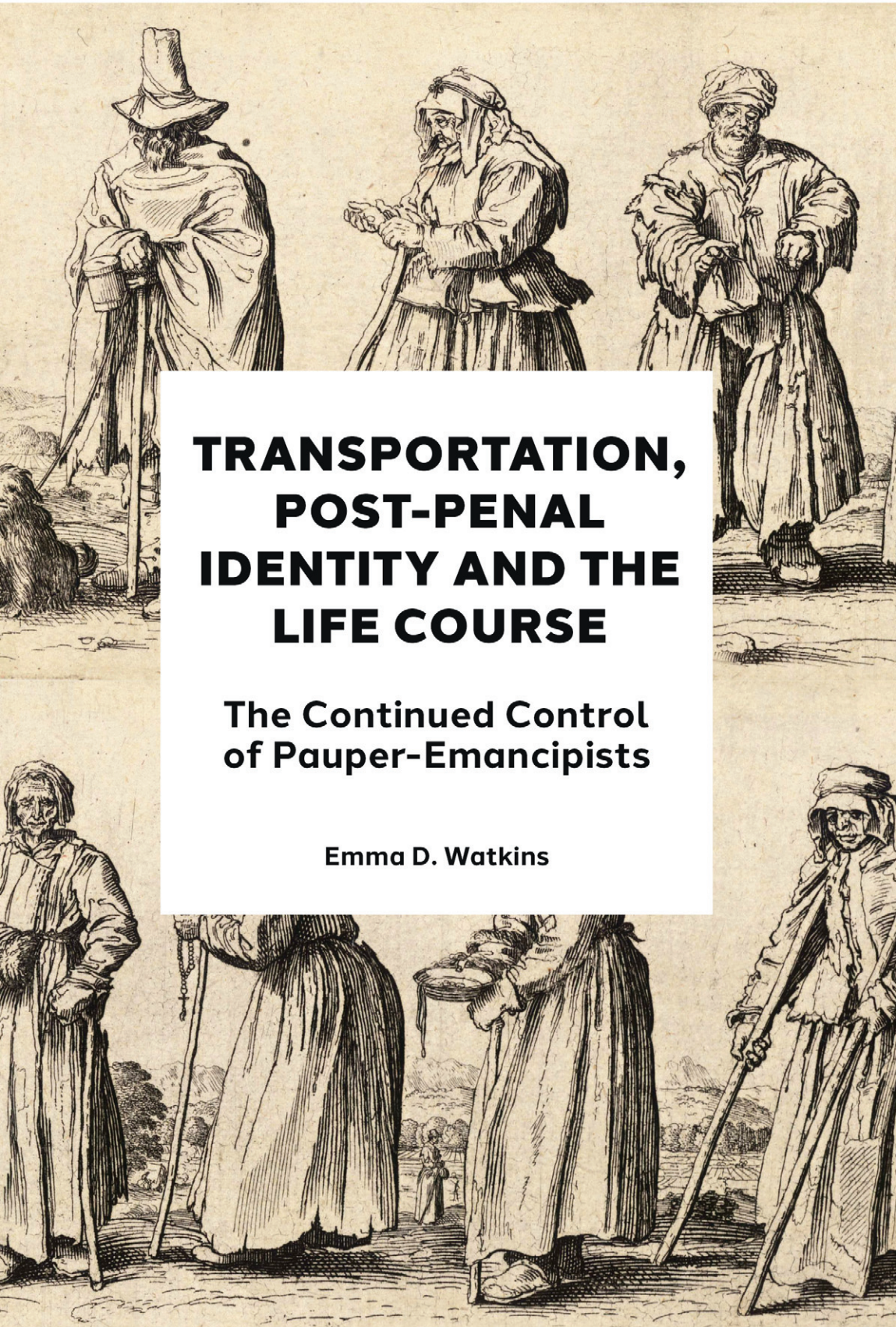
EMERALD ADVANCES IN HISTORICAL CRIMINOLOGY



TRANSPORTATION, POST-PENAL IDENTITY AND THE LIFE COURSE

The Continued Control of Pauper-Emancipists

Emma D. Watkins

Transportation, Post-Penal Identity and the Life Course

In a groundbreaking study, Watkins explores the post-transportation experiences and lives of people sent to Van Diemen's Land. As a legacy of penal transportation, those labelled as "wasted" and "unattractive" were subject to emerging forms of institutional care. By using life-course analysis, this book successfully reveals the lives of women and men who entered and died within the walls of pauper establishments within an institutional context that severely tested their resilience. I don't know any other book which combines this approach to examine this topic, and I greatly appreciated the depth and quality of the empirical research, as will students and researchers of this area.

