

FIGURING FOLK JUSTICE
Francis Howard Greenway's
Prison Scenes from Newgate,
Bristol, 1812
by Helen Hughes

INTRODUCTION

Francis Howard Greenway's pair of oil paintings, *The Mock Trial* and *Untitled [Scene inside Newgate]*, 1812, are sometimes celebrated as the only known artworks made by an Australian convict to depict imprisonment in a British gaol prior to transportation. Whether or not this claim is true, the paintings undoubtedly offer valuable insight. In the first instance, they depict in detail English prison life at the tail end of the long eighteenth century, just prior to nation-wide reform based on the recommendations of figures like John Howard, Jeremy Bentham, Thomas Fowell Buxton, James Neild, and Elizabeth Fry. Secondly, by capturing the proceedings of a mock trial, Greenway's paintings distil into an image the coexistence of different modalities of law and justice during a transitional moment in English legal history. Greenway executed the paintings in the decades following the publication of William Blackstone's landmark *Commentaries on the Laws of England* in 1765, which synthesised a range of material, legal, mythical, historical, and ideological precedents to present a picture of the common law as a principled and coherent legal structure—one to which all Englishmen were equally subject. Put another way, Greenway painted these images while English law was undergoing a formative shift: from a decentralised, localised, often unwritten, and customary practice, to a centralised, bureaucratised, written, and formal structure. By contextualising these paintings within the changing lawscape of England at this time, we may consider how, where, and why forms of folk justice were applied alongside or in spite of the dictates of the common law courts. British social historians, including most famously E.P. Thompson, have argued that folk justice vigorously defended local traditions against the profound legal, economic, and political transformations of English society of the eighteenth and nineteenth centuries. Those transformations effectively disenfranchised poor and working-class communities, both through the widespread enclosure of public land, and by the repudiation of a range of customary and informal rights (that is, established norms or traditions specific to a location, like a parish or town). A more detailed understanding of folk justice is necessary for a fuller interpretation of Greenway's prison scenes, and the tensions between the two ideals of the law—formal and informal—that his paintings captured.

Despite the rich narratives that course through Greenway's paintings, very little has been written about them for two main reasons. First, Greenway is best known as Australia's first official architect. Appointed in March 1816, Greenway worked closely with Governor Lachlan Macquarie in the early decades of the Colony of New South Wales to design and oversee the building or completion of a number of major public works. These commissions included the General "Rum" Hospital, Macquarie Lighthouse, the Obelisk in Macquarie Place, the Military Barracks, the Convict Barracks at Hyde Park, and St Matthew's Church. While Greenway regarded himself as an "architect *and*

painter,” the 1812 paintings are normally considered footnotes to his vastly more significant architectural career.¹ His transparency of Governor Arthur Phillip hung prominently in Government House for the thirtieth-anniversary celebrations of the establishment of the Colony at Sydney Cove on 26 January 1818, but is no longer extant.² Indeed, such transparency paintings—made from delicate materials like gauze, cotton or linen and displayed “perilously close to the naked flame that illuminated them”—were not intended to last.³ Nor have the seven hand-painted aprons that he produced as part of an ill-fated commission for members of the Sydney Masonic Lodge of Social and Military Virtues, No. 227, in 1816, been preserved.⁴

Secondly, while being valuable in a circumstantial or illustrative sense, Greenway’s Newgate paintings have a decidedly amateurish air about them. Like many naïve artworks made within carceral institutions, their attention to detail comes at the expense of the overall composition: each hand and facial gesture, like each stone in the wall and iron-grated window, is articulated with an equal amount of detail. Whereas the faces appear wooden and mask-like, Greenway’s treatment of architecture and perspective is, perhaps not surprisingly, vibrant and skilful, thereby drawing the inert background unexpectedly into the activity of the foreground. Moreover, Greenway’s scenario is artificial and theatrical. Too many convicts face us, transforming the prison courtyard into a spot-lit stage. Thus, in the range of studies dedicated to Greenway, the paintings have been afforded little attention.

Yet as evidence as much as art, they offer the viewer two valuable documents of Newgate Prison just prior to its demolition in 1820. Their naïve quality notwithstanding, they capture a complex set of legal relations with a certain clarity. And, in spite of Greenway’s much vaunted self-interestedness and subsequent disidentification with the convict class upon his arrival in the Colony of New South Wales in February 1814, the paintings provide significant evidence of collective convict action. Thompson highlights the resilience of working-class and rural practices of self-determination and self-governance at a time when new practices of law and economy sought to deny their value and indeed their existence. Greenway’s paintings suggest the same character and strength, no matter how constrained and impoverished the circumstance.⁵

Painted in August and July 1812 respectively, *The Mock Trial* and *Untitled [Scene inside Newgate Prison]* are identically scaled companion paintings (56.5 x 82.5 cm each). Convention has it that they are to be read sequentially, as in the manner of Hogarth’s earlier, moralistic narrative series like *A Harlot’s Progress* (1732) or *A Rake’s Progress* (1733–35), or William Powell Frith’s later *The Race for Wealth* (1878–80), which also includes courtroom and prison-yard scenes. Though painted second, *The Mock Trial* is typically understood to be the first image in the sequence, and so is where we shall begin. But we shall return to the question of their order in more detail later.

FIG. 1



Francis Howard Greenway, *The Mock Trial*, 1812, oil on canvas, 42.2 x 68.2 cm, Mitchell Library, State Library of New South Wales, Sydney, ML 1002.

THE MOCK TRIAL

The Mock Trial is a modestly sized painting—but, as we have seen, it is compact, loaded with visual information. Executed in an anaemic palette of pale browns and greens, it depicts an interior courtyard of Newgate Prison, also known as Bristol City and County Gaol, formerly located in the centre of the old port city of Bristol in England’s southwest. Inmates are shown variously sitting and standing in a line around the perimeter of a courtyard, known colloquially as the “tennis court,” with their backs up against a distinctively green-hued stonewall. This was a grimy wall, “scraped and white-washed” just once a year, echoing the deeply unhygienic conditions to which inmates were subjected.⁶ While Newgate, like its more infamous namesake in London, divided its inmates into debtors and felons, then further subdivided them into male and female, the tennis court was the only large open-air courtyard in the entire complex, and was thus shared by all the inmates who were admitted entry, per subdivision, at different times of the day.⁷ Here we see male felons.

