of years.”¹⁰ While Crowley is correct in asserting that the Imperial government did pay for their passage, a cursory study of a muster indicates that a number of free wives and their felon husbands arrived in the colony together aboard the same ship.

In detailing the unique position of free wives of convicts and strengthening their visibility in the historiography, this thesis builds on and reflects their presence in archival collections. The appendix's database lists the 106 free wives and their felon husbands created from these original documents, as are the sixteen case studies dotted throughout this study that provide intimate stories of the women in question. For Ann Bockerah, Sarah Fielder, Annie Fox, Sarah Perfect and the other free wives of convicts, their activities as wives, mothers, landowners, business women and litigants are plainly visible in the original documents, many of which were created by the Imperial and colonial governments, including ledgers, petitions, letters and musters. They are there espousing their businesses, securing their right to land, ensuring their rights and exercising their agency, all in their own names as temporary *femes sole*. This makes their marginalisation in the secondary sources merely presumptive as a lack of primary evidence cannot be a justification for it.

The sidelining of free wives of convicts in the secondary literature is even more puzzling considering colonial administrators recognised them as important figures in the community. This is evident by the fact that the administrators recorded their activities as landholders, businesswomen and mothers in government and colonial records. As socially constructed documents, the written word yielded power and reinforced what the administrators regarded as important in the burgeoning colony.¹¹ It is, therefore, not surprising that land and stock registers detailing the amount of land cleared, crops cultivated and animals housed, were carried out routinely, especially as land settlement was central to the colony's development and sustainability. Thus, free wives, such as Mary Collitts, Jane Ezzey and Lydia Austin, were listed as landholders under their own names, independent of their husbands. Yet the secondary literature has not reflected this importance. In not only acknowledging but closely exploring free wives of convicts, this thesis begins to close the gap caused by the discrepancies found in archival evidence and the historiography.

It is understandable, therefore, and consistent with this analysis, that when the women in question reverted to the status of *femes covert* upon the emancipation or conditional pardon of their

¹⁰ Frank K. Crowley, 'The Foundation Years, 1788-1821' in *Australia: A Social and Political History*, ed. by Gordon Greenwood (Sydney: Angus and Robertson, 1955), 1-45, (p. 42).

¹¹ Alan Atkinson, *The Europeans in Australia: A History – Vol. 1 The Beginning* (Melbourne: Oxford University Press, 1997), p. 21; Katrina Alford, 'Colonial Women's Employment as Seen by Nineteenth-Century Statisticians and Twentieth-Century Economic Historians', *Labour History*, 51 (1986), 1-10, (p. 2), <<http://www.jstor.org/stable/27508793>>, [11 February 2016].

husbands, they become harder to uncover in the primary records. In writing about the past, “silence, uncertainty and inconclusiveness become central to the narrative.”¹² Like words, however, silence is also instructive. It reveals what society values as important and worthy of recording and, conversely, what is not. For example, the colonial government regarded land possession, legal agency and commerce as paramount and recorded these activities in its records yet did not usually note the many important activities (other than raising children) accomplished by *femes covert* since they were hidden behind their emancipated or free husband’s legal authority and agency. For early colonial authorities, a wife was typically a “helpmate, subordinate to her husband, bearer of the new society’s children, essential but somehow invisible”, as reflected in the silences in government records. This shift from visibility as temporary *femes sole* to invisibility not only highlights the patriarchal and gendered nature of the colony, as espoused in a number of books and articles, but also the difference in significance and status arising from coverture.¹³

Free Wives of Convicts, Microhistory and the Big Historical Question(s)

The second component in Sziártó’s trinity of principle features of microhistory concerns the employment of the micro gaze to resolve questions about the nature of colonial society. By focusing on the peripheral, new understandings are gained as society is viewed from a fresh vantage point. An examination of free wives of convicts yields interesting new insights into the importance of marital and legal status for women (and men), especially in relation to their agency, as well as the significance of the law in women’s lives and the intersection of felony and coverture, the need for land settlement and the existence of an informal monetary system. What follows is a brief discussion on each of these three points.

In studying free wives of convicts, questions arise concerning the importance of legal and civil status in women’s lives. In undertaking a microhistorical study of these women, it is evident that women’s agency (or lack of) in the early colonial period was not only intersected by gender and their marital status but also by their own status as free or convict and, importantly, that of their husbands. The

¹² Tom Griffiths, *The Art of Time: Historians and their Craft* (Melbourne: Black Inc., 2016), p. 271.

¹³ Raymond Evans and Bill Thorpe, ‘Commanding Men: Masculinities and the Convict System’, *Journal of Australian Studies*, 22.56 (1998), 17-34 (p. 18), <<http://www.tandfonline.com/doi/abs/10.1080/14443059809387358>>, [1 November 2015]; Leanne Johns, ‘The First Female Shareholders of the Bank of New South Wales: Examination of Shareholdings in Australia’s First Bank, 1817-1824’, *Accounting, Business and Financial History*, 16.2 (2006), 293-314 (p. 298), <[10.1080/09585200600756308](http://www.tandfonline.com/doi/abs/10.1080/09585200600756308)>, [15 January 2016]; Nancy E. Wright and Andrew Richard Buck, ‘The Transformation of Colonial Property: A Study of the Law of Dower in New South Wales, 1836-1863’, *University of Tasmania Law Review*, 23.1 (2004), 97-127 (p. 100); Patricia Grimshaw, Marilyn Lake, Ann McGrath and Marian Quartly, *Creating a Nation* (Melbourne: McPhee Gribble, 1994), p. 4; Lynne Bowd, ‘On Her Own: Women as Heads of Family Groups in the 1828 Census’, *Australian Historical Studies*, 27.107 (1996), 303-322 (p. 306), <<http://www.tandfonline.com/doi/abs/10.1080/10314619608596015>>, [11 January 2016].

experiences of free wives of convicts demonstrate that not all wives were legally subordinated under their husbands and that coverture was more complex than simply being married. Studies from the original sources support this and illustrate a divergence between archival documentation and the historical narrative. For example, Forell's description of convict women that, "most married before or after their sentence was up and, like all women under the law of coverture, lost their civil rights upon marrying" highlights this gap.¹⁴ It is the use of the term 'all women' that is problematic. It is this generalizing of married women which, as Chapters One and Two showed, is typical, that requires qualification since women's legal and commercial agency was not only based on their marital status but also the legal status of their husbands.

Although Bowd suggested "status was the all-important factor that seems to have controlled most facets of women's lives", the importance and interconnectedness of gender, civil status (married or unmarried) and legal standing (free or felon) has been largely overlooked in the historiography, as has the significance of a husband's legal status on his wife.¹⁵ Rarely are the three examined as a trinity. Usually gender and civil status are emphasised to the exclusion of coverture and its suspension, as exemplified by Poiner, Alford and Bowd.¹⁶ Alford explained that "in many instances, businesswomen benefited or owed their success to their lovers or husbands, rarely their fathers."¹⁷ While this is correct in some instances, it does not take into account the fact that as temporary *femes sole*, free wives of convicts — and not their husbands — were granted licences to become publicans or provided with land grants to establish themselves as landlords, farmers or primary producers. Other historians and scholars acknowledged the importance of legal status and coverture but did not associate it to their spouses.¹⁸ This is typified by Berzins who wrote that, "The experiences of white women in the colony varied greatly, depending on which civil category they belonged to — convict, emancipist, free settler or native born. These distinctions were very important to both men and

¹⁴ Caroline A. Forell, 'Convicts, Thieves, Domestic and Wives in Colonial Australia: The Rebellious Lives of Ellen Murphy and Jane New', from the Selected Works of Caroline A. Forell, University of Oregon, 2012, p. 2, <http://works.bepress.com/caroline_forell/4/>, [4 June 2017].

¹⁵ Bowd, 'On Her Own', p. 321.

¹⁶ Ibid., p. 312; Gretchen Poiner, 'Belonging: The Meaning of Place for Women in the Early Settlement of New South Wales' in *Limits of Location: Creating a Colony*, ed. by Gretchen Poiner and Sybil Jack (Sydney: Sydney University Press, 2007); Alford, *Production or Reproduction: An Economic History of Women in Australia, 1788-1850* (Melbourne: Oxford University Press, 1984), p. 9.

¹⁷ Alford, *Production or Reproduction*, p. 195.

¹⁸ Bowd, 'On Her Own', p. 305; Monica Perrott, *A Tolerable Good Success: Economic Opportunities for Women in NSW 1788-1830* (Sydney: Hale and Iremonger, 1983), p. 68; Wright and Buck, 'The Transformation of Colonial Property', p.100; Forell, 'Convicts, Thieves, Domestic and Wives in Colonial Australia', p. 7.

women since status affected every aspect of their lives.”¹⁹ This thesis has shown that of greatest significance for married free woman was the convict status of their husbands.

The second aspect of colonial society that is revealed by the intense focus on free wives of convicts is that, although their treatment as temporary *femes sole* was not unique to the early colony, the ramifications were. Echoing Blackstone, Stewart explained that, under coverture in England, “a wife was under the power and authority of her husband” but she “had more or less of the capacities of an unmarried woman, when permanently abandoned by her husband, when her husband was civilly dead, or when she was divorced *a mensa e thoro* [separated but still legally married].”²⁰ Thus, when her husband was a prisoner and attainted under the common law of felony attain, she had the legal capacities and agency of a *feme sole*. Yet with her husband’s possessions forfeited to the Crown under legal convention (including money and goods) and little opportunity to obtain land in England or commence a business without funds, it was difficult (if not impossible) for free wives of prisoners in Britain or Ireland to advance, let alone survive. Unlike in New South Wales, the opportunities were simply not available to her.

In the colony, however, the convergence of factors enabled free wives of convicts to exercise the agency available to them with the suspension of coverture, namely timing, land settlement and an informal monetary system.²¹ Through grant, lease or purchase, free wives of convicts could become landholders in their own names as the colonial government encouraged land settlement not only to produce food and stimulate the fledgling economy but to tie people to the colony and ensure stability. The casual practices concerning land conveyancing and transfer of land titles, together with the use of promissory notes, further enabled women to act independently of their husbands. Both promissory notes and land provided free wives of convicts with choices on how to prosper in a land of opportunity and provided them with the starting blocks to build lives for themselves potentially free of material need or want. The benefits accrued through land grants and promissory notes was short lived, however, and ended in the mid-1810s with developments in colonial society, especially the introduction of formal monetary systems with the creation of the Bank of New South Wales in 1817 and shifting land policies.²²

¹⁹ Baiba Berzins, *The Coming of the Strangers: Life in Australia 1788-1822* (Sydney: Collins Australia and the State Library of New South Wales, 1988), p. 99.

²⁰ David Stewart, *Law of Husband and Wife as Established in England and the United States* (San Francisco: S. Whitney Co, 1885), p. 508.

²¹ Paula J. Byrne, ‘A Colonial Female Economy’, *Social History*, 24.3 (1999), 287-293, (pp. 287-288).

²² See Grace Karskens, *The Colony: A History of Early Sydney* (Sydney: Allen and Unwin, 2009), p. 171; Bruce Kercher, *Debt, Seduction and Other Disasters: The Birth of Civil Law in Convict New South Wales* (Sydney: Federation Press, 1996), p. 136.

The third insight from this study is just how fundamental the law was to women's daily existence. As Kercher wrote, "professional historians are becoming aware of the importance of law in Australia's history."²³ In 1994, Philip and Davies commented that women's experiences of the law has become a "major" theme in colonial social history with the development of two strands: firstly, women as victims of crime, and secondly, as perpetrators of crime.²⁴ This thesis develops a third strand that has been largely unacknowledged — the agency and legal autonomy of free wives of convicts arising from the temporary suspension of coverture as a result of their husbands' felony. Their transitory empowerment enabled them to exercise a degree of self-determination unknown to married women. For example, Ann Whitaker and Sarah Perfect conducted their businesses while other free wives sought land in their own names. The study has also shown that many women were well aware of their capabilities and legal rights as *femes sole*. This is demonstrated by the cases of Jane Ezzey and Sarah Toole, who asserted their rights as free wives of convicts to acquire or retain land, with Jane even using the term '*feme sole*' in relation to this.²⁵ It is further illustrated by free wife Hester Holt calling into question the legal principle of *habeas corpus* when her emancipated husband, Joseph Holt, was convicted of sedition after the Castle Hill uprising.²⁶ After hearing of his arrest, Hester approached the Governor and told him "it was both a sin and shame to send a man away from his family that could not be committed to trial."²⁷

Despite archival material clearly demonstrating the prevailing presence of the law in women's lives, some aspects of the secondary literature have segregated the two in what has been described as "disciplinary apartheid", as if the influence of the law was not part of and did not warrant inclusion in the history. For instance, in examining how convict women shaped the societies in which they lived in, Daniels did not discuss emancipated convict women's legal abilities or disabilities under coverture and how they impacted on the opportunities available to them.²⁸

Free Wives of Convicts, Microhistory and Agency

Szijártó's third characteristic of microhistory concerns agency as microhistorians acknowledge that subjects exert and exercise power in its many guises.²⁹ Thus, they assist in the shaping of their

²³ Kercher, *An Unruly Child: A History of Law in Australia* (St Leonards: Allen and Unwin, 1995), p. 163.

