

**This anomalous community**  
**Dungog Magistrates' Letterbook, 1834-1839.**

Bound in a single volume of copied letters, running from the beginning of 1834 until early 1839, is a record of the outward correspondence of magistrates sitting at the newly established courthouse at what was first referred to as 'Upper William' and from about August 1834, Dungog.<sup>1</sup> This correspondence was to local landowners, magistrates of surrounding districts, the Commissioner of the nearby Australian Agricultural Company (AAC), and of course to numerous functionaries in Sydney including the Superintendent of Convicts, the Colonial Storekeeper and most often, the Colonial Secretary.

This outward correspondence by Dungog's magistrates contains numerous insights into local administration in the convict period of Australian history, capturing as it does a slice of life across a wide range of matters over a few years in the late 1830s. The Letterbook gives a glimpse into Australian history at a time when convicts, indigenous people and newly granted landowners lived side by side on the edge of white settlement, some 150 miles and at least two hard days travel from Sydney. Perhaps most suggestive of the basis of this 'anomalous community' is the paradoxical phrase - 'free by servitude' – frequently used to refer to those members of it no longer in formal custody.

The range of matters dealt with in the letters is broad; from the punishment of prisoners and routine ticket-of-leave applications, to collecting statistical information, forwarding on of fines, fees and 'Benevolent Society' collections, as well as the ordering of supplies and hiring of constables, including 'scourgers'. The importance of the postal system is underlined, even if only through the many complaints made about its slowness. While in the payment of rewards or improvements to buildings, the slowness of the colonial administration itself is seen. Much is also revealed about this society through the nature of the most common offenses mentioned, absconding, being absent from ones district of ticket, cattle stealing, and the harbouring of absconders. Also exposed in the letters is this administration's weakness in dealing with the oppression of the original inhabitants of the Williams River valley by those nominally under its authority.<sup>2</sup>

Administrative methods are also clearly seen, such as the practice of referring to a convict or prisoners in general terms in a letter and then adding the name in the margin. Identification of convicts was through their ship of arrival, and sometimes length of sentence; a system that seems to have worked, with only one case where identification could not be determined.<sup>3</sup> Other nuances of the administration's procedures can be drawn from the material of the Letterbook itself; the varying handwriting as the scribe or Clerk of the Bench changes, or in the red sealing wax used to glue in the occasional loose sheet. Another touch, this time of the hierarchy inherent to the administration, is seen in the formal acknowledgments graded according to the status of the person

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<sup>1</sup> Magistrates' Letterbook for the police districts of Dungog and Port Stephens, New South Wales, 1834-1839. (Manuscript, National Library of Australia.) Dungog is on the Williams River, which flows into the Hunter at Raymond Terrace and is above the head of navigation at Clarence Town. Land grants had commenced along the Williams by 1829. All references are to the Letterbook unless stated otherwise.

<sup>2</sup> All these examples are discussed below.

<sup>3</sup> Cook to Principle Superintendent of Convicts, 15/11/1837.

addressed, as in: ‘Sir,’ ‘I remain,’ ‘I have the honour...,’ and ‘I do myself the honour ...’<sup>4</sup>

The role of the Magistrate in balancing the legal requirements of a convict based system with landowner’s requirements for labour is seen in letters that discuss punishments that lessen the usefulness of an assigned convict.<sup>5</sup> A role observed clearly in a dispute between landowners over the transfer of a convict with the sale of land.<sup>6</sup> While the checking of identification for possible absconders is an issue displayed in the Magistrate’s frustration that this was not being done enough.<sup>7</sup> This inbuilt tension within the system is seen to increase when the landowner is the Australian Agricultural Company, an ongoing source of concern for a magistrate given charge of the AAC’s area and it seems purposely stationed outside it.<sup>8</sup>

Aspects of the lives of those on the edge of this society are glimpsed in cases where a convict is certified mad, a mother is sent to gaol because destitute, and an original inhabitant speaks English sufficiently to tell the Magistrate that women of his group are being held against his (and presumably their) will.<sup>9</sup> Names appear and then disappear back into the obscurity of the past. Official letters though these are, some of the personality of Police Magistrate Thomas Cook also slips through from time to time. In his concern for the accidental deaths of young newly arrived convicts and his suggestions for improved training, his frustration with the actions of the AAC, and his efforts with the original inhabitants. Cook’s seeming callousness over the death of a servant, and in his assumption of faking by a sick prisoner draw a picture that is well within the range of average human strengths and frailties.<sup>10</sup>

The control and punishment of the convict population of the district was a major function of a magistrate and in fact, the first letter in the Letterbook complains that two years on a road gang is inadequate power to punish absconders.<sup>11</sup> This was written by the first magistrate of Upper Williams to use the Letterbook, George Mackenzie, J.P., who at the end of January 1834 was investigating the activities of William O’Neil, ‘here by servitude,’ who was occupying Crown land on the Clarence Town road and having no visible means of sustenance was suspected of receiving and stealing cattle. Having been convicted of harbouring prisoners of the Crown he is given notice to quit.<sup>12</sup> R. G. Moffat (Captain 17<sup>th</sup> Regiment) adds the following March that O’Neil is ‘a most notorious Sly Grog seller’.<sup>13</sup>

In addition to convicts, fear of the original inhabitants was also great. In April this same first year of the Letterbook, a request for arms and ammunition was made because ‘at present the Aborigines are very troublesome,’ with mounted police from Patrick’s

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<sup>4</sup> These examples are to be found throughout the Letterbook.

<sup>5</sup> Cook to Pilcher, 1/10/1837.

<sup>6</sup> For example, Cook to Slade, Super of Convicts, 19/3/1838. This case is discussed in detail below.

<sup>7</sup> For example, Cook to Hon E Deas Thomson, Colonial Secretary, 23/7/1838.

<sup>8</sup> *Sydney Gazette*, 16/11/1839, p.4, ‘Report of the Committee on Police and Gaols’.

<sup>9</sup> Cook to Ebswoth, 9/11/1838 (John Williams), Cook to Colonial Secretary, 6/6/1838 (Mrs Parker), & Cook to Thomson, 14/12/1837 (Fullam Derby).

<sup>10</sup> These cases are referred to below.

<sup>11</sup> Moffitt to Colonial Secretary, 3/1/1834.

<sup>12</sup> Moffitt to Colonial Secretary, 31/1/1834.

<sup>13</sup> Moffatt to Mackenzie, 7/3/1834.

Plains also requested due to a spearing and ‘well grounded alarm’.<sup>14</sup> In the same month a John Flinn was killed in the camp of ‘our own tribe,’ ‘and although Blacks may not be considered as being of such importance as Whites in these cases,’ Moffatt nevertheless committed the accused murderer for trial.<sup>15</sup>

Some of the early letters are signed not by magistrates but by the Clerk of the Bench, D. F. MacKay, a local landowner. MacKay wrote to nearby Paterson for assistance in July 1835 when he felt ‘the Blacks have again commenced committing serious depredations in the neighborhood,’ including spearing cattle in the bush opposite his own residence.<sup>16</sup> Earlier in the year, a reward was offered for ‘an Aboriginal Black named Jemmy’ for ‘many outrages’.<sup>17</sup> While the following year reference was made to the murder of Mackenzie’s men on the Gloucester in May 1835, accused were Jemmi and Kotra Jacki.<sup>18</sup> Lawrence Myles, J.P., also requested mounted police in May 1836 under the shadow of this attack, citing ‘intelligence that the Blacks are becoming more troublesome’.<sup>19</sup>

