



THE NEW PANOPTICON :
NEWSPAPER DISCOURSE AND THE
RATIONALISATION OF SOCIETY
AND CULTURE IN
NEW SOUTH WALES
1803 - 1830

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ABSTRACT OF PHD. THESIS

This thesis analyses the emergence of new ideological practices in the changing penal colony of N.S.W. prior to 1830. The changing economic and social structure of N.S.W. emerged in conjunction with the construction of new ideological tools for legitimising and constructing new forms of power relations. New technologies of power emerged to regulate and govern a class society composed not only of convicts and soldiers, but also increasingly of specialised capital and wage labourers. The press played a catalytic role in this process and is the central object of this thesis.

The formation of the new ideology of the colony was articulated in the press of this period as a need to liberate individuals from violent, oppressive power relations of a personal kind they associated with monarchical-aristocratic regimes. I argue, following Foucault, that this humanitarian demand for the removal of violence, particularly state violence, from the perceptual field of everyday life was in fact part of the progressive rationalisation of state power and power relations in general. Under the guise of reducing the violence of social control mechanisms, there was occurring a demand for the qualitative transformation of power; for its movement away from an idiom and from rituals which personified it. Instead of power gaining its majesty and its mask as an extension of the benevolent character of those who wielded it, there was a demand that power reside in structures rather than in persons, that power assume a certain rational anonymity and that it reside in impersonal apparatuses, mechanisms and institutions. This demand for the decentralisation of power was often phrased, in the press, as a struggle to develop efficient and effective mechanisms of power by basing them on a new "scientific" understanding of human nature. Overall I am concerned with documenting how discussions in the press, relating for example to the family, philanthropy, the economy and the nature of democratic state institutions were part of the formation of a new ideology of the state in early N.S.W.. This ideology was one which supported the institutionalisation and bureaucratisation of bourgeois pedagogic influence and took its character as a particular articulation of the relationship of power with knowledge.

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ABBREVIATIONS

ADHS	Armidale District Historical Society
AEHR	Australian Economic History Review
BAH	Business Archives and History
Bigge, <u>Report,</u> <u>Vol.1</u>	Report of the Commissioner of Inquiry, into the State of the Colony of New South Wales, 6 May 1822. Ordered by the House of Commons to be printed, 19 June 1822. British Parliamentary Papers, 1822, Vol.XX, No.448.
Bigge, <u>Report,</u> <u>Vol.2</u>	Report of the Commissioner of Inquiry, on the Judicial Establishments of New South Wales, and Van Diemen's Land. Ordered by the House of Commons to be printed, 21 February 1823. British Parliamentary Papers, 1823, Vol.X, No.33.
Bigge, <u>Report,</u> <u>Vol.3</u>	Report of the Commissioner of Inquiry on the State of Agriculture and Trade in the Colony of New South Wales, 10 January 1823. Ordered by the House of Commons to be printed, 13 March 1823. British Parliamentary Papers 1823, Vol.X, No.136.
HRA	Historical Records of Australia (Series 1 unless otherwise stated).
HRNSW	Historical Records of New South Wales.
HSANZ	Historical Studies: Australia and New Zealand.
JRAHS	Journal of the Royal Australian Historical Society.
ML	Mitchell Library.
N.S.W.	New South Wales.
PB	Push from the Bush.
[?]	Unreadable word in documents.
[]	Square brackets denote my addition of words to the text to convey its meaning.
£	British Sterling Pound.

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PREFACE

This thesis analyses the structure of discursive practices and the changes in this structure in the penal colony of N.S.W. as it moved from being based solely on authoritarian, hierarchical relations centred around the Governor to a more democratic capitalist society. The focus will be newspaper discourse between 1803 and 1830, though I will also draw on private and official correspondences and published and unpublished manuscripts. The year 1830 is a convenient "cut-off date": just before the beginning of large-scale working class immigration into N.S.W. and just before the changes in government policy which came with the new Whig British governments appointment of the liberal Governor Bourke.

Newspapers were the main producers of public texts in N.S.W.. They were the arena within which an embryonic intelligentsia expressed its class concerns. The Monitor, 11 May 1827, claimed: "Editors are the only men in the colony who live by literature". Through the publication of letters, overseas news, book reviews, and the views of its editors, N.S.W. newspapers provided the main public medium within which bourgeois society could reflect upon itself. The ruling class of N.S.W. articulated its relations of domination by treating certain subjugated groups (aborigines, women, convicts, and the poor) as problematic objects of public knowledge. The power to objectify, that is to make individuals into an object of critical scrutiny, is in itself a statement of relations of domination and subordination in society.

Above all else, newspapers provided the medium within which the ruling class and its fractions could work out crit-

ically the nature and future development of power. Nearly all forms of public knowledge which involved proposals for the coordination and evaluation of strategies against subjugated groups, was at some stage articulated through newspapers. The first book published in N.S.W., in 1802, was a copy of Government regulations; most books dealing with the political controversies of N.S.W. were published in Britain.¹ There was very little development of street literature in early N.S.W.. In comparison with contemporary Britain, very few pamphlets were published and broadsheets were printed only occasionally and mostly from newspaper articles.² Since the number of printing presses was always small, it was difficult for unauthorised productions, protected by the cloak of anonymity, to emerge. The only diffuse form of subversive literature were the "pipes": letters passed, thrown or left anonymously in public or private places, generally satirising opponents and authorities.³

Despite the prominent ideological role which colonial newspapers occupied in N.S.W., many historians have looked at newspapers merely as additional sources for the documentation of events occurring elsewhere. Alternatively, they have written an institutional history of newspapers or explored their role in certain important constitutional issues. But newspapers are important ideological phenomena in their own right. Their articles possess internal ideational structures which have a certain autonomy that lends itself to structur-

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1. H.M. Green, A History of Australian Literature, p.10-64.
 2. G.C. Ingleton, True Patriots All, pp.260-268.
 3. H. Mayer, The Press in Australia, p.22; G.A. Wilkes, "Australian Literature" in The Literatures of the British Commonwealth: Australian and New Zealand, ed. G.A. Wilkes and J.C. Reid, p.36.

alist, semiotic and other interpretive forms of approach. These internal ideational structures are not simply reflective of the wider social economic and political context, but also contribute to the formation, constitution and composition of these contexts. Their ability to exert such a significant influence emerged partly out of the fact that at an institutional level N.S.W. newspapers represented the centralisation of the means of cultural reproduction, which in turn was facilitated by the mechanisation of printing. No doubt, such a centralisation of pedagogic influence was viewed as necessary in a penal colony: hence the imposition of censorship on N.S.W.'s first newspaper, the Sydney Gazette.¹ Indeed this centralisation of cultural influence was sponsored by the government with it providing the printing equipment, the building and a salary of £60 for the Sydney Gazette's first printer, George Howe.²

The discursive approach which I adopt has emerged primarily out of the work of Michel Foucault. Here newspaper statements are not questioned in terms of their propositional content, that is the extent to which they conform to a logical model of truth or a scientific-legal criteria of evidence.³ Instead, statements are interrogated with a view to drawing out those historically relative criteria and assumptions which gave statements the semblance of truth, which provided them with the right to be made and circulated as truth.⁴ Nor are

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1. Mayer, op.cit., p.10; R.B. Walker, The Newspaper Press in New South Wales 1803-1920, p.4.
 2. Walker, op.cit., p.3.
 3. M. Foucault, The Archaeology of Knowledge, pp.84, 107-108.
 4. Ibid., pp.175-195; See also J. Dunn "The Identity of the History of Ideas", Philosophy, Vol.XLIII, 1968, pp.87-88, 95.

statements in a discursive analysis reduced to problems of authorship or the subjective motivations of authors.¹ It would be difficult to know who the authors of letters to the N.S.W. press were, let alone who the authors of letters and articles reprinted from overseas newspapers were. Authorship is not relevant to the style of analysis which I prefer. This is one which attends to the context and contextualising form of the argument or statement itself. Statements assume their significance within the structure of a discourse and are non-arbitrary either in their selection or in their consequences in the articulation of a debate.

More important than the authors are the discursive strategies themselves; how these obey a certain regularity, a certain constancy which allows one to group disparate statements together into opposing or allied conceptual manoeuvres in a field of power relations.² John Dunn has captured the essence of Foucault's and my position when he points out that to write the history of ideas is to write the history of an activity.³ Even if arguments are false or even if a writer contradicts himself, this is not as important as the existence of the argument and its form and use. None of these aspects is random.

To the extent that I employ the term "discursive strategies", it should be noted that I do not use it in the symbolic interactionist sense, which places a personal meaning and goal

1. Foucault, op.cit., pp.27-29.

2. Ibid., pp.64-70.

3. Dunn, op.cit., pp.87, 94.

behind each statement or action. Rather I use it in the more Marxian and Foucaultian sense of relating the statement to its social structural and cultural horizon, to what global interests it serves there. Here, the statements of individuals become the bearers of processes and meanings outside of their own specific intentionality. Such a conception of action does not posit a conspiratorial view of the world so much as a processual view which seeks to grasp how a series of isolated discursive acts merge into "a coherent, rational strategy, but one for which it is no longer possible to identify a person who conceived it".¹

My enquiry examines how colonial N.S.W. newspapers formed one of the prime sites for articulating a series of discursive strategies, whose programmatic effect was to foster the progressive rationalisation of N.S.W. society and culture. The gaze which the press directed at N.S.W. society will be viewed as part of the progressive application of rational schemata upon society, that is as part of the reduction of all social and cultural relations to a utilitarian calculus. However, I also adopt Foucault's advice by not treating this process in N.S.W. in a wholistic and primarily theoretical manner, as Max Weber, Herbert Marcuse and Jürgen Habermas have done with Europe and America.² The latter writers have all treated rationalisation as a global process bound up with the birth and growth of capitalism and science; and in particular with capitalism's reduction of all social and cultural relations to scientific means-ends relationships.

1. M. Foucault, Power/Knowledge, p.203.

2. M. Foucault, "The Subject and Power", in H.L. Dreyfus and P. Rabinow, Michel Foucault: Beyond Structuralism and Hermeneutics, p.210.

The important point they make is that the idiom of technology, that is the identification of Reason with the pursuit of an optimum effect through the most economic means, though having its origins in capitalism's appropriation of science in industry, has also been progressively diffused throughout society. It has permeated and structured a whole series of domains remote from industry.¹ These, as this thesis will show, have included penal praxis, philanthropy, state violence, the family, the economy, state bureaucracy, and indeed nearly the whole framework within which all public knowledge could be expressed in N.S.W..

This is why Foucault's advice that "it may be wise not to take as a whole the rationalisation of society or of culture, but to analyse such a process in several fields" is appropriate.² It is especially appropriate for N.S.W. newspaper discourse insofar as this is a domain where one sees a rudimentary classification and separation of topics and spheres of everyday life. N.S.W. newspaper articles became increasingly specialised, such that one had separate articles on the religious

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1. "First, production processes were revolutionized by scientific methods. Then expectations of technically correct functioning were also transferred to those areas of society that had become independent in the course of the industrialization of labour and thus supported planned organisation. The power of technical control over nature made possible by science is extended today directly to society: for every isolatable social system, for every cultural area that has become a separate, closed system whose relations can be analysed immanently in terms of presupposed systems goals, a new discipline emerges in the social sciences." J. Habermas, Toward a Rational Society, p.56. See also M. Weber, The Theory of Social and Economic Organisation, pp.123, 338-339; See also K. Lowith, Max Weber and Karl Marx, pp.25-26, 29-43, 48-49, 51-56. Habermas, op.cit., especially Chapter 6, pp.91-122; Theory and Practice, pp.270-276; Communication and the Evolution of Society, pp.117-120. H. Marcuse, One Dimensional Man, especially Chapter 6, pp.119-138.
 2. Foucault, op.cit., p.210.

education of the poor, women, convicts and Aborigines; articles on government economic and secular educational policies towards these distinct groups; and articles on the relation of the family to each of these groups.

The increasingly specialised character of N.S.W. newspaper articles, as this thesis will show, reflected in part an effort to develop and give autonomy to particular technologies of power which were being articulated within these specific cultural and social domains. It reflected a concern with refining the application of power in each of these specialised domains, with rendering power more effective by making it more consistent with the nature of its object. In effect, newspapers in N.S.W. provided the programmatic knowledge for a rationalisation of power, which was in part a process of specialisation. This is not to say, that a connection was not often made in any given newspaper article between more than one of the above specialised areas: such links were often made. But it is to assert that within the overall institutional unity of any given N.S.W. newspaper, one finds within its columns a tendency towards the progressive multiplication of knowledge and power in an increasingly complex society. There is a specificity to the concrete forms which discussions about the nature of power in particular realms assumed. These need to be analysed in terms of their own internal logic, as well as in terms of what they reveal about the general organisational development of power and truth in modern society.

This thesis is divided into two volumes. The logic which informs this division relates to my primary emphasis on a discussion of ideological processes in the N.S.W. press.

My argument is that the historical development of capitalism is shaped through an ideological discourse. The first volume examines this process by analysing the role of the press in the cultural construction of a working class. These ideological practices can be largely understood independently of a detailed knowledge of the processes of capital accumulation in N.S.W.. This is not to say that such an empirical understanding is unimportant. Indeed, I assume much of the important historical scholarship that has been done in this field. However, I believe the reader will benefit more by having a detailed knowledge of the processes of capital accumulation given to him in the beginning of the second volume. It is in this second volume that I deal with the uncensored press, where a public politicisation of the N.S.W. state emerged in a context of competition between class fractions. This political struggle promoted the bureaucratisation of the state and the rationalisation of political discourse.

Before beginning to analyse the cultural construction of a working class in N.S.W., in the next chapter I clarify how processes of bureaucratisation and rationalisation in the British reform movement were part of a similar class strategy in Britain. They were also partly responsible for the emergence of N.S.W. as a colony. My aim is to show how the transportation system emerged alongside, and mediated, the development of a whole series of wider social and cultural transformations in British society. The transportation system came to incorporate within the internal structure of its praxis a whole series of wider social and cultural contradictions, which only time would allow to be historically developed and exposed in N.S.W.. The history of class conflict in early

colonial N.S.W. and, especially, the ideological forms this conflict assumed, would be determined by the content and polar structure of the contradictions encoded in the praxis of the penal system. The next chapter, therefore, will delineate their presence in penal practice; while their historical articulation within N.S.W. remains the task of latter chapters.

FIRST VOLUME :

NEWSPAPER DISCOURSE

AND THE CULTURAL PRODUCTION

OF A WORKING CLASS

CHAPTER ONE

INTRODUCTION TO THE SOCIAL AND CULTURAL
CONTEXT OF BRITISH PENAL REFORMS IN THE LATE
EIGHTEENTH AND EARLY NINETEENTH CENTURIES

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Between January 1788 when the first fleet landed and 1841 when transportation to N.S.W. ended over 80,000 convicts, 67,980 men and 12,460 women, were transported to N.S.W..¹. This was about half of the 163,000 convicts sent to Australia as a whole up until 1868.² Western Australia was the last state to receive convicts. Much recent historical work has explored the possible economic and imperial motives, which might have underlain the British government's decision to begin transportation to Australia. These approaches have often opposed those approaches which argue that penal reasons only underlay the initial choice of Botany Bay.³ Whilst not seeking to detract from the scholarship that has gone into this work, I have some sympathy for Connell and Irving's criticism that the debate has simply pointed out "the multiple roles of the state".⁴ Developing this criticism further, I would argue, the debate has ignored the problem of ideology: the fact that it is almost impossible to distinguish economic from penal motives once punishment has been defined ideologically as work.

So much emphasis has been given recently to economic motives, that I find it necessary to reinvigorate the penal explanation of transportation to N.S.W.⁵. However, in doing so, my analysis is not confined to a search for initial motives;

1. L.L. Robson, The Convict Settlers of Australia, p.4.
2. Ibid..
3. Much of this debate up until 1977 has been compiled conveniently in G. Martin (ed.), The Founding of Australia.
4. R.W. Connell and T.H. Irving, Class Structure in Australian History, p.31.
5. A. Frost, "The East India Company and the Choice of Botany Bay", Historical Studies, Vol.16, 1975, pp.606-11; "The Choice of Botany Bay", AEHR, Vol.15, 1975, pp.1-20.
G. Martin, "Economic Motives behind the Founding of Botany Bay", AEHR, Vol.16, 1976, pp.128-143.

or to an unproblematic definition and acceptance of punishment and reformation as simply penal goals. Rather I want to review the meanings attached to punishment and reformation during this period of changing class strategies in Britain and to use this to explore how both the decision to found a penal colony in N.S.W. and the policies of transportation in subsequent years were both underpinned by wider social and cultural transformations. It was in the penal system that new theories of man first manifested themselves as new strategies in the development of class power. These new theories of man underpinned the reform movements seeking to restructure the state's involvement and relationship to society. By exploring such issues, the reader will gain a background knowledge of the changing structure of European civilisation at the time, something which is essential for a full appreciation of the content and structure of N.S.W. newspaper articles.

To understand the transportation of convicts to N.S.W., some understanding is needed of how the transportation system fitted into a series of parallel transformations occurring in the British criminal justice system towards the latter half of the eighteenth century. These included: the reduction in the use of violent public punishments, as evidenced in the declining number of executions; the transformation of imprisonment from a period of detention prior to the trial to the dominant form of punishment; the growth of a centralised bureaucratic police force and prison system; and lastly the emergence of attempts to completely axiomatise the judicial-political system as a whole.¹

1. See L. Radzinowicz, A History of English Criminal Law and its Administration from 1750, Vol. I, The Movement for Reform.

These transformations occurring in the system of criminal justice can in turn be understood as part of the changing structure of class relations in Britain: with the industrial revolution a new fraction of the capitalist class was becoming dominant. In the course of its development there emerged new mechanisms of social control organised around the factory, the school, philanthropy, the police force, methodism and, as we shall see, the prison.¹ These mechanisms were concerned less with repressing the lower class through violence and fear, as with ideologically incorporating them into the social and cultural structures of urban capitalism.

New Reform less emphasis on dominance

The kinds of concerns outlined above emerge from a Marxist view of the legal system. Instead of viewing the legal or penal system as a neutral autonomous domain of truth and justice, the Marxist approach which I pursue stresses the functioning of law as ideology, that is as the discursive means by which class relations are justified and reproduced.² Here the formalism of law is crucial to its functioning as ideology: its formalism, above all else, is that which creates those notions of disembodied justice that are crucial to the legal system's wider acceptance. This has been aptly put by Douglas Hay, in his discussion of the eighteenth century legal system.

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1. A. Silver, "The Demand for Order in Civil Society", in Police, ed. Bordua, J.D., especially pp.10-15; S. Chinball "Chronicles of the Gallows: A Social History of Crime Reporting" in The Sociology of Journalism and the Press, (ed.) H. Christian, p.193.
 2. Those stressing the functioning of law as ideology include A. Turk, Criminality and Legal Order; R. Quinney, The Social Reality of Crime; E.P. Thompson, Whigs and Hunters; B. Edelman, Ownership of the Image.

The punctilious attention to forms, the dispassionate and legalistic exchanges between counsel and the judge, argued that those administering and using the laws submitted to its rules. The law thereby became something more than the creature of a ruling class - it became a power with its own claims, higher than those of prosecutor, lawyer, and even the great scarlet-robed assize judge himself... When the ruling class acquitted men on technicalities they helped instil a belief in the disembodied justice of the law in the minds of all who watched. In short its very inefficiency, its absurd formalism, was part of its strength as ideology. 1.

Furthermore the Marxist approach I assume goes beyond a view of the British penal system as simply reflecting, within the structural arrangements of its own mirrors, processes which were occurring elsewhere. Here, I agree with Poulantzas in rejecting the notion of 'base' and 'superstructure' for understanding the relationship of the state to the rest of society.² Such an approach suffers from the defect of treating the penal system as peripheral to its social context. It makes it continually an expression of society rather than, alternatively, part of the production of a particular kind of society.

Accordingly, the "reformed" penal system of the nineteenth century - and afterwards -, with its emphasis on labour and disciplinary regimes, can be treated as the more coercive arm of a philanthropic movement engaged in the cultural formation of a working class.³ It was perhaps no accident that some of the first factories in England

1. D. Hay, "Property, Authority and the Criminal Law" in D. Hay, P. Linebaugh, and E.P. Thompson (eds.) Albions Fatal Tree, p.33. The notion of ideology residing not in the content but in the very forms that legal concepts take, was systematically put forward by E.B.Pashukanis, "The General Theory of Law and Marxism" in C. Arthur (ed.) Law and Marxism.
2. Poulantzas, State, Power, Socialism, pp.16-19
3. On the role of the legal system in the coercive formation of a working class, see K.Marx, Capital, Vol.1, Ch.27, Ch.28, pp.671-701; Grundrisse, pp.769-770. On the role of philanthropy in the cultural formation of a working class, see E.P. Thompson, The Making of the English Working Class, pp.385-404.

and Europe began in Bridewells and Houses of Correction.¹
The formation of these state pedagogic institutions, as Foucault points out, was part of the creation of suitably docile subjects who could be inserted into the machinery of capitalist production.²

The next section begins by exploring those cultural notions of criminality which underpinned the exercise of power in the existing penal system and in the prison reform movement. We will explore that "otherness" with which the criminal threatened bourgeois society. What was the nature of that humanity which the criminal embodied that it required either his execution, transportation or imprisonment?

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1. S. Pollard, The Genesis of Modern Management, pp.163-164; M. Ignatieff, A Just Measure of Pain, p.32; G. Rusche and O. Kirchheimer, Punishment and Social Structure, pp.41-52.
 2. M. Foucault, Discipline and Punishment, pp.138, 164, 221, 242-243; and The History of Sexuality, p.141.

(B) IMPRISONMENT AND A CULTURE OF CONSUMPTION(i) Imprisonment and Desire

It has been estimated that the number of capital statutes increased about four-fold between the middle of the seventeenth century and 1820, from about 50 to over 200. Most of this expansion occurred in the realm of protecting property.¹ This expansion involved only partly extending the deterring terror of the scaffold to cover new illegalities. Often the new statutes did not create new capital crimes, but elaborated in greater detail upon the particular offences against property which more broader statutes had encompassed.² Very few of the new statutes were used: the old crimes of murder, burglary and housebreaking, and forgery accounted for two-thirds of all executions in England and Wales in 1810.³

New Returns more humanitarian

The new statutes were more an exercise in pedagogics than a new found commitment to an expansion of state violence. They occurred within a context of intensified class struggle, as this took the atomised form of increased crime.⁴ What lends support to the pedagogic argument is that though the number of

1. Radzinowicz, op.cit., Vol.1, pp.4-5, 49-74, see also Appendix 1, pp.611-659.
2. A.G.L. Shaw, Convicts and the Colonies, pp.25-27.
3. Radzinowicz, op.cit., Vol.1, p.155.
4. J.M. Beattie, "The Pattern of Crime in England 1600-1800", Past and Present, 62, February 1974, pp.47-48, 78. After 1805 Parliament published annual statistics for England and Wales. The number of indictable committals for property offences rose from 4,196 in 1805 to 5,601 in 1814; it then rose steeply between 1815 and 1817 with the release of men from the Napoleonic Wars to 12,451 in 1817 and to 20,284 in 1837. In relative terms, the number of indictable committals to trial per thousand rose from 44.1 in 1805 to 51.8 in 1815, then rose steeply to 109.4 in 1817 and 134.3 in 1837; V.A.C. Gatrell and T.B. Hadden, "Criminal Statistics and their Interpretation", in Nineteenth Century Society, (ed.) E.A. Wrigley, pp.336-397.

capital offences and capital convictions increased, executions declined dramatically. It is estimated that in the early seventeenth century something like 2,000 executions took place annually in England and that by the latter half of the eighteenth century this declined to less than 200.¹ The number of prisoners executed in London and Middlesex dropped from 365 out of 527 sentenced to death for the ten years 1749-1758 to 220 executed out of 747 sentenced to death for the ten years 1790-1799.² This trend became more pronounced in the first half of the nineteenth century, with only 123 prisoners being executed out of 939 sentenced to death in London and Middlesex, between the years 1800-1810.³ In terms of ratios, two-thirds of the prisoners capitally convicted were executed for the 10 years 1749-1758, whilst between 1800 and 1810 inclusive only one-seventh were executed.

Capital punishment replaced by transportation.

The expansion of capital offences in combination with the reluctance to use them served to justify the expansion of lesser punishments and, indeed, the transportation of offenders out of Britain under an ideology of merciful benevolence. In 1717, the British Government passed a statute allowing transportation to the American colonies. In the Preface to the statute, mercy and a shortage of labour in the colonies were given as the statute's rationale.⁴ By the late 1760's about 70 per cent of all sentences at the old Bailey involved transportation either for 7 or 14 years or for life.⁵ The American

1. Shaw, op.cit., pp.28-29; Radzinowicz, op.cit., Vol.1, pp.139-142.
2. Radzinowicz, op.cit., Vol.1, p.151.
3. Ibid., p.152.
4. C.M.H. Clark, Select Documents in Australian History, Vol.1, pp.104-105.
5. Ignatieff, op.cit., pp.19-20; See also J.T. Sellin, Slavery and the Penal System, p.97.

War of Independence effectively ended transportation to America, resulting in overcrowded British prisons and a search for new penal colonies. Transportation to Australia developed from this situation.

*Overcrowding resulting in
Trans to Australia*

Both transportation and the death sentence had in common the permanent banishment of the offender. We should not be surprised if contemporaries regarded them as alternatives. Each relied for their terror on the destruction of the offender's social existence amongst close associates. In effect, they were manipulating the social order of Britain so as to remove its potentially subversive elements. Both punishments were justified in terms of the moral irreclaimability of the offender:

the peace of society, and the safety of innocence, require that such persons should be restrained by the fear of punishment; and if, not reclaimable, that they should be removed by exile or death from the society they disturb or molest. 1.

Transportation was however more than a "humanitarian" form of banishment.² It no doubt fitted within the old penal logic premised on the permanent exclusion of the offender. However, transportation was also part of an emerging set of penal practices based on disciplining and training the offender. The new aim here was to render the act of punishment and the offender useful to society and the state. Thus, transportation imposed work as a condition of exile. The prison reformer, Howard, in criticising executions and suggesting imprisonment as an alternative, complained: "many are brought to a prem-

1. A. Ferguson, Principles of Moral and Political Science, Vol.1, p.163.

2. Shaw, op.cit., p.21.

*work
transport imposed work*

ature end, who might have been useful to the state".¹. In a similar vein, Eden praised the beginning of transportation to N.S.W. on the grounds that: "criminals when their lives or liberties are forfeited to justice become a forlorn hope, and have always been judged a fair subject of hazardous experiments, to which it would be unjust to expose the more valuable members of a state".².

There is a sense in which the transportation system became important because it was able to handle, indeed subsume, a whole series of struggles taking place over the direction which the penal system should be assuming. It fused together the existing deterrent aims of punishment with new reformative aims, which were based on the non-corporal punishments of work, solitude and discipline.³. Work, especially, as both drudgery and discipline, could punish without marking the body; it could deter, while morally reclaiming the individual. Work, thus functioned as both expiation and salvation; it made amends for past sins whilst seeking to deliver the prisoner from a future propensity to sin. This was why, on the first official seal sent out to N.S.W. in 1791, the first Judge Advocate, David Collins, praised the appropriateness of its "representation of convicts landing at Botany Bay, received by industry, who, surrounded by her attributes, a bale of merchandise, a beehive, a pick axe, and a shovel, is releasing

1. J. Howard, The State of Prisons, p.261. Throughout this thesis I will use the Everyman's Library edition of this book. It contains extracts from "An Account of Lazarettos", where further information on the conditions of prisons is documented by Howard.
2. W. Eden, The History of New Holland (1787), pp.v-vi; see also Heath, op.cit., p.199.
3. Colquhoun, Treatise on the Police of the Metropolis, (1796) pp.32-33. Throughout this thesis I will be using the revised 1800 edition of this book. This book had by 1797 run into five editions and appeared again, though enlarged in 1800, 1805 and 1806.

them from their fetters, and pointing to oxen ploughing and a town rising on the summit of a hill".¹.

Through hard work the penal system was seeking to form the prisoner into a man of character, by internalising within him notions of order, regularity and restraint.² These qualities were seen as necessary for the production of disciplined producers but also disciplined consumers. To possess character in this age was to possess the quality of self-discipline. Sennet has summed up this self-denial of consumption in Protestant, capitalist culture in these terms:

By denying oneself pleasure in concrete experiences, one shows, one is a real person. The ability to delay gratification is the sign, supposedly of a strong personality.³.

In 1753, Fielding suggested the sense-deprivation punishments of solitude and fasting as a means of correcting the reckless extravagance of criminals;

There can be no more effectual means of bringing the most Abandoned Profligates to Reason and Order than those of Solitude and Fasting; which latter is often as useful to a diseased mind as to a distempered body. 4.

What upset reformers of the existing prison system were precisely the sensuous scenes of pleasure, dissipation, free association, drinking, gambling, prostitution and play to be found there.⁵ Reformers demanded a new bureaucratic prison with disciplined austerity and dietary regimes. Prison reform was more than an attempt to produce disciplined habits of work.

1. D. Collins, An Account of the English Colony in New South Wales (1798), Vol.1, p.179.

2. Ignatieff, op.cit., p.67.

3. R. Sennet, The Fall of Public Man, p.333.

4. Quoted in Ignatieff, op.cit., p.46.

5. Ignatieff, op.cit., p.33; Howard, op.cit., pp.13-17.

It can also be seen as an attempt to discipline those acts of immediate sensuous self-indulgence which knew no moral boundaries and to which the scaffold had traditionally been the ultimate answer.

What does the criminal represent for the eighteenth century, if not the unrestrained logic of its own individualism and atomistic tendencies: the pure pursuit of sensuous egoism.¹ Hence the fascination with the criminal in contemporary novels and street literature;² and the long queues outside Newgate and Tylburn waiting to see the more abandoned, capitally convicted criminals.³ In the criminal, that inner logic of human nature, self interest but also freedom, around which bourgeois society sought to organise its social institutions, could be found working itself out to the point at which it transgressed the boundaries of sociality, the sacred, and ultimately, even that of the welfare of the individual concerned. Crime was not just a transgression of external, sacred and secular laws, but a deformity in human nature: it represented unrestrained egoistical emotions:

Crimes, or actions of the highest demerit, are such as proceed from malice, under any of its ordinary forms, whether of envy, emulation, jealousy, or revenge; or such as proceed from any habit or passion, or from covetousness, sensuality, or ambition in gratifying of which the criminal has occasion deliberately to trespass on the rights, or to disturb the peace of his fellow creatures. 4.

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1. R. Hillard, "Desire and the Structure of Eighteenth Century Fiction" in Studies in Eighteenth Century Culture, Vol.9, pp.357-370, especially p.364. We will return to this theme on p.86-89, 95-96, 102, 126-127.
 2. J.O. Lyons, The Invention of the Self, p.50. R. Hillard, op.cit.; M.G. Novak, "Appearance as Truth: The Literature of Crime as a Narrative System (1660-1841)" in The Yearbook of English Studies, Vol.II, pp.29-48.
 3. D.D. Cooper, The Lesson of the Scaffold, pp.3-21.
 4. Ferguson, op.cit., Vol.1, p.162.

unemployed seen as
morally correct - work was seen as punishing.

What partly disturbed contemporary middle-class thinkers about the poor, what made the unemployed poor so threatening, was that they were existing outside of the newly emerging regimes of discipline in the workplace.¹ To escape from work was to become a prisoner of undisciplined desire.

Idleness is a never-failing road to criminality...when it has unfortunately taken hold of the human mind, unnecessary wants and improper gratifications, not known or thought of by persons in a source of industry, are constantly generated: hence it is, that crimes are resorted to, and every kind of violence, hostile to the laws, and to peace and good order, is perpetuated. 2.

There was a constant concern with viewing the unemployed poor's lifestyle as one of abandoned profligacy and debauchery; a life dominated by the excesses of alcohol, vice, gambling, and idleness.³ Thus, implicit in the whole attack upon crime, whether through punishment, reformation or policing, was also an attack upon the growth of a whole hedonistic sub-culture of criminality in the urban context.⁴ In the imagination of the dominant class, social disorder arose "from the ill-regulated passions of vulgar life".⁵

1. Ignatieff, op.cit., p.62; N. McKendrick "Josiah Wedgwood and Factory Discipline", Historical Journal, Vol.iv, 1961, pp.30-35; E.P. Thompson "Time, Work-Discipline and Industrial Capitalism", Past and Present, Vol.38, 1967, pp.19-43.
2. Colquhoun, op.cit., pp.94-95; Heath, op.cit., p.270.
3. E.J. Bristow, Vice and Vigilance, pp.11-71. H. Amory, "Henry Fielding and the Criminal Legislation of 1751-52", Philological Quarterly, Vol.50, April 1971, No.2, pp.183-185.
4. U.R.Q. Henriques, "The Rise and Decline of the Separate System of Prison Discipline", Past and Present, LIV, (1972), pp.61-70.
5. Colquhoun, op.cit., p.347.

The relation of the mind to the undisciplined body was very much the metaphor of class relationships. At the symbolic level of the individual, the unemployed poor were collectively represented as that impulsive and unreflective aspect of human nature which was continually responsible for man's fall from Grace.¹ They were creatures of abandoned and profligate habits.² They constituted the irrational in man, the animal part of his constitution, a self without a conscience. Ferguson characterised the bulk of human beings as involved in external sensuous activity which often destroyed their powers of reflection.

In most men, indeed, intelligence appears to be little more than a principle of life, or a species of organ employed in the perception of external things, but incapable of stating itself as a subject of reflection or study. It is thus that the vulgar, by disuse, or by their habit of attending only to what is presented to their senses, lose or impair the powers of reflection.³

Crime was seen to result from a failure to supervise the senses and oneself, consequently punishment would increasingly become imprisonment in the form of unceasing supervision by others. It was because the penal system sought to develop in the prisoner the quality of self-discipline, of possessing a conscience, that it came to increasingly recommend for him the punishment of solitary confinement. For solitary confinement "would wean him from...the love of that turbulent, precarious life, in which his vices had engaged him; would raise up in him reflection on the folly of his choice and dispose his mind to such better and continued penitence, as might produce a

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1. R. Paulson, "The Pilgrimage and the Family: Structure in the Novels of Fielding and Smollett" in Tobias Smollett ed. G.S. Rousseau and P.G. Bouce, pp.66-67; Hilliard, op.cit., p.364.
 2. Howard, op.cit., p.261.
 3. Ferguson, op.cit., Vol.1, p.4.

in the principles of his conduct."¹ Reflection was seen to have the power to suspend the inertia of bad consumptive and idle habits and, in doing so, to render them susceptible to reformulation. Work was also seen to have similar moral restorative powers. *Reflection moral process*

Man was seen to be a creature of habits. Though he might be a victim of his habits, he was also responsible for them.² It was not so much that reformers sought to destroy this quality as to shape it; to create a new set of unreflective dispositions as the basis of social order.³ Thus Howard criticised keeping prisoners in the intended penitentiary houses for periods of 1 to 2 years, arguing that it was not "possible to think of any reformation in a convict's behaviour, that is likely to prove lasting in the compass of a year". He thought they should remain for at least 5 years.⁴ He also thought that because criminals were mostly in the adult stage of their lives, they would be "strong enough in constitution to bear the trial of thoroughly breaking their bad habits".⁵

The increased ideological emphasis on solitary confinement in the penal system was an emphasis on the power of reason to conquer the passions and those unreflective bad habits, which proceeded more from the undisciplined body than from reason

1. W. Paley, The Principles of Moral and Political Philosophy (1785), p.544.
2. Ibid., p.37.
3. Ibid., pp.37-40; See also John Priestly, Priestly's Writings on Philosophy, Science and Politics, (ed.) J.A. Passmore, pp.83-84.
4. Howard, op.cit., p.261.
5. Ibid., pp.269.

itself. To be free was to conquer the body, its desires. The body was the site of that determinism which often led to the loss of freedom. Hence the asceticism of this age and why it was so closely bound up with morality and individualism. One was able to appear free by demonstrating through asceticism that one had conquered one's body and its desires. This was the significance of the disciplinary regimes which reformers imposed not only on prisoners but also upon themselves and their children.¹ Solitary confinement, as sensory deprivation, was a form of asceticism, as was work. Asceticism was the external form given to the idea of what it means to be a moral being, whilst having a mind imprisoned in a body. As Cassirer has aptly put it: "the rule of the rational will over all desires of sense, over appetites and passions, proclaims and expresses the freedom of man".²

A more detailed examination of this ideological construction of criminality in relationship to the categories of desire, reason and freedom will be undertaken in the next chapter on N.S.W. executions. For the time being, I want to explore the ideological relationship of criminality to the wider society, as this underpinned the formulation of penal proposals.

1. Ignatieff, op.cit., pp.49-52; R. Morgan, "Divine Philanthropy: John Howard Reconsidered", History, 62,1977, p.390.
 2. E. Cassirer, The Philosophy of the Enlightenment, p.105.

