

## **Juvenile convicts and their colonial familial lives**

### **Abstract**

Convicts were transported from Britain to Van Diemen's Land from 1803 until 1853. Approximately 10 000 - 13 000 juveniles were among the 148 000 convicts transported. This article has traced the lives of female and male juvenile convicts transported, who were sentenced at the Old Bailey (the Central Criminal Court in London), and voyaged to Van Diemen's Land. By exploring individual lives, and contextualising their experiences, it is possible to go beyond the circumstances of offending – through to their punishment period, to their lives upon release. This article will focus on one aspect of juvenile convict lives post-transportation – their familial life. The method of nominal record-linkage has been used across a variety of criminal and non-criminal records (including civil records and newspapers) in order to build up a picture of these young offenders. Going beyond the institution and focusing directly on female and male juveniles is important in understanding the lives of this unique group. From the behaviour of the juvenile convicts themselves, to the decisions of the administrators and the conditions of the penal colony into which they were thrust; Were these female and male juvenile convicts able to form 'settled' colonial lives and which factors inhibited or facilitated this process?

### **Introduction**

Over the last four decades the historiography has moved on from focusing narrowly on juvenile crime within the early Victorian narrative of reform, to knowing who juvenile offenders were. This is exemplified in the significant work of Heather Shore (1999). By exploring the whole lives of these juvenile offenders, a fuller understanding of what factors inhibited or supported the later settling of their lives can be sought. In order to establish whether these juvenile convicts were able to have 'settled' lives it is important to assess not only their crime and punishment, but also their education, training, occupation, longevity, and the focus here – their familial life. The obstacles and encouragements to marry will be explored, along with the marriages themselves, as well as the difficulties and successes of forming the next generation.

A 'settled' life cannot be measured as a tick-box exercise. However, certain aspects surrounding the formation of relationships, employment and criminal desistance all point to a 'settled' life. Such successes may not mean climbing the social and economic spectrum of society, but rather they will mean the formation of a stable and normal working-class life free from crime. Despite their early-life upheaval, were these juveniles able to form families? Marrying and having children did not necessarily result in a 'settled' life but such factors supported a 'settled' life. By exploring the different aspects which interacted to support or inhibit a family life it will add to the wider picture of what factors contributed to a juvenile settling post-

transportation, and what the lasting impact of the experience of being transported to a penal colony, during youth, had on the life-outcomes of this group.

### ***Methods & Methodology***

The history of transportation has been widely studied (Shaw, 1966; Brooke and Brandon, 2005; Hughes, 2003), and different aspects of convict lives focused on, for example: on skills and employment (Nicholas, 1988; Oxley, 1996); family-life (Maxwell-Stewart, Inwood, & Stankovich, 2015) or health (Kippen & McCalman, 2015). Indeed, convict lives have been increasingly sought (Frost and Maxwell-Stewart, 2001), but there has been a concentration on adult convicts, and juvenile lives are only lightly touched on. That is not to say juveniles have been ignored, as Godfrey, Cox, Shore, and Alker (2017) pointed out, works include: administrative histories of judicial and penal reform covering new statutory measures for children (Radzinowicz and Hood, 1990; Bailey, 1987); more social and culturally based studies on juvenile delinquency (Pinchbeck & Hewitt, 1973; King, 1998 and 2006; Shore, 1999 & 2011; Pearson, 1983; Ellis, 2014); studies of juvenile institutions (Stack, 1992; Cox, 2003; Cale, 1993), studies of juvenile policing (Jackson and Bartie, 2014), and studies of juvenile court records (Bradley, 2007; 2009). However, the *whole* lives of offenders convicted as juveniles, from their lives before, during, and after crime have scarcely been explored. This is even more problematic for juvenile females. Research on female offenders has expanded with works including Oxley (1996) and Williams (2015). Yet, excepting the work of Cox (2003), which concentrates on training and reform in Britain, the concentration has been on *adult* female convicts (Kavanagh & Snowden, 2015; Smith, 2008; Oxley, 1996; Beddoe, 1979) with only a passing notice of juveniles. Given the few female juveniles transported, it is unsurprising they have been overlooked but this research has now uncovered and focused on their young lives. Thanks to the works of Nunn (2015; 2017), Slee (2003) and Jackman (2001; 2009) there has been an increasing focus on male juvenile convicts – but this focus has been largely from an institutional perspective or their lives within those institutions. As Nunn pointed out, it is difficult to form an adequate picture of the male juvenile lives beyond the institution (2017, p. 171). As such, research into convicts has previously ended with the conduct records. This article goes beyond these records by combining them with non-criminal records including; newspapers, birth, marriage and death records much in the manner of Godfrey *et al* (2017) which investigated juvenile offenders in England later in the century.

To gain a rounded understanding of their whole lives it is important to assess if they married or formed relationships. This includes looking at factors such as: their age and whether they were free when married; were their marriage partners' convicts, emancipists or free settlers; and the age and occupations of their marriage partners, will be explored. As van Schellen put it 'it is not only relevant to study if criminal

convicts marry but also whom they marry' (2012, p. 547). In doing so it will be possible to approach the question; did the juvenile convicts go on to have 'settled' family lives, and which factors influenced this?

The methods used in this research closely follow the life-course methodology employed by Godfrey *et al* which incorporated the use of biographical data into a life-course analysis (Godfrey, Cox & Farrall, 2007; 2010). For example, in *Young Criminal Lives: Life Courses and Life Chances from 1850* they considered the long-term impact of youth justice interventions on 400 children, by combining historical data from a wide-range of sources including admissions registers of reform institutions, to create life-grids for juvenile offenders (Godfrey *et al*, 2017, p. 9). Other works using similar methods include Williams (2015) and Turner (2009). Essentially, this method requires record-linkage of a variety of records, not only criminal justice records, but also census records, birth, marriage and death registers - in order to create life-narratives. Then the information can be sequentially ordered by life-events of the individuals in retrospect, enabling analysis. Subsequently, it is possible to understand the progress of a person's life.

Criminologists have emphasized the link between criminal behaviour and individual background, and have increasingly applied life-course perspectives in their analysis. Increasing in popularity partly due to the digitization of population data these developmental studies are longitudinal in nature (Vikstrom, 2011, pp. 861-862). Life-course refers to a sequence of socially defined events and roles that the individual enacts overtime. Taken into account in this research are diverse events and roles which constitute an individual's experience over time (Giele & Elder Jr, 1998, p. 22). Early works includes the work of Elder (1974), who reconstructed longitudinal data on children's lives, collected since the 1930s, forming one of the first systematic studies of change in families and children overtime. Further research by Elder and Giele on individual life records connected the personal life trajectories with cultural and economic changes; including depression and war (Giele & Elder Jr, 1998, p. 7). Helped by Giele and Elder the historical studies became more demographic and shifted the focus from solely concentrating on wars and heroes, to also include ordinary life-events including births and deaths (Giele & Elder Jr, 1998, p. 1). Moving to recognise that any point in the individual life must be viewed as integral to the outcome, along with individual motive and external constraint (Giele & Elder Jr, 1998, p. 19). Life-course being defined in terms of trajectories from birth to death, uncover a line of development that includes phases such as childhood to adulthood - getting a job, having children, being transported, marrying or migrating (Vikstrom, 2011, p. 863). Giele and Elder (1998, p. 1) point to the key aspects to be taken into account when using this method including: the history, social structure and culture; the interaction of individuals with societal institutions and social groups; human agency; and chronologically ordering of events with personal, group and historical markers.