It is no longer possible to identify accurately each of the men depicted in *The Mock Trial*, assuming that Greenway depicted individuals as opposed to types.⁸ However, surviving Gaol Delivery Fiats and Calendars of Prisoners from Newgate in the year of 1812 allow us to familiarise ourselves with some of the people incarcerated alongside Greenway and the grounds for their conviction.⁹ A large number of the prisoners listed in the March 1812 Calendar of all the Prisoners in His Majesty’s Gaol of Newgate were children. Michael Leonard, aged twelve, was sentenced to seven years’ transportation for stealing a pair of worsted stockings. The thirteen-year-olds Joseph Miller and Charles Moody were also sentenced to transportation, having stolen two silver-plated spoons between them.¹⁰ Six men were imprisoned on charges of assault, three in total for “buggery,” four for murder or manslaughter, five for embezzlement, four on counterfeiting and forgery-related charges (including Greenway, who was

convicted of forgery), and four for unlawful assembly.¹¹ Unsurprisingly, the most numerous amongst Greenway's fellow inmates were the sixty men charged with larceny. One man was charged with stealing two pounds of tallow, another for twelve bushels of malt, another for two quarts oats, and one for a leg of pork. John Llewellyn and Thomas Ledger were charged with stealing an entire pig. A few men were imprisoned for stealing metal (one William Cooper for iron, one Dennis Cramer for copper), while William Henry, fourteen, was imprisoned for stealing twenty-one pounds of tobacco. But the most popular stolen good by far was sugar—a substance called “sand” in convict slang.¹² Over the course of 1812, at least nine men were imprisoned in Newgate for stealing sugar, reminding us, alongside the import of tobacco (both of which came from Caribbean plantations), of the direct and indirect presence of the slave trade in the port city of Bristol.

Sugar played a vital role in the diets of the poor in eighteenth-century England. Addictive yet non-nutritious, it was an ingredient that, as Peter Linebaugh has noted, sweetened the bitterness of the industrial diet of coffee and tea, providing important though unsustainable bursts of energy throughout the work day.¹³ Meanwhile, the long eighteenth century saw the diminishing privileges of workers in the sugar trade—from the river workers who transported it, to the coopers who opened and sealed the hogsheads—to customary samples of the substance itself. It was a story repeated across many English industries and customs, from coal heaving to wood gathering: what was once a perquisite or customary right had, by the end of the eighteenth century, become a crime. And this transition from a customary to capitalist economy led, accordingly, to the incarceration or execution of large sections of the British poor and working classes. Along with the population boom and overcrowding in major cities, this economic transition was one of the key factors leading to England's so-called crime wave of the eighteenth century, and forms, along with the transition from localised customary to centralised common law, an important historical backdrop to Greenway's paintings.¹⁴

As the tennis court was open-air, the light source of the painting is distinctly vertical. Sunlight enters the scene from above, producing the dramatic plane of shadow that bisects the canvas diagonally. Greenway's windows, on the other hand, appear more as black holes than as channels for light and air. Like many of its contemporaries, Newgate was characterised by an unrelenting darkness. The prison reformist James Neild observed of its most notorious room, known as “the condemned room,” in 1812: “This dreary place is close and offensive; with only a very small window, whose light is merely sufficient to make darkness visible.”¹⁵ Indeed, Newgate's windows were double and treble iron-grated, blocking out the sun rather than letting it in. All this contributed to the oft-remarked miasma surrounding its inmates, and the spread of illness and disease between them.¹⁶

While the cast of inmates in *The Mock Trial* is ostensibly entirely white and male, within this group there is some diversity. The line-up is flanked by youths (possibly the twelve-year-old Leonard, or either of the thirteen-year-olds, Moody and Miller), while the oldest character's blue-grey face and wispy, white

hair lurks in the shadows of the archway like a ghost (the oldest-known man imprisoned at this time was the fifty-year-old Thomas Carter, charged with sodomy). Greenway depicts a spectrum of financial status, from utter impoverishment to relative affluence: one man is shoeless, another's clothes torn, whereas the apparently wealthier inmates wear frock coats, waistcoats, stockings, and cravats. A better indication of status, however, is the amount of iron manacles worn by each inmate, each of whom was shackled upon arrival to easily distinguish them from visitors to the gaol, and who entered freely and often in hoards each day. The manacles—or “darbies”—were also intended to extract profit from the prisoners for the privately-run prison. In a process known as “easement of irons,” fees could be paid to the gaol keeper to lighten their weight. Thus, the two men in ragged clothes standing in the doorway are “slanged” from ankle to waist, while the better-dressed inmates sport just a few interlocking rings around one ankle.

The prevalence of alcohol in this picture—indicated by the ceramic flagons grasped by three of the men to the right of the composition—is not unrelated to the habit of prison keepers profiteering from prisoner discomfort. Most prisons in England at this time ran a taphouse or cellar. Beer, sometimes wine, and even, on occasion, gin were sold to inmates, who could drink as much as they could afford to. All revenue was for the profit of the prison.

Crucially, within the picture we note the depiction of more crimes being committed inside the gaol. A prominent prison reformer of the time, Thomas Fowell Buxton, wrote of Bristol's tennis court: “In this yard is to be seen vice in all its stages; boys intermingle with men; the accused with the convicted; the venial offender with the veteran and atrocious criminal.”¹⁷ His observation is a common enough trope of criticism of the British prison estate at this time: criminals beget criminals. Arthur Griffiths, a late nineteenth-century chronicler of London's Newgate Prison, put it memorably thus: “The prison was still and long continued a school of depravity, to which came tyros, some already viciously inclined, some still innocent, to be quickly taught all manner of iniquity, and to graduate and take honours in crime.”¹⁸ Accordingly, Greenway inflects the sociality of his prison scene with a kind of fatalism pivoting on the act of pickpocketing.¹⁹ In *The Mock Trial*, the hand is “the visual voice” of painting.²⁰ Hands thief, drink, smoke, point, scratch, tickle, clutch, pat and gesticulate. Above all, as they reach into neighbours' pockets, around shoulders, form a handshake, or a subtle distraction, hands bind the inmates to one another, locking them, like their iron manacles, into a single criminal body.²¹

THE CONTEXT AND HISTORY OF MOCK TRIALS

Mock trials and courts were a common practice of convict folk law. They were staged when a prisoner—often one who considered himself to be morally upright (a “square-cove”), perhaps claiming to be wrongfully convicted in the first place and refusing to concede to the prison's internal code of conduct—was perceived to have committed an offence against the dominant prison community. The offender was then tried by a jury of his convict peers. Griffiths suggests that offences were typically trivial, for instance coughing too loudly, leaving a door

open, or moving an object that was “not to be touched.” Speaking of the mock trial of a lawyer (the very definition of a “square-cove”) who had been locked-up in London’s Newgate, he writes:

A prisoner, generally the oldest and most dexterous thief, was appointed judge, and a towel tied in knots was hung on each side in imitation of a wig. The judge sat in proper form; he was punctiliously styled “my lord.” A jury having been selected and duly sworn, the culprit was then arraigned. [...] Various punishments were inflicted, the heaviest of which was standing in the pillory. This was carried out by putting the criminal’s head through the legs of a chair, and stretching out his arms and tying them to the legs. The culprit was then compelled to carry the chair about with him. But all punishments might readily be commuted into a fine to be spent in gin for judge and jury.²²