Dealing legally with the local Aboriginal people meant talking to them and in July 1834, a request was made for the Rev Threlkeld, a missionary working on the nearby coast who had learned a related Aboriginal language, to act as interpreter in King vs. Jacky.<sup>20</sup> Possibly, this was the same Jacky sent down to Maitland the year after for the 1831 spearing of a Robert Weddis, from which he would go by steamer to Sydney.<sup>21</sup>

The constables used by these magistrates for escorting prisoners such as Jacky were usually ex-convicts and often cause difficulties themselves. In September 1834, Senior Constable Thomas Rodwell was replaced in his position due to being intoxicated ‘while in the discharge of his duty’. His replacement was Michael Connolly, a ticket-of-leave man and former constable at Bathurst.<sup>22</sup> A few years later, a constable brought in his prisoners drunk, having given them rum at a Public House near Paterson – ‘the day being wet & cold’. Magistrate Cook seems to have sympathized and waived the charge of neglect but did fine the Senior Constable £5 for breach of the Licensing Act; half of this to go as a reward to the informer, in this case the Police Magistrate at Paterson.<sup>23</sup>

However, when a constable was found to be reliable, Thomas Cook at least was prepared to act accordingly. In February 1839 for example, Cook recommended that Robert Mason replace James Edwards as constable at Stroud, this was despite Mason having been dismissed by Major Sullivan; though ‘for no removable act’ in Cook’s opinion. Mason was sent to Stroud that same day with a note to the AAC requesting he be provided with provisions and accommodation ‘on usual terms’.<sup>24</sup> Cook was very pleased with the work of what seems to have been a lone constable placed at Gloucester,

<sup>14</sup> Mackenzie to Colonial Secretary, 4/4/1834.

<sup>15</sup> Mackenzie to William Dun, Coroner, Paterson, 15/4/1834.

<sup>16</sup> MacKay to Major Croker, Officer Commanding, Paterson, 2/7/1835.

<sup>17</sup> MacKay to Paterson Magistrate, 21/1/1835. (See also *Government Gazette*, 30/5/1835 & 15/7/1835.)

<sup>18</sup> MacKay to Attorney-General, 26/2/1836.

<sup>19</sup> Myles to Lieutenant Beckham, Commander Mounted Police, Jerry’s Plains, 20/5/1836.

<sup>20</sup> Mackenzie to George Brooks, Newcastle, 14/7/1834.

<sup>21</sup> Cook to Attorney-General, 24/7/1835 & 8/8/1835.

<sup>22</sup> Mackenzie to Colonial Secretary, 18/9/1834.

<sup>23</sup> Cook to Police Magistrate, Paterson, 25/8/1838.

<sup>24</sup> Cook to E. Deas Thomson, 8/2/1839.

Patrick Conway, who gave ‘good service in taking bushrangers and putting down sly grog shops’. Cook felt that his 1s per day pay should be increased.<sup>25</sup>

Around 1834, there was difficulty getting people to act as a magistrate. George Mackenzie’s property, for example, was 16 miles from the courthouse at Dungog, which was ‘directly in the through fare between the AAC’s extensive establishment and Hunter River.’<sup>26</sup> The AAC’s property between Port Stephens and Gloucester to the east of Dungog meant many convicts needed to be dealt with, while it was on the Hunter River that settlers and police were to be found. However, having a magistrate on this privately owned estate carried its own issues. Consequently in 1837, Thomas Cook, originally appointed as paid Police Magistrate at Port Stephens (as opposed to the local landowning Justices of the Peace acting as unpaid magistrates), was appointed to Dungog (or Upper Williams) but with responsibility for Port Stephens and its court at Stroud also.<sup>27</sup>

It is for this reason that the bulk of the correspondence in the Letterbook occurs from 1837 under the name of Thomas Cook after he has taken up residence at Dungog rather than simply visiting from Stroud and runs until early 1839 when the volume becomes full.<sup>28</sup> But having Cook as a paid magistrate did not entirely solve the shortage of magistrates as in many cases, such as the assignment of convicts, two magistrates were needed. This need to get a second magistrate was a constant concern, with Cook explaining four years into his appointment that it was easier to get Johnston from Paterson than Esbworth from Port Stephens as he lived at Booral, which was 30 miles from Stroud.<sup>29</sup> This delay in getting the required second magistrate often led Cook to send prisoners on to Sydney rather than wait.<sup>30</sup>

Cook’s first letter in the Letterbook is one of many administrative ones, a routine passing on of a ticket-of-leave application and the answering of a circular requesting information about facilities within his district, namely that Singleton’s Mill is the only public flour mill, located 2 miles above Clarence Town.<sup>31</sup> However, not all is routine and in May 1835, Cook gives a detailed report on the escape from Dungog lock-up of Timothy Fogarty, a captured bushranger who managed to lever down the wood paneling of his cell, remove the outer bricks and then scramble over the 10 foot yard wall. Although a constable was living inside the courthouse, and the jailer and his family also lived in a small room off the court house, Cook states that ‘from sundown to sunrise’

<sup>25</sup> Cook to E. Deas Thomson, 26/10/1837.

<sup>26</sup> Mackenzie to Colonial Secretary, 16/4/1834.

<sup>27</sup> *Sydney Gazette*, 16/11/1839, p.4.

<sup>28</sup> Thomas Cook, his wife and several children arrived in Sydney in April 1834, he took oath as a magistrate in November that year, and became the Police Magistrate of Port Stephens from which he visited Dungog (*Sydney Gazette*, 5/4/1834, p.2; *Sydney Herald*, 20/11/1834, p.3 & 15/11/1834, p.4). Soon after this the police districts were reorganised and in 1837 Cook was appointed Police Magistrate of both Upper Williams and Port Stephens, but residing at Dungog and now visiting Stroud. Most of what is known of Thomas Cook comes from a period after the end of the Letterbook. While at Dungog Cook purchased a property that he named ‘Auchentorlie’. Cook lost his position as Police Magistrate in 1843 when the government reverted to unpaid magistrates, but he continued serving as a Justice of the Peace. He also lost both a daughter and a son to illness while living at Dungog (*Sydney Morning Herald*, 21/11/1842, p.3 & *Maitland Mercury*, 2/6/1852, p.3). In the 1850’s, Cook sold Auchentorlie and left Dungog, dying at Woollahra in 1866 (*Sydney Morning Herald*, 12/2/1866, p.1).

<sup>29</sup> Cook to E. Deas Thomson, 18/6/1838.

<sup>30</sup> Cook to Police Magistrate, Paterson, 21/9/1837.