This research sampled juvenile convicts, and therefore their criminal activity is important in understanding their whole lives. However, their criminality or desistance is not the only important factor. In the same way

Sampson and Laub exploited life-history narratives to better understand patterns of stability and change in offending over the life-course, this research uses turning points to understand life narratives and whether the juveniles were able to have 'settled' colonial lives – or not (2005, p. 17). The increasing focus directly on criminal lives is made possible not merely thanks to the revolution in electronic resources, but also the technique of data-linkage of multiple documents (Godfrey, 2014, pp. 90-91). Record-linkage is the bringing together of information concerning a historical individual derived from independent sources allowing greater information about an individual to be collected and corroborated. The information that can be garnered from census and parish registers, though valued, is limited (Winchester, 1970, pp. 107-108). Yet when it comes to criminals this to some extent can be overcome due to the details left by the bureaucratic document-heavy system. This is because most criminal justice generated documents have information not just on the crime, but also on the criminal. When this is combined with detailed historical newspapers and civil records, thorough narratives can emerge (Godfrey, 2014, p. 79). As aptly put by Frost (2011, p. 26) in research which depends largely upon documents generated by and for the state, every additional piece of information is welcome in confirming or altering interpretation.

The juvenile offenders researched in this study were originally identified in the *Old Bailey Proceedings*. Those convicted under fourteen years-of-age, both male and female, who were sentenced to transportation in the early nineteenth-century were initially selected. Next they were traced in the *British Transportation Records* to ascertain which juveniles actually underwent forced migration to VDL. Of the 534 males which were sent to VDL, 100 (nineteen percent) of male juveniles were sampled. Only eighteen female juveniles fitting the criteria arrived in VDL and accordingly no further sampling was required. These 118 juveniles were traced using nominal data-linkage. Records linked include criminal records (trial, transportation and conduct records), civil records such as birth, death and marriage records and newspapers. This allowed trends to be uncovered, through exploring the common factors and experiences present in their lives, in order to understand their life-outcomes. Then through identifying typical and atypical offenders, detailed biographies were created in order to interrogate those trends and humanise offenders.

While such juveniles will inevitably be tied to the criminal records in which they are found, it is possible to use these records - combined with newspapers and civil records - to uncover individual lives and their familial connections (Watkins, 2018). These juvenile convicts were then contextualised within the punishment system, economy, and culture that they were thrust into by their forced movement to Australia. Unfortunately, while finding a marriage record and birth record can tell us that an individual married and/or had children, it cannot be said that for those without a record that they did not. For example, in the 1860s fifty percent of married women experienced nine or more births (Doust, 2008, p. 10). While, as found by Maxwell-Stewart, convict women tended to have less children because they were delayed by the convict system, we still would have expected these juvenile female convicts to have gone on to have more children

than they appear to have had. This is especially since they were younger on arrival and so had more time to do so than adult female convicts arriving. Similarly, it is possible that marriage records for individuals may not have survived. The law on marriage was unclear in VDL until the 1830's. From 1810, the government ordered that chaplains keep a record of all marriages, christenings and funerals of both convict and free persons. Yet, only marriages concluded in the Church of England had to be registered 'on pain of financial penalty' from 1825 until 1839. This does not include marriages concluded in other churches, including the Roman Catholic Church. As such many marriages and births were not recorded (Lamont, 2014, pp. 4-6). In 1836 British Parliament passed an Act for Registering Births, Deaths and Marriages in England in order to make up for the inefficiencies of Parish registers. A registration act was then passed in 1838 in VDL after being introduced by Governor Franklin. VDL was the first British colony to do so. Every birth, marriage and death of the free population (including emancipists) was to be included – the convict population was to be excluded and their life events recorded in a separate register. The first births, deaths and marriages were registered in November 1838 (Kippen, 2002, pp. 43-45). Yet, despite the Act, registration was not completely followed. For example, in 1847 John Abbot (Registrar, and deputy registrar for Hobart in 1840-1856) noticed that there were 2041 baptisms and only 1531 registered births (Kippen, 2002, p. 49). While such registration in Tasmania improved steadily over the course of the nineteenth century, birth registration was only fully registered by the 1890s (Kippen, 2002, p. 58). Consequently, not all births can be found. It is equally possible that while they did not formally marry they instead cohabited or had a common law marriage. Therefore, not only would cohabitation and common-law marriages be lost to history, but even formal marriages. Nevertheless, what we can do is uncover the circumstances of, and minimum number of, marriages and family formations, of those that were documented.

### ***Marriage in Van Diemen's Land (VDL)***

In exploring the marriages of juvenile convicts, it is important to put them in context with the population into which they were thrust and to explore any barriers to marriage. The number of recorded marriages in 1839 in VDL was 423; in 1840 when the economy was relatively prosperous there were 457, but in the following year when the depression had fully hit it dropped to 407. Rev. T. J. Ewing saw this decline as a demonstration of the effects of the depression acting on the ability of people to marry (1843, p. xii). Marriage continued to be a concern up to 1875. In 1870 it was 6.69 per 1000 and in 1874 it was 6.83. In all other years of the decade the rate was lower: between 1866 and 1870 it was 6.35; in the following five years it was 6.38 (Bernard, 1876, p. xxxi). The authorities were concerned with the lack of marriages for the general population connected with the declining economic status of VDL. Dependent on the number of marriages was the connected issue of the unequal proportion of the sexes; '...much misery and vice are likely to prevail in a society in which the women bear no proportion to the men' Rev. Samuel Marsden (*cited in* Smith, 2008, p. 5).

It is important to compare the number of females to males within the population because the number of potential marriages depended on it. In 1824, of the total population in VDL (including convicts, free settlers, the military and their families, and Indigenous Australians) seventy-seven per cent were male. By 1835 this declined to seventy-one. Still, there were around seven males for every three females (Anonymous, 1836). In his report to the colonial secretary in 1843, Ewing laid out his findings and thoughts on the issue of sex imbalance. Though not as disproportionate as 1835: there were now 100 convict males for every forty-five convict females; and 100 free male settlers for every fifty-four free female settlers (1843, p. x-xi). While the influx of free female settlers had been great, the influx of male convicts had been greater. Even with the 200% increase of females over the increase of males since 1824 – the disparity remained (Ewing, 1843, p. xi). Essentially, the wildly unequal proportion of the sexes inevitably effected the number of relationships among both the free and convict populations. By the census of 1841 there were 268 single to every 100 married individuals. In the next year this disproportion had only decreased to 258. While this was not dissimilar to NSW, where there are 254 single to 100 married, it was still a concern (Ewing, 1843, p. xi). Much of this concern related to morality.