²⁴ David Philips and Susanne Davies, 'Introduction' in *A Nation of Rogues: Crime, Law and Punishment in Colonial Australia*, ed. by Philips and Davies (Melbourne: Melbourne University Press, 1994), pp. 5-6.

²⁵ *Sydney Gazette*, 2 November 1916, p. 1; Colonial Secretary: Memorials, 1820, fiche 3032, 4/1825B, State Records New South Wales [SRNSW].

²⁶ Joseph Holt, *A Rum Story: The Adventures of Joseph Holt Thirteen Years in New South Wales*, ed. by Peter O'Shaughnessy (Kenthurst: Kangaroo Press, 1988), p. 87.

²⁷ *Ibid.*, p. 87.

²⁸ Kay Daniels, *Convict Women* (Sydney: Allen and Unwin, 1998).

²⁹ Magnússon and Szijártó, *What is Microhistory*, p. 5.

environments and institutions.³⁰ It is the exploration of this agency deriving from the concentrated focus on the subject that leads to the resolution of larger historical questions. Given the near absence of free wives of convicts in the literature, Oxley noted, “our lack of knowledge is treated as their lack of activity,” their silence as submission.³¹ Yet as this thesis demonstrates, these women were present in the penal colony and they did exercise a unique degree of agency, both of which are visible in the archives. Consequently, it was not their contemporaries who largely sidelined them but generations of historians whose gazes and attention were fixed elsewhere. Some free wives of convicts, like Sarah Wills and Elizabeth Bradshaw are visible because they purchased and sold property.³² Others, such as Maria Jennings and Mary McPherson, are listed in government correspondence requesting the mitigation of their husbands’ sentences.³³ Still others placed notices in the local press advertising their business ventures, such as the restaurateur Rosetta Stabler and the teacher Sarah Perfect.³⁴ Some, like Sarah Fielder, appeared in legal records as litigants under their own names. Most are visible across all of these holdings.

Free wives of convicts were neither passive nor powerless actors beholden to the authority of their husbands or male figures under patriarchy. Legal power and authority within the marital relationship was fluid as it passed from one to another as their husbands’ evolved from free to convict and back again. Free husbands became convicts and then emancipists while free wives shifted their identities from *femes covert*, to temporary *femes sole* and then back to *femes covert*. Such women determined the course of their own lives in many ways. Not only was it *their* decision to accompany or follow their spouses to the penal colony, but it was also *their* decision and legal right to run commercial enterprises as they saw fit, to seek redress in the courts for wrongs committed against them, to buy or sell land and to manage their finances and property as *they* deemed most appropriate for themselves and their families. Whilst their convict husbands may have had influence on how such activities were conducted, the responsibility, authority and lawfulness of such actions lay with the free wives, as reiterated by the courts and the governor time and time again.

³⁰ Ibid., p. 69.

³¹ Deborah Oxley, *Convict Maids: The Forced Migration of Women to Australia* (Melbourne: Cambridge University Press, 1996), p. 1.

³² ‘Colonial Secretary Papers: Miscellaneous Records Re. Land Grants, Leases etc. Returns of Land Grants 1788-1809’, fiche 3267, 9/2731, 76-77, 81, SRNSW; ‘Judge Advocate’s Bench, Register of Assignments’, A3609, book 1, 45, SLNSW.

³³ ‘Colonial Secretary Papers’, Fiche 3233, 4/1869, 104, SRNSW; ‘Colonial Secretary Papers: Petitions’, 1823, fiche 3234, 4/1870, 25, SRNSW.

³⁴ *Sydney Gazette*, 26 June 1803, p. 4; Ibid., 24 July 1803, p. 4; Ibid., 15 April 1804, p. 3; Ibid., 1 June 1806, p. 3; Ibid., 26 March 1809, p. 2; Ibid., 12 September 1812, p. 2; Ibid., 8 January 1814, p. 1; Ibid., 2 July 1814, p. 1.

The notion perpetuated by some historians that free wives of convicts shared the convict stain of their husbands is not supported by archival evidence.³⁵ Yet historians have conflated the two, as exemplified by Kent and Townsend's description that women like "those who were free were subject to the same scrutiny as convicts if they were marrying a convict or ticket of leave holder."³⁶ Such a claim is not only incorrect but it fails to acknowledge the difference in status of convict and free and the agency of those who were free. In a penal colony where civil and legal status were highly significant, this group of women were not treated like felons by their contemporaries. The fact that they were identified as temporary *femes sole* by colonial authorities and their contemporaries while convict women had their legal abilities suspended clearly illustrates this. Teale's claim that free women married to felons were "socially assigned to the convict class" does not reflect the women's reality because, as Perrott explained, these "women gained status from the fact that they were members of the small free sector of colonial society. They were untainted by the convict stain; no matter from which level of British society they had come."³⁷ Robinson rightly claimed that "the economic and social opportunities, advantages and disadvantages, restrictions and freedom of movement, of individual choice of occupation or district of residence, even permission to marry, were all dependent" on whether a person was free or convict.³⁸ Therefore, to conflate the two is to misrepresent the past in ways which this thesis has sought to address.

Examining Free Wives of Convicts from Today's Perspective

Although examining a period of time more than two centuries past, this thesis is very much situated in the present since "historians construct a body of work out of a lifelong dialogue between past evidence and present experience."³⁹ Hirst concluded "historians write from the evidence, but also from their understanding of how the world works and how they would like it to work."⁴⁰ Consequently, the present colours the past and shapes how we understand it. Clendinnen rightly claimed "it is a commonplace rediscovered every decade or so that individuals see what they see

³⁵ Kent and Townsend, 'Some Aspects of Colonial Marriage: A Case Study of the Swing Protesters', *Labour History*, 74 (1998), 40-53 (p. 40); Robinson, *The Women of Botany Bay*, pp. 13 and 157; Miriam Dixson, *The Real Matilda: Woman and Identity in Australia 1788 to the Present*, 3rd Edition (Melbourne: Penguin, 1994), p. 121.

³⁶ Kent and Townsend, 'Some Aspects of Colonial Marriage', p. 40; Karskens, *The Colony*, p. 173.

³⁷ Teale in Jenny Hocking and Laura Donati, 'Obscured but Not Forgotten: How History Ignored the Remarkable Story of Sarah Wills Howe', *Journal of the European Association for Studies of Australia*, 7.2 (2016), 59-69 (p. 60), <http://www.easa-australianstudies.net/files/06JennyHockingandLauraDonati_Pag.pdf>, [12 September 2016]; Perrott, *A Tolerable Good Success*, p. 70.

³⁸ Robinson, *The Women of Botany Bay*, p. 262.

³⁹ Griffiths, *The Art of Time*, p. 2.

⁴⁰ John Hirst, 'Introduction: Changing My Mind', in Hirst, *Sense and Nonsense in Australian History* (Melbourne: Black Inc Agenda, 2006), p. 1.

from their own particular perspective, and that perspectives change through time.”⁴¹ It is for this reason that the world’s interconnectedness is more obvious in the historical discourse in the digital age than ever before, as people’s activities and connections “that make up an individual life story have formed themselves across a global canvas. Tracing the unique contours of such a life compels us to see the world as at once profoundly connected and deeply divided.”⁴²

In this thesis, free wives of convicts, their felon husbands and the colony are not only discussed in relation to New South Wales but to the world beyond its shores. International events are acknowledged as shaping the colony, from the American War of Independence to the Napoleonic Wars. Likewise, men and women arrived with ‘baggage’ from Britain and Ireland that held such ephemeral and intangible items as ideals and dreams, hopes and regrets, kinship ties and loss, codes of behaviour and expectations. The importance of lives both before and after settlement in the colony is evident in the thesis’ database since it reflects their transnational existences.

Together with today’s emphasis on globalisation is the accompanying emphasis on diversity. A walk down a local street entails hearing different languages and seeing people of different nationalities, ages and abilities share the streetscape, each with their own unique stories, experiences and needs. This is the modern age. This multiplicity reminds us that communities are not homogenous but complex, a jumble of competing desires, expectations and ideals. As Russell and Worden wrote, societies “are not monolithic ... Rather, they compromise a variety of separate but interrelating communities – communities of family, class, age groups, localities, clubs, workplaces, leisure interests, institutions.”⁴³ Such a heightened sense of diversity has influenced this thesis. The homogenous characterisation of ‘convict men,’ ‘convict women,’ ‘free men’ and ‘free women’ that previously dominated the narrative have been replaced by nuances and subtleties that differentiated one group from another, but also people within each category.⁴⁴ Free wives of convicts exemplify this shift. While they shared at least one characteristic — the felony of their husbands — there was much that differentiated them from one another, as detailed throughout the thesis and in the individual case studies.

⁴¹ Inga Clendinnen, *Dancing with Strangers: Europeans and Australians at First Contact* (Cambridge: Cambridge University Press, 2005), p. 12.

⁴² *Transnational Lives: Biographies of Global Modernity, 1700-Present*, ed. by Desley Deacon, Penny Russell and Angela Woollacott (London: Palgrave Macmillan, 2010), p. 2.

⁴³ *Honourable Intentions? Violence and Virtue in Australian and Cape Colonies, c.1750 to 1850*, ed. by Penny Russell and Nigel Worden (London: Routledge, 2016), p. 3.

⁴⁴ Johns, ‘The First Female Shareholders of the Bank of New South Wales’, p. 296.

Conclusion

Buoyed by evidence, ethical principles and unwritten codes of conduct, historians write interpretations according to the evidence before them and what *they* deem to be accurate, unbiased and true.⁴⁵ They set aside stories and facts they perceive as extraneous and include what they think is important and illustrative. Thus, they yield influence which carries with it obligations and accountability. Clendinnen explained it another way when she wrote:

With history I am bound like Gulliver by a thousand gossamers: epistemologically to the deceitful, accidental record, morally to the dead men and women I have chosen to re-present, and of the living men and women I want to read my words and to trust them.⁴⁶

As a result, historians have a responsibility to represent the past accurately, in all its complexity and with a full cast of characters. This thesis achieves this by bringing an intriguing, complex and little understood aspect of the nation's story into the light. It adds to the prevailing and ongoing discourse concerning early colonial history by focusing on free wives of convicts and providing another layer of understanding and interpretation.

By positioning free wives of convicts in the spotlight, this thesis not only delves into a marginalised group of women but provides an alternative perspective from which to view the historical landscape. Not only are the subjects brought to the centre of enquiry but so is the methodological framework of microhistory. In moving the two into focus, the significance of not only gender and marital status becomes evident for women but also their own legal status and importantly, that of their husbands. This has been largely obscured, as have the unique opportunities arising from the women's temporary status of *femes sole*. Although the period of time when these opportunities arose was brief, their impact was profound.

Perhaps the greatest challenge to history this thesis makes concerns the visibility of free wives of convicts. While their agency was clearly apparent in archival collections as wives, mothers, business women, landowners, litigants and emigrants, they were sidelined in the secondary literature, thereby creating a fissure between primary and secondary sources. Now the fracture has been reduced as history more accurately reflects what is evident in the archives — that free wives of convicts were active and significant figures in the opening decades of colonial settlement.

⁴⁵ Michael Roper, 'The Unconscious Work of History', *Cultural and Social History*, 11.2 (2014), 169-193 (pp. 171 and 174); *The Honest History Book*, ed. by David Stephens and Alison Broinowski (Sydney: New South, 2017), p. 1.

⁴⁶ Clendinnen, *Tiger's Eye*, p. 244 in Adam Gall, 'Taking/Taking Up: Recognition and the Frontier in Grenville's The Secret River', *Journal of the Association for the Study of Australian Literature*, (2008), pp. 94-104.

Conclusion

Here was a new wide land and it awakened a fever of restlessness in their blood. They did not like it, and few of them would have remained in it from choice, but the mere fact of its existence impressed upon their minds a consciousness that life as they had known it in England was not the only conceivable kind of life. They had realised Change, and they thought: If place can be so different, why not circumstance?¹

This thesis has considered and assessed the unique position of free wives of convicts in early colonial New South Wales, a recognised yet marginalised group of women in the historical narrative. It has explored the nature of their unique position due to the temporary suspension of coverture. It is through this suspension that they became landholders, businesswomen and litigants in their own names and with full legal authority while their husbands were under servitude. Thus, for free wives of convicts, their legal agency was like a see-saw of empowerment and disempowerment as they moved through the legal categories of *femes sole* and *femes covert*. This has shown not only the significance of this period in the lives of free wives of convicts but also the significance for the development of the colony.