Such mock trials, therefore, participated in the pageantry and symbolic rituals of English common law—the majesty, which, as Douglas Hay argued, was central to its ideological legitimation.²³ But Greenway may not so much suggest emulation as parody. In the painting’s topsy-turvy world of justice, the trial is presided over by a thief-judge while further crimes are committed during—perhaps even as part of—“official” judicial procedure. The man with his eyebrow raised and sporting a brown coat in the centre-right of the composition brandishes the “judge’s wig” in his left hand, while his right hand picks the pocket of his neighbour. The upright board-like object held by the blue-coated man in the left of the painting is an appropriated pillory (a wooden bench, like that depicted in painting’s lower right), and the leather strap a means of securing the accused to it. The judge himself is most probably the man in the middle of the composition, wearing a brown cocked or tricorne hat, and to whom a number of the prisoners gesture. If, as legal emblem scholars like Peter Goodrich have suggested, the allegorical figure of Justice is traditionally raised on a pedestal, a mediator of law from a heavenly as opposed to earthly provenance, such celestial codification most certainly does not apply to this Newgate judge, who is depicted as decidedly of and with the people over whom he would preside.²⁴ Where Justice is traditionally pictured blindfolded to indicate her impartiality, this Newgate judge is locked in eye contact with a man to his right, who addresses him with a familiar, open hand.²⁵ Even raised on a stool, the judge is still below the eyeline of at least four of the other inmates surrounding him, and on a par with seven more. Not only does his head not reside in the celestial court above, there is no sky to be had at all. Nevertheless, the sword of justice is present here: the figure positioned to the judge’s right casually rests a broken shovel over his right arm. He is the enforcer, and his elevated position over the judge suggests not the transcendence of justice, but the immanence of violence.²⁶

But such a reading is at least open to query. Indeed, there exist other, less patronising accounts of the purpose of mock trials amongst the convict classes. In *A Picture of England: Containing a Description of the Laws, Customs and Manners of England* (1791), for instance, the visiting Prussian officer and historian Johann Wilhelm von Archenholz described mock trials held by inmates of the London prisons The King's Bench and The Fleet—two “republics,” he writes, “existing in the bosom of the metropolis, and entirely independent of it.”²⁷ Here, he writes, somewhat approvingly: “Every prisoner, whether man or woman, is a member of this commonwealth, and participates in all its privileges. They choose a lord chief justice, and a certain number of judges, who assemble once a week and decide controversies.”²⁸ In addition, “Twelve jurymen [are] impanelled, as in the national courts.”²⁹ Before these mock courts, inmates were tried for the very same kinds of crimes that would have landed them in The King's Bench or The Fleet in the first place—larceny, breach of the peace, or debt. On such occasions, von Archenholz explains that:

the culprit, with a paper stuck on his breast describing his crime, is obliged to walk through every street, preceded by a herald, who with a loud voice assigns the reason of the punishment, and tells the inhabitants to beware of the delinquent. This inspires everyone with hatred to the crime; and as the criminal cannot escape out of the narrow circle in which he may be said to vegetate, rather than to live, it happens very rarely that any one exposes himself to a humiliation so terrible in its consequences.³⁰

The trial may be mock in the way that a turtle soup may be mock: not as satire but as substitute. Those that von Archenholz describes evidently not only meted out actual punishment, but also served to deter future offences, serving a quasi-legal purpose. As Thompson observed, such modes of informal justice are better understood as ambivalent—oscillating “between the mockery of authority and its endorsement.”³¹ These expressions of authority were, as Martin Ingram put it, precarious, temporary and “exceedingly fragile.”³²

Timothy Millett offers yet another explanation for mock trials in prisons, this time emphasising their utilitarian function as a kind of legal aid for those awaiting trial. Millett suggests that detainees in London's Newgate in the eighteenth and early nineteenth centuries “tried” each other in their cells, the court more moot than mock.³³ This would also account for why, from Griffith's perspective, the most hardened criminal would direct proceedings as judge, for he would have had the most experience in real courts and assizes. Indeed, as the thrice-transported English convict James Hardy Vaux explained in 1819, “judge” is a flash term (convict slang) for : “A *family-man*, whose talents and experience have rendered him a complete adept in his profession, and who acts with a systematic prudence on all occasions, is allowed to be, and called by his

friends, a fine *judge*.”³⁴ (“Family” refers to fraternity amongst the criminal class.)

Outside the context of the prison, but only just, the Irish poor and working classes living in London in the eighteenth century performed mock courts as a kind of cathartic theatre. As Linebaugh argued in *The London Hanged*, in such contexts mock trials were played along with other games such as “Coining the Money,” “Hiding the Robber,” and “Hearing Confessions”—all of which served as “inversions of class-based justice,” parodies of the English legal system against which Irish subjects stood barely a chance. These games were played principally at night-time wakes, which were a common occurrence—required to mourn the increasing number of Irish dead sacrificed on the Tyburn gallows. On this note, Linebaugh recalls an Old Bailey proverb of the time: “The name of an Irishman is enough to hang him.”³⁵ So too, the therapeutic aspect of mock trials staged within prisons, in which prisoners acted out the very rituals so intimately entwined with their own suffering and oppression, cannot be ignored. In prison, “new chums” are ready bait for “old chums”—and mock trials a means for prisoners to transfer the scorn heaped upon them by the criminal justice system onto new victims. The therapeutic angle of mock trials may thus be read in two opposing ways: on the one hand, as a form of class-based ridicule; and on the other, as a means of internalising and assimilating authoritarian culture in order to mitigate its traumatic impact.

Based on Greenway’s stylistic treatment of the scene, which is largely devoid of caricature (slave as it is to a kind of realism), Greenway’s treatment of the mock trial seems ultimately to affirm its legal authority, rather than ridicule it. This reading becomes more persuasive when we consider the relationship of mock trials to broader practices of folk justice in England at the time, as well as the complex relationship of folk justice to common law. Greenway’s affirmation of the mock trial custom also comes into sharper focus when we read *The Mock Trial* in relation to its companion painting, *Untitled [Scene inside Newgate]*.

