

**Criminal women?
An exploration of Petty Session Court records in 1860s Hobart.**

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In 2012 I completed my honours thesis ‘Behaving in a Riotous and Indecent Manner; Women and the Law in 1860s Hobart’. Today I would like to share some of my findings with you. The thesis itself looked at the interaction of women and the law in Hobart during the 1860s through a review of Petty Session records looking at free, native and convict men and women. Given the large amount of material available and the time restraint within which I was working, it was necessary to select a sample of the records. Therefore, two thousand one hundred and twenty nine records were transcribed covering the periods October 1856 and then January, April, July for 1860, 1864 and 1868. From a quantitative point of view the records provided a large amount of detail that gave rise to interesting questions for research. Newspapers and other documents of the day provided the qualitative fleshing of the stories that unfolded.

For the purpose of this conference I will be sharing some of my findings in order to provide an overview of petty crime during the 1860s, with a focus on convict women and how they were dealt with. I hope that this sharing will provide ideas for further research and raise awareness of the wealth of information contained in the Petty Session records.

The Court of Petty Sessions also known as the Police Court, dealt with lower order offences, some civil matters and breaches of by-laws. Serious crime such as murder was heard in the Supreme Court. In regards to civil matters and by-laws, researchers will find these records useful for information on divorce, desertion, child maintenance, neighbourhood squabbles and bye laws covering licencing through to music in pubs.

Table 1.1 illustrates that although transportation had ended in 1853 serving convict and ex-convict women were over represented in court system.¹ Even though the women had completed their sentences, the act of transportation defined their 'legal status' within the system. Within the Petty Session records during the period covered, each individual had their legal status recorded as 'free'; 'native born' or 'free by servitude' or 'conditional pardon'. Earlier records also included the name of the ship that the convict women had been transported on. The charge and the plea are also recorded, along with witness statements. As the charges were also recorded in the Conduct Registers through to at least 1853, one can verify the identity of an individual and attain a more complete picture of the person being researched. As the recording of the status went on for many years the 'stain' of a woman's past would last until she died or moved from Tasmania. Of interest to today's conference, is what information can be gleaned from the Petty Session Records and perhaps why exconvicts were over represented in the criminal records.

The 'free' women in this group are something of an anomaly that could in part be explained by the arrival of Irish, Scottish and English women through the assisted emigrant programs. Some of whom were unsuitable for employment as servants and were left to survive on their own initiative.² While many of these women were from the low or emerging middle classes³, others were selected from parish workhouses and the Refuge for the Destitute.⁴

¹ Melissa Fraser, *Behaving in a Riotous and Indecent Manner; Women and the Law in 1860s Hobart*, (Hobart, 2012), p.14.

² Catherine M. Pearce, 'A Suitable Girl: The Tasmanian Emigration Agency and Female Migration, 1858-1862', *Tasmanian Historical Research Association Papers and Proceedings*, 56/2, (September, 2009), p.138.

³ Elizabeth Rushen, *Single and free; Female Migration to Australia, 1833-1837*, (Kew, 2003), p.62.

⁴ Thelma McKay, *The Princess Royal' Girls; The First Free Female Immigration Ship to Van Diemen's Land – 1832*, (Kingston, 2007), p.1, 6.

Year	1856	1860	1864	1868
Free	141	8	4	4
Convict	114	643	309	290
Native Born	2	22	22	69
Total	257	673	335	363