In this thesis, free wives of convicts emerge from the periphery of enquiry and take centre stage. In placing the women in the middle of the study, the thesis builds on the earlier feminist historians who legitimated the “recovery of people, perspectives and voices obscured by or lost to dominant historical narratives.”² This group of women are rarely recognised as a subject in the secondary literature and there has been no previous attempt to quantify them or detail their experiences. Consequently, this thesis has had to first unearth free wives of convicts in the archives before they could be examined in depth. Only once the 106 women were revealed could their lives be studied. With pieces of their individual stories extracted from documents composed more than two hundred years ago, fragments of their lives have been reconstructed from a variety of primary material, including population censuses, land musters, government correspondence, the pages of the *Sydney Gazette*, court ledgers and records of births, deaths and marriages. The study teases out the threads pertaining to free wives of convicts in the secondary literature and, together with detailed archival

¹ Eleanor Dark, *The Timeless Land* (Sydney: Collins, 1988), p. 441.

² Pamela Scully, ‘Peripheral Visions: Heterography and Writing the Transnational Life of Sara Baartman’, in *Transnational Lives: Biographies of Global Modernity, 1700-Present*, ed. by Desley Deacon, Penny Russell and Angela Woollacott (London: Palgrave Macmillan, 2010), 27-40, (p. 29).

exploration, constructs a rich and complex study that, for the first time, assigns free wives of convicts primary position.

One of the most significant, and certainly fundamental, aspects of this thesis is the database that appears in the appendix. Through largely primary documents, this database identifies the 106 free wives who accompanied or soon followed their felon husbands under sentence of transportation from Britain and Ireland to the penal colony. With the women now visible, further insights can be uncovered and their activities added to the ever-expanding historiography of early colonial Australia. The database provides biographical details of the women, together with that of their husbands, who arrived between 1788 and 1814, and repositions each and every one of them from the margins of history to the very centre of enquiry. This is significant as it is the first time this has been undertaken in the historiography and “the picture which emerges reflects the richness and variety of human experience.”³ In examining the free wives, their convict husbands, too, are acknowledged and included in their stories since they are fundamental to the women’s experiences, especially because it was their convict status which resulted in the women’s temporary suspension of coverture. In the late eighteenth and early nineteenth centuries, husband and wife were considered two halves of a single unit so to discuss only one element is to convey an incomplete understanding.⁴

As detailed in Chapter Two, free wives of convicts are examined through a mixed methodological approach. Microhistory provides the overarching structure of the thesis while individual case studies, together with quantitative and qualitative analysis from original archival research, enable different insights to be drawn. The use of case studies brings the individual stories of the free wives to the fore as their lived realities are examined through their shifting identities. As Merrill and West suggested, case studies “highlight the interaction and inter-relation between agency and structure in people’s lives” and “may powerfully illuminate how individuals manage change and multiple indemnities in their lives.”⁵ Thus, they illustrate not only the women themselves but also the colonial society in which they lived, including its patriarchal structures, legal rules and gendered expectations. The case studies also bring into sharp relief just how significant a husband’s legal status was in determining a wife’s legal and commercial agency. The qualitative approach complements the case studies with its focus on the personal and the specific. Quantitative analysis ensures the larger landscape is not

³ Michael Flynn, *The Second Fleet: Britain’s Grim Convict Armada of 1790* (Sydney: Library of Australian History, 2001), p. 3.

⁴ A.M. Moral Essays, *Chiefly Collected from Different Authors*. Vol. 1 (1796), p. 233, <<http://find.galegroup.com.ezproxy.lib.monash.edu.au/ecco/infomark.do?&source=gale&prodId=ECCO&userGroupName=monash&tabID=T001&docId=CW123530794&type=multipage&contentSet=ECCOArticles&version=1.0&docLevel=FASCIMILE>>, [26 September 2016].

⁵ Barbara Merrill and Linden West, *Using Biographical Methods in Social Research* (Los Angeles: Sage, 2009), p. 95.

overlooked and provides the 'big picture' by examining the women as a group, and not just as individuals. Where the former illustrates detail and the intimate, the latter paints broad brushstrokes of understanding.

Chapter Two also sets out the use of microhistory as the overarching framework. Its intense and concentrated gaze on a clearly defined group with clear parameters focuses the enquiry and enables free wives of convicts to become visible. No longer hidden behind their husbands or other figures in colonial society, their extensive agency and see-sawing legal empowerment and disempowerment becomes apparent. Yet microhistorians employ a bi-focal gaze and extend their gaze from the intimate to the large-scale as they explore both the micro and macro landscapes. Viewed from the fresh perspective of free wives of convicts, the macro landscape yields alternative vistas as the colony, together with its gendered practices and institutions, like the law, are examined from a new vantage point.

Chapter Three provides a quantitative analysis of the 106 free wives of convicts and makes clear that the women are heterogeneous and cannot be stereotyped nor made to fit a neat, all-encompassing description. Although they shared some similarities, namely their legal status and that of their husbands, there was much that differentiated them from one another and, as a result of their husbands' felony, they became an accidental collective. Some came from the middle classes, like Ann Crossley, while others occupied the lower tiers of society, such as Harriet Hodgetts. Most came from England but a number came from Ireland and a few from Scotland. Some wives arrived with their husbands in Port Jackson while others had to wait months or years to be reunited. Motives for following their spouses to the embryonic penal settlement varied and the rate of arrivals ebbed and flowed according to international events. Some, like Harriet Hodgetts, were mothers, but others were not. Most were in their twenties and thirties when they emigrated and the majority made the colony their home for the rest of their lives. A few, such as Martha Chartres, returned to Europe. Most had long and productive lives in the colony yet for some, like Ann Bockerah, their premature deaths meant their time in the new land was short.

Together with their meagre possessions, free wives of convicts arrived in Sydney with different abilities, expectations, desires and needs. As a result, their new lives in the colony followed different trajectories. For some, like Harriet Hodgetts, their status in the colony as temporary *femes sole* resulted in achievements and opportunities that would simply be impossible if they had remained in England or Ireland, such as becoming landowners or businesswomen. For others, such as Ann Crossley and Martha Chartres, the secondary convictions of their spouses ensured they were on an

ongoing cycle of disempowerment and empowerment as their status under coverture shifted numerous times according to their husbands' felony.

Having examined free wives of convicts through a broad study, Chapter Four narrows the analysis to the theme of legal agency. In studying the abilities of free wives of convicts as temporary *femes sole*, together with their legal disempowerment arising from their husbands' conditional pardons or emancipation, the chapter details just how fundamental legal agency was to women's lives and that they acted on that agency. Free wives of convicts were well aware of their legal rights as temporary *femes sole* and asserted them in numerous ways. For example, Sarah Fielder proclaimed her rights in court under her own name when she sued for the non-payment of a promissory note. Annie Fox commenced legal proceedings for the recovery of missing items of clothing and Ann Bartlett was appointed the administratrix of an emancipated convict's estate, again in their own names whilst temporary *femes sole*. Sarah Wills illustrates how free women married to convicts bought property and engaged in business as provisional *femes sole* but continued in the same manner even when they returned to the status of *femes covert*, thereby challenging coverture and confirming Bishop's view that the capacity of free women married to convicts contributed to the spread of married women as sole traders.

The individual case studies in Chapter Four and throughout the thesis reflect how integral the law was in people's lives. It defined the very activities wives, convicts and free settlers could or could not undertake and it was the cornerstone of penal settlement. Yet the law reflected the community it served and, while English in nature, it was moulded to fit its colonial surrounds. As such, its rules were sometimes malleable and contradictory, particularly in the early decades of settlement. As the colony developed, a tension arose between Imperial law and colonial law, "a tension between law as a centralised system of decision making, and law as a product of local and particular custom."⁶

Chapter Five reveals that one of the most significant consequences of the legal empowerment of free wives of felons as temporary *femes sole* was their ability to become landholders in their own names. Some, like Lydia Austin, purchased property while others, such as Sarah Toole, Mary Collitts and Jane Ezzey were granted it by the colonial governors. In the young colony where the colonial government readily granted land to free or emancipated people and where wealth production was tied to land cultivation, this was highly significant. With their husbands' legal authority on hold, the suspension of coverture provided the women in question with the legal agency and right to not only

⁶ John McLaren, 'Reflections on the Rule of Law: The Georgian Colonies of New South Wales and Upper Canada, 1788-1837' in *Law, History and Colonialism: The Reach of Empire*, ed. by Diane Kirkby and Catherine Coleborne (Manchester: Manchester University Press, 2001), 46-62, (p. 47).

possess land and manage it but also the responsibility and ownership for any profits or debts it incurred, and, importantly, the means to prosper. Although fleeting, such agency enabled free wives of convicts to provide a firm foothold in the colonial economy as through the possession of land, money could be earned and a degree of financial stability obtained. It also ensured the family could remain intact with husband and wife often working together on the property if the convict husband was assigned to his free wife.

Yet in early colonial New South Wales, land was not only associated with material wealth, sustainability and economic development but also morality. The archival records show that some women were provided with land precisely because they were married and had abided by society's moral expectations while their husbands had not. By receiving and requesting grants, free wives of convicts demonstrated a belief that they were entitled to land as heads of the family and informal and economic subjects. Some of the free wives, such as Sarah Toole, requested grants of land specifically as temporary *femes sole* and as morally upright residents. Thus, it was not on behalf of their convict husbands that they sought the request but on their own merits.

As landholders, the women in question were provided with a political voice. As Chapter Five described, some like Lydia Austin, invoked it by adding their names to petitions specifically as landholders. Jane Ezzey raised her voice against what she perceived as unjust behaviour. Some, like Mary Collitts were accorded such a position when they became overseers of assigned convicts under the convict labour assignment scheme through which a free wife could become the 'mistress' of her assigned convict husband. This completely overturned the traditional husband-wife relationship as it was now the wife who provided her husband with life's essentials and commended legal authority over him. As Kercher explained, this was a situation and style of marriage unique to the colony as the assignment system was particular to New South Wales.⁷

The legal empowerment of free wives of convicts as temporary *femes sole* flowed through to the commercial domain of business which is explored in Chapter Six. Like widows and spinsters, free wives were legitimately and legally able to establish businesses for themselves in their own names, independent of their felon husbands. Similar to the acquisition of property, any profits or debts associated with the enterprise was their responsibility and control and authority rested solely with them as proprietors. Free wives, such as Sarah Perfect, Ann Whitaker and Rosetta Stabler established spaces in the young colony where they plied their various trades, including as teachers, publicans and restaurateurs, in the male dominated commercial landscape. Some, like the midwife Sarah

⁷ Bruce Kercher, 'The Law and Convict Transportation in the British Empire, 1700-1850', *Law and History Review*, 21.3 (2003), 527-584, (p. 581).

Cobcroft, serviced women's unique needs. At a time when the young colony was attempting to forge a commercial economy of its own and become self-supporting, such activities were significant and these women were a small but important part of the commercial landscape of early colonial New South Wales.

Chapter Seven reconsiders the early colonial story in light of the findings of this thesis and reconceptualises the circumstance, role and significance of free wives of convicts in the historical narrative. What becomes plainly evident is that legal status, together with gender, were significant determinants of status and capacity in the colony. Free wives of convicts were legally and commercially empowered precisely because their convict husbands were not. For women, another significant determinant was their civil status as it defined their legal agency according to the principles of coverture and the abilities or disabilities of *femes sole* and *femes covert*.

What also becomes apparent is how the three elements of the particular needs of the colony, legal agency and an informal monetary system enabled many of the free wives of convicts in this study to exercise their agency and to prosper. The fluidity of the legal, administrative and land conveyancing systems, coupled with the use of promissory notes, provided a means for the women to obtain land and commence commercial enterprises in their own names with full legal authority and agency. Yet, as the colony developed from the 1810s, the ability for free women to undertake such activities became fewer and women increasingly found it difficult to find spaces for themselves in these spheres as the law became stricter and the needs of the settlement shifted.

The very best history is created when "the specificity, the novelty, the awe-fulness, of what our sources render up bowls us over with complexity and significance."⁸ This is the case with free wives of convicts who, in exercising their legal agency as temporary *femes sole*, demonstrated boldness, tenacity and determination. In examining this unique and accidental collective, a path of twists and turns, of contradictions and fluidity, of empowerment and disempowerment has been uncovered and the multi-faceted spheres of the law and commerce, gender politics, competing ideologies and women's agency has been traversed. Finally, the path leads to the women themselves, a remarkable but marginalised group in Australia's historical colonial narrative.