FOLK JUSTICE

In his book *Informal Justice in England and Wales 1760–1914*, Stephen Banks locates mock trials within an expansive repertoire of folk justice that included effigy-burning, rough music or charivari, skimmington or “skivetty” rides, riding the stang, ducking or “cucking,” and bridling.³⁶ Folk justice existed outside common law and was predicated on highly specific local communal and customary jurisdictions tied to parishes and towns. A malleable concept, folk justice is a term that encompasses a range of practices, from extrajudicial vigilantism to communal pageantry to political struggle. Banks—like Thompson and Ingram before him—demonstrates the different ways in which folk justice related to that of the common law courts, sometimes meted out in spite of its protections, and sometimes in accordance with them. For instance, Banks describes how, in the 1840s, duelling culture was rampant amongst the officers’ mess in the army and navy. At common law, participating in a duel was a

misdemeanour, and killing another person in the course of a duel was a felony. Despite this, military tribunals continued to “incite or compel their members to commit these offenses.”³⁷ As it were, such tribunals would punish officers for refusing to break English common law. To make the opposite point, that folk justice and common law sometimes formed an alliance, Banks cites a renowned charivari from 1618 in which a night-time raid was effected upon an unmarried couple cohabiting in Burton-on-Trent.³⁸ The leader of the raid, which resulted in the couple being placed in the stocks, was the town’s constable himself, who “alleged that his actions had been *ex post facto* approved by the justices in quarter sessions.”³⁹

The distinctive community values of the folk justice tradition need also be recalled. First, rough justice was essentially patriarchal and misogynist. Charivari (a noisy procession through town including the banging of pots and pans, rattling of kettles filled with stones, and singing of ballads) was often used as a punishment for women: for scolds, shrews, prostitutes, and wives who were adulterous or who beat or “henpecked” their husbands, along with the husbands who “allowed” themselves to be henpecked (and were hence feminised). Such women were perceived as a threat to the deeply patriarchal order of village or parish life, thereby necessitating a highly public shaming ritual, which was often administered during festival times thus guaranteeing the largest possible audience.⁴⁰

Yet secondly, folk or rough justice also served an important function protecting and upholding common and workers’ rights. As Thompson shows, many of these rights were long-standing traditional perquisites or entitlements, while other customs were invented in order to establish new protections.⁴¹ Riding skimmington (mounting an offender backwards upon a horse or donkey, dressed in a white shirt and sometimes adorned with animal horns, then parading them through the centre of town) was a punishment often meted out against known enclosers of common forest land, and also against malefactors who “abused patents of monopoly” (often one and the same person).⁴² This fact led Ingram to venture that such forms of popular justice were not just quasi-legal but political. Ontologically, folk justice was a collective enterprise that would have been difficult (though not impossible) to instrumentalise in the self-interest of an individual.⁴³ Its application required the participation of a large part of the community. Punishment was administered “in a spirit of solidarity” against individuals who violated the rights or values of the community as a whole, rights and values which had built up over centuries and were upheld by inhabitants of a particular town or parish.⁴⁴

The proto-unionist aspect of folk justice as collective action is central to Thompson’s analysis in *Customs in Common: Studies in Traditional Popular Culture*. Thompson notes that ritualised punishment was employed to reprobate “unfaithfulness of workmen to their fellows when on strike, and dishonest tricks in trade.”⁴⁵ Citing Brockett’s 1829 glossary definition of “riding the stang” (a punishment related to a skimmington ride, more common in Scotland and the north of England), the ritual is described as being inflicted on “such persons as

follow their occupations during particular festivals or holidays, or at prohibited times, where there is a stand or combination among workmen.”⁴⁶

Such accounts provide further insight into Greenway’s depiction of a mock trial. Greenway’s *Mock Trial* is insistently horizontal, rather than vertically hierarchical, in its composition. Like Hogarth’s *Hudibras and the Skimmington* of 1725–26, or Thomas Rowlandson’s 1820 copperplate engraving of *Dr Syntax with the Skimmington Riders*, Greenway’s convict crowd is a level, unified, collective body, sutured together not only by their hands and manacles, but also by the intense matrix of eye contact and finger-pointing that overlays the entire scene. Toward the end of *Customs in Common*, Thompson reflected that folk justice is “enacted by and within the community”—a form of law that “belongs still to the community and is theirs to enforce.”⁴⁷ In *The Mock Trial*, Greenway provides a surprising and under-appreciated context for this collective, self-determining, and self-governing aspect of English folk justice—that of the convict class.

FIG. 2



Francis Howard Greenway, *Untitled [Scene inside Newgate Prison]*, 1812, oil on canvas, 42.2 x 68.2 cm, Mitchell Library, State Library of New South Wales, Sydney, ML 1003.

UNTITLED [SCENE INSIDE NEWGATE]

The Mock Trial is thought to include a self-portrait.⁴⁸ Greenway sits in the lower left-hand corner of the canvas, in navy frockcoat, pipe in left hand. He looks beyond the left edge of the canvas, out of the scene while pointing back to the centre of it with his right index finger. Meanwhile, a man to Greenway’s left tickles his ear with a clay pipe, while a young inmate to his right picks his pocket. James Broadbent suggests that Greenway places “himself as a distinguished figure among, but not of, the mob.”⁴⁹ To my eyes he appears very well integrated: shoulder to shoulder and knee to knee with his chums. The extent to which Greenway identified with the convict body may be determined by comparing *The Mock Trial* to its companion, *Untitled [Scene inside*

Newgate], where Greenway depicts himself uselessly protesting a perceived injustice rather than capitulating to the internal law of the prison. If Greenway can be seen to be an insider of sorts in the former painting, he appears a hapless outsider in the latter.

The narrative transition that seems to occur between the two paintings is contingent on the order in which we read them. As mentioned, *The Mock Trial* is typically read first and *Untitled [Scene inside Newgate]* second. Some commentators have been inclined to understand the narrative as showing Greenway being pickpocketed in the first scene, and reporting the theft of his silver pocket watch (dangled above a card game in the background) to the redcoat in the second.⁵⁰ But *Untitled* was painted first, in July 1812, and *The Mock Trial* second, in August. Read in this order, a different narrative emerges. We might understand Greenway the inmate to have graduated—from new to old chum. In the first painting, he is affronted by and subjected to the seemingly alien logic of convict folk justice, and accordingly stands apart from it. By the time of *The Mock Trial* a month later, he is assimilated into the convict body at large and participates in its customary law.⁵¹

In *Untitled [Scene inside Newgate]*, the sun beats down on the court from the opposite side of the canvas, indicating a different time of day to that depicted in *The Mock Trial*. From the uppermost window, heads of garlic and a ceramic vessel, presumably filled with vinegar, hang from a rope, placed there as a useless precaution against the “gaol fever” (typhus) that ravaged the overcrowded English prisons of the time. A few scraps of garments hang from iron spikes in the upper right segment of the painting, possibly remnants of a dramatic escape attempt, but more likely laundry hanging out to dry—sunlight was in short supply, after all.⁵² Meanwhile, a cat darts across the courtyard with something in its mouth. In eighteenth-century England, cats—long associated with the devil and witchcraft and tolerated only when employed in the service of catching vermin—were often cruelly treated.⁵³ Prisoners of the Bristol Gaol and Bridewell had good use for them, however, purportedly having cats placed in their cells overnight to “stop the rats gnawing their feet.”⁵⁴

Greenway depicts many of the same men from *The Mock Trial*. We see, for instance, the same pot-bellied beer drinker and red-capped smoker, this time on the opposite side of the court. In the right-hand side of the composition, Greenway appears to be complaining about something to a redcoat—a conspicuously new character, absent in *The Mock Trial*. Broadbent identifies the redcoat as the prison keeper, though he is just another inmate, for his partially obscured right ankle is fettered. Moreover, the military was rarely involved with the administration of English gaols at this time.⁵⁵ Perhaps the redcoat was a deserter—a handful of whom were incarcerated in Newgate during the Napoleonic Wars (1803–15) when the crime of desertion was rife.⁵⁶

A swatch of blue fabric lies at Greenway’s feet, seemingly torn off the right elbow of his coat in a recent scuffle. The swatch on the floor has taken the shape of a flower, a form echoed in the navy flower appended to the top hat of the man standing between Greenway and the redcoat. His face cast in a deep frown, this man raises one hand, which is either bandaged or gloved. Perhaps

this other fellow was a pugilist, and Greenway was complaining to the redcoat of an altercation between the two of them. After all, Greenway's hair appears much dishevelled here when contrasted with *The Mock Trial*. Indeed, it is tempting to interpret the blue flowers as tokens of the pugilist's victory over Greenway, the hapless new chum.

