

# JAMES McKEOWN: FROM FACT to FOLKLORE and BACK AGAIN! Part 4

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From the time convict James McKeown arrived in the colony in 1825 he started to make a name for himself as the 'pest of Bathurst' (1). As a serial absconder he found himself crossing paths with the local gentry and constabulary as they strove to bring order to the new western frontier. His continuing misdemeanors culminated in the theft of a horse belonging to James Whalan in 1836. The ensuing manhunt led not only to the capture of McKeown, but also the discovery of the Jenolan limestone and eventually the caves within.

McKeown's fate after being taken into custody has been the topic of much debate, speculation and conflicting reports. By the 1890s considerable variations in the telling of the story had evolved. A report in "Argus" in 1899 states...

*"McKeown lived to return from a long term of exile on Norfolk Island and to revisit the scene of his former exploits". (2)*

By contrast JJ Foster states...

*"It is not necessary to give a detailed account of McEwan, suffice to say he was captured, lodged in Hartley Gaol, afterward tried by a Sydney Jury, and subsequently sentenced and transported to Norfolk Island, where he died." (3)*

Other records support this notion...

*"He was lodged in Hartley Lock-up, and subsequently convicted by a Sydney jury on the charge of stealing clothes from Mr Roberts, publican of O'Connell Plains. McKeown was transported to Norfolk Island, where he died." (4)*

Even more creative reports have also been circulated...

*"Discretion being even in those days the better part of valour, he surrendered and was removed to Bathurst. At his trial, the greatest difficulty was found in fastening his guilt upon him, and he was eventually convicted of having stolen some clothes, for which crime he was sentenced to two years imprisonment. After serving this period he is said to have lived in Oberon, a free man; but for some reason of other the drop-scene fell on his life – so report has it – within the walls of Goulburn gaol, confessing on his death bed that he had secreted a jar containing the sum of £200 somewhere in the caves, two police, an inspector and a sergeant rode out in search of it." (5)*

Are any of these reports close to the truth? As opposed to these newspaper articles, a more definitive account is found in the Convict Conduct Register 1844 held at the Tasmanian Archive indicating that James McKeown "... was again tried at the Qt Session Bathurst 28 November 1836 for horse stealing. Sentence Life committed to 15

*years. Transported to Norfolk Island on 4<sup>th</sup> April 1837." (6, 17)*

## OF DATES AND TIMES

A common point made in many articles was that McKeown was 'lodged' in the Hartley lock up. Ward L. Harvard (7) highlights however that Hartley Courthouse records only began in 1839 and none mention James McKeown. It is also worthy of note that Hartley Courthouse was not built until October 1837 (8) and therefore, according to the official records, was not in existence when McKeown was captured a year earlier. In fact McKeown was already on Norfolk Island at the time Hartley lock up came into operation.

A similar timing issue is worth noting. Charles Whalan only moved to Bullock Flat to take up his land grant on The Fish River Creek in 1838, (9) which was also after McKeowns transport to Norfolk Island. Similarly, at the time of McKeowns capture in 1836, Charles Whalan was busy getting married to Elizabeth Harper (Figure 1a) and was unlikely to be involved in the direct capture of McKeown, which disagrees with the many other reports on the subject (eg. Figure 1b).

(a)

**MARRIAGE,**  
On Thursday last, by the Rev. J. McGarvie, Mr. Charles Whalan, of Macquarie Park, Prospect, to Miss Elizabeth Harper, of Sydney.

(b)

H.C. (New Farm). — (1) The Jenolan Caves are about 60 miles due west of Sydney. The history of their discovery is, according to the accepted version, as follows: In 1835-8 a convict escapee, McKeown by name (it is also spelt McEwen), used to levy blackmail on the settlers in the area round Oberon, killing their stock and holding up their teams—usually by stealing the ox-bows—unless he was bribed off. After many attempts a settler, Charles Whalan, in 1838, managed to track him into the very heart of the main range, and along a gully on its eastern side, in which his hut was found and he himself captured in it. His captors finding themselves in

Figure 1 - (a) Charles Whalan's marriage notice. Sydney Gazette 9 July 1836. (b) Charles Whalan listed as tracking McKeown in 1838; 18 months after the convict had arrived on Norfolk Island! The Courier Mail, 21st July 1936.