(ii) Imprisonment and the Production of Culture

During the eighteenth century there emerged amongst the urban middle classes and certain sections of the "labour aristocracy", its tradesmen and shopkeepers, a perceived crisis in the moral fabric of society, which was seen to threaten the very foundations of society.^{1.} Images of vice were associated closely with images of social disorder. Reformers were concerned with the immorality of the lower classes, with the growth of a vicious people who stood outside society and God.^{2.} Producing this moral crisis, as the basis of their own existence and expansion, were a growing number of philanthropic societies concerned with improving the morals and manners of the lower classes.^{3.}

In the late seventeenth and early eighteenth centuries, voluntary emigration was promoted by private philanthropists with the aim partly of morally reclaiming ex-criminals who had been imprisoned for debt.^{4.} I consider that transportation by the state and the criminal justice system in general represented the more coercive pedagogic arm of the dominant class. It supplemented their more private and fragmented hegemonic endeavours, through philanthropy, to break up those collective forms of sensuality, pleasure and idleness which were associated with crime and the moral decline of the lower orders.^{5.}

What reformers were criticising were the effectiveness of

1. Bristow, op.cit., pp.14-16; Ignatieff, op.cit., pp.58, 62; Heath, op.cit., pp.24-25.
2. Radzinowicz, op.cit., Vol.2, especially pp.2-3.
3. On the activities of these philanthropic societies, see Bristow, op.cit., pp.11-12; Radzinowicz, op.cit., Vol.3, pp.141-204; D. Owen, English Philanthropy 1660-1960, pp.1-133; P. Gray, The Enlightenment An Interpretation, Vol.II: The Science of Freedom, pp.221-224.
4. Owen, op.cit., pp.62-63.
5. The other interesting process going on at the time, designed to prevent the spontaneous congregation of a crowd, was urban planning; see Sennett, op.cit., pp.54-55.

existing methods of social control. Part of their criticism of executions was that they were providing the occasions for those collective scenes of ribaldry, drunkenness, satire and laughter, which the austere middle class found so disturbing and threatening; they were creating the very scenes of disorder they should have been preventing.

During the latter half of the eighteenth century, there emerged increased demands for the coordination and systematisation of controls around the poor, in effect, demands that the supervision of the poor should become a state activity.² This was expressed in a renewed and expanded attack upon crime as evidenced in the agitations for, and in the actual growth of, a centralised police force³. and a more professional, judicial system in urban areas.⁴ These attacks upon crime can be seen as an attempt by the dominant class to reassert its authority and control over the distribution of rewards in everyday life by eliminating those illegalities which allowed the working class to maintain an independent existence outside of the market place. In short the attacks upon crime were part of the production of a working class dependent on the sale of its labour for its livelihood.⁵ But

1. For a description of those scenes, see B. Mandeville, An Enquiry into the Causes of the Frequent Executions at Tyburn (1725), pp.18-28; Radzinowicz, op.cit., Vol.2, pp.173-4, 184-6.
2. S. & B. Webb, English Prisons under Local Government, p.110; Colquhoun, op.cit., pp.358-362, 264-265.
3. Tobias, Crime and Police in England 1700-1900, pp.44-54; Silver, op.cit., p.10; Radzinowicz, op.cit., Vol.2, pp.171-201.
4. Salaried magistrates also began operation in London from the middle of the eighteenth century; see M.D. George, London Life, pp.5-8; Radzinowicz, op.cit., Vol.2, pp.189, 192-4.
5. On the attempt to transform into crimes those aspects of rural existence (eg. hunting and fishing) which allowed the poor to maintain an independent existence outside of the wage labour market, see E.P. Thompson, Whigs and Hunters, p.22. One could argue that a similar process was going on with respect to attempts to crack down on the informal economy of the poor in the urban context. Gambling, for example, was attacked because it sustained a large criminal class by redistributing more evenly the wealth provided periodically by a successful criminal operation.

it was more than this, it was also increased police activity in the surveillance and supervision of collective forms of working class structure, in order "to give the mind of the people a right bias".¹ Police reformer Colquhoun argued that:

Since recreation is necessary to civilized society, all public exhibitions should be rendered subservient to the improvement of morals, and to the means of infusing into the mind a love of the Constitution, and a reverence and respect for the Laws - How easy would it be under the guidance of an appropriate Police, to give a right bias through the medium of Public amusements to the dispositions of the People. How superior this is to the odious practice of besotting themselves in Ale-houses, hatching seditious and treasonable designs, or engaged in pursuits of the vilest profligacy, destructive to health and morals. 2.

The point to be noted here is that imprisonment and transportation to N.S.W. were part of a generalised expansion of the hegemonic mechanisms through which the dominant class increasingly policed the production of working class culture.³ This is the significance of Colquhoun's demand "that all Public Exhibitions should be rendered subservient to the improvement of morals". It was precisely this demand that had some influence in structuring the pedagogic role of newspapers in the penal colony of N.S.W. and in Britain.⁴

N.S.W. and British newspapers became the vehicles of a moral education which was partly an attempt to incorporate the "lower orders" into the ethos of the dominant class. The emergence of an increasingly popularist press was also the pro-

1. Colquhoun, op.cit., p.347; see also E.S. Furniss, The Position of the Labourer in a System of Nationalism, pp.151-2; S. & B. Webb, The Parish and the County, pp.536-544.

2. Colquhoun, op.cit., p.348.

3. The increasing role of the modern state in the production of culture was something which F. Nietzsche grasped in his On the Future of Our Education Institutions, p.38.

4. On the role of the British press as an instrument of class control, see G. Boyce, J. Curran, D. Wingate (ed.) Newspaper History From the Seventeenth Century to the Present Day, especially pp.47-50, 265-280.

cess of appropriating the production of working class culture into the institutional structures controlled by the dominant class, a way of producing mass culture without assembling the masses.^{1.} *Newspapers influence on moral reform*

The increased police attacks on collective forms of working class culture were more than attempts to discipline the act of consumption; they were also attempts to individualise the act of consumption; to privatise it. It is too early to take up the role of the state and the press in N.S.W. in seeking to construct the family as an individualising unit of consumption, as a private space of domesticity where labour finds its true rewards and meaning. This will require a separate chapter of its own. But we can, for the time being, point to how punishments in Britain were being designed: to fragment and prevent the formation of working class solidarities. They acted to maintain crime in an individualised format compatible with the judicial system's own ideological treatment of crime as an instance of personal moral fault.

What disturbed contemporaries in Britain were the increasingly organised forms which crime was assuming with the formation of a professional, urban criminal class.^{2.} Paley believed that the criteria for selecting criminals for severe punishment ought to be those of repetition, cruelty and com-

1. As Sennet points out, the assemblage of the crowd in European society from the late eighteenth century was being constructed, from a whole series of directions, one of which was urban planning, into a specialised event; op.cit., pp.54-56, 214-218.
2. Colquhoun, op.cit., pp.12-16, 22, 75-79, 95; Paley, op.cit., pp.536, 542. Colquhoun claimed that in London alone there were 3,000 receivers of stolen goods and possibly 6,000 in the whole country. He estimated the amount of property stolen in London alone, not including that from ships at about 700,000 Pounds annually; op.cit., p.10; see also Tobias, op.cit., pp.7-12; G. Howson, Thief-Taker General.

ination:

...with respect to the last circumstance, it may be observed, that when thieves and robbers are once collected into gangs, their violence becomes more formidable, the confederates more desperate, and the difficulty of defending the public against their depredations much greater, than in the case of solitary adventurers. 1.

Both he and the 1778 House of Commons Committee on Gaols suggested the establishment of public works for ex-convicts in order to "effect the two purposes of employment and dispersion".² Paley also advocated the introduction of gradations in the punishment of offences "perpetuated by a multitude or a gang", depending on the degree of their involvement in the crime, in order "to separate...the ring-leader from his followers" and to render "it difficult for the confederates to settle who shall begin the attack, to find a man amongst their number willing to expose himself to greater danger than his associates"³. The Beachamp Committee Report in 1785, which recommended the extension of the transportation system to other parts of the globe apart from America, gave as one reason that: "the Transportation of Criminals...tended to break, in their infancy, those Gangs and Combinations which have since proved so injurious to the Community".⁴

One of the criticisms of existing overcrowded prisons was that they facilitated the organisation of crime. Howard claimed:

1. Paley, op.cit., p.536.

2. Ibid., p.546.

3. Ibid., p.536.

4. Quoted in Clark, op.cit., p.32.

"half the robberies committed in and about London are planned in the prisons".¹ Another criticism was that by not separating the young from the old, women from men, the worst offenders from minor offenders, the tried from the untried, so prisons facilitated the transmission of a culture of criminality, they fostered rather than prevented the corruption of morals.² Transportation along with many other punishments became part of an increasing concern with breaking up the formation and transmission of a criminal sub-culture.³ We should note that the relatively new punishment of solitary confinement was being advocated because it would "seclude the criminal from the society of his fellow prisoners, in which society the worse are sure to corrupt the better" and it would also "wean him from the knowledge of his companions".⁴ Indeed, throughout the whole history of transportation to N.S.W. solitary confinement was continually proposed as a more efficient alternative.

In short, the penal system was being formulated as a class weapon aimed at fragmenting and atomising all those dangerous solidarities and organised resistances which were emerging, especially in the urban context. I am now in a position to investigate more closely the ideological moments, which the humanitarianism reforming the penal system was a bearer of; and review the manner in which the individualising non-corporal punishments of suffering introspection and work, which humanitarian reformers were suggesting, were bound up with the intrusion of science into the governmental process.

1. Howard, op.cit., p.8.

2. Howard, op.cit., p.5; Priestly, op.cit., p.279; House of Commons Report presented by Sir C. Bunbury (C1779) in House of Commons Sessional Papers of the Eighteenth Century, Reports and Papers, Vol.31, 1775-80, p.28.

3. Henriques, op.cit., p.64.

4. Paley, op.cit., p.544; cf., p.545.

(C) IMPRISONMENT AND A SCIENCE OF MAN

The decision to transport convicts to N.S.W. following the American War of Independence can too readily be explained by the fact that Britain had inadequate prison accommodation.¹ The Hulks, according to this argument, provided a temporary solution, but they too became overcrowded. Parliament also demonstrated an unwillingness to undertake the cost of building the two new penitentiaries it had agreed to in 1779. Transportation to N.S.W. is presented as the solution to the pressing social and health problems posed by overcrowded prisons. The problem with this argument is that it begs the question of why imprisonment and penal servitude had emerged during the late eighteenth century as the main form of punishment. Was not transportation imprisonment in exile? The convicts in the hulks were regarded as "transports in suspense".² The argument also begs the question of why the medical health of prisoners should have also become suddenly so important.

Too often historians view the emergence of imprisonment and transportation as residual side-effects of an increasing reluctance by juries, the judiciary, and the Crown to impose the death sentence for the more trivial of the growing number of capital statutes. Whilst not incorrect, this argument nevertheless tends to treat imprisonment and transportation as a natural, but also accidental, consequence of increased humanitarianism; rather than a positive manifestation of those major new underlying transformations in power and knowledge which humanitarianism was a bearer of. The label

1. Shaw, op.cit., pp.55-57; Clark, History, Vol.1, p.63.

2. H.J. Klase, The English Hulks, pp.3-4; Sellin, op.cit., p.98.

"humanitarianism", by providing a convenient shorthand term for these underlying transformations, often acts to prevent, rather than facilitate their analysis.¹ This is despite the frequent use of the term by contemporaries.

Foucault has argued that "the reduction in penal severity in the last 200 years" should not simply be "regarded in an overall way as a quantitative phenomenon: less cruelty, less pain, more kindness, more respect, more 'humanity'. In fact, these changes are accompanied by a displacement in the very object of the punitive operation. Is there a diminution of intensity? Perhaps. There is certainly a change of objective".² Foucault believes the body was increasingly being replaced by the mind as the primary focus of penal strategies.³

In our time, it is often forgotten by those who are dazzled by the humanitarian ideology of penal reformers, that when they sought to replace the execution with hard labour, transportation and solitary confinement, they did so because they were concerned with the construction of more efficient regimes of punishment.⁴ They were concerned not so much with the elimination of punishment as rendering it effective by rendering it non-corporeal and systematic.⁵ Thus, for instance, Howard thought "gentle discipline commonly more efficacious

1. Foucault, Discipline and Punish, p.7,

2. Ibid.

3. Ibid.

4. For reformers concerned with increasing the effectiveness of punishment see Henriques, op.cit., p.63; S. & B. Webb, English Prisons, pp.21-22.

5. Radzinowicz, op.cit., Vol.1, pp.399-424; Priestly, op.cit., p.278.

than severity", and believed the penal system should proceed by "softening the mind in order to aid its amendment".¹

If reformers criticised the eighteenth century penal system it was for its arbitrary application of punishment. In England it relied on the capital conviction of many individuals and the extensive use of the reprieve to spread the terror of the scaffold over the largest number of possible crimes, while at the same time maintaining that economic use of violence which reformers demanded. Paley summed up the logic of this system when he argued that its economy of punishment was not designed to reflect gradations of guilt, but the difficulty and "necessity of preventing the repetition of the offence".²

The law of England is constructed upon a different and a better policy. By the number of statutes creating offences, it sweeps in the net every crime, which under any possible circumstances may merit the punishment of death: but when the execution of this sentence comes to be deliberated upon, a small proportion of each class are singled out, the general character, or the peculiar aggravations of whose crimes, render them fit examples of public justice. By this expedient few actually suffer death, whilst the dread and danger of it hang over the crimes of many. The tenderness of the law cannot be taken advantage of. The life of the subject is spared, as far as the necessity of restraint and intimidating permits, yet no one will adventure upon the commission of any enormous crime, from a knowledge that the laws have not provided for its punishment.³

In other words, the strength of the old penal system rested on the selective use of terror; the uncertainty of punishment was part of the economical use of terror and bolstered its effect.

1. Howard, op.cit., pp.39-40.

2. Paley, op.cit., p.527; see also Heath, op.cit., p.65; Priestly, op.cit., p.280.

3. Paley, op.cit., p.533; Tobias, op.cit., p.139. On Parliamentary support for Paley's views see Radzinowicz, op.cit., Vol.1, pp.506, 513.

Reformers criticised the existing penal system for relying on the severity of punishment to make up for its own lack of consistency. They believed reprieves, by destroying the certainty of punishment, also reduced its deterrent qualities¹. They often argued that the severity of punishment by producing a reluctance in judges and juries to convict criminals, was actually producing rather than preventing crime.² Victims of crimes also became increasingly reluctant to prosecute criminals, there was a growing feeling about the injustice of inflicting the death sentence for property offences. Capital punishment was seen to violate the principal of equality embodied in the adage: an eye for an eye and a tooth for a tooth.³

There was also a gradual identification of violent public punishment with arbitrary, monarchical power.⁴ It was perhaps no accident that some of the strongest critiques of capital punishments came from the manufacturing areas⁵ - the areas where democratic attitudes were strongest. Most prison reformers were also active in the parliamentary reform movement.⁶ Indeed, the increase in the number of reprieves as the eight-

1. Heath, op.cit., p.65; Radzinowicz, op.cit., Vol.1, pp.125-128.

2. On the reluctance of juries to capitally convict offenders for petty crime, see Paley, op.cit., pp.550-553; Colquhoun, op.cit., pp.2-6, 43. Blackstone, Commentaries, Vol.IV, p.132, 241; Priestly, op.cit., p.279; Radzinowicz, op.cit., Vol.1, pp.92-93. J.S. Cockburn, A History of English Assizes 1558-1714, pp.127-128.

On the claim that severity of punishment was producing rather than preventing crime Colquhoun, op.cit., pp.3-4, 59; Hansard XIX, March 29, 1811, Col.638; Priestly, op.cit., p.280; Ignatieff, op.cit., p.28.

3. Ignatieff, op.cit., p.19.

4. Ibid., pp.73-74; Radzinowicz, op.cit., Vol.1, pp.270, 274, 278.

5. Radzinowicz, op.cit., Vol.1, pp.512-513, 526-527.

6. Ignatieff, op.cit., p.63.

eenth century drew to an end was not coincidental. The extensive use of the reprieve was one way in which the Crown sought to handle the process whereby the use of state violence was becoming an increasing political problem. As we will see in the next chapter, the reprieve converted the occasion of an execution into a means of ideologically buttressing monarchical power. Douglas Hay has argued that because reprieves were obtained through informal patronage networks the reprieve acted to ideologically buttress a class structure of power which emphasised personal rather than impersonal bureaucratic relations.¹

The critique of hanging and the reprieve as arbitrary forms of punishment was part of the bureaucratisation of the penal system, that is the demand for its organisation around the systematic application of abstract formal principles. This was also the significance of the demand by reformers that punishment be proportionate to the crime and their concern with codifying the rights of prisoners.²

It would be better if there were a diet table painted and hung up in every hulk, for the inspection of the convicts; and if they were permitted to choose two of their number to see that justice is done to them... proper scales, weights and measures ought to be kept for their uses... A gentleman of reputation should be appointed as commissary, to whom the prisoners, in case of cruelty or injustice, might immediately appeal; and who also should see that the money allowed by Government at the end of their term, be given them. 3.

Reformers were especially critical of the arbitrary private power of gaolers in the old prison system. They criticised

1. Hay, op.cit., pp.62-63.

2. E. Halévy, The Growth of Philosophical Radicalism, pp.64-66; Morgan, op.cit., p.401; Ignatieff, op.cit., pp.75-78.

3. Howard, op.cit., p.257.

them for selling female prisoners to other prisoners and to outsiders; for allowing free women and retailers to visit the prison; and for selling alcohol and food to prisoners, some gaolers even held liquor licences. They wanted gaolers to no longer derive their income or fees from their duties, but to be salaried state officials, who would be regularly inspected by other outside officials.¹ These inspectors would ensure that prisoners were being punished and that they were not receiving any punishment additional to their sentence. Reformers wanted the penal system to be part of a self-monitoring bureaucratic structure.

The concern with bureaucratising the power of the warden both in England and in the N.S.W. Opposition Press acted as a metaphor supportive of the wider political interests of an urban commercial class. The critique of the personal arbitrary power of the warden was consistent with a broader critique of state power and in particular with state power centred on the patronage and arbitrary personal influence of the monarch. What penal reformers, like parliamentary reformers, were demanding was the rule of law. Thus Colquhoun, criticised the reprieve on the grounds that, as the monarchical suspension of the previous legal process, it was "a tacit disapprobation of the laws".²

The demand for the rule of law, as a demand for certain and consistent punishment, came to receive increasing justification through the new science of psychology. Penal reform would increasingly be phrased in terms of the psychological principles governing the association of ideas and sensations,

1. Morgan, op.cit., pp.397, 399.

2. Colquhoun, op.cit., p.59.

both in the minds of the prisoner and the spectator.¹ Beccaria, along with the other reformers, wanted the state to play a new role in associating the ideas of good and evil with those of pleasure and pain. They were demanding the incorporation of a science of mind into the state's responsibilities for morality. Their critique was based on the psychological principle that brief but intense moments of pain are less efficient, in terms of both reformation and deterrence, than weaker but more frequent representations of punishment; that a relationship of certainty is much more effective in uniting the ideas of crime and punishment than a relationship of severity.²

It is not the intenseness of the pain that has the greatest effect on the mind, but its continuance; for our sensibility is more easily and more powerfully affected by weak but repeated impressions, than by a violent, but momentary, impulse. The power of habit is universal over every sensible being. As it is by that we learn to speak, to walk, and to satisfy our necessities, so the ideas of morality are stamped on our minds by repeated impressions. The death of a criminal is a terrible but momentary spectacle, and therefore a less efficacious method of deterring others, than the continued example of a man deprived of his liberty, condemned, as a beast of burden, to repair, by his labour, the injury he has done to society. If I commit such a crime, says the spectator to himself, I shall be reduced to that miserable condition for the rest of my life. A much more powerful preventative than the fear of death, which men always behold in distant obscurity. 3.

Reformers wanted punishment to be subject to a certain economy, not only in the old sense of being cheap to administer and serving national objectives, but also in the new sense of a frugal use of violence. Accordingly, they emphasised the prevention of crimes and punishment. Transportation was viewed as one such preventive device, as well as a merciful punishment.

1. Halévy, op.cit., pp.56, 59, 64; L. Whitney, Primitivism and the Idea of Progress, pp.171-205.

2. Radzinowcz, op.cit., Vol.1, pp.280-283.

3. Beccaria, Essays on Crimes and Punishments, quoted in Heath, op.cit., p.134.

The demand for greater economy in the act of punishment was due to the growing influence of utilitarianism, which associated Good with the realisation of the maximum amount of happiness and the minimum amount of misery, whilst Evil was the opposite of this.¹ However, this was a materialist definition of good and evil.² As such, it was also a morality dependent on an act of quantification, which rendered pain and pleasure commensurable in order to subject them to a moral arithmetic.³ The point I am making is that it is too easy to treat transportation to N.S.W. as merely a product of increased humanitarianism. Such a view overlooks how humanitarianism represented a demand for state power to be ideologically grounded in materialist views of man. This in turn represented part of the increasing secularisation of state power.

Halévy has noted that most utilitarian reformers were Associationalists.⁴ Associationalists sought to derive complex moral ideas and judgements from the more primary material base of simple sensations, which included those of pleasure and pain.⁵ The principles of association and utility were viewed as analogous to Newton's principle of universal attraction.⁶ In viewing man as a creature and a product of his experiences, Associationalists also saw

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1. Heath, op.cit., pp.24, 64; Colquhoun, p.72; Halévy, op.cit., pp.21, 65.
 2. R. Conway, The Great Australian Stupor, p.57.
 3. Halévy, op.cit., pp.xv, 65, 117.
 4. Ibid., pp.xxvii, 8.
 5. L. Whitney, Primitivism and the Idea of Progress in English Popular Literature of the Eighteenth Century, pp.171-174, 181.
 6. Halévy, op.cit., p.6; Gray, op.cit., p.181.

him as capable of perpetual improvement.¹ Along these lines the utilitarians sought to associate the sensations of pleasure and pain with socially beneficial or undesirable actions respectively. These associations could be best realised only in a situation where total control over the inmate's experience was possible. Associationalist psychology thus underpinned the birth and diffusion of total institutional practices throughout society.

In effect, reformers were employing the principles of a moral calculus at the level of images and sensations; they were concerned with organising man's experiences into the simplest and most primary components in order to recombine them for the most efficient moral results. One of the principles they hit upon was the principle of certainty. In the penal system this meant that the most economic use of violence would be that which was weak, but constant. No doubt, underlying this was the idea of man as a creature of habits. However the principle of certainty can be interpreted as the ideological form through which a bureaucratic demand was able to express itself by using the symbol of a new science. The demand for certainty may also be viewed as a bureaucratic demand for the systematic application of power, that it should be evenly and consistently distributed within its social space and that it, above all, should appear non-arbitrary.

1. B.B. O'berg, "David Hartley and the Association of Ideas", Journal of the History of Ideas, Vol. XXXVII, 1976, pp.452.

(D) PSYCHOLOGY AND THE SECULARISATION OF MORALITY

The emergence of a science of mind, which I referred to in the previous section, denotes a fundamental historical transformation in the notion of the self. The self in the eighteenth century was no longer simply the soul, that immaterial force which transcended but was also corrupted by corporeal being. Increasingly, the self became the mind, which was regarded partly as a material phenomena inseparable from the body and as such could become a scientific object of study. The self was seen to be fundamentally bound up with man as an experiencing being, as a creature of perceptual and nervous sensations; especially those of pleasure and pain.¹ This was essentially an attempt to define the self as consciousness mediated through the instrumentality of the body. Locke's An Essay Concerning Human Understanding and Hume's A Treatise of Human Nature, both illustrate some aspects of this ideological process.

Self is that conscious thinking thing, - whatever substance made up (whether spiritual or material, simple or compounded, it matters not) which is sensible or conscious of pleasure and pain, capable of happiness or misery, and so is concerned for itself, as far as that consciousness stands. 2.

For my part, when I enter most intimately into what I call myself, I always stumble on some particular perception or other, of heat or cold, light or shade, love or hatred, pain or pleasure. I never will myself at any time without a perception, and never can observe anything but the perception. 3.

1. S. Moravia, "From Homme Machine to Homme Sensible: Changing Eighteenth Century Models of Man's Image", Journal of the History of Ideas, Vol. XXIX, 1978, pp.45-60, especially pp.59-60; G.S. Rousseau, "Nerves, Spirits and Fibres: Towards the Origins of Sensibility" in Studies in the Eighteenth Century, Vol. III, pp.140-157.
2. Quoted in Lyons, op.cit., p.20.
3. Quoted in Lyons, op.cit., p.21.

The increasing identification of good and evil with pleasure and pain was bound up with this materialist tendency. No longer were good and evil being defined simply by an allegiance or a transgression of a divine moral code that came from outside of oneself. Increasingly, man's experience of the world was becoming the measure of all things moral in this world. Humanitarianism contains a tendency to derive moral notions of good and evil from a particular construction of human nature. What this process represented was the secularisation of morality through man's humanity, as man gained an autonomous secular material being subject to the separate laws of nature. This is not to say that the laws of nature were not often seen to be manifestations of God, but it is simply to assert that between man and God another and increasingly secular ontology was emerging to mediate their relationship.^{1.} *God's will - humanitarian*

Thus humanitarianism, as the grounding of ethics in man, was intimately bound up with the emergence of psychology and medicine, because it was these new sciences which were giving man's thoughts and being a logic and autonomy of their own, that were not directly divine. Within the scientification of the body,^{2.} there was occurring partly a secularisation of evil.^{3.} It

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1. P.M. Heimann, "Voluntarism and Immanence: Conceptions of Nature in Eighteenth Century Thought", Journal of the History of Ideas, Vol.XXIX, 1978, pp.271-283.
 2. On the scientificisation of the body, see C.S. King, The Medical World of the Eighteenth Century, Ch.2, 3, 4.
 3. On the role of the medicine in the transformation of evil from a transcendental phenomena into a phenomena that was part of nature, see L.S. King, The Philosophy of Medicine: The Early Eighteenth Century, pp.202-207.

was not so much that the body, in the eighteenth century, stopped being seen as the site of evil. But that the evil embodied in the body was no longer simply the internal expression of a transcendental evil, such as we find in the following portion of a sixteenth century sermon.^{1.}

The body is the food of the Devil: the body is the snare of the Devil, the body is the trap of the Devil, with which he sets an ambush for the soul, which later he catches as with a hook. The body is an engine with which he throws to the ground the soul's virtue: it is a battering ram with which he stoutly shakes the soul's walls. 2.

In fact, I would argue, that one of the underlying reasons why punishments were so bloody and violent, prior to the latter half of the eighteenth century, was partly because they were attacking above all else the site of a transcendental evil within man. They were attacking the site of that servile will which led men to deny and neglect their ultimate destiny.^{3.} The point is, that it was only in a particular historical context, involving a view of man in relationship to the Devil, that the notion of a violent repressive state gained its legitimacy.^{4.} It was in the context of a view of man as engrossed in the evil sensuality of their own bodies, as inherently depraved, that men were seen to understand no other punishments except those which afflicted the body. State coercion and violence became a necessary, externally imposed evil designed to save men from their own inner shortcomings.

1. On the christian notion of the body as the origin of evil, see P. Ricoeur, The Symbolism of Evil, pp.283-289.
2. S. Baron, Sermones (after 1508) quoted in J.W. Blench, Preaching in England in the Late Fifteenth and Sixteenth Centuries, p.233.
3. "The place of punishment is also a place of temptation and contamination", Ricoeur, op.cit., p.284.
4. On this point see A.O. Hirschman, The Passions and the Interests, pp.14-15.

During the eighteenth century, less emphasis was placed on the Devil tempting and seducing one to evil and more on the environmental circumstances responsible for the impressions reaching individuals. The notion of personal moral fault was still strong. It is only in our own time that it has been seriously questioned¹ by the human sciences. The notion of the "externality" of evil also remained. But instead of the Devil serving this role, more material forces, such as society and previous life circumstances, were held accountable increasingly for that external presence within man which leads him to be a prisoner of himself. Ricoeur succinctly captures the Christian theme of the servile will and of the externality of evil, themes which have dominated our culture.

The second schema of the servile will is that of "externality"; however internal guilt may be, it is only reflected in the symbol of its own externality. Evil comes to a man as the "outside" of freedom, as the other than itself in which freedom is taken captive. "Every man is tempted by his own lust, which draws and entices him" (Jan 1:14). This is the schema of seduction; it signifies that evil, although it is something that is brought about, is already there enticing. This externality is so essential to human evil that man, Kant says, cannot be absolutely wicked, cannot be the Evil One; his wickedness is always secondary; he is wicked through seduction."²

The body continued to be seen in the Christian sense of the source of a corrupting influence. But the corrupting tendencies of the body were also seen increasingly in the eighteenth century to be capable of serving the purposes of moral good; private vices could produce public good.³ It was not now a question of destroying the body, mutilating it, but of using its preferences for pleasure over pain in order to

1. This is the importance of Locke's book An Essay Concerning Human Understanding (1690); see also C.L. Becker, The Heavenly City of the Eighteenth Century Philosophers, pp.64-70; Lyons, op.cit., pp.19-22, 205-206.
2. Ricoeur, op.cit., p.155.
3. Hirschman, op.cit., pp.14-20, 40-41; B. Mandeville, The Fable of the Bees; Private Vices, Public Benefits; A. Smith, The Wealth of Nations; B. Willey, The Eighteenth Century Background, pp.95-99.

instil moral notions in the prisoner.¹ The laws governing human sensibility would be used to produce an artificial identification of interests between society and potential transgressors.² It was now a question of organising social space in such a way that the individual pursuing the logic of his own inner egoism could not help but be good.³ Thus Paley, Howard and Bentham had all suggested giving prisoners a share in the products of their own labour.⁴ In N.S.W., this view made itself felt in an emphasis on granting well-behaved and hard-working prisoners remissions in their sentences, as well as plots of land at the end of their sentences. Justifying these, the first Judge Advocate of N.S.W. claimed that the fear of punishment was not a sufficient motive to good conduct amongst the convicts. Nor were these people "in general actuated by that nice sense of feeling which draws its truest satisfaction from self approbation; they looked for something more substantial, something more obvious to the external senses".⁵

reward system not enough

Bound up in this use of rewards was an attempt to make the experience of work pleasurable. It was also an attempt to teach the prisoners the individual nature of their own economic being: to make them look to their own labour as the basis of their sustenance and pleasure. This penal

1. L.I. Bredvold, History of Sensibility, pp.48-50; Radzinowicz, op.cit., Vol.1, pp.371-373.

2. Halévy, op.cit., p.74.

3. Whitney, op.cit., p.193; Bredvold, op.cit., pp.49-50.

4. J. Bentham, "A View of the Hard Labour Bill" (1778) in The Works of Jeremy Bentham, ed. by J. Bowring, p.12; Paley, op.cit., p.545; Howard, op.cit., p.265.

5. Collins, op.cit., Vol.1, p.179; see also W. Tench, Sydney's First Four Years, p.39.

strategy was reflected in the columns of the government-controlled newspaper, the Sydney Gazette. Thus the Sydney Gazette in 1803 stressed that property, especially familial property, because it rendered the act of consumption dependent on the act of production, had the effect of bounding and directing the freedom and self-interest of the individual. It had "the effect of attaching him to his situation, of augmenting his energy, and of reconciling him to a life of labour and hardship".^{1.}

The point is that transportation to N.S.W. and the role of the state in N.S.W. should be seen in the context of a transformation in the ideology and organisation of state power. From the seventeenth century, the state was being moved progressively away from an association with the images of violence and death, bound as these were with the notion of saving the soul for an after life, and towards an association with the images of the forces of life and production in this world.^{2.} This process was bound up with the growth of capitalism and the belief that the development of society rested not on repressing human nature, such as the fundamental motive of self-interest, but on using it for the public good. Human nature was increasingly something not to be denied, but to be developed. This concern that the state should work with and through the principles of human nature was to become a major ideological theme in the N.S.W. opposition press.

1. Sydney Gazette, 5 March 1803.

2. Foucault, Sexuality, Part Five, "Right of Death and Power Over Life", especially pp.136-137; see also C. Webster, The Great Instauration, Ch.4, especially pp.246-250, 288-289.

It was in the context of this gradual transformation in the ideology of the state that the penal system became concerned less with shedding the body's blood and more concerned with "the body as a machine: its disciplining, the optimization of its capabilities, the extortion of its forces, the parallel increases of its usefulness and its docility, its integration into systems of efficient and economic controls, all this was ensured by the procedures of power that characterized the disciplines".^{1.}

programa non vadoe to put to use the body mechanics

The diffusion of disciplinary regimes throughout modern society, not only in prisons, but also in hospitals, mental asylums, schools, factories, and workhouses,^{2.} was bound up, as the above quotation from Foucault indicates (the body as a machine), with the scientificisation of the body.^{3.} The new materialist theories of man justified the expanding power over inmates, which the new secular knowledge professions, especially medicine were acquiring.^{4.} Under their influence the state was extending the area of its moral intervention and developing new technologies of power. Thus, there was an emphasis on the formation of non-violent strategies against the body and it was here that medicine was to play an important role. Medicine was an important part of the philanthropic movement.^{5.} The founder of Methodism, John Wesley, for example, wrote a medical book Primitive Physick in 1747, which ran into 23

1. Foucault, op.cit., p.139; see also Discipline and Punish, Part 3, "Discipline", pp.135-190.

2. Ignatieff, op.cit., pp.58-63.

3. Ibid., p.67.

4. Ibid., pp.68-69.

5. King, op.cit., pp.31, 34.

editions prior to his death in 1791.¹ There was no greater symbol of productive life which could have been juxtaposed against the power of a bloody and violent state than that of medicine.² Within the penal system this process manifested itself in a concern with the health conditions of prisoners, that "their diet is at the same time low and scanty; they are generally without firing; the powers of life soon became incapable of resisting so many causes of sicknesses and despair"³.

Bad gaols and the hulks were criticised for injuring the health of prisoners and destroying their productive capacity.⁴ This concern with the physical preservation of the prisoner's body was also partly the demand for the removal of torture from the prison system. Unmotivated torture, as a product for example of living conditions, was regarded unjust, for it inflicted a non-judicial punishment incidental to the crime. Thus medicine became a means of re-asserting the rule of law.

*Prisoner health removal of torture
better nutrition hygiene*

Moreover, through his concern with hygiene, the doctor was responsible for the diffusion of disciplinary regimes throughout society.⁵ Hygiene being the medical and scientific form that disciplinary regimes assumed in the context of an increasingly secular society. "These doctors regarded the hygienic reform of institutions as a moral, no less than a medical crusade. The sicknesses of the poor were interpreted

1. Ibid., p.34.

2. On the close relationships between prison reformers and medicine, see Ignatieff, op.cit., pp.44-45, 59-60.

3. Howard, op.cit., p.258-259, (my emphasis).

4. Ibid., p.19.

5. Ignatieff, op.cit., p.45.

as the outward sign of their inward want of discipline, morality and honour."¹.

...The most cleanly men are always the most decent and honest, and the most slovenly and dirty the most vicious and irregular. 2.

What characterises the language of penal reformers was the identification of moral with medical concerns, the transformation of the punitive function into a curative operation. This curative operation was simultaneously directed at the criminal, at bringing him back to moral health; and at society, at removing a corrupting moral gangrene from the social body. Transportation to N.S.W. combined both of these aspects.

In the next section, I will explore how transportation to N.S.W. emerged in a context where reform movements stressed man as a creature of society, so that society itself could be reformed.

*Clearer a form of sign
of ability to be heard*

1. Ignatieff, op.cit., cf. pp.59-60.

2. Howard, op.cit., pp.256-257.

(E) PHILANTHROPY AND THE EMERGENCE OF A POLICING STATE

Out of the materialist view of man as a product of his environment, there emerged a series of critiques of society as being responsible for man's continued fall from Grace.¹ Reform at this time was directed not only at the individual, but also at social institutions. Underlying this was a more optimistic vision of man: man was not necessarily condemned by his own inner nature,² but possessed a rational faculty which was susceptible to unlimited improvement.³ There was increasing stress in the eighteenth century on man being fundamentally good.⁴ Hence, partly the concern of the late eighteenth century with imprisonment, with removing the prisoner from the world, with isolating him in a space of introspective contemplation. Contained in this was also an assertion of the individual judgement as the basis of morality.⁵

The view of man as containing the possibility of being good rather than permanently condemned to evil accounts partly for the eighteenth century's concern with Noble Savages. Implicit in the utopian descriptions of far away paradises by travellers was the notion of a return to an original state of

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1. Bredvold argues that a "mechanistic conception of human nature was the favourite starting point for the revolutionary moral and social speculations of the eighteenth century"; L.I. Bredvold, The Brave New World of the Enlightenment, p.45.
 2. C. Vereker, Eighteenth Century Optimism, pp.13,14; Blench, op.cit., p.320.
 3. Ferguson, op.cit., Vol.II, p.172; Halévy, op.cit., p.20; Whitney, op.cit., pp.169-170.
 4. Brissenden, Virtue in Distress, p.21.
 5. Brissenden, op.cit., pp.67-68.

innocence and good, but also a critique of existing European society as not being in accordance with the "true" inner nature of men.¹ There was a growing belief, that through the exercise of reason men could remove evil from the world and could shape their environments so as to develop and perfect themselves.² It was this critique based on an optimistic vision of man that came partly to be embodied in philanthropy.

During the eighteenth century, philanthropy went beyond an attempt to save both the body and soul of the poor, a general form of moral and social charity that merely aimed at alleviating distress.³ It underwent a process of specialisation⁴ as it came increasingly to locate the causes of social distress no longer exclusively within the general moral make-up of its clients, but in their specific social circumstances: their poverty, lack of education and "bad" social influences (gambling, drunkenness, bad examples and company).⁵

Offences of every description have their origin in the vicious and immoral habits of the people, and in the facilities which the state of manners and society, particularly in vulgar life afford in generating vicious and bad habits.