Greenway's depiction of the redcoat adds complexity to his image of folk justice. Speaking of the legal art of heraldry and armoury, which codified aspects of one's identity (like office, rank, and family), Peter Goodrich has argued that, under the weight of such symbolism, a "person was publicly an image."⁵⁷ The British redcoat certainly conjured a powerful image of military law and order. But imprisoned and shackled, it is an image that cannot wholly be trusted.⁵⁸ Greenway's treatment of the redcoat as a duplicitous public image contributes to the sense, in both paintings, of a world turned upside down.⁵⁹ Indeed, tropes of inversion and levelling were central to the English comic tradition established in the 1600s and 1700s, and were, in turn, wed closely to English festival activities such as transvestism.⁶⁰ The "discomfiture of the judge" was a particularly popular theme of such comedies—and a theme that would strangely manifest its own kind of reality in the penal colonies of Australia, where, upon decarceration, convicts could take up positions as field police and judges.⁶¹

FIG. 3



Francis Howard Greenway, *Untitled (self-portrait)*, ca. 1814–37, pencil on paper, 33 x 24 cm, State Library of New South Wales, Sydney, ML 482.

The central animating object of the composition is indisputably the script held in the left hand of the redcoat, which he points at declaratively with his right index finger. This microcosm of activity is framed by Greenway's open hands—fingers outstretched in exasperation, his eyes raised heavenward—perhaps challenging the legitimacy of the document. What is this document? Magnification only yields dotted black lines in lieu of words. Given the paucity of information regarding Greenway's experience in prison, its content must remain opaque to us for now. But his allusion to text—to a paper document in general—is significant in itself. Despite high levels of illiteracy, if not in part because of it, the written word held enormous symbolic value in the administration of justice in eighteenth-century England. Even though customary law was still called *lex non scripta*, writing had long been central to its symbolic imaginary—as evidenced by the appending of a written description

of a crime to the breast of the criminal in the mock courts of The Fleet and The King's Bench.⁶²

In Greenway's painting, the redcoat defers to the authority of the written word. He points at the paper and, simultaneously, away from his person to suggest that he is himself personally divested of responsibility for whatever it is that the paper dictates. It is tempting to suppose that the document is a list of rules—laws—that govern convict society in Newgate, the textual accompaniment to the performative mock trial. Such formalised codes of conduct were not uncommon. Following the example of prisoner autonomy set by Ludgate Prison, London's Newgate Prison was ordered by the Court of Alderman in 1633 to establish a prisoners' government. Prisoners elected officers amongst their rank who enforced discipline and established "codes of conduct," then "[sat] as a tribunal to punish those who had violated the rules."⁶³ Such codes of conduct were then also common amongst seasonal companies in England, in which workers would elect an authority whom they called "my lord," and to whose judgment they would defer. This "Lord of the Mowers," "King of the Harvest," or "Captain of the Shearers," as they were sometimes called, would negotiate working conditions on behalf of the company and, at the beginning of each season, write down the company's rules of behaviour and read them aloud to the workers as insurance against illiteracy.⁶⁴ Perhaps, then, the fallen redcoat was presenting Greenway with Bristol Newgate's "constitution," in which case the reading of *Untitled [Scene inside Newgate]* followed chronologically by *The Mock Trial* may hold. We may understand the "constitution" as a key component of the induction of new inmates into the gaol. It is the constitution in the first scene that authorises the trial in the second. In this way, *Untitled* figures forth the tension inherent to law's letter versus its spirit. In his self-portrait, Greenway recoils from the law as text but nevertheless appeals to a sense of justice by gazing heavenward, eyes raised seeking the ultimate judge. The particular combination of Greenway's exasperated facial expression and hand gesture at once upholds a sense of law and justice but rejects its crude application in the hands of Newgate's convicts.

The question remains whether Greenway's visual treatment of convict folk justice is parodic and undermining of English common law, or whether it is, by contrast, ultimately affirming of that institution. It is sometimes argued that eighteenth-century English criminal law served primarily to legitimate and expand the powers of the ruling class, principally through means of property, which was most forcefully protected through the introduction in 1723 of the Waltham Black Act. Such law, the argument runs, was wielded by the ruling class to further dispossess and disenfranchise the property-less poor and working classes.⁶⁵ But, as Thompson argued in the conclusion to *Whigs and Hunters: The Origin of the Black Act*, English common law was not merely the weapon of the ruling class, though the Black Act undoubtedly served both its material and its ideological interests. Rather, common law was the battleground on and through which class relations were fought. "[T]he ruled," he writes, "would actually fight for their rights by means of law," and when it

“ceased to be possible to continue the fight at law, men still felt a sense of legal moral wrong: the propertied had obtained their power by illegitimate means.”⁶⁶ Greenway’s apparent transition from alienation in *Untitled [Scene inside Newgate]* to assimilation in *The Mock Trial* figures the law as such a battleground—a site of dispute and struggle. In *Untitled [Scene inside Newgate]*, Greenway shows the “spirit of the law” to transcend its written constitution held in the redcoat’s hand; whereas in *The Mock Painting*, he figures convict folk justice—informal, social, collectivised—as transcending the law of the ruling classes. The narrative that develops across the two paintings may be understood to chart Greenway’s dawning appreciation that, to paraphrase Thompson, it was not the folk justice of convicts that was estranged from common law, as such, but rather inmates’ rights that were alienated and which required defence.⁶⁷

CONCLUSION

Greenway’s visual nesting of a convicts’ mock court within a city and county gaol illuminates the coexistence of different legal systems in turn-of-the-century England—both written and unwritten, formal and informal. The coexistence of these different legal systems is significant for, as our brief foray into mock courts and related forms of folk justice has demonstrated, traditions of localised, community-based justice ensured alternative and additional means of accountability to that of the common law courts in the eighteenth and nineteenth centuries. Whilst by no means exclusive to the poor and working classes, folk justice was particularly important for upholding industrial and customary rights, which were central to their livelihood. Accordingly, such forms of justice became increasingly crucial modes of resistance as the rights and privileges of workers and the poor were whittled-down over the course of the long eighteenth century. As opposed to traditional images and emblems of justice as impartial, divine, transcendent, and, importantly, centralised in the singular female figure of Justitia or Themis, Greenway’s *Mock Trial* pictures folk justice as imperfect, improvisational, and social—decentred and distributed amongst the hands of a collective. Though the two forms of law and justice, formal and informal, were decidedly different from one another, they were not mutually exclusive. In some respects, they may be seen to be continuous—as Greenway’s mise-en-abyme-like staging of a court within a prison infers.