⁸ Carolyn Walker Bynum, 'Wonder: American Historical Association Presidential Address, 1996', *American Historical Review*, 102.1 (1997), pp. 1-17 in Tom Griffiths, *The Art of Time: Historians and their Craft* (Melbourne: Black Inc., 2016), p.5.

*Appendix: Database of the 106 free wives of convicts who arrived in New South Wales
between 1788 and 1814, and their husbands.¹*

	<i>Free Wives of Convicts</i>		<i>Convict Husbands</i>	
1790				
1.	Name: ²	Bockerah, Ann	Name:	Bockerah, Solomon
	Date of Birth:	?	Date of Birth:	?
	Place of Birth:	Eng.? ³	Place of Birth:	Eng.?
	Date of Arrival:	28 Jan. 1790	Date of Arrival:	26 Jan. 1790
	Ship:	<i>Neptune</i>	Ship:	<i>Scarborough</i>
	Children: ⁴	1	Children:	1
	Other Marriages: ⁵	No	Other Marriages:	No
	Date of Death:	1793	Date of Death:	1791
	Place of Death:	Syd.	Place of Death:	Syd.
2.	Name:	Cobcroft, Sarah	Name:	Cobcroft, John
	Date of Birth:	1771	Date of Birth:	1760

¹ Dates and figures are approximations and are as accurate as the available records allow. As the research project is dynamic and ongoing, material will be added and the database will continue to build. Information for this database is compiled from the following sources: Ancestry, <<https://www.ancestry.com.au/>> [21 May 2016]; Biographical Database of Australia (BDA), *BDA Online*, <<http://www.bda-online.org.au/>> [21 May 2016]; *1800-1802 Musters and Lists New South Wales and Norfolk Island*, ed. by Carol J Baxter (Sydney: Australian Biographical and Genealogical Record (ABGR) and Society of Australian Genealogists (SAG), 1988); *1805-1806 Musters of New South Wales and Norfolk Island 1805-1806*, ed. by Baxter (Sydney: ABGR and SAG, 1989); *1811 General Muster of New South Wales, Norfolk Island and Van Diemen's Land, 1811*, ed. by Baxter (Sydney: ABGR and SAG, 1987); *1814 General Muster of New South Wales*, ed. by Baxter (Sydney: ABGR and SAG, 1989); James Hugh Donohoe, 'The Free Settlers of Australia 1788-1828', State Library of Victoria (SLV), 2001; Michael Flynn, *The Second Fleet: Britain's Grim Convict Armada of 1790* (Sydney: Library of Australian History, 2001); Sydney, SRNSW, 'Appendix to Bigge's Report, 1822: Returns of Births, Deaths and Marriages, NSW 1816-1819, Tas. 1816-1820', A2130, reel CY722 State Records of New South Wales (SRNSW); 'Convict Indents (Digitised) Index 1788 to 1801', SRNSW, <<https://www.records.nsw.gov.au/archives/collections-and-research/guides-and-indexes/convict-indents-digitised-index>>, [1 December 2016]; 'Guide to New South Wales State Archives Relating to Convicts and Convict Administration: Appendix 1 - Chronological List of Convict Ships Arriving at Port Jackson, 1788-1849, and Item List of the Various Papers for Each Vessel', SRNSW, pp. 223-256; 'New South Wales Colonial Secretary Office Settlers' Muster Book, 1800, GM200 CY, Reel 204, SRNSW; *The Old Bailey Proceedings Online, 1674-1913*, version 7.0, 24 March 2012, <www.oldbaileyonline.org> [2 November 2016].

² Name known by in New South Wales. Alternate spellings are not listed.

³ '?' after entry means the entry is possibly correct but needs further clarification.

⁴ Refers to children in the colony and not children who remained in Britain or Ireland after their parent(s) emigrated to New South Wales.

⁵ Refers to additional marriages conducted in New South Wales.

Place of Birth: Eng.
 Date of Arrival: 28 Jan. 1790
 Ship: *Neptune*
 Children: 9
 Other Marriages: No
 Date of Death: 1857
 Place of Death: NSW

Place of Birth: Eng.?
 Date of Arrival: 26 Jan. 1790
 Ship: *Scarborough*
 Children: 9
 Other Marriages: No
 Date of Death: 1851
 Place of Death: NSW

3. Name: Connor, Elizabeth
 Date of Birth: 1751
 Place of Birth: Ire.
 Date of Arrival: 28 Jan. 1790
 Ship: *Neptune*
 Children: 4
 Other Marriages: No
 Date of Death: ?
 Place of Death: ?

Name: Connor, Michael
 Date of Birth: 1747
 Place of Birth: Ire.
 Date of Arrival: 26 Jan. 1790
 Ship: *Scarborough*
 Children: 4
 Other Marriages: No
 Date of Death: 1829
 Place of Death: NSW

4. Name: Fielder, Sarah
 Date of Birth: 1760
 Place of Birth: Eng.
 Date of Arrival: 28 Jan. 1790
 Ship: *Neptune*
 Children: 2
 Other Marriages: No
 Date of Death: 1810
 Place of Death: Syd.

Name: Fielder, William
 Date of Birth: 1756
 Place of Birth: Eng.?
 Date of Arrival: 26 Jan. 1790
 Ship: *Scarborough*
 Children: 2
 Other Marriages: No
 Date of Death: 1812
 Place of Death: Syd.

5. Name: Hodgetts, Harriet
 Date of Birth: 1765
 Place of Birth: Eng.?
 Date of Arrival: 28 Jan. 1790
 Ship: *Neptune*
 Children: 9

Name: Hodgetts, Thomas
 Date of Birth: 1763
 Place of Birth: Eng.?
 Date of Arrival: 26 Jan. 1790?
 Ship: *Scarborough?*
 Children: 9

Other Marriages: No
 Date of Death: 1850
 Place of Death: Tas.

Other Marriages: No
 Date of Death: 1823
 Place of Death: Tas.

- | | | |
|----|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 6. | Name: Wood, Maria
Date of Birth: ?
Place of Birth: Eng.?
Date of Arrival: 28 Jan. 1790
Ship: <i>Neptune</i>
Children: 2 or 3
Other Marriages: No
Date of Death: 1803
Place of Death: Syd. | Name: Wood, John
Date of Birth: ?
Place of Birth: ?
Date of Arrival: 26 Jan. 1790
Ship: <i>Scarborough</i>
Children: 2 or 3
Other Marriages: No
Date of Death: 1790?
Place of Death: Syd. |
|----|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

1791

- | | | |
|----|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 7. | Name: Dorrington, Jane
Date of Birth: 1775
Place of Birth: Eng.
Date of Arrival: 9 Jul. 1791
Ship: <i>Mary Ann</i>
Children: 6
Other Marriages: No
Date of Death: 1841
Place of Death: NSW | Name: Dorrington, John
Date of Birth: 1771
Place of Birth: Eng.
Date of Arrival: 28 Aug. 1791
Ship: <i>William and Ann</i>
Children: 6
Other Marriages: No
Date of Death: 1856
Place of Death: McDonald River, NSW |
|----|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
-
- | | | |
|----|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 8. | Name: Nelson, Sarah
Date of Birth: 1768
Place of Birth: Eng.?
Date of Arrival: 9 Jul. 1791
Ship: <i>Mary Ann</i>
Children: 3
Other Marriages: No
Date of Death: 1817
Place of Death: Liverpool, NSW | Name: Nelson, Isaac
Date of Birth: 1764
Place of Birth: Eng.?
Date of Arrival: 13 Oct. 1791
Ship: <i>Albermarle</i>
Children: 3
Other Marriages: 1 (1817)
Date of Death: 1833
Place of Death: Bankstown, NSW |
|----|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

9.	Name:	Collins, Elizabeth	Name:	Collins, Edward
	Date of Birth:	1770	Date of Birth:	1765
	Place of Birth:	Eng.	Place of Birth:	Eng.?
	Date of Arrival:	16 Oct. 1791	Date of Arrival:	13 Oct. 1791
	Ship:	<i>Admiral Barrington</i>	Ship:	<i>Albermarle</i>
	Children:	1	Children:	3
	Other Marriages:	No	Other Marriages:	1 (1800)
	Date of Death:	1795	Date of Death:	1820
	Place of Death:	Syd.	Place of Death:	NSW?

1792

10.	Name:	Singleton, Hannah	Name:	Singleton, William
	Date of Birth:	1757	Date of Birth:	1745
	Place of Birth:	Eng.?	Place of Birth:	Eng.?
	Date of Arrival:	14 Feb. 1792	Date of Arrival:	14 Feb. 1792
	Ship:	<i>Pitt</i>	Ship:	<i>Pitt</i>
	Children:	8?	Children:	10
	Other Marriages:	No	Other Marriages:	No
	Date of Death:	1813	Date of Death:	1835
	Place of Death:	Wilberforce, NSW	Place of Death:	NSW

11.	Name:	Austin, Lydia	Name:	Austin, John
	Date of Birth:	?	Date of Birth:	?
	Place of Birth:	?	Place of Birth:	?
	Date of Arrival:	7 Oct. 1792	Date of Arrival:	7 Oct. 1792
	Ship:	<i>Royal Admiral</i>	Ship:	<i>Royal Admiral</i>
	Children:	0	Children:	0
	Other Marriages:	No	Other Marriages:	?
	Date of Death:	?	Date of Death:	?
	Place of Death:	?	Place of Death:	?

12.	Name:	Ezzey, Jane	Name:	Ezzey, William
	Date of Birth:	1770	Date of Birth:	1765
	Place of Birth:	Eng.?	Place of Birth:	Eng.
	Date of Arrival:	7 Oct. 1792	Date of Arrival:	7 Oct. 1792

	Ship:	<i>Royal Admiral</i>	Ship:	<i>Royal Admiral</i>
	Children:	6	Children:	6
	Other Marriages:	No	Other Marriages:	1 (1829)
	Date of Death:	1821	Date of Death:	1830
	Place of Death:	Windsor, NSW	Place of Death:	Windsor, NSW
13.	Name:	Holdness, Ann	Name:	Holdness, William
	Date of Birth:	1777	Date of Birth:	1770
	Place of Birth:	Eng.?	Place of Birth:	Eng.
	Date of Arrival:	7 Oct. 1792	Date of Arrival:	7 Oct. 1792
	Ship:	<i>Royal Admiral</i>	Ship:	<i>Royal Admiral</i>
	Children:	3	Children:	2
	Other Marriages:	1 (1815)	Other Marriages:	No
	Date of Death:	1842?	Date of Death:	1813
	Place of Death:	NSW	Place of Death:	Syd.
14.	Name:	Kennedy, Anne	Name:	Kennedy, Donald
	Date of Birth:	?	Date of Birth:	1759
	Place of Birth:	?	Place of Birth:	Scot.
	Date of Arrival:	7 Oct. 1792	Date of Arrival:	7 Oct. 1792
	Ship:	<i>Royal Admiral</i>	Ship:	<i>Royal Admiral</i>
	Children:	7	Children:	7
	Other Marriages:	No	Other Marriages:	No
	Date of Death:	?	Date of Death:	1827
	Place of Death:	?	Place of Death:	Nepean, NSW
15.	Name:	Waring, Elizabeth	Name:	Waring, William
	Date of Birth:	1761	Date of Birth:	1762
	Place of Birth:	?	Place of Birth:	Eng.?
	Date of Arrival:	7 Oct. 1792	Date of Arrival:	7 Oct. 1792
	Ship:	<i>Royal Admiral</i>	Ship:	<i>Royal Admiral</i>
	Children:	0	Children:	0
	Other Marriages:	No	Other Marriages:	No
	Date of Death:	1813	Date of Death:	?
	Place of Death:	Windsor, NSW	Place of Death:	?

1797

16.	Name:	Bryan, Mary	Name:	Bryan, Egan
	Date of Birth:	?	Date of Birth:	1765
	Place of Birth:	?	Place of Birth:	Ire.
	Date of Arrival:	27 May 1797	Date of Arrival:	27 May 1797
	Ship:	<i>Britannia II</i>	Ship:	<i>Britannia II</i>
	Children:	4	Children:	4
	Other Marriages:	?	Other Marriages:	?
	Date of Death:	?	Date of Death:	?
17.	Place of Death:	?	Place of Death:	?
	Name:	Fox, Hannah	Name:	Fox, Patrick
	Date of Birth:	?	Date of Birth:	1771
	Place of Birth:	Ire.?	Place of Birth:	Ire.?
	Date of Arrival:	27 May 1797	Date of Arrival:	27 May 1797
	Ship:	<i>Britannia II</i>	Ship:	<i>Britannia II</i>
	Children:	1	Children:	1
	Other Marriages:	No	Other Marriages:	No
18.	Date of Death:	?	Date of Death:	?
	Place of Death:	?	Place of Death:	NSW
	Name:	Bateman, Mary	Name:	Bateman, William
	Date of Birth:	1766	Date of Birth:	1767
	Place of Birth:	Eng.?	Place of Birth:	?
	Date of Arrival:	2 Jun. 1797	Date of Arrival:	2 Jun. 1797
	Ship:	<i>Ganges</i>	Ship:	<i>Ganges</i>
	Children:	5	Children:	5
19.	Other Marriages:	No	Other Marriages:	No
	Date of Death:	1840	Date of Death:	1834
	Place of Death:	Parramatta, NSW	Place of Death:	Parramatta, NSW
	Name:	Brooks, Sarah	Name:	Brooks, Thomas
	Date of Birth:	1775	Date of Birth:	1774
	Place of Birth:	Eng.?	Place of Birth:	Eng.?

