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### **Convict indents and ship musters 1813-1828**

From the earliest years of transportation to Australia convicts from Britain and Ireland were transferred from the custody of gaolers or hulk-keepers to merchant shipping contractors whose agents signed legal agreements and provided financial bonds guaranteeing that they would transport named convicts to Australia, prevent escapes and deliver them into the custody of the colonial government. These indentures, commonly known as convict indents, always recorded the convict's name, date and place of trial and sentence.

To ensure that the convicts had been transported to the colony under the terms of the contract, colonial governors ordered musters to be taken of all newly arrived convicts. These recorded details based on individual examination and questioning which were added to the data from the indents and used to identify and track the convict in the colony. The early arrival musters generally took place on board ship before the convicts were disembarked.

Most pre-1813 arrival musters have not survived and details of convicts derive mainly from indents. These can be problematic because many early indents were compiled well before embarkation and some convicts listed did not arrive in the colony, having died or escaped from gaol or on the voyage, or received last minute pardons before sailing. BDA has applied a range of checking mechanisms to identify and annotate which convicts listed on these early indents were 'Waysiders' who never landed in the colonies.

From 1813 NSW musters surviving for most convict ships form the best source for newly arrived convicts. They present a more reliable indication that a convict had actually landed in the colony. The name and ship of arrival was a basic form of identification. The Colonial Secretary, superintendents, magistrates, police and government lawyers used them to control convicts' movement, distribute their labour, prevent crime, escapes, bushranging, and sentence fraud, as well as to inflict punishments under due process of law and prevent mistreatment and abuse by employers.

### **Governor Macquarie's convict records**

Commissioner John Thomas Bigge described the arrival muster process followed under Governor Macquarie (1810-1821) around 1817:<sup>i</sup>

## BDA Source Description Pages

<http://www.bda-online.org.au>

'the governor's secretary, Mr. John Thomas Campbell, and the superintendent of convicts, William Hutchinson, repair on board for the purpose of mustering the convicts. This muster is of a very detailed nature, and is taken by Mr. J. T. Campbell on the quarter-deck of the vessel, in the presence of the surgeon superintendent, the captain and ship's company. Each convict is asked his name, the time and place of his trial, his sentence, native place, age, trade and occupation; and the answers are compared (and corrected if necessary) by the description in the indents and in the lists transmitted from the hulks. After ascertaining the height of each convict by actual admeasurement, and registering it in several columns, as well as the colour of the hair, eyes, the complexion or any particular mark that may tend to establish the identity of each convict, an inquiry is made respecting the treatment that each has received during the passage, whether he has received his full ration of provisions; whether he has any complaint to make against the captain, his officers and crew; and lastly, whether he has any bodily ailment or infirmity. A further inquiry is made of the surgeon, respecting the conduct of each convict during the passage, and whether he has any bodily infirmity that may prevent him from being actively employed. The muster of 150 convicts conducted in this manner, occupies the secretary from five to seven hours; and if the complaints are numerous, it is protracted to the following day. The correctness and particularity of this muster is of great importance; for when signed by the secretary, it forms a check upon any error that may have crept into the indents and assignments of the convicts that are transmitted from the Secretary of State's office to the governor of New South Wales, and connects the date of trial and description of their offences with a complete identification of their persons, highly useful for purposes of police, as well as for the regulations respecting tickets of leave and certificates of exemptions from penal servitude.'

In his evidence to John Thomas Bigge's inquiry into the Macquarie administration the Rev Samuel Marsden had recommended that marital status be recorded on the hulk lists to prevent bigamous marriages in the colonies:<sup>ii</sup>

'These consequences may be greatly obviated, by requiring the gaolers of the different prisons in England to communicate the information that they may receive respecting the single or married condition of the convicts sent to the hulks; and by adding these particulars, corrected by subsequent inquiry there, to the communications transmitted in the hulk lists.'

Reports by convict ship surgeon-superintendents on the behaviour and character of their charges on the voyage have survived in State Records NSW. These have not yet been transcribed by BDA.