Encoded in this view of society as an accomplice to the crime was also the birth of the concept of social evil. This process, by which the concept of evil moved progressively away from the concept of personal moral fault and towards

1. Willey, op.cit., p.12; Brissenden, op.cit., p.73.

2. Vereker, op.cit., p.113; Dickinson, Liberty and Property, p.201.

3. Gray, op.cit., p.174.

4. Ibid., pp.85-86.

5. Ibid., pp.174, 282;

6. Colquhoun, op.cit., p.311.

the concept of social responsibility was only in its initial stages of formulation during the late eighteenth century. Historically this process has been bound up with not only the secularisation of the concept of evil, but also with the birth of the social sciences and the emergence of an ideology of non-culpability. This secularisation perhaps should not be overemphasised, for many late eighteenth century reformers were religious. However, as Tuveson points out, religious reformers at this time placed greater stress on the fall and redemption of mankind as a collective entity and did not only emphasise the redemption of the individual. Redemption thus became bound up with the concept of progress.^{1.}

Within this holistic conception of man's fall, there was a growing recognition by philanthropy of its own limited powers to intervene to alter the social circumstances of its clients.^{2.} Because of this, philanthropy was becoming increasingly transformed during the latter half of the eighteenth century into a political movement which sought to transform its benevolent activities into state responsibilities.^{3.} It attempted to make the state and the upper classes responsible for the social conditions of the lower classes. These reform movements were concentrated on prisons, penal law, education, slave trade, factory acts and poor laws.^{4.}

1. Gray, op.cit, pp.171-172, 174.

2. E.L. Tuveson, Millenium and Utopia, pp.155-156.

3. Ibid., pp.171-172.

4. R.G. Cowherd, Political Economists and the English Poor Laws, p.2.

The conversion of the philanthropist into a political agitator, demanding the expansion and intervention of the state into society, coincided with his emergence as a bearer of specialised knowledge about society.¹ When we look at the form that agitations assumed, it was that of the claimed exposure of abuse, the discovery of hidden evidence. This was despite the fact, for example, that the overcrowded, unsanitary and undisciplined state of prisons had been well known before Howard sought to systematically document them in his book The State of the Prisons (1777).² How are we then to interpret Howard's empiricism; his visits to over 300 prisons in England and Wales, his systematic recording of the number of inmates and their condition?³ Howard's use of statistics can be seen as part of a humanistic critique of the state using that new language of legitimacy, science.⁴ As such it was also an attempt to incorporate philanthropy, as an embryonic social science, into the organisation of state activities.⁵

Kirkman Gray has been perceptive in regarding the first census of 1801 as also part of this process.⁶ But what this process also represented was the emergence of a new relationship between the state and society, in which the state has become progressively responsible for the policing of everyday life. Speaking of the 1801 Census, Gray says:

1. Gray, op.cit., pp.171-172, 280-282; Amory, op.cit., p.182.

2. Ignatieff, op.cit., p.52; Morgan, op.cit., pp.338-389.

3. Morgan, op.cit., p.405.

4. Ibid., p.392.

5. Halévy, op.cit., p.209; L.J. Hume, Bentham and Bureaucracy, pp.41-42.

6. Gray, op.cit., p.284.

we mistake its significance if we test it by the amount or the accuracy of the information it affords. This census was the first official recognition of the duty of the state to know in detail the vital, cultural and economic condition of the whole nation. The nation had once and for all assumed the responsibility of knowing. And social knowledge, which is itself a kind of social action, impels of necessity too much doing of many sorts. 1.

Policing, for the eighteenth century, meant more than its present narrow meaning of detecting offences, it meant any regulative state activity which aimed to maintain and promote the internal workings and strength of the nation.² Part of this involved state responsibility for the production of scientific knowledge about society.³

Noticeable in N.S.W., was a continual series of musters; a continual collection of state statistics not only of prisoners and soldiers, but of free settlers, children, women, land, cattle, sheep, horses, grain, houses, ships and manufacturers. This collection of statistics was indicative of an attempt to go beyond the old notion of the state as being simply responsible for suppressing disorder, for providing the framework of non-violence from which society then emerged as the spontaneous contractual relationships between free individuals.⁴ What emerged, both in Britain and N.S.W., was a policing notion of the state, of the state as responsible for the production of society.⁵ This was why the collection of statistics could and was rapidly politicised.

1. Ibid., see also H. Parris, Constitutional Bureaucracy, p.275-277.
2. J. Donzelot, The Policing of Families, pp.6-7; Gray, op.cit., p.280-282; Silver, op.cit., p.12-13.
3. Halevy, op.cit., p.109.
4. P. Laslett "Introduction" to John Locke Two Treatises of Government, pp.124-126, 130-131.
5. Gray, op.cit., p.285.

For statistics created a "political barometer" to which the state could be readily referred to for its own survival and justification. Bentham, for example, regarded the collection of criminal statistics as a way of the state measuring "the moral health of the community".¹ He also believed that through statistics the state could monitor, not simply the population as a whole, but also the effectiveness of its own intrusions and mechanisms within that population.² No doubt, the refinement and specialisation of state functions and power in our own time has been closely bound up with the emergence of these circular feed-back information systems. They are also, as Bentham points out, the necessary counterpart to a state aware of the need to court public opinion.

The ordering of these returns is a measure of excellent use in furnishing data for the legislator to go to work upon. They will form altogether a kind of political barometer, by which the effect of every legislative operation relative to the subject may be indicated and made palpable. 3.

In the next section I will analyse the egalitarian political ideology which partly, underlay reformers demands for a new policing state.

1. Bentham, "Hard Labour Bill", p.29.

2. Hume, op.cit., pp.41-42, 127, 152-153, 236, 252.

3. Bentham, op.cit., p.29.

(F) EGALITARIANISM AND THE EMERGENCE OF A
PHILANTHROPIC STATE

(i) Utilitarian Individualism and Philanthropy

If philanthropy was actively involved in the formation of the modern policing state, it needs to be remembered that its rationale in this process was the promotion of the welfare of the individual; the quality of his living conditions. The expansion and specialisation of state activities, from the turn of the nineteenth century, has to be seen in the context of that reformulation of utilitarian ideology as represented by Bentham, Adam Smith and Malthus. The concern with the welfare of society as a whole became replaced gradually by that of the welfare of the individual.¹ More accurately, what this utilitarian individualism did was to equate the welfare of the nation with the aggregate welfare of each of its citizens through the moral principle "the greatest happiness for the greatest number".² It was precisely this formulation that the old holistic form of utilitarianism denied. Its major paradox was that of demonstrating how the welfare of the nation as a whole was consistent with the poverty of the majority of its inhabitants; indeed, dependent on it to force them to work and for the purposes of trade competition.³

At the level of penal theory, the holistic form of utilitarianism manifested itself in a concern with deterrence, in which the body and life of the prisoner were expendable for

1. For a discussion of these two forms of utilitarianism, see Furniss, op.cit., pp.5-7, 29-30.
2. Ibid., p.26; Halevy, p.28.
3. Furniss, op.cit., pp.37-38, 117; R.H. Tawney, Religion and the Rise of Capitalism, p.270; C.B. Macpherson, The Political Theory of Possessive Individualism, p.228.

the well being of society as a whole. On the other hand, the emergence of the principle "the greatest happiness for the greatest number" manifested itself in penal reformers' increasing concern with reformation and with criticising the physical condition of prisons. The maximum realisation of good would be that punishment which added to the welfare of society also the welfare of the individual prisoner.¹.

At the level of society as a whole, there perhaps was no greater bearer of utilitarian individualism than medicine. Some subtlety is required when dealing with the growing medicalisation of social space from the late eighteenth century and the increasing intrusion of medical notions into the state. This was partly responsible for the increased emphasis on the classification of crimes and punishment along the lines of a nosography. However, the importance of the doctor also resided in the fact that he supplied, in a rudimentary form, that quantification of the body's sensations (pleasure and pain) so essential to the moral calculus of the utilitarian.

Arithmetic and medicine - these are the branches of art and science to which, in so far as the maximum of happiness is the object of his endeavours, the legislature must look for his means of operation:- the pains or losses of pleasure produced by a maleficent act correspond to the symptoms produced by a disease,... . 2.

The emergence of an individual with a political right to consume, with an egalitarian minimum right to life and happiness, has been one of the most profound transformations in our own culture; one which we are still living with.³. It was this theme which

1. Heath, op.cit., pp.7, 57-58.

2. Bentham, Works, Vol.iii, p.224 quoted in Halevy, op.cit., p.29.

3. H. Ardent, On Revolution, Ch.3 "The Pursuit of Happiness", pp.115-140.

ran behind British reformers' attempts to improve the living conditions of prisoners. Each ship departing for N.S.W. had a surgeon who was responsible for the health of the convicts.¹ Governors in N.S.W. continually discussed in their dispatches the state of arrived convicts. During periods of scarcity in N.S.W., Governor Phillip ordered convicts to receive the same rations as himself and the military.² As we shall see the demand for an egalitarian minimum standard of living underscored the opposition newspapers' critiques of the N.S.W. state. This ideological theme is evidenced in the following argument made by the British radical, Colbett, and reprinted in the Monitor. It criticised the holistic forms of measuring wealth which ignored the unequal distribution of commodities amongst individuals for the realisation of happiness.

The great cause of error, in this case, is that men take it for granted, that the whole of the community have their due share and proportion of the exciseable commodities; that every man and woman, has, at all times, a due proportion of all that is consumed; and that, therefore, the whole amount of the consumption is the criterion of the comfort and happiness of the people and of the consequent prosperity of the nation. If the premises were true there might be something in the conclusion; but the premises are wholly false; and as mischievous a falsehood it is as ever was sucked down by a credulous people. So far from every person in the community enjoying a due share of the articles consumed, it is notorious that during the four years above-mentioned, hundreds of thousands were upon the point of starving, and thousands actually starved; and that, too, while the quantity of exciseable commodities consumed was actually increasing. How did this happen, then? Why, an unequal distribution of the exciseable commodities took place;...

Monitor, 10 February 1827.

The point to be emphasised is that the politicisation of the state in N.S.W., in the late 1820's, incorporated the under-

1. C. Bateson, The Convict Ships 1787-1868, pp.36-54.
2. M.B. Eldershaw, Phillip of Australia, pp.108, 165; Collins, op.cit., Vol.1, p.146.

lying structure of utilitarian philanthropic assumptions which were reforming the penal system and the British state at the time.^{1.}

A closer analysis reveals that a formal egalitarianism was a necessary ideological component of the new utilitarian concern. Founding a science of legislation on a calculus of pleasures and pain, meant that one did not treat one subjective experience of pleasure or pain as qualitatively different from the pleasure and pain experienced by another individual.^{2.} Any differences between individuals in these sensations have to be treated as quantitative differences of a more homogenous subjectivity. Paradoxically, though Bentham's utilitarianism renders the happiness of the social whole dependent on the happiness of all its parts and thus creates a concern with individual happiness, it is only able to do this by denying the individuality of any experience at a qualitative level. Individuality becomes a quantitative phenomenon. The roots of materialist, consumer culture with all its acquisitive individualising aspects acquires some of its egalitarian significance from this ideological source.

I will now turn to examine briefly the relationship of egalitarianism to philanthropy at the level of class relationships. This will provide the basis for an examination in the next section of how penal reform was part of a fractional struggle within the dominant class to reformulate the state.

1. On the close relationship between utilitarians and "the theorists of representative democracy and universal suffrage", see Halévy, op.cit., p.xv.

2. Halévy, op.cit., p.117.

(ii) Philanthropy, Class Relations and Egalitarianism

The growth of philanthropy during the eighteenth century needs to be related to the changing structure of class relations in Britain. Philanthropic reform was not simply the result of the growth of an urban unemployed poor but also of the rise of an urban bourgeoisie. Many merchants and industrialists, as well as small urban craftsmen and tradesmen, played a large part in philanthropy¹. It was also these same groups which were active in the parliamentary reform movement after 1760.² Indeed, the conversion of the philanthropist into a political agitator can now be understood as a struggle between competing fractions of the dominant class, as their relative economic importance was upset by the industrial revolution, and as they came to be bearers of different ideas about the role of the state in society.

We can detect both in prison reformer Howard's writings and throughout the philanthropic movement that same spirit of egalitarianism which was behind the parliamentary reform movement. This egalitarianism manifested itself in Howard's belief that all men are fallible, that is, have a capacity to sin because they share a common human existence through the sin of an original ancestor. It is this capacity for sin which renders all men equal before God, which makes them a congregation of sinners.³ It was this equal capacity for sin, which excited the compassion of the middle class philanthropist for the vice, imbecility and utter destitution of

1. S. & B. Webb, English Prisons Under Local Government, pp.33, 66, 72. Ignatieff, op.cit., pp.58, 62; Bristow, op.cit., p.14.

2. Ignatieff, op.cit., p.63.

3. Howard, op.cit., p.10; Ignatieff, op.cit., p.56.

the prison population, both in Britain and in N.S.W.. It is, in other words, in this feeling of sympathy for the sinful and the oppressed that one of the historical roots of egalitarianism in Australian society is to be sought. Howard wrote of himself: "hearing the cry of the miserable, I devoted my time to their relief".¹ In N.S.W., it was the Monitor newspaper which took up the Christian egalitarian benevolence of philanthropy.

Hence to the convicts of New South Wales, whose misery, vice, and degradation naturally strip them of friends, the Monitor journal will never cease to be the apologist, protector, and advocate. This very thing which makes us the reproach of many clever men in this colony, is with us the very reason which causes our friendship to flow towards the prison population of this country - namely, their vice, their moral imbecility - in short, their state of utter destitution, save as to bare food and ragged ruiement. It is because they have no merit, nor worthiness, nor amiableness, or attraction that we pity them. To pity such a class of men, with us who are Bible, not respectable Christians, is the first of duties. It is an humble limitation which we feel bound to attempt of the conduct of him before whom all Adam's race stand convicted of infinite demerit. Monitor, 20 April 1827.

This feeling of sympathy for the oppressed sought to make society as a whole responsible for the redemption and salvation of mankind. Imprisonment and transportation represent historically the increasing secularisation of the Christian ideology of redemption;² its transformation under the influence of a materialist conception of mind and matter into a state affair.³

Transportation and imprisonment, through their concern with reformation, also represented the emergence of the indiv-

1. Howard, op.cit., p.267.

2. Ignatieff, op.cit., pp.55-57.

3. Ibid., pp.66-68, 118, 146.

idual as a political entity.¹ He became, in N.S.W. and Britain, the ultimate reference point which justified the expansion of the state into a whole new series of power relations known as social welfare. To understand the radical nature of the new state measures which reformers were demanding some prior analysis of the existing English political context is required.

1. On the importance of this process in modern society see M. Berman, The Politics of Authenticity, especially his "Introduction: The Personal is Political", pp.xiii-xxii; Lyons, op.cit., p.2-3.

(G) CLASS RELATIONS AND THE CHANGING STRUCTURE OF THE STATE IN BRITAIN

There is a general consensus amongst historians that after 1688 the House of Commons became increasingly oligarchical, representing the interests of the same few families who owned large rural estates.¹ This occurred partly at the relative expense of the smaller gentry in the countryside,² but also at the relative expense of the expanding and increasingly economically powerful commercial and industrial classes in the cities and towns.³

The large landlords controlled the House of Commons and they were suspicious of any proposals which might unduly expand the role and influence of central government at the expense of their local authority⁴ - hence their opposition to the establishment of a standing army and a centralised police force.⁵ Indeed, what you had after 1689 as the counterpart to political oligarchy was the decentralisation of the state as effective political power moved back into the hands of local authorities,⁶ which often meant in the

1. J.A. Cannon, Parliamentary Reform, 1640-1832, Ch.2, especially pp.36-38, 40. See also H.J. Perkins, The Origins of Modern English Society, 1780-1880, p.39; G.P. Todd, Members of Parliament, 1734-1832, p.71.

2. Cannon, op.cit., pp.36, 38-39, 43, 51.

3. Ibid, p.49, Footnote 1, Ch.3, pp.47-72.

4. Perkins, op.cit., p.67; J. Norris, Shelbourne and Reform, p.18.

5. Radzinowicz, op.cit., Vol.1, p.28; Tobias, op.cit., p.77.

6. Norris, op.cit., p.292.

countryside the large landlord.¹ At a legislative level, this suspicion of all centralising tendencies manifested itself in a reluctance by parliament to pass laws of a general nature which would invest greater power in a central bureaucracy.² This meant that legislation during the eighteenth century was largely of a private and local nature "setting up local agencies, such as turnpike, paving, enclosure, or improvement commissioners where such things appeared to be desired by preponderant local interests".³ Most of the expansion in the number of capital statutes for property crimes which occurred along these lines were private member's bills.⁴ It was precisely against this legislative trend that utilitarians, like Bentham, were arranged with their demands for a science of legislation.⁵

The oligarchical trend in the House of Commons reached its peak in the 1760's, after which there emerged a "populist movement" which sought to alter the size and distribution of electorates in order to take greater account of the expanding urban centres.⁶ This populist movement, which was led by wealthy merchants and industrialists, was basically an attempt by them to gain control of the state by seeking political

1. For the manner in which the emphasis on local government, when coupled with the criteria of property, favoured the growth of the political power of the landlord at the local level, see Perkins, op.cit., pp.40-42, 67.
2. F.W. Maitland, Constitutional History of England, pp.382-384.
3. R. Pares, George III and the Politicians, p.3 quoted in H. Parris, Constitutional Bureaucracy, p.161; W.S. Holdsworth, A History of English Law, Vol.XI, p.371.
4. Hay, op.cit., p.21.
5. Halévy, op.cit., Ch.1,2, pp.5-87.
6. Cannon, op.cit., pp.47-72.

representation for the vote of an expanding and increasingly politically militant, petty bourgeois class of small shopkeepers and tradesmen.¹ The emergence of "popularism", as the politicisation of the lower classes in a context of competition between sections of the dominant class (agricultural versus urban capital), would also be a phenomenon that would come to be repeated in N.S.W. during the late 1820's.²

In representing an attempt to shift the control of the state away from a parochial landed elite, British parliamentary reformers also wanted to move the state away from the diffuse organising lines of patronage and personal influence and towards a more centralised state, organised along more impersonal bureaucratic lines.³ They wanted to move political power away from the control of local individuals and autonomous bodies, whether these be rural in character or not,⁴ where its use was seen to be fragmented and inefficient.⁵

1. Cannon, *op.cit.*, pp.47-49, 52-53.

2. *Ibid.*, p.23.

3. For the relationship between the critique of patronage and parliamentary reform movements, see Cannon, *op.cit.*, pp.73-78, 80,85,151-155. Hume, *op.cit.*, p.262; Dickinson, *op.cit.*, pp.195-196; Silver, *op.cit.*, pp.9-12.

On the importance of patronage for recruiting individuals and organising the affairs of the state prior to the full scale establishment of a permanent civil service in the mid-nineteenth century, see: Parris, *op.cit.*, Ch.1, 2, pp.15-80; L.B. Narnier, The Structure of Politics at the Accession of George III, pp.164-182; Perkins, *op.cit.*, pp.49-51.

4. I should also point out that some conservative politicians, such as Burke and Fox, supported critiques against patronage as a way of reducing what they saw as the growing personal influence of the King; Cannon, *op.cit.*, pp.73-79, 85-86; Pares, *op.cit.*, p.130; Parris, *op.cit.*, pp.33-36.

5. On the relationship between civil reform, that is the reorganisation of political power at the local level and parliamentary reform, see Cannon, *op.cit.*, p.22.

This attempt to centralise and bureaucratised the state, to subject it to a science of legislation, was also an attempt to professionalise the state. It was also, I suggest, a process of placing the development and application of state power under the central control of newly emerging bodies of scientific knowledge, which were concerned not simply with studying man, but with perfecting him.

Though it was not until 1832 that the really major reforms in state administration were implemented,¹ nevertheless, I consider that centralising tendencies were already present in the late eighteenth century agitations of urban middle-class philanthropists for penal and police reform.² Part of the decentralised nature of the state during the eighteenth century was its tendency to "farm out" many of its administrative tasks to private, profit-making individuals. Prisons and gaols were not exempt from this.³ Indeed, part of the rationale behind giving masters a property right to the labour of prisoners assigned to them was in order to encourage them to take their management off the state's hands. It was precisely this use of the profit motive as an administrative device that philanthropists were criticising.⁴ For it was essentially the eighteenth century gaoler's concern with profit that led to: "the use of irons and chains for safe custody,

1. Sir D.L. Keir, Constitutional History of Modern Britain, 1485-1951, pp.419-420; A.V. Dicey, Lectures on the Relation Between Law and Public Opinion During the Nineteenth Century, pp.62-64.

2. On the centralising tendencies in the agitations of philanthropists, see Henriques, op.cit., p.62; Gray, op.cit., p.185.

3. S. & B. Webb, op.cit., pp.5-12; Henriques, op.cit., p.61.

4. S. & B. Webb, op.cit., pp.18-25, 28-29, 36-37; Henriques, op.cit., pp.61-63; Howard, op.cit., pp.25-27, 30, 33, 42, 262.

instead of walls and warders; the immuring in underground dungeons and windowless garrets, and the herding together in roofless yards, of prisoners of both sexes and all ages, healthy and sick, innocent and guilty; hence also the indescribable lack of sanitary accommodation, the scarcity of water, and the non-provision of food, clothes, or firing".¹ The attempt to exclude the profit motive was partly a concern to free the penal system for the elaboration of a whole new range of non-corporal concerns based on classification, supervision and isolation, which philanthropists were developing.

The significance of the Penitentiary Act of 1779 (19 Geo. III, c.74), which authorised the building of two penitentiaries, lies in the fact that it was the first major legislative act to involve a recognition by the state of its direct responsibilities for the management of prisons. The building of the two national penitentiaries was not begun until 1812. But the same act which authorised their construction also provided the legal conditions for transportation to other parts of the globe apart from North America.² Transportation to N.S.W. was a state responsibility; there was not already in existence in N.S.W. in 1788 an established landlord class or other groups of capitalists to whom the convicts could be assigned on arrival; nor were there any free settlers in the first fleet; nor were the first convicts transported by private merchants, who had a property right in the labour and who could sell that right at the end of the journey.

1. S. & B. Webb, op.cit., p.19.

2. Ibid., pp.39-40, 46-47; Radzinowicz, op.cit., Vol.1, p.110.

3. Bateson, op.cit., pp.5-6.

In the circumstances which I have delineated the question is raised: cannot the incorporation of philanthropic concerns into the British state, especially through the penal system, be used to explain the extensive and pervasive nature of the state in N.S.W.? The interesting thing about N.S.W. was that the state was initially almost identical with society. It supervised and regulated the activities of N.S.W. inhabitants in a much more detailed and encompassing manner than it would have been politically possible for it to do back in Britain. Even after a free population had emerged, the pervasive influence of the state provided the basis for much of the conflict between the two. The full significance of this can be appreciated only when we recognise that detailed, central control was not a normal feature of prison administration in the eighteenth century. Moreover, the detailed control of the N.S.W. state extended beyond disciplinary measures necessary for the adequate supervision of convicts. It also included government responsibility for the success of agriculture and commerce, for the establishment of the family, roads, town planning, churches, hospitals. Some of these things no doubt indirectly served penal purposes. However, they also reflect changes in the nature of the assumptions encoded in the penal system as it came to be influenced by: (1) the new policing notion of the state as responsible for the production of society, and (2) by the philanthropic notion of reformation through total control.

(H) PENAL REFORM AND A PHILOSOPHY OF THE OTHER(i) Total Institutions and the Other

Imprisonment (and to some extent transportation since it is imprisonment in exile) marks the emergence of the educator into a position of dominance and control in modern society.¹ Prisons offered educators the first ideal institutional space for realising or putting into practice their pedagogic ambition of a total control of the environment of those selves they wished to transform and perfect.

If it were possible to find a method of becoming a master of everything which might happen to a certain number of men, to dispose of everything around them so as to produce on men the desired impression, to make certain of their actions, of their connections and of all the circumstances of their lives, so that nothing escape, nor could oppose the desired effect, it cannot be doubted that a method of this kind would be a very powerful and a very useful instrument which governments² might apply to various objects of the utmost importance.

What they demanded was a total institution which would encompass the whole life of the prisoner: his eating, his sleeping, his work, his recreation and subject all this to a detailed regime for providing as Goffman says "a natural experiment on what can be done to the self".³ The main feature of this total institution was a belief in the reformative value of discipline through total control. Hence the architectural principle of Bentham's Panopticon to create a circular space in which nothing could be concealed from an observer at its centre.

1. Halévy, op.cit., p.83. On how the educative notion of the state was behind Whig's attempt to reform the State, see Ignatieff, op.cit., especially pp.67, 74.
2. J. Bentham, "Panopticon", quoted in Halévy, pp.82-83.
3. E. Goffman, Asylums: Essays on the Social Situation of Mental Patients and other Inmates, p.22.

To be incessantly under the eye of the inspector is to lose in effect the power to do evil and the thought of wanting to do it. 1.

Let me digress briefly to explore how the total institution works to realise the educator's dream. The very way it organises space allows it to restructure the subjective dispositions of its inmates - their self-identity. For the aim of total visibility extends beyond that of ensuring an enforcement of the rules; its aim is to control thought itself. If the total institution creates a permanent field of visibility around the prisoner, it is in order to deny the inmate a world of concealed action that might allow the formation of private identity, a world of self-knowledge independent of the Other. The architecture of Panopticon, in its remitting gaze, states to the prisoner that: "you can only know yourself as the Supervising Other knows you". Its very architecture was an attempt to deny the prisoner an intimate space of truth he could call his own; a space of intimate self-knowledge which he previously shared only with God. The individual self in the Christian tradition gained its ultimate and full identity only before the all-encompassing eye of God; only He knew the full imperfections of individuals, even when individuals chose not to recognise those imperfections.

Here we are at the real implicit meaning of the Panopticon. The Panopticon represents the secularisation of God, both as Divine Omniscience and as the Holy Other? Indeed Bentham compared the centre of the Panopticon to the omnipresence of God.¹ Whereas, previously, the ultimate and all encompassing

1. Bentham, "Panopticon", p.45; see also Halévy, op.cit., p.84.

knowledge of one's self from which one could not hope to escape was divine in origin, with the Panopticon it becomes increasingly secular; a product of the way space itself is organised.

The Panopticon, as a total institution, represented the construction of a powerful technology of moral conversion, which placed the prisoner in the permanent Gaze of a Secular Other in order that he take this Gaze as his conscience.¹ To the extent that the Panopticon was a secularisation of the Holy Other, it was also a secularisation of that sense of guilt and moral fault, which comes from an internal understanding of oneself as inadequate from the standpoint of the Other.

God and Holy other

A further point to be made is that the attempt to make punishment non-corporal took the form in the penitentiary of making punishment self-inflicted, the product of the power of conscience. Through this strategy, the dominant class was able to distance itself from the increasing embarrassment it was feeling about corporal punishment. In the next section I examine the growing revulsion which was being experienced at the sight of pain and which partly underlay the growing humanitarianism of the age.

(ii) Sympathy, Morality and Horror

Rousseau has pointed to the increasing materialist view of the soul as residing in the brain, which was made up of nerves, of sensations as underlying the growing humanitarianism

1. On the importance of the gaze of the other in contemporary literature for the construction of a moral being, see Bredvold, History of Sensibility, pp.19-22.

of the age.¹ Similarly Lyons has pointed out that the increasing identification of the self with corporeal being gave rise to a pathos of the flesh. "The sense that the physical self is part of the essential being is behind much of the humanitarian agitation of the eighteenth century. Physical suffering leads to pathos if the flesh of man (and by extension animals) is no longer considered as merely a temporary husk of the soul."² This experience of the self was behind the emergence of the "man of feeling" as a major aesthetic figure in literature, as well as that whole stream of moral philosophy which sought to derive a knowledge of good and evil from man's capacity to feel sympathy for the other: his ability to make the pleasures and pains of the other his own.³

Man only of all Creatures under Heaven, God has given this quality, to be affected with the Good and with the Job of those of his own kind; and to feel the Evils which others feel, that we may be universally disposed to help one another. 4.

But the identification of good and evil with pleasure and pain was also the formulation of a right to happiness.⁵ We can now reinterpret the fascination of the eighteenth century with the egoism of the criminal, a point raised at the beginning of this chapter.⁶ A great deal of eighteenth century literature was concerned with the lives of criminals,⁷ with how their pursuit of happiness at the expense of the interests

1. G.S. Rousseau, "Nerves, Spirits, and Fibres: Towards Defining the Origins of Sensibility" in Studies in the Eighteenth Century, Vol.III, (eds.) R.F. Brissenden and J.C. Eade, pp.137-157.
2. Lyons, op.cit., p.13.
3. R.S. Crane, "Suggestions Towards a Genealogy of the 'Man of Feeling'", ELH, Vol.1, 1934, pp.205-230; A.O. Aldridge, "The Pleasures of Pity", ELH, Vol.16, 1949, pp.76-87.
4. W. Claggett, Of the Humanity and Charity of Christians, (1686), p.4 quoted in Crane, op.cit., p.212.
5. Bredvold, op.cit., pp.6-8; Sennett, op.cit., pp.89-90.
6. See p.14.
7. Lyons, op.cit., Ch.6, especially pp.81,86.

of others, defined both their individuality and their fate in society. This literature can be understood as experimenting with the possibilities of the human experience of happiness, and in the course of doing so, exploring the moral boundaries of that right.¹ More importantly, Evil was no longer being defined as the violation of God's commandments, but increasingly as the violation of the Other's right to happiness.

evil has to affect others.

Such ideological tendencies help one to comprehend the changing strategies of punishment from the 1750's, whereby the penal system became explicitly concerned with preserving the physical health of its prisoners, whilst subjecting them to tedious discipline. Punishment was becoming not so much the infliction of pain rather than the denial of happiness,² property (especially in one's labour), and the fulfillment of desire. It was becoming less the violation of the natural rights of the prisoner to life and increasingly a violation of those rights to liberty and happiness which society guarantees.³ To the extent that the prisoner attacks the rights of others, so to that extent he attacks society, and in doing so, punishment becomes a suspension of that which society guarantees.

I have already stated that one of the major principles of human nature seen in the eighteenth century to form the basis of morality was man's capacity for sympathy, his ability to make the pains, pleasures and opinions of the other his own.⁴

1. Bredvold, op.cit., p.6.

2. Howard, op.cit., p.44.

3. Foucault, Discipline and Punishment, p.11.

4. Hume, A Treatise on Human Nature (1739), pp.204-207;
Smith, op.cit., pp.1-13.

When this gaze of the Other was directed inwards towards one's self, as a way of grasping one's own moral inferiority, then it was seen to provide the basis for reformation and moral guidance: "If we saw ourselves in the light in which others see us, or in which they could see us if they knew all, a reformation would generally be unavoidable."¹ In fact, I would argue now that the Panopticon was the rational realization, at the level of architecture, of this moral philosophy of sympathy. But when this gaze of sympathy was directed outwards from oneself, as a means of contemplating the plight and situations of others, then it became transformed into philanthropy.² It was this philosophy of sympathy of making the pain of the other one's own, of readily weeping for him, that was, I would argue, behind the growing judicial reluctance to use the death sentence and also behind that growing inability to stomach not simply the sight of mangled corpses, but also their thought. Thus, when describing executions in Holland, John Howard was reluctant to go into a detailed description of "how the malefactor is broken on the wheel; or rather on a cross laid flat upon the scaffold... which is finished by a coup de grace upon the breast" out of a fear that this "would not be agreeable to any of his readers".³

Paradoxically, the literary genre of horror emerged at the same time as the cult of sentimentality was growing and producing a growing revulsion in public spectacles of blood

1. Adam Smith quoted in Bredvold, op.cit., p.20.

2. On the emphasis of this philosophy of sentimentality on good works see Crane, op.cit., pp.211, 217-218; Brissenden, op.cit., pp.33, 79.

3. Howard, op.cit., p.47.

and pain. Was there any contradiction in this or was the growth of horror stories after 1750, as Bredvold suggests, simply the other side of sentimentalism?¹ For Horror is not so much the opposite of squeamishness or sensibility as its other half - the drawing forth of a bloody fear, but also a curiosity, in a "forbidden" realm of experience and thought. In other words, was not the literary genre of Horror the deliberate and calculated transgression of a norm of sensibility, which renders our perception and knowledge of the images of death all the more intense and effective by restricting their circulation? Horror is in its very nature paradoxical, it does not so much deny our feelings of sensibility as attacks them by using them against themselves. It asserts them in the very act of offending them.

It was precisely this paradox of Horror that reformers of the criminal justice used to question whether the violent public images of death could remain effective as moral lessons, so long as they remained frequent in the realm of everyday perception. There was a growing belief that the process of making the prisoner's pain one's own was not fostering the common good by promoting deterrence. Instead the frequency of violent spectacles was seen to be destroying the moral fabric of society by hardening audience capacity to feel sympathy for the plight of others.² Severe punishments

1. In particular Horror was part of the search for the ultimate Other through which to experience oneself: "Horror was at last sought not only in these scenic backgrounds, but in the morbid developments possible to the human soul"; Bredvold, *op.cit.*, p.78. Horror stories to the extent that they explore the possibility of what it means to be human need to be understood in the context of the rise of anthropology, of a concern with other cultures as variations of what it means to be human; See Lyons, *op.cit.*, Ch.6, especially p.88.

2. Howard, *op.cit.*, p.263; Colquhoun, *op.cit.*, pp.59, 71; Heath, *op.cit.*, pp.65, 88, 260-261, 268-269, 280-281; Radzinowicz, *op.cit.*, Vol.1, p.341.

were also accused of destroying the public's abhorrence of crime by inculcating in them sympathy for the criminal.^{1.}

Whereas in the early eighteenth century the concern with producing horror had led to the invention of even more painful punishments, such as those advocated in 1701 by the anonymous author of the pamphlet, Hanging, Not Punishment Enough,^{2.} by the end of the eighteenth century, under the influence of a science of mind which partly argued that as you increase the frequency of an intense sensation so you decrease its likely effects, there emerged increasing demands for an economic use of public violence.^{3.} Too much horror was seen as being self-destructive of its own moral ends, because it was self-destructive of itself, of its own ability to appear frightening by appearing unusual.^{4.} Out of the process of this questioning penal reformers were to demand a proliferation in the qualitative number of punishments available to the legislator in order to preserve the effectiveness of any given punishment.^{5.} Transportation to N.S.W. was one such punishment. It was also part of the process by which horror moved out of the realm of everyday perception and into the realm of fiction.

1. Heath, op.cit., p.261.

2. See Radzinowicz, op.cit., Vol.1, pp.231-238.

3. Radzinowicz, op.cit., Vol.1, p.283; Heath, op.cit., pp.268-269.

4. Heath, op.cit., pp.76-77, 131-132, 134-135, 196, 197-198, 280-281.

5. "...it does not seem advisable to rest the whole of the punishment altogether upon the ground of terror, since terror is obliterated by familiarity. To make up a uniform complement of punishment, it is found necessary to have recourse to other circumstances of distress; such as the hard diet appointed by this bill. This consideration makes it the less necessary to be at any inconvenient expense in screwing the sentiment of terror up to the highest pitch." Bentham, "A View of the Hard Labour Bill", p.11; see also Radzinowicz, op.cit., Vol.1, pp.391-393.

What also disturbed penal reformers was the emphasis on capital punishment, which by lumping together as equivalent under one punishment a number of qualitatively different crimes, was acting to destroy all notions of gradations in guilt.¹ Here one can notice a subtle yet radical shift in the perceived pedagogic function of punishment. Reformers wanted punishment to not just teach the law using the strongest methods available. They wanted a system of punishment which would reflect within its own internal hierarchy, a hierarchy of guilt. Punishment now should no longer simply teach the consequences of transgression, but must measure the depth of that transgression. What it must teach and explore is the depth of evil in man.

1. Radzinowicz, op.cit., Vol.1, p.347; Heath, op.cit., pp.150-151, 178, 190-191.

(I) CONCLUSION

This chapter has explored the changing context of class relations and ideological practices in Britain, towards the end of the eighteenth century, so as to provide a background for later chapters dealing with similar processes in colonial N.S.W.. Whilst not rejecting the search for imperial motives behind the beginning of transportation to N.S.W., I have sought to reinvigorate the penal explanation of N.S.W. origins by exploring how the changing cultural definitions of punishment and reformation were part of a wider struggle to reorganise the modalities for deploying class power. Increasingly, scientific constructions of humanity were being taken up by the dominant class in the formulation of new class strategies. A new fraction of the capitalist class was emerging into a position of dominance with the industrial revolution. It and its intellectual supporters were applying science not simply to the production process but also to governmental processes, including the penal system. Above all, it was, in the newly emerging science of psychology that one finds a strong emphasis on the view that knowledge is power.

...it may be said of mankind in general, that an extension of knowledge is an accession of power...To man there is a subject of study...of more immediate concern than the soil from which he raises his food, or the mechanical resistance which he may wish to overcome: His own mind is a province of more importance, and more entirely subject to his government. 1.

