

One Way Ticket to a Penal Colony

North American Political Prisoners in Van Diemen's Land

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Article abstract

This article will focus on the plight of ninety-three English speaking, North American political prisoners who were given a one-way ticket and ended up in the Van Diemen's Land penal system, as a result of their involvement in the incursions into Upper Canada and the associated rebellious acts committed in 1838. The end of rebellion in Canada was the beginning of experiences significant to the historical record in Australia. The capture, incarceration and transportation of Patriot exiles to Van Diemen's Land and the stories of their imprisonment, release and repatriation form an intriguing episode in Australia's and Canada's twinned heritage.



ONE WAY TICKET TO A PENAL COLONY

North American Political Prisoners in Van Diemen's Land*

By John C. Carter

Introduction

During a visit to Quebec City in July of 1836, Scottish advocate James Logan commented upon convicts he saw who had come from Montreal and were to be sent to hulks in Great Britain. He wrote:

This certainly is an absurd arrangement. Why do they not employ all the criminals in the colonies in improvements there, instead of taking them home or to Botany Bay, at

an enormous cost? Would it not be better to employ them in making and repairing the roads, or in some other way useful to the internal policy of the colony, than to transport them at great expense, and to their own deterioration? The inexperienced are brought into contact with the hardened in crime, whose advice they cannot but follow, and they are thus landed in Britain more depraved than they were before.”¹

Despite Logan’s musings, the practice of England transporting prisoners as pun-

*The author would like to thank Angelina French, Peter Fielding, John Thompson, Stephanie Burbury, Mary Ramsay, Graham Ryrle and Chris Raible for their assistance in the preparation of this article.

Abbreviations:

AO = Archives of Ontario

BPP = British Parliamentary Papers

CO = Colonial Office Files

GO = Governor’s Office Despatches

LAC = Library & Archives Canada (formerly NA or PAC)

THAO = Tasmanian Heritage and Archives Office

TRL=Toronto Reference Library

¹ James Logan, *Notes of a Journey Through Canada, the United States of America, and the West Indies* (Edinburgh, 1838), 23.

ishment for their transgressions continued.

Penal transportation was not a new punishment for prisoners from British North America. Only a fraction of those shipped out ended up in Van Diemen's Land or New South Wales. A significant proportion served their time on the English hulks. A large number, notably 350 sent to Bermuda in the first decade of operations and a lesser number sent to Gibraltar, came from both the criminal courts and courts martial. After 1841, only military convicts were shipped out of British North America. Penal transportation, banishment and forced military service were seen as an alternative to capital punishment.² This decision would have a direct impact upon 150 political prisoners³ captured during the 1838 rebellions in Upper and Lower Canada. This article will

Abstract

This article will focus on the plight of ninety-three English speaking, North American political prisoners who were given a one-way ticket and ended up in the Van Diemen's Land penal system, as a result of their involvement in the incursions into Upper Canada and the associated rebellious acts committed in 1838. The end of rebellion in Canada was the beginning of experiences significant to the historical record in Australia. The capture, incarceration and transportation of Patriot exiles to Van Diemen's Land and the stories of their imprisonment, release and repatriation form an intriguing episode in Australia's and Canada's twinned heritage.

Résumé: *Nous étudierons dans cet article la situation critique dans laquelle se retrouvèrent 93 prisonniers politiques américains qui furent déportés en Australie à la suite de leur participation aux incursions dans le Haut-Canada et aux actes de rébellion qui y furent commis en 1838. La capture, l'emprisonnement puis la déportation de Patriotes à Van Diemen's Land, l'histoire de leur séjour dans cette colonie pénale, puis leur libération et leur rapatriement, est un épisode qui retient l'attention dans l'héritage commun du Canada et de l'Australie.*

focus on the ninety-three⁴ English speaking, North American political prisoners. They were given a one-way ticket and ended up in the Van Diemen's Land penal system, as a result of their involvement in

² For more on transportation of convicts from British North America, see Patricia Kennedy, "Seeking suitable punishments," *The Archivist* (May-June 1988), v.15, #3, 4-6, and James Rees, "Horrors of a Prison Ship," *United States Military Magazine* (1840-41), v.2, 83-4.

³ The first 9 men were sent to Van Diemen's Land aboard the *Marquis of Hastings* which arrived in Hobart Town in July 1839. Four more arrived in January 1840 aboard the *Canton*. Initially there was confusion as to the final destination of these 13 men. After sentencing, an Irish newspaper reported that they would be placed on "the York prison ship in that harbour [sic], to be ultimately transported to New South Wales." See "The Canadian Prisoners," *The (Monaghan) Northern* (26 January 1839). In handwritten notes, William Lyon Mackenzie recorded that among prisoners tried by Jonas Jones at Niagara in July 1838, that James Gambel [sic], Samuel Chandler, Linus Miller, John Grant, James Waggoner and J.J. MacNulty [sic] were to be transported to Botany Bay. See *Mackenzie-Lindsey Papers*, Clipping #4682, n.d., Archives of Ontario. The third group consisting of 79 captured in Upper Canada and 58 captured in Lower Canada were sent to Hobart and Sydney aboard the *H.M.S. Buffalo*.

⁴ Benjamin Mott was transported on the *Buffalo* but did not land in Van Diemen's Land with those

the incursions into Upper Canada and the associated rebellious acts committed in 1838.

Background

After the initial rebellions against British rule in Upper and Lower Canada in 1837 were put down, many rebels fled to adjoining American border states. There, American sympathizers augmented their numbers. Their cause was not dead, and in 1838, convinced of support for a popular uprising against what they perceived as British “oppression and tyranny,” Patriot Forces banded together to renew their efforts to “liberate” the Canadas from British rule. Pa-

triot Robert Marsh reflected the mood along the border at this time: “It was all excitement in Buffalo, Cleveland, Detroit and all along the frontier...the whole country was awake; many and strong were the inducements for young as well as married men, to engage in so glorious a cause.”⁵ Accounts in period newspapers warned of pending dangers in various quarters.⁶

Between January and December of 1838, at least ten incidents of armed invasion and rebellious acts occurred, which ignored neutrality laws established by the United States and violated the sovereign authority of Canada.⁷ With prisoners being taken at the Schooner *Anne*, Pelee

captured in Upper Canada, but went on to New South Wales with the rest of the prisoners captured in Lower Canada. Mott was returned to Van Diemen’s Land in February 1844 and worked in Hobart for the American Consul, Elijah Hathaway. He became the 93rd English-speaking Patriot in the Van Diemen’s Land penal system.

⁵ Robert Marsh, *Seven Years of My Life, or a Narrative of a Patriot Exile* (Buffalo, 1847), 7.

⁶ See the *Cobourg Star* (3 January 1838), v.5, #14, 2, c.2, on activities in Buffalo, the *Cobourg Star* (21 February 1838), v.5, #21, 3, c.2, for a description of feelings and events on the Michigan Frontier. See “Introductory Address,” *Canadian Quarterly Agricultural and Industrial Magazine* (May 1838), v.1, #1, 13, for the impact on farmers and agriculture in Upper Canada. See *Kingston Chronicle and Gazette* (6 January 1838), v.14, #55, 1, for news from the Niagara Frontier, and the *Western Herald* (23 January 1838), v.1, #2, 11-13 on events in the Western District.

⁷ See Appendix A for a listing of these events. For details about several of these incursions, see R. Alan Douglas, *Uppermost Canada* (Detroit, 2001), 157-176, John C. Carter, “Rebellious Acts in the Western District of Upper Canada: Precursor to Transportation to Van Diemen’s Land,” *Australasian Canadian Studies Journal* (2004 & 2005), v.22 & 23, 33-66, Stuart Scott, *To the Outskirts of Habitable Creation* (New York, 2004), 42-117, and Robert E. May, *Manifest Destiny’s Underworld: Filibustering in Antebellum America* (Chapel Hill, 2004), Chapter 1. For information about the Short Hills incursion, see Colin K. Duquemin, *Niagara Rebels* (St. Catharines, 2001), and Donald E. Graves, *Guns Across the River* (Toronto, 2001) for details about the Battle of the Windmill. Federally the Van Buren and Tyler administrations considered the Patriots to be a threat to peaceful co-existence between the United States and British North America. President Van Buren issued a proclamation forbidding American citizens from engaging in cross border incursions into Canada. See “By the President of the United States of America—A Proclamation,” in *The Colonial Record* (29 April 1839), v.1, #8, and *The Launceston Advertiser* (2 May 1839), v. xii, #567. Ohio Governor Joseph Vance, while avowedly opposed to the actions of the Patriots, believed that; “...the means of averting this evil is not within the constituted authority & power of the State Government.” He felt that “...nothing short of the most prompt & energetic action by the President of the United States” would bring peace along the frontier. See William D. Overman (ed.), “A Sidelight on the Hunters’ Lodges of 1838,” *Canadian Historical Review* (June 1938), v. 19, #2, 168, 171 & 172. Lieutenant-Gov-

Island, Short Hills, St. Clair River, the Battle of the Windmill⁸ and the Battle of Windsor incidents, justice had to be meted out in an appropriate manner. The leaders of the Lower Canadian rebellion, who had been transported to Bermuda, were released because a governor of one colony did not have the authority to send prisoners to another colony where he had now jurisdiction.⁹ Outrage over the hanging of several of the Upper Canadian Patriot leaders did not leave execution as a viable option for the government. In January of 1839, after much thought

and deliberation, Lieutenant-Governor George Arthur decided upon a "Graduated Scale of punishment, adapted as nearly as possible to the circumstances of the several cases."¹⁰

Following trials held in London, Upper Canada, prisoners captured in the Western District were moved to Toronto, then on to Kingston to be incarcerated at Fort Henry with their comrades captured at the Battle of the Windmill. This odyssey was described in a surviving letter from Patriot Elizur Stevens who had been captured at the Battle of Windsor:

ernor Arthur felt that the American government was sincerely trying to put down the Hunters Lodges whose avowed object was "giving Liberty to Canada." He believed that these Lodges, which were formed in May of 1837, were strong with not less than 100,000 members. He warned that President Van Buren must be careful in handling them. See Letter from Government House, Toronto, to Mr. Hamilton (2 January 1839), *Sir George Arthur Canadian Papers (1837-1842)*, Letter Box #3 (1838-41), Letter #6. Baldwin Room, Toronto Reference Library. For an editorial suggesting that the American government was not doing all it could to thwart incursions by American citizens into Canada, see *The Colonial Record* (1 April 1839), v. 1, #4. For period projections of alleged American support for the Patriot cause, see "Editorial," *Austral-Asiatic Review* (19 March 1839), v. 11, #507, "Editorial," *Austral-Asiatic Review* (16 April 1839), v. 11, #510, and "Editorial," *Murray's Review* (21 May 1839), v. 11, #515.

⁸ For list of prisoners taken at the Battle of the Windmill, see "The Wind-Mill Prisoners," *Northern (Lowville, N.Y.) Journal*, (17 October 1839), and "Our Banished Countrymen," *Evening (Albany, N.Y.) Journal* (7 December 1840).

⁹ For details about this legal argument, see Thomas Gunn, "Convicts to Bermuda: a Reassessment of Earl Durham's 1838 Bermudan Ordinance," *Australasian Canadian Studies* (2007), v.25, #2, 7-28. For three contemporary descriptions of this legal question and other issues regarding transported North American political prisoners, see Alfred A. Fry, *Report on the Case of the Canadian Prisoners* (London, 1839), Charles Rocher, *An Analysis of the Criminal Law of England as Applied to This Colony* (Hobart Town, 1839) and John Macdonnell (ed.), *Report of the State Trials* (London, 1891), n.s., v. 3. This issue was not new to Arthur. While serving as Lieutenant-Governor of Van Diemen's Land, he had to deal with the question of legality of the transportation of two soldiers under sentence of a General Court Martial from Mauritius to Van Diemen's Land. Arthur proceeded with this action even though his Chief Justice John Pedder and Attorney General John Montagu did not feel that he had sufficient authority to do so. See Chief Justice Pedder to Lieut-Governor Arthur, Hobart Town 11 August 1831 [Sub-Enclosure No. 1], Attorney General Montagu to Lieut-Governor Arthur, Davey Street, 13 August 1831 [Enclosure No. 4], and Lieut-Governor Arthur to Viscount Goderich, Van Diemen's Land Government House, 15 August 1831, [Despatch No. 46]. For additional information on legal issues, see Bruce Kercher, "Perish or Prosper: The Law and Convict Transportation in the British Empire, 1700-1850," *Law and History Review* (Fall, 2003), v. 21, #3, and John McLaren, "The Judicial Office...Bowling to No Power But the Supremacy of Law: Judges and the Rule in Colonial Australia and Canada, 1788-1840," *Australian Journal of Legal History* (2003), v. 7.