<sup>31</sup> Cook to Superintendent of Convicts, 27/12/1834.

there was no observation of prisoners.<sup>32</sup> Other escapees passed through the area, with one from Port Macquarie described as wearing a green cloth jacket, blue trousers, blue waistcoat, check or striped pants and a straw hat.<sup>33</sup>

Cook also had to deal with those who had lived in the valley of the Williams River before convicts and their land granted masters appeared. In the beginning of 1836, for example, he is fearful of a rescue attempt being made on 'Black' prisoners being sent to Newcastle and requested two troopers from Maitland.<sup>34</sup> This was granted and in September, MacKay, as Clerk of the Bench, wrote that 'Jimmy' was sent under escort of two mounted police and a reward of £10 was to be paid.<sup>35</sup>

The newly established settlement of Upper Williams, soon known as Dungog, was a convenient link between the AAC lands to the east and the much larger settlement at Maitland on the Hunter River, and this position was a reason for its early courthouse. However, Dungog was not so convenient for those living along the Allyn River, which runs parallel to the Williams, and settlers there wrote in 1836 to request they be allowed to deal through magistrates at Paterson rather than Dungog.<sup>36</sup> The question of whether Allyn River settlers belonged to Paterson or Dungog was part of the evolving administrative organisation of the Sydney based government and as part of this, a census was to be taken, which in turn required the district's boundaries be defined. In 1836 these were, from Singleton's Mill, the head of navigation above Clarence Town, then west to Stony Creek, that creek being the south-west boundary, then north to the head of the Williams, including Wallarobba.<sup>37</sup>

As well as assisting in matters of overall colonial administration, the Magistrate spent much time dealing with the relations between convicts and the masters to whom they were assigned. As such, Thomas Cook was part of a government bureaucracy that included the 'Board of Assignment of Servants,' responsible for where convicts were placed and to which Cook as Magistrate could only make recommendations if a crime were not involved. In October 1836, Cook was investigating a complaint of J. Devlin, assigned to Mr Holmes; Devlin is described as 'a poor simpleton'.<sup>38</sup> Later that same year, James Williams is requesting 'slop Clothing'.<sup>39</sup> The following year, Joseph Webster found himself removed from service with Mr Rogers for complaining from 'Peak, and not ill usage'. Cook felt Webster was 'one of those Convicts who pretend to know Rules Laws, and regulations better than their superiors,' and feared this 'leveling Spirit Contaminate whatever they come near.' Cook suggested Webster go to the 'Ironed Gang' at Port Macquarie.<sup>40</sup> The assignment of servants did not always work out, as when Cook ordered that Sarah Robinson be removed from the house of Michael Doyle – 'She being a greater burden than a comfort to an industrious Family'.<sup>41</sup>

<sup>32</sup> Cook to Alexander McLeay, 19/5/1835.

<sup>33</sup> Cook to Superintendent of Convicts, 6/5/1835.

<sup>34</sup> Cook to Officer Commanding Mounted Police, Maitland, 29/1/1836.

<sup>35</sup> MacKay to Francis Fisher, Crown Solicitor, 3/9/1836.

<sup>36</sup> MacKay to McPherson, Collector of Internal Revenue, 20/8/1836. The original 'River William' gradually became 'Williams' River' and finally as now, the 'Williams River'.

<sup>37</sup> Cook to Johnston, Superintendent of Police, Newcastle, 31/8/1836. The census was 2/9/1836.

<sup>38</sup> Cook to Holden, Government House, 7/10/1836.

<sup>39</sup> Cook to Superintendent of Police, Newcastle, 16/12/1836.

<sup>40</sup> Cook to John Ryan Brennan, 26/4/1837.

<sup>41</sup> Cook to Bench of Magistrates, Newcastle, 26/9/1838.

Thomas Cook was an active magistrate and often wrote in an attempt to improve facilities, such as the lock-up at Dungog.<sup>42</sup> He was also responsible for the facilities at Stroud, but here he needed to rely on the Australian Agricultural Company, a bureaucracy it seems every bit as slow as the government's, and so he also wrote to speed up the new lock-up at Stroud.<sup>43</sup> As well as facilities, Cook frequently sent reminders about arrears of pay for his Lockup Keeper, John McGibbon, and about expenses paid during the 1837 Census.<sup>44</sup> Money was still owed McGibbon six months later and eight months after the census.<sup>45</sup> The system was not only slow but brutal, illustrated by Cook's request for 'scourging Cats' at the same time that he required ammunition, flints, and handcuffs; obtaining each from a different department of government.<sup>46</sup> In December 1837, a request was made for less violent but urgently needed 'fine foolscap paper and Quills'. Cook asked that these to be sent by the sloop *Northumberland* to Clarence Town, or if that has sailed, by steamer to Raymond Terrace.<sup>47</sup>

By 1837 relations with the first inhabitants appear to have improved with Cook exercising some discretion when he wrote that he felt it advisable to ignore the recently arrived McAthy, despite a reward being posted for this Aboriginal man with the Scottish name. The Magistrate felt that the removal of two other Aboriginal people, named Calkie and Cobawn Paddy (presumably by arrest), had had an 'effect'.<sup>48</sup>

An aspect of relations with the original inhabitants of the Williams river valley and surrounding district was the annual blanket distribution, begun originally by Governor Macquarie. In March 1837, Cook requested such blankets, describing them as a 'comfort of the naked, houseless Blacks' 'during the inclemency of winter'.<sup>49</sup> Cook, as with his quills, describes the best route such blankets can reach him; first to Greenhills [Morpeth], then 'by Mr Cory's boat to the Paterson,' then by 'dry dray to Dungog'.<sup>50</sup> Lawrence Myles of Dungog evidently carried the blankets from Maitland instead and was still unpaid in October that year.<sup>51</sup> The return for blankets of 1837 shows 80 were distributed, including 20 from Stroud, with the comment that 'twenty more could have been bestowed'.<sup>52</sup> In the following two years, Cook wrote to William Barrow the Colonial Storekeeper to request 200 blankets to Clarence Town via the *Northumberland* or the AAC schooner *Carrington*.<sup>53</sup>

The return on 'Natives' taken at the blanket distribution for 1838 describes how only those 'most worthy of the boon' were selected, and that in general 'the conduct of all the Blacks in this neighbourhood has been quiet and praiseworthy during the last two

<sup>42</sup> Cook to W. W. Lewis, Colonial Architect, 28/2/1837.

<sup>43</sup> Cook to Commissioner for AAC, 2/8/1837.

<sup>44</sup> Cook to Colonial Secretary, 26/4/1837 and 2/8/1837.

<sup>45</sup> Cook to Attorney-General, 16/9/1837 and 25/10/1837.

<sup>46</sup> Cook to Superintendent of Convicts, Major of Brigade, & Colonial Storekeeper, 3/3/1837.

<sup>47</sup> Cook to Colonial Storekeeper, 2/12/1837.

<sup>48</sup> Cook to Colonial Secretary, 13/3/1837.

<sup>49</sup> Cook to Colonial Secretary, 13/3/1837.

<sup>50</sup> Cook to Colonial Storekeeper, 27/3/1837.

<sup>51</sup> Cook to Commissioner for Assignment of Servants, 26/10/1837.

<sup>52</sup> Cook to Colonial Secretary, Return re: blankets and Aboriginal numbers, 1/8/1837.

<sup>53</sup> Cook to Colonial Storekeeper, 26/3/1838, 9/1/1839.

years'. This Cook feels to be due to the amended Licensing Act, Oct 1835, which had effected a good reform on 'all classes of this anomalous community'.<sup>54</sup>

The anomalousness of the community is emphasised by the fact that, according to Cook, 'no convict can legally possess any money'. Cook goes on to say that it was usual for constables to search prisoners for the purpose of taking their money.<sup>55</sup> Presumably, Cook means to turn it over to the authorities. The month following this Cook does forward £2/9/- taken from a prisoner, which was 'the mode followed by me when any money was found in the pocket of convicts sent up for trial, it being illegal and unsafe for them to possess any means'. The money was to be put in the bank on their behalf. If this was not done, Cook feared the prisoner population would soon be too much.<sup>56</sup>

While Cook seems to have a mildly sympathetic view of the original inhabitants of his district, his attitude to those brought to Dungog by force does not show a similar one. With William Pepper, who had been a prevaricating witness in Cook's opinion and 'attempting to defeat the ends of justice,' Cook recommended the loss of his ticket.<sup>57</sup> In August 1837, James Lyman and John Cane also have their tickets withdrawn, the first for harboring a prisoner and attempting to bribe a constable, and the latter for stealing a jacket.<sup>58</sup> However, a magistrate's decisions were subject to review, and in July 1837 Cook's sentence of two years in the 'Ironed Gang' for James Howatt for slandering a Dr Whitfield was overturned by the Governor.<sup>59</sup>

