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NSW Certificates of Freedom 1810-1833, Tickets of Leave 1810-1814, Pardons 1813-1819

Summary introduction

This dataset comprises full transcripts of the following convict records surviving in State Archives New South Wales:

-) Certificates of Freedom 1810-1833,
-) Tickets of Leave 1810-1814, and
-) Pardons 1813-1819

For the first time, full transcripts of the content of the documents (rather than an index or brief abstract) are now published online. The transcripts include numerous annotations containing biographical details relating to convicts, their background and experience in the colony.

Convicts who received a certificate of freedom when their sentence had expired, or had the sentence remitted by a pardon, were known as emancipists. A ticket of leave was a partial relaxation of a convict's sentence permitting him or her to undertake paid work.

A total of 4,578 records are included in this dataset and the names of 65 additional persons mentioned from all surviving tickets of leave for the period 1811-1814 and certificates of freedom for 1810-1833 are included in the new dataset.

The new dataset comprises the following records from State Archives New South Wales (SANSW):

SANSW ref 4/4427 NRS-12208 (also NRS-1166)

State Archives New South Wales series NRS-12208 is titled Registers of certificates of freedom (based on the *Concise Guide to the State Archives of New South Wales*, 3rd Edition 2000, and material on the State Archives website www.records.nsw.gov.au in February 2023).

This titling is also reflected in digitized versions of these records on Ancestry.com.au online in February 2023). The series actually contains numerous pardon and ticket of leave records as well as certificates of freedom.

4/4427 has been digitized on Ancestry.com.au described in February 2023 as 'New South Wales, Australia, Certificates of Freedom, 1810-1814, 1827-1867'.

The documents in this file have survived in a confused jumble, most without a clear heading or title. BDA has identified the following different sets of records within 4/4427 and has allocated the titles in bold below:

-) **Table of Certificates of Freedom 1814**
-) **Miscellaneous certificates 1814-1819**, not in table form, mostly Pardons: a cluster of 'Special certificates' for certifying that an individual convict's sentence is expired or a pardon.
-) **Table of Pardons 1814-1819**: (includes a description of the convict) [this is part of the sequence of pardons in the Mitchell Library Pardons estray already on BSA, but includes descriptions not given on the library's version].
-) **Table of Certificates of Freedom 1811-1814**: some with, some without a description (from 22 May 1813 most items have a description).
-) **Table of Tickets of Leave 1812-1814** (pages upside down in the bound volume).
-) **Tickets of Leave 1810-1811**: note that this sequence of Tickets of Leave continues to be interspersed with the above upside down Tickets of Leave pages, which are actually part of the 1812-1824 sequence.

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-) **Four stray Tickets of Leave 1811** (not in table format) for: Joseph Nettleton per Duke of Portland John McDonald alias Johnston per Glatton 1803 dated 11 Nov 1811 permitting him to employ himself off stores in the Hawkesbury District in the absence of the Governor and he is to surrender himself to the Superintendent of Public Labour who will report to the Governor; John Cullen per Boyd dated 19 Nov 1811; Thomas Buckley per Admiral Gambier dated 9 Dec 1811.
-) **Table of Certificates of Freedom 1810-1811** (giving age, often not given on indents prior to this period).
-) **Table of Tickets of Leave 1811** (single page).
-) **Stray page of 2 Pardons 1813:** for 2 Convicts John Burford per Boyd No 309 dated 3 Nov 1813 & Thomas West per Earl Cornwallis 1801 No 310 dated 24 Dec 1813. Ancestry.com.au pp
-) **Table of Conditional Pardons 1814-1815**
-) **Cluster of Stray Pardons 1813-1814** (not in Table format).

Certificates of Freedom 1823-1833: Dec 1823 - Apr 1827, Jun 1828 - Dec 1833, SANSW ref 4/4423-4426.

Background

Certificates of Freedom

In the early decades of the New South Wales penal colony convicts usually arrived with a sentence seven years, fourteen years, or life, with ten years and other variants appearing in the later period. British government and legal officials in either London or Dublin, produced lists known as indentures or indents giving details of the name, date and place of conviction and sentence of each convict sailing on a ship for New South Wales or other antipodean penal colonies.