¹⁰ Reply to the Rev. Joseph Messmore and Other Ministers and official members of the Wesleyan

May 29, 1839

"I was a prisoner in the London Gaol near four months left the prison on the third day of April and arrived at Toronto on the seventh where I remained seven weeks and then brought to Kingston which place I arrived on Sunday last being the 26th of May."¹¹

Journey to Van Diemen's Land

While other prisoners' published accounts claim that their future destination was unknown prior to their departure from Quebec, Stevens made it clear about his fate: "Our prospects have been very flattering until within a few days but now they seem to wear a more

unfavourable aspect, we are all most sure of being transported to Van Diemen's Land."¹²

Late in September of 1839, word came that the prisoners would be moved to Quebec. On 23 September, seventy-nine men convicted of treasonable practices, along with three convicted murderers and one by court martial were put in irons and loaded on canal boats at the Kingston Harbour. The journey to Montreal and then on to Quebec took four days. On 27 September, the Upper Canadian political prisoners were put on board the *H.M.S. Buffalo* along with fifty-eight Lower Canadian prisoners. This began a

Methodist Society in St.Catharines," *Cobourg Star* (9 January 1839), v.6, #6, n.s., 2, c.1. Another source concluded that the punishments Arthur ordered were legal. See M.C.I. Levy, *Governor George Arthur: A Colonial Benevolent Despot* (Melbourne, 1953), 366. For a condemnation of Arthur's actions by the widow of Samuel Lount, see "Open Letter to John Beverley Robinson, Chief Justice of Upper Canada," *Pontiac (Michigan) Herald* (12 June 1838), cited in Robynne Rogers Healey, "Elizabeth Lount Denounces John Beverley Robinson and the Family Compact," *The York Pioneer* (2008), v. 103, 56-60. For a supportive position on Arthur's actions see reprint of article from the *Toronto Examiner*, "Canada: Relative to the Insurgents at Toronto," in the *Launceston based Cornwall Chronicle* (21 March 1840), v. 6, #268. Arthur was rather pessimistic about the impact the rulings handed down would have. He wrote; "The effect of this might be hoped would put an end to these incursions, but I don't think it will have that effect." See *Arthur Papers*, Letter #6, (2 January 1839), TRL. Jacob Paddock, who had been captured at the Battle of the Windmill, was excluded from a free pardon because of his bad conduct, even though he was only a youth of 20. See R.A. Tucker, Provincial Secretary to Colonial Secretary, Van Diemen's Land, Government House, Toronto (21 September 1839), CO 280/118. Others were treated leniently and were liberated on payment of sureties. See "Release of Canadian Prisoners," *Austral-Asiatic Review* (5 March 1838), v. 11, #505.

¹¹ Elizur Stevens to David Stevens, Fort Henry, Kingston, U.C., 28 May 1839, Fort Henry National Historic Site, Kingston. Movement of Patriot prisoners from the Toronto jail to Kingston by boat became standard practice. In July 1838, 34 additional prisoners were sent from Toronto to Kingston aboard the steamer *William IV*. Seventeen who had pleaded guilty to piratical invasion were sent to Fort Henry, while 17 others charged with less serious crimes were incarcerated in the Kingston Penitentiary for 3 to 7 years. See *Kingston Chronicle and Gazette* (18 July 1838), 3, c. 1.

¹² Stevens to Stevens, 29 May 1839. This destination is corroborated by fellow Patriot Elijah Woodmen who noted in his diary on 1 April 1839 that orders had arrived for transportation to Van Diemen's Land. See *Letters and Diary of Elijah C. Woodman, 1837-1847*, 38, Archives and Research Collections Centre, University of Western Ontario, London. In a letter to his wife dated 29 September 1839, Benjamin Mott, an American captured in Lower Canada wrote from aboard the HMS *Buffalo* that 140 political prisoners were bound for New South Wales. Benjamin Mott to Mrs. Almira Mott, Sunday, 29 September 1839, Library and Archives of Canada, MG 24, B 171, 36-7.



Captain Pierre-Hector Morin, Harbourmaster of Montreal, was captured by British troops in St. Denis, Lower Canada and transported with other French speaking political prisoners aboard the HMS Buffalo to Sydney. Photo courtesy of Fort Malden National Historic Site, Amherstburg.

journey lasting 137 days and over 16,000 miles. The *Buffalo* anchored in Hobart Town on 12 February 1840.¹³

An officer aboard the *Buffalo* noted:

We have had one of the most delightful passages that could be made, as to the weather—a fair wind all the way; and, with

Right: Sketch of Elijah Woodman done by an unknown artist in Hobart Town, just prior to Woodman departing on the Young Eagle in March 1847.

Credit: Leonard Family Fonds, J.J. Talman Regional Collection, University of Western Ontario Archives.



the exception of a few squalls, with rain near the line, not more than a strong breeze. The prisoners, on the whole, have behaved remarkably well.¹⁴

This echoed the sentiments recorded by Patriot Elijah Woodman in his diary entry for 5 December 1839:

The commander of this ship has treated us with every degree of generosity and is making us comfortable as we can expect. His officers and the Surgeon spare no pains to our health and fare. The food is much better than we expected. Our passage has been very agreeable.¹⁵

Hobart Town

Period newspapers announced the arrival of the North American political

¹³ For a description of the voyage see "Aaron Dresser Diary," *Aaron Dresser Fonds*, LAC, MG24 B162, v.1, and Robert Sexton, *H.M.S. Buffalo* (Adelaide, 1984). First observations of Hobart were provided from the deck of the *Buffalo* by two of the Lower Canadian prisoners: "Houses and other buildings, in appearance, well constructed of line; a magnificent harbour, which held at this time many ships, some of which carried flags foreign to England. A high mountain serves as a background to the scene and picturesquely dominates the town and surrounding bushland." Cited in Francis X. Prieur, *Notes of a Convict of 1838* (Sydney, 1949), 77, and; "To us it appeared some what rustic: a high mountain cuts off all the back country. Its buildings seemed to us fair enough, and the land on both sides of the River Drewent good and level. Some fields very well cultured were noticed. The port is very spacious, and is visited by many foreign ships." Cited in Leandre Ducharme, *Journal of a Political Exile in Australia* (Sydney, 1944), 29.

¹⁴ Quoted in the *St. Catharines Journal* (13 August 1840), 1.

¹⁵ *Diary*, 58-9. For other period accounts of being transported, see "A Subaltern's Reminiscences of a

prisoners aboard the *Buffalo* at Hobart Town.¹⁶ Reactions to the presence of the Patriot prisoners were not complimentary:

These men are a body of Americans of the lowest order, many of whom have been convicted of offences against the laws of their own country, and are now under conviction, not merely of a political offence, but also of the most atrocious acts of wanton robbery, arson and murder.¹⁷

They are not true patriots fighting for their liberty, nor are they even Canadians. They are Borderers from the States—Bushman like our sawyers, splitters and fencers—who being attracted by the troubles in Canada, took arms not to support the cause of liberty, but to gratify their love for rapine and plunder.¹⁸

It will be an exceedingly hard case if the Canadian prisoners, who have recently arrived in Hobart Town by the *Buffalo*, are treated like common felons ...We look upon them as mere prisoners of war, and have a *right* to be free from all restraint which is not absolutely necessary to prevent their escape.¹⁹

Early in the morning of 15 February

1840 these prisoners were put on a barge and in two row boats and taken ashore at the New Wharf.

Sandy Bay Probation Station (15 February-17 June 1840)*

Following specific directions from Lieutenant-Governor Sir John Franklin, the prisoners by-passed the usual embarkment to the Hobart Prisoners' Barracks and were marched directly to a probation station situated near Sandy Bay. Franklin had received instruction from the Home Secretary and Secretary of State for the Colonies, Lord John Russell, not to mix these political prisoners with the usual class of thieves. Franklin acknowledged that he had initially thought of assigning these convicts to distant parts of the colony, but in reference to the government's new directives, he ordered the prisoners from the *Buffalo* "to be placed on the roads by themselves, and landed direct at the place selected, under a superintendent of experience, and selected overseers."²⁰

Transport," *Chambers's Edinburgh Journal* (25 July 1840), #443, 214-15 and Charles Cozens, *Adventures of a Guardsman* (London, 1848), 90-2 & 95-107. For a convict ship doctor's observations, see Colin Arrott Browning, *England's Exiles; or, a View of Instruction and Discipline, as carried into effect during the Voyage to the Penal Colonies of Australia* (Holborn Hills, 1842).

¹⁶ See "Locals," *Hobart Town Courier* (14 February 1840), v.13, #704, "Ship News-Arrivals," *Hobart Town Advertiser* (14 February 1840), #43, "Ships in Harbour," *The True Colonist* (14 February 1840), #857 and "Van Dieman's Land," *Port Phillip Herald* (28 February 1840), 4. The *Buffalo's* arrival was also reported in Canadian newspapers. See *The Montreal Transcript* (25 August 1840), 2. For information on the earlier arrival of prisoners aboard the *Marquis of Hastings*, see "Our Friends in Captivity—The Banished Patriots," *Mackenzie's Gazette* (7 November 1840), 2. For an article on the *Canton* prisoners, see "An Escape from Captivity," *Perth Courier* (5 July 1842), 2.

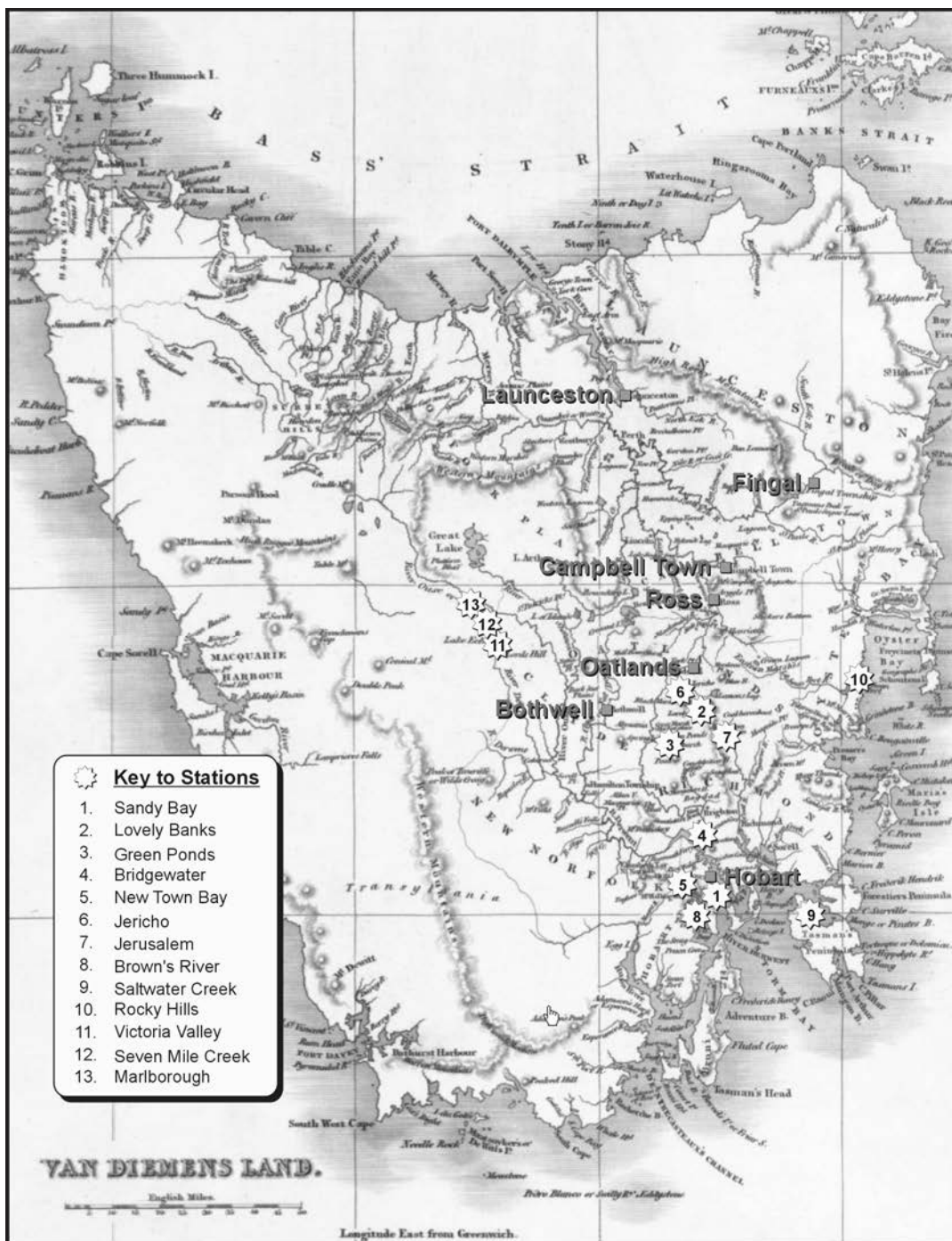
¹⁷ *Hobart Town Advertiser* (21 February 1840).

¹⁸ *The True Colonist* (21 February 1840), 7, c.3., and repeated in "The American Prisoners," *Port Phillip Herald* (10 March 1840), 2.

¹⁹ "Editorial," *Launceston Advertiser* (20 February 1840), v. xiii, #559. Also see "British North America," *Cornwall Chronicle* (1 February 1840), v.6, #261.

²⁰ Franklin to Russell, 15 February 1840, CO 280/118, *Gibson Papers*, Brock University, St. Ca-

* Dates North American prisoners were at each probation station.



Map of stations in Van Diemen's Land, courtesy of Graham Ryrie.

Patriot Aaron Dresser's unpublished journal describes events after being removed from the *Buffalo* and taken ashore. The prisoners were marched through the streets of Hobart Town to the nearby Sandy Bay Probation Station.²¹ On the way to Sandy Bay, Elijah Woodman noted seeing prisoners convicted of serious crimes working on the roads in chains.²² The Sandy Bay Road Party Station was located "near the bay about one mile from the town."²³ It consisted of eight to ten huts clustered around a central muster yard, constructed of 10-12 foot split

timbers fastened to log footings, with compacted earth floors and thatched roofs. Only two of the huts occupied by overseers and clerks had fireplaces. The Patriots slept on two tiers of single bunks arranged around the walls. A split timber palisade with a single entrance gate enclosed the station. A block of sandstone cells measuring 6 feet long by 4 feet wide and 6 feet high were used for solitary confinement. Superintendent James Skene lived in Hall's Farm farmhouse, which was located above the probation station.