No.	Name	Age	Place of Birth	Crime	Sentence
1	James McKeown	37	Scotland	Stealing	Life
2	James McKenna	35	Ireland	Stealing	Life
3	James McKenna	35	Ireland	Stealing	Life
4	James McKenna	35	Ireland	Stealing	Life

Figure 2 – Records from Darlinghurst Gaol for 1837. James McKeown is noted on line 2.

**TRAVELLING COMPANIONS**

Following his trial at the Bathurst quarter sessions, James McKeown was housed at the Sydney Gaol in Darlinghurst on the 2 January 1837 (Figure 2). Along with McKeown were 3 others convicted in Bathurst at the same time (6). Convicts Alexander (aka William) Roy, Cornelius Cronin and James McKenna/McCann joined James McKeown in Darlinghurst Gaol before being listed by Major Thomson for transport to Norfolk Island on the convict barque Governor Phillip on the 30<sup>th</sup> March 1837 along with 36 other convicts (10) (Figure 3). Of these three felons, James McKenna has a criminal history most similar to McKeown. McKenna arrived in the colony in 1829 aboard the *Guildford*, having been sentenced to life for highway robbery by a court in County Cavan, Ireland. He was later sentenced in the Bathurst quarter session to transportation to Norfolk Island for stealing a herd of cattle from Mr Cox in Richmond and in doing so, became McKeown’s travelling companion. Tasmanian convict return records for 1844, at the conclusion of McKeown and McKenna’s 7 year sentence see both listed as surviving their captivity and returning to Van Diemens Land for probation (Figure 4).

No 37/69 Coll. Sect. office  
 30<sup>th</sup> March 1837  
 Sir,  
 In transmitting to you the enclosed the enclosed list of ~~the~~ prisoners now on board the Hulk under sentence of transportation, I am directed by His Excellency the Governor to request that you will cause those ~~of~~ to be shipped on the Government Brig, Governor Phillip, sailing to Norfolk Island, which is going to receive them.  
 I have the honor to be,  
 Sir,  
 Yours,  
 E. M. Thomson

In list No 37/69

List of Prisoners under sentence of Transportation to Norfolk Island

No.	Name	Ship	Sentence
1	Alexander Roy	Bathurst	Life
2	James McKenna	Asia	Life
3	Cornelius Cronin	Punee Regent	Life
4	James McKeown	Guildford	Life

Figure 3 – Letter No 37/69, dated 30th March, requesting transport of listed prisoners to Norfolk Island on the Governor Phillip. James McKeown identified with red arrow. (ref)

Additional notes from the Tasmanian Convict Conduct records (Figure 5) confirm McKeown’s trial in Bathurst Court was for horse stealing, not clothes. His case was heard before Mr Thomas Kite, one of the original pioneers of the Bathurst region. Of note is the additional record that McKeown was previously tried for sheep stealing by the Sydney quarter sessions for which he was eventually acquitted. Whilst further details of this additional misdemeanor needs to be explored, McKeown criminal history is apparent which, along with being a serial absconder, justified his castigation to Norfolk Island.

Below. Figure 4 – “A Nominal Return of the penal prisoners now at Norfolk Island showing their date of trial and sentence”. Listing #427 notes James McKeown Asia with trial date 28th November 1836. Sentence „Life to 15 years”.

A nominal Return of the penal prisoners now at Norfolk Island showing their date of trial and Sentence.