What characterised many major contemporary philosophical treatises on morality and law was that they often began with

1. Ferguson, op.cit., Vol.1, pp.2-3; see also Adam Smith, The Theory of Moral Sentiments (1759), p.3.

universal statements about man's intellectual capacities.^{1.}
 Psychology underpinned their epistemological theories.^{2.}
 Their problem was not one of creating a myth or a metaphysics to account for the origin of evil, but rather a problem of psychological knowledge; of how one is to recognise good from evil.^{3.} Some authors explained this ability in terms of a natural moral sense in man, others in terms of his capacity for sympathy, and others in terms of his preference for pleasure over pain. However, what most of these treatises had in common was that they sought to ground a science of ethics in the universal structure of man's material being, in his capacity for intellectual and emotional experiences.^{4.} This was why they were fundamentally empirical, concerned with history and anthropology.^{5.} This whole ideological thrust, of which Hume, Adam Smith and Bentham were perhaps the most famous exponents, represented an attempt to create a science of legislation and morality modelled on Newton's successful reduction of Nature to first principles.^{6.} It represented some of the first attempts to use scientific method as political ideology. Paley, in a letter, justified this scientificisation

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1. Bredvold, Enlightenment, pp.42-44.
 2. E. Cassirer, The Philosophy of Enlightenment, Ch.III, pp.93-133, especially 93-94.
 3. N. Capaldi (ed.), The Enlightenment: The Proper Study of Mankind, "Introduction", p.17.
 4. Brissenden, op.cit., Ch.2. The word sentiment referred to perpetual, emotional and intellectual experiences; generally to those intellectualised emotions such as Pity which were seen as the basis of morality; ibid., pp.16-18, 40-43. Hume, op.cit., p.30.
 5. Halévy, op.cit., p.20; Becker, op.cit., pp.87-88; Ferguson, op.cit., Vol.1, p.1; Vol.2, p.113; Hume, op.cit., pp.289-290.
 6. R.F. Brissenden, Virtue in Distress, pp.35-39; Halévy, op.cit., Ch.1, 2, especially p.6; D. Hume, On Human Nature and the Understanding, (ed.) A. Flew, pp.7, 31.

of ethics in his own work by stating "the whatever renders religion more rational renders it more credible".¹.

In short, what I am arguing is that power and discourse in late eighteenth century Britain were undergoing processes of scientific rationalisation and that humanitarianism, which is the grounding of moral notions in human sensations, was an important part of this process. One form which this process of rationalisation took was the introduction of principles of economy into the realm of human sensations, especially with respect to minimising the production of pain and maximising the pursuit of pleasure. A growing cult of sensibility permeated the humanitarian movement and manifested itself in the reluctance shown by juries, judges and the Crown to inflict the death sentence. The humanitarian movement was bound up with Utilitarianism and an increasing concern with rendering punishment productive to society and the criminal through an increasing definition of punishment as work. Increasingly, the penal system became a preventative attack upon those disorderly habits of desire and idleness seen to be responsible for crime. Penitentiaries and transportation to N.S.W., through their isolating qualities, were proposed as ways of attacking the formation of a criminal subculture and the increasingly organised forms which crime was assuming. Through ascetic regimes and work, the penal system sought not simply vengeance, but the increasing incorporation of prisoners into disciplined notions of order.

This chapter also explored the role which the science of psychology and humanitarianism played in bureaucratising

1. W. Paley, The Principles of Moral and Political Philosophy (1785), p.iii.

the British state and how this process was especially pronounced in the penal system. The increasing assertions by doctors and legal reformers that individuals had rights to life and happiness was part of a demand and a struggle for the expansion and centralisation of state activities and institutions. It was also part of the increasing incorporation of individualising forms of knowledge and power into the state. In later chapters I will map out the emergence and form which structures of individualisation assumed in N.S.W.. As we shall see, N.S.W. history was an embodiment of that process whereby spectacular displays of violence were increasingly giving way to views which demanded that power assume non-violent pedagogic forms.

In the next chapter, I will use material from N.S.W. newspapers, primarily on executions to explore in more detail how views of punishment and criminality structured the ideological formulation of state-class power. Even in public executions, organised around the drama of shame, there were nevertheless ideological moments which had as their content something more than the disfiguring of the body. Indeed, the disfiguring of the body was part of a more general personification of state-class power in which the relationship of upper to lower class individuals was conceptualised through the metaphor of the relationship of reason and sensibility to the disorderly effects of unrestrained and undisciplined passions. The beginning of the first chapter established the presence of this metaphor in Britain, the next chapter will explore its role in creating a culture of terror which was simultaneously the personification and deification of political power in N.S.W..

CHAPTER TWO

VIOLENT STATES AND THE SELF: THE ROLE OF

PUBLIC EXECUTIONS IN ARTICULATING AND

AESTHETICISING CLASS RELATIONS IN N.S.W.

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(A) INTRODUCTION

This chapter's concern with public executions lies in how they reveal the underlying ideological assumptions formulating and legitimising the state's relationship to the individual. In breaking the taken-for-granted assumptions on which social reality rested, the prisoner often forced those in authority to reveal what those assumptions were in the process of reinstating them. Contained in the assumptions underlying state power was a theory of man.

The substantial space which crime literature occupied in the early N.S.W. press has been noted by historians, who have mostly attributed and dismissed it simply as horror stories, sensationalism and cautionary tales.¹ My main argument is that crime literature, like the criminal justice system it reported, was a form of anthropology: an exploration into the social and moral possibilities of human existence;² a philosophical search for human nature in the particularities of its aberrations.³ The aesthetic quality and popularity of crime literature, its sensationalism, was derived from its perceived articulation of universal human "truths", qualities and attributes within the moral particularities of any

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1. H. Mayer, The Press in Australia, pp.10, 12-13; C.M.H. Clark, A History of Australia, Vol.I, pp.207-208, 257; R.B. Walker, The Newspaper Press in New South Wales 1803-1920, pp.3, 258, 259.
 2. On this point, with respect to biblical tales, see R. Alter, The Art of Biblical Narrative, p.157.
 3. On this theme in contemporary philosophy, see C.L. Becker, The Heavenly City of the Eighteenth-Century Philosophers, pp.87-118. On this theme in contemporary literature, see E. Ruthstein, Systems of Order and Inquiry in Later Eighteenth Century Fiction, p.245.

actual individual deviation.¹ This claim to universality allowed the audience to participate in the story. They could explore, in the objectified medium of its narrative events, a sense of their own Christian fallibility as human beings.

One of the phenomenological characteristics of reading, as Magliola points out, is that at the same time as "readers apprehend represented space, they ficticiously transpose themselves into the literary work's centre of orientation, and to a certain extent forget their own centres".² I am interested in the specific ideological effects produced by the possibility of incorporating the reader into the narrative structure of execution texts. I am also interested in the manner in which these texts involved a cultural construction of human evil, which was in part an aestheticising of terror.³ This aestheticisation took place within an ideological structure which legitimated the state and, moreover, the general personal idiom which power assumed in colonial N.S.W..

It is all too easy and tempting to represent the history of N.S.W. as the replacement of terror with ideological hegemony. In such an approach, this chapter would explore the role of force in constructing class relations and the following

1. "The work of art is that singular essence which attains the universal because it takes singularities as far as it can go". M. Dufrenne, The Phenomenology of Aesthetic Experience, p.482.

Novak has argued, that the popularity of street crime literature in England during the eighteenth century as compared to the novel, was that its explorations were based on "truth", on the "actual", rather than "fictional" condition of man. M.E. Novak, "'Appearance of Truth': The Literature of Crime as a Narrative System" in The Yearbook of English Studies, Literature and its Audience, II, Special Number, Vol.II, ed. G.K. Hunter and C.J. Rawson, p.30.

2. R.R. Magliola, Phenomenology and Literature, An Introduction, p.122.
3. M. Taussig, "Culture of Terror - Space of Death. Roger Casement's Putumayo Report and the Explanation of Torture"; Comparative Studies in Society and History, 1984, p.471.

chapters, which deal with the family, education and philanthropy, would deal with the increasing emergence of processes of ideological incorporation. The problem with such an approach is that it deals with terror and violence as material attributes which are qualitatively different from those pedagogic mechanisms which dominate men by capturing their minds. What this ignores however is how terror is created and mediated by culture; how it gains its symbolic power and efficacy as terror within a particular cultural construction of the self. This chapter of the thesis will explore the ideational structure of that culture of state terror which N.S.W. newspapers helped create and circulate. Ideological hegemony will not be treated as supplementing the use of terror, but as being articulated through it.

My interpretative approach is thus different from Alan Atkinson's treatment of corporal punishment in N.S.W.. He views ideological hegemony as that which precedes and ends with the beginning of violence. Punishment is treated as a site of force, while the preceding trials are viewed as ideological: "Terror - always a poor method of controlling labour was supplemented in the country areas by an ideological hegemony manifest mainly in the Courts".¹ In my approach violence is not treated as non-conceptual, as pure irrational energy which operates only at the material level of the body. Instead I treat the violent disfigurement of the body as a powerful ideological idiom in a context where power relations took on a personal form.

1. A. Atkinson "Four Patterns of Convict Protest", Labour History, Vol.37, November 1979, p.30.

I wish to conclude this introductory section with a note on sources. While I will be making some reference to books written by those in authority and to official correspondences, most of the material for this chapter comes mainly from Australia's first newspaper, the Sydney Gazette, which began publication on 5 March 1803. Operating partly for the private profit of its printer, ex-convict George Howe, the newspaper was also an organ of the state: being printed on a government press, using government paper and ink, with Howe being paid an official salary.¹ Initially the Sydney Gazette was printed at Government House in a small room, later it was moved to a building built by the government at Macquarie Street.² Prior to October 1824, the Sydney Gazette was under strict censorship, sometimes carried out by the Governor himself, but more often by the Colonial Secretary.³ Above its masterhead, on the front page, it printed the words "Published by Authority". The Sydney Gazette was thus a major instrument for producing and disseminating official state ideology.

Executions were also reported frequently in The Australian and The Sydney Monitor when they began publication in the mid-1820's. Though their reports were often structured similarly to the Sydney Gazette's, I will not be drawing as extensively on them because both became the Opposition Press. Indeed both these newspapers focussed increasingly upon public state violence as a means of criticising the

1. Walker, op.cit., p.3.

2. Clark, op.cit., Vol.II, p.161.

3. Mayer, op.cit., p.10; Walker, op.cit., p.4; Sydney Gazette, 6 February 1828.

organisation of political power in the colony. Their critique is analysed in chapters ten and eleven, when I can deal with it as part of the emergence of a capitalist sector with democratic sympathies.

(B) VIOLENCE AND SOCIETY(i) Public Punishments and Social Hierarchy

Before N.S.W. press reports of public executions and the trials preceeding them can be analysed, it is necessary to extend the analysis of criminality and punishment begun in the preceeding chapter, by locating my argument within the specific ethnographic context of N.S.W. rather than Britain. Executions in N.S.W. represented the apex of a hierarchy of qualitatively different punishments, nearly all of which were public and designed to fuse shame with terror. These lesser punishments and degradation rituals¹. gained their ultimate justification from capital punishment, on the grounds of preventing its exercise. There was a range of such punishments: placement in the stocks, sometimes with the ears nailed to the pillory; being publicly whipped, anything up to 1,000 lashes was reported frequently in the early Sydney Gazette; being branded with a hot iron; having one's head shaven or being forced to wear distinctive clothing; hard labour on public works or in remote penal colonies; solitary confinement; and finally being executed.² Reflected in this hierarchy, or in the length and severity of any of these punishments, or in their combination, was an attempt to quantify evil; to measure (1) the disorder the prisoner's violence introduced into society; and (2) the subjective disorder from which the prisoner's violence was seen to emanate.

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1. Harold Garfinkel has defined a degradation ceremony as: "Communicative work directed towards transforming an individual's identity into an identity lower in the group's scheme of social types." H. Garfinkel, "Conditions of Successful Degradation Ceremonies", American Journal of Sociology, 61, March 1956, p.420.
 2. For a description of this hierarchy of terror, see Sydney Gazette, 10 June 1824.

This hierarchy of punishments in N.S.W. made possible the appropriation of convict labour, both by the Crown and by an emerging class of capitalists. In 1833 there were 23,357 male convicts in N.S.W. and 5,829 reported cases of corporal punishment. Nearly 33 percent of the corporal punishments were listed as punishments for Absconding and Absenting. Disobedience, Disorderly Conduct, Neglect and Idleness, and Insolence accounted for another 46.9 percent, with the average flogging being 41 lashes.¹ Whilst masters could not legally punish their own convicts, the magistrates who could order corporal punishment, like other judicial functionaries, were mostly wealthy private citizens or military and civil officers. Capital punishments were initially handed out by the Court of Criminal Jurisdiction. It was convened by the Governor, who also appointed its members. It consisted initially of a Judge Advocate and six military officers.² In 1823 a Supreme Court was established and capital punishments came under its jurisdiction, the jury hearing such trials being made up of 7 military officials. The main change consisted in the position of judge and prosecutor being separated, with the Attorney General prosecuting criminal cases.³ Since military officers were allocated convict servants as part payment for their duties,⁴ they had a general interest in maintaining dutifulness and submissiveness amongst servants. Military officers, like nearly all other judicial officials were also often landholders or owned some other significant

1. Shaw, op.cit., p.202.

2. For a description of this Court, see Collins, op.cit., Vol.1, pp.9-12.

3. W.G. McMinn, A Constitutional History of Australia, p.20.

4. Bigge, Report, Vol.3, p.96; Sydney Gazette, 3 September, 1 October 1814 "Government and General Orders".

form of property which distanced them from the bulk of the population.

Convicts were assembled frequently to witness executions, with the military often arranged under arms in a circle around the condemned prisoner, who was often of convict origin.¹ Executions, for theft, were often justified on the grounds that the crime had been committed by a servant against his own master.² Increased terror was seen as necessary partly because of the difficulty of preventing such offences; and also because the prisoner's depravity was seen to be all the more greater because he had abused a relationship of "confidence".

The JUDGE ADVOCATE...expiated at length upon the enormity of his offence; observing, that as a domestic servant he must necessarily have had frequent opportunity to purloin his master's property; and as long as his artifices were unsuspected, his was an offence against which it was almost impossible to guard; that instead of protecting a property which being within his power was also in his charge, he had abused the confidence reposed in him, and thereby evinced a depravity of mind which now left him little hope of leniency.

Sydney Gazette, 11 June 1809.

Such prisoners were also spoken of as having "violated a sacred trust".⁴ Servitude was a duty individuals owed to their masters and was analagous to the obedience they owed to their Maker.⁵ Both forms of obedience were founded upon "fear and trembling". According to one religious tract printed in Sydney, the fear of political authorities and masters was an extension of the fear

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1. For a description, see C.W. Tench, Sydney's First Four Years (1789), p.44.
 2. Sydney Gazette, 19 February, 19 August, 25 November 1804, 11 May 1806, 19 June 1808.
 3. Sydney Gazette, 4 September 1808.
 4. Sydney Gazette, 19 August 1804.
 5. On the construction of the relationship of the individual to God within a master-servant idiom, see Notes on a Sermon Delivered, delivered by Rev. W.P. Crook, c.1804, in Parramatta or Sydney, ML, Doc. 578.

of God.¹ Coercive class relationships were justified on the religious grounds that "the God of Israel said, he that ruleth over men must be just, ruling in the fear of God".²

With the emergence of a private propertied class in N.S.W., the criminal justice system's role increasingly became the violent protection of those propertied relations which underpinned private capital accumulation. Between the years 1819 and 1824 inclusive, of the 95 individuals executed only 16 were for murder, 42 were for "highway robbery or putting in fear and stealing in a dwelling house", 15 for burglary, 18 for stealing livestock, and 4 for forgery.³ These figures show that nearly 84 per cent of the criminals were executed for offences against property. In the early Sydney Gazette, crimes against livestock and money were presented as attacking the future progress of the colony.⁴ In a speech to a capitally convicted prisoner, the Judge Advocate spoke of forgery as a crime which "struck at the very root of commerce independently of the losses it entailed on those who were its immediate sufferers".⁵

It was not just by attacking the distribution of property, that the prisoner hindered the realisation of economic progress

1. Anon., Relative duties according to the Holy Scripture (1817), pp.1-4, 16-17.

2. Ibid., p.2.

3. Brisbane to Bathurst, 28 January 1825, HRA, Vol.XI, (enclosure), p.479.

4. Sydney Gazette, 17 July 1803, 5 April 1807, 5 September 1812.

5. Sydney Gazette, 16 February 1811.

in N.S.W.. It was also because his crime in N.S.W. denied the efficacy of the state's mechanisms for producing morality. Improvements in morality were seen to be closely bound up with the ability of the colony to prosper,¹.

The enlargement of the mind, and improvement of the manners are objects worthy of our most serious and unlimited attention, as not only the credit but the prosperity and welfare of posterity are immediately depending. Sydney Gazette, 31 July 1803, "Amicus".

By committing a crime in N.S.W., the prisoner "had commenced a new career of guilt" and in doing so he "gave sufficient evidence that a life of crime obtained with him a preference".² Referring to three condemned criminals on the scaffold, the Sydney Gazette, 17 April 1819, made the point that "their corporal appearance in the last stage of suffering betrayed not the appearance of want". The prisoner's crime was seen as his alternative to industry and reformation. He was presented as "the unprincipled locust, who only regards society as a common prey, and whose only inclination is to wrest from others, that which he has no desire by industry to obtain".³ In short, he was a symbol of unproductive egoism.

Like the crime of escaped convicts, the condemned prisoner's crime was often presented as an irrational yet freely chosen rejection of an ideal state. The realisation of that happiness, which their station in life allowed them, required

1. See also p.284.

2. Sydney Gazette, 16 November 1816.

3. Sydney Gazette, 17 July 1803.

only work.^{1.}

Though capable by...industry and moderate exertion of procuring every comfort suited to their respective circumstances and conditions, yet they nevertheless preferred those courses which could not fail eventually to bring an ignominious and untimely end.

Sydney Gazette, 4 September 1808.

The prisoner's capital crime was the ultimate rejection of society's possibilities for self-realisation.^{2.} He was therefore represented as a person moved by irrational freedom, that is by a preference for self-destruction.

...your crimes brought you to this country; and here, from the purest motives of humanity, were you placed in a situation where you might have risen in the esteem of the world, and evinced a worthiness of favour and indulgence - Unhappily however, you preferred a contrary conduct.

Sydney Gazette, 19 August 1804.

Such an ideology of freedom justified the legal system's process of individualisation, whereby the prisoner's crime was removed from the social circumstances within which it emerged and was made to reside in a subjective choice between good and evil. This ethical choice removed society from any responsibility for the crime. As we have seen, this choice between good and evil was openly equated with the choice between industry and idleness.

As a symbol of the evil of unproductive egoism, the condemned prisoner ran counter to the interests and production-

1. See also Sydney Gazette, 7 August 1803, "Philo". For this theme in articles on escaped convicts, see Sydney Gazette, 26 February, 10 June 1804.
2. G. Nadel, Australian Colonial Culture, p.54. Nadel has argued that the formation of an egalitarian ethic in N.S.W. was not simply the product of an equality of experience of hardship amongst convicts; but that it was also produced partly by the new economic opportunities for mobility which the new colony offered.

For the idea of crime, in contemporary literature, as a rejection of society's possibilities for self-realisation see L. Bersani, A Future for Astyanax, p.66.

ist ideology of an emerging capitalist class in N.S.W.. This productionist ideology was aptly summed up in the "Prospectus" of the Australian Agricultural Society in 1823, namely that "there is no Eden in nature; all is from the industry of man".¹ The condemned prisoner also ran counter to that reformatory ideology of work, which underpinned the penal system and which was partly responsible for his transportation to N.S.W.. This ideology occupied a prominent place in the N.S.W. press. The Sydney Gazette, 3 February 1823, justified a new system of penal discipline, which was organised around stricter notions of employment, on the grounds that:

where there is no relish for industry, there can be no reverence for virtue; and where there is no remaining seed of virtue, reformation becomes a hopeless cause... We advocate no unlawful method to propel man to work, but we say every legal severity should be resorted to, in order to attempt a transformation of the indolent, drunken, and dishonest, into industrious, sober and honest characters.

With respect to the free wage labourer, work was seen to provide him with 'real' independence and liberty.² In contrast, the condemned prisoner was sometimes seen as a prisoner of himself, precisely, because he broke the necessity to consume only what one produced. He removed the restraining influence exercised by production over consumption. In doing so he unleashed the enslaved freedom of unrestrained habitual desire.

1. Sydney Gazette, 24 April 1823.

2. "In all countries must the labourer, be his profession what it may, support his independence by his industry, and when he once degenerates into indolence his independence totters, and his claim to liberty is annihilated." Sydney Gazette, 18 March 1804; see also Sydney Gazette, 27 November 1819, "The Girdle".

...their crimes, which in the instance of Gory were brought on by an incautious use of spiritual liquors, which soon became habitual and leading him into a course of extravagance which his circumstances were altogether unable to support, accelerated his ruin...
Sydney Gazette, 23 June 1813 (my emphasis).

Work was seen as a disciplining structure capable of saving the individual from his own appetites. The Sydney Gazette, 26 February 1804, claimed that it was because the young man "lost sight of his duty" that he "ultimately fell a victim to the gratification of licentious appetites". In reporting the escape of 13 convicts from their place of employment at Castle Hill, the Sydney Gazette, 5 March 1803, describes that "in Mrs. Bean's house they gave alse to sensuality, equally brutal and unmanly. Resistance was of no avail, for their rapacity was unbridled".

Part of the spectacle of the prisoner's trial and execution was its psychological exploration into the prisoner's self-destructive qualities: what led him to become "the author of his own calamity",¹ that is what led him to become both a victim and prisoner of his own freedom.

Strange, very strange that man should himself prepare the dreadful storm whose rage must fall upon himself alone. 2.

Rarely was the devil invoked as the direct source of self-imprisonment. Though religion figures prominently in newspapers, I have not found any press use of the Christian notion of the sensuous body as the site of a personal trans-

1. Sydney Gazette, 29 July 1804, "Simplex"; see also Sydney Gazette, 17 June 1804.
2. Sydney Gazette, 21 October 1804; though referring in this article to escaped convicts the Sydney Gazette was also, I believe, in general characterising the problem of criminality.

cendental evil (the devil), as in the following sermon: "the great purpose of the gospel is to subvert and expel that spirit of sensuality whereby the devil leads and governs those who are taken captive by him at his will" (my emphasis)¹. In the early censored press, Evil was viewed more as immanent than transcendental; it came more from within the individual than from outside of him. Indeed, there was a strong emphasis on secular, psychological accounts of evil.

To the very mind itself, therefore, disaster must be traced, for there the little springs originate, which if not timely checked acquire strength, and roll us down the precipice with fury irresistible.
Sydney Gazette, 29 July 1804, "Simplex".

As the above quote illustrates, the prisoner's crime was often seen to have its roots in irrationality. The writer "Mentor", Sydney Gazette, 4 March 1804, stated that he "hoped to pronounce Vice to be offensive to our Nature, and inaccessible to the mind until the mild government of Reason is subverted"². The Sydney Gazette, 21 July 1803, argued that: "Fortunate for the world it is, that a depravity of mind is generally accompanied by a shallowness of understanding, for to the association of Vice and Folly Society is principally indebted for its security"³.

The prisoner became a prisoner of himself, precisely because he freely denied the rational aspect of his humanity; that gift of his Creator that distinguished him from lower

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1. W.G. Broughton, A charge, delivered to the Clergy of the Archdeaconry of New South Wales (1829), ML, 252/p.11, p.7.
 2. See also Sydney Gazette; 29 July 1804, "Simplex",
 3. Sydney Gazette, 24 July 1803.

forms of life.^{1.}

No longer than we adhere to the principles of justice can we act reasonably; and every conscious departure from those principles is a voluntary, a thankless dispensation with the choicest gift of the Creator, - Reason - the sublimest of all facilities, that stamps superiority over any other terrestrial being.

Sydney Gazette, 4 September 1808.

Similarly the Monitor, 6 June 1826, spoke of "the God-like faculties of the mind of man" which needed to be cultivated so as to avoid "returning to our primitive nothingness".

In freely denying the use of his rational faculties, the prisoner denied the use of that which would have allowed him to control his unbridled passions. His was often "an act perpetuated in the impulse of a moment when the ebullition of rage had overcome reflections and the mind might naturally be considered to have been agitated by excessive passion".^{2.}

The spectacle here was still the paradox of the servile will: "namely the concept of a man who is responsible and captive, or rather a man who is responsible for being captive."^{3.} However, I would argue, it was not simply freedom as the source of captivity that was the spectacle, but also of freedom as captivity; of freedom without Sociality and Reason becoming a prison of infinite self desire: that is self-destructive

1. "Sad indeed is the reflection, that a human being, possessed of every rational faculty with which nature has in common endowed his species, should of his own accord and inclination reduce himself to the miserable reflection, that he can be no further useful to his fellow creatures, than by an untimely end to excite in others terror and distrust." Sydney Gazette, 19 June 1808. See also Sydney Gazette, 26 February 1804, 12 October 1806.

2. Sydney Gazette, 1 June 1811.

3. Ricoeur, op.cit., p.101, cf. p.151.

anarchy born out of being a prisoner of excessive unrestrained passion. Thus the Sydney Gazette, 4 September 1808, spoke of a condemned prisoner as having "a relish for intemperance", that is, for excessive indulgence of a habitual appetite: "He had long addicted himself to evil habits, which produced an indifference to his master's interests".

The prisoner's execution in some instances could emerge to become a form of release from the prison of one's self as the source of sin. David Collins, describing the last minutes of a prisoner, stated: "He appeared desirous of death, declaring that he knew he could not live without stealing".¹ Collins also gave the example of James Bennet who "confessed that he had often merited death before he committed the crime for which he was then about to suffer, and that a love of idleness and bad connexions had been his ruin".² Similarly, Gough, "repeatedly in the cells expressed his satisfaction at the termination of his unhappy career. When he entered the yard, he knelt down, and with much emotion, kissed the little apartment in which he was presently to be deposited and there to rest till reanimated by the voice of the great Archangel. He seemed to us by this act to signify, that he was glad to die. He also kissed the rope."³

Contained in the above execution articles and many others was a critique of absolute freedom as a form of self-impris-

1. Collins. op.cit., Vol.1, p.200.

2. Ibid., p.27.

3. Monitor, 24 September 1827; see also Australian, 26 September 1827.

onment bordering on irrationality.¹ In chapter eleven, I will analyse the use of this critique by the Sydney Gazette against political opponents. For the time being, I want to point out that the relation of subjugation between Reason and the Passions, which was seen as necessary for the formation of a rational free moral being, was used as a metaphor for understanding the relationship of the state to the individual. In the political ideology of the time, the ultimate embodiment of Reason was the state. Law was often spoken of as the perfection of Reason. On the other hand, the lower orders were often equated with the passions and irrationality. Judge Advocate Collins, expressing the precarious relationship of the lower orders to reason, exclaimed: "So easy is it to impose on the minds of the lower class of the people!"² Such statements served to justify the necessity for external forms of authority to the individual. They were part of a political ideology which partly conceived of reason as an external yoke imposed upon man.

Reason his Yoke, deny the fact who can;
And I [the Yoke] to thee [the pig] what Reason is to man.³

State violence, in the form of punishment, was part of this external yoke which had to be imposed as a check on the natural depravity of man. Phillip, on the day his commission was read, told the convicts that he "feared, that among such

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1. This point has been made by Hilliard in his analysis of contemporary crime fiction, op.cit., p.366.
 2. Collins, op.cit., p.40.
 3. Sydney Gazette, 6 July 1806, "The Pig and the Neck Yoke".

a Number of Delinquents, there are some innately bad and incorrigible, who are deterred from pursuing their vicious inclinations only from the Fear of Punishment".¹ Part of the religious justification of state power in N.S.W. involved the argument of the necessity for coercive earthly authority to counteract that evil which men carried with them as the inheritors of Adam's first transgression.

The laws of God are so truly perfect, that were they adhered to with proper deference, the necessity of human jurisprudence would soon be superseded; but it is in consequence of man's disloyalty and ingratitude to an All-wise and bountiful Being... that human laws are rendered indispensibly requisite to the preservation of good order, and to the counteraction of that influx of evil, which 'man's first disobedience' introduced into this once Paraisaical world, and which is handed down to the remotest posterity. Sydney Gazette, 18 March 1824.

Discussing contemporary European literature, Bersani has made the point that the construction of a character into a symbol of irrational desire served to legitimate the power of external agencies and of society over him.² This, I believe, was very much the implicit meaning of stories in N.S.W. which constructed convicts and the lower classes as creatures of irrational habitual desires. The Sydney Gazette, 21 November 1812 gave the example of two men gambling away all their money and clothes and then gambling to see who would hang the other. In the same issue, it also gave the case of a man who died from the overconsumption of gin. He was engaged in gambling how much he could drink. Judge Advocate Collins in his first book described how the convicts began stealing corn as it ripened. He wrote that "nothing seemed to deter them, and

1. C. Worgan, Journal of First Fleet Surgeon, p.24.

2. Bersani, op.cit., p.56.

they now committed thefts as if they stole from principle; for at this time they received the full ration, in which no difference was made between them and the governor, or any other free person in the colony".^{1.}

The correctness of Collins' observation about egalitarian consumption is not relevant for my analysis. What is relevant was his construction of convicts as undisciplined consumers: "among the convicts there were many who knew not how to husband their provisions". As further proof he gave the example of a convict who "made his week's allowance of flour (eight pounds) into eighteen cakes, which he devoured at one meal; he was soon after taken speechless and senseless, and died the following day at hospital, a loathsome putrid object."^{2.} Later on, he gave the example of the death of a woman, who had overloaded "her stomach with flour and greens, of which she had made a mess".^{3.} He also gave the opposite example of irrational self-destructive desire amongst the convicts. This was also occasioned by the excessive pursuit of desire, however, here it was not spontaneous and impulsive desire which was being contemplated, but desire in its fixated form, which denied the individual immediate satisfaction and ultimately the right to exist without its fulfilment. This was the case of a convict found dead from starvation and heat exhaustion.

It appeared that he had not for more than a week past eaten his allowance of provisions, the whole being found in his box. It was proved by those who knew him, that he was accustomed to deny himself even what was absolutely necessary to his existence, abstaining from his provisions, and selling them for money, which he was reserving and had

1. Collins, op.cit., Vol.1, p.146.

2. Collins, op.cit., Vol.1, pp.32-33; see also the example of William Crozier, ibid., p.342; Sydney Gazette, 28 August 1803.

3. Collins, op.cit., Vol.1, p.89.

somewhere concealed, in order to purchase his passage to England when his time should expire. 1.

Such a convict manifested the irrational accumulative desire of the miser, something which I will examine briefly in the next chapter. Drunkenness was often seen as a source of a criminal career which might ultimately lead to an execution. Let us look at a portrait of the drunkard as another concrete personal symbol of infinite and unsatisfiable desire.

...he [the drunkard] is perpetually licking or smacking his lips, as his palate were dry and adust. His is a thirst that water will not quench. He might as well drink air. The whole world is contracted into a calker. He would sell his soul, in such extremity, were the black bottle denied him, for a gulp of Glenbuet. Not to save his soul from eternal fire, would he, or rather could he, if left alone with it, refrain from pulling out the plug, and sucking away at destruction.

Monitor, 30 March, 1829.

I want to explore more closely why the prisoner was often seen to be a prisoner of infinite Desire, of his own psychological being. It is only then that we can understand more fully the cultural meaning of state violence: the fact that terror was seen to introduce into the prisoner's life "conviction" in place of his "loose enjoyments"². For desire and violence seemed to form two mutually related aspects of a temporal existence, which in their struggle marked out its duration.³ The one, desire, introducing disordered violence into society; the other, society's violence, being the introduction of order into desire.

1. Ibid., p.48.

2. Sydney Gazette, 17 July 1803, "Simplex".

3. Desire as a part of temporal existence was opposed to "that blessed state where 'they shall hunger no more, neither thirst any more'"; Sydney Gazette, 26 June 1803, "Report of the Society for Bettering the Condition and Increasing the Comforts of the Poor".

Apart from a strong perception of the condemned prisoner as being without reason; he was often seen as being without memory. It was the failure of previous punishments to leave an impression upon his mind that was often used to justify his death: "the dangers of the past are unhappily obviated in an uncontrolled relish for intemperance".¹ Collins, speaking of the failure of past punishment to deter convicts, states that: "they appeared to be a people wholly regardless of the future, and not dreading anything that was not immediately present to their own feelings".²

Through this lack of memory, the criminal is a prisoner of the momentary, of impulses.³ As such his desires are fulfilled only momentarily. Each new moment presents itself anew to him as a new question for self-fulfilment. His lack of memory prevents the satisfaction of past moments from acting so as to provide contentment and a break on any future pursuit of desires. The result of this conjuncture of a lack of memory and impulsive desire was to produce the prisoner as a symbol of infinite or unsatisfiable desire. The result was also to produce him as a symbol of fragmented being, in which the present is incapable of unifying the existing self with the synthesis of its past moments and its impending future.⁴

1. Sydney Gazette, 4 September 1808.

2. Collins, op.cit., Vol.1, p.197; see also p.473.

3. Thus the Sydney Gazette, 6 October 1805, states that by "an unbridled and horrible impulse this unfortunate man may have been hurried into the blackest of crimes".

4. On the relationship of memory to the construction of personal identity in philosophy and literature at the time see P.M. Spacks, Imagining a Self: Autobiography and Novel in Eighteenth Century England, pp.2-4; G. Poulet, Studies in Human Time, especially pp.24-25.

The execution operates within the implicit psychological view of the causes of criminality delineated above. The emphasis on deterrence in the penal system was an attempt to create a being that remembers. As Nietzsche points out, punishment is the social construction of memory.¹ This was why the condemned prisoner would often be reprieved at the last possible moment, after he had ascended the scaffold and was apprehensively awaiting the moment of death.² A reprieved prisoner might also be made to witness the execution of fellow conspirators. These were attempts to deny the corroding influence of time on the mental faculties.

The three who were respited attended the sufferers... reading by them as they walked, and were the near witnesses of a spectacle which under their circumstances must doubtless have made an impression that time cannot obliterate.
Sydney Gazette, 21 December 1806.

This was also why the prisoner should ideally be executed as soon as possible after the discovery of his crime;³ sometimes at the spot at which he committed his crime;⁴ and why "the store attendants were indiscriminately ordered to attend on the occasion, to be spectators of the punishment of Robert Jillet, who robbed the King's store of salted pork valued at 10 shillings".⁵

1. F. Nietzsche, The Genealogy of Morals, pp.66-68.
2. On this point see W. Paley, The Principles of Moral and Political Philosophy, pp.543-544.
3. Australian, 18 October 1826.
4. "By an order from the Governor, the house in which the murder was committed was on the Saturday pulled down, and burnt to ashes; a temporary gallows was erected upon the same spot..." Letter by Rev. Richard Johnson to Joseph Hardcastle in Some Letters of Rev. Richard Johnson, B.A. First Chaplain of New South Wales, ed. by G. Mackannes, p.38.
5. Sydney Gazette, 17 April 1803.

These were all mimetic devices for the social construction of memory: the first used time, the second space, and the third the social position of the spectators as a badge of identification. All aimed at identifying more closely the ideological relationship between the ideas of crime and punishment. In doing so they rendered that relationship less phenomenologically arbitrary than it might otherwise have appeared.

(ii) Egoism and Hierarchy

The condemned prisoner, as a symbol of unrestrained, disordered individualism, represented the tyranny of egoism. As such he represented those anarchic elements at the base of society, which threatened to reverse the interdependent arrangement of its elements, if not to deny hierarchy itself. In general, he violated that symmetry along which society was organised.

Society may be compared with a magnificent structure, which step by step ascends to its most elevated and exalted pinnacle, the symmetry of what is equally dependent upon all its parts; in either of these if an imperfection be discovered, it must for the benefit of the whole, be rooted out. Sydney Gazette, 7 August 1803, "Philo".

The execution was the radical removal of this evil, designed to protect society from its own members.

As the tree that bareth evil fruit should be cut down, so also were it fit that he should be cut off from Society, to which he could not otherwise be useful, than by example to deter others from treading in his footsteps. 1.

The Sydney Gazette's ideology was directed towards the presentation of notions of hierarchy as indispensable to the

1. Sydney Gazette, 16 February 1811.

maintenance of order and progress. On the 26 June 1803, it reprinted an extract "From the Reports of the Society for Bettering the Condition and Increasing the Comforts of the Poor", which stated in part that:

it is...of infinite consequence that the poor should have the full benefit of RELIGION: that they should be taught, in the sanctuary of GOD, the use of those gradations of rank and wealth, which in infinite wisdom he has thought fit to establish in this transitory life, as stimulants to the industry and energy of man.

Governor Darling's wife, in a manual intended to guide servants, wrote:

Obey the orders which masters or mistress give you... always remembering it is their place to command and your duty to obey, and that it is the great God himself who appoints to all persons their stations and duties. 1.

Similarly, a religious tract in Sydney argued that: "there is no power but of God: the powers that be are ordained of God... Wherefore curse not the King, not in thy thought, not the rich in thy bed chamber...the Lord maketh poor and maketh rich".².

It would be fruitless to go on multiplying examples of the pervasive nature of this ideology of hierarchy and its religious justification. What should be noted was its Holism; its view of society as a set of interdependent specialised parts functioning through hierarchy to promote production and the welfare of the whole. Society here was linked together by a system of God-ordained reciprocity, which also constituted "one of the greatest benefits peculiar to man's superior nature".³.

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1. E. Darling, Simple Rules for the Guidance of Persons in Humble Life, more particularly for Young Girls Going Out to Service, quoted in E. Windschuttle "Women and the Origin of Colonial Philanthropy" in Australian Welfare History, ed. R. Kennedy, p.24.
 2. Anon. Relative duties..., pp.1,4,5.
 3. Sydney Gazette, 8 April 1804; Sydney Gazette, 6 March 1824.