Deaths, including accidental ones, were also the preserve of local magistrates and accidental death was not uncommon. At 'Cairnsmore,' the estate of Crawford Logan Brown, according to the deposition taken by Cook, William Mitten was 'killed by an explosion of gunpowder which he himself had placed in a well for the purpose of blowing up the rock'.<sup>60</sup> That same month an inquest was held into the death of a servant of W. J. Forster, named William Wilson, killed by a falling tree.<sup>61</sup> Two months later there was another death by falling tree, this time on AAC property, of Robert Launders, who had just come to the colony. Cook was moved to think in terms of prevention and wrote to fellow Magistrate and sometime Commissioner of the AAC, Edward Ebsworth that, as this was one of four such cases in four months and that as many such accidents were due to 'inexperienced youth,' such people should be paired with 'old hands' to provide training.<sup>62</sup> It is not known if this was done. Cook was also concerned with drinking and the following year suggested a ban on selling more than 2 gallons at a time.<sup>63</sup>

In the administration of the law of his area, Cook required a close relationship with the AAC. Cook was Magistrate of two police districts, the Upper Williams River (courthouse, Dungog) and Port Stephens (courthouse, Stroud). The AAC, whose many

<sup>54</sup> Cook to Colonial Secretary, 31/12/1838.

<sup>55</sup> Cook to Commissioner for AAC, 10/8/1837.

<sup>56</sup> Cook to Colonial Secretary, 9/9/1837.

<sup>57</sup> Cook to Colonial Secretary, 27/3/1837.

<sup>58</sup> Cook to Colonial Secretary, 8/8/1837.

<sup>59</sup> Cook to Commissioner for AAC, 18/7/1837 & 19/7/1837.

<sup>60</sup> Cook to William Dun, 10/8/1837.

<sup>61</sup> Cook to William Dun, 18/8/1837.

<sup>62</sup> Cook to Ebsworth, 6/10/1837.

<sup>63</sup> Cook to Colonial Secretary, 25/4/1838.

convict shepherds caused much work for the court, was required to share some of the expenses, such as a new lock-up and payment of constables.<sup>64</sup> In 1837, the force Cook controlled within the Port Stephens district was three constables paid by the government and four constables plus a 'scourger' paid for by the AAC.<sup>65</sup>

The full force of the law under Police Magistrate Cook is laid out in the:

'Statement of the Police force authorized and existing in the Districts of Port Stephens and Upper Williams River up to the 30<sup>th</sup> June 1837, viz:

Dungog	Port Stephens
1 Resident Magistrate	
1 Clerk	3 Ordinary Constables in Government Pay
1 Gaoler	a Clerk
1 District Constable	4 Ordinary Constables (one acting as Lockup keeper)
3 Ordinary Constables and 1 Scourger' <sup>66</sup>	and Scourger in AAC pay

The previous Chief Constable had been paid £75 per year and the current District Constable @ 3/- 'per diem'.<sup>67</sup>

The Magistrate and his Clerk needed to make the trip once a fortnight from Dungog to Stroud to hear cases there and in October 1837 Cook wrote that he was too ill to make the trip 'over the mountains'.<sup>68</sup> That Cook was a paid official of government rather than a local volunteer landowner is apparent when ill health delayed him in Sydney and he supplied a doctor's certificate to back up this claim.<sup>69</sup>

In 1838, Cook gave a clear account of the budget of his domain in an estimate of expenses for the following year, including 'absolutely necessary' expenditure on facilities.<sup>70</sup>

#### Estimated Expense 1839

<u>Dungog</u>	
Magistrate	£250
Clerk	£100
Chief Constable	£75
Lock up Keeper	£54
3 Ordinary Constables	£139/10
Scourger	£40/10
	Total – £659
<u>Port Stephens</u>	

<sup>64</sup> Cook to Colonial Secretary, 22/7/1837.

<sup>65</sup> Cook to Colonial Secretary, 3/7/1837.

<sup>66</sup> Cook to William Lithgow, Auditor-General, 15/7/1837.

<sup>67</sup> Cook to William Lithgow, Auditor-General, 3/7/1837.

<sup>68</sup> Cook to Dumaresq, Commissioner for AAC, 11/10/1837.

<sup>69</sup> Cook to Colonial Secretary, 15/7/1837.

<sup>70</sup> Cook to Colonial Secretary, 10/8/1838.



Lock up Keeper	£54
2 Ordinary Constables	£81
Scourger	£40/10
	Total – £175/10

Rations for Lockup & gaol	£40
Lighting	£2
Escort expenses	£3
Postages	£3
	Total – £48

#### Supplementary

Verandah for Courthouse “absolutely necessary”	£10
Rebuilt chimney	£4
Magistrates Rm (renovation)	£6
Minor repairs Court Hse/Lockup	£6
Lockup House with 2 strong rooms	£40
	Total – £66

This came to an annual budget to run two police districts of £948 and 10 shillings.

Relations with the AAC were sometimes difficult, as with a dispute in August 1837 over the cost of feeding a prisoner in custody. According to Cook, ‘when convicts are sent by their masters to any lock-up in the country, to await the appointed day for the coming of a Magistrate, it is understood the culprit brings his rations with him; but having once been before the Court and remanded, all subsequent expense falls on Government’.<sup>71</sup> This is a fine distinction about one’s status in custody that must have left many convicts wondering where their next meal was coming from.

Sometime later Cook’s frustrations in his dealings with the AAC is evident in the mild scorn he allows himself in a letter to fellow Magistrate Major Johnston, when he writes that the Commissioner of the AAC has discovered that he is ‘on an equal footing with other respectable settlers in regard to the assignment regulations’.<sup>72</sup> Difficulties with the AAC over petty matters continued, however, such as when Cook wrote concerning a dispute between Thomas Brown, one of his constables based in Port Stephens and described by Cook as ‘ready, steady and active in the performance of his duty,’ and the AAC who had refused to sell the constable provisions from the public stores.<sup>73</sup> It was the government, Cook reminded the AAC, who had requested a lock-up keeper, two ordinary constables and a scourger be placed ‘on the north side of the Williams’.

Cook is responsible for changes in personnel and must inform the Colonial Secretary that Alexander Hamilton, the lock-up keeper in Stroud is relieving for McGibbon in Dungog.<sup>74</sup> Also that John Powers has been appointed scourger at Stroud at 2s/3d per day and ‘performs his duty well’.<sup>75</sup> Similar information was conveyed to Dumaresq at the AAC when it was recommended that John Powers continue as scourger and the

<sup>71</sup> Cook to AAC, 10/8/1837.

<sup>72</sup> Cook to Johnston, 28/11/1838.

<sup>73</sup> Cook to AAC, 17/8/1837.

<sup>74</sup> Cook to Colonial Secretary, 30/9/1837.

<sup>75</sup> Cook to Colonial Secretary, 30/9/1837.