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The captains of convict transports handed these documents to the Governor of New South Wales and his Secretary (later known as the Colonial Secretary at the Colonial Secretary's Office, Sydney).

When a convict's sentence had expired, he or she could apply for a certificate of freedom (called a certificate of discharge before 1810). This was an official document issued by the Governor's Secretary (known as the Colonial Secretary in later decades) confirming that a convict was a free person with an expired sentence who was restored to rights of citizenship, in particular the right to unrestricted paid employment and to return to the United Kingdom or sail to other countries if able to pay the fare. A minority of convicts were allowed government assisted passages, some paid for their passage by working as a ship's crewman and many female emancipists travelled with their partners.

The Second Fleet arrived in 1790 with indents for convicts on board those ships, but had no indents for the First Fleet convicts. Governor Phillip was unwilling to release time-expired convicts from unpaid government work until their indents arrived.

Philip Gidley King, the local commandant, on Norfolk Island was prepared to be more lenient. King wrote in his journal in April 1789:

Thos. Jones, convict, acquainted the Commandant that his term of transport's expired this day, on which the Commandant declared him to be a free man, and at liberty to work for the Crown or individuals until his Excellency the Governor-in-Chief's orders should be received respecting him. (Appendix C The Journal of [Philip Gidley] King F M Bladen (ed) 5 April 1789, *Historical Records of New South Wales / Vol 2 Grose and Paterson 1793-1795*, Sydney 1893:618.)

Phillip approved King's local policy, probably because King had taken a small, select group of skilled, well-behaved convicts. But he added the proviso that the expired convicts could not leave the island until evidence of their date of sentencing arrived.

On the mainland Phillip took a different tack. The First Fleet convict John Callaghan (aka John Cullyhorn B#10011016301), a sailor from Devon, petitioned the governor in July 1789 on behalf of himself and five others who said their sentences had expired.

In a meeting with the Governor Callaghan asked for the right to do paid work in a forthright manner that was perceived as impertinent. He was accused of

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verballing Lieutenant Governor Robert Ross by falsely quoting what Ross had told him in relation to the issue. Put on trial in the Criminal Court for slander, he was sentenced to receive 600 lashes and to work in irons for six months.

Philip's evidence against him in court recalled his discussion with Callaghan and reflects his views on Callaghan's request:

[I told him] those whose times were expired would be supported by government if they were industrious and chose to settle until they could support themselves. That the prisoner said he was not a farmer. I asked what he wanted, and whether he had offered himself as a soldier. He said no. The question was repeated, what do you want? He replied to go away, or return home. That, I told him he should as soon as it was known that his time was expired, that he should be furnished with provisions, and need not fear the being obliged to pay for them: but that while he was to be considered as a servant of the Crown (or words to that effect) though his time might be expired, no assurance would be given him of any payment for his labour. And this I said as I had been informed by the Judge Advocate that when he called on him, to say his time was expired, he had said something of not being called on to pay for his provisions, and this expected to be paid for his labour. As the value of the provisions far exceeded the value of his labour, he replied and with some degree of assurance, that he had been told two years' provisions were sent out for him as well as for every other. I again pointed out to him that every one was to work.

In 1791 the missing indents for the First Fleet arrived with those for the Third Fleet. All subsequent convict transports brought indents with them for prisoners on board. These were used to cross-check subsequent claims lodged by convicts who claimed their sentence had expired and certificates of freedom were issued to eligible applicants.

The convicts were then expected to support themselves from their own earnings, independent of government rations. They had the option of applying for a land grant, or working as a wage earner in the colony and could leave the colony at any time if they had the financial means.

Governor John Hunter (1795-1800) had dismissed his Colonial Secretary Richard Dore in 1799 and took on the additional work of the secretary himself, assisted by his convict chief clerk Francis Fowkes.