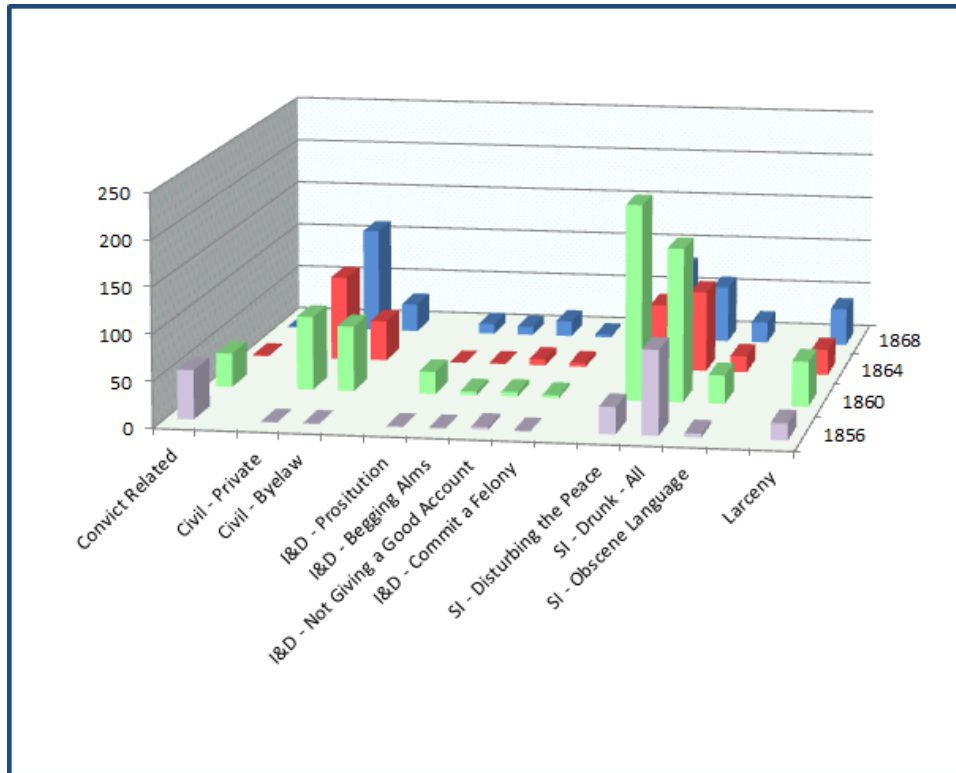
Source: based on records collated from LC247, Record of Cases Heard in Court of Petty Session, Tasmanian Archives and Heritage Office (hereafter TAHO). NB. 'Native Born' refers to women born in the Tasmania.

Table 1.1: Legal Status of Women as Defined in Court of Petty Sessions.⁵

In the petty session records there is a transition over time from convict related offences such as 'absconding' as sentences were completed, to the more prevalent socially inappropriate related behaviour. This transition can be seen in figure 1.1. Charges such as drunkenness, swearing and 'disturbing the peace' become more prevalent. Of particular interest, are rises in charges such as begging, prostitution and 'Not being able to give a good account' which are related to an individual's inability to work and therefore feed or house themselves. The spike seen in the figures for 1860 reflect the financial depression suffered at the time. By 1868 the numbers are more reflective of the number of older male and female ex convicts struggling to survive with few social services available and more sadly for men, the lack of family support available to many. I think we also have to keep in mind the reality that women relying on prostitution for a living, found it harder as they got older.

The charge 'of being idle and disorderly and not being able to give a good account of herself' could be seen as a somewhat subjective tool that allowed police to remove women suspected of prostitution off the street. Prostitution in this period was included as a subcategory of the charge of 'being idle and disorderly'. The 'idle and disorderly' charge also allowed police to take women who were destitute back to the watch-house where they were removed from public view and given a bed and food.

⁵ Melissa Fraser, *Behaving in a Riotous and Indecent Manner*, (Hobart, 2012), p.14.



Source: LC247/1/30; LC247/1/31; LC247/1/32; LC247/1/33, TAHO. Includes men & women.

Figure 1.1: Breakdown of charges for sample 1856 to 1868.

NB: 'Larceny' covers theft crimes under the amount of £5. 'Civil' refers to 'Civil Matters', complaints laid against individuals rather than police charges. 'I&D' stands for Idle and Disorderly. 'SI' is an abbreviation for socially inappropriate. 'Drunk -All' covers both 'Drunk and disorderly' and 'Drunk and incapable'. This graph does not include 380 out of 2010 charges. These related to sailors or serious crime referred to the Supreme Court.⁶

Mary Hunter was a thirty-seven year old widow with one child when she was transported in 1850 for stealing.⁷ Her conduct record is a long list of minor charges with a heavy emphasis on charges related to alcohol. October 1864 was not a good month for her, with one charge of 'disturbing the public peace', and one of being 'drunk and incapable' followed by the idle and disorderly charge to which she pleaded not guilty, hence the statement below. In this statement, at age fifty-one she had no money and no place to live. Mary's plight highlights the difficulty of women convicts who had most of their physical requirements met by the