On 17 February, Franklin visited

tharines, see also *Hobart Town Courier* (14 February 1840), v.13, #704. Franklin's predecessor George Arthur had also stressed Public Works as "the best means of punishing convicts under second, or magistrates sentences." In 1834, Arthur listed the main projects as the wharf at Hobart Town, the causeway over the Derwent, the line of road from Hobart Town to Launceston, the line of road by Constitution and Spring Hills, and the line of road to the westward. Principal buildings constructed through this scheme were the Church at New Town, the jail at Oatlands, the powder magazine at Launceston, the bridge at Ross and the Female House of Correction at Launceston. See *Arthur Papers*, Letter Book 36, Letter #37 (14 May 1835), TRL. For period comments on the change from the assignment system to probation stations for transported felons, see "Transportation-As Punishment," *Chambers's Edinburgh Journal* (26 January 1839), #365, 6-7, John Dixon, *The Condition and Capabilities of Van Diemen's Land as a Place of Emigration* (London, 1839), 74-87, "Address of His Excellency the Lieutenant-Governor to the Legislative Council," *Port Phillip Herald* (4 September 1840), 6 and J.A. Jackson, "The Regeneration of Van Diemen's Land," *Simmond's Colonial Magazine & Foreign Miscellany* (January 1848), 146-7. A Scottish traveller commented on the state of the roads in Van Diemen's Land, noting that "numerous chain-gang parties (were) constantly employed in making and repairing them," and that male prisoners were "sent out during the day in gangs, apparently under great orders, having overseers and sometimes soldiers with them." See A. Russell, *A Tour Through the Australian Colonies in 1839* (London, 1840), 109 & 112-13.

²¹ *Hobart Town Courier* (14 February 1840), v.13, #704. For more on this probation station see Gwenda M. Lord, *Sandy Bay A History of the Golf Links District* (Taroona, 1998), 7-12.

²² Woodman, *Diary*, 63. English emigrant James Blackwood provided the following thoughts about a chain gang that he saw during a visit to Hobart Town on 18 June 1840: "I was horrified, in walking around the town to see the gangs of convicts working in chains, which is so degrading to Humanity. I had the delicacy in looking at them for fear of hurting their feelings, but I believe that is not possible, as they are blackguards double distilled, and will stare any person out of countenance." See *James Blackwood Diary*, Ada Ackerly collection, <http://members.ozemail.com.au/~tasmoons/danielb/danielb.htm>. Another period account gives a description of men in a chain gang: "Clad in a yellow jacket and trousers, or both patched over with an intermixture of yellow and blue, like the garb of a harlequin; loaded with heavy irons, fastened round his ankles, clanking with every motion of his body; put to laborious work, and kept at it from sun rise to sun set, with a scanty allowance of food, scarcely enough to keep body and soul together." See Dixon, *Condition*, 46.

²³ "Dresser Diary," 33. Samuel Snow placed Sandy Bay Probation Station "about three-fourths of a mile from Hobart Town." See Samuel Snow, *The Exile's Return* (Cleveland, 1846), 10.

Sandy Bay to deliver the customary address to the newly arrived prisoners. He told them that they would be put to work on the roads for a period of time and if their conduct was good, tickets of leave would be issued. Franklin asked Captain James Wood and other officers of the *Buffalo* if the prisoners' conduct had been good during the passage. Aaron Dresser recorded that "they answered that it was that they had not the least thing against us."²⁴

The seventy-six North American political prisoners sent to Sandy Bay were to be employed building a nine-mile stretch of road between Sandy Bay and Brown's River. On the afternoon of 17 February, picks, shovels, wheelbarrows and hand-carts were issued and work began. The men laboured from 6 a.m. to 6 p.m. with ½ hour allocated for breakfast and one hour for dinner. Daily rations included one pint of water and oatmeal gruel for breakfast, ¾ lb. of beef or mutton, ½ lb. of vegetables and pint of soup for dinner, and for supper the same provisions as for breakfast. At 7 p.m. a bell rang, roll

was taken, and the men were locked into their huts.

In a 20 March 1840 letter to his parents in Herkimer County, New York, Patriot Alvin B. Sweet confirmed these conditions. He added;

I do think that if our cases were fully made known to the authorities in England, the way and manner in which the most of us were got into the expedition, that they, the government, would take the thing into consideration, and if not grant us a free pardon that they would allow us the liberty of the Island that we might share in some degree some small portion of their humanity.²⁵

On Sundays, going to St. Georges Church in Battery Point was compulsory. In the afternoon a Methodist minister preached at the station.²⁶ Work consisted of boring and blasting rock in a nearby quarry, breaking stone, and wheel barrowing earth, clay and stone for road building. Patriot Samuel Snow noted that: "Our employment consisted of levelling Down hills, and levelling Up valleys, breaking stone and drawing them in hand carts top where they were wanted, for making and mending macadamized

²⁴ "Dresser Diary," 34. Franklin's visit was also recorded by Elijah Woodman, see *Diary*, 61.

²⁵ See "American's Prisoners at Van Dieman's Land," *The Western (Lyons, N.Y.) Argus* (7 July 1841).

²⁶ Providing religious instruction was a central tenet of the probation system in Van Diemen's Land. For a list of those providing this service, see "Stations, Ministers, Places, and Times of Worship of the Protestant Denominations in Tasmania," *The True Catholic; or Tasmanian Evangelical Miscellany* (1 April 1843), v.1, #4, 154-59. On 16 February, Dresser noted "we had preaching in our mess room by a man from Hobart Town," and at Sandy Bay a "Methodist preaching at the Barracks." See "Dresser Diary," 33 & 36. For insight on troubles between clergy of different denominations at probation stations in Van Diemen's Land see "The Church in the Probation Gangs," *True Colonist* (5 August 1842) v. 10, #12, and James Purslowe's assessment in James Syme, *Nine Years in Van Diemen's Land* ((Dundee, 1848), 298-9. Purslowe acted as superintendent at the Bridgewater, Jerusalem, Impression Bay and Coal Mines probation stations. For more on the impact of religion on prisoners in Van Diemen's Land, see William Ullathorpe, *The Catholic Mission in Australia* (Liverpool, 1837), 47-55, "Colonial Bishoprics," *The New Quarterly Review* (July 1844), v. 4, #1, 195-6 and "Temperance Intelligence-Hobart Town," *Van Diemen's Land Temperance Herald* (April 1847), #22, 342.

roads.”²⁷

Elijah Woodman recorded that the prisoners toiled late and early and had but one good meal in 24 hours. Work was not without misfortune. On 23 February, Lysander Curtis fell ill and subsequently died.²⁸ On 14 March, John Thomas lost two toes and part of a foot as a result of a mishap with an axe. During the third week of March, William Nottage was fatally injured in a blasting accident. Spirits were somewhat buoyed when nine fellow prisoners who had arrived earlier on the *Canton* and were working at nearby Brown’s River, were transferred to Sandy Bay.²⁹

Varied accounts in letters sent home by Patriot exiles, however, continued to speak of hardships. John Gilman wrote that; “Our labour is of the hardest—mending roads. We have no teams of any kind, and have to do all the carting ourselves.”³⁰ In correspondence to two family members, Elizur Stevens recorded that; “Our works consists in pecking stone and earth, shovelling, hauling with hand-carts, etc. We have to work 11 hours in the day, for 5 1/2 days in the week.”³¹ Elijah Woodman’s feelings swung from that

of optimism on his arrival; “We are so far treated with every degree of humanity and cannot complain as we have enough to subsist upon and very good barrack accommodation,” to despondency three months later; “I found myself in slavery, far from my native land, among strangers and in a poor and penniless situation, without convenient food or clothing.”³²

On 9 June, prisoners Horace Cooley, Michael Morin, Jacob Paddock and William Reynolds attempted to escape. They were captured and sent to Port Arthur as second offenders. Soon afterwards to forestall further attempts to abscond, the prisoners were moved inland to the Lovely Banks Probation Station.

Lovely Banks Probation Station (20 June–September, 1840)

Situated thirty-six miles north of Hobart Town in the valley of Serpentine Creek, this site commenced in 1839 as part of the government’s plan for opening and constructing a main road to Launceston.³³ Work was well advanced on building this station when the Patri-

²⁷ Snow, *Exile’s*, 14

²⁸ See “An Escape from Captivity,” *Bathurst Courier* (5 July 1842), 2 for list of those prisoners who had died.

²⁹ See Linus W. Miller, *Notes of an Exile to Van Diemen’s Land* (Fredonia, N.Y., 1846), 294.

³⁰ John Gilman, Van Diemen’s Land, 13 February 1840, cited in Chris Raible, “Two Years in Van Diemen’s Land: The personal experiences of a transported Canadian rebel, plus four letters,” *The York Pioneer* (2005), v.100, 36.

³¹ Elizur Stevens to Isaac and Peris Phelps, Hobart Town, Van Diemen’s Land, 6 March 1840, in the *Norwich (New York) Journal*, n.d., Mackenzie-Lindsey Papers, Clipping #4682, AO. See also comments made by Alvin B. Sweet, “American’s,” 1.

³² Woodman, *Diary*, 63 & 65. For another account likely written by Benjamin Wait, see “Our Friends in Captivity—the Banished Patriots,” *Mackenzie’s Gazette* (7 November 1840), 2.

³³ For more on the development of early roads in Tasmania, see G. Hawley Stancombe, *Highway in*

ots arrived. Patriot William Gates recollected that stone huts were finished and a gaol almost completed, but the carpenter's shop, blacksmith shop, cells, mess shed and chapel were still without roofs. The station was built to accommodate eighty men, and was organized on the three-yard principle. At the core of this plan was the gaol, with the superintendent's quarters next to the gate to the outside world, with the chapel being the only building not in the stockade. The site superintendent was Anthony Brabazon and Thomas King was the principal overseer. Local stone was quarried two miles from the station. William Gates described the daily routine:

Our loaded carts we had to draw two miles five times a day. At early dawn we were routed, and away at our tasks by sunrise, which were not allowed to quit till sundown, when we were marched back in double file, and by the time we had our pint of skilly, it

would be long after dark, when, to cap our enjoyments, we would be forced to the huts and locked in, where was no fire or light, nor any convenience whatever: cold, shivering, hungry and generally wet to the skin with the chilly rains that fall almost daily.³⁴

For three months the prisoners suffered through the raw, rainy and sometimes snowy weather of winter. Harsh treatment from the superintendent and overseer resulted in the prisoners addressing their concerns in two petitions sent to government officials that asked for indulgences.³⁵

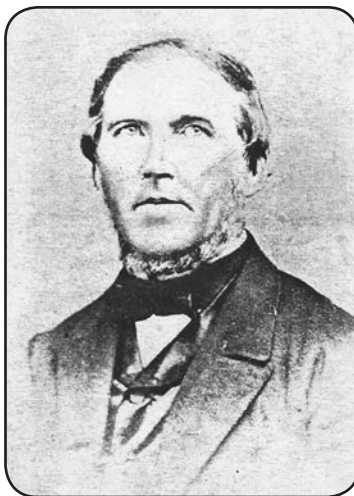
On 16 August 1840, Patriot Linus Miller wrote to W.R. Lawrence M.L.C. on behalf of himself and seventy-one fellow prisoners working at Lovely Banks. Miller requested that Lawrence use his influence with the government on their behalf for indulgence. The argument made was that after serving six months in Probation Gangs, that their good conduct should be

Van Diemen's Land (Western Junction, 1968), Lynn Newitt, *Convicts and Carriageways* (Hobart, 1988), and John Thompson, *A Road in Van Diemen's Land* (Hobart, 2004). By 1842, Buckland Police Magistrate John Forster recorded that about two-thirds of the 120-mile road from Hobart Town to Launceston had been completed "in a very fair manner." He added that; "Several gangs of convicts were at work on the road, and in about a year or two they expect it will be completed throughout as it ought to have been long ago." See "Notes of a Residence in Van Diemen's Land in 1842-43," *Simmond's Colonial Magazine & Foreign Miscellany* (January 1844), v. 1, 63. By June of 1840, work gangs were also constructing a watch-house just north of Lovely Banks at Spring Hill (Tedford). This building was described as being "for the accommodation, we presume, of travelling parties." See "Highways and Byeways," *Hobart Town Courier* (5 June 1840), v. 13, #720.

³⁴ William Gates, *Recollections of Life in Van Diemen's Land* (Lockport, 1850), 57. See also Snow, *Exile's*, 14. These descriptions were similar to Arthur's earlier pronouncements about probation gangs. He had written; "These men are by their own exertions, temporarily hutted in the immediate vicinity of their labour & they are subjected to the correct restrictions under the supervision of free superintendents." See *Arthur Papers*, Letter #37 (14 May 1835), TRL.

³⁵ See Cassandra Pybus and Hamish Maxwell-Stewart, *American Citizens, British Slaves* (East Lansing, 2002), 124-25. James Gemmell noted that Elijah Woodman drew up a memorial in the shape of a roundtable in July 1840, and sent this document to Sir John Franklin. It set forth problems with overseers, and identified poor working and living conditions at Lovely Banks. See James Gemmell, "Two Years in Van Diemen's Land," *The (New York) Weekly Plebeian* (28 June 1842), Letter 2, *Northern (Lowville, N.Y.) Journal* (14 July 1842) and *Utica (New York) Daily Gazette* (4 August 1842).