When Philip Gidley King took office in September 1800 he found evidence that Fowkes had operated a forgery racket. On 21 August 1801 the new Governor wrote to the Duke of Portland:

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A few days previous to Governor Hunter's departure from this colony the person who acted as his clerk was discovered to have made several erasements in the indents sent with the convicts to this colony, which it has since appeared was done for the reward of £12 for changing from life to seven years, and more in some cases. It appears that at least 200 prisoners have had their terms thus changed, which has introduced such confusion into the indents and Orders in Council by which these convicts were transported, that there is great difficulty in tracing any convict's term of transportation but by secret enquiries and secondary means.

F M Bladen (ed), *HRNSW vol 4 Hunter and King 1800-1802*, Sydney 1896:764

The certificate of freedom remained an important identity document for expeires while New South Wales remained a penal colony up to the 1840s.

Some records are lost

Both series of Ticket of leave and Certificates of freedom documents contain extensive gaps owing to parts of these archival series being lost through damage or disposal.

Tickets of leave do not survive for c1801-1809 and 1814-1824.

Certificates of freedom do not survive for 1791-1809 and 1814-1823.

Convicts whose original document had been lost, stolen or damaged (including disintegration in the pocket of washed clothes) could apply for a replacement. Some of these reissued documents have survived, preserving the details in the lost original.

Early certificates

The first known usages of the terms ticket of leave and certificate of freedom date from 1804 and 1810 respectively. But similar documents had been in use much earlier. Prior to 1810 a certificate of freedom was known as a certificate of discharge. In the same period some convicts whose sentences had not expired were issued with certificates or passes resembling the later ticket of leave allowing private employment. Scattered early examples are extant, but they were probably not issued in an extensive or systematic way prior to 1800 (or if they were they have not survived).

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By around 1805, or earlier, printed forms were published with spaces for convict's details filled in by hand. Soon a system was developed for keeping registers with additional details about the convict, allowing the identity of the holder of the certificate to be checked and verified.

The details recorded in the registers came to include: number and date of document, name, ship and year of arrival, date and place of trial, sentence, birthplace, occupation, description (usually height, complexion, hair and eye colour and bodily marks and tattoos). The crime for which the convict was transported appears increasingly on certificates of freedom from about 1829. Both certificates of freedom and tickets of leave often contain a variety of annotations, including details of convictions, absconding, additional offences and death.

Details of convicts' birthplace and occupation only began to be recorded on a convict's indent or arrival muster from about 1813. In general, crimes only appeared on these documents from 1826 onwards. Many of these tickets of leave and certificates of freedom (notably in the years 1812-1814) provide birthplace, occupation, crime and other details not appearing on an early indent or arrival muster. Some convicts receiving replacement certificates issued from 1810 had arrived as early as 1788.

After the 1814-1824 gap, tickets of leave survive in a fairly continuous sequence from July 1824 onwards and have been indexed and abstracted by Dr Perry McIntyre. Her index covering the period from 1810 onwards has been online at BDA since 2015. The full text of post 1824 tickets of leave will be transcribed at a later date.

Pardons issued in the colony survive in a fairly continuous sequence from 1791. Only those from 1810-1819 have so far been transcribed by BDA and added to the database. The remainder will be added at a later date.

The documents recorded a variety of details as the format of registers and forms changed over time until a standard form developed: number, name, ship and year of arrival in the colony, when and where convicted, term of transportation. Native place, occupation, age, height, complexion, colour of hair and eyes, date of certificate are usually given, though sometimes absent in the early period. A general remarks field may record body marks and tattoos, details of residence,

colonial convictions, cancellation of tickets, expiry of sentence or pardons. From 1823 onwards fuller details are given consistently.

Note: State Archives New South Wales series NRS-12208 is titled Registers of certificates of freedom (citing the *Concise Guide to the State Archives of New South Wales*, 3rd Edition 2000, and material on the NRS-12208 website in February 2023. This is also reflected in titling of digitized versions on Ancestry.com.au online in February 2023). As described below, the series actually contains numerous pardon and ticket of leave records as well as certificates of freedom.