More detailed descriptions became increasingly important for the management of convicts as the colonies' population grew. Details of the crime were added to the arrival musters from the mid-1820s, as well as the number of previous convictions, religion, marks and tattoos, marital status and number of children. All details from the musters have been transcribed with the exception of tattoos and marks, which will be added at a later date.

### **Missing archival links: hulk and gaol lists**

## BDA Source Description Pages

<http://www.bda-online.org.au>

Administrative practices and the rate of survival of records differed slightly in Van Diemen's Land (Tasmania / VDL) and Norfolk Island. Extensive VDL records of convict behavior from the 1820s (digitized on <http://www.linc.tas.gov.au>) include comments on convicts' crime and character prior to transportation which can only derive from gaol and hulk reports sent from England (the 'hulk lists').

For example, an entry for the convict Elinor James (aka Eleanor James per *Brothers* 1824) gives her crime committed in Wales, a gaol report on her character and reputation, a ship report from the surgeon, a note of a previous offence and term of imprisonment and her marital status:<sup>iii</sup>

'Transported for receiving stolen goods Gaol report a thief from her infancy Ships report disorderly state this offence stg clothes once 4 months for stg single'

Bigge made it clear that in Macquarie's time the details recorded in the arrival muster were checked against 'the description in the indents **and** in the lists transmitted from the hulks' [my emphasis]. He goes on to state:

'I think it necessary to notice the want of attention that has prevailed, until a very late period, at Sydney, to the circumstances of those convicts who have been transported a second and a third time. Although the knowledge of these facts is transmitted in the hulk lists'

Most female convicts and some men were sent direct from gaol to the ships. Most male convicts were on hulks just prior to transportation. Marsden's remarks make it clear that the expression 'hulk lists' was used as shorthand for combined reports on individual convicts from hulks and gaols sent with the ships.

There is no evidence of these missing gaol and hulk reports surviving in NSW or Tasmanian archives (unless they are yet to be found somewhere as estrays). They may have been destroyed, as happened with most convict assignment records. A clue lies in the evidence of magistrate William Gunn to a NSW Legislative Council select committee inquiry into the police system in both NSW and VDL in 1835. Describing the VDL system headed by the Chief Police Magistrate, he said:<sup>iv</sup>

'The duty of the Muster-master is to keep records of the characters and descriptions of all Convicts, and also the hulk lists, and to muster the convicts on board vessels on their arrival; he also acts as Assistant Police Magistrate in Hobart Town.'

The hulk lists contained useful but sensitive security-related information on the background of convicts. It makes sense that they would have passed into the custody of police authorities rather than remaining with the Colonial Secretary's Office. The vast archives of the 19<sup>th</sup> century police force in its offices and stations were later subjected to greater culling and destruction than those of the Colonial Secretary.

## BDA Source Description Pages

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It remains a mystery why the arrival musters did not list the convicts' crimes prior to the mid-1820s, even though these details were supplied with hulk lists (as the example of Elinor James indicates). Possibly this absence was connected with the government policy of forgiving and forgetting (at least nominally) crimes committed in Europe if the convict behaved in the colony. This may have led to a decision at an early period not to question convicts about past crimes at the arrival muster. The details of previous crimes from the hulk lists would have been available to government and police officials to check as required.

### **Tasmania and New South Wales**

Many convict ships discharged some convicts in Hobart and sailed on to Sydney where the remainder were disembarked. For example, the ship *Brothers* landed English female convicts at both Sydney and Hobart in 1824. A muster was taken in Sydney of the women landed there (held by State Records NSW at 4/4009 NRS 12188). These details were copied onto a list of women landed in both places but only names, trial and conviction details from the indents were included for the women landed at Hobart (SRNSW 4/4009A, NRS 12188). Where convicts from one ship were landed in both NSW and VDL, the hulk lists were most likely kept in NSW, with extracts sent to VDL for convicts disembarked there.

Additional records for convicts in VDL held by the Tasmanian Archive and Heritage Office (TAHO) have not yet been added to BDA. However the names, trial and sentence details of convicts landed in VDL have been added to BDA where they appear on lists derived from indents held in Sydney. Authorities in VDL conducted arrival musters and recorded similar information which will be added to BDA over time.