Linus Miller was one of the Patriots captured at the Short Hills incursion in the Niagara region, and was transported to Van Diemen's Land aboard the Canton. As a result of an attempted escape from the Lovely Banks Probation Station, Miller was sent to Port Arthur Penal Colony as a second offender. Photo courtesy of Norm Howard, great grandson of Linus Miller. The source is a monograph written by Francis P. Lamphear, 1908, entitled Ten Generations Of Millers (New York: Yankee Press, reprinted 1923).



in magpie clothing—one leg and arm black, t'other yellow—with a military guard to shoot us down if disobedient. We were then sent to the worst station on the island at Green Pond.”³⁸

Green Ponds Probation Station (12 September 1840–May 1841)

rewarded by the Lieutenant-Governor. With no positive response and increased suffering, Joseph Stewart and Linus Miller chose to bolt on 29 August 1840.³⁶ Subsequently they gave themselves up at Bagdad on 11 September and were sent to Port Arthur. Lieutenant-Governor Franklin was furious about this escape, and as a consequence ordered the entire party of North American political prisoners to be dressed in magpie, prisoner garb worn by other prisoners, and then be moved to Green Ponds Probation Station.³⁷ Patriot James Gemmell concluded; “Sir John was incensed, mustered us, called us mutineers, ordered us to be dressed

This small but thriving midlands coach stop (now Kempton) was the site of a military post. A road station had been established there as early as 1830. Major Oliver Ainsworth was the district magistrate here in command of sixty soldiers of the 51st Queens Own Light Infantry. The prisoners’ quarters on what now is the Church Glebe³⁹ were timber and slab huts with grass roofs and no fireplaces. The Patriots found living conditions here to be worse than any they had previously experienced, being filthy and swarming with vermin. They were originally placed under the superintendence of Robert Nutman, who was subsequently replaced by James Pooke

³⁶ See Miller, *Notes*, 314 and John Thompson, “The North American Patriot Prisoners at Convict Stations in Van Diemen’s Land,” *Australasian Canadian Studies Journal* (2007), v. 25, #2, 128. Patriot exiles who were sent to Port Arthur as second offenders included Jacob Beamer, Linus Miller, Horace Cooley, James Inglis, Michael Morin, William Reynolds, Jacob Paddock and Joseph Stewart. They were joined by Upper Canadian murderer Edwin Merritt.

³⁷ See Miller, *Notes*, 349, and Daniel Heustis, *A Narrative of the Adventures and Sufferings of Captain Daniel D. Heustis* (Boston, 1847), 109–11. It was claimed by Stephen Wright that Miller and Stewart were betrayed by Orin Smith and James Aitchison. See Caleb Lyon, *Narrative and Recollections of Van Diemen’s Land* (New York, 1844), 24.

³⁸ Gemmell, “Two.”

³⁹ T.R. Macleod, *A History of Green Ponds 1862–1987* (Moonah, 1988), 9.

and then Captain A. Wright. During this period, James Aitchison was appointed as overseer, and Orin Smith as sub-overseer. Work was exceedingly severe. William Gates wrote; "We had to draw our carts from, one to three miles, a part of the time obtaining our loads from a quarry, up the steep sides of a hill."⁴⁰

Early on in their stay, Lieutenant-Governor Franklin visited and expressed his disappointment at the escape attempt from Lovely Banks. He confirmed that the prisoners had been dressed in magpie and sent to Green Ponds as punishment. The military detachment was given orders to shoot to kill if any escape was attempted. Roadwork, bridge building and the construction of St. Mary's Church⁴¹ were undertaken. During this period no efforts to escape were recorded. On 1 April 1841 the Lieutenant-Governor made his second visit to the site. The *Launceston Courier* reported that:

His Excellency proceeded yesterday to the Green Ponds, with the view of announcing to the Canadian prisoners that the representations which he made in their favour to the British government have met with the most favourable consideration, and that in consequence they will receive immediately the

indulgence of tickets-of-leave.

Without any needless profession of sympathy for these men, who, whatever may have been their former transgressions against all national law, have, during the period of their probation under sentence of punishment, conducted themselves in the most orderly manner, we may be permitted to observe.⁴²

In March of 1841, Franklin had finally received permissions from Lord John Russell, after consultation with Lord Sydenham the Governor General of Canada, to issue tickets of leave after two years of hard labour, if the prisoners' conduct merited such action. However to ensure the tranquility in the North American Provinces, these political prisoners would not be allowed to return there when pardoned.⁴³

Other accounts mentioned relaxed restrictions from station administrators after Franklin's visits. District Magistrate Captain Askins was "favourably disposed" to the Patriot prisoners, allowing them to work for themselves every Saturday and to work during the harvest making ½ dollar for ½ day's work. This enabled the prisoners to purchase tobacco, coffee, sugar and tea.⁴⁴ After uncovering problems of incompetence and corruption by

⁴⁰ Gates, *Recollections*, 57. Green Ponds was described by another Patriot as being "the worst station on the island." Gemmell, "Two". While at Green Ponds, James Williams (aka Nelson Recker) became ill, was taken to the Colonial Hospital where he died on 29 April 1841.

⁴¹ Only three months earlier to the arrival of the Patriots at Green Ponds, it was recorded that the location of St. Mary's Church was "a howling wilderness," and that "the stones are all scattered about in ruinous and idle desolation." See "Highways and Byeways," *Hobart Town Courier* (5 June 1840), v. 13, #720.

⁴² *Hobart Town Courier* (2 April 1841), cited in the *Launceston Courier* (5 April 1841), v.2, #25. See also Snow, *Exile's*, 17. For more information on the concept of ticket of leave, see *Speech of Sir William Molesworth on Transportation* (London, 1840), 19, "Tickets of Leave," *Hobart Town Advertiser* (22 May 1840), #197, "Ticket of Leave Men," (29 May 1840), #197, and Charles Rowcroft (ed.), *Tales of the Colonies* (London, 1843), v. 2, 221-2.

⁴³ Russell to Franklin, 28 October 1840, CO 280/118, cited in *Gibson Papers*.

⁴⁴ See Snow, *Exile's*, 16. "Captain Erskine" was identified as a friend of the prisoners who "won the

superintendents Pooke and Wright and with conflict arising over work being allocated to the Patriots and not to “old hands” who had obtained freedom, the North American prisoners were moved on to the Bridgewater Probation Station in May of 1841.⁴⁵

Bridgewater Probation Station (May 1841)⁴⁶

Established in 1828, this station was specifically built for the purpose of constructing a causeway and punt across the Derwent River at the Black Snake (Bridgewater, now Granton).⁴⁷ The Patriots joined 300 British convicts who carted and wheel-barrowed stone from the nearby Granton quarry to construct these engineering initiatives.⁴⁸ Bridgewater gained a reputation for harsh punishment being handed out to convict labourers. The Patriots witnessed this treatment but were not subjected to it. Working conditions were miserable as for much of the time the prisoners had to

stand in knee-deep water handling stones and building piers.⁴⁹

James Aitchison was made overseer and reported the theft of rations by the station’s cook and baker to the local magistrate. The magistrate felt that the North American political prisoners were a “troublesome minority” and conveyed his concerns to Franklin. Soon after, the Lieutenant-Governor ordered the group to be separated into smaller parties and be distributed to other probation stations to work and to serve out their terms. It was believed that Franklin’s decision was motivated by the desire to spare these men from further hard labour while keeping them in the probation system. This could not be achieved if they continued to remain in one large group. Through dispersal to various stations, the Patriots could be separated from common felons in their own huts and work in small groups at specific tasks using their individual skills. Dispersal from Bridgewater to several different probation stations took place on 29 May 1841.

affections of us all by listening to our complaints when cruelly used, and doing justice on the felons who maltreated us.” See Gemmell, “Two.”

⁴⁵ See Snow, *Exile’s*, 16, Gemmell, “Two,” and Pybus and Maxwell-Stewart, *Slaves*, 141.

⁴⁶ Gates provides a list of time spent at each probation station. He records 1 month at Bridgewater. See Gates, *Recollections*, 10.

⁴⁷ For contemporary descriptions of this station see Peter Chapman (ed.), *The Diaries and Letters of G.T.W.B. Boyes* (Melbourne, 1985), v.1, 485-89, and William P. Kay, “On the Construction of the Bridge and Causeway Across the Derwent at Bridgewater, in Tasmania,” *Papers and Proceedings of the Royal Society of Van Diemen’s Land—1848-1850* (1851), v.1, 278. For another period reflection about construction projects at Bridgewater, see “Bridgewater,” *Colonial Times* (18 May 1841), v. 29, #1302.

⁴⁸ See Henry Melville, *The History of the Island of Van Diemen’s Land* (Hobart, 1835), 245. For additional information on this station see Superintendent James Purlowe’s comments in Syme, *Nine*, 298-9 & 308-11.

⁴⁹ See Lyon, *Narrative*, 24-25, Gemmell, “Two,” and Heustis, *Adventures*, 113.

New Town Bay Probation Station (May–September, 1841)

On 30 May 1841 James Aitchison was appointed as sub-overseer at this site.⁵⁰ Plans for this station were drawn up in January 1841, and it was built for the reception of boys sent from Parkhurst, Millbank and Point Peur and for ticket of leave holders. Buildings included accommodation for a superintendent and overseers, a hospital, mess room, provision store, bake house, dispensary, blacksmith and carpenter shops, billeted hands' huts, sub-overseer and mechanics' huts, a military barrack room and a non-commissioned officers' room. The station was fenced in with logs and built to house 120 prisoners who were employed in clearing and cultivating land. The male prison hulk *Duke of York* was beached on dry land attached to the New Town Bay Probation Station by a gangway.⁵¹ In addition there was a farm and other buildings to house a road party.

Jericho Probation Station (June–August 1841)

In 1839 it was decided to build a new line of the main road from Jericho to

Oatlands. The chosen location for this station was two miles from the Jericho Bridge near the intersection of the Jerusalem Road and the old Bush Road. A chain gang was dispatched to carry out the preliminary construction work. Reclassified as a Probation Station, new plans were issued on 27 December 1841 specifying for the buildings to accommodate 200 prisoners and to be enclosed by a pise wall.⁵²

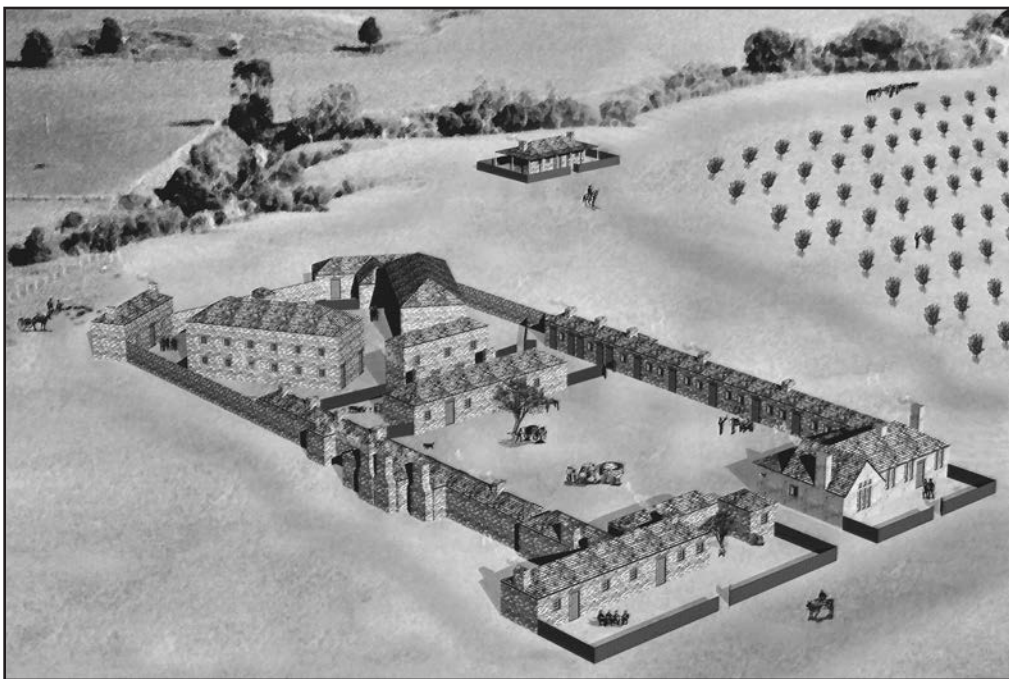
Nine Patriots were located at this site for only a short time and worked with 180 newly arrived convicts from England. Overseer Sherwood was a friend and supporter who provided every possible indulgence. The men were billeted in a separate hut in the first class yard, and were favourably situated compared to other prisoners there. Roadwork done here included excavating, wheeling, levelling earth, table draining, quarrying, dressing freestone, quarry clearing and blasting rock. Six of the Patriots were put on a wood cart detail and two were made night watchmen. William Gates was elevated to the carpenter's shop to make replacement barrow handles.

The Patriots were given a full complement of rations equal to that of the billeted men. The period of time spent here was described by William Gates as;

⁵⁰ Aitchison was accompanied by Michael Fraer who worked as a wood and water carrier, and John Williams who was a watchman.

⁵¹ Female convicts were housed temporarily at New Town Farm Probation Station until the *H.M.S. Anson* was refitted as a prison in 1844. This measure was instigated to alleviate over crowding at the Cascades Female Factory. For more details about this hulk, see "The Anson," *True Colonist* (7 November 1844), #44. For additional information about the New Town Bay Probation Station, see Brad Williams, "The archaeological potential of colonial prison hulks: The Tasmanian Case Study," *Bulletin of the Australasian Institute for Maritime Archaeology* (2005), v.9, 79–84.

⁵² K.R. Von Stieglitz, *A History of Oatlands and Jericho* (Evandale, 1960), 36–7.



Jerusalem Probation Station. Image courtesy of Graham Ryrie.

“the first of anything like ease that we experienced on the island.” When moved on to the Jerusalem Probation Station, Gates wrote; “We were quite loath to leave this place—the only one where we had received any kindness on the whole island.”⁵³

Jerusalem Probation Station (September 1841–February 1842)

In March of 1829, Police Magistrate Ainsley suggested Jerusalem as a suit-

able location for a lock-up for prisoners. Construction of the Colebrook Dale Road Party Station began in February 1834, and a complex of buildings was erected over a period of years. In September 1841, some of the Patriots were transferred from Jericho. This site had just been reclassified as a probation station, which instigated a large rebuilding programme. Some 250 “old hands” were engaged in erecting new stone buildings and working on road crews.⁵⁴ This site was superin-

⁵³ Gates, *Recollections*, 143 & 144. For more details about this probation station, see Peter Fielding, “Dog Bites Dog at the Jericho Probation Station, August 1842—November 1843,” *Oatlands Historical Society Chronicle* (October 2006), #4, 63–6.