	Date of Arrival:	2 Jun. 1797	Date of Arrival:	2 Jun. 1797
	Ship:	<i>Ganges</i>	Ship:	<i>Ganges</i>
	Children:	3	Children:	3
	Other Marriages:	No	Other Marriages:	No
	Date of Death:	?	Date of Death:	?
	Place of Death:	?	Place of Death:	?
20.	Name:	Graham, Elizabeth	Name:	Graham, John
	Date of Birth:	1773?	Date of Birth:	1774
	Place of Birth:	Ire.?	Place of Birth:	Ire.?
	Date of Arrival:	2 Jun. 1797	Date of Arrival:	2 Jun. 1797
	Ship:	<i>Ganges</i>	Ship:	<i>Ganges</i>
	Children:	8	Children:	8
	Other Marriages:	No	Other Marriages:	No
	Date of Death:	1817	Date of Death:	1809
	Place of Death:	Parramatta, NSW	Place of Death:	Liverpool, NSW
21.	Name:	Taber, Frances	Name:	Taber, Thomas
	Date of Birth:	1767	Date of Birth:	1765
	Place of Birth:	?	Place of Birth:	Eng.?
	Date of Arrival:	2 Jun. 1797	Date of Arrival:	2 Jun. 1797
	Ship:	<i>Ganges</i>	Ship:	<i>Ganges</i>
	Children:	6	Children:	6
	Other Marriages:	No	Other Marriages:	No
	Date of Death:	1829	Date of Death:	1842
	Place of Death:	Menagle, NSW	Place of Death:	Syd.
22.	Name:	Wild, Elizabeth	Name:	Wild, John
	Date of Birth:	1758	Date of Birth:	1770
	Place of Birth:	Eng.?	Place of Birth:	Eng.?
	Date of Arrival:	2 Jun. 1797	Date of Arrival:	2 Jun. 1797
	Ship:	<i>Ganges</i>	Ship:	<i>Ganges</i>
	Children:	2	Children:	2
	Other Marriages:	No	Other Marriages:	No
	Date of Death:	1838	Date of Death:	1818

Place of Death: Campbelltown, NSW

Place of Death: Parramatta, NSW

1798

23.	Name:	Cooper, Alice	Name:	Cooper, Charles
	Date of Birth:	?	Date of Birth:	1753
	Place of Birth:	?	Place of Birth:	?
	Date of Arrival:	18 May 1798	Date of Arrival:	18 May 1798
	Ship:	<i>Barwell</i>	Ship:	<i>Barwell</i>
	Children:	5	Children:	5
	Other Marriages:	?	Other Marriages:	?
	Date of Death:	?	Date of Death:	?
	Place of Death:	?	Place of Death:	?

1799

24.	Name:	Crossley, Ann	Name:	Crossley, George
	Date of Birth:	1765	Date of Birth:	1748
	Place of Birth:	?	Place of Birth:	?
	Date of Arrival:	26 Jul. 1799	Date of Arrival:	26 Jul. 1799
	Ship:	<i>Hillsborough</i>	Ship:	<i>Hillsborough</i>
	Children:	0	Children:	0
	Other Marriages:	No	Other Marriages:	No
	Date of Death:	1817	Date of Death:	1823
	Place of Death:	Syd.	Place of Death:	Syd.

25.	Name:	Madden, Rosetta	Name:	Madden, Edward
	Date of Birth:	1777	Date of Birth:	1773
	Place of Birth:	?	Place of Birth:	?
	Date of Arrival:	26 Jul. 1799	Date of Arrival:	Died on route
	Ship:	<i>Hillsborough</i>	Ship:	<i>Hillsborough</i>
	Children:	5	Children:	0
	Other Marriages:	1 (1810)	Other Marriages:	No
	Date of Death:	1858?	Date of Death:	1799
	Place of Death:	Syd.?	Place of Death:	At sea

26.	Name:	Warner, Mary	Name:	Warner, Samuel
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Date of Birth:	?	Date of Birth:	?
Place of Birth:	?	Place of Birth:	?
Date of Arrival:	26 Jul. 1799	Date of Arrival:	26 Jul. 1799
Ship:	<i>Hillsborough</i>	Ship:	<i>Hillsborough</i>
Children:	1	Children:	?
Other Marriages:	?	Other Marriages:	?
Date of Death:	?	Date of Death:	?
Place of Death:	?	Place of Death:	?

27.	Name:	Wills, Sarah	Name:	Wills, Edward
	Date of Birth:	1779	Date of Birth:	1778
	Place of Birth:	Eng.	Place of Birth:	Eng.
	Date of Arrival:	26 Jul. 1799	Date of Arrival:	26 Jul. 1799
	Ship:	<i>Hillsborough</i>	Ship:	<i>Hillsborough</i>
	Children:	Yes	Children:	Yes
	Other Marriages:	1 (1812)	Other Marriages:	No
	Date of Death:	1823	Date of Death:	1811
	Place of Death:	Syd.	Place of Death:	Syd.

1800

28.	Name:	Fulton, Anne	Name:	Fulton, Rev. Henry
	Date of Birth:	1776	Date of Birth:	1766
	Place of Birth:	Ire.	Place of Birth:	Ire.
	Date of Arrival:	11 Jan. 1800	Date of Arrival:	11 Jan. 1800
	Ship:	<i>Minerva</i>	Ship:	<i>Minerva</i>
	Children:	8	Children:	8
	Other Marriages:	No	Other Marriages:	No
	Date of Death:	1836	Date of Death:	1840
	Place of Death:	NSW	Place of Death:	Castlereagh, NSW

29.	Name:	Holt, Hester	Name:	Holt, Joseph
	Date of Birth:	1760	Date of Birth:	1761
	Place of Birth:	Ire.	Place of Birth:	Ire.
	Date of Arrival:	11 Jan. 1800	Date of Arrival:	11 Jan. 1800
	Ship:	<i>Minerva</i>	Ship:	<i>Minerva</i>

Children: 4
 Other Marriages: No
 Date of Death: 1830
 Place of Death: Ire.

Children: 4
 Other Marriages: No
 Date of Death: 1826
 Place of Death: Ire.

30.	Name:	Moss, Lydia	Name:	Moss, Isaac
	Date of Birth:	1774	Date of Birth:	1765
	Place of Birth:	Eng.	Place of Birth:	Eng.
	Date of Arrival:	20 Nov. 1800	Date of Arrival:	20 Nov. 1800
	Ship:	<i>Royal Admiral II</i>	Ship:	<i>Royal Admiral II</i>
	Children:	3	Children:	3
	Other Marriages:	No	Other Marriages:	No
	Date of Death:	1826	Date of Death:	1832
	Place of Death:	Syd.	Place of Death:	Syd.

31.	Name:	Palmer, Jane	Name:	Palmer, Joshua
	Date of Birth:	?	Date of Birth:	1750
	Place of Birth:	?	Place of Birth:	?
	Date of Arrival:	20 Nov. 1800	Date of Arrival:	20 Nov. 1800
	Ship:	<i>Royal Admiral II</i>	Ship:	<i>Royal Admiral II</i>
	Children:	0	Children:	0
	Other Marriages:	No	Other Marriages:	No
	Date of Death:	1816	Date of Death:	1821
	Place of Death:	Syd.	Place of Death:	Syd.

1801

32.	Name:	Cockrane, Caroline	Name:	Cockrane, George
	Date of Birth:	?	Date of Birth:	?
	Place of Birth:	Eng.?	Place of Birth:	Eng.?
	Date of Arrival:	12 Jun. 1801	Date of Arrival:	12 Jun. 1801
	Ship:	<i>Earl Cornwallis</i>	Ship:	<i>Earl Cornwallis</i>
	Children:	7	Children:	3
	Other Marriages:	1 (1814)	Other Marriages:	No
	Date of Death:	1846	Date of Death:	?
	Place of Death:	NSW	Place of Death:	?

33.	Name:	Mobbs, Ann	Name:	Mobbs, William
	Date of Birth:	1761	Date of Birth:	1773
	Place of Birth:	Eng.	Place of Birth:	Eng.?
	Date of Arrival:	12 Jun. 1801	Date of Arrival:	18 May 1798
	Ship:	<i>Earl Cornwallis</i>	Ship:	<i>Barwell</i>
	Children:	2	Children:	2
	Other Marriages:	No	Other Marriages:	No
	Date of Death:	1850	Date of Death:	1839
34.	Place of Death:	Pennant Hills, NSW	Place of Death:	Parramatta, NSW
	Name:	Puckeridge, Ann	Name:	Puckeridge, Joseph
	Date of Birth:	1778	Date of Birth:	1778
	Place of Birth:	Eng.	Place of Birth:	Eng.
	Date of Arrival:	12 Jun. 1801	Date of Arrival:	12 Jun. 1801
	Ship:	<i>Earl Cornwallis</i>	Ship:	<i>Earl Cornwallis</i>
	Children:	9	Children:	7
	Other Marriages:	1 (1820)	Other Marriages:	No
35.	Date of Death:	1850	Date of Death:	1818
	Place of Death:	Syd.	Place of Death:	Syd.
	Name:	Waldron, Phoebe	Name:	Waldron, John
	Date of Birth:	?	Date of Birth:	1770
	Place of Birth:	Eng.?	Place of Birth:	Eng.
	Date of Arrival:	12 Jun. 1801	Date of Arrival:	12 Jun. 1801
	Ship:	<i>Earl Cornwallis</i>	Ship:	<i>Earl Cornwallis</i>
	Children:	1	Children:	1
36.	Other Marriages:	1 (1813)	Other Marriages:	No
	Date of Death:	1816	Date of Death:	1812
	Place of Death:	NSW	Place of Death:	Syd.
	Name:	Mason, Mrs	Name:	Mason, Martin
	Date of Birth:	1763	Date of Birth:	1765
	Place of Birth:	Ire.?	Place of Birth:	Ire.?
	Date of Arrival:	14 Dec. 1801	Date of Arrival:	27 May 1798

	Ship:	<i>Canada</i>	Ship:	<i>Britannia II</i>
	Children:	5	Children:	5
	Other Marriages:	No	Other Marriages:	No
	Date of Death:	1822	Date of Death:	1812
	Place of Death:	Parramatta, NSW	Place of Death:	Eng.
37.	Name:	Colletts, Mary	Name:	Colletts, Pierce
	Date of Birth:	1771	Date of Birth:	1771
	Place of Birth:	Eng.	Place of Birth:	Eng.
	Date of Arrival:	14 Dec. 1801	Date of Arrival:	14 Dec. 1801
	Ship:	<i>Minorca</i>	Ship:	<i>Minorca</i>
	Children:	7	Children:	7
	Other Marriages:	No	Other Marriages:	No
	Date of Death:	1841	Date of Death:	1848
	Place of Death:	Mt York, NSW	Place of Death:	Hartey, NSW
38.	Name:	Driver, Elizabeth	Name:	Driver, John
	Date of Birth:	?	Date of Birth:	1751
	Place of Birth:	?	Place of Birth:	Eng.
	Date of Arrival:	14 Dec. 1801	Date of Arrival:	18 May 1798
	Ship:	<i>Minorca</i>	Ship:	<i>Barwell</i>
	Children:	5	Children:	5
	Other Marriages:	1 (1810)	Other Marriages:	No
	Date of Death:	?	Date of Death:	1810
	Place of Death:	?	Place of Death:	Syd.
39.	Name:	Hayden, Mary	Name:	Hayden, William
	Date of Birth:	?	Date of Birth:	?
	Place of Birth:	?	Place of Birth:	?
	Date of Arrival:	14 Dec. 1801	Date of Arrival:	14 Dec. 1801
	Ship:	<i>Minorca</i>	Ship:	<i>Minorca</i>
	Children:	?	Children:	?
	Other Marriages:	?	Other Marriages:	?
	Date of Death:	?	Date of Death:	?
	Place of Death:	?	Place of Death:	?