The moral issues of building a society out of convicts were acknowledged by authorities from as early as 1787 when transportation to NSW began (Lamont, 2014, p. 1). These concerns in turn fed into the management of male, and especially female, convicts, and their ability to form families. Brand argued that females were encouraged to marry under sentence as soon as possible, but males had to earn a Ticket-of-Leave and be employed. With the end of the assignment system, and the establishment of the probation system - females were building-up in the female factories (also known as Houses of Correction) (1990, p. 91)<sup>1</sup>. While we cannot accurately ascertain the number of marriages in this period, from 1810 onwards, marriage was actively promoted as the ‘normalized family form’. Marriage was advocated particularly for female convicts, who were less easily accommodated within the gender-divided assignment system. While females were assigned as domestic servants, males were assigned as labourers thus maintaining ‘gender distinctions in the performance of work’. Assignment on domestic service was ‘...*an interval before marriage for the female convict*’ (Maxwell-Stewart, 2010, p. 1234). While female convicts were encouraged to marry, Reid argues that the rate of female convict marriage, in VDL after 1830, slowed as the economic value of their domestic labour increased. After the Bigge Report, there was an increase in demand for female convict labour, who were wanted as domestic servants in wealthy free-settler homes. To increase this female

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<sup>1</sup> The assignment system was the process of assigning convicts to free settlers to carry out labour. Females would usually be set to domestic tasks and males, had more varied roles, but largely included rural and urban general labour roles if they lacked skills that were in demand. The probationary system, which replaced the assignment system, was implemented in an attempt to make the transportation system a more equal punishment for all convicts. Under this system male convicts had to undergo a set period in the public works before they could earn a probationary task and work, for wages, for free settlers or the government. Females usually spent their probation on-board the *Anson* hulk.

labour supply, the policy of marriage encouragement was reversed (Maxwell-Stewart, 2010, p. 1234). Therefore, despite initial encouragements by Governor Sorrel in 1818 of females to marry, from this point on the government began to systematically assign female convicts and placed corresponding limits on their initial freedom to marry. In fact, as early as 1822, all the applications for convict men to marry female convicts arriving on the *Janus* were turned down and they were instead assigned (Reid, 2007, p. 133). Permissions-to-marry were subjected to increasingly formulised administrative procedures and state scrutiny. The proportion of female convicts who were married while under sentence fell from forty-five per cent in 1822 and 1823, to just seven per cent for a decade beginning in 1832. All of the female juvenile convicts arrived post-1825, the majority of which arrived post-1829. While initially females could marry immediately after arrival, and therefore effectively leave the convict system, this practice declined from the 1820s. The majority of those who arrived from 1824 to 1842, spent at least three to four years in assigned service. As such, Reid argues the female convict experience was restructured to fit the colonial demand for their labour (2007, p. 138).

Sociologists, including Becker (1981), Goldscheider and Waite (1986), Kalmijn (1998), Oppenheimer, (1988), argue that ‘both marriage formation and partner selection can be expected to depend upon preferences and opportunities’ (van Schellen, Poortman & Nieuwbeerta, 2012, p. 548). It has been argued that those with low levels of self-control seek immediate gratification, and that same trait, which leads them to commit offences, would make them less likely to marry. Simultaneously, those who commit offences limit their opportunities to marry because a criminal record can make them less attractive to marriage partners and offending reduces their chance to meet potential partners (van Schellen *et al*, 2012, p. 548-549). This latter point is largely referring to incarceration but being transported and having ones’ movements restricted would similarly have this effect. This would all, of course, lead to those with criminal backgrounds having less chance of marriage. Indeed, van Schellen *et al* found that the ‘seriousness of a criminal history is strongly related to outcomes in the marriage market’ (2012, p. 564). Particularly for male offenders it was incarceration that was associated with even lower marital chances than just having a criminal record. Therefore, suggesting that, for men, opportunity was more important. But they also found that offenders did not refrain from marriage altogether. Instead, they were more likely to marry criminal spouses than to stay unmarried. This may not only result from their own preferences but also a lack of opportunity to meet non-criminal spouses (van Schellen *et al*, 2012, pp. 564-565). For juvenile offenders in particular, Sampson, Laub and Wimer (2006), found it was an early age at first arrest, arrest in the previous year, the total number of arrests until the previous year, and the length of incarceration in the previous year which reduced *men’s* marital chances throughout adulthood (van Schellen *et al*, 2012, p. 550). Sampson *et al* (2006) only studied male juvenile offenders, but since criminality reduced females’ opportunities more, it is reasonable to assume that the same would apply to them. It would therefore appear that the juvenile convicts who were studied in this research were disadvantaged in their marital prospects. They were all

certainly young upon first offence, though some younger than others, their offences (contemporaneously speaking) were all serious and their punishment was long in duration and involved removal to a new society and often incarceration (if not incarceration they were at least limited in their movements in assignment). With this in mind, were juvenile convicts able to form families in the colonies? Before this can be answered it is important to explore the barriers and facilitations which were unique to the time and place of colonial VDL.

In VDL every convict couple had to take two steps to marry. First, apply to the civil authority, or if in Hobart direct to the principle superintendent of convicts, or otherwise to the local police magistrate who wrote to Hobart himself, and second, after this permission to the clergyman himself (Atkinson, 1985, p. 25). From the 1820s males who had previously been allowed to earn wages by working part of the time on their own account could no longer do so. Now they had to earn a Ticket-of-Leave. Married male convicts were also increasingly unlikely to be given permission to live with their families except in very exceptional circumstances. The majority lived within convict barracks or in their assigned service. This is important because, from this point, men had to supply written testimony of their ability to *support* a potential wife in their petition-to-marry. Consequently, men generally had to wait a longer time to marry than females (Reid, 2007, p. 139). While females did not have to be financially stable, from 1829, they could not marry before they had completed one year on assignment without an offence (Lamont, 2014, p. 4-6). This changed to six months by 1845 (Kavanagh & Snowden, 2015, p. 184). Both males and females could be denied permission, either due to bad behaviour, and/or in the cases of men, because they were unable to financially support their proposed wife (Brand, 1990, p. 91). Permission-to-marry was therefore conditional on the extent of the sentence served, which differed overtime, and with behaviour.

Initial opportunities of female convicts to circumvent assignment were grounded in the fact that men vastly outnumbered them. While as time went on the gap closed – ‘the ongoing imbalance between the numbers of males and females almost certainly continued to endow women with a degree of bargaining power both at work and in the marriage market’ (Reid, 2007, p. 132). This may have influenced their movement into marriage to escape the convict system. How, if at all, did this effect *juvenile* female convicts?