⁵⁴ For a view of this station see Graham Ryrie’s computer generated images in John Thompson, “The North American Patriot Prisoners at Convict Station in Van Diemen’s Land,” *Australasian Canadian Studies* (2007), v.25, #2, 134–35. For more on this station, see Superintendent James Purlowe’s reflections in Syme, *Nine*, 310–11, and “Probation Parties,” *True Colonist* (16 December 1842), v. 10, #28, on the conduct of the superintendent and he being ill qualified to hold this office. For additional information about

tended by John Surtees White.

Because of their handiness with axes, the Patriots were selected to provide rails, posts, shingles and timber. They were given a separate hut, and after their first week at Jerusalem one group was sent five miles into the forest to split rails and another moved three miles from the station as a hewing gang. These two unsupervised gangs were able to cook for themselves and work without an overseer for the first time since their arrival. Set daily tasks allowed the prisoners some free time that included snaring kangaroos for food.⁵⁵ This arrangement continued for six months until the Patriots obtained their tickets of leave from Magistrate John Whitefoord on 10 February 1842.

Brown's River Probation Station (June 1841-February 1842)

Initially established as a road station to supply gang labour for the construction of the Brown's River road, this site was upgraded to a probation station. Local landowner Daniel O'Connor first presented these plans in August of 1839. They were based on recommendations

coming out of the Molesworth Committee. This House of Commons Committee established to investigate the transportation of convicts to British colonies, called for the replacement of the assignment system with one using probation stations. Building⁵⁶ of this station began in July of 1841, shortly after the arrival of a group of twenty-two Patriots. Specifications were in accordance with a newly designed plan of barracks drawn up by Major Roger Kelsall, the Royal Engineer in Van Diemen's Land. Superintendent Thomas Chapman and Assistant Superintendents Michael Colter and William Gentry were appointed to oversee construction of facilities to house 450-680 prisoners.

The Patriots were given a hut of their own and put to work as carpenters building a new block of separate apartments for third-class prisoners, a barracks hut, a kitchen,⁵⁷ solitary cells and other buildings prescribed in the new scheme.⁵⁸ The location of the station at Bonnet Hill overlooking the Derwent Estuary enabled the prisoners to go to the beach on Saturday afternoons to do their washing and to catch craw and other fish to supplement regular rations.⁵⁹

this matter, see "To Mr. Cottrell, late Superintendent of the Jerusalem Probation Station," *Colonial Times* (30 April 1844), v. 32, #1455.

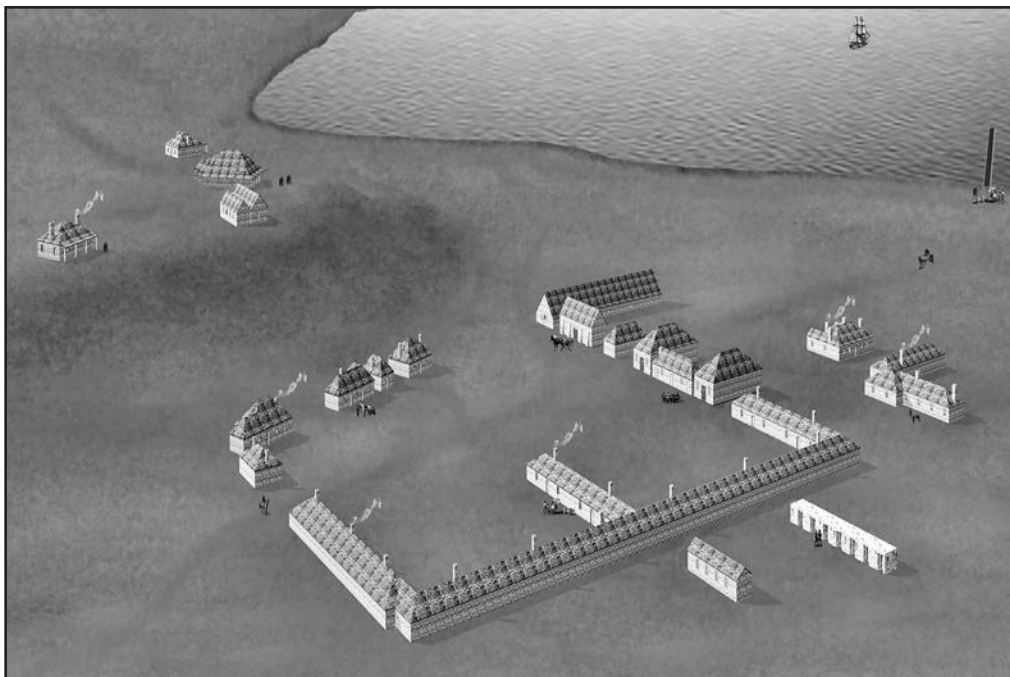
⁵⁵ See Gates, *Recollections*, 6-10.

⁵⁶ Even before the start of construction of this new probation station there was criticism levelled at the plan, comparing it to the folly of the Bridgewater project. See "State of the Roads," *Colonial Times* (13 April 1841), v. 29, #1297.

⁵⁷ Heustis, *Adventures*, 115-16.

⁵⁸ For details on the development of this station, see Crosby Russell-Green, "Enjoyment or Terror—An Archaeological Survey of a Convict Probation Station in Tasmania," *B.A. Thesis, University of New England* (November 2003), 11-14, and *Taroona 1808-1986* (Moonah, 1988), 43-51.

⁵⁹ Snow, *Exile's*, 19.



Salt Water River Probation Station. Image courtesy of Graham Ryrie.

Lieutenant-Governor Franklin visited the site in late June and commented to Stephen Wright that the Patriots “were the best men to work, and the best behaved, on the Station.”⁶⁰ On 1 September, James Skene was appointed as superintendent. Wright saw another side of Brown’s River when he was sentenced to twenty-one days solitary confinement for not revealing where he got tobacco. He was also injured while working and during convalescence at the hospital he was appointed attendant for a four-month period.⁶¹ For the most part the Patriots fulfilled their terms here as well-behaved probationers. Tickets of leave were issued

on 10 February 1842, and received on 16 February.⁶²

Saltwater Creek/River Probation Station (June 1841-February 1842)

Faced with a huge influx of probationary convicts from England in 1841, Lieutenant-Governor Franklin asked Charles O’Hara Booth, Commandant at Port Arthur, to suggest a site on the Tasman Peninsula for one of the first purpose-built probation stations following the Grand Plan. Booth chose a location of completely undeveloped bush at the

⁶⁰ Lyon, *Narrative*, 25.

⁶¹ *Ibid.*, 25-26.

⁶² See Heustis, *Adventures*, 117, Lyon, *Narrative*, 26, and *Hobart Town Gazette* (11 January 1842).

mouth of Saltwater Creek. The station was to be built on a low hill overlooking Norfolk Bay.

The first Superintendent, James Pringle, took office on 5 April 1841. A detachment of the 96th Regiment consisting of a sergeant and thirteen soldiers were stationed here to keep watch over the first 200 English convicts who had arrived on the *British Sovereign* on 29 March 1841. Local materials were used to construct the initial convict accommodation. Buildings were constructed of weatherboard walls and shingle roofs. The store had slab walls and a bark roof, while other buildings were made of simple rough spars covered with bark.⁶³ Once rudimentary housing had been completed, prisoners began to prepare for an agricultural station. It was at this juncture that nine Patriots arrived in June to use their skills to help build more permanent structures. Having left Bridgewater in May, Patriots including Robert Marsh and James Fero were relocated to the Hobart Town Penitentiary. In June they were loaded aboard a government schooner and moved to the Tasman Peninsula. They became part of a corps of 300 convicts who grubbed and barked trees, sawed, split and carried timber, quarried and drew stone and constructed huts and a causeway. In addition they wheel-barrowed barrels of fresh water for drinking one and a half miles to the station from above the tidal salt wa-

ter in Saltwater Creek. They also stripped bark for hut roofs and carried light timber. These chores continued through the winter, spring and summer until the end of their probation in February 1842. The Patriots were then removed to the Hobart Prisoners' Barracks in March to get their tickets of leave.⁶⁴

Progress had been made during this period in the development of this station. In a visit on 12 January 1842, journalist and playwright David Burn described what he had seen:

This is a remarkably fine locality, with extensive penitentiaries accommodating about 400 convicts ...It is a perfect station, comprising all the requisite officers, and has been established upwards of ten months. Roads have been formed, piers constructed, land broken up and cleared; upwards of 50 acres being luxuriantly cropped with cabbages, potatoes, turnips etc.⁶⁵

Rocky Hills Probation Station

(June 1841-February 1842)

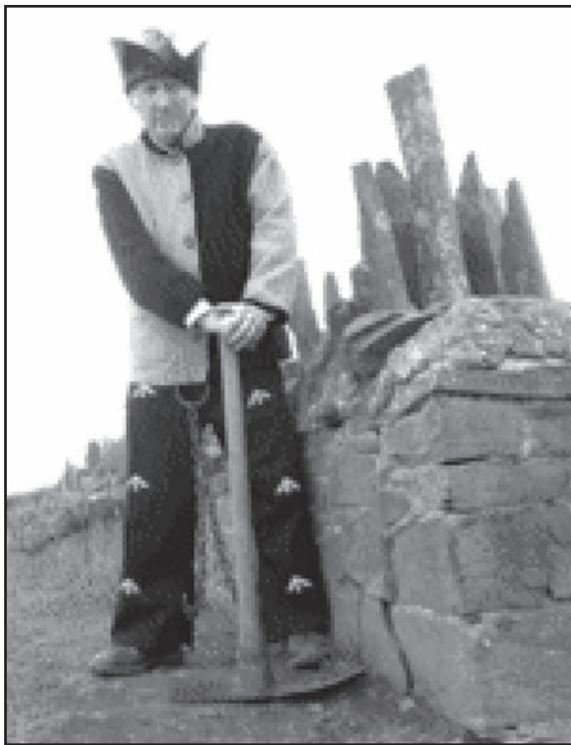
A spectacular location was chosen for this station. Situated eight miles south of Waterloo Point (now Swansea), the Rocky Hills Probation Station was constructed on a high wooded hill overlooking Mayfield Bay on the east coast of Van Diemen's Land. Work commenced in October 1840, and the construction party was housed in temporary log huts

⁶³ See James Semple Kerr, *Design for Convicts* (Sydney, 1984), 133, and John Thompson, *Probation in Paradise* (Hobart, 2007), 93.

⁶⁴ Marsh, *Seven*, 126.

⁶⁵ David Burn, "Excursion to Port Arthur," *Tasmanian Journal of Natural Science* (1842), v.1, #4, 293. For computer generated images of this site, see Thompson, "Patriot Prisoners," 138-39.

Brenton Wheare of the Glamorgan-Spring Bay Historical Society depicting a convict in "magpie" at the Spikey Bridge, north of the Rocky Hills Probation Station, Swansea, Tasmania. Ray Joyce, photographer, Swansea.



in a gully on the north side of the hill at Clements Creek. The first probationers, who had arrived directly from England, were sent to work building permanent brick and stone structures on high ground south of the first temporary location.

Originally developed as a road making station to build the East Coast Road, plans issued by the Royal Engineer's Office on 16 August 1841 followed the Grand Plan design. The site was pro-

jected to house 300 men. First-class prisoners were to be accommodated in huts each holding thirty men, second-class prisoners were placed fourteen in each hut, and third class were in larger huts, each capable of housing thirty men. In addition there was a general store built of brick and stone, a cook and bake house, hospital, chapel and schoolhouse. Commanding Royal Engineer Major J.C. Victor designed the convict accommodations as perimeter ranges enclosing three radiating yards in the form of a modified Maltese Cross. The third class yard was identical to the Saltwater Creek design containing 100 separate apartments and twenty-six solitary cells. Lateral arms provided accommodation for 330 men of first and second class.⁶⁶

The first superintendent, William Lavender, accepted thirty Patriot prisoners who were transported aboard the government brig *Isabella*, after disembarking on the beach near the station. They were employed in building permanent buildings and forming roads, one towards Waterloo Point and one towards Hobart Town. Lavender's superintendancy was marked by a lack of firmness and commonsense. James Syme, a staff member from 1841-1845, described the station as a "hotbed of idleness and laxity." He recalled that in 1842 there were 400 cases of insubordination and escape. Conditions were so bad that military reinforcements had to be sent from Hobart Town.⁶⁷

⁶⁶ Kerr, *Design*, 137. For more on the involvement of Victor and his predecessor Roger Kelsall, see P.H. MacFie, "The Royal Engineers in Colonial Tasmania," *Second National Conference on Engineering Heritage* (Melbourne, 20-22 May 1995).

⁶⁷ See Syme, *Nine*, 191-2 & 195-8 and Thompson, "Patriot Prisoners," 142. For other period accounts

Some of the North American political prisoners were specifically identified in a diary kept by the first Medical Officer for the station, Dr. George Fordyce Story.⁶⁸ As District Assistant Surgeon, he was responsible for the health of the prisoners and staff at Rocky Hills. He held this position until the 19 October 1841, when Evan Teush was appointed as doctor at the station. The Patriots at Rocky Hills received their tickets of leave on 10 February 1842. Their early involvement at the site would help in Rocky Hills to grow to be a large arable farming operation worked by over 500 men.⁶⁹

Victoria Valley/Seven Mile Creek/Marlborough Probation Stations

(1 October 1841-9 February 1842)

In September 1841 the site for the Victoria Valley Probation Station was chosen. Located in northwestern Van

Diemen's Land, the station was situated overlooking Nine Mile Marsh and Native Hut Creek (now Kenmare Creek), approximately eleven miles from the Ouse Bridge. Convicts were to clear, drain and fence the surrounding land and to develop a self-sustaining agricultural station. Other work activities included preparing 100-acre blocks of land for public sale, building a stone walled reservoir for summer irrigation purposes, and extending the line of road between Victoria Valley and Marlborough.