The arrival musters sometimes took place up to a week after the ship had arrived. This is reflected in the heading at the beginning of ship musters in the 1820s and 1830s stating its date of arrival, names of the ship's master and the surgeon superintendent, followed by the date the convicts were mustered on board.

Details of NSW convicts who were taken off the ship before it departed, and those who died during the voyage, are generally blank on the arrival muster. There is sometimes an annotation "died at sea". For others the annotation says 'in hospital', 'died in hospital' or 'died in Sydney hospital', an indication that they did arrive but were removed from the ship immediately and sent to the hospital before the ship muster took place.

In a number of cases up to three aliases are given for a single convict. By the 1820s clerks collecting the information often asked for the names and ship of arrival of any convict relatives already in the colony or on board the same ship. Spouses, siblings, parents or children are sometimes listed. All have been indexed into the database.

## BDA Source Description Pages

<http://www.bda-online.org.au>

The indents were key legal documents for the date of the commencement of a sentence. A witness in the trial of John Raine and two other men for aiding and abetting the escape of a convict named John Doran from NSW in 1829 produced and described Doran's indent record. The *Sydney Gazette* reported his testimony:<sup>v</sup>

'Charles Nigh, a Clerk in the office of the Colonial Secretary, produced the indents, of the ship *Atlas* (4), Capt. Short, in which James Doran arrived a prisoner of the crown for life to this Colony; he appears to have been tried at London in the year 1819, on the 17th February; the ship arrived here on the 19th October, in the same year; the indents bears no official signature, but is an assignment of the prisoners whose names are contained in it from the clerk of the arraigns in England to the Governor of the Colony; it is filed at the Colonial Secretary's as a record ; the office of the Colonial Secretary is the usual record Office for documents of the nature which are invariably sent with prisoner.'

Nigh appeared as a witness in the civil action for false imprisonment brought in 1831 by John Hogan (convict per *Prince Regent* 1824) against the Principal Superintendent of Convicts. Hogan asserted he had been wrongly imprisoned because the trial date was incorrectly recorded on his indent. Nigh stated that the usual practice was for the indent to be delivered to the Colonial Secretary by the convict ship's surgeon superintendent. He did not attend the muster of the arriving convicts but he had seen the indents in the hands of Major Goulburn, the Colonial Secretary the next day and 'I had occasion to make out a muster roll from them'.

### **Confusion over indents and arrival musters**

Convict indents and convict arrival musters have often been confused by archivists and historians. What are often labelled indents are actually arrival musters with the names, trial and sentence details extracted from the indents to which additional information was added for each convict on arrival.

For decades State Records NSW has erroneously classed indents as musters and musters as 'bound indents' or indentures. Doran's indent record for the *Atlas* 1819 as described by Nigh in 1829 survives in State Records NSW classed as a muster (ref 2/8243 p 47). The arrival muster for his ship is classed as a bound indent (ref 4/4006).

English indents like Doran's record only the name, date and place of trial and the sentence. From the 1820s indents for many convict ships sailing from Ireland to NSW often contained descriptions of convicts recorded in Ireland (these are not yet indexed on BDA). An arrival muster was still compiled for Irish convicts, creating two sets of descriptions which survive in State Records NSW with slight variations between the two versions (such as a convict's eyes being described as blue in Ireland and grey in NSW).

For more information on convict indents and ship musters see:

## BDA Source Description Pages

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[Convict indents and ship musters: general introduction](#)

[Convict indents and ship musters 1787-1812](#)

[Convict Indents to NSW 1829-1849](#)

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<sup>i</sup> John Thomas Bigge, chapter II, Debarkation and Muster of the Convicts, Male and Female in *Report of the commissioner of inquiry into the state of the Colony of New South Wales. Ordered, by The House of Commons, to be Printed, 19 June 1822* (online version at [www.gutenberg.net.au](http://www.gutenberg.net.au)).

<sup>ii</sup> *Sydney Gazette* 10 Sep 1827 p 2.

<sup>iii</sup> TAHO Conduct record Elinor James CON40-1-5 NAME\_INDEXES:1405166.

<sup>iv</sup> *Sydney Herald* 27 Jul 1835 p 2.

<sup>v</sup> *Sydney Gazette* 3 Jan 1829 p 2.