### ***Marriage Permission & Juvenile Convicts***

Certainly the majority of juvenile females sought marriage. Of the female juvenile convicts who married after arrival in VDL (they were all single on arrival), seventy-six percent sought marriage permissions while still convicts. Only one of these females was not given approval and this was no fault of hers. Ellen Caley was refused permission because her potential husband was unable to financially support her. Ellen Murphy and Caroline Watson applied for more than one permission (*see Ellen Murphy’s Case Study below*). On



average it took five and a half months for these juveniles to apply for permission. Of the females who were granted permission-to-marry all, but one, were full convicts and she was a Ticket-of-Leave holder.

### *Ellen Murphy*

Born in 1817, Ellen Murphy was thirteen years-of-age when she was sentenced to two consecutive seven year sentences of transportation. Ellen committed simple larceny; the theft of four printed books worth twenty-one shillings from a shop, in 1830. Her accomplice at trial, Margaret Corbett, was also transported on the same ship; the *America*. No-one petitioned on Ellen's behalf, unlike her accomplice whose parents blamed Ellen for her 'bad influence'. Ellen was indicted twice in the same session and was consequently given two seven year sentences. Previously she had been indicted for theft but there was 'no bill' found. Both Margaret and Ellen arrived in Hobart in May 1831 after four months' voyage. Ellen was a Roman Catholic, 'nurse girl' but could neither read nor write. Her report from Newgate recommended that she be sent out of the country, and the ship surgeon-superintendent reported that her and her accomplice were 'rather idle'.

It was September 1831 when Ellen committed her first offence in the colony. Already on assignment Ellen disobeyed her master's orders but was only reprimanded. The following month Ellen, due to general neglect of duty and insolence, was returned to the government. Then in May 1832 Ellen was 'out at a late hour last night and endeavouring to pass herself off as a free woman'. For this offence Ellen was placed in a cell for six days and removed from her assigned service. Assigned yet again, Ellen was absent again, but was only reprimanded. Under the same assigned service, she was out after twelve o'clock. This was the fault of her master but she still had to be returned to the government for reassignment to a more suitable master. This was followed by more absenteeism leading her to be repeatedly returned to the government for reassignment. Nevertheless, she *was* reassigned repeatedly. She was then drunk and disobedient which saw her receive the punishment of seven days on bread and water in a cell, and later she assaulted a Margaret White for which she received her worse punishment to date: one month in the George Town Female Factory in 1833. After a series of more absences and absconding she was repeatedly placed in the 'crime class'. However, each time after her punishment finished she was reassigned. By 1839 it was recommended that she not be assigned within the Hobart district. Ellen's last offence, misconduct, was in May of that year. Ellen had spent time in Cascades, George Town and Launceston female factories but still earned her Ticket-of-Leave by 1840. Two months later she was married to George Manning (or Mannering/Mainwaring).

George was also a convict, transported on-board the *Aurora*, but was a ticket holder when the pair wed at Westbury. George had arrived in 1835 and begun his employment in the colony as a labourer and then became a farmer, dying in 1893. Through investigating Ellen's marriage permission documentation, it is revealed that she had already applied to marry other men. In May 1837 she was granted permission to marry, Ephraim Digby an expirer, and in September 1839 Henry John Wallis another expirer. This suggests the choice that female convicts had on the marriage market. For VDL, in 1838, of 301 applications made only 284 were approved but only 188 marriages are recorded. Atkinson points out that in some cases minds were changed, often because they had a better offer. For example, in the case of females marrying a man who was free would be better than marrying a man who was under ticket (1985, p. 26). In Ellen's case it is unclear who changed their mind or why. Notably, the later permission was given after her permission to the man she did marry, George Mannering, whom she was granted permission-to-marry in March 1839. It would appear she was 'hedging her bets'. Nevertheless, it was George that she married and they went on to have eleven children.

Ellen also had an illegitimate child named Joseph Murphy born in 1834/5. Ellen was the only 'Ellen Murphy' at Launceston factory when Joseph was born. The only other 'Ellen Murphy' under sentence at that time was assigned elsewhere. The father of this child was Joseph Barnett.

Ellen died in 1870 aged fifty-two. After her Ticket-of-Leave was earned, Ellen Murphy committed no further crimes and went on to have a large family in relative obscurity. It is unknown whether Joseph joined the family.

While most of the females sought permission-to-marry, it was a different story for their male counterparts. Of the male juvenile convicts, only eighteen sought permission-to-marry. This gives twenty per cent who sought permission (excluding the nine juveniles who were known to die under twenty years-of-age). All of these proposals were approved. However, there is only evidence of fifteen approvals resulting in marriage. On average it took these male juveniles ten years to apply for permission-to-marry. Of those who were granted permission, all were at least Ticket-of-Leave holders. In opposition to the female juveniles, no full male juvenile convict was granted permission-to-marry or even sought it.

### ***Female Juvenile Convicts & Marriage<sup>2</sup>***

While the female juvenile convicts married quicker than their male counterparts, most of them still served most of their sentence first. There were exceptions and those, such as Ann Malony, were assigned to their husbands early on in their sentence. Yet it must be noted that Ann was the first female juvenile convict to

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<sup>2</sup> The minimum age of marriage was only raised, in 1942, from twelve for women and fourteen for men, to sixteen and eighteen respectively.

arrive in the sample; arriving in 1825. Only herself and Sarah Hodge arrived in this year – all others arrived after 1829 when regulations were tightened.

Being able to marry without a Ticket-of-Leave, female convicts were often assigned to their husband. The assignment of female convicts to their husbands, effectively made their husbands masters of them. While marital relationships at this time were patriarchal – this process still added a new dimension to the inequality to the relationship (Shaw, 1966, p. 219). The convict's marital status could therefore impact on their assignment. It is not possible to separate short-term and long-term motives for marriage. We cannot not know 'how far women were moved by a simple wish to be free of convict restraint, and how far they also hoped to share a life with their bridegrooms' (Atkinson, 1985, p. 22). What Atkinson did find was that the initiative generally lay with the man. For example, in VDL Louisa Meredith (a free settler) described how men came to find wives among her servants. Women then either consented to the marriage or not (Atkinson, 1985, p. 20). For female convicts, Atkinson (1985) argues that regulation of her behaviour was shifted from the state to the private sphere when they *did* marry. However, in this research there are incidents where regulation was left to the state despite these female convicts being married. For example, Caroline Watson (aka Beaton), who was transported for simple larceny in 1834, was punished in the solitary cells for one month. Her offence; striking her husband in the presence of another man. For this she was regulated by being brought before the magistrate. In the same year Caroline was again sent to the solitary cells, this time on bread and water for two days for being 'absent from her place of residence and playing at cards in the house of Mr. Smith'. Her Ticket-of-Leave was also revoked. This demonstrates that some husbands were willing to use the regulatory power of the state within the private sphere of the home. Similarly, there is also evidence that the state interfered unwelcomely within the family sphere. Ann Malony was 'drunk and making use of very beastly language and in company of a common prostitute'. Consequently, she was sent to the wash tub for six months and not to be returned to her husband until the governor's pleasure. Therefore, Atkinson's argument that the assignment of women to their husbands meant that they ceased to be convicts for all practical purposes does not always hold true. Atkinson even identified a case herself, where a husband prosecuted his wife for being absent from her assignment (i.e. as having left the marital home), whereupon she was sent to Parramatta Female Factory (Atkinson, 1985, p. 22). Such cases point to the *ad hoc* nature of regulating female convict behavior. Moreover, as Lamont (2014, p. 13) notes, this process had the potential to allow the state authorities intimately into the domestic sphere, monitoring the conduct of marital relationships in a way unknown in Britain at the time.