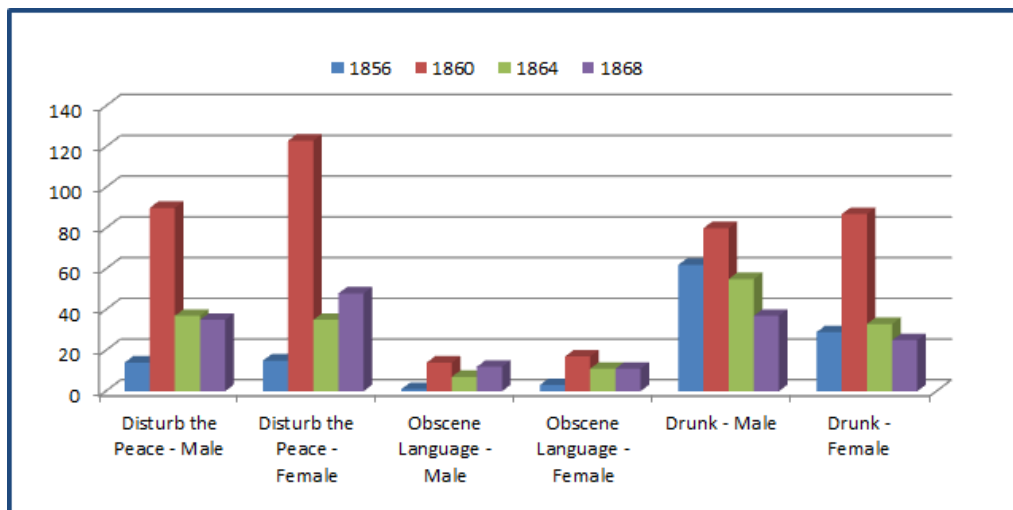
⁶Melissa Fraser, *Behaving in a Riotous and Indecent Manner; Women and the Law in 1860s Hobart*, (Hobart, 2012), p. 20.

⁷ CON41/1/31, TAHO.

Imperial government while under sentence but were then expected to fend for themselves once given their freedom. Since she asked to be invalided, Mary was probably unable to work and was seeking a place in either the General Hospital, the Cascades Female Factory or the New Town Charitable Institution.⁸ The police testimony is valuable here:

28.10.1864

Re: Mary Hunter: William Elliot sworn in ...at 12 o'clock last night I saw the Defendant Mary Hunter sitting on a step at the door of Mr Chattby in Liverpool St in Hobart Town. I asked her what she was doing there - she said she had no place to go to and no money she said she was destitute and had applied for an order to be invalided I brought her to the Watchhouse. I have known her for some time. She has no means of subsistence.⁹



Source: LC247/1/30; LC247/1/31; LC247/1/32; LC247/1/33, TAHO. NB. 'Drunk' includes 'Drunk & Disorderly' and 'Drunk & Incapable'.

Figure 1.2: Gender split for inappropriate behaviour related charges.¹⁰

Figure 1.2 offers some interesting insights into what I call the 'inappropriate behaviour' charges which tend to go hand in hand with alcohol consumption. Apart from 1860 being a year of economic decline, women appear to be bearing the brunt of police action. It should also be noted that this was a period when men were leaving Tasmania for work on mainland Australia; the Otago gold fields in New Zealand and some men also left to

⁸ Brown, "Poverty is Not a Crime", p.122.

⁹ LC247/1/33, TAHO.

¹⁰ Melissa Fraser, *Behaving in a Riotous and Indecent Manner; Women and the Law in 1860s Hobart*, (Hobart, 2012), p. 21.

volunteer in the New Zealand Militia to fight in the Maori wars. Many women were left without financial support for their families leaving them and their children in dire circumstances. For many of these women prostitution was possibly the only source of income.¹¹

Prostitution was not just about sex, women often worked in pairs to get a client drunk and then run off with money, clothes and items such as watches. The *Criminal Statistics 1861* document that this link was acknowledged by police and authorities, as it lists ‘Stealing by prostitutes’ under ‘Minor Offences’.¹² Ann Donovan was caught on 14 April 1868 having hold of a man’s waistcoat.¹³ The victim was being detained by Donovan and her associate. Donovan’s entry in the Conduct Register is a list of misdemeanours that has her constantly in trouble with the authorities.