In this system of reciprocity "the portion of obligation we are under to society depend upon our own utility".¹ The duties of the poor were not to be a burden upon others, but to be self-sufficient.² The prisoner's crime, as a manifestation of egoism, broke this system of reciprocity: "his commerce with society was solely pointed to its disadvantage and most serious injury".³

Within this hierarchical model of society, order was dependent on each part fulfilling its allotted task. This meant the "cheerful acceptance of our providential allotment".⁴ Thus the writer "Inquisitive Observer" in the Sydney Gazette, 1 May 1803, criticised the mobility offered to the lower classes by trade on the grounds that it was "the duty of every individual to confine himself to his professional talents...and to improve his ability in the branch to which he has been bred, as he can thereby, and thereby only, hope to render himself important to society."⁵ Similarly, Lieutenant-Governor Foveaux claimed in the Sydney Gazette, 28 August 1808, to learn "with equal indignation and surprise, that Men who have been Prisoners in the Colony have so far forgotten their former condition as to obtrude themselves into Courts of Justice in the character of Counsellors and Advocates". This was a practice he was determined to prevent, it was not only "destructive of Justice", but "injurious to decency".⁶ Similarly gambling amongst the lower

1. Sydney Gazette, 31 July 1803.

2. Ibid.

3. Sydney Gazette, 16 November 1816.

4. Sydney Gazette, 29 June 1829 "The Friendly Visitant".

5. This criticism, I would claim, was directed at emancipists becoming involved in trade. This ideology of hierarchy did not disappear with Governor Macquarie and his favourable attitudes towards emancipists.

6. Sydney Gazette, 15 April 1804; see also the article on vanity in Sydney Gazette, 13 November 1808.

orders was criticised because it "formed a leading incentive to enormity", that is it caused the individual to think of himself larger than his allotted role.¹ A Sydney religious tract warned servants: "Put not forth thyself in the presence of the King, and stand not in the place of great men".²

Part of the fascination with criminality in the literature of the time was its exploration of the spectacle of egoism which did not know its place in society. The spectacle being partly the problem of a man who conceived and desired more than he could socially realise. As Hilliard sees it: "The typical eighteenth century villain can be described largely in relation to the earthly paradise. Restless and mobile, governed by impulse rather than 'principle', he is incapable of committing himself to a 'fixed' place in society, and thus to a 'fixed' self".³ This is evidenced in his desires to assume roles and positions he was not born into. He, in a sense, abrogates to himself the power of self-definition which ought to reside in the hands of others.

This theme is evidenced in the Sydney Gazette's narration of the "true" criminal career of Dick Smith, who at the age of eighteen "commenced the notion of being a gentleman. Having been reared to no particular profession".⁴ Dick Smith lacked the necessary criteria needed to become a gentleman, namely: "a moral recitude of conduct; secondarily, an English Education; tertionally [sic.] , a knowledge of those languages which distinguished men in the upper classes of society;

1. Sydney Gazette, 15 April 1804.

2. Anon, Relative Duties..., p.4.

3. Hilliard, op.cit., p.364.

4. Sydney Gazette, 1 January 1820.

fourthly, the address that consummates the gentlemanly character; and fifthly, the obligingness of manners that conciliates man to man." His want of these qualities led respectable men to exclude him from their company, upon which Dick Smith associated with those below himself and commenced upon a life of vice. This combined with his fashionable extravagance led to the bankruptcy of an aunt and a number of gentlemen, whose 13 children were forced upon the parish as orphans. Dick Smith managed to escape from England, where he was wanted, only to be seized as a slave in a ship near Spain, where upon he "went off to expiate his crimes among the Arabs".¹.

This story was part of a larger discursive strategy in which Imagination disturbed the social order by allowing the individual to think of possible forms of consumption not suited to his means and social condition. Vice and Foible were seen to "both originate in the romantic meanderings of the imagination unguided by the torch of reason".² Speculation, the writer "Moderation" claimed, led the individual to lose himself in "that vast variety of character that marks the speculative man, and bends him to so many shapes and figures as ultimately to leave the world in darkness as to his original".³ Imagination was thus that realm within which man risked losing himself. It was also a realm which knew no limits: "we sometimes sacrifice to the blessings of composure and tranquility to indulging in the anticipations of unbridled fancy".⁴ It

1. Sydney Gazette, 1 January 1820.

2. Sydney Gazette, 29 July 1804, "Simplex".

3. Sydney Gazette, 19 October 1811, "Moderation".

4. Sydney Gazette, 7 August 1803, "Philo".

was that realm within which man removed himself from the disciplining reality of his social existence. The Sydney Gazette, 10 April 1803, stated that "we know of nothing that can be deemed more prejudicial to Civil Society, than a desire to soar above the region to which our circumstances ought to limit us". It went on to conclude that it would be better for the individual to "suppress the chimerical plan of aerial castle-building in its infancy", that wretchedness always falls upon "the thoughtless and extravagant". These arguments suggested to the reader that discontents originated in the mind, rather than in actual circumstances;¹ and that crime had its origins in the desires of an individual fuelled by imaginative ambition. The Sydney Gazette, 23 October 1808, discussing illicit distilling stated that:

the notion of making money at a rapid pace is apt to intoxicate the brain;...fascinated with the illusion those lawful pursuits which were moderately productive must of necessity give way to the theoretical chimera; and neglected industry very soon presents us with a retrospect at which reflexion sickens.

Imagination was thus viewed as the root of unrestrained individualism in which egoism only knew its own internal constraints. The criminal over-realises himself, in doing so he becomes a symbol of autonomous individualism, which to the extent that it is self-defining is also self-defeating. As Hilliard has aptly put it: "attempts at self-extension result in an imaginary freedom or autonomy that is itself the worse sort of confinement".²

In opposition to the self-contained and self-defining nature of criminality, the ideology of hierarchy stressed the individual

1. See letter by "Philo", Sydney Gazette, 7 August 1803.

2. Hilliard, op.cit., p.362.

discovering his meaning and moral identity only in relationship to the whole. Thus "the man whose characteristic indolence denotes him to be useless to society cannot be esteemed morally useful to himself".¹ This ideology emphasised duty and altruism, on men foregoing their present self-interests and making sacrifices for the benefit of all. It stressed character, of men discovering their identity in the estimations of others.² For it is through this means that they escape egoism and are rendered social and moral creatures.

Life is itself a continual series of obligations, by which the various orders of Mankind are united in the great Order of Society: the present happiness of every individual depends directly on the opinion that others entertain of him, and this opinion is shaped by his conduct in discharging his common duty.

Sydney Gazette, 8 April 1804,
"Monicus".

The importance of public estimation in this ideology of hierarchy goes a large way to explaining, I believe, the cultural meanings underlying the public nature of punishments. Their terror lay partly in the sense of shame they sought to produce. Executions were frequently referred to as "ignominious". Shame, as distinct from guilt, is the estimation of oneself from the standpoint of the Other as morally at fault.³ Whilst guilt is the internal self-perception of oneself as morally blameworthy.⁴ I would argue that in the execution the sense of shame emerges partly out of the prisoner's loss of control over his bodily functions and movements in his last

1. Sydney Gazette, 12 August 1804.

2. "Character is as essential in civil society as is morality to true Religion...The opinion we entertain of ourselves tho' few of us are apt to entertain a very bad one, can have but little influence upon our circumstances, as they are more or less affected by the conception of others, so far as our worthiness becomes its theme." Sydney Gazette, 16 September 1804.

3. M. Natanson, A Critique of Jean-Paul Sartre's Ontology, pp.35-36.

4. Ricoeur, op.cit., pp.81-82, 103-104, 145.

moments. The body is in its nature public, its importance for the construction of the self lies not simply in that I disclose my identity to the other through my body, but that I also apprehend myself through the other apprehending me through my body. Indeed, as Sartre points out, the Other always has a more total view of one's own body. This means that the self is partly dependent on the other's perception of the body for its own self perception. In short, my body becomes that site at which the construction of my identity is no longer my own but an intersubjective process.¹

As he struggles to breathe, dancing at the end of a rope, so also the prisoner loses control over that material symbol, which in everyday life he controls in order to manage his relationships and identity with others. As such he symbolically reproduces the causes of his own criminality in that servile will which emerges from an uncontrolled body. His death became an objectification of the way he lived: spontaneous, momentary nerve impulses responding uncontrollably to the world and totally subordinate to the body as a biological organism. The dancing of the body is a metaphor of disordered being and a sign of its disordering actions.

...after a few moments struggling, the unfortunate criminals were no longer conscious of what passed around them. Death was not long in seizing on his victim. During the time prescribed by law the bodies continued suspended as the sport of the winds.

Sydney Gazette, 12 August 1826.

The execution was also for a moment, consciousness trapped within a body it cannot control. It, to use a phrase of George Simmel's, attacked "the perceived domination of the mind over

1. J. Sartre, Being and Nothingness, pp.460-463.

the circumference of our being".¹ As such, it attacked that internal hierarchy of dominance which determines the ability of an individual to control the emergence of the self in everyday life.

But punishment was also seen as the restoration of balance to the world for evil done. If the prisoner's crimes attacked the social hierarchy, then society would respond equally by attacking the internal hierarchy of his own being.

Violence is often instrumental in degradation ceremonies, it is able to effect a transition in status, destroying the individual's control of his public identity, by destroying his control over his body. Violence destroys the material object which mediates the intersubjective process. Here we need to remember that to possess character at this time was to possess the quality of self-discipline. "For self-command is not only in itself a virtue, but from it all the other virtues seem to derive their principle lustres".² If transportation was regarded as an alternative to the death sentence, it was partly because it also involved the loss of control over one's body, in this case the ownership of one's labour. To be punished was to lose possession and control of one's self. But whereas transportation was the disciplining of the mind through the body, the execution was the release of the soul from an undisciplined body.

A terror of shame also underpinned the infliction of additional punishments on the dead bodies of more notorious crim-

1. G. Simmel, "The Aesthetic Significance of the Face" in Essays On Sociology, Philosophy and Aesthetics, ed. by K.H. Wolff, p.277.

2. Sydney Gazette, 20 May 1824.

inals. Such as in the body of a murder being given to the medical profession for dissection and in the practice of hanging dead bodies in chains.¹ This was partly an attempt to produce torture without pain. This fragmentation and decomposition of the body above the ground can also be interpreted as an attack upon the wholeness and integrity of the self by attacking the body as the public symbol of that wholeness. In other words, this fragmentation of the body represents an objectification of that inner fragmentation of self which was seen to define the prisoner's criminality. The destruction of the prisoner's body after his death was also a statement that even in death he did not regain possession of himself. The state pursued its rights to his body beyond the grave, indeed to the point of denying the body a grave.

1. The fact that these punishments were designed to act on the prisoner's apprehension of himself from the standpoint of the Other can be gathered from the Australian, 3 May 1826. The Australian stated that the surgeon's knife "does not appear to have that horrifying effect upon delinquents in this country as elsewhere". It gave as the reason the fact that in N.S.W. "the unfortunate criminal is most generally far removed from kindred and early associations...and where there are no friends - 'no women to make lamentation' - he becomes indifferent as to the disposal of his body after death".

(C) EGALITARIANISM AND THE SACRIFICE

Having dealt with the ideological context within which punishment gained its cultural meanings, I will now turn to an analysis of the criminal trial which preceded the execution. It formed the first stage of a degradation ceremony culminating in the hanging. The Judge Advocate in the early years of the colony was both Judge and Prosecutor. He claimed to speak for society as a whole and from this position, at the end of the trial, he often denounced the convicted prisoner as an "outsider",¹ but more especially, a symbol of irreclaimable evil.

...the Judge Advocate proceeded to pass Sentence of Death ...as follows... "On turning over the Records it appears, Macdermot, that at a Court of Criminal Jurisdiction assembled about two years since, you were doomed by the laws of your country to suffer death:- You were respited when at the very place of execution, where two of your criminal associates expiated their crimes by an ignominious death; and well had it been for Society and yourself, had the Mercy which prolonged your existence been productive of its desired end, in reclaiming an unhappy sinner who by a grateful remembrance of the leniency that had humanely interposed in his behalf when the arm of death was already uplifted against him, might have been induced to relinquish his criminal propensities - the only atonement to society within his power. The awful spectacle then before you was a no less weighty inducement to reformation; but clemency and example were alike unprofitable to determined hardihood, and as unconquerable inclination to abominable courses. The offence that once more devotes you is of the same heinous nature with that to which I painfully allude:- The charitable designs of clemency you already have perverted, and are no more worthy of the mercy you have abused. Do not then, I now conjure you, deceive yourself with a false hope, which terminating in disappointment, may dash that ample sincerity of repentance which must support you under affliction, and constitute the only path of forgiveness in an everlasting world, wherein I hope you will obtain that Mercy which here you cannot crave. Let not a moment pass unprofitably by: and may your sad example fully operate upon the minds of those you leave behind.

Sydney Gazette, 18 May 1806.

1. "The denouncer must publicly claim and manage the status of bona fide representative of the group of witnesses" and "from this position he must name the perpetrator as an 'outsider'". Garfinkel, op.cit., p.1.

As the above speech illustrates, the prisoner was presented generally as having stubbornly refused to mend his "vicious" ways, as having "an unconquerable inclination to abominable courses".¹ Lighter punishments on him, and also others, had failed to produce moral reform, something more drastic was now necessary if others were to be saved from immorality, crime and the gallows.²

His Crimes were very numerable, and his punishments frequent, till at length he unhappily became no further use in society, than by a melancholy example to warn others...
Sydney Gazette, 16 July 1814.

The prisoner's present capital offence was often presented as an abuse and lack of sensitivity to previous merciful judicial decisions; it was thus further proof of the prisoner's underlying depravity and irreclaimability.

The designs of clemency he had unhappily perverted, and callous to every grateful sentiment that should have produced reformation and amendment, he resumed his vicious courses.
Sydney Gazette, 27 April 1806.

Executions in N.S.W. were particularly susceptible to this type of interpretation because transportation from Britain was justified as a compassionate alternative to the death sentence.³

The execution, unlike the prisoner's violence, was not regarded as the rupture of social relations and order, but as the restoration of a sacred order through violence. It was often spoken of within the religious idiom of an act of

1. Sydney Gazette, 18 May 1806.

2. The justification of harsh violent punishments on the basis of prisoner's abusing previous leniency emerged very early in N.S.W.. On the day Governor Phillip's Commission and the laws by which the Colony was to be governed were read: "He told them that he was sorry to find he could no longer govern them by Leniency"; Worgan, op.cit., p.29.

3. For an explicit justification of transportation as a humanitarian alternative to the death sentence in N.S.W., see Sydney Gazette, 7 January 1807, speech by Governor; J. Stockdale, The Voyage of Governor Phillip to Botany Bay (1789), p.66.

"atonement". It was also often referred to as a "sacrifice"; for it was that site at which the community spilled the blood of one of its members so that it could continue to exist. As Girard points out "the sacrifice serves to protect the entire community from its own violence".¹ The use of the term "sacrifice" to characterise state executions denoted the union of Church and State and their close participation in the carrying out of this politico-religious ritual. For the prisoners crime was a violation of both sacred and secular laws. The Monitor, 17 February 1827, referred to a public execution as:

another signal instance of the awful consequences of unbridled passion - in which the shedder of blood is called to make atonement to the outraged ordinances of his Maker and the enactments of man, for the safety and well-being of society.

The blood spilt was partly to appease an angry God. "Avenging Heaven" was seen to direct the "Hand of Justice".² This was particularly the case in murders, where it was claimed that blood demanded blood and God was often seen to play a role in revealing the murderer.³

The great All-ruling providence which had exposed his crimes, and brought him to condign punishment in this world...
Sydney Gazette, 17 December 1814.

But the execution was also a sacrifice to society and to a legal system conceived of in transcendental terms: "the pains of death were a retribution which the law required; the present situation of the Colony was unfortunately such as to render

1. R. Girard, Violence and the Sacred, p.8.

2. Sydney Gazette, 28 August 1803.

3. Rev. Richard Johnson to Joseph Hardcastle, 26 August 1799, Some Letters of Rev. Richard Johnson, Part II, (ed.) G. Mackaness, p.35.

example necessary to the security of Society".¹ Governor Macquarie, for example, justified in the Sydney Gazette, 3 April 1813, the execution of two murderers as an "Awful Sacrifice", demanded by Public Justice and sanctioned by the Almighty so as to deter men from "a continuance in Habits of Licentiousness and Irregularity". In short, the execution became a way of employing evil to combat evil.

It was because the prisoner died partly for others, that a sense of guilt might develop in the courtroom, as indicated in the tears that might be shed for a prisoner. A sense of guilt, which, I would suggest following Girard, binds the audience to the sacrificial victim through a common recognition of their own participation in the procedures of death.²

His Honor's speech was so impressive, and went so directly to the heart, that there was scarcely a dry eye in the Court; feelings of compassion for the depravity of human nature mingling with those of sorrow for the necessity of making such dreadful examples.

Sydney Gazette, 18 May 1820.

Describing the court trial in which 9 men were accused of live-stock stealing, the Sydney Gazette, 25 March 1821, wrote that: "it presented to the pitying eye of the spectator a melancholy picture of calamity...His Honour in a most impressive speech drew all the prisoners into a sense of contrition in which he especially was much effected in his admonition to one wretched youth, who under a good guidance might have made a fine young man".

1. Sydney Gazette, 31 August 1806; see also 25 June 1807.

2. Girard, op.cit., p.8.

If the Judge cried for the prisoner, it was not simply, as Hay says, in order to "deepen the effect" of terror and to point to his own submissiveness before the demands of God and Justice.¹ For the Judge, the audience and the prisoner cried partly together for themselves as a community of sinners. Like the middle-class philanthropists of Britain, who searched for their own humanity in the fallen state of the poor, in the feelings of pity and compassion that these scenes evoked, so too the Judge Advocate and the courtroom audience often entered into sympathetic communion with the prisoner, recognising a common fallible humanity in his depravity.²

Implore forgiveness and so endeavour to make peace with your offended God, who alone can judge the hearts of men, whose actions are but fallible.

Sydney Gazette, 29 June 1814 (my emphasis).

The Judge Advocate's concluding speech sometimes became partly a denial or reversal of the previous trial procedures. These had sought to produce a sense of community by morally and physically separating the prisoner from the rest of society. Society here gained its identity through a relationship of moral outrage and hierarchical opposition to the prisoner. In particularly atrocious crime and in the case of the unrepentent criminal, this relationship of revulsion and outrage between the prisoner and the audience would be deliberately cultivated by the judiciary and even the Governor. But often the Judge Advocate's speech would be directed towards reintegrating the prisoner back into society; producing a sense of community by constructing the repentent prisoner into an object of

1. Hay, op.cit., p.29.

2. On this theme in British literature, see Brissenden, op.cit., pp.79-83.

pity and sympathy.

There is, in the courtroom scene, and also later on at the scaffold an element of egalitarianism. The perception of all men as sinners before God might lead the audience to feel pity for the prisoner, to participate in his guilt.¹ It was perhaps this egalitarian ideology that convicts listened to attentively; an ideology which cut across class lines by allowing the Judge Advocate to pity the prisoner as a symbol of fallen humanity. The seeming paradox of the execution was that it articulated the theme of egalitarianism, at the same time, as it sought to restore hierarchy and order. This ambiguity, I would argue, was the power of the execution's message that allowed its message to successfully bridge the cultural divisions separating convicts from their masters.²

I would suggest another interpretation for the execution's sacrificial aspects, apart from the fact that the prisoner dies in order that others might be saved. Implicit in the audience becoming identified with the prisoner, I suggest, was the idea that they also symbolically died on the scaffold and were expected to be morally reborn. To the extent that the audience identified with the depravity of the prisoner and saw themselves as part of a community of evil, so also was that aspect of evil symbolically destroyed in them when the prisoner was

1. Ignatieff has made a similar point with respect to criminal trials in Britain, op.cit., p. 5.

2. The cultural divisions between the two were partly evidenced in that separate "flash language"; which Tench claimed "marked the convicts on their outset in the colony". So distinctive was this language that interpreters had sometimes to be used in the courts to translate the evidence of witnesses. Tench believed that "an abolition of this unnatural jargon would open the path to reformation", op.cit., p.297.

destroyed.¹ This, I consider, was the symbolic meaning of that profound silence which was seen to envelop the audience and the prisoner, both in the courtroom before the Judge pronounced the death-sentence and in the execution's final moments. This awful silence was partly an anticipation of death, but it may also have represented the symbolic death of the audience. This was explicitly stated in the reporting of the execution of Margaret Wishart, taken from a London newspaper, by the Monitor.

At length it was necessary to inform her, that the time fixed by the sentence was fast expiring: she faintly answered: "Two minutes, yet," and after a solemn pause lifting up her face to Heaven, she gave the signal - the drop fell, and in a moment, after one or two convulsive motions, she was a corpse. The assembled multitude maintained a death-like stillness, and the first interruption of the solemn silence, arose, from the steps of the crowd retiring from the scene.

Monitor, 22 November 1827, (my emphasis).

This interpretation, of the execution as containing within itself the symbolic death of the audience, is further evidenced in the execution of Black Tommy. The Sydney Gazette, 21 January 1828, reports that "the fate of Tommy seemed to make the desired impression upon the minds of the tribes who had assembled upon the occasion; for it was observed, when the drop fell, that they all unvoluntarily shuddered".

1. On this point with respect to sacrifices in general, see Girard, op.cit., p.8.

(D) THE DEATH SENTENCE AND A PHILOSOPHY OF SENSIBILITY

As Foucault points out, a sense of shame has increasingly surrounded the act of punishment.¹ In N.S.W. the judiciary was nearly always presented as reluctantly resorting to the death sentence. It was for the Judge Advocate "the last and most painful duty of his office", something which was essentially in conflict with his own private humanitarian considerations.² It was a necessary public duty, resorted to in order to prevent the state of chaos likely to follow if the present rate of crimes should go unpunished or punished leniently. Governor Macquarie claimed in the Sydney Gazette on 3 April 1813 to seek consolation in a "Strong Sense of Public Duty, and in the sacred Nature of the Trust reposed in Him for the Benefit of the Community...for those painful but necessary Exertions which Public Justice may require at his Hands".

The aesthetic figure that the Judge Advocate and Governor Macquarie were playing above was that of "the man of feeling".³ The benevolent virtuous man who readily weeps because of his enormous capacity to feel sympathy. "Weeping", as Becker points out, was taken at the time as "the outward evidence of inward grace".⁴

To cry was to express the depth of one's humanity. Thus the Monitor, 11 July 1827, reporting an execution states that "many an eye was filled with water; and as for the chain gang,

1. Foucault, op.cit., pp.9-10.

2. Sydney Gazette, 19 February 1804; see also Sydney Gazette, 19 June 1808.

3. Crane, op.cit.; Aldridge, op.cit.; L. Brown, English Dramatic Form 1660-1760: An Essay in Generic History, pp.100, 146, 185.

4. Becker, op.cit., p.42.

they, strange as it may appear, wept aloud. We never saw the poor ruffians look so much like human beings!" Similarly Collins reports that at a service given by Mr. Johnson to the female convicts he "with much propriety, in his discourse, touched upon their situation, and described it so forcibly as to draw tears from many who were the least hardened among them".¹

Melancholia held a fascination for members of the dominant class both in Britain² and N.S.W.³. Through it they sought to culturally articulate their class positions as positions of moral authority. Through melancholia the dominant class could present themselves as morally sensitive human beings alienated from the more vulgar world of the lower class. Solitude was their only painful futile escape.

Here if I keep my room, it nought avails,
A sullen death-like silence round prevails;
If out I stroll the least frequented road,
My ears are shocked with blasphemy to God. 4.

This theme of virtue in distress was in the case of the authorities involved in the death sentence, the theme of innate emotional goodness strained by the practical necessity of living in a world filled with other men's inhumanity,⁵ a world which

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1. Collins, op.cit., Vol.1, p.121.
 2. For the theme of melancholia in English literature, see Brissenden, op.cit., pp.100-101.
 3. The theme of melancholia in the N.S.W. press was especially evidenced in poetry, see Sydney Gazette, 4 March 1804, "The Vision of Melancholy"; 23 September 1804, "The Native Mourner"; 7 October 1804, "Ingratitude - Extempore"; 20 January 1805, "The Tomb"; 19 June 1808, "The Bodings of Fancy"; 18 November 1815, "Lives Occasioned by a Late Melancholy Event"; 13 November 1823, "By a Lady".
 4. Sydney Gazette, 25 September 1808, "Lines Written on My Birthday".
 5. Brissenden, op.cit., pp.130-133.

forced one to be cruel in order to be virtuous.^{1.}

These themes were also being reproduced in the sentimental novels which became popular in Britain during the eighteenth century.^{2.} These novels were concerned with the subjective lives of their characters.^{3.} Especially the emotional turmoil they experience as they faced moral dilemmas which forced them to employ subtle ethical distinctions.^{4.}

What distinguished these sentimental heroes and heroines was not only their highly developed awareness of their own processes of discrimination, but also their belief in the sanctity and authority of their private judgements. 5.

The Judge Advocate's speech was such an occasion. He had to reconcile "the Almighty God's commanding justice" and to some extent His demand for vengeance with "His blessed attribute of Mercy".^{6.} The Governor was faced with the same paradox when deciding whether to grant a capitally convicted prisoner a Reprieve.^{7.} In being aware of this paradox and through resolving it, those in Authority could assert the superiority of their moral sensitivities. The Judge Advocate's speech was not simply an occasion for egalitarianism. It was the impressive eloquence of his speech, as well as its profound silences, that evoked feelings of compassion in others. Thus the Sydney Gazette, 18 August 1821, spoke of a Judge Advocate's speech to 23 condemned

1. "It...becomes every man's province to aid in the benevolent work of suppressing crime, and thereby preventing the sad necessity of punishment, unwillingly resorted to but frequently indispensable to the ends of justice"; Sydney Gazette, 25 May 1806.

2. Brissenden, op.cit., Ch.4,5, pp.65-166.

3. Ibid., p.98.

4. Ibid., p.119.

5. Ibid., p.24.

6. Sydney Gazette, 25 March 1821.

7. See especially Sydney Gazette, 12 December 1825.

men as having been "delivered with that energy and pathos so peculiar to the mind from whence pure sympathy flows". Hay gives the following example from an English Judge's diary of him being overcome by the dignity and power of his own speech.

Before I pronounced the sentence I made a very proper speech extempore and pronounced it with dignity, in which I was so affected that the tears were gushing out several times against my will. It was discerned by all company - which was large - and a lady gave me her handkerchief dipped in lavender water to help me. 1.

The Judge Advocate's speech and his tears can be seen as part of an increasingly secular experience of sin. This defined man's capacity for good and evil in the more psychological terms of the presence or absence of the Other within Consciousness. That is, in terms of a natural, innate capacity "to commiserate the misfortunes of a fellow being".² There was perceived to be a very close relationship between sensibility, man's capacity to experience the world and the Other, and his moral capacity.³ A "shrine of sensibility" was seen to provide a natural moral sense,⁴ which "nature has fortunately sown in every breast" in order that men might discriminate "good from evil; and although habit may diminish yet it never can wholly eradicate it".⁵ The concept of sensibility represented that process where in a knowledge of morality came no longer simply from outside of man, whether in the form of the clergy or the bible, but was seen increasingly also to reside within him.⁶

1. Quoted in Hay, op.cit., p.29.

2. Sydney Gazette, 23 October 1803.

3. On this theme in Literature see Brissenden, op.cit., pp.57-58.

4. Sydney Gazette, 11 September 1803.

5. Sydney Gazette, 28 August 1803.

6. See also J.B. Radner, "The Art of Sympathy in Eighteenth Century British Moral Thought" in Studies in Eighteenth Century Culture, Vol.9, 1979, pp.189-210; N.S. Fiering, "Irresistible Compassion: An Aspect of Eighteenth Century Sympathy and Humanitarianism", Journal of the History of Ideas, 37, 1976, pp.195-218.

Sensibility is not (abstractedly speaking) religion, but it certainly is a gift from heaven, most worthy to be esteemed in others, and cultivated in ourselves.
Sydney Gazette, 8 June 1824.
 "On sensibility".

Through a philosophy of sensibility those in authority sought to sanction their hierarchical status in society by grounding their moral authority in nature; in man's God given capacity to feel, to experience the other through the senses. This grounding of morality in the body, in biology, was part of the underlying ideological basis of racism in N.S.W.. It also implicitly underlay the construction of an ideology of moral ascendancy (which we will investigate in later chapters), whereby free settlers sought to politically dominate not only convicts but also ex-convicts. The lower classes in N.S.W. were often defined by the upper classes in terms of their inability to feel. Judge Collins gave credence to this ideology with the example of how the lower orders had flocked to attend the dissection of a murderer.

It could scarcely be supposed, that among the description of people of which the lower class was formed in this place, any would have been found sufficiently curious to have attended the surgeons on such an occasion; but they had no sooner signified that the body was ready for inspection, than the hospital was filled with people, men, women, and children, to the number of several hundred; none of whom appeared moved with pity for his fate, or in the least degree admonished by the sad spectacle before their eyes. ^{1.}

Condemned criminals were often spoken of as lacking in feeling, sympathy and pity. For this reason they themselves were often denied the benefit of those same emotions. ^{2.}

1. Collins, op.cit., Vol.1, p.492.

2. "If men in their situation, and covered with the crime of which they have been convicted, can hope for mercy, it is because they have shown mercy to others"; Australian, 23 February 1827.

In a crime like this then, so fraught with the most direful aggravations of a horrible offence, argued a disposition, savage, sanguinary and unrelenting, and precluded him from the pity it was not his nature to bestow.
Sydney Gazette, 25 January 1807.

The task of the Judge Advocate's speech and the terror of the execution was partly to resensitise the hardened individual; that is to "shake the nerves of some of the stoutest offenders".¹ "By impressive eloquences", the Judge Advocate, "endeavoured to arouse him from the want of sensibility which must have accompanied atrocities like his".² This was also why the Judge Advocate might tell a prisoner to hold out no hope for mercy that the frequency and nature of his crimes makes a reprieve unlikely; that he hoped "the awful sentence of the law...would ...strongly impress upon his mind a just sense of his unhappy condition, and induce him to seek remission in the hour of death, and hope Salvation in the day of Eternal Judgement".³ This was why a minister would visit the prisoner in his solitary cell prior to his execution, warning him of the dangers in a future world of not confessing. This was why a prisoner would sometimes be conveyed seated on his own coffin.⁴ Why the execution, to excuse a bad pun, was stretched out, with the prisoner often walking the last distance to the scaffold; and why the prisoner would be reprieved at the last possible moment.⁵ The aim was partly to amplify the fear of crime by adding to the

1. Australian, 18 October 1826.

2. Sydney Gazette, 25 November 1804.

3. Sydney Gazette, 19 February 1804.

4. For an example of this, see Sydney Gazette, 17 April 1819.

5. Paley, op.cit., pp.543-544.

physical act of punishment those solemnities, which Bentham saw as having the capacity of increasing its terror, whilst economising on the actual use of pain.¹ But the aim was to also make the prisoner sensitive to the finiteness of his being; to remove him from all worldly concerns; to make him sensitive to the infinite significance of each remaining moment, as a last moment of truth, as a last moment of discovery and disclosure of himself.

If the prisoner began to show signs of emotion, even those of fear and terror, then he was seen to be on the road to moral reform. The ultimate symbol of irreclaimable evil was the unrepentent criminal, who did not just simply deny his guilt and God, but who experienced no terror or fear about death even until the last moment.² As W.H. Auden says: "His pathos is his refusal to suffer" and if he does not suffer how can he be forgiven.³ Such a prisoner denied the whole logic of terror underlying the execution. He symbolised that form of criminality which had its immoral origins in a denial of human feelings.

In few instances have we witnessed such stupor or indifference either to religion or to the attentions paid to him by the minister or gaol attendants. With a contracted brow and eyes immoveably fixed on the ground, he stood, both before and after he ascended the gallows, firm and motionless - no symptoms of fear or apprehension, still less of remorse or participation in the sacred rites which were performing for his spiritual benefit. Such was the demeanour of Fisher's murderer, in whom covetousness, (for he possessed of this world's goods a comfortable portion) engendered the idea of murder, and which being controuled (sic.) by no kindness of heart, ended in the foul crime for which he suffered. Monitor, 10 February 1827. 4.

1. Heath, op.cit., p.222.
2. On the fascination in literature towards the end of the eighteenth century with "criminals who are mysteriously incapable of repentence", see Bredvold, op.cit., p.83.
3. W.H. Auden, The Dyer's Hand and other essays, p.152.
4. For other examples see Sydney Gazette, 12 June 1803; Tench, op.cit., pp.44,59.

Some prisoners would go even further in showing their contempt for death and the symbols of terror. In their cells, the prisoners William Langford and Thomas Hill "had endeavoured to destroy themselves by cutting the veins and arteries of the arm, the hands, and each instep". On the scaffold, Langford, who was more unrepentent of the two, leapt off before the platform fell; in effect he denied the judiciary the satisfaction of vengeance and control over him¹. In another case, the prisoner Hutchinson and his companion showed their unconcern by talking to each other and by joining hands as they were launched off. The prisoner Hutchinson even "gave directions to the executioner respecting the adjustment of the apparatus; both made repeated frivolous observations"². To laugh at the fear of God was to become one's "own bitter and irreconcilable enemy forever, both in this world, and in the next"³.

This denial of sensibility was seen to render a prisoner similar to the Aborigine. His violence was spoken often in similar terms to that of "the brutal ferocity of these unfeeling savages"⁴.

The criminal appeared insensible of the awfulness of his condition, and betrayed no evident anxiety as to a future state. From a long reference to the society and an extraordinary habit of intimacy with the natives he seemed to have imbibed their natural depravity of inclination and total want of human feeling.

Sydney Gazette, 27 May 1804.

In denying the human capacity to feel, such prisoners also denied the ontological basis of sociality and morality within

1. Sydney Gazette, 2 March 1816.

2. Sydney Gazette, 2 March 1811.

3. Sydney Gazette, 2 April 1803, "Extract from Society for Bettering the Condition and Increasing the Comforts of the Poor".

4. Sydney Gazette, 10 June 1804.

men, for sensibility was the other perceived restraining force on "ungovernable passions". Like Reason, it was God's gift of social order to man through nature.^{1.}

...the Omnipotent Master of the Universe hath given reason unto man to be useful and not to be despised:- And, he hath commanded him to do unto his neighbour, as he would have that neighbour do unto himself.

Sydney Gazette, 4 September 1808.^{2.}

Thus the prisoner's crime was not always regarded as the suspension of reason. There was a group of crimes which were judged to be particularly atrocious precisely because the prisoner employed reason for evil purposes.^{3.} Such criminals were judged to be far worse than those who committed their crimes out of passion.^{4.} The fascination here was with rational evil, with the planned and premeditated nature of atrocities. Such trials represented statements of how reason needed feeling and sensibility in order to be virtuous. As such they were assertions of innate emotions as the basis of social and political hierarchy. They acted to justify that personification of state power which emerged from equating the judiciary with the human moral emotions of sensibility, whilst the lower orders of the population were often viewed as vicious. In effect, the internal hierarchy needed to govern a human being was used as the metaphor for class relations.

1. On this theme in contemporary philosophy, see L. Whitney, Primitivism and the Idea of Progress, pp.24-25.

2. "...an obstinate adherence to a life of crime is the evidence of a weak head and a corrupt heart"; Sydney Gazette, 14 May 1809.

3. See the Judge Advocate's speech in the Sydney Gazette, 27 March 1813.

4. "Johnson's crime did not rank him so high in the scale of villany, as if he had been a cool and premeditated murderer - his offence seems to have been excited during the whirl of passion; and there consequently was more pity for his fate, spread among the spectators, than is usual when a culprit swings for murder"; Australian, 26 March 1828.

Let us explore the logic of criminality, as the denial of sensibility, a little bit further. In lacking a capacity to feel so prisoners were sometimes seen to be not amenable to punishment: "So hardened in wickedness and depravity are many of them [convicts] that they seem insensible to the fear of corporal punishment and even death itself".¹ But it was not just punishment but also rewards that the condemned prisoner was seen to be indifferent to.

No punishment however exemplary, no reward however great, could operate on the minds of these unthinking people. Equally indifferent to the pain which the former might occasion, and the gratification that the other might afford, they blindly pursued the dictates of their vicious inclinations, to whatever they prompted;... 2.

In lacking the sensations of pleasure and pain what is the prisoner if not a being thrown in upon itself; pure subjectivity which has no reference to the outside world. This is the significance of Collins' description of capital crimes as emerging from beings who "blindly pursued the dictates of their vicious inclinations". The condemned prisoner's self-contained nature denied the existence of the state's inner reformatory role, bound up as this was with the external structuring of social space through rewards and pleasures. How could the prisoner be made to value the advantages of pursuing good when he only knew the stubbornness of his own habitual desires. The momentary and habitual nature of criminal desire meant that the prisoner denied, and could not conform to, the calculative logic underlying state practices. He was presented as a being who could not project past warnings or gratifications into the future to control and understand the full consequences of his actions. Thus, he was viewed as someone who was not able to balance short-term gain against long-term advantages or disadvantages.

1. J. White, Journal of a Voyage to New South Wales, p.118.

2. Collins, op.cit., Vol.1, p.473.

It was much to be regretted that these people [ex-convict settlers] were so blind to their own advantage, most of them sacrificing to the dissipation of the moment what would have afforded them much comfort and convenience, if reserved for refreshment after the fatigue of the day.¹

Increasingly, the right to be regarded as human and the right to life were defined in terms of an ability to engage in a proper sensual calculus. As Ignatieff has put it: "Crime, therefore, was not sin but improper calculation".²

In often being a creature closed off from the outside world of other men's feelings, the hardened criminal was one of the ultimate symbols of anarchy, that of the subjectively autonomous individual. This was, I would suggest, the underlying symbolism in the case of William Reagan, who murdered a companion servant on his master's property:³

The wretched man, on being taken back to the Gaol after conviction on Friday, resolved on tasting nothing; he would not even take a draught of water, and in answer to a question put to him, why he would not take nourishment, he observed that his own saliva was quite sufficient nourishment for such a one as him.