—Professor Barry Godfrey, University of Liverpool, UK

Transportation, Post-Penal Identity and the Life Course is a triumph, in which Watkins has meticulously drawn from the archive to chart the lives of Tasmania's colonial poor. Her skillful historical method allows Watkins to bring the people she writes about to life. This book is a masterclass in how to do life-course research on historical subjects and contexts, offering a robust demonstration of how this type of work can enrich our understanding of where we come from and challenge us to reassess our existing conceptions of the past.

—Dr Paul Bleakley, University of New Haven, USA

EMERALD ADVANCES IN HISTORICAL CRIMINOLOGY

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Transportation, Post-Penal Identity and the Life Course: The Continued Control of Pauper-Emancipists

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United Kingdom – North America – Japan – India – Malaysia – China

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INVESTOR IN PEOPLE

This book is dedicated to Simon for continuing to "embiggen" my life.

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About the Author

Dr. Emma D. Watkins is an Associate Professor in Criminology at the University of Birmingham and an AHRC Research, Development & Engagement Fellow (2023–2025) working on "Institutional Abuse: Reformatory Schools and the use of physical force." As an historical criminologist, Emma uses a social harm perspective in her work to explore the use of institutions and policy to control marginalized populations. Emma was awarded her Ph.D. at the University of Liverpool. That thesis led to the monograph: Life Courses of Young Convicts Transported to Van Diemen's Land. Out of that project came her work on pauper-emancipists and the criminalization of poverty.

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Chapter 1

Introduction

In 1642, some 128 years before Captain James Cook visited Australia, an island South of Australia was named by explorer Abel Tasman. He called the island Van Diemen's Land after the governor of Batavia in the Dutch East Indies. This small Island was about 160 miles long by 80 miles wide (Fleming, 2012). It received 73,000 convicts over 50 years, beginning in 1803. It only became a separate colony from New South Wales in 1825 (Brooke & Brandon, 2005). Van Diemen's Land became self-governing in 1856, when it gained its own fully elected legislature, which was after convict transportation had ended (Fleming, 2012). Partly to enshrine this shift, the island was renamed Tasmania after that explorer in 1856. This book is not a history of convict transportation, which has been done elsewhere (Hughes, 1996; Shaw, 1966; Watkins, 2020; Williams, 2018). This book explores the intersection of convictism and poverty and the effects the penal apparatus had on those who went through the system and came out the other end only to end up re-institutionalized within the charitable system, a charitable system that very much reflected the convict system they left.

Poverty

It is perhaps not possible to estimate the extent of poverty in a given time or place, but it has been attempted. Roe (1976) suggested that, from the 19th to the early-20th century, 10% of the Australian population lived in permanent poverty, and approximately the same proportion lived in temporary poverty, whereas Charles Booth estimated that 30% of Londoners in the 1880s and 1890s were poor. As Garton (1990) acknowledges, it may be that Australia had less poverty, but 10–20% poverty is still poverty. Poverty is a concept that is difficult to define. Gestrich et al. (2006) took a radical social constructionist approach to defining poverty in which there is no clear cut off to the poverty line in any society. Instead, social practices including stigma, prejudice, and judicial terms influence changing categorization of the poor by welfare officials and other contemporary commentators. Often, the poor are seen in this way, as passive subjects of categorization and control measures. Pauper agency has been ignored in much of the literature, but through uncovering the experiences of the poor, the process of

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acknowledging their interactions with society begins. As such, this book will consider institutional settings and overarching policy, but it will do so in line with the life-course analysis of those caught up within their remit. However, it is not only convictism and poverty that are at the center of discussion but also invalidism and old age.