Marriage permissions are informative and demonstrate the relative freedoms of males and females to seek formal relationships while under sentence. Also of importance are the actual marriages; when and with who. Out of the female convicts who lived in the colony (one died on arrival) only two do not appear to have

married. Therefore, eighty-nine per cent of female juvenile convicts are known to have married in the colonies. This is similar to the ninety per cent marriage rate of female convicts transported to VDL uncovered by Maxwell-Stewart *et al* (2015, p. 242). It took on average five and a half years for the female juveniles to get married and two are known to have remarried. The average age that the female juvenile convicts married was nineteen years-of-age (the oldest being twenty-five and the youngest sixteen). Kippen and Gunn argue that convict females were less likely to be married or to be able to marry than their free counterparts (2011, p. 393). Further adding that: 'Convict women were not so highly prized' as free females (Kippen & Gunn, 2011, p. 394). They argue this was due to both a lack of willing partners and impediments. The impediment of already having a husband was not an issue for these particular female juveniles, but they did have a high rate of minor offending in the colony which would have postponed them being able to seek permission at an earlier time. By comparing the offending of female juvenile convicts sampled for this research, with a 1-in-25 sample of all female convicts transported to VDL (provided by *Founders and Survivors*) it was found the juvenile convicts offended at a higher rate than female convicts generally. Whether the female juvenile convicts made less desirable wives than their free counterparts, as Kippen and Gunn suggest, is more difficult to determine (2011, p. 394). Gordon Carmichael notes that there was; 'a corporate image of debasement and promiscuity that largely disqualified female convicts as marriage partners (though not as sexual partners) of free settlers and, later, native-born males' (Carmichael, 1996, p. 285). Of course, it makes sense, as pointed out by van Schellen *et al*, that persons with the most attractive characteristics have a high likelihood of selecting each other as partners first, leaving the less fortunate to end up together (Schellen *et al*, 2012, p. 551). Meaning, in this context, that all things being equal, free settlers would choose free settlers before they turned to convicts as potential marital partners. Still, thirty-five per cent of the female juvenile convicts' marriage partners were free at the time of marriage indicating that the female juvenile convicts were not wholly undesirable as wives. The female juvenile convicts went on to marry convicts, emancipists and free persons. In VDL in 1838, forty-six convict women married free men and another fifty-seven to sixty-six married Ticket-of-leave holders, leaving only ten to nineteen from a total of 122, who married men still in bondage (Atkinson, 1985, p. 22). They appear to have had some choice in their marriage partners. Kippen and Gunn, and Carmichael's respective arguments that convict females had difficulty in tempting partners down the aisle is not reflected in the lives of female juvenile convicts.

Without knowing the rate at which free females married after migrating to VDL it is not possible to know whether female convicts were less attractive partners. Nonetheless, despite the impediments faced by these female juvenile convicts, which included: gaining permission from government and church officials; going without offences for a given period; having a high rate of offending when behaviour was a condition of permission, and having less freedom to meet partners when held in female factories (due to that offending) and to a lesser extent in assignment – they still married and mostly pre-emancipation. It has been argued that

females' marital chances diminish after just one conviction, while males' chances are only affected following an extensive criminal record. Certainly females are less common within the criminal justice system, then as they are now, than males. van Schellen *et al* suggest that because a 'criminal lifestyle is less common and accepted for women', those with a criminal record become less attractive marriage partners in comparison to male convicts (2012, p. 564). Leaving beside the term 'criminal lifestyle', which does not think reflects the majority of juvenile convicts under investigation here – the criminal taint would seem not to have attached itself to the female juvenile convicts in any meaningful way. van Schellen and colleagues point out that the offender's attractiveness as potential partners may be even lower in a context where convictions and imprisonment are less common. Where, 'the negative signal of a criminal record is likely to be stronger, leading to even lower chances to marry'. They are of course referring to the relatively mild penal system of the Netherlands pre-1990 (2012, p. 552). However, the context in which these juvenile convicts were thrust was very different. The concentration of convicts was very high. For example, in 1830 ninety percent of the Vandemonian population was either a convict, emancipist, or the child of a convict. It is likely that the commonality of criminality positively affected the female juvenile convicts' marriageability.

While very little is known of the female juvenile convicts' colonial employment, thanks their children's birth certificates the employment of their children's fathers is known. The 'success' of these husbands' trades is unknown, but most went on to 'respectable' trades including: a carpenter then later a publican; a printer then later a compositor; costermonger; butcher; servant then later a gardener; and lastly a shoemaker. There are of course exceptions such as the husband of Margaret Corbett, who begun married life as a shoemaker then went on to own a lodging house. However, he was described in the newspapers by police as a brothel owner. Nevertheless, the pair went on to have a large family. While another three of these females' husbands were labourers when they began their marriage, one become a farmer and another an inn owner. A further husband begun married life as a carter then went into labouring. This is not to say there was no convict stigma experienced by female convicts on the marriage market, only to say that these female juvenile convicts largely still married men of respectable trades whether there was stigma or not, and mostly before freedom. It is highly likely that the combination of low female numbers and common criminality worked in their favour.

While direct comparison with the marriage rate of free immigrants arriving is problematic we can compare the juvenile convicts to other convicts arriving in VDL. In Kavanagh and Snowden's (2015, p. 196) study of female convicts who arrived in 1845 on-board the *Tasmania (2)*, sixty-nine per cent were involved in at least one permission-to-marry. These applications appeared, generally, within a few months of their six months' probation period ending. Whereas, seventy-six per cent of female juvenile convicts sought permission. This is a higher proportion than the *Tasmania (2)* convicts, but it is likely that the age and married status of the

*Tasmania* (2) convicts contributed to this slight disparity. Therefore, the *youth* of the female juvenile convicts helped them in their ability to marry in as far as they had not already married at home. A greater influence then was their sex as this article will demonstrate.

Only two female juveniles are not evidenced to have married including Susan Campbell and, as noted above, Ellen Caley who was refused permission-to-marry. It is possible that Ellen and Susan married and documentation has not survived. It is also possible that they cohabited instead. Ellen had an illegitimate child who was given a variation of her surname. However, the following two children were given different surnames which were likely to have been the names of the father who she may, or may not have, married.