Awaiting transportation to the Colony of New South Wales in 1812, Greenway’s world was about to be turned upside down—he was, as a popular saying of the time went, quite literally preparing to “act the antipodes.” These paintings are a document of this acutely transitional moment in his life, and in the life of English prisons too. Eight years later, in 1820, Newgate was knocked down in recognition of its squalid and inhumane conditions, then replaced by the New Gaol. The New Gaol reflected aspects of the agendas set by a number of aspiring prison reformists working in this period, including Jeremy Bentham, Elizabeth Fry, Thomas Fowell Buxton, and James Neild, as well as the official recommendations made by John Howard to the House of Commons decades earlier in 1774, but which were then only partially applied. In 1823, Home

Secretary Robert Peel implemented the Gaols Act, which mandated wages for prison keepers (as opposed to their relying on fees extracted from inmates), the banishment of manacles, and a stronger religious presence in prisons by way of rostered chaplains, amongst other items.

Bristol's New Gaol moved towards adopting the "separate and silent" system of punishment—advocated by hopefuls like Bentham—by placing inmates in single cells whose footprints measured just 6 by 9 feet. The separate and silent system had a range of well-documented intentions, one of which was to delimit communication between prisoners as a means of halting the transmission of criminality, as well as impeding fraternity and solidarity that may lead to mutinous acts. Another of its intentions was to transform previously idle prisoners—seen smoking, drinking, and playing cards in Greenway's paintings—into industrious, indentured workers. As the eighteenth century rolled into the nineteenth, British prisoners' bodies (like common woodlands and, as Silvia Federici has argued with respect to the witch-hunt, women's bodies subsequently) were subject to further enclosure.⁶⁸ Inmates like Greenway, who were transported on the convict hulk the *General Hewitt* in 1813, were transported to the fledgling penal colonies in Australia to meet with the almost immediate expropriation of their labour through assignment as servants on public works or to private individuals. Thus, the convicts' enclosure was both physical and mental. Greenway's prison scenes capture in remarkable visual detail not necessarily solidarity between convicts—for, as we have seen, there existed forceful hierarchies between inmates, especially old and new, monied and poor, male and female—but a shared expression, however limited, of a culture of resistance to this creeping enclosure, through processes of convict self-determination, self-governance, and autonomy.

1. The author acknowledges the extremely valuable editorial feedback from the peer reviewers, and the journal's editors.

Greenway is described as an "architect and painter" in the New South Wales Governor's Despatches (Macquarie). ML A 1192, 898. State Library of New South Wales, Sydney. ←

2. For an analysis of the role of transparencies in early colonial Australian painting, see Anita Callaway's chapter "Clarifying Australian Painting," in *Visual Ephemera: Theatrical Art in Nineteenth-Century Australia* (Sydney: UNSW Press, 2000), 9–21. Greenway's "likeness" of Governor Phillip is discussed on 13. ←

3. See Callaway., 4. Callaway explains that eighteenth- and nineteenth-century transparencies were often used as outdoor decorations for night-time celebrations and displayed everything from heraldic designs to complex pictorial narratives. ←

4. While in prison, Greenway also copied twenty-six pages from Robert Fabian's *The Chronical of Fabian, whiche he nameth the concordance of histories, newly perused and continued from the begynnyng of Kyng Henry the seventh, to thends of Queens Mary, 1559*, to replace the missing pages of a copy owned by the wealthy Bristol merchant Charles Harford. This copy is now held in the collection of the National Library of Australia, Canberra. ←
5. Greenway's individualism and self-interestedness is emphasised in all the key texts on him. At one point, he even demanded a government wage that was higher than the Governor's own. It is unlikely that Greenway forged any meaningful solidarity with the convict class, who, once in Sydney, became the labour force that constructed his buildings. Greenway biographer Alasdair McGregor notes that he frequently "fought with his convict labour force whose skills were patchy at best, but managed to cajole acceptable work from their unwilling bodies." Alasdair McGregor, *A Forger's Progress: The Life of Francis Greenway* (Sydney: NewSouth, 2014), 3. On Greenway's reputed self-interestedness, see Robert Hughes, *The Fatal Shore: The Epic of Australia's Founding* (New York: Alfred A. Kopf, 1986), where he describes Greenway as "a touchy, arrogant, painstaking and uncompromising man" (341). His earlier biographer, M. H. Ellis, describes him as "vain beyond his generation." He also writes that one of Greenway's "main traits was that he could not bear to lose a battle, even if his hopeless resistance must take such form as to bring him ruin." M. H. Ellis, *Francis Greenway: His Life and Times* (Sydney and London: Angus and Robertson, 1949), 11, 10. ←
6. James Neild, *State of the Prisons in England, Scotland, and Wales, Extending to Various Places therein Assigned, not for the Debtor Only, but for Felons also, and Other Less Criminal Offenders. Together with Some Useful Documents, Observations, and Remarks, Adopted to Explain and Improve the Condition of Prisoners in General* (London: John Nichols and Son, Red Lion Passage, 1812), 79. ←
7. Neild, 78. ←
8. Later, in the Victorian era, we might expect a gaol scene like this to present a catalogue of criminal types based on the popularity of physiognomy at the time. For a comprehensive analysis of this phenomenon as it related to artists and caricaturists, see Mary Cowling, *The Artist as Anthropologist: The Representation of Type and Character in Victorian Art* (New York: Cambridge University Press, 1989). ←
9. As Georges Lamoine has explained, "Gaol Delivery Fiats were the product of a court sitting under the king's commission of Assize, Oyer and Terminer and General Gaol Delivery. They are orders issued by the court and signed by the Judges." Georges Lamoine, *Introduction to Gaol Delivery Fiats* (Bristol: Bristol Records Society, 1989), ix. ←