No.	Name	Ship	Colonial Conviction		Remarks
			Date of Trial	Sentence	
425	Molloy, Michl	Bong March	2 <sup>nd</sup> Aug <sup>r</sup> 1836	Life to 15 Years	
426	Murphy, Thomas	Govt Ready	7 <sup>th</sup> Nov <sup>r</sup> 1836	Life to 10 Years	
427	McKeown James	Asia	28 <sup>th</sup> Nov <sup>r</sup> 1836	Life to 15 Years	
428	McKenna James	Guildford	28 <sup>th</sup> Nov <sup>r</sup> 1836	Life to 15 Years	

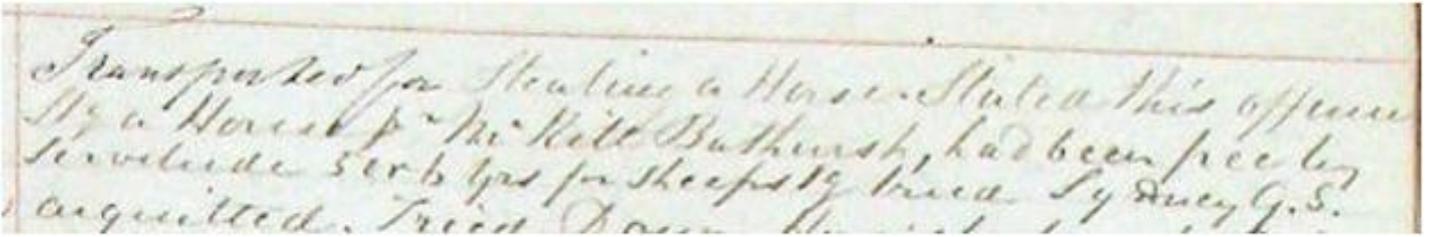


Figure 5 – “Transportation for stealing a horse. Stated this offence slg a horse per Mr Kite Bathurst, had been pcc by servitude 5 or 6 yrs for sheep slg tried Sydney Q.S. acquitted.”, Convict conduct records of male convicts arriving in the period of the probation system. Record Number CON33/1/55 Tasmania Archives (<http://search.archives.tas.gov.au/default.aspx?detail=1&type=I&id=CON33/1/55>)

(a)



(b)

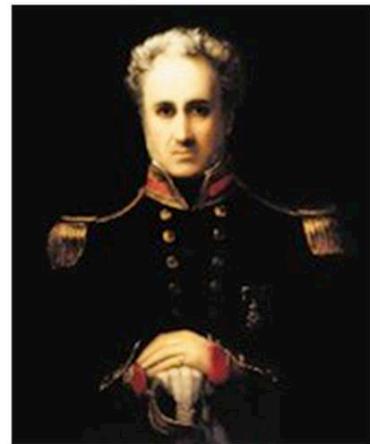


Figure 6 – (a) Convict Station, Kingston, Norfolk Island ([http://en.wikipedia.org/wiki/History\\_of\\_Norfolk\\_Island](http://en.wikipedia.org/wiki/History_of_Norfolk_Island))  
 (b) Lt Col Joseph Anderson ([http://en.wikipedia.org/wiki/File:Lt. Col. Joseph Anderson.jpg](http://en.wikipedia.org/wiki/File:Lt._Col._Joseph_Anderson.jpg))

**CHANGES AT NORFOLK ISLAND**

There he began a 7 year sentence in a prison colony designed to subdue the most hardened and recidivist of criminals. Norfolk Island was established as NSW ‘place of secondary punishment’ from 1824-1844, control being handed to Tasmania from 1844-1856. From his arrival to Norfolk in 1837 until his departure in 1844, McKeown would have been faced with some of the most barbaric human treatment known to the then civilized world, but

(a)



(b)

This accumulation of evil consequences rest on the misguided Captain Maconochie. We were all along convinced of the deception practised on the deluded captain; we admonished him, by word and letter, of the dangerous confidence he misplaced in these prisoners, but all to no purpose; he seemed more inclined to follow the knavish suggestions of these consummate villains than our candid and disinterested caution; the result has been to his own shame and disgrace, and to their destruction. If he held a “military command,” he should most certainly be tried by “court martial,” for gross

Figure 7 – (a) Captain Alexander Maconochie (<http://www.geog.ucl.ac.uk:8080/print-version/about-the-department/news/news-archive-2009/june-2009/bloomsbury-maconochie-and-gissing/>),

(b) Example of the critical comment of Maconochie Social Method. Published in *The Australasian Chronicle* 22nd April 1843.

also some of the greatest rehabilitation on offer as major reforms to the penal system were enacted.