That the female juvenile convicts married before freedom is not surprising considering the female position. Few had access for very long periods to independent sources of income and livelihoods for females outside of marriage were very limited (Godfrey, *et al*, 2007, p. 89). Now add to this the prospect of leaving the formal transportation system and having no social ties or support systems in their new colony. As pointed out in Godfrey *et al* (2017), the image of marriage as being institutions that are intimately wrapped up in romantic love does not fully explain why females or males married in the nineteenth century. Marriages are not simply about romantic attachments. Among the educated classes there was by this period a belief in romantic attachment before marriage. Conversely, among the poor it was widely accepted that inclination could not reasonably be viewed as the sole motivation for marriage (Atkinson, 1985, p. 27). Researchers, including Goffman, have reported how partners also provide practical assistance. In addition to this, marriage had an economic aspect. Indeed, Godfrey *et al* found evidence to support the view that during the late-nineteenth and early-twentieth century, ‘marriage was sometimes as much about economic or practical necessities as it was about romantic feelings’ (2007, p. 87). This is not to say that the juvenile convicts did not have romantic feeling, we cannot possibly know without firsthand accounts, but it is to say that for the female juvenile convicts it was both economically and practically in their interest to marry before they were freed. This is also likely to be true of adult female convicts, but arriving young and single meant that the female juvenile convicts were often abler to take advantage of this process. This is despite, as previously pointed out, the higher offending rate of the female juveniles. Through marriage women freed themselves, and men colluded with them in establishing independent households (Atkinson, 1985, p. 29). The story is very different for the male juvenile convicts.

### ***Male Juvenile Convicts & Marriage***

Forty-two per cent of the male juvenile convicts are known to have married post-transportation (this is excluding those who did not survive until twenty years-of-age). Of all the male juvenile convicts (excluding two males who died en-route) thirty-nine per cent married. As with the female juvenile convicts, all males were single on arrival. Three males are known to have remarried, presumably following the deaths of their

former wives. Of those whose marriage dates that are known, the average length of time to marry after arrival was eleven years – over twice as long as their female counterparts. While most are not evidence to have married, it is possible that some marriage records were not kept or did not survive if they married well into their freedom.

As with the female juvenile convicts, the males married both free persons and emancipists but a higher proportion of their partners were convicts when married. While some convict men did marry free women, it was rare in both VDL and NSW. Neither government was keen to encourage convict men without tickets to marry free women. Whereas for women marriage was a means of controlling them, but for men other institutions of state were used (Atkinson, 1985, p. 23). Indeed, none of the male juveniles married when they were convicts and certainly did not marry free females at this point. The average age of male juvenile convicts (upon first known marriage), was twenty-eight years-of-age. However, the range was wide, the youngest being nineteen and the oldest being fifty-one. The male juveniles were, on average, four years older than their spouses. However, while they were generally older, the age differences varied widely. The average age of the females when they married was twenty-three (the oldest being forty and the youngest being seventeen). Whereas, for female juveniles their spouses were in every case older and the average was eleven years older. The male juveniles were disadvantaged in competing for partners given their relative youth – as it seems that older more established males were preferred as evidenced through the female juvenile convicts choosing partners with relative job stability. As pointed out by Doust, while many immigrants making their way to Australia wanted to gain sufficient wealth in the colonies in order to support a wife many did not achieve this (Doust, 2008, p. 5). Positive abilities stressed for women were competence, decency, and virtue but males had to be able to ‘provide a decent livelihood’ (Atkinson, 1985, p. 25). Socioeconomic resources or a partner with many resources are often preferred (van Schellen *et al*, 2012, p. 550). Juvenile male convicts, who arrived with less skills than their adult counterparts, inevitably had to wait longer periods to marry while they established themselves economically. It was not that the male juvenile convicts arriving were small or unskilled for their age. It was simply that they, as juveniles, had (at best) only begun to learn trades. This combined with their diminutive size (as compared with adult male convicts) meant that it took them longer to establish themselves in the colony. Similarly, many of the male juveniles were sent to Point Puer (the male juvenile penal settlement) which meant until they left through assignment or freedom they would not even come across any potential partner of the opposite sex. Opportunities therefore effected their marital prospects. James Hudson, for example, was twenty-seven when he married and only did so after migrating.

### *James Hudson*

James Hudson died surrounded by family in 1910. Born in 1819, James was convicted of theft when he was thirteen years-of-age – he stole a soldering iron worth eighteen pence.

Consequently, James received a sentence of seven years' transportation. James pleaded guilty which was likely to have been influenced by the fact that he was prosecuted by his father Joseph Hudson. His father was a whitesmith and he had at least one younger sibling but his mother had died by this point. James waited twenty-one months on the *Euryalus* hulk before his transportation following his trial. This long wait may be attributable to an acute, bacterial skin infection he suffered from on the hulk. He also suffered from icterus during the voyage – but was soon discharged cured from the surgeon superintendents care. James was reportedly 'ordered' and 'good' while in confinement and had no previous convictions.

Arriving in 1833 on the *Isabella*, Hudson only notched up two very minor offences while under sentence. The first being 'neglecting to deliver his pass and with making a false statement' for which he received one month's hard labour and was removed from his service to Port Arthur, and the second was insolence for which he was admonished. He committed no non-regulatory offences and received a Ticket-of-Leave in 1837. After freedom he made his way to Adelaide.

In Adelaide he married at the Native School Encounter Bay, in 1846. He was twenty-seven when he married and his wife was ten years his junior. He worked for some time as a whaler but after his marriage he settled down to a trade of shoemaking at Encounter Bay. He later turned his hand to farming. James made the papers on numerous occasions. In 1855, he was religiously converted under exceptional circumstances. The only religious service in the area was conducted by a young congregational minister in a barn. An 'intelligent' four year-of-age boy attended the Sunday school with other members of James' family and he often entertained by mimicking the preacher. A sudden illness over took the boy and it was thought he would not recover, 'and in his childish way he gave evidence of a knowledge of spiritual things as only one taught of God could do'. This led to James' conversion. James then went on to help many by God working through him. After a strenuous life he settled in Whitwarta. The writer of the newspaper obituary article wrote that from the letters he had received from James he knew he was of pure Christian sentiment and had extensive knowledge of God's work. James and his wife went on to have twelve children and James died in South Australia aged ninety-one.

James Hudson's death also resulted in what was described as a 'large assemblage' at his burial. By special request of the deceased the funeral service was read by James Sampson who was an old and intimate friend. James was described in the papers as one of the oldest residences in the area, and was widely known and esteemed. He left behind his wife, having been married for sixty-four years, he also left behind five living sons and one daughter, forty



grandchildren and eighteen great grandchildren. The life James led left him repeatedly in the papers because of the legacy he left in his children and grandchildren - who mentioned him every time they married or had children.