10. See: Gaol Delivery Fiats, JQS/GD/43: 17 April 1811; JQS/GD/44: 23 March 1812; and Quarter Sessions papers: JQS/P/286: Calendar of prisoners; informations: general release of actions October 1811 – January 1812; JQS/P/288: Calendar of prisoners; informations; notice of surrender January – March 1812; JQS/P/297: Calendars of prisoners April 1812 – April 1813. Bristol Archives, Bristol. ←
11. If we include women, not pictured in Greenway's paintings, these figures rise to ten for assault, six for murder or manslaughter, nine for counterfeiting or forgery-related charges and an extra two for keeping and maintaining a disorderly house. For larceny, the figure rises to seventy-two. Ibid. ←
12. Sugar is defined as such in James Hardy Vaux's *New and Comprehensive Vocabulary of the Flash Language*, published in 1819 by John Murray in London, which is also, incidentally, Australia's first dictionary. Throughout this essay, I include these terms in an effort to conjure the soundscape of the image, as well as point to the rich vocabulary shared by the English convict class—one so complete that lawyers and judges in the criminal courts often required interpreters. See Simon Barnard, *James Hardy Vaux's 1819 Dictionary of Criminal Slang: And Other Impolite Terms as Used by the Convicts of the British Colonies of Australia with Additional True Stories, Remarkable Facts and Illustrations* (Melbourne: Text Publishing, 2019). ←
13. For a discussion of workers' rights in all aspects of the eighteenth-century British sugar trade, see Peter Linebaugh, *The London Hanged: Crime and Civil Society in the Eighteenth-Century* (London: Verso, 2003), 410–411, and 416–417. For a more expansive history, see Sidney W. Mintz, *Sweetness and Power: The Place of Sugar in Modern History* (New York: Viking, 1985), 214. ←
14. The Waltham Black Act of 1723, which was not repealed until a century later in 1823, was perhaps the legal code most responsible for the legitimization of the processes of enclosure or land privatisation, and thus the criminalisation of numerous customary practices associated with common land. For a comprehensive account of this code, see E.P. Thompson, *Whigs and Hunters: The Origins of the Black Act* (London: Allen Lane, 1975). ←
15. Neild, *State of the Prisons in England, Scotland, and Wales*, 78. ←
16. Neild, 78. ←

17. Thomas Fowell Buxton, *An Inquiry, whether Crime and Misery are Produced or Prevented, by our Present System of Prison Discipline. Illustrated by Descriptions of the Borough Compter; Tothill Fields Prison; the Jail at St. Albans; the Jail at Guildford; the Jail at Bristol; the Jails at Bury and Ilchester; the Maison de Force at Ghent; the Philadelphia Prison; the Penitentiary at Millbank; and the Proceedings of the Ladies' Committee at Newgate* (London: J. and A. Arch, 1818), 133. ←
18. Arthur Griffiths, *The Chronicles of Newgate* (London: Chapman and Hall, 1896), 281. ←
19. This interpretation owes somewhat to the following description, from the article “The Hidden History of Banking,” published by the Reserve Bank of Australia, museum.rba.gov.au/exhibitions/hidden-history-banking/, accessed September 12, 2019. “The convicts’ hands form gestures like the links of a chain as they indicate varying incidents.” ←
20. Mary D. Garrard, “Artemesia’s Hand,” *The Artemesia Files*, ed. Mieke Bal (Chicago: University of Chicago, 2006), 19. ←
21. Throughout his book, Linebaugh emphasises the causal relationship between “criminality” and the working-class experience, commenting that “economists have been hard put to explain how the labouring people could actually live given the wage rates that prevailed,” thereby raising the question of the “relationship between thievery and survival.” Linebaugh, *The London Hanged*, 8. ←
22. Griffiths, *The Chronicles of Newgate*, 357. ←
23. Douglas Hay, “Property, Authority, and the Criminal Law,” in *Albion’s Fatal Tree: Crime and Society in Eighteenth-Century England* (New York: Pantheon Books, 1975), 17–63. ←
24. See for instance Peter Goodrich, *Legal Emblems and the Art of Law: Obiter Depicta as the Vision of Governance* (London: Cambridge University Press, 2014), 130. ←
25. In the chapter “Visibilities,” Goodrich elaborates on the meaning of the hand in law (what he terms “legal chirosophy”), explaining that hand gestures, along with facial expressions, and tone and volume of voice, were all crucial aspects of the lawyer’s rhetorical devices in the courtroom. Goodrich, *Legal Emblems and the Art of Law*, 207–245. ←
26. Thanks to my colleague Alex Brown for this insight. ←

27. Johann Wilhelm von Archenholz, *A Picture of England: Containing a Description of the Laws, Customs and Manners of England. Interspersed with Curious and Interesting Anecdote* (Dublin: P. Byrne, 1791), 164. ←
28. Wilhelm von Archenholz, *A Picture of England*, 169–170. ←
29. Wilhelm von Archenholz, 170. ←
30. Wilhelm von Archenholz, 171. ←
31. E. P. Thompson, *Customs in Common: Studies in Traditional Popular Culture* (New York: The New Press, 1990), 482. ←
32. Martin Ingram, “Ridings, Rough Music, and the “Reform of Popular Culture” in Early Modern England,” *Past & Present* 105 (November 1984): 97. ←
33. Timothy Millett, “Leaden Hearts,” in *Convict Love Tokens: The Leaden hearts the Convicts Left Behind*, ed. Michele Field and Timothy Millett (Kent Town, South Australia: Wakefield Press, 1998), 11. ←
34. Hardy Vaux, in Barnard, *James Hardy Vaux’s 1819 Dictionary of Criminal Slang*, 125. ←
35. See Linebaugh, *The London Hanged*, 318. For a more detailed account of these games, see Seán Ó Súilleabháin, *Irish Wake Games* (Cork: Mercier Press, 1969). ←
36. Some of these terms may require brief definition. Very broadly speaking, rough music or charivari describes public processions designed to shame the malefactor; attention is drawn to him or her through the banging of pots and pans, and by shaking kettles filled with stones, often accompanied by the singing of rhymes or ballads. Skimmington rides are also processional, involving the malefactor being placed backwards on a horse or donkey (the latter is slower, thus protracting the shame ritual) and drawn through the centre of the village. Skimmingtons sometimes involved wearing animal horns or antlers, white shirts, and carrying a white distaff. Sometimes the next-door neighbour of the offending person would ride in his or her place, or an effigy. Riding the stang is related to a skimmington, except a long pole or a wooden horse is used instead of a live animal. Ducking or “cucking” involved tethering the offender either to a chair (a ducking or cucking stool) or enclosing them in a cage, which is then “ducked” under water in a kind of purification ritual that sometimes led to death by drowning. Bridling—a specifically female punishment that would bind the victim’s mouth shut with a head brace fitted with sharp metal teeth that may puncture her tongue—was a less common though extremely sadistic form of punishment, producing some of the most frightening images of folk justice. The bridle was often referred to as a “scold’s bridle.” See Stephen Banks, *Informal Justice in England and Wales 1760–1914* (Suffolk: Boydell and Brewer, 2014). ←

