Chapter One

'Out at nights'

Late on the evening of 25 March 1837, two men stole onto the land of Thomas Ash a tenant farmer of Brenchley in Kent. There they caught and skinned three lambs and made off with the carcasses, having first thrown the skins into an adjoining field. The fleeces were discovered by Ash the next day and taken to the police station at Tunbridge Wells where they were identified by their owner, a Sussex farmer Samuel Pix. Acting on 'information received', the police superintendent, John Thompson, went with Pix to the house of Thomas Hickmott where they discovered a 'quantity of lamb or mutton' hanging in one of the bedrooms. They immediately proceeded to Thomas' place of work only to find he had left a few minutes earlier. At the same time another policeman, John Start, rode out to Thomas' younger brother Samuel Hickmott's cottage on Windmill Field. There he found 'a quantity of mutton cut into small pieces amounting together to about 15 to 20 pounds weight' but, again, no Hickmott. Not everyone, it seems, had it in for the brothers.

The parties returned to the police station where two local butchers were employed to fit the meat to the skins. When this was achieved to the satisfaction of all concerned, warrants were issued for the brothers' arrest. Thomas and Samuel were not apprehended, however, until 5 December 1839 when, following another tip-off, they were arrested by Thompson at the 'Brighton Railway'. In his statement to the local magistrate, Robert Willis Blencowe Esquire, Thompson reported that when arrested, Samuel 'wanted to know why I took them into custody'. The superintendent told them who he was and then said 'now you know I suppose'. Samuel was said to have replied 'Yes but I am innocent' and Thomas the same. When Blencowe asked what each had to say in their defence, Thomas stated that the meat was not found in the premises he occupied, but 'in a room which I let to William Wood who is out at nights'. Samuel's defence was simply that he 'bought the meat in London, and have bought many a store there'.

In spite of these protestations and character references provided by Messes Wibley, for Samuel, and Mitchell for Thomas, the two brothers were committed for trial in the Maidstone Assizes on 2

January 1840. Both were found guilty of stealing the lambs. Thomas' prison record—he had earlier served gaol sentences for poaching and horse stealing—together with his 'notoriously bad character' meant that he attracted a life sentence to be served in the penal colony of Van Diemen's Land. Samuel whose character was merely 'bad' was sentenced to ten years transportation to the same place.

The Hickmott brothers thus joined a stream of felons and other social undesirables who, since Elizabethan times, had been expelled from Britain for committing offences against the country's laws, property, persons and sensibilities. The transport of criminals and miscreants to Australia dated from 1786 when Tommy Townsend, an ambitious but otherwise unexceptional politician after whom the greatest city in the world would be named, announced in the House of Lords that, following its cessation during the American War of Independence, the flow of convicts out of Britain would recommence and be directed towards Botany Bay. While Lord Sydney didn't say so, the government's decision was motivated in part by strategic considerations. Alarmed by reports of French expansionism in the Pacific, Prime Minister Pitt and his ministers felt it necessary to establish a settlement at Botany Bay in order to pre-empt any similar move by the country's old adversary. Such a move would also provide Britain's Eastern fleets with more certain access to supplies and, in the event of a war with France or another imperial power, a useful southern support base from which to conduct its maritime operations.

The convicts crowded in the prison hulks located outside London, Portsmouth and Plymouth provided an expedient, if rather expensive, means of satisfying the government's objective. Any political opprobrium associated with the cost of transportation, it was decided, could be minimised by telling the public that it would reduce the pressure on Britain's overcrowded prison system. This would lessen the threat to English society posed by both the prospect of escaping prisoners and the 'infectious distempers' that emanated from the rotting hulks in which the felons were housed. This Lord Sydney did, thereby establishing a precedent of public deception that would be followed by later British and Australian politicians. From its very inception, Australia and its citizens were to be convenient pawns in the grand game of British imperialism.

Not quite twelve months after Lord Sydney's announcement, a first fleet of eight transport and three support ships carrying 1481 souls, their supplies and meagre belongings, set sail from Portsmouth. They were commanded by a sometime British spy and captain in the Royal Navy, Arthur Phillip. The departure of the fleet drew sighs of relief from the town's merchants and many of the convicts on board the ships, but otherwise attracted little curiosity or comment. After a 12,000-mile journey, the first of the ships arrived at Botany Bay on 19 January 1788, just six days ahead of the French explorer La Perouse. By the time of the latter's appearance, Phillip had moved north from Botany Bay to Port Jackson where he had discovered 'the finest harbour in the world, in which a thousand sail of the line might ride in the most perfect security'. Here the latest outpost of the British Empire was formally proclaimed on 8 February 1788 when David Collins, the colony's Judge Advocate-elect, read out to the assembled gathering the commissions appointing Arthur Phillip as Captain-General and Governor-in-Chief of New South Wales.