A Tasmania politician, Edward Braddon, argued that the great age at which people lived in Tasmania during the nineteenth-century demonstrated the healthiness of the colony. Pointing to the 1881 census, he noted that there were 642 persons aged 80 and over, which was nearly 6 per 1000 of the whole population. Adding,

> Allowing for the fact that some of these pensioners, or inmates of our charitable asylums, and, as much, specifically privileged to drag out existence, these figures speak volumes for the health of Tasmania and longevity of its people. (Braddon, 1889, p. 325)

What Braddon has ignored here is that, proportionally, there were so many aged because the young migrated to the mainland in search of employment opportunities. Indeed, this process of depopulation began in the 1850s and continued into the 1870s (Hargrave, 1993). Nevertheless, the old age population of Tasmania was disproportionally large for this period in which other regions saw a surge in the proportion of the young. The above statement not only highlights the importance of old age, it also touches on the charitable system. It is the charitable system and its population which this book examines:

> [the] typical inmates of a colonial Tasmanian charitable institution were male, unmarried (or if female widowed), aged at least 55 years but more likely to be aged closer to 70. In addition to being old, they almost certainly suffered from age-related illnesses, such as dementia, rheumatism or chronic ulcers. They would have been born in Britain or Ireland, and have arrived in Tasmania as transported convicts. While they may have been able to read and write, their literacy standard was low when compared to that of the rest of society. This meant they would have experienced restricted vocational opportunities and would have primarily been employed in unskilled labouring or domestic service positions. (Piper, 2004, p. 54)

The above-mentioned statement describes the typical pauper-emancipists. They were a subpopulation who were receiving charitable assistance and who were also former convicts.[1] Broadly speaking, as the number of prisoners

[1]As Piper (2003) pointed out, pauper is not the same as poor because some poor were not unable to subsist economically. Invalids are a subset of paupers, who are unable to work due to a physical impediment.

decreased in Tasmania, the number of paupers increased. Because of this, it has been suggested that many of the aging prisoner population moved categories from "prisoner" to "pauper." It follows then that many paupers were emancipists (Piper, 2003).

A Penal Past

Australian history, particularly related to its penal past and influences, has unsurprisingly evolved much since the first pioneers of the 20th century (Clark, 1987; Payne, 1961; Robson, 1976; Shaw, 1966; Wood's, 1922). On the shoulders of the researchers who came before, researchers have produced a bottom-up understanding, which arguably began with Nicholas and Shergold (1988), with the later addition of the previously neglected female convict population by Oxley (1996). This edited collection *Convict Workers: Reinterpreting Australia's Past* saw economic historians ask new questions about the early economic and social development of New South Wales. Using empirical and comparative methodologies, they explored human capital and demonstrated the beneficial effect of convicts, and the convict system, on the colony.[2] By assessing their occupational skills, education, and physical fitness, they overturned the pervading convict stereotype which presented them as a stain on society (Nicholas, 1988). In this vein, this book explores the whole lives of pauper-emancipists not simply their crimes, punishments and institutional connections.

By looking closer at the experience of different categories of convicts and their contributions to the colony, historians have presented a more nuanced picture. For example, there has been a spot light on different populations, including females (Fleming, 2012; Kavanagh & Snowden, 2015; Reid, 2007), juveniles (Nunn, 2015, 2017; Watkins, 2021), different penal stations and the convicts caught up within them (Causer, 2021; Maxwell-Stewart, 2008), as well as highlighting different aspects of convict life such as mortality (Kippen & McCalman, 2015), family life (Maxwell-Stewart et al., 2015) and sexuality (Nolan, 2013). The list goes on, and it is upon such works that this book has built. Indeed, in order to understand the pauper-emancipist experience, it is vital to know the wider process and social identities of which they were a part.

The punishment of transportation allowed the practice of banishment to be combined with colonization under the belief that the offender could repay the common good (Shaw, 1966). This process began informally, but by the 18th-century transportation had become "a major ingredient of English criminal law" (Shaw, 1966, pp. 24–25). Accordingly, when Britain was no longer able to deposit convicts in the American colonies, the search was on to find another suitable out-post. This did not happen overnight, but eventually Botany Bay in

[2]This is in terms of the colonial political economy and overlooks the immediate and long terms harms to the indigenous populations.