Tickets of leave

From 1791 the colonial government continued to employ a large segment of the convict population whose skills were required for government purposes as well as convicts who required closer control and supervision.

From the early 1790s the number of land grants multiplied, creating a growing class of free and emancipated farmers and graziers. These, as well as persons engaged in trades, small business, shopkeeping, services, hospitality and import/export trade and shipping, needed workers. Many serving convicts were assigned by government to private employers who agreed to support them in return for their free labour.

Partly in response to this trend, Governor Philip Gidley King (1800-1806) introduced a new convict labour category called a tickets of leave, granted to well-behaved convicts with sentences ranging from seven years to life.

A convict granted a ticket of leave was removed from public rationing lists managed by the Commissariat Department, reducing public expenditure. In some cases these convicts succeeded in negotiating wage agreements with their employer, or undertook paid work in their own time, or were hired out by their employer.

The ticket permitted the convict to take paid work with employers subject to certain limitations and restrictions included remaining within a specified district and behaving well. The system was designed to be an incentive, to encourage good behaviour and productivity. A similar, less formal, system of certificates or

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passes with a similar effect had evidently been used prior to 1800, but King's police created a more formal structure and gave the ticket a name that stuck.

Typically, a convict would initially work for government or as an unpaid assigned convict worker employed a private employer, before applying for a ticket of leave to work independently. The ticket would be granted if the convict had behaved well and it could be cancelled if the convict committed any offence.

The system was overseen by local magistrates through the local court system. The magistrates were charged with protecting them from mistreatment or exploitation by an employer as well as to inflict punishment on them for misbehaviour.

On 15 March 1806 King published an official form to be used by applicants for tickets which stated:

Prisoners Ticket of Leave

No [] The Bearer [] convicted at [] came in the [] Time expires [] 180[] (or Prisoner for Life) has the Governors Permission to gain his livelihood by Honest means, but if he demands extortionate pay for his labour,. Or transgresses any of the Orders and Rules of the Colony, he will be recalled to Government labour, and such other Punishment be inflicted on him as the case shall merit, and as the Magistrates may award, and of which all officers, settlers cultivators and any other individual is to take notice.

State Archives NSW, Colonial Secretary's Papers, ref SZ756 p.354,
digitized on Ancestry.com.au

Pardons

From 1788 the governor was empowered to grant a convict an absolute pardon (also known as a free pardon) or a conditional pardon signed by the governed and 'passed under' (stamped with) the colony's Great Seal. A pardon could be granted to any deserving convict with any sentence ranging from seven years (or less) up to life.

An absolute pardon revoked a convict's sentence and restored the individual to full civil rights, including an unrestricted right to return to Britain or Ireland or travel to other countries. A conditional pardon had the same effect of restoring civil rights, with the exception of the right of return. Some of those civil rights,

especially in relation to rights to property and inheritance later came under legal challenge.

The original records

Tickets of leave for the years c1800-1809 and 1814-1824 and certificates of freedom for 1791-1809 and 1814 –1823 issued to convicts in New South Wales and Norfolk Island have not survived (unless they exist as later replacement certificates or tickets issued from 1810 to replace lost originals).

Registers of conditional and absolute pardons from 1791 have survived, but have not yet been added to BDA for the periods 1791-1809 or 1820-1825. A variety of NSW pardon records for the period 1791-1856+ will be added to BDA in the future.

This new dataset supersedes BDA's earlier indexes to tickets of leave, certificates of freedom and pardons for the period 1810-1833. The earlier indexes did not include the full text of the content of each document. In 2021-2022 Terry Eakin transcribed the full text of the vast majority of these documents, with additional transcripts, editing and analysis by Michael Flynn and Malcolm Sainty.

Digitization of the originals in State Archives NSW by Ancestry.com.au has facilitated a detailed editing and analysis by BDA which places each document in its correct context with a source reference and editorial comments where necessary. Where possible each document is linked to other documents for each convict. Common names and names subject to many spelling variations may not yet be linked until resources required for additional checking are available.