By the time Samuel and Thomas were taken in chains from Maidstone to the coastal town of Sheerness to await the next available transport ship, over 103,000 male and nearly 18,000 female convicts had made the long and sometimes perilous journey from Britain to the colonies of New South Wales and Van Diemen's Land. While the transportees included some political prisoners and those who had been guilty of such military offences as mutiny or desertion from the ranks, these were relatively few in number. Most had been transported to the colonies for committing offences to property, persons, the game laws and the national coinage, or instead of being hanged for such crimes as housebreaking, robbery and assault. The early convict population tended to be dominated by people who came largely from urban areas, were multiple offenders, had already spent considerable time in prison—where they had been further hardened or corrupted—and were unruly and insubordinate to their gaolers. According to Manning Clark, they tended to be seen by those who had to deal with them as

> ... liars, drunkards and cheats, flash and vulgar in dress, cheeky in addressing their gaolers when on top, but quick to cringe and whine when retribution struck. With hearts and minds unsustained by any of the great hopes of mankind, driven on by the terror of detection, strangers to loyalty, parasites preying on society, fit objects for that eye of pity with which the historian contemplates those on whom the hand of the potter blundered, they were men and women who roused their contemporaries to disgust and to apprehension, but rarely to compassion, and never to hope (Clark, Vol I: 95).

As the social conditions in a rapidly industrialising Britain worsened, and the number held in the country's prisons multiplied, the proportion of 'relatively innocent' transportees—those convicted of such lesser offences as petty larceny, prostitution and poaching—also increased. Among this group were large numbers of Irish peasants who had been forced from their land by absentee landlords and the potato blight, as well as rural workers from the southeast of England. The two brothers had more in common with this second group of convicts than with the dollymops, artful dodgers and catpurses who hailed from such urban 'rookeries' as St. Giles in London. Given their prison records, they could hardly be described as innocents. But nor were they professional criminals or part of the *classe dangereuse* said to be operating within the major towns and cities in early industrial England. Like their Irish counterparts and many other rural felons, they were also older than most of their city cousins—39 and 46 respectively—and had experienced a life beyond crime.

Thomas and Samuel Hickmott were born in the village of Lamberhurst in Kent in 1793 and 1799 respectively. They were part of an extended family of agricultural labourers and small tenant farmers who had moved into the area early in the same century. Before he married Jane Froud in Newington in Surrey in 1824, Thomas served in the 20th Light Dragoons in Spain. The unit, which had been raised in 1791 to help crush the slaves revolt there, was originally known as the Jamaican Light Dragoons which probably explained why Thomas had on his arm a tattoo of an 'African women holding two hearts'. In the domestic chaos that followed the end of the Napoleonic Wars, Thomas spent time in gaol for poaching and horse stealing before marrying and then returning to live in Lamberhurst with his wife and, by 1833, five children.

During this time Samuel laboured and lived in the adjoining township of Pembury where he married a local girl, Harriet Hartridge, in 1820. The couple had three boys—Edward, James, and Henry—before Harriet died in 1825, probably from complications arising from Henry's birth. Samuel then married a 22 year-old spinster, Eliza Tester, in 1829. Eliza, too, died while giving birth to their first son, William. After burying his second wife at Pembury, Samuel also returned to Lamberhurst. On 21 July 1834, the two brothers placed their families into the parish poor house while they looked for work. The local vestry minutes record

that, on 19 January 1835, Thomas requested financial assistance but was granted 'nothing'. The minutes for the meeting on 13 April show that the two brothers had 'begged' for 'some help to remove their families'. This time they were successful and were granted a sum of £3 10s plus a bedstead. Their families were discharged from the poor house the following day and went to live with their fathers at Tunbridge Wells where, four months later, Thomas and Jane's two-year old son, Henry, died.