New South Wales was chosen to be the new penal colony, and the first fleet departed there in 1787 (Quinlan, 2014; Shaw, 1966). As noted, this expanded to Van Diemen's Land in 1803. Most convicts ended up in either New South Wales or Van Diemen's Land.[3] Transportation ended to the former in 1841 and to the latter in 1853 (Smith, 2008).

Penal transportation meant more than just exile. Not only were convicts under government control, which at times was outsourced, the focus was on the exploitation of their labor in different forms (Maxwell-Stewart, 2015). Indeed, penal colonies served multiple social, economic, and geopolitical functions. As such, convict transportation as a punishment was intertwined with both the political economy, and metropolitan and imperial governmentality. It is also closely related to other kinds of free and coerced labor and migration. There were interlocking, but sometimes incompatible, desires for punishment, labor extraction, population management and imperial expansion. The history of penal transportation is therefore one of geographical mobility and confinement linked to governance, migration, and colonization. Within this, transported convicts were agents of imperial occupation and expansion and labor pioneers, even if unwillingly (Anderson, 2020).

The British Government also advocated for transportation because it was seen as a cheap, deterrent punishment. While the American colonies were substituted for the Australian colonies, the economic reasons for transportation remained the same as was stated in the first Transportation Act (1717), which was labor supply (Meredith, 1988). However, practically speaking, those who it failed to deter were removed from the country, and few returned. It was also initially believed that removal from criminal connections, in a new environment, with "ready" employment would result in reformation (Shaw, 1966). Much has been written on the impact convicts had on the colony, both positive (Nicholas, 1988) and negative (Hughes, 1996), and how convicts successfully endured their experience of the penal system, against the odds, and settled into the colony (Frost, 2012; Nicholas, 1988; Oxley, 1996; Watkins, 2020). However, there has been less work on those who struggled and suffered after emancipation; meaning those who were unable to support themselves in old age. This book takes this starting point and looks in the margins at those who were unsuccessful, those who struggled in freedom and old age, and accordingly ended their days in the charitable system as opposed to being surrounded by family and friends. As such, this book builds upon research concerned with the aged. While often taking differing perspectives, existing literature has uncovered important aspects of the long-term harms of colonialism and the effects of the penal state had on the aged and poor.

[3]Others were sent to Moreton Bay (Brisbane), Queensland, Norfolk Island, and after 1850, Western Australia (WA).

Aging in Australia

The topic of aging within the Australian context has had limited but noteworthy attention (Peel, 2001).[4] Writing from a social welfare perspective, Brown (1972) outlined the development of the Tasmanian charitable system. Brown's detailed work "emphasises the impact of convictism on subsequent transformations and gives prominence to the part played by emancipists" (Piper, 2004, p. 46). They were key to the formation of the colony. The geographical reach has since broadened to explore the non-penal colony of Queensland (Evans, 1976), which found that charity still had a strong penal outlook. Kingston (1988) explored the impact of the convict system, in Tasmania and New South Wales, on welfare provision and pensions. While uncritically incorporating crime rates, Kingston does highlight the lack of universality of the pension systems introduced. When speaking of Tasmania, Kingston uses a similar perspective to Bolger (1973). Bolger (1973) described everyone (except political convict transports), as "unattractive specimens of humanity." Bolger repeats contemporary thoughts and ideas with little critique, and Kingston empathetically states "The main Tasmanian legacy from the convict system was poverty, both individual and social, for no society could easily support such a burden of repressed and wasted human resources" (1988, p. 159). This book will explore more closely those positioned as "wasted" and "unattractive," to uncover their whole lives—their experiences of the Van Demonian institutions, and their life outcomes. This is in line with Weidenhofer (1990), who looked at infirm convicts, pauper-emancipists and imperial lunatics who were housed in Port Arthur Invalid Depot and Port Arthur Lunatic Asylum.