40.	Name:	Piper, Sarah	Name:	Piper, Francis
	Date of Birth:	1783	Date of Birth:	1770
	Place of Birth:	?	Place of Birth:	Eng.
	Date of Arrival:	14 Dec. 1801	Date of Arrival:	14 Dec. 1801
	Ship:	<i>Minorca</i>	Ship:	<i>Minorca</i>
	Children:	6	Children:	6
	Other Marriages:	No	Other Marriages:	No
	Date of Death:	1841	Date of Death:	1844
	Place of Death:	NSW	Place of Death:	Syd.
41.	Name:	Wright, Mary	Name:	Wright, William
	Date of Birth:	1756	Date of Birth:	1752?
	Place of Birth:	?	Place of Birth:	?
	Date of Arrival:	14 Dec. 1801	Date of Arrival:	14 Dec. 1801
	Ship:	<i>Minorca</i>	Ship:	<i>Minorca</i>
	Children:	4	Children:	?
	Other Marriages:	No	Other Marriages:	?
	Date of Death:	?	Date of Death:	?
	Place of Death:	?	Place of Death:	?
42.	Name:	Bartlet, Ann	Name:	Bartlet, Thomas
	Date of Birth:	1761	Date of Birth:	1753
	Place of Birth:	?	Place of Birth:	Eng.
	Date of Arrival:	14 Dec. 1801	Date of Arrival:	18 May 1798
	Ship:	<i>Nile</i>	Ship:	<i>Barwell</i>
	Children:	2	Children:	2
	Other Marriages:	?	Other Marriages:	No
	Date of Death:	?	Date of Death:	1817
	Place of Death:	?	Place of Death:	Syd.
43.	Name:	McCarthy, Hannah	Name:	McCarthy, Thomas
	Date of Birth:	?	Date of Birth:	1775
	Place of Birth:	?	Place of Birth:	?
	Date of Arrival:	14 Dec. 1801	Date of Arrival:	14 Dec. 1801

Ship: *Nile*
 Children: 2
 Other Marriages: ?
 Date of Death: ?
 Place of Death: ?

Ship: *Canada*
 Children: ?
 Other Marriages: ?
 Date of Death: ?
 Place of Death: ?

1802

44. Name: Peasley, Elizabeth Name: Peasley, John
 Date of Birth: 1779 Date of Birth: 1775
 Place of Birth: Eng.?
 Date of Arrival: 4 Aug. 1802 Date of Arrival: 4 Aug. 1802
 Ship: *Perseus* Ship: *Perseus*
 Children: 6 Children: 6
 Other Marriages: No Other Marriages: No
 Date of Death: 1863 Date of Death: 1828
 Place of Death: Parramatta, NSW Place of Death: Parramatta, NSW
45. Name: Stanley, Catherine Name: Stanley, Samuel
 Date of Birth: 1780 Date of Birth: 1781
 Place of Birth: ? Place of Birth: ?
 Date of Arrival: 4 Aug. 1802 Date of Arrival: 4 Aug. 1802
 Ship: *Perseus* Ship: *Perseus*
 Children: ? Children: 0?
 Other Marriages: ? Other Marriages: No
 Date of Death: ? Date of Death: 1821
 Place of Death: ? Place of Death: Castlereagh, NSW

1803

46. Name: Alcorn, Sarah Name: Alcorn, Richard
 Date of Birth: 1776 Date of Birth: 1771
 Place of Birth: Eng.?
 Date of Arrival: 11 Mar. 1803 Date of Arrival: 11 Mar. 1803
 Ship: *Glatton* Ship: *Glatton*
 Children: 5 Children: 5
 Other Marriages: No Other Marriages: No

	Date of Death:	1832	Date of Death:	1812
	Place of Death:	Windsor, NSW	Place of Death:	Windsor, NSW
47.	Name:	Deakin, Elizabeth	Name:	Deakin, James
	Date of Birth:	?	Date of Birth:	?
	Place of Birth:	?	Place of Birth:	?
	Date of Arrival:	11 Mar. 1803	Date of Arrival:	11 Mar. 1803
	Ship:	<i>Glatton</i>	Ship:	<i>Glatton</i>
	Children:	?	Children:	?
	Other Marriages:	?	Other Marriages:	?
	Date of Death:	?	Date of Death:	?
	Place of Death:	?	Place of Death:	?
48.	Name:	Green, Elizabeth	Name:	Green, Jonathan
	Date of Birth:	1780	Date of Birth:	1774
	Place of Birth:	Eng.?	Place of Birth:	Eng.
	Date of Arrival:	11 Mar. 1803	Date of Arrival:	11 Mar. 1803
	Ship:	<i>Glatton</i>	Ship:	<i>Glatton</i>
	Children:	9	Children:	9
	Other Marriages:	No	Other Marriages:	No
	Date of Death:	1849	Date of Death:	1841
	Place of Death:	Syd.	Place of Death:	Syd.
49.	Name:	Grimshaw, Mary	Name:	Grimshaw, Richard
	Date of Birth:	1767	Date of Birth:	1768
	Place of Birth:	Eng.	Place of Birth:	Eng.
	Date of Arrival:	11 Mar. 1803	Date of Arrival:	11 Mar. 1803
	Ship:	<i>Glatton</i>	Ship:	<i>Glatton</i>
	Children:	4	Children:	4
	Other Marriages:	?	Other Marriages:	?
	Date of Death:	1834	Date of Death:	1822
	Place of Death:	Parramatta, NSW	Place of Death:	NSW
50.	Name:	McGuire, Catherine	Name:	McGuire, Peter
	Date of Birth:	?	Date of Birth:	1766

Place of Birth:	?	Place of Birth:	?
Date of Arrival:	11 Mar. 1803	Date of Arrival:	11 Mar. 1803
Ship:	<i>Glatton</i>	Ship:	<i>Glatton</i>
Children:	0?	Children:	0?
Other Marriages:	No?	Other Marriages:	No?
Date of Death:	?	Date of Death:	1841
Place of Death:	?	Place of Death:	Hobart, Tas.

51.	Name:	Melville, Elizabeth	Name:	Melville, Robert
	Date of Birth:	1770	Date of Birth:	1771
	Place of Birth:	Scot.?	Place of Birth:	Scot.
	Date of Arrival:	11 Mar. 1803	Date of Arrival:	11 Mar. 1803
	Ship:	<i>Glatton</i>	Ship:	<i>Glatton</i>
	Children:	5	Children:	5
	Other Marriages:	No	Other Marriages:	No
	Date of Death:	1841	Date of Death:	1853
	Place of Death:	Syd.	Place of Death:	Syd.

52.	Name:	Paul, Frances	Name:	Paul, Henry
	Date of Birth:	1761	Date of Birth:	1761
	Place of Birth:	?	Place of Birth:	?
	Date of Arrival:	11 Mar. 1803	Date of Arrival:	11 Mar. 1803
	Ship:	<i>Glatton</i>	Ship:	<i>Glatton</i>
	Children:	1	Children:	1
	Other Marriages:	?	Other Marriages:	?
	Date of Death:	1827	Date of Death:	?
	Place of Death:	Castlereagh, NSW	Place of Death:	?

53.	Name:	Pickett, Mary	Name:	Pickett, Henry
	Date of Birth:	1774	Date of Birth:	?
	Place of Birth:	?	Place of Birth:	?
	Date of Arrival:	11 Mar. 1803	Date of Arrival:	11 Mar. 1803
	Ship:	<i>Glatton</i>	Ship:	<i>Glatton</i>
	Children:	4	Children:	4
	Other Marriages:	?	Other Marriages:	No

	Date of Death:	?	Date of Death:	1806
	Place of Death:	?	Place of Death:	Syd.
54.	Name:	Pugh, Ann	Name:	Pugh, Samuel
	Date of Birth:	1776	Date of Birth:	?
	Place of Birth:	?	Place of Birth:	?
	Date of Arrival:	11 Mar. 1803	Date of Arrival:	11 Mar. 1803
	Ship:	<i>Glatton</i>	Ship:	<i>Glatton</i>
	Children:	3	Children:	3
	Other Marriages:	No	Other Marriages:	No
	Date of Death:	?	Date of Death:	?
	Place of Death:	?	Place of Death:	?
55.	Name:	Rowe, Ann	Name:	Rowe, George
	Date of Birth:	?	Date of Birth:	1769
	Place of Birth:	?	Place of Birth:	?
	Date of Arrival:	11 Mar. 1803	Date of Arrival:	11 Mar. 1803
	Ship:	<i>Glatton</i>	Ship:	<i>Glatton</i>
	Children:	2	Children:	2
	Other Marriages:	?	Other Marriages:	1 (1821)
	Date of Death:	?	Date of Death:	1845?
	Place of Death:	?	Place of Death:	NSW
56.	Name:	Stabler, Rosetta	Name:	Stabler, William
	Date of Birth:	1767	Date of Birth:	1765
	Place of Birth:	Eng.?	Place of Birth:	Eng.
	Date of Arrival:	11 Mar. 1803	Date of Arrival:	11 Mar. 1803
	Ship:	<i>Glatton</i>	Ship:	<i>Glatton</i>
	Children:	0	Children:	0
	Other Marriages:	No	Other Marriages:	1 (1821)
	Date of Death:	1810	Date of Death:	1828?
	Place of Death:	Windsor, NSW	Place of Death:	Eng.?
57.	Name:	Brown, Eleanor	Name:	Brown, Richard
	Date of Birth:	?	Date of Birth:	?

Place of Birth:	?	Place of Birth:	Ire.?
Date of Arrival:	12 May 1803	Date of Arrival:	12 May 1803
Ship:	<i>Rolla</i>	Ship:	<i>Rolla</i>
Children:	6	Children:	6?
Other Marriages:	?	Other Marriages:	?
Date of Death:	?	Date of Death:	?
Place of Death:	?	Place of Death:	?

58.	Name:	Doyle, Sophia	Name:	Doyle, Andrew
	Date of Birth:	1772	Date of Birth:	1776
	Place of Birth:	Ire.?	Place of Birth:	Ire.
	Date of Arrival:	12 May 1803	Date of Arrival:	12 May 1803
	Ship:	<i>Rolla</i>	Ship:	<i>Rolla</i>
	Children:	5?	Children:	5?
	Other Marriages:	No	Other Marriages:	No
	Date of Death:	1855	Date of Death:	1841
	Place of Death:	Sackville, NSW	Place of Death:	Windsor

1804

59.	Name:	Bevan, Ann	Name:	Bevan, John
	Date of Birth:	1768	Date of Birth:	1760
	Place of Birth:	?	Place of Birth:	?
	Date of Arrival:	24 Jun. 1804	Date of Arrival:	20 Nov. 1800
	Ship:	<i>Experiment</i>	Ship:	<i>Royal Admiral</i>
	Children:	4	Children:	4
	Other Marriages:	No	Other Marriages:	No
	Date of Death:	1826	Date of Death:	1819
	Place of Death:	Syd.	Place of Death:	Syd.