The lives of the two brothers, and their families, reflected many of the trials and tribulations of the disadvantaged classes in early nineteenth century Britain. While unable to avail himself of the dubious advantages of a public school system that relied 'on the birch to flog a sense of decency and decorum into the posteriors of the gentry and merchant classes' (F. G. Clarke 1992: 66), Thomas would have witnessed at first hand the harshness and arbitrary brutality of 'the best-flogged Army in Europe'; an Army into which free men were press-ganged and where, at the whim of officers who had purchased their right to command, could receive hundreds of lashes for such misdemeanours as insubordination or being improperly dressed. As unskilled labourers in an increasingly industrialised world, both brothers found it hard to obtain work that would pay enough to enable them to support their growing families. As a result they had to deal with a system of social support that was both unfeeling and unhelpful, one that was designed for pre-industrial rather than industrial times. Thomas was regularly incarcerated in the nation's antiquated gaols or, as Henry Fielding described them, 'seminaries of idleness, and common sewers of nastiness and disease' (cited in Hughes, 1988: 38). For much of his early life Samuel managed to avoid this last fate. But whether out of necessity, or under the influence of his older brother, or because he could not resist the lure of night-time poaching and other adventures, he, too, eventually succumbed to a process that led him to the holding cells at Sheerness.

The vessel in which the brothers were transported to Van Diemen's Land was the *Asia I*, a two masted sailing ship of 536 tons. She had been built at Aberdeen in Scotland in 1819 and had ferried convicts to Australia on eight previous occasions. This time the *Asia I* was to depart from Sheerness on 27 April 1840 with 276 male prisoners. These were all from the labouring and working classes and were largely English in origin. Among their number were nineteen from Kent, seven, including Thomas, who had served in the British Army, a gentleman's servant from Poland, a

shopman from Copenhagen and a clerk from Florence in Italy. Prior to their embarkation, the prisoners were thoroughly washed, issued with new clothes and inspected by the ship's superintendent-surgeon—a James Wingate Johnston formerly of the Royal Navy—to ensure they were fit enough to travel and had no infectious or contagious diseases. Since they were allowed by the authorities to do so, it is possible that the families of the two brothers travelled to Sheerness and came on board the *Asia* to bid their fathers and loved ones farewell. This experience would certainly have served to discourage Samuel's son, Henry, from any future life of crime. But it may have also influenced his decision, made a decade later, to give up his job in England and follow his father to Australia.

It is also conceivable that, unlike their families, the two brothers were not unhappy about being transported. The employment opportunities available to them in England were both limited and uncertain especially in view of their prison records. They would have been made aware, from letters sent by friends or associates already in Australia, of how well convicts and former convicts could live in the colonies—earning higher wages than they were able to at home, enjoying good and plentiful food, and even being able to acquire their own land. They may even have heard the following broadside ballad that was being sung in the local taverns at the time:

> I have just arrived from Australia
> Where I have been for change of air;
> And, chaps, I have just come to tell you,
> That there is a lot of jolly living over there.
> *Chorus*
> Where they feed you and they clothe you,
> Better than a working man or soldier –
> Penal servitude is the sort of life for me;
> …
> Give me penal servitude before the Union.
>
> ('Penal Servitude', cited in Anderson, 2000: 55).

Unlike those in Britain's bourgeois society who saw transportation as a punishment, then, many convicts may have seen it as an opportunity to begin life anew or, for those like the Hickmott brothers, to undergo another adventure or escape from their parental and family responsibilities. Transportation entailed some

discomforts and a degree of risk certainly but, viewed from the perspective of Britain's working classes, it also offered prospects that were not necessarily available at home. Even more importantly for some, perhaps, was the further thought that these prospects were being financed by the very society that was casting them out. As we will see, while comforting, such a rose-coloured view of transportation didn't always match with the reality of convict life especially in Tasmania.

On embarkation from Sheerness, the prisoners were divided into small groups or 'messes' of around six men and issued with their bedding, two wooden bowls and a wooden spoon. Since the practice was to keep people with the same regional or ethnic backgrounds together in order to reduce friction, petty stealing and 'mutinous behaviour', it is likely that Samuel and Thomas would have been in the same mess. Thomas' age and military service may also have led him to be elected mess captain, responsible for the orderly conduct of the group and for drawing its rations, or given other supervisory duties by the ship's surgeon. When not parading on deck, the convicts were confined in one of the specially-built prison sections which was located below deck in the ship's centre. These sections—one for juveniles and one for men—comprised two rows of sleeping berths, one above the other, with each berth measuring six foot square and holding four convicts. Needless to say, the prison quarters were dark and gloomy places, often wet and disease-ridden, poorly ventilated and, in rough weather in particular, utterly foul. As Charles Bateson graphically described in his book, *The Convict Ships*:

> The stench of the prison, crowded with perspiring humanity, was indescribable, and even to prisoners inured to the fetid atmosphere of the insanitary gaols and hulks it must have been well-nigh unbearable, particularly in the tropics. The acrid smell of stale bilge water and of mouldy, rotting timber mingled in the still air with the foul odours of closely-packed humanity, and the wonder is that so many prisoners survived the experience, not that so many died under such appalling conditions (Bateson, …: 72).