To understand the experiences of this population, the institutions and processes they were subject to will be explored. As Breen (1991) has demonstrated in his study of outdoor relief in Launceston (between 1860 and 1880),[5] top-down processes must be understood in conjunction with the agency and resourcefulness of those subject to its control. As well as broad explorations of invalidism and poverty in the colony, there has been research specifically looking at convicts within this population. As Earnshaw (1995) has demonstrated, the health and abilities of the convicts on arrival and their survival strategies will need to be uncovered. Doing so will allow a greater understanding of the consequences of old age within the emancipist population, and the economies of makeshift strategies at a time when there was limited support available in the form of either philanthropy or state intervention. As Hargrave's (1993) thesis elaborates, institutional care was used as a mechanism to control the legacy of convictism. To control those who were marked out as terminally untrustworthy. Piper (2003,

[4]Another major contribution to this literature has been the aptly named "Ageing" special collection which was published within *The Journal of Australian Cultural History*.

[5]Outdoor relief was the provision of money and/or resources to allow those in need to remain in their homes. The effectiveness and liberality of this form of welfare varied, but it stands in contrast to indoor relief which ensured that those in need would only be provided for if they were willing to enter the institution.

2004, 2009, 2010) underscored the ad hoc beginnings of pauper "management," which became increasingly systematic over time through a process characterized by "inmate classification, institutional specialisation, centralisation of administrative power, bureaucratic professionalism and medicalisation of institutions" (Piper, 2003, p. i). In line with this, a changing perception within Tasmanian society of institutional care is explored in this book. However, instead of taking an institutional perspective, this book looks at the lives of the pauper-emancipists themselves using life-course analysis. This includes both males and females.

The Female Experience

Fewer females ended up in charitable institutions because there were fewer females transported as convicts (Piper, 2004). Indeed, 80% of transported convicts were male (Nicholas & Shergold, 1988). Women were also more likely to marry as a consequence (Watkins, 2018a). Accordingly, the experience of female convicts was initially overlooked; however, their importance has been increasingly acknowledged. While the concentration of the literature has been on men, as is the case for convict history more broadly, there has been a steady growth in research around convict women and their experiences and contributions. For example, Smith (1988) traced the lives and experiences of the women who arrived with her ancestor on the *Princess Royal*. Subsequently, the work of Daniels (1998) has added nuance to the literature by touching on the experience of poor emancipist females. More recently, Frost (2012) traced the lives of Scottish women transported to VDL on the *Atwick*. In doing so, those who were able to break away from their convict pasts were discovered, as well as those who struggled later in life.[6] Following this lead, this research study also explored the female experience but did so in conjunction with that of the male experience.

Book Outline

This book uncovers the lives of emancipist women and men who entered and died within the walls of pauper establishments in Van Diemen's Land (VDL, now Tasmania). Nominal linkage of historical records has enabled the building up of life narratives encompassing crimes, punishments, familial relationships, employment, ill-health, and death. Life narratives (or biographies) were used to understand the individual experience and a selection are included in the

[6]In addition to those listed above, there are also the following significant works: Robinson's (1988) work on the first 40 years of settlement showed that female convicts were petty, first-time offenders who had suffered harsh conditions in Britain. Beddoe (1979) looked at the demographics and occupational circumstance of Welsh female convicts, thereby uncovering their convict experience. Subsequently, Oxley (1996) explored female convicts transported to NSW in aggregate, finding that they arrived with much needed skills and trade experience. Other important works on female convicts include: Perrott (1983); Salt (1984); Lake (2003); and Fleming (2012).

appendix. It was through exploring these narratives collectively that a broader view of the charitable system and its connections with the penal system has been better understood. Using data linkage, the whole lives of those who died within these pauper institutions have been traced back to their beginnings. Data linkage has emerged as an important tool in gaining an understanding of the experiences of the poor (Gestrich et al., 2006). Using this method, this book elucidates the experiences of the poor in Tasmania with a particular focus on the almost unique relationship poor relief had with the Vandemonian convict system. The research study which underpins this book not only explored specific institutions in Tasmania and the emancipist experience of them but also goes beyond institutional life within the pauper establishments to uncover the preceding lives of this population within the convict system. Where these former convicts were transported from is also important in building the picture of their lives. While some of this population came from other parts of the colonies, including South Africa and India, the majority were transported from the British Isles. This book will discuss: the Charitable System itself, in order to provide institutional context; the intersection of poverty and criminalization; the economic structures in place and what that meant for individual life courses; family structures and the protections it did (or did not) provide; and lastly, the (ill-)health and the circumstances under which these pauper-emancipist died and how they ended their lives within the charitable system. However, first and foremost will be an introduction to the theoretical lens through which this research has explored these lives, followed by the method (how it was done) and, perhaps more importantly, the methodology (why it was done in this way).