Upon McKeown’s arrival at Norfolk Island, the God-fearing Scotsman Major Joseph Anderson was in charge (Figure 6). A firm disciplinarian, Anderson was sent to command Norfolk Island following an unsuccessful convicts’ revolt. He was commandant of the island from March 1834 to February 1839 and among his first duties was the investigation of the revolt on 22 and 23 September 1834 where twenty-nine convicts were

sentenced to death with thirteen executed in public hangings. McKeown therefore found himself in an environment where extensive flogging (1500 lashes issued before breakfast was not uncommon), permanent shackling, feeding like hogs, drinking from buckets, sodomy and fear of brutality for mere trifles were the

**THE PROBATION DEPARTMENT.**  
(From the *Hobart Town Advertiser*.)

[CONCLUDED.]

The stages through which the prisoners will have to pass are five.—

- 1st—Detention at Norfolk Island
- 2nd—The probation gang
- 3rd—The probation passes
- 4th—Tickets-of-leave
- 5th—Pardon

**THE FIRST STAGE.**

This will be the lot of all prisoners transported for life, and also of all guilty of aggravated crimes sentenced to transportation for fifteen years and upwards. Four years will be the longest term of detention, two the shortest; the intervening limits to be pointed out in the case of each prisoner by the home secretary. The governors of New South Wales and Van Diemen's Land will have the power of indicating whether the prisoner transported from the respective colonies shall be sent to Norfolk Island or Port Arthur—the discipline in each being similar. The Queen only can abridge the period; his own misconduct may prolong it until his original sentence terminate.

Norfolk Island will be placed under the V.D.L. government. A superintendent or commandant at Norfolk Island will proceed to that place as soon as practicable, having details or instructions for his guidance. The prisoners there now, sentenced from home, under colonial sentence, are to be removed to Van Diemen's Land, as likewise those convicted in New South Wales or Van Diemen's Land, to whom Captain Maconochie thinks the indulgence may be granted.

Figure 8 - „Changes in Prison Discipline” *Cornwall Chronicles* 10 June 1843 also printed in *The Courier* (Hobart, Tas.), Friday 19 May 1843.

With reports by Lord Normanby of the deteriorating conditions on Norfolk Island, the Molesworth Committee suggested Captain Alexander Maconochie (Figure 7a) be appointed as superintendent of Norfolk Island in March 1840. Maconochie, known as the ‘father of parole’, insisted that the objective of prison was not to punish for past misdemeanors, but to prepare prisoners for the future. His motto - “these convicts are also the Queen’s subjects”. He was a deeply religious man who had experienced life as a prisoner of war during the Napoleonic wars when he served under Nelson. He introduced an educational system and degrees of self determination including freedom to grow their own food, establishing a token economy which would introduce self reliance and determination. McKeown would likely have been right at home in this environment, given his listed trade as a kitchen gardener if he indeed had been allowed to participate in this new system! At Norfolk Island Maconochie introduced a system of ‘marks’ which