These appalling conditions, notwithstanding, the prisoners on the *Asia I* fared much better than many of the other convicts who journeyed from England to Australia. Only two convicts died during the 101-day voyage which was a little shorter than the norm and would have been shorter still but for the 'inclement winds' that delayed the ship's passage up the Derwent River. The arrival of *Asia I* was reported briefly and with little fanfare in the 11th August 1840 edition of the *Colonial Times* as follows: 'Aug. 6.

Arrived the barque Asia, 537 tons, Fawcett master, from Sheerness, 27 April with 274 male prisoners—Surgeon Superintendent J. W. Johnston RN formerly of HMS Sulphur, Guard Lieutenant Joyce, 50th Regiment; Ensign Otway, and 30 rank and file, 51st Regiment'. The newspaper provided no details, of course, of the convicts on board.

After docking at the port of Hobart, Samuel and Thomas and their fellow prisoners were inspected by the Port Health Officer and then lined up to be interviewed by the Superintendent of the Prison Barracks at Hobart, the tall and officious William Gunn Esquire, and his attendant clerks. Summoned in alphabetical order they had instantly to appear before the Superintendent when called or suffer 'severe punishment'. On entering the cabin set aside for the interview they were interrogated about their prison records, had their heights measured, their facial features minutely described, and, after being stripped to the waist, their upper bodies scrutinised for scars or other distinguishing marks. All of these details were recorded in the immense, leather-bound registers that were used by Gunn to keep account of every convict in the colony. The registers showed Samuel to be 5 feet 6 inches tall, of florid complexion with hazel eyes and black hair and a black beard which, like those of his descendents, was prematurely grey. They further indicated that he had again married, although there is no mention of to whom. Thomas was five inches taller than Samuel, had blue eyes, a dark complexion, large facial features, and, like his brother, black hair and beard. In addition to the tattoo of the 'African woman holding two hearts' on his right arm, he had one of a 'star flag' on his left arm and wore a ring on his middle finger. Like many of their fellow prisoners, neither brother could read or write although they were both of 'good health'. They would need to be.

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Although probably not realising it, the two brothers had arrived in the country at an important time in its history. Originally intended as an outpost of Empire and useful dumping ground for Britain's unwanted criminal classes, the colony was, by 1840, viewed by the British Government as an important economic as well as a strategic asset. This change of mind was influenced by the fact that the new colony had proven not only to be self-sufficient but productive as well. Sydney and Hobart were no longer garrison townships but important centres of trade and commerce. Their harbours were crowded with ships containing goods from all parts

of Europe, Asia and the Pacific. Vessels arriving with their convict cargoes returned to Britain crammed full with bales of the colony's new staple export, wool. For in the forty years since John Macarthur grazed his first flock of Merinos at Camden, the number of sheep in the colony had expanded dramatically, much of the country's south-eastern hinterland had been traversed by convict shepherds and their flocks, and Australian wool accounted for around half of all the fleece imported by Britain's rapacious industrial mills. The success of the Golden Fleece placed the colony in a new light. British merchants and stockholders saw it as a place in which to invest and rushed to finance such ventures as the Australian Agricultural Company and the Van Diemen's Land Company. The policymakers in the Colonial Office in London saw the colony as an important source of raw materials for the British Empire and began considering whether and how best to encourage the colony's future as a free dominion rather than a penal settlement.

As the colony's economy expanded so did its society. In the beginning there were only convicts and their gaolers. Society congregated around the officers' messes and governors' tables and, as such, was marked by the rum-induced petty squabbles, internecine rivalries, gossip-mongering and slights—both real and imagined—that characterise all military garrisons in peacetime. By the turn of the century society in New South Wales was becoming more stratified and complex. Military officers and convicts still predominated but in between these were now grouped increasing numbers of civilian officials, merchants, settlers, tenanted landholders, artisans and workers comprising both free immigrants and emancipated convicts. As society expanded, the relative influence of the military declined. By 1840 the major players were, in addition to the Governor and his military and civilian aides, a landowning gentry and an emerging colonial bourgeoisie. The former group was made up of the newly-arrived lesser offspring of Britain's moneyed classes as well as those early officials and former officers of the New South Wales Corps—the so-called 'ancient nobility'—who had been granted large tracts of land and had used convict labour to build their fortunes and dynasties. Together they formed the self-styled 'pure merinos' or 'exclusives' who, as Donald Horne described, set the tone of the colony and ran its affairs:

> They became the justices of the peace; the few who imitated the great British landed "improvers" formed agricultural societies and experimented with viticulture, horticulture, the improvement of grain

> and stock, and methods of preserving meat; if public meetings were to be held they preferred to chair them (Horne, 1972: 21).