The proposed plan for this station differed from those constructed in the Tasman Peninsula. Three quadrangles housing three classes of prisoners were set well apart to attempt to limit communication between the prisoners. Convict huts no longer had standard front entries. Instead they combined front and passage entry that permitted two tiers of bed platforms against front and rear walls.⁷⁰

On 22 September 1841, James

about Rocky Hills, see (Mrs.) Charles Meredith, *My Home in Tasmania, or Nine Years in Australia* (New York, 1853), 64-67, and Louisa Anne Meredith, *Over the Straits; A Visit to Victoria* (London, 1861), 10-11.

⁶⁸ Dr. Story's "Convict Muster at Rocky Hills Probation Station," noted 8 "Canadians" including James Gemmell, Asa Richardson, Foster Martin, Gideon Goodrich, Chauncey Mathers, John Swanberg, Riley Whitney and Aaron Dresser. See C71/30B Archives, University of Tasmania. The most common medical problems identified by Dr. Story were eye and nose ailments. For notes on symptoms and treatments see *Case Notes, Rocky Hills Probation Station 1845-1846*, Archives, University of Tasmania. For more on health of prisoners at probation stations, see Tom Dunning, "Convict Care and Treatment: the American Experience in Van Diemen's Land," *Bulletin of the Centre for Tasmanian Historical Studies* (1989-90), v.21, #2, 72-85, Tom Dunning, "Care and Treatment of Convict Bodies," in Paul Richardson et.al (eds.), *Effecting a Cure: Aspects of Health and Medicine in Launceston* (Launceston, 2006), 31-34, and Hamish Maxwell-Stewart & James Bradley, "Crime and Health—An introductory View," *ibid*.

⁶⁹ See James Thomson's report on Probation Gang Stations of 31 December 1844, in *British Parliamentary Papers* (Shannon, 1969), 241.

⁷⁰ For more specifics of the plans for this site, see Kerr, *Design*, 134-36. See also Karl von Stieglitz, *A History of Hamilton, Ouse and Gretna* (Evandale, 1963), 36, Caroline Bird, *Places of the Pioneers: Life and Work in Tasmanian Forests* (Hobart, 1994), 10, and Margaret Mason, *Lifeflood of a Colony* (Hobart, 1994), 89-91 for additional details about this station.

Aitchison left the New Town Bay Probation Station and was sent to Victoria Valley as an overseer. In a 14 January 1842 letter to Elijah Woodman, Aitchison recorded that he would be in charge of the party and would be paid twenty-five shillings per month with rations of tea, sugar and tobacco. He noted that he had agreed with Captain Matthew Forster's request that he stay on to complete the project even after the receipt of his ticket of leave.⁷¹ This work included the construction of buildings at Victoria Valley and Seven Mile Creek Probation Stations, draining, clearing and fencing 1,000 acres of Nine Mile Marsh for agriculture,⁷² building a police station/watch-house in Marlborough, and to make improvements to the road through the Victoria Valley. Site superintendent was Samuel Hall.⁷³ He was aided by three assistant superintendents and two overseers. Author David Burn recorded his visit with Lieutenant-Governor Franklin's party to Seven Mile Creek Station on 30 March 1842: "Here we found a working party constructing the necessary barracks for a Probation Station, the men of which are to be hereafter employed in rendering the

road between Marlboro and the Ouse more open and accessible."⁷⁴

In October 1843, Deputy Assistant Commissary-General John Tomes visited Victoria Valley to see if it was advisable to erect a mill and to cultivate oats and other grain. He reported that the Nine Mile Marsh was generally drained and the stream was sufficient to turn a large water wheel. He noted that roads were in an impassable condition. This prevented the settler or trader from supplying flour or any other articles requiring cartage. Fifteen acres were planted with potatoes, and cabbages, onions and turnips were being cultivated. Tomes recorded that Superintendent Hall was a very efficient officer and concluded that; ...it is pleasing to witness the displays of industry and propriety which is generally exhibited among the men, who evidently appreciate the humane and praiseworthy means adopted to reform their habits and modify their previous vicious propensities.⁷⁵

Cultivation of wheat at Victoria Valley was not viable as it failed to ripen at this altitude. Potato crops were attempted but were susceptible to frost damage.⁷⁶

⁷¹ Aitchison to Woodman, Victoria Valley Station, Marlborough, 14 January 1842, Local History Archives, University of Western Ontario, London, Canada.

⁷² For more information about this station, see "Victoria Valley," *True Colonist* (28 June 1844), #26.

⁷³ For insight from Samuel Hall on the decline of this site, see "Victoria Valley" and "Letter to the Editor," *True Colonist* (17 July 1844), #28. For other articles dealing with criticism about this probation station, see "'Probation Gang Farming,'" *Colonial Times* (14 February 1843), v. 31, #1392, "Probation System," *True Colonist* (1 March 1844), #6, and "Victoria Valley," *True Colonist* (10 July 1844), #27.

⁷⁴ David Burn, "Narrative of the Overland Journey of Sir John and Lady Franklin and Party from Hobart Town to Macquarie Harbour," *Colburn's United Service Magazine* (June 1843), pt.2, 211.

⁷⁵ John Tomes, Deputy Assistant Commissary-General to Deputy Commissary-General Maclean, 16 October 1843, *BPP*, 178.

⁷⁶ For period accounts regarding the destructive impact of weather in this area, see "Inquiries From Correspondents," *Tasmanian Journal of Natural Science* (1842), v.1, #4, 319, and F.T. Cockburn, *Letters*

Harsh weather conditions, bureaucratic complications, disappointing crop yields and a heavy expenditure of public money, resulted in the station being closed down and abandoned by February 1845.⁷⁷

Tickets of Leave

In a despatch from Secretary of State Lord John Russell, Lieutenant-Governor Sir John Franklin was empowered to grant tickets of leave to prisoners after two years of hard labour on roads, if their conduct merited such action. Russell added that it was;

...important to the tranquility of the North American Provinces that these persons should not be allowed to return to that continent. You will consequently take care that they do not receive pardons without the previous authority of Her Majesty's Government.⁷⁸

Tickets of leave were awarded for good conduct, and as a form of probation, allowed the holder to leave probation stations, seek employment and eventually

receive a conditional pardon. The police could use ticket of leave men whenever they were required to assist in capturing bushrangers. If these men refused to be conscripted for this task, they could be punished in many and varied ways as the local magistrate saw fit.

On 10 February 1842, tickets of leave were issued to seventy of the Patriots on condition that they resided in the districts of Fingal, Campbell Town, Oatlands, Bothwell, Hamilton and Swanport.⁷⁹ Robert Marsh, James Fero, David House, Orlin Blodgett and Leonard Delano set out to find work in Bothwell. Difficult travelling conditions and illness resulted in this group stopping at Brighton. Here they lived in a vacant estate house, guarding it for its absentee owner and carrying out menial labour tasks. Others eventually found work in Bothwell including Jacob Beamer, George Brown, Elon Fellows, Nelson Griggs, Michael Morin, John Williams, John Guttridge and Stephen Wright. Some worked for

From the Southern Hemisphere (Calcutta, 1856), 75.

⁷⁷ For more information see Audrey Holiday & John Trigg, *From Black Snake to Bronte* (Hobart, 1988), 206-08. For three other period reflections which are critical of the government's folly in establishing this site, see Syme, *Nine*, 237, Henry Butler Stoney, *A Year in Tasmania* (Hobart Town, 1854), 121-22, and Henry Butler Stoney, *A Residence in Tasmania* (London, 1856), 97-9. In 1853 a two-storey brick house and attached buildings in Marlborough were occupied by the District Constable. See Cockburn, *Letters*, 74. See C.J. La Trobe's 1847 report on the state of existing probation stations, in Ian Brand, *The Convict Probation System: Van Diemen's Land 1839-1854* (Hobart, 1990), 109-207.

⁷⁸ Russell to Franklin, 28 October 1840, GO 1/40.

⁷⁹ These tickets of leave were announced in the *Hobart Town Gazette* (11 January 1842) and issued in February. See *Colonial Times* (15 February 1842), v. 30, #1341 for the complete list of "Canadian prisoners who have arrived per Buffalo." Tickets of leave had been previously issued on 4 August 1841 to prisoners George Cooley, James Waggoner, Benjamin Wait and Samuel Chandler who had arrived on the *Marquis of Hastings*. Tickets of leave could be revoked for breaches of conduct. This happened in 1844 to Beamis Woodbury, James Waggoner and Patrick White. In January 1846, George Cooley had his ticket of leave cancelled, and he was sentenced to 12 months hard labour for having concealed himself aboard an American whaling vessel with the intent to abscond. Elijah Woodman wrote that Cooley had tried to escape on the barque *Barbary*. See Woodman, *Diary*, (19 January 1846), HT28.

Acting Police Magistrate Samuel Barrow at his estate Clydeville or were employed in building the Bothwell Police Station. Others were appointed as special constables in the hunt for bushrangers Jones and Cash.⁸⁰

A widespread economic depression that began in 1841 coupled with at least 9,000 former convicts on tickets of leave or conditionally pardoned, made employment difficult to find. Elijah Woodman commented on the situation in a 3 April 1844 diary entry: "The country is said to be in a state of insolvency as no business of consequence is going on. Everybody is complaining of bad and hard times. The island is so far out of the way of commerce that it always will labour under a disadvantage."⁸¹ Many of the Patriots found work at large estates in the midlands such as Mona Vale, Douglas Park, Beaufront, Fonhill, Ashgrove,⁸² Valleyfield, Woodlands, Chiswick, Somercotes, Rothbury and Ballochmyle. Thirty-two influential landowners forwarded certificates of conduct for sixty-one of the Patriots to the government in a period from 12-22 November 1843. These letters attested to the positive qualities of the Patriots and

pressed Lieutenant-Governor Franklin to provide further indulgence of conditional pardons for these political prisoners. The Reverend Gregory Bateman, Chaplain of Oatlands wrote; "I have observed the conduct of the Canadian Petitioners ever since they have been in this district. Their conduct has been honest and industrious and much confidence has been placed in them by their employers."⁸³

Robert J. Kermode noted that the men working for him and his father at Mona Vale, had not varied in carrying out their duties, and that; "Their general conduct has been uniformly correct—so much so, that for honesty of purpose and steadiness of behaviour I feel I cannot too strongly testify in their behalf."⁸⁴ The Reverend John Mackersey writing from Kirklands Manse, noted: "I have had occasion at different times to employ several of the aforesaid Petitioners and have always found them steady, sober and remarkably well conducted men. As far as my observation extends this is the general character of the Body."⁸⁵

At Campbell Town, the Patriots carried out various tasks. Daniel Heustis, Elizer Stephens and Michael Fraer did

⁸⁰ See Pybus & Maxwell-Stewart, *Slaves*, 178 & 210-42 and personal correspondence with the author from Peter Fielding, Oatlands, and Mary Ramsay, Bothwell.

⁸¹ Woodman, *Diary*, HT7. The lack of work for ticket of leave men was not a new problem in Van Diemen's Land. It was noted 4 years earlier in "Ticket-of-leave Men," *Colonial Times* (4 September 1838), v. 24, #1162.

⁸² For information on several Patriots working at Fonhill and Ashgrove, see Stephanie Burbury, *Andover: A History of Farms in the Area* (Jericho, 2001) 48 & 8.

⁸³ Gregory Bateman, Oatlands, 20 November 1843, CO 280/169, cited in *Gibson Papers*.

⁸⁴ Robert J. Kermode, Mona Vale, 20 November 1843, cited in *ibid*. The Kermodes employed upwards of thirty of the Patriots for twelve to 18 months working as tradesmen and tenant farmers. Marsh, Gates, Wait, Heustis, Snow and Chandler worked at Mona Vale for ten and a half months. Beginning on 12 December 1842, these men planted crops and harvested wheat.

⁸⁵ CO 280/169, Tasmanian Heritage and Archives Office.

fencing. Heustis, Stephens, Chauncey Mathers, Hiram Loop, Stephen Wright and Daniel Marsh made shingles. An association of mechanics was set up by a number of the prisoners as a collaborative effort to use their skills to find employment. From October through to December of 1844, Heustis, Loop and James Pearce worked on the estate of William Gray to repair a dam. Heustis and Elon Fellows manufactured grain cradles and harvested wheat for a Mr. Benton on a property on the South Esk River. Campbell Town's Acting Police Magistrate John Whitefoord's memorial declared; "The Canadian prisoners as a body (as might have been anticipated) are a very superior class of men in moral and useful qualities to the generality of convicts received in this colony."⁸⁶ Robert Taylor added his support from his experiences at Valleyfield:

One of your Excellency's Petitioners/Chancy [sic] Bugby/has been in my employ ever since he received the indulgence of a Ticket of Leave, and his conduct has been satisfactory in every instance. I have employed several others at times and with none have I had reason to be much dissatisfied.⁸⁷

Philip I. Smith writing from Charlton at Ross Reserve, said:

I have had many opportunities of observing the conduct of many of the Canadians

for more than 18 months and have heard a great deal of them in different services and employment and can bear testimony to both what I have seen and heard being strongly in favour of their general good conduct.⁸⁸

John Williams and John Vernon used their ingenuity and agricultural experience to manufacture winnowing machines. A testimonial from Joseph Cahill, owner of the London Inn at Spring Hill, vouched for the product that he had paid ten pounds for: "I have bought one of the winnowing machines made by the Canadians at Oatlands, and can assure the public it is one of the best machines I have seen in the Colony, and cleaning the grain once through makes it fit for the market."⁸⁹ In another testimonial, J. Fleming wrote:

"This is to certify that I have used one of the winnowing machines made by the Canadians, at Oatlands, and can recommend them as being worthy the attention of Farmers of this Colony; the machine cleans the grain well, and as fast as any I have seen in this Colony."⁹⁰

Patriot George T. Brown spent seventeen months working for Benjamin Berthon at Woodlands near Melton Mowbray. He plied his skills as a blacksmith, and was described as being "particularly sober, civil and an obliging man."⁹¹ At James Sutherland's Rothbury on the Isis

⁸⁶ Memorial from John Whitefoord, Oatlands, 22 November 1843, cited in *Gibson Papers*.