Monitor, 7 May 1828.

The prisoner was also reported as never once praying on his knees in his cell. He was indifferent to the large number of spectators at his execution and he did not address them. He was eager to go to his death and proclaimed himself as the sole murderer of his companion. But the radical individual nature of this prisoner's evil ("for such a one as him") was expressed in his claim that he could feed off himself, off his own saliva. His rejection of food was really a symbolic statement of his rejection of society as the basis of his existence. In his "solitary abode" he was self-sufficient, a symbol of solipsism

1. Collins, op.cit., Vol.1, p.241.

2. Ignatieff, op.cit., p.67.

3. Monitor, 7 May 1828.

as the basis of anarchy. I would suggest that part of the underlying symbolism was also that William Reagan through his crime had consumed so much of the world that he now transcended its material requirements. In feeding off himself in his solitary cell, this prisoner rejected his situation of material dependency. From a position of self-debasement he also rejected those relations of reciprocity which were seen to link society together and which constituted "one of the greatest benefits peculiar to man's superior nature".¹ In brief, he was a symbol of excessive individualism, of anarchic independence which denied sociality, as the source of evil. As such he was similar to the individual who "withdraws himself from the Body corporate, and by pursuits inimical to the general interests, erects that species of lawless independence within himself that characterises the piratical state, which, dependent solely upon its own capacity, must singly stand of folly".²

In this chapter I have so far dealt with the cultural construction of criminality in the N.S.W. press as this formed the basis for coercive state intervention designed to ensure the ideological reproduction of class relations. In the next sections I want to turn from the crimes and trials reported in the press to analyse those ideological effects which emerged during the ceremonial performance of executions and the press reporting of them.

1. Sydney Gazette, 8 April 1804.

2. Sydney Gazette, 13 July 1811.

The moral philosophy, which underlay the N.S.W. press' cultural construction of criminality was also important in structuring its interpretation of the prisoners' performance on the scaffold. Before turning to the latter, let me recapitulate briefly the outlines of this moral philosophy. It was a combination of religious and materialist views of the self. It stressed man as a creature of experience and reason, but in turn saw these capacities as God-given. Man as a manifestation of nature contained within himself divine attributes; as such his knowledge of Good and Evil were partly seen as residing within an empirical investigation of himself. Thus, self-knowledge or reflection was very often regarded as the basis for being a moral being.¹. This idea underpinned both the emergence of solitary confinement as a punishment and also the strong requirement that the prisoner produce a confession on the scaffold, that he make his own life into an object of knowledge. Before proceeding further with the analysis, let us look firstly at an execution report.

On Tuesday morning last at 8 o'clock, John Murphy, Dennis Kareen, William Masen, and Joseph Moreton were taken to the place of execution, in pursuance of their sentence: when the three first having ascended the cart from which they were to be launched, the JUDGE ADVOCATE entered the circle, and announced the extension of the Royal Mercy in favour of Joseph Moreton, to which act of clemency His Excellency had been induced in consideration of the offenders youth, on condition of his becoming a transport for life. The others submitted with seeming resignation to their unhappy fate - the spectacle was awful and impressive: they were conveyed to the place of atonement in two carts, their feet resting upon the coffins which were to receive their remains:- they prayed and sang alternately on the way, and with becoming fervor supplicated the Remission of their crimes, which it is a common duty to hope they may have received. Murphy was most exemplary in his contrition:- not a moment passed unprofitably by and when about to leave the world, acknowledged the perpetration of various offences,

1. "In every station of life reflection is an indispensable duty of humanity: for this purpose we receive the gift of intellect, and he who applies the Divine donation to its proper use avoids the evils with which the prisoner is punished"; Sydney Gazette, 26 February 1804.

of which others he was fearful might fall under suspicion. In addition to the crime for which he suffered, he likewise declared himself the only actual perpetrator of that in the house of Mr. Williams, and having disburdened his conscience appeared in his last moments to enjoy a tranquility of mind to which he had long before become unhappily estranged. His real name was Crawley, that of Murphy being only assumed, and the place of his nativity was London, somewhere in the environs of Smithfield. He was perfectly illiterate, and to this total neglect of his juvenile morals and education was doubtless in a great measure owing the unreleased depravity of his riper years, of which he has in these settlements given such undoubted testimony.

Sydney Gazette, 2 November 1806.

As we can see, the scaffold became for many prisoners a hegemonic site for expressing a radical moral conversion. The walk to the scaffold often assumed the mythical ritual qualities of a spiritual pilgrimage. It became a moment of truth before God and other men, within which a lost soul might struggle for salvation. Repentance and confession were presented to the condemned prisoner as the means of possible redemption in the next world, "from those pains which the unrepentent sinner can alone look forward to".¹ Contained in the solemnity of his last religious acts: prayer, confession, requests for heavenly and secular forgiveness, warnings to others, was an acceptance by the prisoner of the inevitability of his own death. A "good" prisoner acknowledged the justice of his sentence by preparing for it. He often became a willing participant in his own death; he might even give a speech justifying his execution and the right of the judicial-political system's resort to violence. On the gallows, the redeemed prisoner confirmed the penal system's ideology of man as free to choose between good and evil.

Sometimes he further demonstrated his new found freedom and moral commitment by revealing other criminal participants. Due

1. Sydney Gazette, 29 June 1814; see also Sydney Gazette, 31 August 1806; many of these themes were contained in the letter written by Samuel Peyton to his Mother, 24 June 1788, in Tench, op.cit., pp.62-63.

to the construction of the execution as a moment of truth, such accusations were often taken seriously.¹ Not all prisoners would reveal the names of their accomplices, some such as Bradley would hesitate over making an open "avowall of all their errors through life" out of a fear that to reveal names and incidences would be to reveal those whose warning his sad fate was directed to.² Indeed Collins claimed that convicts "were rarely known to stand forward in bringing offenders to punishment".³ Those that did, however, served the purpose of helping to fragment and atomise solidarities amongst the lower classes, by spreading a suspicion of the unreliability of criminal confederacy.⁴ In the confession, the exposure of clandestine relationships, secret oaths, and immoral compacts served the purpose of validating a notion of omniscient, sacred and secular justice.⁵ It also helped maintain that individualised view of criminality at the heart of the criminal justice system: for in these final moments stood a man who rejected worldly associations out of a recognition that he alone stood before God.

Given that many convictions were based on circumstantial evidence, the importance of the confession was partly that it "was presumed to arise from a consciousness of guilt, and rendered every further evidence unnecessary".⁶ "Testimony... proceeding from the lips of a dying man, whose only probable

1. Collins, *op.cit.*, p.61; *Sydney Gazette*, 2 October 1803.

2. *Monitor*, 25 October, 1828.

3. Collins, *op.cit.*, Vol.1, p.197, cf pp.36, 59.

4. See *Sydney Gazette*, 31 June, 20 October 1803, 11 March 1804.

5. See *Sydney Gazette*, 25 May 1805.

6. *Sydney Gazette*, 26 October 1806.

concern it was to ease his burdened conscience in the hour of death, should at once remove all doubt, if such remained."¹. The execution in effect often became a second trial which denied or confirmed the truth of the first. Accordingly, the Monitor, 17 February 1826, reported a "gentle contest" on the scaffold, as the priest sought to prevent the prisoner, Clines, from making a public statement of his innocence: "the worthy priest entreating him not to commit a breach of charity which he strongly apprehended, but to abstract his mind from worldly concerns and forgo [sic.] any public declaration". The prisoner's refusal to confess was taken as a refusal to transcend corporeal being, so as to recognise that his ultimate significance lay in a realm within which all artifice is rendered obsolete.² It appears that some prisoners maintained their innocence out of a hope for a Reprieve.³

The spectacle, the press reported, was not so much the actual process of death, the struggling body, but more whether the prisoner repented; whether his depravity was so inflexible as to consume him until the moment of his death.

There was an obscure and dim mistaking in his tortured spirit, of his sentence, as the mere judgement of men, instead of the doom of the Eternal, whose great law he violated; he denied demon-like, the righteousness of the fiat, "blood for blood;" and in the blackness of his face, you read wrath against wrath, that of a wicked worm against the Holy of Holies, wickedness struggling with conscience, and crime, fearstricken and appalled, yet loath to give way to penitence, though prayed on by remorse. Monitor, 30 March 1829, "Anatomy of Drunkenness" (from Blackwood's Magazine).

Some prisoners were seen to meet death with "counterfeit courage" and "false bravado", which was "known to result from the deepest

1. Sydney Gazette, 2 October 1803.

2. For examples of men who protected their innocence at the scaffold, see Monitor, 3 January 1829; Sydney Gazette, 13 March, 1827.

3. Australian, 12 July 1826.

depravity, and under the worse influence of moral turpitude"¹. For example, John Brennan concluded "not only falsely, but wickedly and ignorantly, that the world will be disposed to give him credit for bearing the dreadful event as a common calamity"².

Not all prisoners denied so openly the execution's religious framework and the experience of suffering. A few prisoners took up other possible interpretations of the meaning of suffering to subvert this political ritual. These prisoner's often presented themselves in the role of martyrs, or in the role of Christ crucified by an unjust ignorant world. They professed a humanity so great as to be capable of forgiving those in authority who were executing them. Such was the case reported by the Australian, 29 April 1826, of "the ill-fated being who forgave, with the utmost feeling of sincerity, all who may have been accessory to his fate". Similarly the prisoner Riddle, who "rejected the proffered assistance of religious consolation to the last moment of his existence", ran up the scaffold and addressed the crowd:

My good friends and fellow prisoners, look at the state I now stand in, innocent of what I am going to die for - but I forgive my prosecutors, and I forgive everyone. I prefer death to living in chains and fetters in such a country as this.

Australian, 24 March 1829.

Such prisoners played out the role of sacrifice, but completely transformed its meaning. They constructed themselves more as the innocent victims of a social system, rather than of their own subjective dispositions.

1. Sydney Gazette, 24 April 1819.

2. Ibid..

Another group of prisoners used the scaffold's moment of truth to denounce the horrors of the penal system. Murphy stated that he and his companion "had committed the murder to terminate a life of misery". Halfway through his statement about starvation he was interrupted by the Sheriff, who told him to be silent.¹ Such public criticisms increased in the late 1820's after the Bigge Report, which resulted in a tightening of prison discipline and an increased use of isolated secondary places of punishment such as Norfolk Island and Moreton Bay. At a Supreme Court trial for mutiny at Norfolk Island, one prisoner stated that: "so hopeless and wretched is our condition at the Island, that plans have been projected to commit murder, IN ORDER TO GET UP TO SYDNEY TO BE HANGED."² The prisoners Bergman and Matthew similarly denounced the horrors of Moreton Bay as a "Hell... upon earth". Bergman blamed his inability to call witnesses from Moreton Bay, for his conviction. He repeatedly declared himself innocent yet willing to suffer. He also agreed with the dying declaration of his companion Matthew, who warned assembled prisoners to avoid Moreton Bay; and that they were better off in their chain gangs.

If you go to Moreton Bay, (said the culprit), you are ruined beyond redemption. You are either flogged to death or worked to death. I have known many bright men murdered - completely murdered by the ill-usage of overseers, constables, and those above them. Take warning by me - take warning - never run from your road gangs or iron gangs. It may perhaps send you to Moreton Bay, and then you are a lost man. The last time I was flogged was for stealing a few grains of wheat. I received a hundred severe lashes. Oh, fellow prisoners, avoid Moreton Bay. Australian, 21 April 1829.

1. Monitor, 12 January 1831.

2. Monitor, 24 September 1827; see also Australian, 26 October 1827.

It is difficult, if not impossible, to know what the subordinate classes in N.S.W., who left so few documents, thought of these public moments of protest and inversion. Was the unrepentent sinner their hero, as was sometimes the case in Britain?¹ Or was he morally condemned by the audience as the Sydney Gazette, 24 April 1819, stated in the case of the unrepentent John Brennan? The Australian, 21 April 1829, suggests that many members of the audience came especially for these displays of final resistance. It reported the case of the prisoner, Matthew, who accused the Judge and the Jury of seeking to murder him. The large crowd of spectators at his execution, the Australian attributed to his violent outbursts at his trial and to the expectation that "something out of the common would occur during the scene of execution". During the execution of Charles Butler, the Australian, 5 August 1826, reported the Reverend Cowper as attacking the "foolish and a very general idea with many persons unfortunately situated like himself" that they would not obtain the sympathy of the spectators if they confessed their crimes and justified their punishment as necessary "to appease the laws of outraged justice".

The above article reveals amongst prisoners and spectators precisely the opposite of the official ideology espoused by the press, namely that it was through the confession and self-condemnation that the prisoner would be morally reunited in sympathetic communion with the audience. This official ideology was very clearly stated by Governor Macquarie

1. For evidence that in Britain the audience cheered on the prisoner who showed contempt for the fear of death, see W.E.H. Lecky, History of England in the Eighteenth Century, Vol.1, p.105; Howard, op.cit., p.297 where he quoted from Fieldings' Inquiry into the Late Increase of Robbers.

in a case where the prisoner failed to undertake the expected performance.¹

The GOVERNOR cannot reflect, but with the greatest Abhorrence, on the unparalleled Depravity exhibited by one of the lately executed Malefactors, namely Dennis Donovan, at the Instant he was about to be precipitated into Eternity, for Crimes of the blackest and most detestable Nature. At such an awful Moment, all Artifice, all Disguise is supposed to cease, as being no further useful in this World, and the unfortunate Criminal is expected to think, then, only, of making his Peace with his offended Creator, by an open Confession of his Guilt accompanied with a fervent prayer, to the throne of Grace, for Mercy. Such a Line of Conduct would naturally excite general Commiseration for the wretched Man, however depraved his former Life had been: but instead of such Confession, Humiliation, and Contrition, this Malefactor (shocking to relate), went out of Life, protesting in the most solemn manner, his total Innocence of the Murders of the two unfortunate men... Sydney Gazette, 23 July 1814.

In general, the execution's concluding moments were expected to assume the narrative form of a spiritual autobiography. A work of 'truth', which through its everyday secular detail, sought to account for the prisoner's present tragic predicament.² It was like many of the convict novels, a moral tale through which the prisoner disclosed hidden aspects of his identity.³ He might reveal his real name, "that of Murphy being only assumed"; his place of birth, "somewhere in the environs of Smithfield"; that his parents were respectable. The prisoner might then draw out of the unstable and fragmentary character of his life, characterised as it often was by periods of physical and moral wandering, those initial youthful instances of moral corruption, which

1. See also Collins, op.cit., Vol.1, p.473.

2. For spiritual autobiographies in Britain during the eighteenth century and how the incorporation of everyday experiential detail into them was part of their secularisation, see R. Bell "Metamorphoses of Spiritual Autobiography", ELH, 44, 1977, pp.119-125.

3. A. Conlon, "Mine is a Sad Yet True Story", JRAHS, Vol.55, March 1969, p.45.

led him to begin his departure from the path of virtue. He would use his present misfortune to altruistically warn the audience of the reckless and abandoned habits which result from breaking the sabbath, drunkenness, gambling, idleness, not caring for morals and education whilst young. At such points, the prisoner manifested the full hegemonic power of the execution. He became a spokesman for a bourgeois critique of that hedonistic culture through which the working classes resisted middle class asceticism. The "well-behaved" prisoner would also stress the inescapability of punishment:

declaring that from the age of infancy his crimes had involved him in pains and suffering; for that providence had constantly persecuted him for his offences and left him no shelter from the penalties of his iniquities.

Sydney Gazette, 16 July 1814.

Sometimes the condemned prisoner might single out particular members of the audience to address his 'sermon' to, but more often than not, it was addressed to all.¹ He might also ask the audience to pray for him. All these acts were seen to incorporate the audience into his experience of atonement. This was evidenced in the speech of Bradley who spoke of the audience as his "friends" and asked them to pray also for themselves.

My friends, all I have now to beg of you, is, and this is the request of a dying man, that you will offer your prayers to the Almighty to have compassion on us all and to save our immortal souls.

Monitor, 25 October 1826, (my emphasis).

It was the prisoner who was conscious of the awfulness of his situation, who "clung to the hope set forth in the Gospel",

1. Australian, 9 March 1826.

that excited the sympathy of the crowd and drew from them many "silent tears".^{1.}

The prisoner's moral tale was taken as evidence of his moral conversion. Here was a self-acknowledged sinner working for the benefit of society as a whole, subordinating all his worldly concerns for those of others. It was at this point, when the prisoner discovered the final meaning of his life in others, that he once again began to acquire moral character. He became reincorporated back into society when he began to behave altruistically. He assumed the role of a man, "who in the last stages of disaster, by an open declaration of his penitence, endeavours to mitigate the censure of mankind by proposing himself as a beacon to warn others against the dangers of vice and profligacy".^{2.}

The prisoner's autobiography was not simply a narration of successive events. Instead it linked the fragmentary nature of his past life into "a career of crime".^{3.} It was a synthesis of order, which accounted for his life's disorder. Nor did the prisoner's autobiography obey simply the paradigmatic structure of a myth continually reenacted in everyday life, such that each transgression by the prisoner symbolically reproduced the myth of Adam's fall. Such a narrative tradition treats each transgression only as the reenactment of an original, yet universal condition. This is essentially

1. Australian, 18 October 1826.

2. Sydney Gazette, 23 April 1814; this quote is not from a prisoner on the scaffold but from a writer who wrote to the Sydney Gazette warning about the dangers of extending one's commitments through an engagement in appearances. This writer however borrowed the position of the prisoner on the scaffold as a metaphor for his own situation.

3. Monitor, 20 September 1828.

the paradigmatic structure of confessions in the Augustine religious tradition. As Bell points out, this narrative tradition takes a story out of time by transforming the history it narrates into myth, or more accurately the repetition of a myth.¹ The effect being to downplay the temporal and secular causal connections between sinful events and to emphasize the atemporal universal meanings which all events assume before the gaze of God.² In contrast to the Augustine narrative tradition, the condemned prisoners autobiography fitted more into the genre of contemporary novels which were concerned in their plots with the unique and exceptional nature of life histories.

He [Gough] has had hair-breath escapes without number, and his life would be a more extraordinary tale than half those invented in Novels... The Prisoner set out by stating that he had been at every penal settlement in the Colony, and had been severely flogged at various times; Liberty was always when he had ever sought and only sought.³

As is indicated above, the prisoner's autobiography obeyed more the form of a novelist's plot, whose interest lay in the originality of what it brought together in time.⁴ This plot's paradigmatic structure often treated the prisoner's first transgression as the basis for a cumulative and hierarchical involvement in more sin.

My friends, you are come to see a man die; I would advise you to take warning by me. The first beginning of my ruin was Sabbath-breaking; it led me into bad company, to robbing gardens and orchards; and from gardens and orchards to house-breaking, and that has brought me to this place. 5.

1. Bell, op.cit., pp.111-112.
2. E. Auerbach, Mimesis The Representation of Reality in Western Literature, p.74.
3. From a Supreme Court trial for Murder printed in the Monitor, 24 September 1827.
4. On this point with respect to the emergence of the early novel and its biographical form, see Lyons, op.cit., p.50.
5. Sydney Gazette, 13 November 1819, reprinted from Times 6 October 1818.

The prisoner's autobiography also reflected within its unique and eventful nature the historical growth and development of evil in man: from a situation in which evil begins as an initial act of freedom and transgression to a situation in which evil dominates the individual, such as to imprison him in the consequences of his own freedom.

They appeared, indeed, to have become so besotted in criminal indulgencies, that they had been led on, step by step, till no escape seemed now open from condign punishment.
Sydney Gazette, 17 March 1821.

It was perhaps this autobiographical moral tale which captivated some members of the audience and drew them to the gallows. This is evidenced in a quarrel which broke out between two condemned prisoners over whether to gratify the spectators.

Shortly before the cart was driven off, Lynch addressed the spectators in a becoming manner, and hoped that this melancholy fate would operate on the minds of others as a caution against falling into familiar vices: but in this last voluntary effort of contrites he was interrupted by his unrelenting companion, who harshly desired him not to gratify the spectators....

Sydney Gazette, 2 October 1803.

The repentant prisoner's life-history was part of a general fascination with autobiographic accounts in the early N.S.W. press. These autobiographies were often of great men occupying prominent positions in society, yet who were also fatally flawed. Such was the case of Napoleon.¹ Crime fiction, I would argue, was the autobiography of the lower class anti-hero, who, as we saw in the case of Dick Smith, struggled for a greatness which was not his due.

Following Marx, I would argue that the unique eventful nature of these histories, characterised as they often were

1. For examples of such biographies, see Sydney Gazette, 19 March 1814, 3 August, 15 June 1816, 25 April 1818.

with spectacular accidental happenings, served ideological purposes. As Marx points out, it is the seeming accidental nature of conditions of life under capitalism that creates and promotes mystifying notions of freedom, of everyman possessing a destiny of unlimited possibilities.¹ It was, I would argue, within a context in which capitalism de-territorised individuals, freed them from their communities and threw them upon the sale of their labour in diverse contexts, or on the forcible employment of their labour in remote unfamiliar colonies, that the prisoner's eventful autobiography assumed a hegemonic fascination for its audience. The prisoner's eventful autobiography became perhaps a symbolic statement about the tragic consequences of freedom under capitalism; that is it became perhaps a symbolic statement of the audiences own life histories, whereby each member of the audience could equate their own eventful lives and even their presence in N.S.W. with that tragic freedom made up of the prisoner's historical struggle for the pursuit of happiness in diverse contexts.

The importance of these life histories is that they represented the emergence of secular techniques of individualisation. No longer was identity being defined only in terms of the individual's presence before the omniscient gaze of God. Increasingly the unique and historical nature of experience was emerging as the measure of identity. Having said that, I want to emphasise that religion was still important as a technique of individualisation. Indeed I want to turn to analyse how it operated as such during the last revelatory moments of the execution.

1. K. Marx, The German Ideology, pp.87-88.

Out of the distance separating man from the sacred, the prisoner's confession emerged as an attempt to escape from sin in the act of recording it. Through the act of self-condemnation, the realisation of his self as flawed and separated from the sacred, the prisoner strove to be reunited with the sacred. Perhaps this accounts for the extended elaborate form of the confession. The confession never stopped with simply a confirmation of the crime that led to the execution. It often became an exhaustive investigation of the self, with the prisoner sometimes bringing forward long lists of new crimes for which he had not been discovered, but "of which others he was fearful might fall under suspicion".

The following declarations were made by the late executed and truly penitent Murphy, shortly previous to his death: that he hoped to depart in peace with all mankind, and found it a duty to his conscience to declare his guilt in the following offences, while he sincerely advised all his survivors against taking to the woods, a folly from which no single good could be derived, but from which unnumbered ills arose - He had stolen 1 sheep from the Rev. Mr. Marsden's farm at the Field of Mars; several fowls from Elliot at the Northern Boundary; a goat from Richard Partridge; a sheep and two pigs the property of G. Blaxcell Esq.; several goats from the lumber yard at Parramatta; sundry geese from the farms of Major Johnston and Mr. Laycock; slaughtered a calf in the Government stock yard at Toongabbee; a lamb and kid, or two kids at Leadbeaters', Toongabbie; stolen several articles of wearing apparel from a house at Seven Hills; names he knew not - but the pot may be probably recovered upon application to the Printer of this Paper.

Sydney Gazette, 9 November 1806.

Through his autobiography the prisoner assumed the position of an objective observer, that is he struggled to observe himself from the standpoint of the Absolute Other, God, who was represented here on earth by the Judiciary and the Church. Self-knowledge, "next to the knowledge of God", was "the most useful and comprehensive attainment in the moral system".¹ Here it was not just a man confronted

1. Sydney Gazette, 20 May 1824.

with the imminent reality of his own physical death that was the spectacle. But that of a guilty man engaged in a lonely, agonising quest for complete and total disclosure of himself, so that others and he himself might know himself as God knows him.¹

What the priest and the Judge Advocate sought to do in their visits and speeches was to give the prisoner self-knowledge and in the process a knowledge about God. Man was made in the image of God. For this reason he could be redeemed if he could only be made to discover himself. This was why guilt played such a large part in the performance of execution and criminal trials. Whereas shame is the loss of one's identity in public, guilt is the private rediscovery of one's self, its basis is self-knowledge. The spectacle of the execution, I would argue, was man striving to transcend himself through self-scrutiny. It was also partly man striving for omniscience through the act of self-knowledge.

In being made in the image of God, the prisoner's crime was not just a transgression against God and Society, but also against his own fundamental being. He becomes alienated from himself and consequently experienced "the agonies of reproaching conscience".²

Our natures are so constituted, that we cannot but approve of kind and benevolent actions, and abhor those which are malevolent and cruel.- Everyman, by an ill-natured conduct; must expose himself to the hatred and contempt of others. By an ill natured conduct; a man would be exposed to the upbraidings of his own mind.

Sydney Gazette, 20 May 1824.

1. On this theme in Christian theology, see Ricoeur, op.cit., p.85.
2. Sydney Gazette, 26 March 1803; see also Sydney Gazette, 6 October 1805.

In his final moments the prisoner was often made to judge and condemn himself. He was made to punish himself through his conscience: "Conscience tis make cowards of us all".¹ It was through his acts of self-punishment that he might be forgiven by the audience prior to his death.² There was partly an emphasis in the execution on the need to make peace with one's self before one could make peace with God.³

Conscience, the living scourge to human guilt, requires to be appeased before we dare to turn our thoughts upon eternity...
Sydney Gazette, 12 October 1806.

It was no accident that the prisoner articulated his moral history in the form of first-person narration. Symbolised in the relationship of exteriority, yet identity, which exists between the narrator and the hero of an autobiographic story was the relationship between an individual and his conscience, which is itself symbolic of the relationship between an individual and God. Here the punishment inflicted by conscience upon the criminal was partly an anticipation of future punishments. The Sydney Gazette, 9 November 1816, spoke of death as that moment when "conscience will predominate - will seize its ascendant power in the mind, and an earnest, whilst yet we live, of what we are to apprehend when dead".

1. Sydney Gazette, 26 May 1805.

2. "...when the unhappy victim to offended justice makes a confession of his guilt and by symptoms of contrition admits the justice of that sentence which cuts him off from society, the feelings of humanity and sympathy are awakened in behalf of the errors and infirmities of nature, almost forgetting the offence in the awful situation in which the offender stands."
Sydney Gazette, 24 April 1819.

3. Lyons has treated this distinction as part of an historical transformation bound up with the increasing secularisation of the self. "Before the fulcrum of the mid-eighteenth century the point of personal narrative autobiography was to make peace with God; afterwards it was to make one's peace with himself." Lyons, op.cit., p.55.

As he moved closer to the future, to the brink of eternity, so the prisoner's past sins acquired a renewed ethical importance, which the present moment, through "an unfeigned repentance" must seek to alleviate.¹ "Sincere contrition and undisguised repentance could alone afford to him the balm of consolation, and the hope of happiness hereafter".² The aesthetic quality in execution stories emerged from the tension created between an existing self alienated from its past, yet having to publicly reconcile and acknowledge its relevance for its existing and future situation. It was this temporal fragmentation of self that the synthetic act of self-knowledge sought to overcome. It can be seen as part of "the Wordsworthian quest for lost time and for the redemptive power of memory".³ It was also however, directed towards the future. It was thus a quest for temporal wholeness.

But more than this. During the confessions there was a movement from a context in which the experience of shame was dominant to a context in which the experience of guilt became increasingly dominant, even though at the end of the execution the experience of shame would violently reassert itself. The task of the previous trial and the Judge Advocate's speech was to redefine the prisoner, to take his subjective identity out of his hands by defining him objectively as morally blameworthy. Here society imposed its truth upon the prisoner; within its truth mechanism it claimed to have uncovered the prisoner's true identity. During the confession, however, this relationship becomes revised, as the prisoner through his autobiography, and

1. Sydney Gazette, 20 May 1804.

2. Sydney Gazette, 31 August 1806.

3. G.D. McConnell, The Confessional Imagination, pp.3-4.

especially, through the revelation of new secrets, asserts his control over his identity. At this point the prisoner often experiences that terrifying anguish which goes with making the standpoint of the other (the judiciary and the audience) his own.¹ It is at this point that the prisoner transforms publicly his experience of shame into a self-punishing form of guilt.² Let us turn to an example.

A man name Wright, was also executed for a robbery on the Saturday previously; he made a confession of his former culpability. He stated in the outset that his conduct through life had driven his aged mother to despair and suicide. Then, while his whole frame appeared convulsed with agitation, he stated that he had something still more horrible to relate. He essayed to speak; but such was the dreadful tremour which seized his frame, he could not divulge the terrific secret. Becoming more composed, he proceeded to relate, that he had been a sailor on board a man of war, and while in the Basic roads, the vessel (the Boyne, 28 guns) captured the Dolosa, French Sloop-of-war. A Mr. Goulbee, the master of the Boyne, was put on board in charge of the prize. Before they left the roads, the crew mutined, and he, Wright, with a blow of an axe on the head, murdered that unfortunate gentleman, and threw his body overboard!! The prize was then run aground on the French coast. He also confessed to a number of Sheep robberies. Monitor, 24 July 1827.

In revealing his terrific secrets, the prisoner, Wright, also reveals what alienates him from other men; he reveals the sources of his individuality in those hidden evils, which

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1. The emergence of the prisoner's anguish by staring at himself from the position of the audience is made clearly in the following quotation: "This lad was about sixteen cried much, and although his Rev. Pastor endeavoured to tear his mind from such unavailing grief, yet he cast his eyes wistfully around him, and when they met the view of any one in the crowd in which sympathy for his fate was depicted, he would again burst into a fit of ungovernable grief"; Monitor, 27 December 1828.
 2. In guilt, as M. Westphal states, "I approve the other's disapproval of me." This is why guilt represents an internalisation by the individual of the judicial-political system's morality. He stares back at himself through the eyes of the generalised other. M. Westphal, "Phenomenology of Guilt and Theology of Forgiveness" in Crosscurrents in Phenomenology and Existential Philosophy, Vol.7, ed. by R. Bruzina and B. Wilshire, p.245.

go to define and make up his subjective and moral solipsism.^{1.} The radical nature of Wright's individuality is symbolised in the fact that his moral "conduct through life" acted to cut him off from his own biological origins by destroying one of his parents - "his aged mother". This set him further adrift morally and physically. As a sailor he participated in a mutiny and a murder. His solipsism is further evidenced in the fact that as he approaches the secrets about himself so also does he become increasingly disengaged from the world and begins to experience the convulsion of his own body. He finds it difficult to speak. Similarly, the Sydney Gazette, 13 November 1808, reports that a female prisoner on being told by the Judge Advocate to search for "a true knowledge of her unhappy condition...fell upon her knees and appeared most sensibly affected. In this supplicating posture, the power of speech forsook her". The prisoner here becomes removed from a world of intersubjectivity into a silent world of self-realisation, which in the above case of Wright he escapes only with some difficulty. Some prisoners never escape their "melancholy silence" and, as a consequence, are seen to suffer all the more for it. Such is the fate of Townsend who "remained silent, and appeared to endure much mental agony. Regardless of surrounding objects his thought seemed buried within himself, and now and then a gleam of horror saddened his pale cheek!"^{2.} The prisoner "Quinn remained composed while the

1. The prisoner's secret life was seen to define his true self. "It is to be feared, that among such a Number of Delinquents, there are some innately bad and incorrigible, who are deterred from pursuing their vicious inclinations only from the Fear of Punishment; and who will still be villanous, when they can be so secretly." Reported speech by Governor Phillip on the Day of his Commission; C. Worgan, Journal of First Fleet Surgeon, p.24.

2. Sydney Gazette, 23 June 1813.

minister was with him, but left to himself, he relapsed into apparent mental agony, evidenced by his voice supplicating divine mercy with a fervency almost convulsive".¹.

It was in his private world that the prisoner, Wright, lost his composure, his public presentation of himself. It was precisely this loss of control that also acted to define this private realm as a realm of inner truth. A world which was not geared to the outside contained no possibility of artifice. The truth about himself was expressed before he started to speak, in "the dreadful tremour which seized his frame". This tremour acted to legitimate the confession which followed and externalized the prisoner's internal disorder. It allowed the audience to take a glimpse into the prisoner's own inner turmoil. The turmoil which comes from self-knowledge locked up within itself. What the prisoner's convulsion exposed were the paralysing terrors of self-realisation; "a mind at war with itself!"².

When arrived at the fatal spot which was destined to be the goal of their journeyings and vicissitudes in this life, Collins, while in the act of supplicating his offended Maker, was so wholly overcome by the sense of feeling which occupied his afflicted mind, that he fainted off and for some moments appeared lost to all recovery; but after an interval of a few minutes...returned, with a sense of horror that rendered him to the spectators one of the most miserable objects that ever fell a victim to his crimes. That spirit which had so...raged...was now gone, subdued so as to reduce him to a state of horror and trepidity which could not fail of exciting an awful commiseration in the mind of all who beheld a fallen fellow creature so dreadfully circumstanced...

Sydney Gazette, 24 December 1814.

1. Monitor, 19 June 1827.

2. Sydney Gazette, 12 October 1806. On this theme in literature see J.A. Dussinger, The Discourse of the Mind in Eighteenth Century Fiction, p.39.

Emotions played a very large part in constructing the prisoner's last moments into moments of truth. These are not moments for the triumphant parade of Reason, but moments within which man's inner moral sense, based on sensibility could demonstrate their power. This was why the presentation of guilt often assumed non-discursive forms, residing in the posture and movement of the prisoner's body, the way he clutched his Bible, fell down on his knees and prayed, the tears he shed, the convulsion which shook his body. Whereas language is social, intersubjective, always involving and implying the other, this is not necessarily so for gestures. In comparison and contrast with speech, gestures can be more readily seen as expressions and symptoms of inner being.¹ As Susan Langer says:

Language is primarily symbolic and incidentally symptomatic; exclamation is relatively rare. Gesture, on the contrary, is far more important as an avenue of self-expression than as "word". An expressive word is one that formulates an idea clearly and aptly, but a highly expressive gesture is² usually taken as to be one that reveals feeling or emotion.

It is only when speech begins to approach poetry and song, as it so often did in executions, that it begins to gain the same private meanings which gestures so readily assumed. This was why the prisoner's final utterances were sometimes described as "fervent ejaculations", that is within the idiom of uncontrolled sexual gestures.³ They became the physical, uncontrolled spurt-
ing forth of speech. With gestures it is the very lack of control which an individual exercises over them that makes them vehicles for the expression of private, inner states of being which

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1. On this point, see also M. Dufrenne, The Phenomenology of Aesthetic Experience, p.130.
 2. S. Langer, Feeling and Form, p.180. I am indebted to Professor Bruce Kapferer for pointing out the relevance of Susan Langer's work for interpreting the performative structure of rituals.
 3. Sydney Gazette, 1 January 1827, 17 January 1829; Australian, 13 June 1828, 28 April 1829.

define the "true" nature of the self.¹ Speech can only approach this ability to appear as "knowledge of the heart", rather than "knowledge of the head", when it assumes the quality of spontaneity.² When it appears to emanate directly unmediated from inner-subjective being. Similar verbal ejaculations to the condemned prisoners have been analysed by E.P. Thompson amongst Methodists. Though I have some reservations about Thompsons psychoanalytic interpretations, I nevertheless agree with the general thrust of his argument that the sexual idiom formed an important part of an ideology which stressed spontaneous direct communication with God and not "head knowledge". The tendency of this ideology was to democratise religious knowledge and to construct the individual as the source of truth.³

Historically, the notion of truth as lying within oneself was given impetus by the epistemological individualism of Locke which grounded all knowledge in experience. Lyons has argued that it is only when truth no longer resides outside the self but within the realm of the individual's experience that the devout are then "moved by enthusiasm and zeal to confirm - even earn - their salvation".⁴ It was this quality

1. "The most diverse texts, in our literary tradition, confirm this association of the prisoner's descent into the self with the quest for a truth, even the quest for identity." V. Brombert "The Happy Prison: A Recurring Romantic Metaphor" in Romanticism, ed. D. Thorburn and G. Hartman, p.73.
2. "The movement of heart, will and intellect is, for the true Protestant confessant, a single act of speech; and if it fails to become such, if it fragments itself into 'head-knowledge' as opposed to 'heart-knowledge', then the confessant knows that something is wrong, that his election is not yet complete." MacConnell, op.cit., p.4.
3. Thompson, English Working Class, pp.399-411.
4. Lyons, op.cit., pp.8-9.

that the prisoner's confession had to reproduce in order to be considered sincere.

The confession represented the unburdening of the prisoner's conscience. It sometimes allowed him in his final moments "to enjoy a tranquility of mind to which he had long before been unhappily estranged".¹ These acts of sincerity, as Ricoeur points out, are acts of symbolic purification.² Paradoxically, the restoration of order within the prisoner and in society was often seen to lie in the very discomfort, in the very disorder, he experienced in his final moments. I would suggest that the prisoner in these last moments symbolically takes into his own person the disorder he introduced into society. For this reason his destruction can be a restoration of balance to the world.