AAC Commissioner reminded that this was not a claim on the AAC. In the same letter, Cook reported he would be visiting the next Tuesday and 'will be glad to listen to any case you or Mr Arkins may have to bring forward'.<sup>76</sup> Later in the year, McGibbon transferred to Stroud as lock-up keeper and was replaced in Dungog by James Boland.<sup>77</sup> In March 1838, Constable Brown resigned, eventually becoming a clerk in Sydney gaol.<sup>78</sup>

Some time during 1837, Cook's control over the AAC constables seems to have been withdrawn.<sup>79</sup> Nevertheless, Cook continued to complain about this large landowning company, this time to a fellow Police Magistrate, about being forced to hold court in a 'Common School Room'.<sup>80</sup> Perhaps the Colonial Secretary was also becoming frustrated with the complaints, however, in true bureaucratic style this official merely wrote to 'call your attention to the expediency of acting in concert with the Commissioner'.<sup>81</sup>

Due to the increasing number of absconders from the AAC, a 'small force of mounted police' commanded by Sir Rich Bourke KGB was established at Dungog at around the time Thomas Cook was established there. However, as Cook pointed out, no accommodation was available, but a 'slab-building' could be put up by Government party and a long requested Watch House and Lock-up keeper's apartments at the same time. All of which was 'now undisputedly necessary'.<sup>82</sup> In support of his feeling that more buildings and accommodation were needed, Cook provided the Colonial Secretary with a detailed description of what existed at the time in terms of Police buildings in Dungog. There was the Courthouse itself, off which was a small consulting room and 'a dark place' for securing property in charge of the Police.

The dimensions of the rooms were:

Court Room	18 feet by 14 feet with a 9 foot ceiling
Consulting Room	9 feet by 8 feet with a 9 foot ceiling
Place for books	9 feet by 6 feet with a 9 foot ceiling
Yard	80 feet by 54 feet and a 10 foot fence
Cells	7 feet by 4 feet, height 7½ feet <sup>83</sup>

The cells at the back of the Courthouse were surrounded by a high slab fence. It seems these cells were for prisoners sentenced to solitary confinement, although as Cook pointed out, they were not much good for this purpose as the prisoners could talk to each other. In these cells sometimes 8-10 prisoners could be kept for days or weeks awaiting a second magistrate. This was a 'great inconvenience,' though whether for Cook or the crowded prisoners is not clear.<sup>84</sup>

<sup>76</sup> Cook to Dumaresq, 22/11/1837.

<sup>77</sup> Cook to Thomson, 5/12/1837.

<sup>78</sup> Cook to Smith, 5/3/1838.

<sup>79</sup> Cook to Colonial Secretary, 30/8/1837.

<sup>80</sup> Cook to Police Magistrate, Illawarra, 11/10/1837.

<sup>81</sup> State Archives, Colonial Secretary's Correspondence, reel 2812: Colonial Secretary to Police Magistrate, Dungog, 18/10/1837.

<sup>82</sup> Cook to Colonial Secretary, 18/8/1837.

<sup>83</sup> Cook to Colonial Secretary, 16/8/1837.

<sup>84</sup> Cook to Colonial Secretary, 16/8/1837.

At least one prisoner complained enough to receive some attention from Cook, who wrote to Doctor Park at Paterson that he was sending Thomas Ford who had been sometime in the lock-up and wished to consult a medical practitioner for an 'imaginary disease'. Cook sent him to the Paterson lock-up where Dr Park could advise him.<sup>85</sup> A little later Cook seems to have modified his opinion, writing that Ford, who had been charged with cattle stealing, 'seems to labor under some nervous affliction – arising I believe from confinement and anxiety of mind'. Cook suggested Ford 'be either committed for trial or at once discharged'.<sup>86</sup>

The Magistrate often needed to deal with problems relating to the mental state of convicts. In November the same year Ford's 'anxiety of mind' was recognised, another prisoner, this time in the Watch house at Stroud, attempted to commit suicide. John Williams was declared insane and sent to Newcastle.<sup>87</sup> Early in 1839 a servant of James Walker of Brookfield was declared not fit for service due to his being subject to 'common fits'. Walker was therefore short of hands.<sup>88</sup> Other cases seem less clear, as when the wife of local landowner Mr Hooke requested leniency for a Mary Williams, who had been absent without leave and placed in solitary confinement. Later Mary was declared 'filthy' and diseased and sent to Newcastle.<sup>89</sup> And in another case, the situation was clearer but the solution less so when Cook, concerning a Mrs Park, wrote: 'what is best to be done for a woman in her destitute situation'? All he could do was send her and her two children to Newcastle gaol 'to await His Excellency's pleasure regarding them'.<sup>90</sup>

In addition to legal matters, the postal service was also part of a magistrate's responsibilities and in the Letterbook's opposite end are a few letters written concerning post office matters. This was because at first the Clerk of the Bench, Duncan MacKay, also handled postal matters. The first of these letters is in fact MacKay's resignation in which he states that William Cormack would act as Post Officer but not if he gets the Clerk of the Bench position.<sup>91</sup> Cormack is described by Cook in another letter as a 'respectable free Emigrant'.<sup>92</sup> Two months later Cormack himself writes to the Post Master that he is too busy as he often spends a week in Port Stephens, a fortnight if a flood and that court related work has trebled since MacKay resigned. Cormack feels he could find someone in Dungog for the role if the salary were £30 a year.<sup>93</sup> A salary that Donald Campbell, the poundkeeper, is willing to accept according to Cook.<sup>94</sup>

Regardless of the salary paid, not all was satisfactory with the mails and in September 1837 Cook complained about the post service - Friday's letters arrive in Sydney the following Thursday and Tuesday's letters the following Monday, while special letters require the expense of being sent down to Raymond Terrace.<sup>95</sup> The postal service

<sup>85</sup> Cook to Park, 23/2/1838.

<sup>86</sup> Cook to Alexander Livingston, 5/3/1838.

<sup>87</sup> Cook to Colonial Secretary, 14/11/1838.

<sup>88</sup> Cook to Colonial Surgeon, 1/2/1839.

<sup>89</sup> Cook to Colonial Secretary, 9/2/1839.

<sup>90</sup> Cook to Colonial Secretary, 6/6/1838.

<sup>91</sup> MacKay to Post Master, 10/7/1837.

<sup>92</sup> Cook to Colonial Secretary, 16/9/1837.

<sup>93</sup> Cormack to Post Master, 15/9/1837.

<sup>94</sup> Cook to Colonial Secretary, 26/9/1837.

<sup>95</sup> Cook to Colonial Secretary, 26/9/1837.

seemed to be in high demand and in November 1837 a total of £9/12/11 was taken in postage over three months.<sup>96</sup> In March the following year a joint complaint was made about the poor postal service, signed by Cormack and two others.<sup>97</sup> Complaints continued nevertheless and Cook was forced to declare that postal delays were not his fault.<sup>98</sup>

Another part of the administrative routine was the sending on of monies collected to Sydney. In October 1837 for example, £41/16/2 was paid to the Colonial Treasury and £2/10 to the Benevolent Society.<sup>99</sup> In the October quarter of the following year a total of £63/2/8 was collected in fines and £22/10/0 in fees.<sup>100</sup> Other routine matters for the Magistrate included advising Donald Campbell the poundkeeper that he needed to move closer to the pound or resign.<sup>101</sup> This was in response to a complaint by William Miller of Glen William to whom Cook wrote saying that Campbell had come to see him and promised to move.<sup>102</sup> Also routine were the applications by landholders for convicts, as in September 1837, when Cook needed to ask James Edward Ebsworth of Boorall to sit with him in a 'Special Petty Sessions' for this purpose.<sup>103</sup> Authorising ticket-of-leave men's transfers to other districts was another increasing part of a magistrate's role, with Cook reporting in the beginning of 1838 on the transfer of 11 men to various districts.<sup>104</sup>

Not so routine in the year 1838 was the drawing up of a Dungog town plan with allotments to be sold at auction. Cook was involved in the preparations for this, writing to the Colonial Secretary Thomson that no allotments had yet been sold in Dungog but a ready market would be found when 'properly defined and portioned off'.<sup>105</sup> In October that year, Cook received the 'plan for this township,' which he 'kept for the inspection of the Public'.<sup>106</sup>

Perhaps also routine but more exciting were escapes, as in August 1837 when Cook took a deposition on the escape of Thomas Ford, presumably before his mental problems arose, from two constables near 'Irish town of this District' while on his way to trial at the Supreme Court for cattle stealing. Cook had 'reason to believe' that drinking was involved, and with no handcuffs it was 'a very easy exit' for Ford. A man named Latham was now in the lock-up accused of being an accessory.<sup>107</sup> The constables responsible were 'Paterson Constables'.<sup>108</sup> Crimes such as cattle and horse stealing were also frequent, with for example, cattle slaughtered at Wallarobba being identified by Mr Chapman as his.<sup>109</sup> Assault was another common occurrence, and Charles White and

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<sup>96</sup> Cormack to Post Master, 23/11/1837.