37. Banks, *Informal Justice*, 55. ←
38. Banks, *Informal Justice*, 28. For more detail on the Burton-on-Trent case study, see the earlier text Banks cites by Joan Kent, A. O. Q/SI West Kent Mich. 1708 ff. 9, 12. ←
39. Ingram, “Ridings, Rough Music, and the ‘Reform of Popular Culture,’” 105. ←
40. For a more detailed account of patriarchal misogyny in folk justice, see David Underdown, “The Taming of the Scold: The Enforcement of Patriarchal Authority in Early Modern England,” in *Order and Disorder in Early Modern England*, ed. Anthony Fletcher and John Stevenson (London: Cambridge University Press, 1985). ←
41. Thompson, *Customs in Common*. ←
42. Martin Ingram, “Judicial Folklore in England Illustrated by Rough Music,” in *Communities and Courts in Britain 1150–1900*, ed. Christopher Brooks and Michael Lobban (London and Rio Grande: The Hambleton Press, 1997), 74–75. ←
43. For a detailed account of what seems to have been a highly self-interested staging of folk justice, see David Rollison’s analysis of a “mock groaning” (mock birth) instigated by Isaac Humphries in Westonbirt in 1716. David Rollison, “Property, Ideology, and Popular Culture in a Gloucestershire Village 1660–1740,” *Past and Present* 93 (1981): 70–97. ←
44. Banks, *Informal Justice*, 7. On this point, Ingram explains that charivaris “asserted the validity of a system of collective values which was stronger than the vagaries of individuals.” Ingram, “Ridings, Rough Music, and the ‘Reform of Popular Culture,’” 99. ←
45. William Henderson, *Notes of the Folklore of the Northern Counties of England and the Borders* (London: Published for the Folk-lore Society by W. Satchell, 1879), 29, cited in Thompson, *Customs in Common*, 493. Thomson further notes: In Woking, rough music was deployed against tithe-protectors, enclosers, and overzealous landlords, alongside those who “overstocked the common or cut excessive turfs and faggots.” Further West, in the so-called heartland of the skimmington, it was “employed in actions against workhouses and turnpikes”—and nowhere more famously than in South Wales during the Rebecca riots against the turnpike tolls in the 1840s, where the *ceffyl pren* (Welsh for wooden horse—a wooden pole or frame to which the offender was tethered) played a major role in the demonstrations. Thompson, *Customs in Common*, 519–520. ←

46. J. T. Brockett, entry for “Riding the Stang,” in *A Glossary of North Country Words in Use* (Newcastle-on-Tyne; E. Charnley, 1829), cited in Thompson, *Customs in Common*, 492. ←
47. Brockett, “Riding the Stang,” 530–531. ←
48. The self-portrait in *The Mock Trial* seems to be corroborated by the only other known surviving artwork attributed to Greenway, an undated self-portrait on paper held in the Mitchell Collection of the State Library of New South Wales. The two oils paintings have been understood to be self-portraits, according to the generations of Greenways to have inherited them. Provenance record for Francis Howard Greenway, ML1002 and ML 1003. State Library of New South Wales, Sydney. ←
49. James Broadbent, “Francis Greenway 1777–1837,” in James Broadbent and Joy Hughes, *Francis Greenway: Architect* (Sydney: Historic Houses Trust of New South Wales, 1997), 10. ←
50. For instance, Greenway biographer Alasdair McGregor identifies the watch in *Untitled [Scene inside Newgate]* as belonging to Greenway, supposing he had been stolen by the urchin in *The Mock Trial*, and thereby placing *The Mock Trial* temporally before *Untitled [Scene inside Newgate]*. McGregor also speculates that Greenway depicts himself reporting the theft of his pocket watch to the redcoat in *Untitled [Scene inside Newgate]*. See McGregor, *A Forger’s Progress*, 54. ←
51. Though the fact that Greenway’s torn jacket in *Untitled [Scene inside Newgate]* is intact in *The Mock Trial* gives some weight to the conventional sequencing. ←
52. Neild notes that the tennis court was used to hang laundry. Neild, *State of the Prisons in England, Scotland, and Wales*, 78. ←
53. Piers Beirne, “Hogarth’s Animals,” *Journal of Animal Ethics* 3, no. 2 (Fall 2013): 137. ←
54. Harry Potter, *Shades of the Prison House: A History of Incarceration in the British Isles* (Woodbridge: Boydell and Brewer, 2019), note on 113. ←
55. Newgate was then overseen by private gaoler William Humphries ←

56. Neild records that two deserters were incarcerated in Newgate during his visit on October 4, 1803. See Neild, *State of the Prisons in England, Scotland, and Wales*, 77. No deserters, however, are discernible in the 1812 judicial records or prison calendars. ←
57. Goodrich, *Legal Emblems and the Art of Law*, 19. ←
58. This untrustworthy image has a *nachleben*—appearing like a premonition of Greenway’s later experience at the hands of senior members of the 46th Regiment once in the penal colony. On December 20, 1816, Captain Edward Sanderson violently horse-whipped him for failing to complete an artistic commission on time, then for sending the Captain an insolent letter in defence of his tardiness. Greenway took Sanderson to the Criminal Court on charges of assault and battery, and won. And this despite the fact that all the other members of the 46th who witnessed the assault and were party to its premeditation not only refused to testify against their superior, but openly—and brazenly—criticised the judge for asking them to. For a more detailed account, see chapter eight of Ellis, *Francis Greenway*, 62–71; or the chapter “Pain and Humiliation: The Barrack Square Incident,” in McGregor, *A Forger’s Progress*, 135–150. ←
59. I borrow Christopher Hill’s phrase, used to describe both the social custom of foolery, where social customs were temporarily inverted on festival days, and the sense in the seventeenth century that the world, through revolution, might permanently be turned upside down. See Christopher Hill, *The World Turned Upside Down: Radical Ideas During the English Revolution* [1972] (London: Penguin, 1991). ←
60. Ian Donaldson, *The World Upside-Down: Comedy from Jonson to Fielding* (Oxford: Clarendon Press, 1970), 6–7. ←
61. For a lengthier analysis of this theme, see Donaldson’s first chapter “Justice in Stocks,” in *The World Upside-Down*, 1–23. ←
62. In this respect, it is telling that the only legible text in either painting, inscribed above the doorway to the left, is deeply authoritative and legalistic in purpose: “By Order of the Sheriffs/Room for Refractory Debtors.” ←
63. W. J. Sheehan, “Finding Solace in Eighteenth-Century Newgate,” in *Crime in England 1550–1800*, ed. J. S. Cockburn (New Jersey: Princeton University Press, 1977), 234. ←
64. Banks, *Informal Justice*, 48–50. ←

65. This argument is put most famously in Hay, “Property, Authority, and the Criminal Law.” ←
66. Thompson, *Whigs and Hunters*, 261. ←
67. Thompson reasons: “What was often at issue was not property, supported by law, against no-property; it was alternative definitions of property-rights: for the landowner, enclosure—for the cottager, common rights; for the forest officialdom, “preserved grounds” for the deer; for the foresters, the right to take turfs.” Thompson, *Whigs and Hunters*, 261. ←
68. Silvia Federici, *Caliban and the Witch: Women, The Body, and Primitive Accumulation* (New York: Autonomedia, 2004). ←

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