Given the analysis so far, I would criticise Foucault's general thesis in Discipline and Punishment that executions were directed towards corporeal being, whilst the modern penal system is directed towards the custody of the soul or mind.³ More recently, Foucault has modified this historical thesis by pointing to the increasing secular appropriation of pastoral power.⁴ Executions can be interpreted as the initial secular appropriation by the state of the individualising aspects of pastoral power. Executions embodied within their performative structure the emerging new solitary confinement's technology of suffering introspection. What the penitentiaries did was

1. Sydney Gazette, 2 November 1806; see also Sydney Gazette, 16 July 1814, 15 July 1820.

2. Ricoeur, op.cit., p.46.

3. Foucault, Discipline and Punishment, pp.10-17.

4. M. Foucault, "The Subject and Power", Critical Inquiry, Summer 1982, pp.782-785.

to apply the principles of science and architecture to transform this old religious technology for producing guilt into a state system for its mass production.¹ As Bentham put it: "Reformation...is a species of manufacture: like all other manufactures, it requires its particular capital or stock in trade".² As this technology was increasingly appropriated by the state, the consequence has been its secularisation. Guilt in N.S.W. executions was not simply an anticipation of secular or divine punishment, but had become punishment itself. Indeed, executions became for some N.S.W. prisoners a means of escaping "the terrible reproach of conscience".³ The quotation which follows, for example, can be interpreted as an anticipation of that state of suicides which would meet the new penitentiary system as it began to alienate individuals from themselves.

It would appear also that from the fatal moment which consigned him to the terrible reproach of conscience he entertained no other wish than to atone for his offence by yielding blood for blood: the emotion that choked his utterance at the bar of justice; his acquiescence and passive acknowledgements of the facts upon which he was condemned, and his resignation at the approach of the awful crisis that was to usher him into eternity, were combined in testimony that life was no longer desirable, and no more to be endured. Sydney Gazette, 6 October 1805.

By now it should perhaps be clear that the execution is organised around a paradox. It gains its justification as the expulsion of irreclaimable evil from society; yet it also seeks to morally rehabilitate those whom it expels. The

1. For a discussion by Marx of the origins of the penitentiary notion of punishment in Christianity and in Hegel's penal theory, see M. Cain and A. Hunt (ed.) Marx and Engels on Law, pp.192-193.
2. J. Bentham, "Panopticon versus New South Wales: or The Panopticon Penitentiary System and the Penal Colonisation System, compared" in Works, Vol.IV, p.175.
3. Sydney Gazette, 6 October 1805.

reprieve often operated as a programmatic solution to this paradox, for it was generally given, both in England¹. and N.S.W.,² to prisoners who behaved penitently.

...the two remaining criminals were respited, as they were the least corrupted, and had discovered symptoms of sincere remorse for the part which they had taken in the late operations. 3.

It was also given to young criminals who were seen to be not yet hardened by crimes and who had the possibility of reform. As we will see in the next section, through the reprieve the authorities articulated their commitment to the reformative terror of the cross and the scaffold, whilst simultaneously constructing themselves within an ideology of benevolent paternalism. As Douglas Hay has aptly put it:

Where authority is embodied in direct personal relationships men will often accept power, even enormous despotic power, when it comes from the 'good King', the father of his people, who tempers justice with mercy.⁴

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1. Douglas Hay with respect to Britain has stated that "the convict who heard the death sentence with no sign of repentance and who instead damned the judge, could hope for no pardon." Hay, op.cit., p.51.
 2. D.D. Mann, The Present Picture of N.S.W. (1811), p.14.
 3. Sydney Gazette, 21 October 1804; see also Sydney Gazette, 13 November 1808.
 4. Hay, op.cit., p.39.

(F) REPRIEVES

In this section I analyse how the Governor's relationship to the symbols of life and death was often structured during the performance of an execution so as to produce ideological statements about the nature and virtue of the centralised and personalised form which political power assumed in this penal colony. Political power, until the N.S.W. Act of 1823, which established a Legislative Council, was largely vested in the Governor. He had the power to make laws which were binding not only on prisoners and the military, but also on free settlers whether they were ex-convicts or emigrants. He had the power to appoint and dismiss officials; to distribute land, convicts, government contracts; to fix the price of grain and labour; to raise taxes.¹ Writing in 1828, the Chief Justice of the Supreme Court characterised the N.S.W. state as patriachal in character, something which he attributed to its initial origins as a penal colony containing no free settlers.

...everything necessarily centred in the governor as the primum mobile of the machine - the police, the roads, the markets, the importation of supplies, the cultivation of provisions, and even the prices of every article of daily consumption, were regulated by the orders of the governor - these entered into some of the minutest matters of domestic life, and gradually became so familiar to the inhabitants, that instances are to be found of domestic quarrels being referred to the fountain head of authority...a government situated like that of New South Wales, necessarily became patriachal... 2.

The Governor's enormous power over the procreative resources of society was symbolically condensed and codified

1. E. Campbell "Prerogative Rule in New South Wales, 1788-1823", RAHS, Vol.50, 1964, 3, p.161; A.C.V. Melbourne, Early Constitutional Development in Australia, p.6.
2. Forbes to Horton, 6 March 1828, Chief Justice Forbes Private Letters to R.W. Horton, ML A1819, p.95.

in that power over the life and death of the condemned criminal which the Governor exercised through his ability to grant Reprieves. Through an administrative division of labour with the judiciary, the Governor was not ordinarily perceived as directly responsible for an execution, even though he headed the judicial-political system that produced the verdict and even though he had to give his consent for any execution.¹ Only in extraordinarily violent or socially threatening crimes did the Governor publicly intervene as a spokesman for society's values and right to exist undisturbed.² Instead of containing as a regular feature of his position the production of death sentences, the Governor tended to exploit more publicly the power to forgive, to save the prisoner's life by commuting his death sentence to life imprisonment. One of the first powers removed from the Governors direct control soon after the establishment of an Executive Council in December 1825 was the power to recommend reprieves.³ With the appointment of others to advise and assume responsibility for the government of society, so were they also incorporated into the responsibility for deciding the life and death issues of the scaffold. Despite the existence of an Executive Council, reprieves were still presented in the N.S.W. press as the prerogative of the Governor.

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1. McMinn, op.cit., p.2. "The King himself condemns no man; that rugged task he leaves to his courts of justice: the great operation of his sceptre is mercy"; Blackstone, Commentaries, Vol.IV, pp.396-397.
 2. See M. Roe, "Colonial Society in Embryo", HSANZ, 7, No.26, May 1956, p.154; Australian, 9 March 1826; Sydney Gazette, 26 March 1803.
 3. Australian, 5 August 1826.

Some idea of the commitment and importance of reprieves to the N.S.W. state can be gained from the following figures: Between September 1800 and August 1806, Governor King reprieved 34 prisoners out of 55 sentenced to death.¹ Bigge reported that between October 1816 and the end of 1820 out of a total of 111 sentenced to death, only 59 were carried out.² Under Governor Brisbane's administration the use of the reprieve increased dramatically with only 29 prisoners being executed out of a total of 152 capitally convicted between 1822 and 1824.³ As we will see in chapter eight, one of the accusations against Governor Darling's administration was the absence of sufficient humanitarian sentiments as evidenced in an increase in executions.⁴

What is noticeable about the reprieve was its calculatedness. Nearly all the reprieves reported in the press came at the last possible moment, at that point in time when the prisoner had arrived at the place of execution, had ascended the cart to be driven off at the scaffold, and was awaiting with repentance the moment of death itself. This was no accident, it should not be seen as the system frantically responding at the last moment to a forgotten oversight. It was designed to maximise the creation of a terror of crime in the minds of the audience and the prisoner, whilst economising on

1. Roe, op.cit., p.151.

2. Bigge, Report, Vol.2, p.14.

3. Figures taken from "Abstract of Returns as to Trials..." enclosed in Brisbane to Bathurst, 28 January 1825, HRA, Vol.XI, p.479.

4. Former Attorney General Bannister claimed that executions increased from an average of 10 per annum in the period 1800-1825 to almost 30 in 1829 and to 40 in 1830; S. Bannister, On Abolishing Transportation and Reforming the Colonial Office..., p.29.

the actual use of violence. Many reprieved prisoners collapsed into convulsions, in a sense symbolically reproducing the execution without undergoing it.¹

Jillet again ascended the cart, and after he had been delivered over to the executioner, his Reprieve was received, and published by the Provost Marshall. Convulsed with unspeakable joy and gratitude, for so unexpected an extension of mercy, he fell motionless, and for some moments continued in a state of insensibility; when he recovered, he was taken back to his confinement.

Sydney Gazette, 17 April 1803.

By leaving the reprieve till the last possible moment, the Governor emerged much more directly and dramatically as the preserver of life, a symbol of bounty and grace. The Governor was not generally presented as a source of destructive energy, it was not his revenge that was inflicted upon the body of the prisoner. Instead, he was often presented as that discretionary authority whose compassion and humanity stood between the law and the people such as "to soften the rigour of the general law".² The British constitutional lawyer, Blackstone, regarded the reprieve as inseparable from the justification of monarchical power.

This is indeed one of the great advantages of monarchy in general, above any other form of government; that there is a magistrate, who has it in his power to extend mercy, wherever he thinks it is deserved: ...to him therefore the people look up as the fountain of nothing but bounty and grace; and these repeated acts of goodness, coming immediately from his own hand, endear the sovereign to his subjects, and contribute more than anything to root in their hearts that filial affection, and personal loyalty, which are the sure establishment of a prince. 3.

The Governor of N.S.W. was more than simply a position in the judicial-political system. He was also the personified

1. See also Sydney Gazette, 6 August 1804.
2. Blackstone, Commentaries, Vol.IV, p.396.
3. Ibid., pp.396-397.

form of this judicial-political system as a whole, its exemplary centre. Power was conceptualised as flowing out from him to more specialised positions within the state apparatus. The characterisation of the Governor's power as benevolent, therefore, was also a characterisation of the nature of the power of the state in general.

These symbolic qualities of benevolence and mercy were further validated by the Governor acting as patron for charity organisations, like the Benevolent Society and Native Institution, which received large donations from him personally and also through the Crown. These qualities also gained wider circulation by the Governor's more numerous acts of reducing the sentences of well-behaved prisoners through the granting of Absolute Pardons, Conditional Pardons and Tickets-of-Leave¹. Other charitable acts included reducing that portion of a criminal's sentence which required his ears to be nailed to the pillory;² or using the King's Birthday to reduce various other forms of punishment.³

The Governor's qualities of benevolence, mercy, pity and compassion were also used to characterise the power of God. There was a very strong analogy operating between the figure of the Governor and the figure of God, that worked by ascribing to them similar emotional dispositions. The Sydney Gazette, 22 January 1824, referred and spoke of the mercy of

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1. "A ticket-of-leave is a gracious act of Royal clemency communicated to one of His Majesty's liege subjects through His Representative the Governor in Chief, who in the exercise of so noble a prerogative deliberates with care and attention." Monitor, 8 September 1826.
 2. See Sydney Gazette, 5 April, 5 July 1807.
 3. Clark, History, Vol.1, pp.202-203.

"Heaven's King"; on the 24 March 1828 it spoke of the "merciful, nay God-like, act of sparing life".¹ A religious tract circulating in N.S.W. claimed that the "King's heart is in the hand of the Lord".²

In short, the reprieve furthered the fusion of sacred and secular notions of power, so that the latter was viewed as an extension of the former. The result of this ideological process was not so much to transform the Governor into God, as to present the qualities of the sacred as being realised here on earth through the person and power of the Governor. This deification process, I would argue, was facilitated by the Reprieve transforming the Governor into a symbol of transcendental order. The reprieve was in effect "the power of suspending the laws".³ Through it the Governor was more than simply the apex of a rational legal system he transcended its decisions.

In the reprieve the requirements of society and the legal system were partly being suspended to satisfy the personal sentiments of the Governor. What was implicit in this was the subordination of society to the will of the monarch. But it was not just this that was being symbolised. For the monarch became, through the reprieve, also a representative of society against the severity of the law. He and the people temporarily united against the coercive necessities of the legal

1. See also Sydney Gazette, 2 October 1806, 25 September 1808, "Lines written on my Birthday".

2. Anon., Relative Duties, p.1.

3. William Paley argued that it was necessary to confine the "prerogative power of pardon to the Chief Magistrate [ie. the King]. The power of suspending the laws is a privilege of too high a nature to be committed to many hands, or to those of any inferior officer in the state"; Op.cit., p.535, (my emphasis); see also p.30.

system. The Governor at this point entered into a more immediate relationship with society, no longer did the legal system mediate their relationship, it had become suspended, such that men could see the superior emotional virtues of those who ruled them. If the execution faltered and the prisoner was seen to suffer too much then a mercy dash might be made to the Governor. There was an implicit understanding between the crowd and the authorities that the prisoner should not be made to suffer unnecessarily. This view was held not only by convicts, but also by more respectable spectators.^{1.} In the case of Samuel, where the rope had failed three times to hold his weight, the Sydney Gazette, 2 October 1803, reports "all that beheld were also moved at his protracted sufferings...Compassion could no longer bear restraint; winged with humanity, the Provost Marshall sped to HIS EXCELLENCY's presence, in which the success of his mission overcame him; a Reprieve was announced". Such accidents as this created some uneasiness amongst spectators, especially if the prisoner simultaneously proclaimed his innocence till the end.^{2.} The religious construction of the execution into a moment of truth made all pronouncements of innocence problematic for the authorities.^{3.} In the case of Samuel his continual claims of innocence and the continual breaking of the rope led the audience to suspect the presence of some form of divine intervention. At such moments the meanings of executions began to escape

1. "...the rope which had been tied around Smith's neck broke, and the unfortunate man fell to the ground, and was much bruised and shaken by the fall... Such an accident of course created very strong feelings of compassion, not only among the distant crowd on the Rocks, but also on the most respectable spectators in the Gaol Yard...", Monitor, 27 March 1828.

2. See also Executive Council Minute Books, 17 February 1826, N.S.W. Archives, Reel 2436, pp.17-18.

3. Sydney Gazette, 3 March 1805.

the control of authorities and posed the potential of subverting their authority. By reprieving Samuel the authorities were able to regain control over this context of meaning and to undermine the spread of the idea that God stood opposed to the actions of authority. The same problem of a control of public meanings also emerged if the prisoner behaved too penitently, excessive audience sympathy for the prisoner threatened to turn the audience against the judiciary, it also prevented them severing their ties with criminality. Part of the argument for lenient punishments was precisely to break these bonds of sympathy.

A similar process to that described by Douglas Hay, with respect to reprieves in England, can also be discerned in N.S.W.. This concerns the extent to which an emerging propertied class of landowners and merchants may have been able to ideologically strengthen their private paternalistic relationships over their servants through their use of a system of patronage and personal influence to obtain reprieves and also reduced prisoner sentences.¹ The Sydney Gazette, 16 February 1811, reports the court as recommending a prisoner to be reprieved on account of "the favourable report that had been made of his former conduct by respectable witnesses". In a letter the capitally convicted prisoner, John How, wrote to his former master, Charles Thorsky Senior, whom he robbed, appealing to his "influence" and employing a language of deference and submission to "so just a Master".

1. Hay, op.cit., pp.40-49; see also H.J. Perkins, The Origins of Modern English Society 1780-1880, pp.50-55.

Sydney Gaol,
8 September 1826.

To Charles Thorsky Sen. Esq.

Sir,

I have the honour of informing you that I am now under the awful Sentence of Death in the Cells of this Gaol, being found Guilty at the Supreme Court for the Robbing of your House, and now Sir as I am confident that you would not take any Pleasure in the Death of an unfortunate Being, who now confesses his enormous Crime, and is now lamenting that he ever wronged so just a Master, and as the unhappy Man who now addresses you considers that you alone can be the means of saving his Life, and for which I employ and beg of you for the sake and mercy of our heavenly Father that you will use your influence in his behalf with His Excellency the Governor to bestow on me that great Gift of sparing my Life; and as the appointed time is not yet made known I hope you will condescend to be as expeditious as you may think Proper and may God in his infinite Goodness grant you everlasting Felicity in the World to come.

I am Sir,
Your Unfortunate Servant
John How 1.

The Sydney Gazette, 31 August 1806, provides an example of that benevolent discretion which prosecutors might choose to exercise. In sentencing a prisoner to death, the Judge Advocate asked him to recall that he had only recently escaped punishment for a similar outrage because of the charitable sentiments held by that individual who might have become his prosecutor. Likewise the Court, through its refusal to impose the full weight of the law and through its ability to determine the value of goods stolen also held some discretionary power over whether a crime was to be a capital offence or not. Thus the Sydney Gazette, 31 August 1806, reported that "from a humane exercise of its powers and in consideration of his extreme contrition", the Court has found the prisoner guilty of stealing to the value of four shillings and ten pence.² Through such measures the God-like act of sparing life was extended to other class members.

1. From Therry, Rev. John Joseph, General Correspondence, 1826, ML, 1810/6 LY Reel 718.

2. See the case of James Driver and James Curren in the Sydney Gazette, 28 September 1806; see also Sydney Gazette, 25 May 1826 for the case of 9 livestock stealers.

(G) CONCLUSION

I began this chapter with a general discussion of the ideological operations of crime literature in the N.S.W. press. By emphasising and concentrating on the often horrific details of crimes themselves and the judges condemnation of them, the press sought to distance the criminal from society and humanity. It attempted to draw the rest of the population into a sense of outrage against criminality; and to moralise this population into severing its own ties with criminality. The distinction between the criminal classes and working classes was very blurred during this period and nowhere more so than in N.S.W.. Newspaper crime stories can be seen as attempt to break up the close ties between these two groups, to Christianise and to draw the working class into bourgeois norms.¹.

As ceremonial dramas the trial and the execution affirmed and made public the values of the dominant class. Their formal pageantry, their oratorical displays, their construction of the criminal as a symbol of irreclaimable unsatisfiable desires, were all attempts to draw the audience into common feelings of public outrage at his unwillingness to regulate his egotistical tendencies for the benefit of society. The public orderliness of the execution as a political-religious ritual was juxtaposed and in opposition to the private disorder from which the prisoner's crime emanated. However, as the execution progressed it lost much of its officiating character. It was no longer simply an assertion of the dominance of the formal public domain. Increasingly, it became a psychological drama which investigated and

1. Much of this is indebted to Foucault, Power/Knowledge, p.41

asserted the dominance of private experience and individual judgement. This was the meaning of its introspective qualities; through such enforced self-reflexivity the bourgeoisie was able to incorporate the prisoner into an atomised view of society in which everyone was freely responsible for his own life circumstances. What the execution and the trial represented was the personification of class power and the class struggle. By emphasising the subjective dispositions of the Governor and the Judge as compared to the criminal, the press was able to maintain and circulate that atomised view of the class struggle which was ideologically constituted as crime.

The Reprieve further demonstrated the importance of the public display of the private person of the authorities for the legitimation of social order. The most public figure in N.S.W. society was the Governor. Almost his every movement was reported in detail: his meetings with aborigines and his annual dinner invitation to them; his giving out of school books to children; his visits to the orphan school and other charity societies; his balls and suppers; his coming and goings from Sydney. His person was further celebrated on Royal Birthdays. The death of royalty would lead the Sydney Gazette to drape its pages in a sombre black border. It is this public ceremonious aspect of the N.S.W. state that the scaffold symbolised. Rather than denoting an "impersonal and unemotive" state order, as Sturma argues, the ritualised aspect of the execution denoted the ceremonious degradation of the prisoner's person or the celebration of the Governor's paternalistic mercy.¹ Either way the focus was not on impersonal machinery, but on personalities.

1. M. Sturma, "Public Executions and the Ritual of Death, 1838", PB, No.15, April 1973, p.6.

During the execution both the Governor's and the prisoner's person assumed often sublime proportions; that is, aspects of heroic grandeur. I use the word sublime here in its contemporary meaning, of any action or quality which results in aesthetic effect through the exploration and contemplation of greatness.¹ The Governor assumed sublime proportions by manifesting either the vengeful qualities of the deity or, more often his divine benevolent attributes. The prisoner could assume proportions of grandeur through the intensity and sincerity of his struggle to be reunited with God. However, he could also inversely manifest his grandeur in his defiance of sacred and secular authority. Here the prisoner manifested the sublime qualities inherent in human evil, namely the power of man to unmake himself, to freely imprison himself in a world of his own making. The aesthetic aspect of executions and of much 'horrible' crime literature comes from its explorations of the sublime aspects of these human qualities. Crime literature dealt with the disproportions, with the excesses of human nature, with its magnifications. It explored human nature in its extremities, at those points at which it began to assume an "otherness", which was nevertheless its secret identity. The Governor and the condemned criminal are the two fantastic personages of this system. The former blending with the sacred personal otherness of God; the latter containing the possibility of blending with the cruel, unfeeling barbarity of the cunning savage. In a sense, what execution reports articulated was an ideology where individualism was greatest at the extremities of society: at its apex, but also in its subterranean depths.

1. J. Beattie, Dissertations Moral and Critical, (1783), pp.605-655, especially, pp.612, 212-213.

As we have seen, during the execution, the horror which the audience saw and read was not simply one of external apparatuses mutilating and disfiguring the body's gestures, but more that of the shuddering horror of mental self-torture. In the next chapter, I will investigate the role of the family in N.S.W. as a means of giving the experience of guilt a wider circulation than the climactic emotional moments of the execution. The breach of familial duties and dependencies constituted a new ideological means for circulating the spectacle of self-imprisoned, punishing guilt. To leave the sanctuary of the household was to enter that amalgamated world of unrestrained, superficial pleasure and self-punishment, which underlay the portrayal of all transgressions. As I will show, the family became the discursive site for articulating a whole range of ideological practices which had as their aim the hegemonic incorporation of the lower classes into bourgeois culture. The family became the new means of chaining individuals to their identities such that each transgression beyond its boundaries became also a transgression against oneself. It was through the creation of social identities, beyond which to trespass was to enter a world of self-punishing guilt, that the press sought to produce an artificial identification of interest between society and the "natural" egoism of the individual.

CHAPTER THREE

DOMESTICITY AND ORDER: THE ROLE OF THE FAMILY IN THE

CULTURAL PRODUCTION OF DISCIPLINED PRODUCERS AND

DISCIPLINED CONSUMERS

"It is the Press that impels people to be honest, virtuous, just, sober, industrious, affectionate, grateful, loyal, and in every degree noble. The Press is like unto a fire, or indeed it may be more justly assimilated to the sun, which bestows heat and light to that speck in the universe upon which we are placed.

Sydney Gazette, 29 February 1828.

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(A) INTRODUCTION: THE PHILANTHROPIC ROLE OF THE PRESS
IN PROMOTING THE FAMILY IN N.S.W.

In the previous chapter I analysed execution reports as part of the process whereby the press produced and circulated schemata for the interpretation and structuring of experience. Even the spontaneous acts of symbolic protest which emerged on the scaffold were fitted rapidly into conceptual structures which bolstered the authority's position. From a class perspective, N.S.W. newspapers represented the means whereby the mechanisms for producing mass culture were undergoing a process of centralisation and increasingly being taken out of the "subversive" hands of the working class.¹ In this chapter and the next I will analyse ideological processes which helped to render this centralisation of knowledge more effective. In particular I will focus on how the press sought to atomise the working class into familial units, isolated and sealed off from each other; and in doing so helped to render individuals increasingly dependent on the press and other central pedagogic institutions for their information.

N.S.W. colonial newspapers, like their British counterparts, regarded themselves primarily as pedagogic instruments for the efficient and rational organisation of nature and society. They saw themselves as one of the new technological means for producing a scientific and Christian social order.

1. This general theoretical point concerning the centralisation of the mechanisms for producing culture under capitalism has been made by K. Marx, The German Ideology, p.67; and T. Adorno and M. Horkheimer, Dialectics and Enlightenment, pp.121-122.

Their reporting of executions and other violent punishments was part of this ideology. However, from the very beginning of the Sydney Gazette, newspapers were major proponents of less violent pedagogic measures. The family was both one of these measures, as well as the focus for the many others sponsored by the press. This chapter is not concerned with the historical formation of familial units in colonial N.S.W., though it cannot totally ignore this issue. Instead it is more concerned with the discursive strategies which took the family as an object of political knowledge concerned with solving the problem of order. In particular, women's allocated marital role as the socialisers of the next generation gave the problem of controlling their sexuality and morality a sense of urgency. Part of this chapter's concern will be to explore women as the foci of a moral discourse which constructed them as the bearers of bourgeois values inside the private space of the family.

Before taking up such specific issues and others, I want to briefly outline some of the general discursive features of the domain of moral-politics within which the press situated itself. For the N.S.W. press saw itself as a central part of a philanthropic endeavour, aimed at preventing crime by policing and publicly censuring that hedonistic culture of criminality it often associated with the immorality of the lower classes.¹ The writer "Mentor" articulated this concern when he stated that the task of "human redemption", of reforming

1. On prevention being better than punishment, see Sydney Gazette, 10 May 1817.

the manners of the lower and unenlightened part of mankind, was best achieved by publishing the penalties inflicted for drunkenness, profane cursing, swearing and neglecting to go to church on Sunday; something which the Sydney Gazette had done from its inception. "Mentor" also pointed out that penalties for such offences went to informers; and that the Sydney Gazette, which was then published on Sundays was more likely to be read by the lower orders than the Bible.¹ The Monitor, 6 January 1827, similarly recommended its own pages to sinners, who did not attend Church on Sunday, believing them equal to Blair's Sermons and not far behind Pilgrim's Progress. The press was thus a supra-religious and supra-legal form of policing. On the 10 July 1827, the Monitor spoke of the press' "great and legitimate end, namely, the being a terror to public evil-doers, whom the law cannot reach, and the praise of them that do well, whom the law does not sufficiently reward".

The press can also be seen as part of the panopticon vision, whereby men were to be rendered moral through being continually watched.² Along with the philanthropic societies, the press constructed society into a vast pedagogic space; a space for supervising and controlling individuals through surveillance and the threat of public exposure and censure.

...if the press is not to expose vice, in whatever rank or whatever sex it is to be found, how can the press perform its most noble and valuable function - that function without which all else that it does or can do, would be a dead letter - the preservation of the public morals. 3.

1. Sydney Gazette, 31 July 1808, "Mentor".
2. Foucault, Power/Knowledge, pp.161-162.
3. The Australian, 28 June 1827, copied the above quote from a London Paper as a statement of its own principles.

The press' policing of public morals was part of a larger discursive formation within which newspapers became the centralised means of surveying the whole social body in detail to develop its productive potential. What we find in the early Sydney Gazette was a concern with such everyday details as the need to cover wells at night, making chimneys out of bricks in order to avoid household fires, not throwing glass out into the street.¹ Another example, was the article of a celebrated French Political economist, who reported the incident of how a small latch, worth not even three pence, allowed a pig to escape which caused a small family a loss of forty crowns.² These, at first sight, trivial concerns represented the emergence of a centralised gaze concerned with systematically organising the minute details of social life, so as to prevent those disasters which hindered the realisation of the utilitarian ideal of the maximum happiness. The scrutinising of the family as an instrument of moral socialisation was an important part of this discursive formation. Here I agree with Foucault that "there is a whole history to be written about...the utilitarian rationalisation of detail in moral accountability and political control".³ In this chapter I approach the family as an object of knowledge and power from this perspective.

Crimes were presented frequently as having their origins in a rupture of familial relations. This was because, as Stephen Knight says (discussing contemporary English crime

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1. Sydney Gazette, 26 March, 18 December 1803, 11 November 1804 "Sensibilitas".
 2. Sydney Gazette, 23 August 1822.
 3. Foucault, Discipline and Punishment, p.139.

fiction), crime was not viewed as an exotic plague that attacked society from the outside, but as a disease which grew from inside society. "The heart of the social body is the family...The family mirrors not only the corporate peace, but the social order."¹ The condemned prisoner's dying speech would often begin by narrating his life of crime, his period of moral wandering, with his departure from the family.²

he...lamented that he could no more indulge a hope of ever beholding his ancient parents more: he declared the province of Penyslyvania to be that of his nativity; but that vicissitude induced him to quit his home, and afterwards giving aloose to vice, he was apprehended and convicted in Great Britain, and from thence transported hither in the Coromandel.

Sydney Gazette, 25 November 1804.

The press was constantly concerned with the social, moral and economic health of the family unit, with all that threatened it. The most "horrible" and "atrocious" crimes it reported, were often murders committed against the family, and especially by family members.³ Such, for example, was the case the Sydney Gazette, 4 March 1820, reported of a husband, who with a wood axe, "like a butcher going to slaughter", murdered his wife, six children and two servants. This concern with bloody murders, in which the family self-destructs, can be seen as an extension of other newspaper reports in which the family was threatened by its own members: as in

1. S. Knight, Form and Ideology in Crime Fiction, p.11; see also P. Paulson, "The Pilgrimage and the Family"; in Tobias Smollett (ed.) G.S. Rousseau and P.G. Bouce, pp.66-78.
2. "Impelled by insubordinate principles and a thirst for sensual pleasures, they quitted their parents home - rushed into dissipated company fell headlong into every species of enormity - and became early victims of the wholesome laws of their country." The Sydney Gazette, 29 June 1824, "The Friendly Visitant".
3. For other examples, see the Sydney Gazette, 1 February 1817, 4 March 1820,

the case of the drunken or gambling husband or in the case of the wife who cannot resist the solicitations of other men. But more than examples of newspapers examination of the details of intra-familial horror, what all these articles symbolised was the problematic nature of establishing the family in colonial N.S.W..

As one might expect, the difficulty of establishing the family in N.S.W. was partly a product of the shortage of women. Contemporaries believed that this situation exacerbated crime and disorder in the colony: when Reverend Cowper complained to Bigge about the too few number of women in N.S.W., he stated "that from the want of the happiness, or domestic attachment, that arises from the marriage state, the convicts are induced to pursue various modes of dissipation that lead to evil".¹ The underlying, implicit notion in this statement and many other expressions of a like order appears to have been a view of the family as a structure which bounded and gave direction to the freedom and the passions of the individual. To exist outside it, or to escape or attack it, like all escapes from obligation in this society, was to exist outside of all restraint. It was, ultimately, liable to open up a world of anarchy, a world of infinite possibilities, which threatened the social order as well as the sanity and survival of the transgressor. This theme, which ran through articles dealing with capitally convicted and escaped criminals, was also present in articles dealing with Seductions and Breach of Promise. After providing a brief history of familial relations in N.S.W., I will examine seduction articles as part of a concern with the escape of

1. Cowper to Bigge, 23 January 1821, in J. Ritchie, The Evidence to the Bigge Reports, Vol.1, p.150.

women from familial restraint. I will then turn to articles dealing with gambling and drunkenness; these more often dealt with the escape of men from familial restraint. The common fate of such men and women was often death. The message was that outside the family there could be no separate life of illicit pleasure for its members. The family in the N.S.W. press was the ideal site for the maximum realisation of happiness. The historical roots of modern consumer society, with its privatised and atomised forms of consumption can therefore be traced to early articles dealing with the family in the N.S.W. press.

The emergence of the modern family, as Donzelot has pointed out with respect to France and Stone with respect to England, was partly the process of increasingly constructing it into a suitable pedagogic space for both adults and children.¹ In the N.S.W. press, the importance of an educative family emerged alongside the penal system's inability to reproduce its domination over its inmates with the passage of time, let alone over that of their children. By 1805, convicts constituted only 29 per cent of N.S.W. total population, or 2,077 individuals out of a total of 7,064. This percentage was to increase to 38.2 per cent in 1819 and 46.4 per cent in 1828.² Nevertheless, in absolute terms, those outside the penal system increased progressively in number: by 1828 they numbered 15,159 free adults above the age of 12,

1. J. Donzelot, The Policing of Families, especially pp.20, 32, 76, 42-47; L. Stone, The Family, Sex and Marriage in England, 1500-1800, pp. 7-9, 140-142, 433-435, 666-669, 679-680.

2. A.M. Grocott, Convicts, Clergymen and Churches, Appendix 1, pp.285-286.

almost half of them were ex-convicts.^{1.}

As a result new non-violent modalities of power had to be developed and deployed. The writer Cestria, in the Sydney Gazette, 23 December 1824, put the argument as follows:

"A government of force may preserve order in every case, which that force can reach; that is to say, where subjects are decidedly immoral or slaves; but a government of persuasion is the only moral or free government". The family was seen as such a persuasive mechanism. It was asked to continue the task of reformation where the penal system's discipline ended; to reproduce those aspects of bourgeois culture which the penal system sought to inculcate - morality, thrift, abstinence, and industry.

The family was seen as an important mechanism in the cultural production of a working class. It was a means of ensuring bourgeois hegemony, through the incorporation of a free working class into an institution, where they were asked to reproduce the ideological conditions for ensuring their own self-subjugation. The family, thus, was part of a notion of a self-policing civil society. J.B. Hirst has summed up the underlying theme of Government administration as: "More marriages would make the colony more 'moral', which meant in part they would create new centres of order and responsibility; wives would obey their husbands and husband would provide for their children."^{2.} To this it might also be added the idea that wives were to act as the silent policing conscience of

1. N.S.W. Colonial Secretary Returns of the Colony, 1828, N.S.W. Archives Reel 4/257.

2. Hirst, op.cit., p.79.

their husbands and that children would do the same for their parents.¹

Donzelot has analysed similar processes in France at about the same time. In a criticism of Freudian notions of social control, Donzelot argues that: "The procedures of social control depend much more on the complex of intra-familial relationships than on its complexes". Donzelot does not treat the existence of autonomous intra-familial relations organised around the nuclear family as a natural phenomena but instead as a political product of a whole series of technical discourses and institutional interventions. In accordance with the general thrust of Donzelot's position, I want to argue that the family was one of the major social units whereby the government of society was becoming increasingly decentralised, dispersed through the social body. New decentralised structures of control were necessary to control a population which existed outside of the authoritarian hierarchy of the penal system. This chapter will analyse the internal structure of familial relations from this perspective; whilst the next chapter will analyse how the family legitimated the creation of a whole range of philanthropic endeavours, both public and private, which had as their object the better policing of society through the policing of the family.

This concludes the introductory portion of this chapter, in the next section I will deal with the encouragement given by the government and the press to the establishment of the family in N.S.W..

1. See pp.206-213, 287.
2. Donzelot, op.cit., p.83.

(B) THE FAMILY AND PROBLEMS IN THE CULTURAL REPRODUCTION
OF A LABOUR FORCE

Transportation in practice operated as a form of permanent banishment; it relocated Britain's unemployed poor to peripheral colonies where they worked for the "Common Good". Recognising it was not legally possible to prevent ex-convicts returning, Grenville told Governor Phillip:

as there is little reason to hope that any of that description will apply themselves to habits or pursuits of honest industry, it will be extremely desirable that every reasonable indulgence should be held out to them with a view to inducing them to remain in New South Wales, and that it should be distinctly understood that no steps are likely to be taken by Government for facilitating their return. 1.

Grenville also recommended that the Government grant land, tools and even support ex-convict settlers for a limited time, so as to further encourage permanent settlement.² Collins wrote that the government settled ex-convicts on farms and acted as a market for their produce so as to provide them with "a comfortable independence for the winter of their own lives and the summer of their progeny".³ Between 1788 and 1821 1,226 ex-convicts received a government land grant.⁴ A single ex-convict male was eligible to a minimum of 30 acres. The additional 20 acres which was given for a wife and 10 acres for each child can be seen as incentives to marriage and propagation. Conditional Pardons in which the remaining prisoner's sentence was remitted, provided he remained in N.S.W. for that period, was another means of keeping

1. Grenville to Phillip, 19 February 1791, HRA, Vol.1, p.217.

2. Ibid.

3. Collins, op.cit., Vol.1, p.386.

4. B.H. Fletcher, Landed Enterprise and Penal Society, p.222.

ex-convicts in N.S.W..¹. Marriage and children can be seen as another. Revealingly, convict women in the first fleet had been allowed to bring out their children.² On landing at Port Jackson, Phillip recommended marriage to ex-convicts telling them if they did so they would receive government favours.³

In April 1791, Governor Phillip prohibited married ex-convicts from leaving the colony without providing for their dependents.⁴ This was ostensibly done to prevent their dependents becoming a burden on the state. But can settlement motives be excluded from this decision? The convicts appear to have perceived it in these terms. For only 9 marriages were performed in the next eighteen months. This compares to the 56 marriage, involving one-third of the convict women, which had been performed in the first year of the colony.⁵

Before the First Fleet's departure, Phillip's instructions suggested that native women could voluntarily be taken from any islands his ships should happen to call. He did not carry out this suggestion.⁶ His first despatch from the Home Secretary urged the necessity "for the promotion of matrimonial connexions between the unmarried people - a measure which

1. In 1820 out of a population of 23,939 there were 962 N.S.W. inhabitants with conditional pardons, about 4 per cent of the population, Bigge, Report, Vol.3, p.80; see also Bigge, Report, Vol.1, p.120.

2. E. O'Brien, The Foundation of Australia (1786-1800), p.284.

3. White, op.cit., p.114.

4. HRNSW, Vol.1, Part 2, p.485.

5. Helen Heney, Australia's Founding Mothers, p.35; Grocott, op.cit., p.70.

6. See HRNSW, Vol.1, Part 2, pp.52, 53, 90.

must tend to the improvement of their morals and is indisputably necessary to securing the general peace and happiness of the settlement".¹ Prior to the Second Fleet's departure, orders were implemented which permitted the free wives of convicts, including de facto wives, to come out to N.S.W.. The government encouraged this form of female emigration by releasing well-behaved male convicts from private and public labour into the custody of their arrived spouses.³ After 1816, the wives and children of well-behaved convicts were carried out at government expense.⁴ Governor Macquarie encouraged marriage by giving married individuals, able to support themselves, tickets-of-leave.⁵ He also allowed married, well-behaved male convicts to sleep outside the convict barracks when they were completed in 1819.⁶ These convicts were allowed to work on Friday and Saturday for themselves so as to support their families.