60.	Name:	Jonquay, Anna Maria	Name:	Jonquay, Anthony
	Date of Birth:	1780	Date of Birth:	1768
	Place of Birth:	?	Place of Birth:	?
	Date of Arrival:	24 Jun. 1804	Date of Arrival:	7 May 1804
	Ship:	<i>Experiment</i>	Ship:	<i>Coromandel</i>
	Children:	1	Children:	1

Other Marriages:	No	Other Marriages:	No
Date of Death:	1826	Date of Death:	1831
Place of Death:	Windsor, NSW	Place of Death:	Windsor, NSW

61.	Name:	May, Grace	Name:	May, James
	Date of Birth:	1779	Date of Birth:	1771?
	Place of Birth:	?	Place of Birth:	?
	Date of Arrival:	24 Jun. 1804	Date of Arrival:	7 May 1804
	Ship:	<i>Experiment</i>	Ship:	<i>Coromandel</i>
	Children:	4	Children:	4
	Other Marriages:	No	Other Marriages:	No
	Date of Death:	1817	Date of Death:	1820
	Place of Death:	Rouse Hill, NSW	Place of Death:	NSW

62.	Name:	Pearce, Mary Ann	Name:	Pearce, Thomas
	Date of Birth:	1772	Date of Birth:	1744
	Place of Birth:	?	Place of Birth:	Eng.
	Date of Arrival:	24 Jun. 1804	Date of Arrival:	7 May 1804
	Ship:	<i>Experiment</i>	Ship:	<i>Coromandel</i>
	Children:	5	Children:	5
	Other Marriages:	?	Other Marriages:	No
	Date of Death:	?	Date of Death:	1831
	Place of Death:	?	Place of Death:	NSW

1806

63.	Name:	Byrne, Sarah	Name:	Byrne, Hugh
	Date of Birth:	1778	Date of Birth:	1778
	Place of Birth:	Ire.	Place of Birth:	Ire.
	Date of Arrival:	15 Feb. 1806	Date of Arrival:	15 Feb. 1806
	Ship:	<i>Tellicherry</i>	Ship:	<i>Tellicherry</i>
	Children:	7	Children:	7
	Other Marriages:	No	Other Marriages:	No
	Date of Death:	1856?	Date of Death:	1842
	Place of Death:	Vic.?	Place of Death:	Campbelltown, NSW

64.	Name:	Dwyer, Mary	Name:	Dwyer, Michael
	Date of Birth:	1778	Date of Birth:	1768
	Place of Birth:	Ire.?	Place of Birth:	Ire.?
	Date of Arrival:	15 Feb. 1806	Date of Arrival:	15 Feb. 1806
	Ship:	<i>Tellicherry</i>	Ship:	<i>Tellicherry</i>
	Children:	3	Children:	3
	Other Marriages:	No	Other Marriages:	No
	Date of Death:	1847	Date of Death:	c.1825
	Place of Death:	NSW	Place of Death:	NSW
65.	Name:	Perfect, Sarah	Name:	Perfect, Henry
	Date of Birth:	1770	Date of Birth:	1748
	Place of Birth:	?	Place of Birth:	Eng.
	Date of Arrival:	11 Apr. 1806	Date of Arrival:	11 Apr. 1806
	Ship:	<i>William Pitt</i>	Ship:	<i>William Pitt</i>
	Children:	0	Children:	0
	Other Marriages:	No	Other Marriages:	?
	Date of Death:	1818	Date of Death:	1879?
	Place of Death:	Syd.	Place of Death:	?
66.	Name:	Reynold, Sarah	Name:	Reynolds, Edward
	Date of Birth:	?	Date of Birth:	1768
	Place of Birth:	?	Place of Birth:	?
	Date of Arrival:	11 Apr. 1806	Date of Arrival:	20 Nov. 1800
	Ship:	<i>William Pitt</i>	Ship:	<i>Royal Admiral</i>
	Children:	3	Children:	3
	Other Marriages:	No	Other Marriages:	?
	Date of Death:	?	Date of Death:	1818
	Place of Death:	?	Place of Death:	Windsor
67.	Name:	Ansell, Mary Ann	Name:	Ansell, James
	Date of Birth:	1773	Date of Birth:	1766?
	Place of Birth:	?	Place of Birth:	?
	Date of Arrival:	12 Jul. 1806	Date of Arrival:	12 Jul. 1806
	Ship:	<i>Fortune</i>	Ship:	<i>Fortune</i>

	Children:	0	Children:	0
	Other Marriages:	No	Other Marriages:	No
	Date of Death:	1851?	Date of Death:	1848
	Place of Death:	NSW	Place of Death:	Parramatta, NSW
68.	Name:	Clarkson, Catherine	Name:	Clarkson, Thomas
	Date of Birth:	1782	Date of Birth:	1757
	Place of Birth:	?	Place of Birth:	?
	Date of Arrival:	20 Aug. 1806	Date of Arrival:	20 Aug. 1806
	Ship:	<i>Alexander</i>	Ship:	<i>Alexander</i>
	Children:	5	Children:	5
	Other Marriages:	No	Other Marriages:	No
	Date of Death:	1839	Date of Death:	1824
	Place of Death:	Minto, NSW	Place of Death:	Syd.
69.	Name:	Hall, Jane	Name:	Hall, John
	Date of Birth:	1768	Date of Birth:	1764
	Place of Birth:	Eng.?	Place of Birth:	Eng.?
	Date of Arrival:	20 Aug. 1806	Date of Arrival:	20 Aug. 1806
	Ship:	<i>Alexander</i>	Ship:	<i>Alexander</i>
	Children:	3	Children:	3
	Other Marriages:	No	Other Marriages:	No
	Date of Death:	1852	Date of Death:	1844
	Place of Death:	Penrith, NSW	Place of Death:	Penrith, NSW
70.	Name:	Lacey, Maria	Name:	Lacey, William
	Date of Birth:	1775	Date of Birth:	1775
	Place of Birth:	?	Place of Birth:	Eng.
	Date of Arrival:	20 Aug. 1806	Date of Arrival:	20 Aug. 1806
	Ship:	<i>Alexander</i>	Ship:	<i>Alexander</i>
	Children:	1	Children:	1
	Other Marriages:	1 (1820)	Other Marriages:	No
	Date of Death:	1857?	Date of Death:	1820
	Place of Death:	Syd.?	Place of Death:	Syd.

71.	Name:	Tibbs, Susannah	Name:	Tibbs, John
	Date of Birth:	1782	Date of Birth:	1776
	Place of Birth:	?	Place of Birth:	Eng.
	Date of Arrival:	20 Aug. 1806	Date of Arrival:	20 Aug. 1806
	Ship:	<i>Alexander</i>	Ship:	<i>Alexander</i>
	Children:	2	Children:	2
	Other Marriages:	No	Other Marriages:	No
	Date of Death:	1826	Date of Death:	1836
	Place of Death:	Tas.	Place of Death:	Launceston, Tas.
72.	Name:	Wiseman, Jane	Name:	Wiseman, Solomon
	Date of Birth:	1776	Date of Birth:	1777
	Place of Birth:	?	Place of Birth:	Eng.
	Date of Arrival:	20 Aug. 1806	Date of Arrival:	20 Aug. 1806
	Ship:	<i>Alexander</i>	Ship:	<i>Alexander</i>
	Children:	7	Children:	7
	Other Marriages:	No	Other Marriages:	1 (1826)
	Date of Death:	1821	Date of Death:	1838
	Place of Death:	Wisemans Ferry, NSW	Place of Death:	Wisemans Ferry, NSW
1807				
73.	Name:	Tull, Dorothy Sophia	Name:	Tull, John
	Date of Birth:	1762	Date of Birth:	1772
	Place of Birth:	?	Place of Birth:	?
	Date of Arrival:	27 Jul. 1807	Date of Arrival:	26 Jul. 1799
	Ship:	<i>Duke of Portland</i>	Ship:	<i>Hillsborough</i>
	Children:	0	Children:	0
	Other Marriages:	1 (1829)	Other Marriages:	No
	Date of Death:	1834	Date of Death:	1817
	Place of Death:	Glebe, NSW	Place of Death:	Parramatta, NSW
1808				
74.	Name:	Dwyer, Elizabeth	Name:	Dwyer, John
	Date of Birth:	1792	Date of Birth:	1774
	Place of Birth:	Ire.?	Place of Birth:	Ire.

Date of Arrival: 16 Nov. 1808
 Ship: *Speke*
 Children: 6
 Other Marriages: ?
 Date of Death: ?
 Place of Death: ?

Date of Arrival: 30 Oct. 1802
 Ship: *Atlas*
 Children: 6
 Other Marriages: ?
 Date of Death: 1844?
 Place of Death: NSW?

1809

75.	Name:	Post, Mary	Name:	Post, Dyson
	Date of Birth:	1783	Date of Birth:	1785
	Place of Birth:	Eng.	Place of Birth:	Eng.
	Date of Arrival:	26 Jan. 1809	Date of Arrival:	20 Dec. 1808
	Ship:	<i>Aeolus</i>	Ship:	<i>Admiral Gambier</i>
	Children:	2	Children:	2
	Other Marriages:	No	Other Marriages:	No
	Date of Death:	1837	Date of Death:	1842
	Place of Death:	Parramatta, NSW	Place of Death:	NSW

1810

76.	Name:	Jones, Hannah	Name:	Jones, Roger
	Date of Birth:	1783	Date of Birth:	1778
	Place of Birth:	?	Place of Birth:	?
	Date of Arrival:	27 Feb. 1810	Date of Arrival:	27 Feb. 1810
	Ship:	<i>Anne II</i>	Ship:	<i>Anne II</i>
	Children:	2	Children:	2
	Other Marriages:	?	Other Marriages:	No
	Date of Death:	?	Date of Death:	1817
	Place of Death:	?	Place of Death:	Syd.

1811

77.	Name:	Chartres, Martha	Name:	Chartres, George
	Date of Birth:	?	Date of Birth:	1786
	Place of Birth:	Ire.?	Place of Birth:	Ire.
	Date of Arrival:	2 Jul. 1811	Date of Arrival:	2 Jul. 1811
	Ship:	<i>Providence</i>	Ship:	<i>Providence</i>

Children: ?
 Other Marriages: No
 Date of Death: ?
 Place of Death: Ire.?

Children: ?
 Other Marriages: No
 Date of Death: ?
 Place of Death: Ire.?

78.	Name:	Fitzpatrick, Catherine	Name:	Fitzpatrick, Bernard
	Date of Birth:	1788	Date of Birth:	1788
	Place of Birth:	Ire.	Place of Birth:	Ire.
	Date of Arrival:	2 Jul. 1811	Date of Arrival:	2 Jul. 1811
	Ship:	<i>Providence</i>	Ship:	<i>Providence</i>
	Children:	4	Children:	4
	Other Marriages:	No	Other Marriages:	No
	Date of Death:	?	Date of Death:	1857?
	Place of Death:	?	Place of Death:	Camden, NSW?

79.	Name:	Tindall, Charlotte	Name:	Tindall, John
	Date of Birth:	1781	Date of Birth:	1778
	Place of Birth:	?	Place of Birth:	Eng.
	Date of Arrival:	10 Oct. 1811	Date of Arrival:	16 Dec. 1810
	Ship:	<i>Friends</i>	Ship:	<i>Indian</i>
	Children:	6	Children:	6
	Other Marriages:	No	Other Marriages:	No
	Date of Death:	?	Date of Death:	1867?
	Place of Death:	?	Place of Death:	Echuca, Vic.?

1812

80.	Name:	Bradbury, Alice	Name:	Bradbury, William
	Date of Birth:	1776	Date of Birth:	1774
	Place of Birth:	?	Place of Birth:	Eng.
	Date of Arrival:	18 Jan. 1812	Date of Arrival:	18 Jan. 1812
	Ship:	<i>Guilford</i>	Ship:	<i>Guilford</i>
	Children:	0	Children:	?
	Other Marriages:	No?	Other Marriages:	?
	Date of Death:	?	Date of Death:	1835
	Place of Death:	?	Place of Death:	Syd.

81.	Name:	Simpson, Jane Sophia	Name:	Simpson, William
	Date of Birth:	1792	Date of Birth:	1792
	Place of Birth:	?	Place of Birth:	?
	Date of Arrival:	25 Oct. 1812	Date of Arrival:	18 Jan. 1812
	Ship:	<i>Minstrel</i>	Ship:	<i>Guilford</i>
	Children:	0	Children:	0
	Other Marriages:	1 (1830)	Other Marriages:	No
	Date of Death:	?	Date of Death:	1829
	Place of Death:	?	Place of Death:	?

82.	Name:	Warner, Sophia	Name:	Warner, William
	Date of Birth:	1788	Date of Birth:	1786.
	Place of Birth:	Eng.?	Place of Birth:	Eng.
	Date of Arrival:	25 Oct. 1812	Date of Arrival:	29 Sep. 1811
	Ship:	<i>Minstrel</i>	Ship:	<i>Admiral Gambier</i>
	Children:	0	Children:	0
	Other Marriages:	1 (1826)	Other Marriages:	No
	Date of Death:	1870	Date of Death:	1825
	Place of Death:	London, Eng.	Place of Death:	Hawkesbury, NSW

1813

83.	Name:	Hall, Jane	Name:	Hall, Walter
	Date of Birth:	1778	Date of Birth:	1787
	Place of Birth:	Ire.?	Place of Birth:	Ire.
	Date of Arrival:	16 Feb. 1813	Date of Arrival:	16 Feb. 1813
	Ship:	<i>Archduke Charles</i>	Ship:	<i>Archduke Charles</i>
	Children:	2	Children:	2
	Other Marriages:	No	Other Marriages:	?
	Date of Death:	1852?	Date of Death:	?
	Place of Death:	Syd.?	Place of Death:	?