Chapter 2: Crime and Poverty: A Long-Standing Link will set the scene by establishing the link between crime and poverty, past and present. This will be done by discussing the criminalization of poverty and the structural causes of crime. This chapter will acknowledge the agency of those caught up within the structural constraints of the criminal justice and welfare system. Lastly, the historical roots of these connections will be considered, as well as the continuing legacy.

Chapter 3: Method and Methodology outlines the method used in this research study, a method which is well established in the United Kingdom that of historical (or archival) life-course analysis. This historical life-course method is now a common method among criminological historians principally in the United Kingdom and Australia (Godfrey et al., 2007, 2010, 2017; Maxwell-Stewart & Kippen, 2015; Turner, 2009; Watkins, 2020; Williams, 2014; Williams & Godfrey, 2015). This method derives from the works of criminologists Elder (1974), Giele and Elder (1998) and Sampson and Laub (2005). However, the method is not universally mainstream. As such, the strengths and limitations of this approach are debated to take a much-needed assessment of the literature in this area in relation to life-course criminology practiced in America (Farrington, 2003; Laub & Sampson, 1993; Laub, 2004). Beginning this discussion allows a bridging of the gap between the historical studies and mainstream life-course criminology. This chapter sets the context for the data explored throughout the book, as well as advancing this important methodological debate.

Tasmanian welfare is explored, in ***Chapter 4: The Development of the Charitable and Welfare System,*** in context with Australasian and British policy debates. This includes an exploration of the influence of the British Poor Law system on the developing Tasmanian system (its colonial outpost) and a consideration of the influence of Tasmania's penal history on the treatment of impoverished people and how that was different when compared to Australia more broadly. New South Wales ended transportation a decade earlier than Tasmania, and Queensland and Victoria were never penal colonies. How might their different histories affect how paupers were dealt with and in what ways? This book looks at the collective lives of pauper emancipists through the lens of path-dependency, where the convict system functioning jumped tracks into the charitable system. Using this view point enables an understanding of why these men and women died within the walls of charitable institutions. Moreover, considering regional characteristics is important to get local perspectives and to break up the "monolithic welfare regimes" (Gestrich et al., 2006). In this vein, this book explores the variety of practices undertaken in both North and South Tasmania. The following institutions are included: New Town Charitable Institute (1879–1912), Launceston Invalid Depot (1868–1912), Brickfields Invalid Depot (1859–1882), and Cascades Invalid Depot (1867–1879). The role of these early pauper institutions is explored within the context of the post-penal identity of Tasmania. In doing so, a greater understanding of the development of policies surrounding poor relief within the Australian historical context is provided. Essentially, this chapter considers the influence of Tasmania's penal history on the treatment of impoverished people, how that changed overtime, and how that differed compared to Australia more broadly.

In ***Chapter 5: Crime and Punishment***, the whole lives of pauper-emancipists are explored in relation to crime and punishment, including their pre-transportation lives, during their transportation sentence and beyond. A collective look at the whole sample in reference to the role of criminalization of poverty and controlling populations is taken. There is particular focus on the crimes (including status offenses) committed by the sample in old age and the implications of this. As well as the attempts to control the pauper-emancipists by those in authority, the agency of the pauper-emancipists is explored. The apt warning from King (2006) was taken on-board; King highlighted how criminal life stories often concentrate on particular groups of offenders and, even then, the most exciting moments of their "deviant careers," and because of this, it "can be difficult to analyse their backgrounds, family networks or previous working lives" (2006, p. 157). To overcome this challenge, the research study undertaken for this book sampled pauper-emancipists whether that offending was repeated, serious, and/or notorious, or not. This is much in the same vein as *Life Courses of Young Convicts Transported to Van Diemen's Land* (Watkins, 2020). The crimes which initiated the juvenile criminal careers in that research study were far from extraordinary, in the same spirit as D'Cruze (2000) in her investigation of class, gender and violence. While not trivializing violent experiences, D'Cruze focused on everyday violence rather than the sensational and rare. Similarly, the whole lives of pauper-emancipists have been uncovered, but because of the