⁸⁷ CO 280/169, THAO.

⁸⁸ *Ibid.*

⁸⁹ From an advertisement in the *Colonial Times* (7 June 1842), 1, c.1. Williams and Vernon also offered millwright, house carpentry and cabinet making services.

⁹⁰ *Colonial Times* (7 June 1842), v. 30, #1356. This testimonial may have come from Thomas Fleming who in a period census document was listed as "a man with involvement in the rural industry." See *Census Record* (31 December 1842), THAO.

River, a number of the Patriots including Daniel Heustis, Orin Smith, Solomon Reynolds, Hiram Sharpe and Alson Owen worked grubbing out trees and clearing land. Owen was afflicted by an epileptic fit and died there on 24 March 1842. He was buried in the Sutherland family graveyard.

Samuel Chandler, Benjamin Wait and John Grant used their previous experience to set up a blacksmith and wheelwright shop.⁹² James Gemmell proposed to his employer that he would build a stump machine to assist in clearing the land.⁹³ Generally locals thought favourably of the prisoners. Writing from Mona Vale on 5 February 1843, Elijah Woodman reflected upon this sentiment:

The people of this place seem to exhibit a feeling of sympathy for us and are desirous



Hiram Sharpe was one of the few North American political prisoners who remained in Australia after receiving a pardon. Photo courtesy of Margaret and Terrence Patterson.

of our release from present situation. The prisoners landed here by the ship *Bufalo*, are the best conducted since this island became a penal colony ...I have no doubt but what the name of the Canadian prisoners will long be remembered on this island for good morality, if not Christianity.⁹⁴

However, not all was positive for ticket of leave men. One period observer noted that; "But when he gets this he is thrown on his own hands. The Government no longer supports him, and he is not nearer wages of employment than he was before. He cannot quit the Colony under ticket of leave, and he has, therefore, a direct interest in not attempting to get a ticket of leave."⁹⁵

⁹¹ See CO 280/169, *Gibson Papers*, and L.N. Fuller, "Story of George T. Brown Who Was Banished For Life," *Northern New York in the Patriot War* (Watertown, 1923), chapter 21.

⁹² Gemmell, "Two." During this period of tickets of leave, several of the Patriots engineered their escapes to freedom. They included James Gemmell, Benjamin Wait and Samuel Chandler. See W.L. Mackenzie, "More Escapes From Van Dieman's Land," *The (New York) Plebeian* (15 July 1842?), Mackenzie-Lindsey Papers, Clipping #4682, n.d., AO.

⁹³ Gemmell recorded that this machine would be based on a model designed by Elijah Woodman. See Gemmell, "Two." Orlin Blodgett also made a stump puller. See "Story of Orlin Blodgett," *The Chronicles of the Ontario County Historical Society* (March 2006), v.35, #1, 7.

⁹⁴ Woodman, *Diary*, 75. Another period publication echoed this feeling: "The Canadian prisoners conducted themselves with exemplary decorum." See John West, *The History of Tasmania* (Launceston, 1852), v. 1, 331.

⁹⁵ Jackson, "Regeneration," 150-51. Behind the scenes efforts to free imprisoned Patriots though government channels began as early as 1842. American Secretary of State Daniel Webster and British special negotiator Lord Ashburton corresponded and discussed ways to mitigate the situation. See "National Af-

Pardons and Beyond

Early in 1843, Sir Charles Metcalfe, Governor General of Canada, ordered a general amnesty which released all prisoners involved in the rebellion and still being held in Canadian jails. In Van Diemen's Land the first free pardon was granted to John Tyrrell on 20 September 1843. A letter to the editor described the situation of the Patriots:

Sir, - The Canadian prisoners having been transported to Van Diemen's Land for no definite period, are of right as free within this colony as any of her Majesty's subjects.

Political offences, for which no determined period of time is named as the punishment for expiating them, become atoned for *de facto* by banishment, as in the case of the Canadians here; and they are not, and cannot legally be dealt with as, prisoners. They are only *exiles*.

From the fact of their neither having been banished for any term of years, nor for life,

their sentence is complete, and their liberty conceded, by their having been landed at the place of banishment; and they have a right to quit it the day following if they think fit.

The leading men of these political offenders, *Papineau* and *La Fontaine*, are restored to their estates, and the former to office under the British Government. How, then, can there be a doubt about the men banished hither who enlisted under these leaders being freemen? Mr. Price may, but the Lieutenant Governor cannot legally refuse them their clearances to depart; and if they were illegally banished, which is the prevalent opinion at home, they should be restored to Canada free of expence, [sic] where it will be for them to seek redress for the wrongs inflicted upon them.—Yours, Buffalo.⁹⁶

By November of 1844, a total of forty of the Patriots had received free pardons.⁹⁷ This number included prisoners from the *Canton*, *Marquis of Hastings*, as well as those from the *Buffalo*. Receiving pardons did not however mean immediate

fairs," *Niles' (Baltimore) National Register* (17 September 1842). In 1845, Edward Everett, the American Ambassador to England, transmitted petitions to Great Britain on behalf of Americans still incarcerated in Van Diemen's Land. See *The Works of James Buchanan* (1844-46), v. 6, 157.

⁹⁶ *Colonial Times* (30 April, 1844), v. 32, #1455. John Price was the Chief Police Magistrate for Van Diemen's Land, until he was appointed Civil Commandant of Norfolk Island in July of 1846. For more on John Giles Price, see *Australian Dictionary of Biography*—Online Edition, <http://adbonline.anu.edu.au/biogs/A0203066.htm>. For other supportive comments about the "Canadian prisoners," see Oatland publican John Golder's letter to the editor, *Colonial Times* (6 February 1844), and the corresponding editorial response in the *Colonial Times* (13 February 1844).

⁹⁷ See Woodman, *Diary* (24 July 1845), HT13. For a list of 28 Patriots still in Van Diemen's Land as of 25 September 1845, see "Letter From Mr. Miller." Because of good behaviour, Lieutenant-Governor Sir William Denison recommended extension of Royal Clemency and pardons to John Bradley, James Inglis, Foster Martins, John Henry Simons, Samuel Chandler, Calvin Mathers, Hugh Calhoun, Chauncey Mathers, Asa Richardson, James Waggoner and Benjamin Wait. In correspondence with Lord Grey, he noted that pardons had already been granted to John Guttridge, Jacob Paddock, Joseph Stewart and Jacob Beamer. See Sir W. Denison to Earl Grey, No. 8, (9 February 1847), CO 280/207. Pardons were previously given to Hiram Sharp, John Gillman, Ira Polly, Orrin Smith, Beamis Woodbury, George Brown Daniel Liskum, Robert Collins, John Thomas and Edward Wilson, see *Albany (New York) Evening Journal* (24 May 1844) and *Utica (New York) Daily Gazette* (24 May 1844), and to Joseph Stewart, Elizur Stevens, Gideon Goodrich, Nelson Griggs, Jerry Griggs, Benjamin Mott, James Fero and Luther Darby. See "Royal Clemency," *The (Baltimore) Sun* (28 August 1844).

return to North America. The prisoners had to continue to work to make enough money to pay for passage, or find a ship's captain who would take them on a crew for the return voyage. Elijah Woodman explained this dilemma:

"When we receive our pardon nothing is done for us toward a passage home by the Authorities, so our only chance is to work our passage to some foreign port with the hope of getting a vessel to America. Whale ships call here for supplies but will not take any one unless short handed."⁹⁸

Government correspondence identified another problem for pardoned prisoners. It noted Lord Stanley's conviction "... that it has become an indispensable duty promptly to make some effective provisions for relieving Van Diemen's Land from the constant and increasing pressure of the large body of pardoned convicts who are seeking in vain the means of an independent and honest subsistence."⁹⁹

In January of 1846, Patriot Linus Miller added his comments saying of his former colleagues:

Most of them through the kind intercession of the American Government, had been pardoned when I left, and I have every reason to

hope that *all* are now *free*...Many of them are in want of proper food and clothing. They are willing and anxious to labor, but owing to the distressed state of the colony, are seldom able to find employment. An American vessel rarely touches Hobartown, and then only serving to remind them of home.¹⁰⁰

Free pardons continued to be granted because of good behaviour, while Henry Barnum, Leonard Delino, Aaron Dresser, Elon Fellowes, Emanuel Garrison, Elizur Stevens and Stephen Wright were given their freedom for their involvement in the pursuit or capture of bush-rangers. Prior to pardon warrants being issued, the Patriots took on a variety of jobs. Henry Barnum worked at the Halfway House Hotel in Antill Ponds. Aaron Dresser was employed as an overseer for James Austin in the Campbell Town District, while Edward Wilson worked for George and Marion Wilson at Ceres near Oatlands.¹⁰¹ Others working at midland estates included Samuel Snow, Alvin Sweet, Henry Shew, George Brown, Ira Polly, John Williams, John Gilman, Leonard Delano, Riley Stewart, Michael Morin (Murray), John Sprague, Henry Simmons and Thomas Stockton.¹⁰²

On 30 May 1845, Thomas G. Larkin,

⁹⁸ See Woodman, *Diary* (22 February 1844), HT2. In a government notice, holders of Conditional Pardons were able to make application to the Probation Department to move to the Australian colonies of Sydney, Port Phillip, South Australia, Swan River and to New Zealand. See "Van Diemen's Land," *Simmond's Colonial Magazine & Foreign Miscellany* (December 1845), v. 6, #24, 496.

⁹⁹ See "Letter from James Stephens to C.E. Trevelyan, Downing Street, 21 November 1845," in *BPP*, 281.

¹⁰⁰ "Letter from Mr. Miller, Late From Van Diemen's Land," *Northern (Lowville, N.Y.) Journal* (5 February 1846). For more on Linus Miller, see Cassandra Pybus, "the d—Yankee quill-driver," in Lucy Frost and Hamish Maxwell-Stewart (eds.), *Chain Letters Narrating convict lives* (Melbourne, 2001), 15-31.

¹⁰¹ For more on Edward Wilson, see John Hawkins, "Edward Augustus Wilson, American-born patriot, cabinet maker, political convict and British Slave," *Australiana* (February 2005), 17-21.

¹⁰² The last three died and Simmons and Stockton are buried in unmarked graves in the Old General

the United States Consul at the Port of Monterey, transmitted a despatch to the American government referring to the names of twenty-seven of the Patriots who had been pardoned and who were returning to the United States. Larkin listed eight others who had been pardoned but had not found an opportunity to leave Van Diemen's Land.¹⁰³

The Reverend Gregory Bateman wrote from Oatlands on behalf of several of the pardoned patriots. He requested a licence for timber cutting at Macquarie Harbour. This request was granted providing that these men made their application through the Police Magistrate of their district.¹⁰⁴

On the north-east coast at Great Swan Port, Moses Dutcher was a carpenter and farmer. Between 1845-49, he had ten convicts assigned to him including Patrick White. Asa Richardson worked for Edwin Meredith at Great Swanport, Michael Fraer¹⁰⁵ was a miller at Rivers-

dale Mill, Garrett Hicks and Riley Whitney farmed near Waub's Harbour (now Bicheno), and William Gates was a district constable in Fingal. Others working in the Swanport area included Jacob Paddock, Orin Smith and Chauncey Mathers.

Some gravitated to Hobart Town with the hopes of obtaining passage home. These included Elijah Woodman, James Aitchison, John Simmons, Horace Cooley, Chauncey Sheldon, Joseph Stewart, Riley Whitney, Samuel Washburn, Solomon Reynolds, James Pierce, Thomas Baker, John Williams, Joseph Leforte, Norman Mallory, Calvin Mathers, George Cooley, Hiram Loop, John Vernon and Robert Collins.¹⁰⁶

In poor health and with failing eyesight, Elijah Woodman along with his comrade Henry Shew finally secured passage home on the *Young Eagle* in February of 1847. In a letter to his family, Woodman noted that prior to his de-

Cemetery, Oatlands. In a testimonial letter written by Ira Polly and George Brown to landowner and employer William MacLanahan, 7 Patriots indicated that they had paid for their "mate" Thomas Stockton's hospital and burial expenses. See letter to William McLanigan [sic] Esq., Oatlands, 6 September 1844, private collection. For more on convict death, see Richard Tuffin, "Convict death and burial in Van Diemen's Land: A comparative Study," *Historical Research Report Port Arthur Historic Site* (April 2006). For a poem by "A Canadian," (Linus Miller), written while searching for the grave of a deceased Patriot colleague, see *Colonial Times* (26 June 1844).

¹⁰³ See "Release of American Prisoners on Van Diemen's Land," *Auburn Christian Advocate* (October 1845, 107)

¹⁰⁴ Bateman to Colonial Secretary, 28 August 1845, CSO 11/2/40. For a period account of one Police Magistrate's relationship with ticket of leave men, see John Forster's comments in "Notes," 77. A directive from the Colonial Secretary's office on 11 January 1844 made it lawful for ticket of leave holders to acquire and hold personal property. See James Wood (ed.), *Van Diemen's Land Royal Calendar, Colonial Register and Almanack 1848* (Launceston, 1848), 65.