These records linked with newspaper reports of the day fill out the picture of Anne Donovan and her behaviour. She absconded, refused to follow orders, served two months hard labour for a robbery conviction and was a known prostitute and ‘notorious pickpocket’.¹⁴ The conviction for which she was transported was for stealing a shift. Whether this was an Irishwoman committing an offence to escape Ireland for economic reasons would require further research, but Donovan’s behaviour in Tasmania would suggest not. Ann was 23 when she arrived in Hobart Town and seemingly disappears from the records after November 1872. If we study the charges and corresponding newspaper reports we start to form a picture of a troubled woman. The records depict Ann as violent, abusive and probably alcoholic. She appears to rely on theft and her pickpocketing skills to survive. Ann appears to have had a child which she left with its father. She lived mainly within inner Hobart, appearing in

¹¹ *Ibid.*, p.49

¹² TAHO: *Journals of the House of Assembly*, Statistics of Tasmania, 1862. Unfortunately this table has not appeared in subsequent *Journals*. Nine women were apprehended with two summarily convicted

¹³ LC247/1/33, TAHO.

¹⁴ CON41/1/36, TAHO; LC247/1/33, TAHO. The Mercury, Monday 15 April 1867, p.2.

Macquarie, Davey, Murray and Liverpool Streets. I could also speculate that she was in some sort of abusive relationship with a Mr Gale. I would also point to the Ann's last appearance where she is very much still the convict as they cite the name of the ship she was transported on the Midlothian and her legal status as Free by Servitude.

Date	Report from newspaper	Petty Session record
<p>26 March 1858, p.3</p> <p>25 March 1858</p>	<p><i>Hobart Town Daily Mercury</i> Absconding from her service...20th February and remaining illegally at large...apprehended in a public house on the 24th March. ...the conduct of the prisoner was of the most violent description...torrent of abuse, using the most disgusting language.</p>	<p>Unable to locate record. Multiple record books being used at this time.</p>
<p>23 Oct. 1860, p.2</p>	<p><i>The Mercury</i> Trundle against Donovan.-an information by Mrs.Phebe Ann Trundle, Davey Street, against Ann Donovan, for assault.</p>	<p>As above</p>
<p>26 Oct. 1861, p.3</p> <p>25 Oct.1861 LC247/1/30 p.1024</p>	<p><i>The Mercury</i> Refusing to support a child. Ann Donovan,...apprehended on a warrant, was charged...with refusing to support her illegitimate child. The same defendant was charged with assault and was bound over to keep the peace.</p>	<p>Deserting her illegitimate child...Defendant says that she was not in a position to support the child and that she gave it up to its father. Case dismissed Gale v Donovan. Not guilty. The defendant...agreeable to enter into Recognizance not to molest complainant in future...£20</p>
<p>21 March 1862, p.2</p> <p>LC247-1-31, p.94 20 March 1862</p>	<p><i>The Mercury</i> ...Ann Donovan was fined 10s or in default of payment committed to prison for disturbing the peace in the public street last night, in Davey Street.</p>	<p>...disturbing the peace in a public street. Plea-Not Guilty. ... Fagan sworn saith I am a Constable...I took the defendant Donovan into custody...she was abusing a gentleman named Gale... Defense. Mr Gale struck me...</p>
<p>1 Aug. 1863, p.2</p> <p>LC247-1-31, p.640</p>	<p><i>The Mercury</i> Bailey v Donovan. – an information by Jane Bailey against Ann Donovan for assault. The case was one of those neighbours' squabbles which waste so much of the Bench.</p>	<p>Bailey v Donovan. Assault. Complaint withdrawn by complainant.</p>
<p>28 Oct. 1863, p.3</p> <p>27 Oct. 1863 LC247-1-31, p.720</p>	<p><i>The Mercury</i> Child Maintenance. – Ann Donovan was summoned on the information of Charles Young for neglecting to maintain and support her child at the Queen's Orphan School....</p>	<p>Young v Donovan. Maintenance for a child in the Queen's Asylum. Defendant says the only cause she has to show is that she is not able to pay for the child's maintenance. Ordered to pay into the hands of the Superintendent of the Queen's Asylum the sum of three shillings and sixpence...</p>
<p>29 Dec. 1866, p.2</p> <p>28 Dec. 1866, LC247-1-32, p.740</p>	<p><i>The Mercury</i> Stealing from the Person. – Ann Donovan, charged by Detective Morley with stealing £4 15s., a watch (£8), and chain (£2), the property of George William O'Keefe, remanded till Friday next.</p>	<p>Ann Donovan, Midlothian F.S. Charged by Constable Morley with stealing one silver watch... Remanded till the 4th</p>