The latter group was made up of a loose alliance of tradesmen, dealers, farmers and merchants. They were heavily involved in the colony's expanding commercial ventures and were producing an increasing proportion of its agricultural goods. They were concentrated in the towns, were 'hard-headed and frenetically individualistic', and saw the expansion of the colony's economy 'as mainly *their* work and its future as mainly *their* business' (Horne, 1972: 13). Their idea of the colony's future also differed from that of the landed gentry. Whereas the 'exclusives' wanted to recreate in the colony the kind of structured society that operated in rural Britain, this newly emerging class sought to put in place a freer and more egalitarian society, one that served local rather than imperial interests.

As colonial society became more complex so it became more fractious, imbued, in the words of the *Sydney Gazette*, with a 'prevailing impulse of truck and cavil'. The petty squabbles of the earlier period were replaced by more serious debates over who should run the country, have access to its resources, and benefit from its continuing development. Society was growing more sophisticated and the cleavages and divisions that would inform the major political struggles of the future were forming. In addition to the competition between the landed gentry and the local bourgeoisie, non-convicts were aligned against convicts, both bonded and free, emigrant settlers competed with emancipists, and town interests clashed with those of rural Australia.

A key issue in these growing struggles was the question of land ownership. Prior to 1821 land was allocated by government decree. Most of the recipients of this system of patronage had been the landed gentry, although small plots of land were also granted to the few free settlers who had emigrated to the country and to emancipated convicts and their families. The provision of land to former convicts was done mainly to encourage newly-arrived and still-serving convicts to work for the good of the colony although some governors, such as Lachlan Macquarie, used the practice to offset the power of the 'exclusives'. As a professional military officer, Macquarie distrusted McArthur and the other part-time officers of the New South Wales Corps who, in 1808, deposed his predecessor in the country's first and only *coup d'etat* in order, as Macquarie saw it, to protect their own pecuniary interests. The practice of granting land to the convicts was not of great concern

to the 'exclusives' until the 1820s when the wool boom generated a need for both more land and more labour. They lobbied Commissioner J. T. Bigge, who had been appointed by the British Government to examine the whole question of land use in the colony, and convinced him that former convicts and their descendents should not have access to land but be employed only as labourers and sheep herders in the rural districts of New South Wales. There 'in the loneliness of the bush, they would have hard labour and leisure to contemplate their former evil ways' (F. G. Clarke, 1992: 71). As described below, this view had its supporters in Britain who were concerned that the convicts were being rewarded rather than punished for their crimes.

Armed with Bigge's recommendations, the British Government directed that land now be granted only to those who had capital or assets that exceeded £320. This served to exclude most former convicts and poor settlers from owning land and favoured existing landowners and those British 'men of substance' who were flocking to the colony in order to make their fortune. These same people also dominated the newly-appointed legislative councils that had been established in 1823 to provide policy advice to the colonial Governors, advice that on this issue at least tended to operate in their own favour. The 1824 land laws were welcomed by the 'exclusives' who believed that they would also help raise the tone of colonial society and protect it from the stain of convictism. But there remained those in both Britain and Australia, who remained suspicious of the exclusives and their dream of establishing an American-styled plantation economy in the southern hemisphere. Others, such as Edward Gibbon Wakefield, believed that so long as the colony relied on convict labour, its full economic potential would never be realised. What was needed, they argued, was some means of bringing greater numbers of free settlers to the colony.

These pressures led to the development of the Ripon Regulations of 1831 wherein the British Government proclaimed that the colony's Crown or 'waste lands' would henceforth be auctioned off. More importantly, part of the money raised would be used to subsidise the emigration of free settlers and workers. In addition to providing the colony with a much-needed source of non-convict labour, the integration of land and immigration policy in this way was motivated by the further belief that it would channel excess British capital into the production of the extra wool needed by Britain's industrial mills. It might also help reduce the growing number of paupers and unemployed labourers who were then

clogging Britain's streets and poor houses. In one way the 1831 land policy would serve to consolidate the power of the exclusives. With the minimum reserve price for auctioned land set at five shillings per acre, most of the subsidised emigrants who travelled to Australian between 1831 and 1840 could not afford to purchase their own land and so had little choice than to work for the pastoralists. But in another way the changes served to threaten the interests of the colonial landholders, at least in the longer term, by providing the basis for the establishment of an agricultural rather than pastoral society, and by bringing to Australia people who would support the causes being advocated by the colony's merchants and artisans. As described below, the influx of emigrant settlers and workers into the colony would also raise questions about its future role as a penal establishment.