¹⁰⁵ For more on Moses Dutcher and Michael Fraer as free men in the Swansea area, see "1848 Great Swanport Census," CEN1/78, THAO, pp 113-14 & 117-18. Dutcher and Fraer were also listed as contributors of wheat to the Irish and Scotch Relief Fund. See *Hobart Courier* (17 March 1847), 3.

¹⁰⁶ These are names Elijah Woodman lists in his Hobart Town Diary between 20 March 1844 to 25 October 1846.

parture on 1 March, twenty-five Patriots remained in Van Diemen's Land, with thirteen of this number still in bondage. Woodman added that Moses Dutcher, Samuel Washburn and Michael Fraer had married and settled there, while James Aitchison had gone to New Holland.¹⁰⁷

Conclusion

In the August 1846 edition of *Barker's Canadian Magazine*, subscribers would have read an article that suggested that in the United States, people thought more of the criminal than of the punishment of crime. The author asked readers

if they had ever heard of "Van Diemen's Land, and the merciful care which leads Britain, at great expense, to save human life, and give offenders an opportunity of retrieving their characters, and making their peace with their God?"¹⁰⁸ This certainly would not have been the view shared by the North American political prisoners who had been shipped to Van Diemen's Land in 1839-40. Nor was it the position of the social reformers in England and in Australia who would ultimately be successful in bringing the transportation system to an end.¹⁰⁹

Lieutenant-Governor Franklin was

¹⁰⁷ Two others receiving approval for marriage were Edward Wilson and Patrick White. Nothing more is known about James Aitchison until his name appears in notification of unclaimed mail at the Melbourne General Post Office, listed as being a resident of Gipps Land. See *Victoria Government Gazette* (16 June 1852), 562. At least two other Patriots left Van Diemen's Land and ended up in New South Wales. Ira Polly settled in the Illawarra/Dapto area, and Hiram Sharpe lived in the communities of Kiamal and Bombala. Both ex-prisoners and free men appeared to join an exodus from Van Diemen's Land during this period. It was recorded that, "Every vessel from Hobart Town and Launceston was taking as many passengers as it could accommodate, who were emigrating to Adelaide, Port Phillip, and the settlements of Australia." See "Van Diemen's Land," *Simmond's Colonial Magazine & Foreign Miscellany* (July 1846), v. 8, #31, 381. This was confirmed in a 28 May 1846 entry in Elijah Woodman's diary: "In the last three weeks at least six hundred free persons have left this colony for Sydney, Port Phillip and Adelaide." See *Diary*, HT38.

¹⁰⁸ "Extracts from a Journal of 1843 & 1844," *Barker's Canadian Magazine* (August 1846), v.1, #4, 185.

¹⁰⁹ Arguments made for and against this extremely divisive issue were numerous. For anti-transportation publications, see Richard Whatley, *Thoughts on Secondary Punishments* (London, 1832), Richard Whatley, *Remarks on Transportation* (London, 1834), Saxe Bannister, *On Abolishing Transportation; And On Reforming the Colonial Office* (London, 1837), John Dunmore Lang, *Transportation and Colonization* (London, 1837), William Ullathorpe, *The Horrors of Transportation* (Dublin, 1838), James Backhouse, *A Narrative of a Visit to the Australian Colonies* (London, 1843), Appendix F, lx-xi, "On the Abolition of Transportation to Van Diemen's Land," *Simmond's Colonial Magazine & Foreign Miscellany* (December 1845), v. 6 #24, 479-84, Francis Russell Nixon, "Notes on Transportation and Prison Discipline, As Applied to Van Diemen's Land," in "Communication to Earl Grey from the Bishop of Tasmania, 15 February 1847," *BPP*, 441-50, Thomas M'Combie, "Emigration and Prison Discipline Considered in a Letter to the British Government," *Simmond's Colonial Magazine* (August 1847), v. 11, #44, 461-70, Joseph B. Atkinson, *Penal Settlements and Their Evils; Penitentiaries and Their Advantages* (London, 1847), "Van Diemen's Land," *Simmond's Colonial Magazine & Foreign Miscellany* (December 1847), v. 12, #48, 466-7, W.J. Aislabie, "Remarks on Transportation to Australia," *The Colonial Magazine & East India Review* (April 1852), v. 22, #4, 337-45, Byrne, *Twelve*, 79-81 & 85-90, and Patricia Radcliff, *The Usefulness of John West* (Launceston, 2003). For a selection of pro-transportation publications, see Frederick Maitland Ines, *Secondary Punishments* (London, 1847), Zachary Pearce Pocock, *Transportation and the Convict Discipline Considered* (London, 1847), Zachary Pearce Pocock, "Transportation and Our Convict Discipline in Van

blamed for events that he had little control over. In 1840 the economy began to slide into a five-year depression, unemployment rose, and with the end of transportation to New South Wales, Van Diemen's Land had to try and cope with the whole yearly exodus of convicts with limited resources.¹¹⁰ In addition, Franklin had to accept and implement a probation system designed in England, that ignored the economic situation of Van Diemen's Land and which was poorly administrated and resourced.¹¹¹

In Upper Canada, Lieutenant-Gov-

ernor Arthur believed that a strong response was needed to guard the Province against a recurrence of "atrocious aggression" and "lawless incursions of an armed Banditti." To put captured Patriots to work on roads and public projects in Upper Canada was considered too dangerous. Transportation of all the prisoners would be too expensive. The majority were conditionally pardoned, acquitted or discharged, while seventy-nine were transported.¹¹² To serve as an example to deter a repetition of aggressions, seventeen Patriots experienced the ultimate

Diemen's Land, in a Letter to Lord Grey," *Simmond's Colonial Magazine & Foreign Miscellany* (October 1847), v. 12, #46, 206-12, & (November 1847), v. 12, #47, 248-60, George Thomas Lloyd, *Thirty-Three Years in Tasmania and Victoria* (London, 1862), 257-79, and Thomas Atkins, *Reminiscences of Twelve Years Residence* (Malvern, 1869), 179-82.

¹¹⁰ For example see Despatch from Franklin to Lord Stanley, dated 22 July 1842. Franklin wrote that; "The arrival, in succession, of six convict ships since the date of my last despatch on this subject, and the intimation that many more are likely soon to follow, have greatly increased my anxieties on this subject, and render it incumbent upon me to take immediate steps for counteracting the evils which I have perceived to exist." *BPP*, #12, 87. For period information on the 1840s depression, see "Past, Present and Future Position of Tasmania," *The South Briton* (April 1843), #1, 25-6, "Van Diemen's Land," *The Foreign & Colonial Quarterly Review* (July 1843), v. 2, #2, 657-8, "Van Diemen's Land," *Simmond's Colonial Magazine & Foreign Miscellany* (May 1844), v. 2, #3, 385-6, "Van Diemen's Land," *Paramatta Chronicle* (14 December 1844), v. 1, #51, 4, "The Present Condition and Prospects of Van Diemen's Land," *Simmond's Colonial Magazine & Foreign Miscellany* (January 1845), v. 4, #13, 73-6, "Van Diemen's Land," *Simmond's Colonial Magazine & Foreign Miscellany* (April 1846), v. 7, #28, 413-14, and "Statistics of Tasmania, 1838-1841," *Tasmanian Journal of Science* (1846), v. 2, #7, 143-47. See also R.M. Hartwell, "The Van Diemen's Land Government and the Depression of the Eighteen Forties," *Historical Studies* (November 1950), v. 4, #15, 185-97, and S.J. Butlin, "The Van Diemen's Land Slump of the Forties," *Historical Studies* (November 1951), v. 5, #17, 59-63.

¹¹¹ For a personal account and explanation detailing the last 3 years of his administration in Van Diemen's Land, see John Franklin, *Narrative of Some Passages in the History of Van Diemen's Land* (London, 1845). For a period account on the failure of the probation system that was deemed to be "impracticable in its execution," see J.C. Byrne, *Twelve Years' Wanderings in the British Colonies* (London, 1848), v. 2, 48-9 & 114-15. An article in the 31 January 1846 edition of the *Launceston Examiner* argued that the present scheme of penal discipline was "degrading to its subjects and ruinous to the colony." Cited in *BPP*, 499. Official government correspondence noted the difficulties obstructing the execution of Lord Stanley's system of convict discipline in Van Diemen's Land. See "Despatch #10, Earl Grey to Sir William Denison, 30 September 1846," in *ibid*, 512-13. Franklin also found it difficult to work with John Montagu, the Colonial Secretary and Matthew Forster, Chief Police Magistrate. Both had been appointed by Arthur. See Carolyn R. Stone & Pamela Tyson, *Old Hobart Town and Environs 1802-1835* (Lilydale, 1978), 121.

¹¹² See Albert B. Corey, *The Crisis of 1830-1842 in Canadian-American Relations* (New Haven, 1941), 127-28.

consequences of Arthur's executive decision by being executed.¹¹³

In a despatch to Lord Glenelg, Secretary of State for the Colonies, Arthur concluded that it had been ...an embarrassing question to discover what to do with them (those prisoners who were generally men of some property and influence and of decidedly disaffected principles). Confinement to the Province would only provoke attempts at rescue, and would not in the end rid society of them. Simple banishment...would be worse than useless: to extend punishment of death much further was to be avoided—in short, after much consideration it was determined that the only way left effectually to rid the country of these men was by commuting their punishments to transportation.¹¹⁴

Most Upper Canadians who did not want a revolution and lacked what has been called “a revolutionary consciousness” generally supported Arthur's actions.¹¹⁵

Many of the reformers favoured a responsible versus a republican government.¹¹⁶ Even Arthur appeared to have some feelings for those to whom he served justice. In correspondence to Governor General Poulett Thomson, Arthur wrote:

I cannot but regard some of the brigands with feelings of compassion and when I reflect on what they must all have suffered in that long protracted and awful interval which they remained without any assurances that even their lives would be spared in their incarceration...and in their final separation from their country and friends—I am disposed to think that after the punishment they have already endured...the power of granting tickets of leave...may with the greatest propriety be confided to the Governor.¹¹⁷

The successful repulsion of invading Patriot forces into the Canadas in 1838 brought the rebellions of 1837-38 to an end. These complex series of events¹¹⁸

¹¹³ One period source commented favourably upon this decision: “These morals of the people; it accustoms the public mind to scenes of blood and hardens all the finer feelings of our nature. If people won't listen to the voice of reason and are bent upon disregarding the dictates of common sense and will hear of nothing but that fire and sword should be carried into the bosom of a peaceful country then I see no other way to effect a cure among our land neighbours then a liberal application of the Gallows. The Gallows won't reform the dead but it *may* deter the living, at least it will be satisfactory to try the experiment.” Adam Hope to his father, St. Thomas, 6 January 1839, in Adam Crevar (ed.), *Letters of Adam Hope 1834-1845* (Toronto, 2007), 321.

¹¹⁴ Arthur to Glenelg, No.4, 14 April 1838, LAC, B 346.

¹¹⁵ See Allan Greer, “1837-38: Rebellion Reconsidered,” *Canadian Historical Review* (1995), v.LXXVI, 12.

¹¹⁶ See Marc L. Harris, “The Meaning of Patriot: The Canadian Rebellion and American Republicanism, 1837-1839,” *Michigan Historical Review* (Spring, 1997), v.23, #2, 48. On occasion this manifested itself into anti-American feeling. Some Congregational Church ministers trained in the United States were falsely accused of having been connected to the Patriot cause during the Upper Canada Rebellion. See “Colonial Missionary Society,” *Colonial Record* (13 May 1839), v. 1, #10.

¹¹⁷ Arthur to Poulett Thomson, Government House, Toronto, 18 August 1840, CO 42/311, cited in *Gibson Papers*.

¹¹⁸ See Greer, “Reconsidered,” 6 and Harris, “Meaning,” 68-9. Publisher William Evans' comments in May of 1838, provide a period reflection on feelings and events: “We will forbear and strive to reconcile ourselves to a state of things we cannot alter, without incurring the risk of bringing death and suffering upon our fellow-subjects. This would be the conclusion that all real patriots would have come to, and they

concluded one chapter of a historical chronicle in North America, but was the beginning of other experiences significant to the historical record in Australia. The capture, incarceration and transpor-

tation of Patriot exiles to Van Diemen's Land and the stories of their imprisonment, release and repatriation form an intriguing episode in Australia's and Canada's twinned heritage.

Appendix A.

1837-1838 Rebellion—Upper Canada Border Raids, Brief Chronology of Major Incursions:

- 1) 13 December 1837 to 14 January 1838—Niagara—Navy Island
- 2) 8/9 January—Detroit River—Sugar Island, Bois Blanc Island, schooner *Anne*
- 3) 22 February 1838—St. Lawrence River—Hickory Island
- 4) 23/24 February 1838—Detroit River—Fighting Island
- 5) 25 February to 1 March 1838—Lake Erie—invasion of and Battle of Pelee Island
- 6) 29/30 May 1838—St. Lawrence River-Thousand Islands - steamboat *Sir Robert Peel* burned
- 7) 10 June to 3 July 1838 - Niagara-Short Hills
- 8) 28 June 1838—St. Clair River—brief landing
- 9) 12 to 16 November 1838—St. Lawrence River-Prescott—Battle of the Windmill
- 10) 4 December 1838—Windsor—Battle of Windsor

Compiled by Chris Raible (January, 2008). For a synopsis of these incursions in a period newspaper from Van Diemen's Land, see "Report on Canadian Troubles," *Tasmanian Weekly Dispatch* (27 December 1839), v. 1, #13.

would not have madly and wickedly engaged in a contest that they were well aware must bring death and ruin on the unsuccessful party. Unfortunately for themselves the Canadian revolutionists of both Provinces did not perceive the strong probability that existed, that the unsuccessful party would be their own.... The planners of the late insurrection must have greatly miscalculated the amount of opposition they were likely to meet with, or have some promise of effectual and from without, or they never could have been guilty of such folly as to think of rebellion." Cited in "Address," 14.