9 Jan. 1867, p.2 8 Jan. 1867 LC247-1-32, p.750	<i>The Mercury</i> The Alleged Robbery in Collins Street.- Ann Donovan who had been at first apprehended on a charge of stealing a watch, which was subsequently withdrawn, and a charge of stealing £4 10s. ...discharged altogether and released from custody.	Ann Donovan, Midlothian, F.S. Brought up from the 4 Jan ... Discharged there being no evidence to offer against her as stated by Constable Morley.
15 April 1867, p.2 13 April 1867 LC247-1-32, p.845 17 April 1867 LC247-1-32, p.1076	<i>The Mercury</i> A female pickpocket. – A woman named Ann Donovan who has attained some notoriety as a pickpocket, is in custody for exercising her vocation on a respectable citizen as he was passing along Liverpool street on Friday night. ...	Ann Donovan, Midlothian, F.S. Charged by Constable Morley with stealing four letters value one penny the property of Samuel C Peck. Charge withdrawn by complainant. The said Ann Donovan. Charged by Constable Morley with being idle and disorderly person in being a suspected person frequenting a public street...to wit Murray Street
23 April 1867 LC247-1-32		Ann Donovan F.S. brought up from the 17 April instant...with being an idler and disorderly person. Remanded till the 24 instant.
25 Jan. 1868, LC247-1-32,p.1073		Charged by Constable Vickers with stealing the sum of seven shillings and twopence and one purse value six pence the monies and property of Henry Parsons. Remanded till 27 instant.
28 Jan. 1868, p.2 27 Jan. 1868 LC247-1-32, p.1076.	<i>The Mercury</i> Robbery from the person. – Ann Donovan was charged by George Henry Parker with having on the morning of the 26 th inst., stolen a sum of 7s. 3d. and a purse of the value ...The prosecutor gave a tedious narrative of his met the woman in the street about one o'clock in the morning, and accompanied her to the Ship Tap...	Ann Donovan. Midlothian. F.S. Brought up from the 25 Jan.. Charged by Constable Vickers with stealing...Elect to be dealt with summarily. Plea not guilty. Two months imprisonment and hard labour.
15 April 1868, p.2 14 April 1868, LC247-1-33, p.44.	<i>The Mercury</i> Suspected person. – Ann Donovan was charged with being idle and disorderly, a suspected person frequenting a public street with intent to commit a felony. ... shortly after 12 o'clock in the morning he saw the defendant detaining a man against his will I Liverpool street. ...	Ann Donovan. F.S. Charged by ... with being an idle and disorderly person in being a suspected person frequenting a public street in Hobart Town this morning the 14 April with intent to commit a felony. Re Donovan -about a ¼ past one o'clock this morning...
7 Dec. 1868, p.2 4 Dec. 1868, LC247-1-33, p.174	<i>The Mercury</i> The Robbery from the Person. – Ann Donovan, under remand for stealing money from the person was discharged, the party who gave the woman into custody having gone away.	Ann Donovan. Midlothian. F.S. Mag. Discharged.
2 July 1869, p.2. 1 July 1869, LC247-1-33,	<i>The Mercury</i> Breaking Windows. – Ann Donovan remanded until Saturday on a charge of wilfully breaking four panes of glass, the property of Francis Horne. Mr	Ann Donovan F.S. Charged by Francis Horner with wilfully damaging certain real property. Remanded till the 3 rd instant.

p.325	Graves appeared for the defence.	
3 July 1869, LC247-1-33, p.328		Horner v Donovan. Wilfully damaging certain real property. Not guilty. Fined £1 over and above the amount of damage done namely six shillings and ordered to be paid and the costs...
31 Oct. 1870, p.2 29 Oct. 1870 LC247-1-33, p.683	<i>The Mercury</i> Disturbing the peace. – Ann Donovan was charged by Constable Meredyth with creating a disturbance in Macquarie street on the previous evening. The Constable stated that the woman was drunk at the time, and was very violent in her language and conduct.	Ann Donovan F.S. Charged...with disturbing the public peace in a public street... Not guilty. Fined £2.5.6... Re Donovan - ...Between the hours of 6 & 7 pm yesterday I saw the deft Donovan in Macquarie Street...She was disturbing the public peace there by using bad language and she was drunk...
11 May, 1871, p.2 10 May 1871 LC247-1-33, p.819	<i>The Mercury</i> Disturbing the peace. - Ann Donovan was charged with disturbing the peace on the previous night. ...creating a disturbance in a yard abutting on Davey Street, on the previous night. ...she made a rush at the door of her house, and got as far as the step...The Police Magistrate said this was an old offence of the defendant, who was fined 10s or 7 days in the House of Correction.	Disturbing the peace in a yard abutting on a public street.. Not guilty. Fined 10s and costs
1 Nov. 1872, p.2 31 Oct. 1872, LC247-1-34, p.112	<i>The Mercury</i> Ann Donovan was charged with stealing two sovereigns and 1s 6d in silver from Conrad Sealing, a German, on the 30 th instant. ...She was on the footpath, and she beckoned to him to come to her. He went with her to her house, thinking she needed assistance...put her hand in his trousers pocket and took his purse. ...the female searcher at the police station...(found) fourpence in coppers in one pocket, and a purse containing 14s 6d in another. ...She was very drunk and violent.	Ann Donovan Midlothian F.S. Charged ... with stealing the sum of two ponds one shilling and six pence the monies of Conrad Sealing. Not guilty. Three months imprisonment and hard labour.