Although society was becoming more complex, it remained avowedly and determinedly English. The colony's 'quality folk' pursued such English diversions as hunting and horse riding and such English pleasures as billiards, musical evenings and garden parties. Those who could do so read the English journals that were brought out by the convict and cargo ships, or they devoured accounts of England's news contained in the *Sydney Gazette*, the *Sydney Herald* and the *Monitor*. Those who could not read listened eagerly to passages read aloud from newspapers in the taverns of Sydney and Hobart. Or, as Alexander Harris recounted, they enjoyed the simple pleasure of meeting up with people from the same parish or county and talking to them of '*home*, that ever ready theme by day and dream by night of all, emigrant and outlaw alike' (Harris, 1847: 70). Australia's imagined community, then, was being constructed not so much around where its peoples were as where they had come from and, for many among the upper echelons of society in particular, where they aspired, eventually, to be. Our national identity was being connected not to the peoples who had or were being born in the country but to those who had occupied it, who continued to exploit its resources, and who had overseen the dispossession and near-destruction of its original inhabitants. In the early days at least it was neither socially acceptable nor opportune to be an Australian in Australia.

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None of this, of course, was of any interest or immediate relevance to the Hickmott brothers as they were ferried from the *Asia 1* to the docks of Hobart Town. While they would suffer from its consequences, they would not have been aware, either, of a third

and related development in the affairs of the colony, the change in policy concerning the deployment and management of convicts and convict labour. Prior to 1840 the transportees were, on arrival, either drafted into government service or assigned to work for those settlers or merchants who had established a need for assistance and, after 1806, could pay for their servants' upkeep. All convicts were normally required to labour for their masters for nine hours each weekday and five hours on Saturdays. Once their official tasks were completed, they were allowed work for wages which they were free to spend as they chose. The convicts employed on government service, who had to arrange their own accommodation and so tended to reside in the Rocks and other convict cantonment areas, often spent their excess money on drinking, gambling and the prostitutes who frequented these areas. Those working for the settlers found it more difficult, but not impossible, to enjoy such high living especially when there were no alternative sources of labour. While some, especially female, convicts were exploited and abused by their employers most did pretty well, giving sustenance to the line in the convict song, 'Give me penal servitude before the Union'.

Not surprisingly the convict assignment system and its practices were subject to considerable criticism in Australia and, especially, in Britain. The fact that the convicts' fates were determined as much by their social background and talent as their criminal records offended those who believed their punishments should fit their crimes. Others argued that the assignment system was too open to abuse by officials, masters or even convicts who could use the straitened labour market either to slouch off or to bribe their employers into paying above-average wages. These weaknesses required colonial administrators, in turn, to spend additional time and money in policing an already overly bureaucratic system in order to prevent such abuses from occurring. Some were concerned that the system of assignment and its potential rewards—duly reported in the country's newspapers and in letters from the convicts to their loved ones at home—undermined the deterrent effect of transportation. Rather than seeing colonial exile as a punishment, increasing numbers of Britain's disadvantaged classes might see it as a means, perhaps the only means, of escaping from the rising levels of poverty and unemployment that accompanied the industrial revolution and the end of the Napoleonic Wars. Others believed that the continuing transportation of felons was serving to dissuade free settlers from emigrating to Australia, or was threatening the moral and physical well-being of the colony's non-convict population. Still others

argued that the assignment system was little more than state-organised slave labour and the beneficiaries of the system slave-owners.

These kinds of economic and social concerns led to growing calls from conservative and progressive elements of British and Australian society either to change the convict assignment system or do away with the policy of transportation altogether. The problem here was that until they could dramatically increase the flow of free emigrants, Britain's administrators had little option other than to depend on transported convicts to support the colony's booming industries. As F. G. Clarke noted in his essays on *The Land of Contrarieties*, by the 1830s

> ... imperial administrators found themselves in a dilemma. The Colonial Office had to choose between economy and increased retribution; to decide whether to sanction stricter confinement and greater severity in Australia with an unavoidable increase in costs, or to allow a relatively cheap [and subsidised] form of transport to continue unaltered (Clarke, 1977: 6).