<sup>97</sup> Cormack, Sullivan, Warn to Post Master, 17/3/1838.

<sup>98</sup> Cook to Colonel Lacy, 30/7/1838.

<sup>99</sup> Cook to Colonial Treasury, 27/10/1837, Cook to Richard Jones, 26/10/1837.

<sup>100</sup> Cormack to Colonial Secretary, 1/1/1838.

<sup>101</sup> Cook to Campbell, 24/8/1837.

<sup>102</sup> Cook to Miller, 25/8/1837.

<sup>103</sup> Cook to Edwards, 30/8/1837.

<sup>104</sup> Cook to Superintendent of Convicts, 21/1/1838.

<sup>105</sup> Cook to Colonial Secretary, 17/3/1838.

<sup>106</sup> Cook to Colonel Lucy, 27/10/1838.

<sup>107</sup> Cook to Colonial Secretary, 24/8/1837.

<sup>108</sup> Cook to Attorney-General, 26/8/1837.

<sup>109</sup> Cook to Colonial Secretary, 25/8/1838 & 17/9/1838.

Pat Brady were charged for 'assaulting and molesting John O'Brien at improper hours in his own house'.<sup>110</sup>

Escaping from custody was usually preceded by escape from one's place of assignment and so dealing with absconders and suspected absconders was also standard. When local landholder W. F. Forester declared that Margaret Sheedy was an absconder, and she that she was free, Margaret was held in custody while Cook determined the case.<sup>111</sup> Another was Thomas Mullins who, 'not giving a satisfactory account of himself,' was liable to be arrested as a vagrant.<sup>112</sup> In this case, Mullins was an absconder from Brisbane Water for which the constable who picked him up was rewarded £5.<sup>113</sup> This Constable Harcourt, who was 'free by servitude,' was still waiting for his reward to be paid three months later.<sup>114</sup> In the meantime Mullins escaped again. 'A more troublesome villain than Mullins I never did meet before now. The constable had a job of him.' This time Cook felt the 'right to claim the "Five Pounds" from the Constable and Gaoler who allowed him to escape'.<sup>115</sup>

For absconding and other crimes, punishment with the lash was often inflicted, as when William Forbes and William Daley received 50 lashes each. John Ford was given 50 lashes plus 12 months on the 'Ironed gang' and John Cairns also 12 months.<sup>116</sup> Michael Welsh received 100 lashes for 'Cooking' sheep and cruelty to animals, and 12 months in an 'Ironed Gang' for absconding a second time.<sup>117</sup> William Evans, who dared to complain against his Master, a complaint Cook regarded as 'trifling and vexatious,' was given 50 lashes and returned.<sup>118</sup> Some exceptions were recognised however, as when Edward Birmingham was described as a simpleton who 'absconded through ignorance'.<sup>119</sup>

A more common punishment than the lash was to be deprived of ones ticket-of-leave. Both John Walsh and Harry Trowbridge lost their tickets-of-leave 'for improper treatment of Constable Powers when on duty on the Road between Stroud and Dungog'.<sup>120</sup> While William Dewhurst lost his as a warning to other overseers of the value of the flocks of the AAC. Dewhurst it seems was only able to be understood by George Jenkins who had been superintendent at the AAC for many years and Cook suggested that Dewhurst be sent to Liverpool Plains where Jenkins now was.<sup>121</sup> Loss of ticket-of-leave was a punishment that limited a person's mobility and thus made a servant of less use, as when J. M. Pilcher wrote to complain that his overseer Downs had been so punished. Cook reminded Pilcher that such a ticket was 'only to be enjoyed during good behaviour'.<sup>122</sup> Other technicalities associated with punishing a useful class

<sup>110</sup> Cook to Colonial Secretary, 6/10/1838.

<sup>111</sup> Cook to Superintendent of Convicts, John McLean, 17/10/1837.

<sup>112</sup> Cook to Paterson Bench, 31/8/1837.

<sup>113</sup> Cook to Colonial Secretary, 17/9/1837.

<sup>114</sup> Cook to Colonial Secretary, 12/12/1837.

<sup>115</sup> Cook to Henry Denin, Brisbane Waters, 5/1/1837.

<sup>116</sup> Cook to Colonial Secretary, 21/9/1837.

<sup>117</sup> Cook to Colonial Secretary, 12/10/1837.

<sup>118</sup> Cook to Police Magistrate, Maitland, 24/11/1838.

<sup>119</sup> Cook to Colonial Secretary, 21/9/1837.

<sup>120</sup> Cook to Cormack, 23/11/1837.

<sup>121</sup> Cook to Superintendent of Convicts, 2/12/1837.

<sup>122</sup> Cook to Pilcher, 1/10/1837.

of people was the need to inform the bench before trial that a master wanted a convict back, otherwise they would be sent to Sydney on conviction.<sup>123</sup>

The ticket-of-leave was a significant document and proof of right not to be arrested on the spot. Charles Romance claimed that his was lost when children in his hut took it from his coat pocket and destroyed it.<sup>124</sup> Lawrence Sullivan offered in pretence of his certificate of freedom what Cook described as a 'scrap of paper'.<sup>125</sup> Cook also felt he could accost anyone on the road and demand such proof, as he did of William Robbiss 'on the Clarence Town Rd about 7 miles out'. When the reply was not satisfactory, he ordered him to appear before him in court.<sup>126</sup>

While dealing with convicts was naturally a significant part of a Police Magistrate's job, providing the Government with information was also significant, and so in 1837 Cook sent out a survey of both Upper Williams and Port Stephens requesting information on the average wages of 'mechanics' and prices in the district for the six months to 30<sup>th</sup> June.<sup>127</sup> The major landowners he sent this to in Dungog were, James Marshall, C. L. Brown, W. H. Windyer, James Walker, Lowe, D. F. MacKay, John Hooke, J. Forester, Myles, E. Ross, Barrymore, Meyer, and Holmes. The information was returned and complied by the beginning of November and included average wages, with and without board and lodging, numbers required in addition to those already employed and average prices. Overall, Dungog was a more expensive place than Port Stephens but paid higher wages.<sup>128</sup>

*Return showing the average Prices of Provisions and Agricultural Produce in the District of the Upper Williams for the Six Months until 30th June 1837*

<b>Articles</b>	<b>Average Prices</b>
Maize	3/6 - 4/ bushel
Wheat	6/6 - 7/ bushel
(Indian) Corn	3 - 4½ lb
Beef	3½ - 4 lb
Pork	6 - 7 lb
Mutton	6 lb
Tea	3/ - 4/ lb
Sugar	6/ lb
Tobacco	3/6 - 4/ lb
Butter	1/6 - 2/ lb
Cheese	6 ?
Milk	3 quart

NB When the Settlers here supply their free servants with groceries - they usually charge twenty five percent on the Sydney prices.