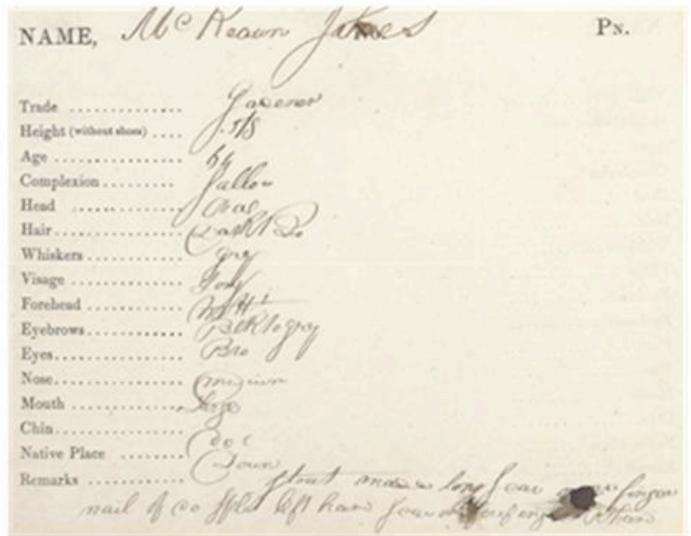


Figure 9 - The Lady Franklin which departed Norfolk Island on the 18 May 1844 arriving Hobart 6 June 1844.

prisoners could receive for positive effort and thrift and which would later earn rewards, including tickets of leave to work their own crafts around the island. However, Maconochie was allowed to only offer these privileges to the 593 newly arrived prisoners. For ‘Old Hands’ like James McKeown, it was to be punishment as usual. Maconochie found managing the two systems unworkable and, eventually proclaimed a single day where all prisoners would be free to celebrate the Queens birthday and roam the island along with the soldiers and their families. Using the music and instruments Maconochie had brought with him the convicts were able to conduct musical performances including the comic opera ‘The Castle of Andalusia’. Maconochie’s system of moral reform met with harsh opposition from the mainland gentry, heads of the military and constabulary, with the paper publishing vitriolic articles (Figure 7b). Yet a visit by Governor Sir George Gipps in 1843 declared that the system could work if carried through to its conclusion and should be opened to the Old Hands. (12)

(a)

Name	McKeown Jas
Trade	Gardener
Height	5/8
Age	64....D.O.B. 1780??? (51?)
Complexion	Sallow
Head	Oval
Hair	Dark Bro
Whiskers	Grey
Forehead	???
Eyebrows	brown to grey
Eyes	brown
Nose	medium
Mouth	large
Chin	-
Native Place	Co. Down
Remarks	Stout, scars on fingers,



(b)

**become equally demoralized. The manner in which convicts have been trained in New South Wales for the last half century, the neglect of religious instruction and of classification, and their dreadfully demoralized condition, are too well known to need comment; and consequently, such men were not fit associates for those subject to the system.**

Figure 10 (a) Indents of male convicts arriving from Norfolk Island Record No. CON17 (<http://search.archives.tas.gov.au/default.aspx?detail=1&type=I&id=CON17/1/1>) (b) The Australian, 13th March 1843

### DEPARTURE FROM NORFOLK ISLAND: A NEW SYSTEM

Despite the hostile response to Maconochie's social reforms, he still had his supporters. Indeed, the entire transportation-based penal system was under scrutiny with Maconochie's experiment, among other reports, sparking the establishment of a new system of probation in Van Diemens Land (Figure 8). In 1844 Maconochie was recalled to Van Diemens Land and subsequently returned to the United Kingdom (12,13). At this time he had discharged over 1400 prisoners, including James McKeown. In May 1844, McKeown boarded the Lady Franklin (Figure 9) for Wedge Bay, Hobart where he entered this new probationary system. He had left the old system, designed to neglect moral values and utterly demoralize these desperate men (Figure 10b). His personal indent from his arrival in Hobart lists McKeown as being 64 years old (Figure 10a), making his date of birth around 1780. This contrasts with his indent from his arrival in the colony in 1825 listed his date of birth as 1793 (14) making him 51years old in 1844. Is this a typo, or the cumulative effect of 20 years in the Australian penal system aging him? My next article in

this series will follow McKeown's footsteps across Tasmania as he passed through the 5 stages of probation listed in Figure 8 to hopefully reach some sense of redemption.

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