1814

84.	Name:	Box, Mary	Name:	Box, Stephen
	Date of Birth:	1785	Date of Birth:	1785

Place of Birth:	Eng.	Place of Birth:	Eng.
Date of Arrival:	10 Jan. 1814	Date of Arrival:	11 Jun. 1813
Ship:	<i>Kangaroo</i>	Ship:	<i>Fortune</i>
Children:	7	Children:	7
Other Marriages:	No	Other Marriages:	No
Date of Death:	1840	Date of Death:	1843
Place of Death:	Syd.	Place of Death:	Parramatta, NSW

85.	Name:	Dawkins, Mary	Name:	Dawkins, George
	Date of Birth:	1780	Date of Birth:	1776
	Place of Birth:	?	Place of Birth:	Eng.
	Date of Arrival:	10 Jan. 1814	Date of Arrival:	9 Oct. 1813
	Ship:	<i>Kangaroo</i>	Ship:	<i>Earl Spencer</i>
	Children:	3	Children:	3
	Other Marriages:	?	Other Marriages:	?
	Date of Death:	?	Date of Death:	1856?
	Place of Death:	?	Place of Death:	NSW
86.	Name:	Hitchcock, Sarah	Name:	Hitchcock, Benjamin
	Date of Birth:	1783	Date of Birth:	1780
	Place of Birth:	?	Place of Birth:	Eng.
	Date of Arrival:	10 Jan. 1814	Date of Arrival:	11 Jun. 1813
	Ship:	<i>Kangaroo</i>	Ship:	<i>Fortune</i>
	Children:	3	Children:	3
	Other Marriages:	No	Other Marriages:	No
	Date of Death:	1846	Date of Death:	1849
	Place of Death:	Syd.	Place of Death:	NSW
87.	Name:	Jennings, Maria	Name:	Jennings, Jonathan
	Date of Birth:	1789	Date of Birth:	1787
	Place of Birth:	?	Place of Birth:	Eng.
	Date of Arrival:	10 Jan. 1814	Date of Arrival:	27 Feb. 1810
	Ship:	<i>Kangaroo</i>	Ship:	<i>Anne</i>
	Children:	?	Children:	?
	Other Marriages:	1 (1829)	Other Marriages:	No

	Date of Death:	1833?	Date of Death:	c.1828
	Place of Death:	Parramatta, NSW?	Place of Death:	Syd.
88.	Name:	Middleton, Sarah	Name:	Middleton, William
	Date of Birth:	1789	Date of Birth:	1775
	Place of Birth:	?	Place of Birth:	Eng.
	Date of Arrival:	10 Jan. 1814	Date of Arrival:	9 Oct. 1813
	Ship:	<i>Kangaroo</i>	Ship:	<i>Earl Spencer</i>
	Children:	6	Children:	6
	Other Marriages:	No	Other Marriages:	No
	Date of Death:	1836	Date of Death:	1828
	Place of Death:	Campbelltown, NSW	Place of Death:	Campbelltown, NSW
89.	Name:	Tindale, Jane	Name:	Tindale, Daniel
	Date of Birth:	1782	Date of Birth:	1759
	Place of Birth:	?	Place of Birth:	Eng.
	Date of Arrival:	10 Jan. 1814	Date of Arrival:	?
	Ship:	<i>Kangaroo</i>	Ship:	?
	Children:	8?	Children:	8
	Other Marriages:	1 (1829)	Other Marriages:	No
	Date of Death:	1854	Date of Death:	1827
	Place of Death:	Liverpool, NSW	Place of Death:	Syd.
90.	Name:	Wheeler, Esther	Name:	Wheeler, James
	Date of Birth:	1782	Date of Birth:	1759
	Place of Birth:	?	Place of Birth:	Eng.
	Date of Arrival:	7 Feb. 1814	Date of Arrival:	9 Oct. 1813
	Ship:	<i>General Hewitt</i>	Ship:	<i>Earl Spencer</i>
	Children:	1	Children:	1
	Other Marriages:	No	Other Marriages:	No
	Date of Death:	1828	Date of Death:	1840
	Place of Death:	Syd.	Place of Death:	Windsor, NSW?
91.	Name:	Blade, Sarah	Name:	Blade, Thomas
	Date of Birth:	1783	Date of Birth:	1779

Place of Birth:	?	Place of Birth:	Eng.
Date of Arrival:	28 Jul. 1814	Date of Arrival:	28 Jul. 1814
Ship:	<i>Broxbornebury</i>	Ship:	<i>Surry</i>
Children:	3	Children:	3
Other Marriages:	1 (1818)	Other Marriages:	No
Date of Death:	?	Date of Death:	1815
Place of Death:	Syd.	Place of Death:	Syd.

92.	Name:	Bogg, Mary	Name:	Bogg, Robert
	Date of Birth:	1769	Date of Birth:	1769
	Place of Birth:	Eng.?	Place of Birth:	Eng.
	Date of Arrival:	28 Jul. 1814	Date of Arrival:	7 Feb. 1814
	Ship:	<i>Broxbornebury</i>	Ship:	<i>General Hewitt</i>
	Children:	7	Children:	8
	Other Marriages:	No	Other Marriages:	1 (1826)
	Date of Death:	1819	Date of Death:	1829
	Place of Death:	Syd.	Place of Death:	Syd.

93.	Name:	Byfield, Elizabeth	Name:	Byfield, Mark
	Date of Birth:	1782?	Date of Birth:	?
	Place of Birth:	?	Place of Birth:	Eng.
	Date of Arrival:	28 Jul. 1814	Date of Arrival:	7 Feb. 1814
	Ship:	<i>Broxbornebury</i>	Ship:	<i>General Hewitt</i>
	Children:	1	Children:	3?
	Other Marriages:	No	Other Marriages:	?
	Date of Death:	1820?	Date of Death:	1829
	Place of Death:	Syd?	Place of Death:	Syd.

94.	Name:	Cross, Jane	Name:	Cross, Robert
	Date of Birth:	1790	Date of Birth:	1786
	Place of Birth:	Eng.	Place of Birth:	Eng.
	Date of Arrival:	28 Jul. 1814	Date of Arrival:	28 Jul. 1814
	Ship:	<i>Broxbornebury</i>	Ship:	<i>Surrey</i>
	Children:	7?	Children:	9?
	Other Marriages:	No?	Other Marriages:	2? (1833 and 1842)

	Date of Death:	1841?	Date of Death:	1864
	Place of Death:	Liverpool, NSW?	Place of Death:	West Maitland, NSW
95.	Name:	Furnance, Mary	Name:	Furnance, John
	Date of Birth:	1791	Date of Birth:	1791
	Place of Birth:	?	Place of Birth:	Eng.
	Date of Arrival:	28 Jul. 1814	Date of Arrival:	7 Feb. 1814
	Ship:	<i>Broxbornebury</i>	Ship:	<i>General Hewitt</i>
	Children:	8	Children:	8
	Other Marriages:	No	Other Marriages:	No
	Date of Death:	1860	Date of Death:	1860
	Place of Death:	St Albans, NSW	Place of Death:	St Albans, NSW
96.	Name:	Greenway, Mary	Name:	Greenway, Francis
	Date of Birth:	1789	Date of Birth:	1780
	Place of Birth:	Eng.	Place of Birth:	Eng.
	Date of Arrival:	28 Jul. 1814	Date of Arrival:	7 Feb. 1814
	Ship:	<i>Broxbornebury</i>	Ship:	<i>General Hewitt</i>
	Children:	6	Children:	6
	Other Marriages:	No	Other Marriages:	?
	Date of Death:	1832?	Date of Death:	1837
	Place of Death:	Syd.	Place of Death:	Syd.
97.	Name:	Henshaw, Hannah	Name:	Henshaw, John
	Date of Birth:	1778	Date of Birth:	1779
	Place of Birth:	?	Place of Birth:	Eng.
	Date of Arrival:	28 Jul. 1814	Date of Arrival:	28 Jul. 1814
	Ship:	<i>Broxbornebury</i>	Ship:	<i>Surry</i>
	Children:	2	Children:	2
	Other Marriages:	No	Other Marriages:	No
	Date of Death:	1826?	Date of Death:	1840?
	Place of Death:	Syd.	Place of Death:	Syd?
98.	Name:	Howell, Elizabeth	Name:	Howell, Joshua
	Date of Birth:	1785	Date of Birth:	1784

	Place of Birth:	?	Place of Birth:	Eng.
	Date of Arrival:	28 Jul. 1814	Date of Arrival:	7 Feb. 1814
	Ship:	<i>Broxbornebury</i>	Ship:	<i>General Hewitt</i>
	Children:	2	Children:	2
	Other Marriages:	No	Other Marriages:	No
	Date of Death:	1815	Date of Death:	1815
	Place of Death:	Syd.	Place of Death:	Syd.
99.	Name:	Ireland, Hannah	Name:	Ireland, Edmund
	Date of Birth:	1788	Date of Birth:	1770
	Place of Birth:	Eng.?	Place of Birth:	Eng.?
	Date of Arrival:	28 Jul. 1814	Date of Arrival:	18 Jan. 1812
	Ship:	<i>Broxbornebury</i>	Ship:	<i>Guilford</i>
	Children:	6	Children:	6
	Other Marriages:	1 (1823)	Other Marriages:	No
	Date of Death:	1830	Date of Death:	1822
	Place of Death:	Syd.	Place of Death:	Syd.
100.	Name:	McNalty, Judith	Name:	McNalty, Patrick
	Date of Birth:	?	Date of Birth:	1788
	Place of Birth:	?	Place of Birth:	Ire.
	Date of Arrival:	28 Jul. 1814	Date of Arrival:	28 Jul. 1814
	Ship:	<i>Broxbornebury</i>	Ship:	<i>Surry</i>
	Children:	6	Children:	6
	Other Marriages:	?	Other Marriages:	?
	Date of Death:	?	Date of Death:	?
	Place of Death:	?	Place of Death:	?
101.	Name:	McPherson, Mary	Name:	McPherson, Peter
	Date of Birth:	1781	Date of Birth:	1782
	Place of Birth:	Ire.?	Place of Birth:	Ire.
	Date of Arrival:	28 Jul. 1814	Date of Arrival:	16 Oct. 1814
	Ship:	<i>Broxbornebury</i>	Ship:	<i>Somersetshire</i>
	Children:	5	Children:	5
	Other Marriages:	No	Other Marriages:	No

	Date of Death:	1840	Date of Death:	1837
	Place of Death:	Syd.	Place of Death:	Syd.
102.	Name:	Newsham, Susan	Name:	Newsham, Joseph
	Date of Birth:	?	Date of Birth:	1784
	Place of Birth:	?	Place of Birth:	Eng.
	Date of Arrival:	28 Jul. 1814	Date of Arrival:	11 Jun. 1813
	Ship:	<i>Broxbornebury</i>	Ship:	<i>Fortune</i>
	Children:	3	Children:	3
	Other Marriages:	?	Other Marriages:	?
	Date of Death:	?	Date of Death:	?
	Place of Death:	?	Place of Death:	?
103.	Name	Robinson, Hannah	Name:	Robinson, Richard
	Date of Birth:	1784	Date of Birth:	1790
	Place of Birth:	Eng.	Place of Birth:	Eng.
	Date of Arrival:	28 Jul. 1814	Date of Arrival:	28 Jul. 1814
	Ship:	<i>Broxbornebury</i>	Ship:	<i>Surrey</i>
	Children:	8	Children:	8
	Other Marriages:	No	Other Marriages:	No
	Date of Death:	1845	Date of Death:	1868
	Place of Death:	NSW	Place of Death:	Rope Creek, NSW
104.	Name:	Toole, Sarah	Name:	Toole, Bernard
	Date of Birth:	1791	Date of Birth:	1790
	Place of Birth:	?	Place of Birth:	Ire.
	Date of Arrival:	28 Jul. 1814	Date of Arrival:	16 Oct. 1814
	Ship:	<i>Broxbornebury</i>	Ship:	<i>Somersetshire</i>
	Children:	6	Children:	6
	Other Marriages:	No	Other Marriages:	?
	Date of Death:	1878	Date of Death:	1890?
	Place of Death:	Syd.	Place of Death:	Campbelltown, NSW
105.	Name:	Whitaker, Ann	Name:	Whitaker, Thomas
	Date of Birth:	1788	Date of Birth:	1774

Place of Birth:	Eng.	Place of Birth:	Eng.
Date of Arrival:	28 Jul. 1814	Date of Arrival:	28 Jul. 1814
Ship:	<i>Broxbornebury</i>	Ship:	<i>Surry</i>
Children:	2	Children:	2
Other Marriages:	1 (1825)	Other Marriages:	No
Date of Death:	1834	Date of Death:	1823
Place of Death:	NSW	Place of Death:	Syd.

106.	Name:	Wise, Elizabeth	Name:	Wise, Richard
	Date of Birth:	1776	Date of Birth:	1779
	Place of Birth:	Eng.	Place of Birth:	Eng.
	Date of Arrival:	28 Jul. 1814	Date of Arrival:	9 Oct. 1813
	Ship:	<i>Broxbornebury</i>	Ship:	<i>Earl Spencer</i>
	Children:	8	Children:	8
	Other Marriages:	No	Other Marriages:	No
	Date of Death:	1864	Date of Death:	1850
	Place of Death:	Longford, Tas.	Place of Death:	Longford, Tas.

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