According to Maxwell-Stewart *et al*, only fifty per cent of male convicts were named in the permission-to-marry registers (2015, p. 242). While many female convicts married, only a quarter of Vandemonian convict men appear to have found a marriage partner, like James did, although many chose to cohabit (Maxwell-Stewart *et al*, 2015, p. 245). Therefore, the male juvenile convicts were not unusual in their lack of marriages, when compared with male convicts more generally. The under-supply of women excluded most men from the process (Carmichael, 1996, p. 283). This is likely to be why the marriage rate for the male juvenile convicts is lower than the fifty-three per cent of juveniles who went on to marriage in Godfrey *et al* (2017) study of young offenders at home in the late-nineteenth century.

### ***Cohabitation***

Many of the males, and some of the females, do not seem to have married but this does not mean that they did not form meaningful relationships. The authorities *particularly* wanted the female convicts to form 'legitimate connections with unmarried convicts'. In this way, female convicts could become appropriate wives and mothers, and these relationships would serve to combat 'unnatural crime' among both sexes (Brand, 1990, p. 68). Yet, not all convicts formed 'traditional' relationships. For those many male juvenile convicts, and those few female juveniles, who are not known to have married they may have cohabited or had a common-law marriage. For many in the nineteenth-century, common-law marriage was accepted as a binding form of marriage. Robinson suggested that, among the high number of single men and women arriving in NSW, there may have been many couples who were married according to common-law but authorities would have considered single. Robinson's study accentuated the existence of different socially acceptable marriage structures. 'Discussion of colonial marriage has been distorted by terminology and failure to recognise common-law marriages and cohabitation as accepted forms of marriage' (Kavanagh & Snowden, 2015, p. 194). Co-habitation in colonial society also took place amongst free immigrants as found by Rushen in her study of immigrant women, who found security through living with a partner who they did not marry, following the prevailing working-class tendency to delay formal marriage (Kavanagh & Snowden, 2015, p. 195). Similarly, Kippen and Gunn point out that in the 'working classes of England, it was perfectly acceptable—and respectable—for men and women to cohabit and raise families in what were often long-lasting and stable relationships without the formalities of legal marriage' (2011, p. 398). In VDL in the second half of the nineteenth century, cohabitation continued to be accepted among some groups and may explain why marriages cannot be located for many (Kavanagh & Snowden, 2015, p. 195). Indeed, many couples lived happily in 'respectable sin' (Kippen & Gunn, p. 399). Informal relationships between convicts, and between convicts and free settlers, were common. The *Sydney Gazette* in 1827 stated that

before 1810 it was the custom of the people to live in a state of ‘concubinage’ and research has highlighted the incidence of non-marital relationships, which continued into later years (Lamont, 2014, p. 3).

### *The Children of Juvenile Convicts*

As well as governmental concern with marriage, came concern with convicts having children under-sentence and out of wedlock. Along with the want to increase the supply of bonded female labour came accompanying disciplinary devices aimed to criminalize convicts forming illegitimate unions under sentence. Female convicts who became pregnant were sent to the house-of-correction. After giving birth, mothers were permitted to wean their children but would then be separated to undergo their six months’ punishment. ‘Suitably chastised female convicts were redeployed into assigned service, whereas their children were sent to what were euphemistically known as orphan schools’ (Maxwell-Stewart, 2010, p. 1234). Infants remained in the nurseries until they were old enough to go to the Orphan School at New Town – usually about two or three years-of-age. However, the convict mother, if granted a Ticket-of-Leave or freedom and could support the child, could have the child released to her (Kavanagh & Snowden, 2015, p. 220).

It is difficult to say what determined the VDL illegitimacy birth rates: social dislocation and sexual exploitation and knowledge of birth control were undoubtedly factors (Kavanagh & Snowden, 2015, p. 227), but were they solely responsible? Kippen and Gunn state that ‘is it is reasonably clear that illegitimacy rates were high in the 1840s and early-1850s and that they fell precipitously when the convict system was dismantled’. They found that the conditions of the convict system were primarily responsible for VDL’s high illegitimacy levels (2011, p. 400). It is also noteworthy that very few illegitimate births would have escaped official notice because not only were unmarried pregnant convict females incarcerated for the offence, but also the bastard child then became the government’s responsibility. Free women were not compelled to register illegitimate births and so comparisons cannot be accurate (Kippen & Gunn, 2011, p. 396). In penal VDL sexual behaviour was subject to a certain amount of official scrutiny. When females were under sentence, pregnancy was difficult to conceal. Importantly, pregnancy impacted the female convict’s labour and consequently they were punished for their pregnancy. Kavanagh and Snowden argue female convicts were valued as economic reproducers and that illegitimacy was accepted as part of the convict system. They argue that while illegitimacy was not condoned, it did not result in the same social stigma or loss of character leading to inability to obtain secure employment as it did in contemporary Britain (2015, pp. 227-228). It is not possible to ascertain if the female juvenile convicts under investigation here underwent stigma as a result of their illegitimate children. At least two of the female juvenile convicts had illegitimate children; Ellen Caley and Ellen Murphy (see case study above). Ellen Caley did not go on to marry, and Ellen Murphy did marry but there is no evidence her illegitimate child was a part of her

subsequent family life. Without biographical texts and diaries an understanding of stigmatization cannot be sought.

Seventy-one per cent of the female juvenile convicts are known to have gone on to have children compared with only forty-three per cent of those who arrived on the *Tasmania (2)* in 1845 (Kavanagh & Snowden, 2015, p. 218). Again the disparity is likely to have been partly due to the female juvenile convicts' relative youth on disembarkation. Most of the female juveniles gave birth in the colony but what difficulties did they experience in forming this next generation? While most females went on to have quiet family lives which resulted in no reason to leave behind a written record, others notably struggled to keep and raise their children. There are two known incidences where children were placed in orphanages. For example, Ann Maloney's first born, Charles James Evans, was placed in an orphan school whilst both Ann and the father were in prison, and he stayed there from 1835 to 1845. He was eventually discharged aged seventeen to Charles Pulfer in Hobart. Ann's daughter, Sarah Ann Maloney/Evans, was born in Hobart in June 1833 and baptised that August at Cascades Female factory. Just over one week after her birth, Ann was sentenced to three months in the factory. It is unclear, but it is likely Sarah Ann was placed in the factories adjacent orphanage while her mother served her sentence. Ann's husband was free but he had a disreputable character. Jane Callahan/Callaghan also had one of her children admitted to the Convict Nursery. At Cascades Female Factory when serving a sentence for offending in the colony Jane gave birth to a boy named John Beach who was placed in the adjacent convict nursery. In 1848 she was awarded a Ticket-of-Leave and was Free-by-Servitude in 1850. She sought permission to marry William Beech in 1845. The pair married in April that year at St. George's Church of England. William appears to have arrived in VDL free and was twenty-two when the pair married. He was originally a servant in 1845, but then went on to become a gardener in 1846 (a well-paid trade in the colony). Jane was still a full convict when they married. They are known to have had three children, as noted their first born was John. While John was placed in the convict nursely when Jane was serving time at the female factory, and was subsequently put in the orphanage in 1848 in New Town, he was discharged to the parents aged three in 1857. Their second born was named after the father, William Beech. He was born in Hobart in 1846. Lastly came Walter Beech in 1847.