*Return showing the average Prices of Provisions and Agricultural Produce in the District of Port Stephens for the Six Months until 30th June 1837*

<sup>123</sup> Cook to Ebsworth, 8/6/1838.

<sup>124</sup> Cook to Superintendent of Convicts, 11/7/1838.

<sup>125</sup> Cook to Superintendent of Convicts, 31/1/1839.

<sup>126</sup> Cook to Police Magistrate, Paterson, 26/1/1839.

<sup>127</sup> Cook to Colonial Secretary, 3/10/1837.

<sup>128</sup> Letterbook copy of returns, November 1837.

Articles	Average Prices
Maize	2/6 - 4/ bushel
Wheat	4/ - 9/ bushel
Barley	4/ - 5/ bushel
Tobacco	2 - 3 lb
Lemons, Potatoes	
& every vegetable	½ - 1 lb
Flour, Fine	2½ - 3½ lb
Flour, Seconds	2 - 3 lb
Beef	4 - 5 lb
Mutton	4 - 5 lb
Pork	6 - 8 lb
Tea	2/6 - 3/ lb
Sugar	6 - 7 lb
Salt	1½ lb
Soap	6 - 7 lb
Cheese	6 lb
Butter	1 - 1/6 lb
Talcom	4 - 5 lb
Hogs lark	6 - 8 lb
Lamp oil	3 - 3/6 gal
Rum	16/ gal
Wine (cup?)	5/ -/8/

*Return showing the average Wages of Mechanics & Others in the District of Upper Williams for the Six Months until 30th June 1837 and the numbers required in addition to those already employed*

Trade	Average Wages per day without B&L	Per Annum with B&L	Number required
Carpenter & Joiner (rough)	4/ - 5/	£40 - 50	15
Cabinet Maker	6/ - 7/	£70 - 80	5
Blacksmith & Farrier	6/ - 7/	£70 - 80	6
Wheel Wright	7/	£80	4
Cooper	4/6 - 5/	£40 - 50	2
Stone Mason	5/ - 6/	£60 - 70	5
Brick Maker	5/ - 6/	£60 - 70	4
Sawyer	5/ - 6/	£60 - 70	10
Fencer & Splitter	4/6 - 5/	£40 - 50	0
Shoemaker	4/	£40 - 45	5
Taylor	4/6 - 5/	£40 - 50	2
Nailor	5/ - 6/	£60 - 70	1
Plasterer	6/ - 7/	£70 - 80	5
Turner ?			2
Harness Maker			1
Shepherds	3/6 -	£30 - 35	12
Laborers of all sorts	3/ - 3/6	£25 - 30	150

*Return showing the average Wages of Mechanics & Others in the District of Port Stephens for the Six Months until 30th June 1837 and the numbers required in addition to those already employed (allowance for B&L 10/- 12/- per week)*

Trade or Calling	Average Wages per day without B&L	Per Annum with B&L	Number required
Builder	about 6/5	£100	
Carpenter & Joiner	about 1/11	£35 - 35	4
Bricklayer & Plasterers	about 3/10	£60	2
Saddler & Harness Maker	about 2/7	£40	1
Blacksmith	about 3/10	£60	1
Farrier			1
Shipwright	3/2 -	£50	
Brickmakers	1/	£15 - 20	
Sawyers	are generally paid by the price 7/6 per 100 feet sawn timber		
Bullock drives and shepherds	1/ -1/6/	£20 - 25	
Laborers	1/ -1/6/	£20 - 25	

At the beginning of 1838, another return was required, this time concerning an ‘estimate of Agricultural Produce’. One flour mill and one threshing machine was reported in the Upper Williams district and one mill and two threshers in the AAC lands, but no quarries or mines.<sup>129</sup>

While the government favoured information on mills and mines, a glimpse into the social and even economic networks of those who would operate outside the law as upheld by Police Magistrate Thomas Cook is seen in his account of the activities of Thomas Ford. Ford had been recaptured and while free had been selling and branding cattle ‘for the purpose of raising money and deceiving government’. Ford had made contact with a Dark of Hinton who had borrowed money from Andrew Lang of Paterson. Phillip O’Brien was the principle purchaser of cattle, and one of Hooke’s had been killed and six others stamped over 10-12 days according to witness James Doherty. Ford and partner Latham had bought casks off William Miller to cure four tons of beef. Thomas Bamford was their cooper employed to seal the casks, whereabouts unknown. Ford had a witness on his behalf, a Robert Hassratha?, and a friend of Darks.<sup>130</sup>

In addition to cattle stealing, another common crime was forgery, as when Patrick Brenan, alias Maccurran, forged a draft for £13/15 on ‘Mr Lord of Sydney’ and a local landowner. Brenan, attempted to cash the draft at O’Brien’s store near Clarence Town. The draft was supposedly drawn by Lord’s superintendent Mr Flitt. O’Brien called on Mr Flitt to check and so the forgery was discovered. A warrant for Brenan’s arrest was issued by another landowning JP, Lawrence Myles, in Cook’s absence.<sup>131</sup>

Landowners such as Lord and Myles also needed to abide by the restrictions on their workers, and at the end of 1837 Cook reminded John Hooke that application must be made to the superintendent of convicts before ‘your man’ could leave the District, as Hooke proposed.<sup>132</sup> Cook also queried matters between landowners that he felt were not legal, as when this same John Hooke purchased the property of Lawrence Myles,

<sup>129</sup> Cook to Colonial Secretary, 12/1/1838.

<sup>130</sup> Cook to Colonial Secretary, 17/10/1837.

<sup>131</sup> Cook to Colonial Secretary, 1/11/1837.

<sup>132</sup> Cook to Hooke, 23/11/1837.



including all his assigned servants. Cook wrote for advice on the legality of this to the Commissioner for the Assignment of Servants.<sup>133</sup> This was a case that would continue for some time and in the following month, Cook wrote to Myles pointing out that the ‘alienation of his Wallarobba meadow’ had not been reported and that he needed to see the assignment regulations.<sup>134</sup> At the same time, Cook wrote to Hooke, the purchaser of this Wallarobba meadow, to point out ‘an apparent irregularity in the construction of your present establishment as regards some convict servants’. He requested that Hooke ‘without delay turn to the 15<sup>th</sup> paragraph of the assignment regulations.’<sup>135</sup>

Despite Cook’s (seemingly prescient) disquiet, the transfer of both land and convicts from Myles to Hooke went ahead and Cook was reduced to overseeing the details. He wrote to Hooke to insist that the appropriate forms be filled in, particularly all servants’ names.<sup>136</sup> Cook informed J. M. Slade, Superintendent of Convicts, that Hooke had complied and Myles not, but that the transfer would go ahead anyway.<sup>137</sup> A couple of days later Myles wrote with the list of convicts, 24 in total, including such names as William Mumford (*Lady MacNaughton*), John Farrell (*Clyde*) and John Pritchard (*Printra*), to complete the transfer of property and servants to ‘John Hooke of Wiragully Farm’.<sup>138</sup> The Wallarobba Meadow property under question consisted of four lots of 2,560/790/640 and 940 acres, and 25 men.<sup>139</sup>

Despite these formalities, the following year this transaction took an unexpected turn when Hooke swore that Myles and MacKay had entered into a conspiracy to deprive him of one of the convicts, a John Lingfoot. Cook was obliged to write to Slade asking him to check the original list of convicts that was to be transferred, as Lingfoot was not on the copy Cook had.<sup>140</sup> A few days later Cook appears to have accepted Hooke’s claims, reporting that ‘the name Lingfoot has been by some Chicanery withdrawn from this list,’ and that Lingfoot had joined his ‘former master’ Myles in Sydney.<sup>141</sup>