This last position was supported by those who came largely from or had worked in the colony and who argued that the assignment system had proved to be a relatively cheap and effective method of providing the labour force needed to help the colony develop economically. They further suggested that it provided a better basis for reforming convicts than the alternatives being suggested, and, by distributing them across the country, lessened the various dangers of maintaining together large numbers of felons.

While sympathetic to some of these views, the British Government eventually acceded to the demands of the reformers and, in May 1839, announced that it would cease the transportation of felons, immediately in the case of New South Wales, and to the other colonies when it was judged expedient to do so. The Government further announced that although transportation would continue to Norfolk Island and Van Diemen's Land, the use of the assignment system in those places would cease. Convicts arriving from 1840 onwards would be required to spend a mandatory period serving in government work gangs. During this probation period—which for Samuel was fifteen months and Thomas two years—the convicts would live in barracks or specially constructed probation stations and be employed only on such public works as road and bridge-building, land clearance and cultivation, tree-felling and hauling, and the construction of government buildings and

utilities. The probation stations were to be kept well away from civilised society and were expected to be largely self–sufficient. While there the convicts would be closely supervised, receive religious and moral instruction, and be subject to a 'rigorous and uncompromising' system of discipline whose object was to teach them 'habitually to regard the coercive labour they are subjected to as the desert and consequence of guilt; and that a new course of life can alone lead to their being released from it' (Convict Department Instruction cited in Brand, 1990: 229).

This 'new course of life' required the convicts to work hard, be contrite, show proper deference to their superiors, and keep out of trouble. If he did this the convict could, in the gendered words of the Secretary of State for the Colonies, Lord Stanley, progress through 'successive stages of punishment, decreasing in rigour at each ... step until he reaches that ultimate stage in which he shall be capable of a pardon either absolute or conditional, though [of course] not ever entitled to demand that indulgence as right' (cited in Brand, 1990: 17). If the convict rebelled or misbehaved or was not sufficiently contrite, he or she could have their period of probation extended, suffer such additional punishments as solitary confinement or the lash, and, in the worst case, be sent to the secondary corrective establishment at Port Arthur. From there they would have to work their way back up through the various stages of official and unofficial punishments to whence they began.

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After having their personal details recorded, the brothers and their fellow convicts were rowed ashore where they would have been received by 'the constableship'. These were former felons described by the American William Gates, who had been transported to Tasmania in the same year for taking part in the insurrection against the colonial authorities in Canada, as 'her queenship's most dutiful minions'. They wore blue roundabouts, with a badge on one arm, and carried 'a bludgeon in the other hand, an insignia of their office' (Gates, cited in Brand, 1990: 53). Formed into a rough column of march by their escorts, the convicts then, to the great amusement of any onlookers, would have stumbled and lurched—for they had yet to divest themselves of their sea legs—towards their initial destination, Hobart Town's prison barracks and penitentiary (or 'the Tench' as it was locally known). On their way it is likely they would have passed a number of gangs of uniformed convicts—some in chains others

not so—working the roads and, perhaps, have experienced similar apprehensions to those of Gates and his colleagues:

> This we thought was an ominous reception. We had hardly our feet on the soil, when almost the first objects that greeted our vision, were gibbets, and men toiling in the most abject misery, looking more degraded even than so many dumb beasts. Such sights, and the supposition that such might be our own fate, served to sink the iron still deeper in our souls (cited in Anderson, 2000: 166).

Constructed in 1820, the Tench stretched along Campbell Street from the corner of Bathurst Street at one end to Brisbane Street at the other. Covering some two acres of land it was surrounded by a high brick wall on top of which were cemented jagged pieces of broken glass. At the Brisbane Street end stood the prison chapel. In the centre of the complex, opposite the main gates, was the residence of the prison superintendent William Gunn. At the end opposite the chapel were the cook house and mess halls in which the prisoners and others were fed. The remainder of the space was taken up with assorted office and cell blocks, prison dormitories, exercise yards, the prison hospital and the dreaded treadmill—an enormous circular structure that was powered not by horses but convicts under punishment. As the prison barracks served also as a penitentiary, hiring depot and dormitory for workers employed by the town engineer, it held, in addition to the new arrivals, convicts and soldiers serving punishments, ticket-of-leave and other pass holders who were unable to find employment, and a range of mechanics and other artisans who were employed on public duties. Designed initially to house 300 inmates, the gaol's capacity was increased in the late 1820s to around one thousand. By the time of the brothers' arrival more than 1500 people lived and worked there.