Compared with the female convicts, far less male juvenile convicts are *known* to have had children in the colonies; there being only twenty-three per cent known. This is likely to be an under-representation. As well as lack of registration, missing civil records for male and female juvenile convicts may not be equally missing. Records were more uniformly kept on convicts and since female juvenile convicts married while they were still under sentence, and males waited until much later, males are more likely to have missing records. Moreover, it is of course very likely that these male juveniles also went on to have illegitimate children but such incidences were not recorded. Since the births of children alone are difficult to uncover, anecdotal information of children and especially their connection with their parents are inevitably difficult to

find. Additionally, when such information is located it is usually tied-up in extra-ordinary events such as the case of Anthony Barkwith and the tragic deaths of two of his children. One died in childhood, while the other died in a mining explosion where they both worked. John Press, on the other hand, involved his children in his criminal activities and consequently he, his wife, son and daughter appeared in the courts together. George Pickering was violent towards his family. Not only did he repeatedly violently abuse his wife, appearing in many newspaper articles, he also broke the leg of his daughter. However, as with the female juvenile convicts, the male family lives were in the majority of cases relatively uneventful. They did nevertheless result in lineages. For example, James Hudson's death resulted in what was described as a 'large assemblage' of family and friends at his burial (*see the case study above*).

## **Conclusion**

Females were far more likely to seek permission-to-marry while under sentence than male juvenile convicts. Of the twenty per cent of males who did, they were *at least* Ticket-of-Leave holders. Whereas the majority of females were full convicts. Yet, there was a high permission success rate for both sexes. Not only would factors such as the availability of a partner play a role in marriage rates, but also it is clear the management of female and male convicts with regards to marriage was different. Since males had to be able to support their wives, they could rarely marry while under sentence. Additionally, punishment and reformation rhetoric reflected contemporary gender roles. Meaning the authorities wanted to put men to work and females to marriage. While, as pointed out by Reid (2007), female labour was increasingly sought, it remained the fact there was not enough infrastructure for effective female punishment. This is reflected in the lack of extended sentences for females – despite female juveniles repeated offending. It is also true that contemporaries thought male's reformation was linked to marriage and family formation. However, they also needed male labour *and* had the ability to implement it. Females were encouraged by the authorities and their situations to marry. If females married they would be removed, partly at least, from the mechanisms of the penal system. While this may have been the case, the majority of the female juvenile convicts still served the majority of their sentences before they married. This is despite there being a greater number of potential partners for female convicts. Since the female juvenile convicts offended at a higher rate than other female convicts in the colony, it is likely that this factor was a hindrance to earlier marriage. Nevertheless, they were still more likely to marry, and marry younger than their male counterparts. While, as Maxwell-Stewart (2010, p. 1234) points out, existing studies have linked ninety per cent of transported female convicts to a colonial marriage, these marriages mostly occurred *after* sentence. Therefore, unlike other female convicts, the female juveniles mostly married when still convicts. Female juvenile convicts also generally married partners who were stable economically. They may not have necessarily married 'up', but their partners generally had respectable trades. It would seem that the taint of a criminal past was not an issue for these females in a penal colony which was largely populated by convicts, emancipists, and their families. Even when taking into account their whole lives (not just while under sentence) females were more likely to

marry than males. This ‘makes sense’ due the colonial sex-imbalance, but it must also be noted that since the females married younger, and importantly while they were still under sentence, their marriage records are inevitably more easily located. It is true that many of the marriage records for male juvenile convicts have been located after they migrated by time and/or space from their Vandemonian servitude. However, some may have married but evidence cannot be located.

With the stipulations of marriage permissions, it is not surprising that the male juvenile convicts did not seek to marry until they *at least* had a Ticket-of-Leave. Moreover, with so few females in the colonies these male juveniles would have had to compete for marital partners with well-established older males. Those males who did marry, settled into colonial society with regards to middle-class expectations. However, it does not follow that male juveniles who did not marry were ‘unsettled’ – as it was relatively common for males not to marry. One in four male convicts married after arrival in Australia, the imbalance between the genders making it difficult for many to find partners. Of those that did marry the majority were skilled men on short sentences (Maxwell-Stewart, 2010, p. 1234). While the male juvenile convicts were not on notably long sentences, many had sentence extensions and were re-transported due to their markedly high offending rate in comparison with their adult counterparts.<sup>3</sup> Equally noteworthy, while many eventually went on to respectable trades they did not arrive particularly skilled thanks to their youth, and so needed time to establish themselves.

The majority of female convicts went on to have children in obscurity although some struggled to hold onto their children and others had illegitimate children. These latter cases highlight the difficulty of colonial life for female convicts; their private lives were subject to colonial oversight. Having an illegitimate child was only an offence because they were convicts, and the offences which resulted in these females being sent to the factory and having their children removed from them were regulatory, minor offences. For example, when Ann Maloney’s children were taken into the orphanage, Ann’s offence was being found in the public house after hours, resulting in three months’ confinement. An offence she would not have been punished for if she had been free. Therefore, these less ‘settled’ cases of family life highlight the struggles which female convicts had to navigate in VDL. While the family lives of a number of the male juvenile convicts are notable by their unsettled nature, the majority were, like the female juvenile convicts, relatively uneventful.

The female juvenile convicts were both more likely to go on to marry and have children, and to do so sooner in their colonial lives, and at younger ages than the males. While increasing number of offences delayed marriage for both female and male juvenile convicts – the main factor in whether a juvenile convict married was their sex.

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<sup>3</sup> As with the female juvenile convicts, the male juveniles were compared with a 1-in-25 sample of their adult counterparts transported to VDL supplied by *Founders and Survivors*.

These juveniles were thrust into a colony in which they had no ties, either social or economic, while this thrust the female juveniles into marriage, the males who were competing with older more skilled and more established males in a colony with a scarcity of females were often unable to form formal companionship and instead floated through the colony in search of work or tried their luck in the gold mines of Victoria and New Zealand as soon as they could.

#### *Data-Linkage Primary Sources<sup>4</sup>*

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State Library of Queensland, *Convict transportation registers database*, [Online] <http://www.slq.qld.gov.au/resources/family-history/convicts>

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The Proceedings of the Old Bailey, *London's Central Criminal Court, 1674 to 1913*, [Online] <https://www.oldbaileyonline.org/forms/formMain.jsp>

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<sup>4</sup> These digital repositories were used to trace the lives of the juvenile convicts and subsequently build-up the case studies.

<sup>5</sup> Includes the following types of sources; Permission-to-Marry registers, Birth, Death and Marriage Records, Conduct Records, Description Lists, New South Wales and Tasmania, Australia Convict Musters.

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