While many historians have focussed on the success of many emancipated women, there has always been a group of women for whom life, once released, was going to prove difficult.¹⁵ Given the number of drunk charges and other related anti-social behaviour, such as disturbing the public peace and using obscene language in the Petty Session hearings, it may be that alcohol abuse prevented some women from finding stable employment and relationships.

¹⁵ Here I refer to Kay Daniels and Deborah Oxley, but of more relevance are Babette Smith, *A Cargo of Women; Susannah Watson and the Convicts of the Princess Royal* (Crows Nest, 2008); Lucy Frost, *Abandoned Women; Scottish Convicts Exiled Beyond the Seas* (Crows Nest, 2012).

In his study of female crime in nineteenth-century England, J.M. Beattie argues that many crimes in urban London may have gone undetected or unresolved compared to rural areas.¹⁶ Given the population of Hobart and the surveillance of the remaining serving convict and ex-convict population during this period, it would have been somewhat difficult for crimes no matter how small to go unnoticed or unpunished, even, it would appear, sleeping in a doorway.

Re: Sarah Baker. James Cunningham, City Police At 12o'clock this morning the 19th I was on duty in Goulburn St in HT hearing someone snoring in the front of a shop there I went to the spot and found it was the deft Baker. I woke her and asked her what she was doing there and she told me to ask her a ----. I asked her if she had any home. She said yes it's here pointing to the spot she was lying on. I asked her how she got her living and she said she f---d for it. I then took her into custody. X had no previous knowledge of her. She was searched at the Watchhouse. There was not anything found upon her. I think she told me where she lived after she had been confined in the Watchhouse. X I had to call for assistance to bring you to the Watchhouse.¹⁷

As Michael Sturma points out, convict women, while physically removed from their British homes, still retained their cultural identity and were subject to greater scrutiny as women in a relatively small population.¹⁸ It is likely that women of such 'bad character' like Ann, Sarah and Mary were never going to find employment in Victorian-era Hobart irrespective of the state of the economy.

The majority of offenders during the 1860s in Hobart were lower working-class women, most of whom were ex-convicts made free by servitude. It is difficult to ascertain whether they were committing crimes because of their inability to find employment or because their typical

¹⁶ J.M. Beattie, 'The Criminality of Women in Eighteenth-Century England', *Journal of Social History*, Vol. 8, No.4 (Summer, 1975), p. 108.

¹⁷ Stors.tas.gov.au/LC-1-30, p.320.

¹⁸ Michael Sturma, 'Eye of the Beholder: The Stereotype of women convicts, 1788-1852', *Labour History*, No. 34 (May, 1978), p. 10.

rates of pay were so low. The mind-set of the women themselves may also account for the number of women involved in petty or opportunistic crime. Having already being labelled as criminal, did these women have anything to lose by again facing the court? It may also be that because of the ex-convict mix in the population, the judicial system was more willing to prosecute women.

In conclusion the Petty Session records contain a wealth of information useful for the study of the social history of 1860s Hobart. Importantly, they provide significant information on the lives of Hobart's female convict population. The women described in the statements quoted above appear to have been marginalised with little chance of moving away from the lives of petty crime they inhabited. Their overt 'boisterous' public behaviour singled them out for police intervention at the behest of a society that recoiled from their perceived deviancy. The Petty Session Records highlight the difficulties experienced by these women and their inability to escape their convict past.

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