The original archives for the period 1810-1819 were left in a messy and chaotic condition by 19th century clerks and were difficult to describe or place into a coherent form when professional archivists came to catalogue them in the 20th century. Digitizers at Ancestry.com.au, Findmypast and other sites experienced similar difficulties in labelling and describing these records in the 21st century. Fortunately, both State Archives and the online sites chose to leave them in the order in which they survive.

Many of the original documents were not clearly labelled, leading to confusion over whether they represented a ticket of leave, certificate of freedom or

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pardon. Some of these different classes of documents were intermixed and even bound in alternating upside-down pages.

Some convict indent or arrival musters have become partly or wholly unreadable, but can be reconstructed from details on certificates of freedom or other records that can be viewed and analysed on BDA. Some records contain errors made by 19th century clerks or other officials who compiled them. Often names were misspelt, misheard or left out. Absences and inconsistencies can be explained by comparative analysis of other records on BDA.

Some convicts are completely left off arrival musters for the ships from which they actually landed. For example, when John Fox per *Chapman* 1817 applied for a certificate of freedom around 1823, clerks found that he had been left off the arrival muster. No indent record could be found with the date of his conviction. An investigation gathered evidence, including affidavits from two convicts on the same ship who knew him. The certificate was issued on 6 April 1826 almost two and a half years after the expiry of his sentence in December 1823.

Gaps in the records of this kind could be caused by a convict not attending the arrival muster for various reasons, including hospitalisation. In Fox's case, it was probably connected with confusion and uproar associated with the arrival of the *Chapman* 1817 owing to a mutiny on the voyage which had resulted in the deaths of seven convicts. John Fox had been very much alive and appeared in the colony's musters after 1817.

The new BDA dataset 2023

The new BDA dataset partly or wholly overlaps and supersedes the following datasets already on BDA in February 2023 but do not contain full transcripts of the documents:

-) **Convict Pardons 1810-1819:** added with BDA Update 2, February 2015, comprising an index to pardons enclosed in a government despatch to the London government list pardons for this period, transcribed and published by Malcolm Sainty and Keith Johnson in 1974, from copies of government despatches held in the Mitchell Library, State Library of NSW.
-) **Tickets of Leave Index 1810-1848:** from BDA Update 2, February 2015, comprising part of an index by Dr Perry McIntyre and published in CD

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format in 1995 and later on the State Archives NSW website. Dr McIntyre completed the index which had been started by Norma Tuck before her death.

) **Certificates of Freedom 1823-1869**: from BDA Update, 4 December 2016, from an old index on the State Archives NSW website, added to BDA with their permission.

Sources for the dataset:

'Convict pardons tickets of leave issued in the colony of New South Wales, 1810-1875', [microform] index / compiled by Perry McIntyre. Balgowlah, NSW: W & F Pascoe Pty Ltd for Perry McIntyre, 1995.

NRS-12208 State Archives New South Wales Registers of certificates of freedom, 1810-1833 [sic, the title in 2023 does not reflect the presence of tickets of leave and pardons in these files]: records transcribed for 1810-1833 from SANSW refs 4/4423-4/4427.

NRS-1166 List of Tickets of Leave issued 1810-1814 (a continuation of NRS-12208): records transcribed for 1810-1814 from SANSW ref 4/4427.

NRS-12210 State Archives New South Wales Butts of certificates of freedom 1827-1867: records transcribed for 1827-1833 from SANSW refs 4/4289-4/4319.

For John Callaghan's petition and prosecution, see his Bench of Magistrates and Criminal court proceedings SANSW references, linked to his Biographical Report: B#10011016301. A transcript of the 31 July 1789 Criminal Court proceeding is included on 'Decisions of the Superior Courts of New South Wales, 1788-1899' Published by the Division of Law Macquarie University' published online pre-2009 but only available in an archived version on www.trove.nla.gov.au in February 2023.

Source description page written by Michael Flynn, April 2023

For other Convict Records included in the BDA see
<http://www.bda-online.org.au/sources/convict-records/>

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