On arrival at the Tench the prisoners had their clothes, and what meagre possessions they had managed to keep with them, removed and dumped into a local store house. They were then issued with bedding and a prison uniform—a striped shirt, a suit of course grey cloth (which was 'rougher even than common carpeting') and a leather skull cap, all numbered and emblazoned with the letter "R". The next day the convicts from the *Asia 1* would have been addressed by the colony's Lieutenant-Governor, the polar explorer and former naval captain Sir John Franklin. Dressed in their well-cut and be-medalled uniforms, carrying shiny swords and wearing cocked hats, the Governor and his retinue entered the barracks on horseback where they were received by a functionary who ordered the lined-up prisoners to

remove their 'ats' and then welcomed his esteemed speaker. Franklin remained on horseback and, after clearing his throat a number of times, began delivering his well-practised homilies and admonitions to the latest of his captive audiences. The speech was, by all accounts, a long and rambling one, punctuated by pauses, coughs, and much eye rolling by the deliverer. In it the aging and now quite corpulent *bon vivant* informed the assembled prisoners that they were very bad, had been placed at the mercy of the laws of England, and were expected to behave themselves or they would 'fare hard'. As a compatriot of Gates, Linus Miller recounted, Franklin ended his harangue by reminding the prisoners that

> You have been sent here for various periods of time, varying from seven years to the term of natural life; and you are sent here for punishment. You will therefore, submit to whatever treatment you may be subjected, during your respective sentences, without murmuring or complaint (cited in Pybus and Maxwell-Stewart, 2002: 77).

Samuel and Thomas' prison records indicate that they were not sent on to one of the newly-created probation stations but remained instead at the Tench. They were both initially designated as third class prisoners and so would have worked in the chain gangs that broke and hauled rocks for the roads in and around Hobart. There they would have suffered the same privations, hunger pains and feelings of exhaustion, and witnessed the same incidents of bullying, bashing and brutality, as all the probation period convicts. Probably because of his Army service, Thomas was eventually made a first class prisoner and given a supervisory role over his fellow prisoners. Samuel remained in the third class gangs and while it seems he avoided the lash and a stint at Port Arthur, he was sentenced to three days solitary confinement for misconduct. This saw him incarcerated under the chapel in a cell which was described by one of the American prisoners as 'a vault without light, with an uneven floor flagged with stone, and without any room for standing erect…two feet wide and six in length, ventilated with irregular crevices in the wall ... the filth of these dens of infamy surpasses all description' (Lyon cited in Anderson, 2000: 170).

Samuel and Thomas suffered no other misfortunes and, their probation periods successfully completed, were both assigned, in November 1842, to work for a David Jamieson in Hamilton in central Tasmania. They would undoubtedly have seen their move to Hamilton as a first and important step towards freedom. The

two brothers had paid their dues, survived the rigours of the probation system, and could now look forward to earning some money, settling down and starting their lives anew. They would find, however, that escaping from the system would be no easy matter. They may have gained their physical freedom, but would find it much more difficult to evade society's continuing censure. In addition to bearing their own scars of abuse, they and their colleagues in misfortune would continue to be marked out as the carriers of convictism, and therefore be disparaged as aliens who served to threaten or inhibit, rather than contribute to, the advancement of the colony. Together with the Aboriginal Australians they had helped displace, the convicts would be the first of a succession of shadowy outsiders or 'others' used by the authorities to underpin and reinforce the southern colony's wholesome, white and British racial identity.

Beyond this, the era of the convicts was ending and, again as with the country's indigenous peoples, their place in the colony's history was beginning to be recast. The convicts had never been wanted and now that the colony was self-sufficient they were no longer needed. Banished from Britain and Ireland, they would now again be discarded, not physically for there was nowhere else for them to go, but from the minds and hearts of their fellow colonists. Their convict pasts would be hidden rather than acknowledged including by their own descendents. Their contributions to the colonies' development would be ignored rather than acknowledged. Their activities and behaviour would stand condemned rather than be understood or forgiven. And their ill-treatment would be repudiated rather than recognised or taken responsibility for. In so doing, those who followed the convicts forewent an opportunity to grow and prosper in spirit as well as means, and to build on the primitive bonds that had characterised the settlement's early (and economically precarious) existence to create an inclusive instead of an exclusive and divided society. The climate of fear, violence and divisiveness that therefore characterised and underpinned the convict era would permeate and poison Australia's later generations, constrain its search for a truly independent identity, and rebound with telling and, eventually, cataclysmic force on its future children. We now turn to how and why this happened.