While Cook was making great efforts in the Myles/Hooke land deal, at around the same time occurred an incident that shows surprising limits to the authority of the Police Magistrate, at least in dealings that concerned the native people. Cook had to write to ‘The Hon E. Deas Thomson,’ the Colonial Secretary, seeking advice in how to proceed in a ‘case of native wives being detained against their will and that of their friends’. After a ‘formal complaint by a respectable person’ was made in favour of five aboriginals, Cook interviewed the five ‘blacks,’ including Fullam Derby and Pirrson, who he described as ‘most intelligent fellows,’ and that ‘Derby is a king and speaks English well’. Cook discovered that the superintendent of Mr John Lord, Mr Flitt, had detained their wives, in fact that he ‘keeps quite a seraglio’. Cook sent a note to Flitt ‘via one of the blacks,’ only to have them report back that Flitt had torn it to pieces. Cook wrote that he ‘feared ill blood and foul murder may result,’ and requested

<sup>133</sup> Cook to Commissioner for the Assignment of Servants, 26/10/1837.

<sup>134</sup> Cook to Myles, 22/12/1837.

<sup>135</sup> Cook to Hooke, 22/12/1837.

<sup>136</sup> Cook to Hooke, 22/12/1837.

<sup>137</sup> Cook to Slade, 16/1/1838.

<sup>138</sup> Lawrence Myles to Police magistrate, 18/12/1837. [This is the only example in the book of a copy of a letter addressed to the Dungog court rather than being as all others, an outwards letter.]

<sup>139</sup> Cook to Colonial Secretary, 19/12/1837.

<sup>140</sup> Cook to Superintendent of Convicts, 17/3/1838.

<sup>141</sup> Cook to Superintendent of Convicts, 21/3/1838.

‘instructions how to proceed’.<sup>142</sup> While the results of this case are unknown, it is apparent that Flitt’s arrest was not one.

While Cook may have felt frustrated at his lack of control over people such as Mr Flitt, in another area he certainly displayed more energy. Cook was concerned that absconding convicts were easily able to obtain work among an increasing population of either ex-convicts or simply people anxious to obtain a worker and not keen to ask too many questions. As Cook described an absconder from his own property named Joseph Ailkens, he is ‘a sort of rough carpenter and being a plausible fellow will easily find employment’.<sup>143</sup> This concern grew as settlement on the Peel River to the north opened up new opportunities for employment far from authority. Cook wrote in May 1835 of five absconders from AAC lands who, once past Maitland, hoped to find employment on the Peel. Cook suggested mounted police to recapture them and a fine for any that employed them.<sup>144</sup>

In July 1838 Cook emphasised the point that settlers too easily assisted runaways by detailing the case of Pat Brady (alias Brown) who absconded in December 1836, taking a steamer to Sydney (presumably paying with money he should not have had), from where he walked to Parramatta. Here he took up with a party being taken down to Port Philip, being paid £3. He then returned to the Hunter region and took a contract with Mr Dawson of Black Creek as a shepherd for £22 and a large ration ‘without anything to show for his freedom’.<sup>145</sup>

Cook would have been pleased when in the following October he was able to summons ‘a Mr MacKay for harbouring & employing 2 convicts illegally at large,’ namely Bing Petty and John Smith.<sup>146</sup> However, continuing frustration over this issue is expressed soon after when Cook wrote that ‘Busranger is merely a prettier name for “High Wayman” ’ and complained again of people ‘harbouring & employing’.<sup>147</sup> The crack down in this area continued, and in November at least three people were fined substantially for ‘harbouring & employing’: R. B. Dawson of Black Creek – £224.14.4; Alex McLeod – £112.9.8 and Alex L. Dave – £112.9.8.<sup>148</sup>

While Cook throughout the letters shows some sympathy on occasion for others, he had the limitations of his times. When his servant John Flynn died in hospital, Cook applied to the Commissioner of Assignment to send another, in ‘stout health’ and ‘one that can eat his bread and earn it’. Cook declared that as he had 40 acres cleared he was entitled.<sup>149</sup> The next day Cook wrote to the Superintendent of Convicts to inform him that John Flynn had had an accident ‘on my farm’ in early February and had died.<sup>150</sup>

The Dungog Magistrate’s Letterbook ends in early 1839 as it began, with routine matters, such as fines being sent to the Benevolent Institution and a deposition being

<sup>142</sup> Cook to Thomson, 14/12/1837.

<sup>143</sup> Cook to Superintendent of Convicts, 19/12/1837.

<sup>144</sup> Cook to Colonial Secretary, 26/5/1838.

<sup>145</sup> Cook to Colonial Secretary, 23/7/1838.

<sup>146</sup> Cook to Police Magistrate, Paterson, 8/10/1838.

<sup>147</sup> Cook to Colonial Secretary, 20/10/1838.

<sup>148</sup> Cook to Clerk of the Peace, 24/11/1838.

<sup>149</sup> Cook to Commissioner of Assignment, 2/3/1838.

<sup>150</sup> Cook to Superintendent of Convicts, 3/3/1838.

taken in a robbery case.<sup>151</sup> Also at the beginning of 1839, Thomas Cook, writing from his estate, Auchentorlie near Dungog, took the 'oath of allegiance' and so was prepared to continue in his position. This he does until cost cutting in 1843-44 sees him acting as an unpaid magistrate just as any landowning Justice of the Peace such as John Hooke and others he has dealt with.<sup>152</sup>

The Letterbook is scattered throughout with the names of members of this anomalous community. In addition to the Police Magistrate Thomas Cook himself, there are those of landowners and grantees, names that are also known from other sources, such as Myles, Hooke, MacKay, Mackenzie, Lord, and Brown; names that even now appear on the street signs of Dungog town today. There are also the names of various workers within the system, Clerks of the Bench D. F. MacKay and William Cormack, also known elsewhere, and of others less well known or known only in these pages - the pound keepers, William Spencer at Paterson and Donald Campbell at Dungog, watch house keepers, John McGibbon and James Boland at Dungog, and Alexander Hamilton at Stroud. Not to be neglected are the many ex-convict enforcers of the law, constables such as Michael Connolly at Dungog, John Tippiary and Patrick Conway at Gloucester, and James Edwards and Robert Mason of Stroud, and of course the scourger John Powers, also of Stroud. Naturally, there appeared before the Dungog Magistrate many convicts, such as the patient escapee Thomas Fogarty, the nervously afflicted Thomas Ford, the 'troublesome villain' Thomas Mullins and the much desired John Lingfoot, most of whom, if they survived, would have eventually become 'free by servitude'. Also appearing in these letters are the names, even if they are sometimes names of foreign origin, of the original inhabitants of the Williams valley, of Fulham Derby, McAuthy, Jemmi and Kotra Jacki, witnesses to, victims of and players in, the great changes influencing and destroying their society as the anomalous community glimpsed in this Letterbook establishes itself.

Perhaps no single letter in the Dungog Police Magistrate's Letterbook tells us something not previously known about this period of colonial history. But taken in its entirety the Letterbook provides a fascinating snapshot of this early handful of years at a time when magistrates were required to deal with a wide range of matters within a community that Thomas Cook quite rightly describes as 'anomalous'.

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<sup>151</sup> Cook to Colonial Secretary, 9/2/1839, 2/3/1839.

<sup>152</sup> Cook to Colonial Secretary, 9/2/1839.