Encoded in these state practices was the notion of the family as a natural and primary bond of sociality which the state should ideally promote and not tear asunder. Prior to the 1820's, the convicts regarded it as natural and a law of the land that they should be assigned to their free spouses. So much so, that the Sydney Gazette, 14 May 1827, reflecting the increased penal discipline of the late 1820's, had to warn convicts that marriage did not automatically release them from their masters; nor were they to regard themselves as

1. Grenville to Phillip, HRNSW, Vol.1, Part 2, p.252.

2. Heney, op.cit., pp.50-51.

3. Hirst, op.cit., p.80.

4. Ibid.; Sydney Gazette, 25 January 1822, "Public Notices".

5. Bigge, Report, Vol.1, pp.20, 104, 342.

6. Ibid., p.205.

free men once they had been assigned to their wives as was the custom.

The Opposition Press reacted angrily to the increased difficulty which prisoners experienced after the Bigge Report, and especially under Governor Darling's administration, in being assigned to their spouses¹. They criticised the new policy which gave the penal system's aim of reformation through work, solitude and discipline priority over the family. The Monitor, 3 February 1827, argued that the state had no right to violate that site at which society was grafted on to the natural passions of man. The Australian, 5 September 1827, criticised the new prohibition of marriage between convicts as a measure which would prevent their reformation and increase concubinage. It was greatly surprised "that the Colonial Government should...interpose their authority in what may strictly and properly be termed family arrangements". In general, the Opposition Press juxtaposed the rights of families to unity, happiness and privacy as a check upon the encroaching power of the state.² The private space of the family was emphasised as a means of developing alternative sources of pedagogic power to those of a violent, coercive state. Such notions were not totally new to the late 1820's; they merely gained a radical political significance in the struggles which emerged between a free press and an authoritarian state. For one to understand the implications of this struggle it is necessary to look at the early history of these notions of the family as an autonomous space with a jurisdiction and efficacy of its own.

1. Monitor, 16 March, 23 August 1827.

2. Monitor, 9 March 1827, see also pp.395-396.

From the beginning, the N.S.W. state was faced with a convict population which resisted penal labour. Collins reports that escaped convicts when questioned on why they had fled into the woods "said they wanted nothing more than to live free from labour". In the early years the threat of Aborigine attacks was used actively by the authorities and the Sydney Gazette to convince convicts of the benefits of accepting their subjugation. It often being impressed upon convicts that stragglers were more likely to become victims. Straggling was considered "desertion from public labour".^{1.}

Controlling the labour of ex-convicts, as opposed to convicts, was perhaps even more problematic for the state. Collins, in August 1792, wrote that in existing outside of a penal context, ex-convicts were existing outside of relationships of "restraint and dependence".

Having emerged from the condition of convicts and got rid of the restraint which was necessarily imposed on them while under subjection, many of them seemed to have forgotten that they were still amenable to the regulations of the colony, and appeared to have shaken off with the yoke of bondage all restraint and dependence whatsoever."^{2.}

Writing in May 1796, Collins states that: "Daily experience proved that these people whose sentences of transportation had expired were greater evils than the convicts themselves". They were believed to be responsible for every theft.^{3.} One solution to their troublesome presence outside the penal structures of social control was that of calling upon them "to declare their intentions respecting their future mode of

1. Collins, op.cit., Vol.1, pp.186, 195; Tench, op.cit., p.39; Sydney Gazette, 10, 24 June 1804, 3 March 1805, 8 March 1807, 10 December 1809.

2. Collins, op.cit., p.229.

3. Ibid., p.474; see also Evidence of Thomas De la Condamine in Minutes of Evidence before the Select Committee on Secondary Punishments, (1831).

living". Those who wished to provide for themselves were to receive a certificate of freedom and to report weekly for whom and in what manner they were employed.¹.

The morality of the family, constituted through the aegis of the state and its ideological apparatuses, was also seen as an important instrument for controlling a working class existing outside of the penal system's coercions. The private space of domesticity, with all its intimate obligations and dependencies, was seen to have sufficient moral force to compel the labourer into the market place. "The new ties and new duties thus called into play being the likeliest of all possible incitements to produce amendment by impelling to labour and industry, in order to cherish and more effectually fulfill them."². The integration of the ex-convict into the workforce would be guaranteed by the internal structure of the family. Dundas, in a letter to the Acting Governor accompanying an early shipment of women convicts, described their significance to the state in these terms:

None of the females exceeds 40 years of age [reproductive age] , and there can be no doubt that they will be the means by intermarriage of rendering the man more diligent and laborious, and with greater satisfaction to themselves, as the object of their labour will thereby be increased and enhanced. 3.

It was not only the labour of men that the marriage bond was seen to be capable of tapping. G.H. Hammersly claimed that when a woman simply lives with a man, so she was dependent upon his arbitrary power. His ability to dismiss her at his will and the fact that she had "no permanent interest in the

1. Collins, op.cit., Vol.1, p.229.

2. Cunningham, op.cit., p.323.

3. Dundas to Grose, 1 February 1794, HRA, p.464, Vol.1.

property which their joint exertions might acquire" meant that she had no "motive to Industry and Frugality". Instead, she was "under the strongest Temptations to Extravagance, Idleness and unfaithfulness". Matrimony would reduce these evils "by giving the woman and her children a common Interest in the Property of the man. She would then know that she had a legal claim to a Share in the Fruits of their mutual labour, and that consideration would stimulate her Industry, excite her Frugality; and attach her to her Husband, as to guard her against the Insinuations of the Seducer".¹ Here, the stability of the family unit was seen to lie in its possession of common property. Thus, the Sydney Gazette, 2 April 1803, also urged unmarried youths to work hard and save so as to accumulate enough property to ensure a happy marriage.

Marriage is honourable: and the married state, when entered into with prudence, and continued with discretion, is of all conditions of life the most happy; but to bring a wife home before we have made provision, by our industry and prudence, for her and our children, or to choose a wife who has not, by attention and economy on her part, proved herself fit to manage a family, is extremely imprudent and improvident. Let, therefore, the young prepare themselves for the marriage state, by treasuring up all the surplus of their youthful earnings, and they will marry with confidence and live together in comfort.
Sydney Gazette, 2 April 1803.

Familial property was advocated because it placed the individual within a social context in which he appeared as the master of his own destiny. The regulation and incentive for his own productive endeavours would accordingly proceed from inside him. By making the act of consumption more meaningful, so did the family provide production with a greater incentive to exertion. In doing so, the family was that site where good habits were formed.

1. G.H. Hammersley, "A Few Observations on the Situation of Female Convicts in N.S.W." (undated but possibly written before 1808) in Miscellaneous manuscripts 1820-1894, ML, A657.

Where a cottager possessed any property, when he has a garden, a pig, or a cow, his advantage is to be estimated, not merely by the pecuniary profit produced, but by the superior tone of industry and economy which he acquires. In the instance, which I have mentioned of James Bramfgrove and his family the prospect of increased comfort, and of improved means of subsistence, gave an incentive and pleasure to all their labour and exertions, during the late harvest. Perhaps it may be needless to observe that habits of application and good conduct when once acquired and enjoyed, continue in almost every instance, through life, a blessing to the possessor... 1.

The possession of familial property was seen to give self-interest a rational and bounded form. It made egoism a productive rather than destructive force; for familial property integrated individuals into the possessive individualism of capitalism.

Let us do good to ourselves at home, and we shall become happy in our own habitations; and learn that it is a true saying, that 'God helps those who help themselves.' 2.

Through property, the Monitor, 6 April 1827, claimed one acquired not simply "the feelings of a citizen" but that of a soldier. It went on to suggest that in place of the "enormous expense of 500 idle soldiers", Lord Bathurst should create 1000 more ticketmen and 500 more emancipists. Similarly, the Australian, 3 October 1828, argued that: "Give any man, be he never so debauched in principle, and lost to sense of shame, some stake in society worth contending for, his very interest to preserve ,... will involuntarily urge him to respect those laws of civil society made betwixt man and man, for the legitimate securing of person and property." In general, the Opposition Press asserted the greater reformative influence of free institutions, like property and marriage, over those of the state's penal system.

1. Sydney Gazette, 5 March 1803 "Report of the Society for Bettering the Condition and Increasing the Comforts of the Poor."
2. Sydney Gazette, 2 April 1803, "Reports of the Society for Bettering the Conditions and Increasing the Comforts of the Poor".

A criteria often used to prove that ex-convicts had become morally reunited with other men (and hence had a right to participate in politics) was that they were now fathers of independent families. The emancipist Edward Eagar in a letter to Bathurst, 6 November 1822, put the argument as follows:

The Emancipated Colonists of New South Wales...comprise three thousand and thirty nine families...from having been a burden on the Public, and a nuisance to Society; he becomes the Father of a Family; lives by his own Industry; and contributes his proportion to the increase of public wealth and prosperity - This I call reform, at least, political reform, and if the Man's outward conduct be Industrious, if he brings up his Family in Industrious habits, if he disturb not the peace or property of Society, I cannot see the propriety of denying that such a man is reformed because he does not carry his Ideas of Religion [referring to Methodist, evangelical ideas] quite as far as others. 1.

Likewise, the Australian, 17 November 1825, argued that emancipists were morally reformed because they were now bringing up children in the path of virtue: "Yes , reared them in moral and religious principles, educated them with the anxieties of fond and fatherly affection, with all the zeal of sincere Christians".² Cunningham, in his book, pointed to the many fine families transported women convicts had reared as triumphant proof of their moral regeneration.³ These convicts were seen to have broken the transmission of that culture of dissipation - and idleness which was seen to constitute one of the major causes of crime.

1. Eagar to Bathurst, 6 November 1822, J. Ritchie, The Evidence to the Bigge Reports, Vol.2, p2.15.

2. See also Australian, 6 June 1827, "Homo".

3. P. Cunningham, Two Years in New South Wales, (1827), p.326.

I will conclude this section, by pointing out that what Eagar's letter also reveals was the family being given partly precedence over religion as the criterion of moral reform. In a similar vein, the writer "An Emigrant" asked: "of what avail to the great mass of our population are churches and bibles, when nine-tenths of them cannot marry?"¹. The successful carrying out of familial duties was increasingly being constructed into a new secular universalism. Moreover, it denoted the common social partaking of moral sentiments in a society characterised by religious relativism, where people explicitly denied religion or belonged to a variety of religions. Thus the writer "Observator" wrote: "It matters not to me whether a man be a Church man, a Presbyterian, a Methodist, or a Roman Catholic, so long as he is a good parent, a dutiful son, and valuable member of society".² Such views denote the emergence of the successful private citizen as the democratic criteria of public success. Through the democratic private space of the family all citizens were given a chance to share in public acclaim or censure. This theme will be returned to and further illustrated when I discuss seduction trials.³ Before doing so, I will, in the next section, explore in greater detail the position and significance of women in colonial N.S.W..

1. Australian, 13 January 1825, "An Emigrant".

2. Sydney Gazette, 13 April 1827, "Observator".

3. See pp.217-218.

(C) NEWSPAPERS AND PROBLEMS IN REPRODUCING THE FAMILY(i) The Avoidance of Marriage in N.S.W. by both Men and Women

Despite the encouragement and exhortations of early Governors and the Sydney Gazette, most contemporaries claimed that prior to Macquarie's arrival marriage was not viewed in the same moral light. Collins wrote that some First Fleet convicts who married in anticipation "that the married people would meet with various little comforts and privileges that were denied to those in a single state, on not finding these expectations realised...actually applied to be restored to their former condition".¹ William Cox, answering an official questionnaire circulated by Macquarie, replied: "few marriages took place prior to 1810, this system began to extend in 1811, and has increased progressively, to the present period. It is now as unusual for persons to cohabit publicly together (particularly with the Native born youth of the Colony) without being married as in England".² Reverend Cowper held a similar viewpoint; he, however saw a great deal more concubinage in Sydney than elsewhere.³ The statistics which Governor Bligh sent to Banks showed that on the 12th of August 1806, out of a total of 1,430 women, only 395 were married; out of 1,365 children belonging to convict women only 339 belonged to married convict women. This meant that out of a population of 1,832 children, 1,025 were illegitimate. The 587 married and unmarried convict women

1. Collins, op.cit., Vol.1, p.14.

2. Answer by W. Cox to "Queries Submitted for Answer to the Magistrates and Clergymen of New South Wales", Macquarie's Letters to Earl Bathurst, 15 January 1820, M.L., MSS A800-1.

3. Evidence of Rev. Mr. Cowper, 23 January 1821, B.T. Box 8, p.3350.

accounted for 1,365 or 95 per cent of the colony's children.¹
 Most children born up until 1821 were illegitimate.²

These statistics indicate N.S.W. society was perceived by many early convicts as a marginal place where the sphere of "normal" contractual relationships was suspended. Collins reports that the early convicts generally believed marriages contracted in N.S.W. were not binding.³ The large number of de facto relationships in N.S.W. can be viewed as a form of resistance to the indirect rule of the state through marriage and the state's enforcement of the contractual obligations which marriage implied.

By avoiding marriage, individuals were perhaps avoiding the concept of permanent settlement in N.S.W.. N.S.W. was not viewed by many of the early convicts as a place of settlement, though it often became one.⁴ Hammersley complained about the restless nature of young men who had finished their sentences; how they were anxious to leave the colony and often signed on as crewmen to ships calling at Sydney. He argued:

Matrimony would give them an Interest in the Colony and conciliate their minds; the executive authority would be sanctioned in prohibiting a married man from leaving his Family a burden upon the public hence a man could not quit the Country unless he took his wife and children with him. 5.

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1. Captain Bligh and N.S.W. 1806-1811, Bank Papers, Vol.22, p.3, ML, A85.
 2. G. Greenwood, Australia: A Social and Political History, p.41.
 3. Collins, op.cit., p.131.
 4. Phillip to Grenville, 5 November 1791, HRA, Vol.1, p.270.
 5. Hammersley, op.cit., pp.8-9.

One needed the consent of one's spouse before one could leave N.S.W.. To take him or her along was more expensive, but often not practicable since an individual might be returning to an existing spouse in Britain. This perhaps also accounts for why early Governors, officers and soldiers also chose to cohabit rather than marry convict women.¹ For them like others, early N.S.W. was a place for making money quickly with which one returned home.²

Other reasons contributing to the low marriage rate can be suggested: Catholics, in the early years, often had only access to Church of England ministers; masters would often not give this permission for convicts to marry; and the high cost (between four and six pounds) of a marriage license which needed the Governors' formal permission (this was needed in the case of free persons who wished to dispense with banns and in the case of marriage involving convicts).³ Sturma's argument that station masters preferred labourers without marriage does not explain why a greater portion of the concubinage was located in Sydney.⁴

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1. Heney, op.cit., pp.44-45, 57, 167, 172, 213.
 2. Though discussing the reason for the lack of regard for religion, Mansfield's following argument could also be applied to marriage, which was viewed as a sacred engagement. "The love of money, which prevaded [sic.] all classes in this society, was an obstacle to the propogation of Divine truth. The separation from their native land, and the natural wish in all whose coming to this country was either voluntary or compulsory, to return provided with the good things of life, made this passion the first object of all; but where this money mania existed, religion could not hold a place". Sydney Gazette, 24 March 1826, "Lectures on Practical Divinity in Macquarie Street Chapel".
 3. C.H. Currey "The Laws of Marriage and Divorce in New South Wales (1788-1858)", RAHS, Vol. 41, 1955, p.102.
 4. M. Sturma, "Eye of the Beholder: the Stereotype of Women Convicts, 1788-1852", Labour History, Vol.34, p.9; see evidence of Cowper, p.187.

Putting their children into the Orphan House was perhaps another way women and men attempted to escape from the structures of dependency which the family created. The Female Orphan School, established by Governor King, housed not so much children without parents, as illegitimate children whose parents disowned them. Governor Bligh attributed the large numbers of orphans to the fathers having left the colony either as sailors, soldiers or freed prisoners.¹ In evidence to Bigge on the 23 January 1821, Reverend Cowper stated that the greater number of female orphans had one parent.² The state was forced to assume responsibility for these children, Cowper stated, because of the poverty and immorality of their parents.³ Over 40% of the colony's 958 children were classified in the 1800 muster as Orphans.⁴ A contributing factor to the large state involvement in the early upbringing of children was the fact that settlers rarely took female convicts with children. They and their children were sent to the government financed Female Factory.⁵

Michael Sturma has criticised both L.L. Robson and Anne Summers for attributing the low rate of marriage to, as Robinson says, the fact that male convicts "must have known that a convict woman was unlikely to make a satisfactory partner".⁶ Sturma argues that the practice of cohabiting was common amongst the English working class and was simply transferred to N.S.W..⁷ He has also criticised Robson for treating the avoid-

1. Evidence of Bligh in Report of Select Committee on Transportation, 1812, p.33.

2. Evidence of Rev. M. Cowper, B.T. Box 8, pp.3353-3354.

3. Ibid..

4. King to Portland, 9 September 1800, HRA, Vol.II, p.535 (enclosure 1).

5. Bigge, Report, Vol.I, p.20.

6. Sturma, op.cit., p.8, cf, pp.3.

7. Ibid, pp.3,8.

ance of marriage from the exclusive standpoint of the male, seeing him as the only historical agent: "Robson overlooks the possibility that women were less than enchanted with prisoners".¹ Bigge reports, that some convict women, who married in order to escape the increased discipline of the new Female Factory, left their husbands the very next day.² Only one-third of the convict women transported to N.S.W. before 1820 had married by 1825.³ This was in a population which contained about four men to every woman. As late as 1828, the Census showed that N.S.W. adult population above the age of 12, contained 6,051 females compared to 24,776 males.

The Monitor, 4 February 1828, claimed such disproportions led women to undervalue chastity and to newly married couples often acquiring "a troupe of suitors at their heels".⁴

...so much attention from the other sex turns the women's heads, as might be expected, where the commonest prostitute is looked upon as a prize by someone or other. Dr. Cunningham justly observes, that concubinage, and even prostitution, is in this Colony no bar to marriage. And we know this to be true. We agree that unchastity does not degrade women here as it does in England. We could point out several women, now the decent well-behaved wives of respectable settlers up Country, whose lodgings in Sydney were for several years, the haunt of such gentlemen as chose to visit them. Monitor, 4th February 1828.

Contemporaries claimed that women were conscious of their value in this largely male society and were actively playing off one man against another, to their own benefit. The writer, "An Emigrant" claimed:

Concubines in New South Wales are never such for want of a husband - Young women often prefer to be the concubines of persons in a senior rank, to being the wives of laborious settlers. And where they do connect themselves with men in their own situation and circumstances, still they do not like to tie themselves for life, when there are half

1. Ibid., p.8.

2. Bigge, Report, Vol.I, p.73.

3. Robson, op.cit., p.141.

4. See also Australian, 14 February 1827, New South Wales - No.V".

a dozen swains all tready to take them the moment they elope from their first choice.

Australian, 13 January 1825, "An Emigrant".

By avoiding marriage, women might also have been actively avoiding vesting a monopoly over their labour and person, both sexual and non-sexual, in the hands of men. The Sydney Gazette, 23 October 1803, reported the case of a husband who sold his wife for a prize pig and six bushels of wheat. On the 14 September 1811, it reported the sale of a wife with a rope around her neck for 16 Pounds and some cloth. Bill Beatty in Tales of Old Australia gives other examples: of one man selling his wife for 20 sheep and a gallon of rum, another for 50 sheep, and another for 5 Pounds and a gallon of rum.¹ It would be easy to dismiss such cases as the product of the mental aberrations of the participants. But it could be argued that they explored the logical possibilities of a culture, in which the master-convict relationship was a property relationship and to some extent synonymous with the husband-wife relationship. Men had property rights in the labour of their wives, just as they did in that of their convicts.² Was not the husband in covertly selling his wife, not expressing that same asymmetrical property relationship which allowed masters to covertly sell the labour of their convict servants?³

By avoiding marriage, women in the specific cultural context of N.S.W., might also have been avoiding an institution which reproduced that aspect of the penal system whereby men gained exclusive monopoly rights in their person and labour.

Certainly, N.S.W. provided many women with opportunities to

1. B. Beatty, Tales of Old Australia, pp.56-57.

2. L. Holcombe, Wives and Property, pp.3-4, 18-36, see especially pp.26-27.

3. For evidence of the covert hiring out of convicts by their masters, see C.H. Curry, Sir Francis Forbes, p.137; Sydney Gazette, 5 August 1804 "General Orders", 24 July 1813 "Government and General Orders".

assert their economic independence from men. Trade was one means;¹ prostitution another. As the Monitor, 9 March 1827 put it: "The native girls of the lower orders might all be concubines to men above their rank if they liked. And many of them whose parents neither attend Church nor Mass, nor meeting-house, do like to live in splendid vice".

Prostitution also allowed women to avoid the disciplinary structures of work, with its detailed supervision of time. Through the market economy they could assert their mastership over their own person. It is because, under the culture of capitalism, one owns oneself that one has a right to sell one's labour. A major contemporary criticism of prostitution was the alleged independence it gave women which deprived society of their scarce productive labour by offering them a better material lifestyle. An early writer, "Censor", in the Sydney Gazette, 5 May 1804, criticised a woman employed as a fish vendor, who gave up her employment to become a prostitute out of a "romantic anticipation of superior benefits". The Sydney Gazette, 19 October 1806, itself felt the need to hit out at this emerging economic independence of women, whereby "the abandoned female...who by a long continued series of improprieties have so far improved their condition as to be possessed of a tenement". Here these women were socialising new arrivals of their own sex, "who but for the temptation bestrewed in their path might gradually have been led into virtuous habits: and have respected industry as the great and only source of real comfort and contentment". Similarly, the writer

1. Heney, op.cit., pp.110-111. About four per cent of the spirit licenses issued between June and November 1830 went to women, a total of nine. This was during a period when the free wives of convicts found it difficult to obtain such licenses; R. Teale (ed.), Colonial Eve: Sources on Women in Australia 1788-1914, p.52.

"Sylvanus", Sydney Gazette, 14 July 1825, spoke about "mistresses of a certain description and character, whose houses are the resort of sailors, soldiers and travellers". He claimed that some of these ladies applied to the factory ostensibly for a servant, but, in fact, for another helper in their trade. The Sydney Gazette, 20 May 1820, went so far as to criticise "mothers willing to sacrifice their daughter to a vile and selfish interestedness", that is prostitution. It criticised those "kept women, who feeling a repugnance at having any female honest than themselves about them, assail their inbred chastity by silk shoes and left-off suits; so that the little creature, who had no original prospect superior to that of earning an honest livelihood by her servitude, is by degrees drawn into corruption and debasement".

The ideal good woman was a wife who looked after her five domestic cares "her husband, her children, her servants, her house, and her own person".¹ "Nature", a writer in the Australian, 17 January 1827, argued, "intended women to be - mothers of families". The same writer argued that the possibility of pregnancy precluded women from all major public positions, no matter how rational they were. Here women's biology was being used to "naturalise" and hence legitimate social relations which confined women to the private domain.

This ideological thrust was also supported by moral tales which narrated how women were destroyed in their adulterous adventures beyond the household as a domain of pleasure and obedience. Thus, for example, the Sydney Gazette, 2 June 1825,

1. Sydney Gazette, 6 January 1825, "A Friendly Visitant".

narrated the case of a man who murdered his wife for having adulterous intercourse with another man. The implication of the way this article was structured was that the husband's violence to his wife had been aggravated by her insolent assertion of public independence, when she told him that "he knew she had been common both before and since he married her, and that she would be so to any man she pleased". Similarly, the Sydney Gazette, 2 January 1822, described the case of a woman who escaped from her husband's jurisdiction into a life of illicit pleasure and was destroyed. The Sydney Gazette justified her murder as God's punishment of sin.¹

It is said that she absconded from her husband's protection; became miserably inebriated; and the crime of adultery was the same night followed up by that of murder! Is not this a single example of God's vengeance upon drunkards and adulterers?

Sydney Gazette, 2 January 1822.

The significance of sexual immorality, including prostitution, emerges from the threat it poses to the distinction between the public and the private, whereby women are to be confined to the private domain whilst men assume guardianship and control of public life. Prostitution as the commercialisation of sex is the bringing of the private domain into the public arena. It does this by bringing a domain which should be under the jurisdiction of personal and private sentiment, especially the emotion of love, into the jurisdiction of that rational calculus implied by public money transactions. In short, prostitution breaks that code and organisational prin-

1. For other examples see Monitor, 24 December 1827, "Jealousy and Murder"; Sydney Gazette, 1 February 1828, "Fatal Result of Adultery".

ciple whereby women are equated with the home and, as we shall see later, with private emotional life.

(ii) The Shortage of Women in N.S.W. and Problems in Establishing a Moral Order

Apart from blaming prostitution and promiscuity on the shortage of women, contemporaries often blamed a great deal of crime on men competing to buy the favours of women. Women were often implicated as receivers of stolen goods in court trials and were often accused as such in the dying speeches of condemned prisoners.¹ Loose women, Hammersley claimed, rendered the property of all in N.S.W. unsafe.

They have always some infatuated Admirers at Command, who will risque their lives to gratify their wishes. Their influence make sentinels on their posts neglect their duty; Constables steal the Property they are appointed to guard; and domestic Servants betray their Trust and rob their Masters. 2.

Governor Hunter, in 1796, claimed that the women convicts were "at the bottom of every infamous transaction in the colony" and went so far as to request that no more should be sent out. He claimed that they were worse than men and spent their whole time nursing infants.³ Governor Macquarie also claimed that the female convicts "are frequently concerned in the most dreadful acts of atrocity".⁴

The shortage of women made government assigned female housekeepers highly valued - despite difficulties in getting

1. Collins, op.cit., Vol.1, p.47; Hammersley, op.cit., pp.3-4.

2. Hammersley, op.cit., p.5.

3. Hunter to Duke of Portland, 18 November 1796, HRNSW, Vol.3, p.182.

4. M.H. Ellis, Lachlan Macquarie, p.130.

them to work and complaints of undisciplined behaviour, which was also partly a product of their scarcity.¹ Assigned female convicts often were a means of satisfying the sexual desires of the wealthier settlers who could more readily qualify for them.² Through their female convict house-servants or more accurately mistresses, the officers retailed spirits and other goods to the rest of the population.³ The ex-convict artist, Thomas Watling, in a letter to his aunt, blamed the example set by the early civil and military officers for immorality in N.S.W.. He stated "there is scarce a man without his mistress the high class first exhibit it; and the low to do them justice faithfully copy it."⁴ Hammersley also criticised high government officials for providing a tacit official sanction to concubinage.⁵

Ensign Bond provides a description of how official access to newly arrived convict women had by 1808 reached such proportions that women, in fact, had become official symbols codifying the hierarchical relationships between men:-

The commissioned officers then come on board, and as they stand upon deck, select such females as are most agreeable in their person; who generally, upon such occasions,

1. The Monitor, 19 November 1827 asked "What then is to be done with an insolent, lazy, woman, strong and active, who being well fed and well clothed (wages given here to a Convict woman are 7 Pounds a year) nevertheless refuses to work? and who when chided for her misconduct, gives her mistress two words for one, snapping her fingers in her face, and reproaching her with, "why don't you send me to the factory? I'm determined I'll not stay - I'll go to the factory."
2. Hammersley, op.cit., p.5.
3. Heney, op.cit., p.110.
4. T. Watling, Letters from an Exile at Botany Bay to his Aunt in Dumfries, ed. by G. Mackaness, pp.34-35.
5. Hammersley, op.cit., p.6.

endeavour to set themselves off to the best advantage. In this stage some have been known to live for years, and to have borne children. The non-commissioned officers then are permitted to select for themselves; the privates next; and lastly, those convicts, who, having been in the country a considerable time, and have realised some property, are enabled to procure the governor's permission to take to themselves a female convict. The remainder, who are not thus chosen, are brought on shore, and have small huts assigned them; but, through the want of some regular employment, are generally concerned in every artifice and villainy which is committed. 1.

Even in the 1820's, it appears that having a mistress was very much a status symbol for wealthy men. Thus, the Sydney Gazette, 14 April 1825, spoke of "gentlemen" who "insist on mistresses instead of wives, and not just simply one but two or three". The Sydney Gazette sarcastically called on these gentlemen to petition the government for more convict women to satisfy "their libidinous gratification" and so as to also prevent the spread of destructive principles among the native born lasses. "Philo Umbrae", in the Sydney Gazette, 25 August 1825, charged some magistrates with having "two or three unfortunate women in their keeping". He claimed that this sort of immorality was "one of the most common sins of the Colony".

Upon Macquarie's arrival in N.S.W., T.W. Palmer warned him that the practice of allowing inhabitants to pick convict women at their pleasure from newly arrived ships was "rendering the whole colony little better than an extensive brothel". He estimated that there were 1,000 illegitimate children as a result of such practices.² Hammersley complained that whilst a low population and high wages allowed an increase in population to be considered as primary, still he believed there was a necessity for all parts of the community to contribute to production,

1. Ensign G. Bond, A Brief Account of the Colony of Port Jackson, New South Wales, (1803), quoted in J.W.C. Gumes, Their Chastity Was Not Too Rigid, p.33.

2. T.W. Palmer to Macquarie, 4 May 1809, HRNSW, Vol.7, p.120.

particularly the female convicts. Hammersley echoed the criticism of earlier Governors that female convicts idly spent their time bearing and nursing infants.^{1.}

Macquarie stated to Viscount Castlereach that he intended to stop the indiscriminate giving out of female convicts. This he claimed had led "to great depravity of manners and most vicious habits among the lower orders of the people".^{2.} In 1813 he ordered that no female convict be assigned unless her future master was married and had his wife living with him.^{3.} On taking office, Macquarie condemned the custom of living together outside of wedlock, "so very prevalent among the lower classes", as a "scandal to Religion, to Decency and to all Good Government". He would extend to them "neither Favor nor Patronage". He pointed out that a de facto relationship "confers no valid title upon the Woman to the Goods and Effects of such Person, in case he should die".^{4.} The Sydney Gazette, 10 March 1810, followed up this statement with the supposedly "true" story of Clorinda. She believed a character once blighted by indiscretion was to remain forever irretrievable and chose to live in an unmarried state with Alexander. He died leaving her with five children and no title to their property, which an Uncle from overseas arrived to claim. The "ill-fated orphans", who were ejected from their home, were presented as the "contumacious outcasts of a licentious passion" and were called on to speak against their parents' immorality.

Governor Macquarie's policy had some effect, for 500 of the 732 marriages performed over a twenty year period at Parr-

1. Hammersley, op.cit., pp.18-19; Hunter to Portland, 18 November 1796, HRNSW, Vol.3, p.182.
2. Macquarie to Castlereach, 30 April 1810, HRNSW, Vol.7, p.340.
3. Sydney Gazette, 24 July 1813, "Government and General Orders".
4. Sydney Gazette, 3 March 1810.

amatta occurred in the last 10 years of his rule.¹ Cowper claimed in the Sydney Gazette, 10 November 1821, that in the first year of Governor Macquarie's rule 187 marriages were solemnised in Sydney.² In 1815 the number of illegitimate children at Sydney, Parramatta, Liverpool, Windsor and Richmond was a low 58; in 1820 the number dropped to 46.³ This was significant, given that the population increased during this period. Nevertheless, Commissioner Bigge claimed that though the number of marriages increased under Macquarie they had not done so at the same rate as the free population.⁴ The average number of marriages in the beginning of Macquarie's rule for the years statistics are available, 1811, 1812 and 1815, was 149.⁵ By the end of Macquarie's rule this had increased only slowly to 166 in 1819.⁶ Under Brisbane, the number increased more dramatically to 239 in 1825; under Darling they rose to 339 in 1830.⁷

Some of the incentive to marriage, I believe, can be attributed to the press and the ideological war which it waged against concubinage. The Sydney Gazette, 14 April 1825, proclaimed that love without marriage was not love but licentiousness and lust. It was thus part of that realm of passions against which society struggled for its survival. On the 20

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1. Ellis, Macquarie, p.489.
 2. Grocott, op.cit., p.74.
 3. "A Return of the Number of illegitimate children born within the Territory of New South Wales from the 1 January 1815 to the 31 December 1820", Bigge Appendix, Vol.130 B.T. Box 13, p.893.
 4. Bigge, Report, Vol.3, p.80.
 5. Grocott, op.cit., p.74.
 6. Bigge, Report, Vol.3, p.80.
 7. R. Mansfield, An Analytical View of the Census of N.S.W. for the Year 1841, p.52.

May 1820, the Sydney Gazette criticised the practice of men first living with a woman bearing his children and only later marrying her, in the following terms:

For shame, men, for shame...The daughters of families are not to be this way spurned at and abused...no - no - no; marry the girl when she is virtuous; and then you will find a good mother to your children, and an attentive help mate through life. Ah! no! you would rather, unthinking souls, you would rather LIVE with a young woman who, becoming dependent upon you, could not afterwards retrieve herself, for four or five years; render her the unhappy mother of three or four children, and having consumed her character in the bed of infamy, then marry her, because no woman of character will uphold you; for in the eyes of the modern lady you do not give credit for one half of your contempt: you then marry the deluded fair, when you have destroyed her character, and prevented her ever rising to an ordinary level in society.

As a means of creating more stable family units N.S.W. newspapers wanted the government to encourage the emigration of free women from Britain.¹ They also wanted more women to be transported to N.S.W.. The Sydney Gazette claimed that the discovery that "where women are wickedly inclined...they are far more infamous than the men" might have acted to prevent their transportation.² The Monitor and the Australian criticised British penal reformers, Wilberforce Bennet, Buxton and Elizabeth Fry for wanting to keep women prisoners in British penitentiaries instead of transporting them.³ They called on governments both in Britain and N.S.W. to release for marriage those incarcerated in total institutions, arguing that marriage would reform them where all else failed. Indeed, the opposition newspapers often assigned a greater reformative

1. Australian, 31 October 1827.

2. Sydney Gazette, 28 April 1825.

3. Monitor, 15 December 1826, 19 November 1827; Australian, 31 May 1826.

influence to the family than to total institutions under the jurisdiction of clergymen. On the 21 April 1825, the Australian attacked the local government and those "religious maniacs" that "attempt to convince us that twenty-four abandoned wretches in the Factory, support the Holy Gospel of God - the Divine Doctrines of the revealed religion of Heaven, better than nineteen married women respectfully and usefully settled in the colony; - or, by what dismal cant will they teach others that the votaries of incontinence and crime crowded within the wall of that receptacle of sin, uphold and extend moral feeling better than reformed offenders dispersed over the country". The Australian, 31 May 1826, repeated its claim that the family, unlike total institutions, avoided congregating together large numbers of men and women "under one roof to learn of each other, by intercommunications, all the dissolute propensities which disgrace the worst of them". It further criticised the shortage of woman convicts for having forced men to be employed in domestic duties which should have been reserved for women.¹

The Monitor, 6 January 1827, blamed the rape of an Aboriginal woman seven or eight "ruffians" on "the most admirable" British Government's system of sending out one woman for every 10 men. The Monitor, citing Colquhoun's estimates of three-quarters of a million more women in England than men, argued this encouraged prostitution and licentiousness. It further argued, that if one-fifth of the 50,000 prostitutes that Colquhoun estimated were in London were transported to N.S.W. it

1. Australian, 31 May 1826.

"would make more comforts to virtue than the preaching of ten thousand Archdeacons, or the endowment of the remaining moiety of our land in another education Corporate Body".

We will be bold enough to assert, that if the streets of London were cleared every night of prostitutes, and the contents shipped off to New South Wales and placed under proper regulations, the annihilation of the vilest crimes and the increase of marriage would immediately be the consequence in New South Wales. Prostitutes are better than no women at all, for there are thousands of guilty females in England who would rejoice to give up their wretched mode of life to obtain husbands.

Monitor, 6 January 1827.

Ministers of religion in N.S.W. promoted marriage by often turning a blind eye to the fact that individuals being married by them still had wives in Britain.¹ Such practices were encouraged by the press, with the Monitor, 1 September 1826, criticising those clergymen who refused to marry persons in the colony when they had wives and husbands in England who could and would not come out to the Colony. The Australian, 21 July 1825, felt such members of the lower classes should be allowed to live quietly in de facto relationships.² It felt this practice would be socially beneficial provided it did not extend into the upper classes and thereby gain some legitimacy. It would be "infinitely better than a loose and precarious and promiscuous intercourse, or that solitary vice which will not bear contemplation". P. Cunningham in his book Two Years in New South Wales (1827) recommended that women be divorced on transportation so they could marry in N.S.W.³ The convicts themselves had already developed cult-

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1. See Evidence of Marsden, 27 December 1820, Bigge, Report, Appendix, B.T. Box 8, p.3431.
 2. The Sydney Gazette, 28 April 1825, strongly criticised the Australian for this view.
 3. Cunningham, op.cit., p.352.

ural devices for dealing with such problems. Commissioner Bigge reported that many convicts believed that "capital conviction, followed by sentences of death, afterwards commuted to transportation for life, operated as a dissolution of the marriage contract".¹

The press' continual concern with the number of marriages and females in N.S.W. expressed in part the dominant class' concern with a shortage of labour. Something which characterised most of the early history of colonial N.S.W., but which was seen to become especially acute in the 1820's, when imported capital from Britain came in on a larger scale. The Australian, 9 March 1827, proclaimed that "the great evil in this colony is the want of population". An Old Emigrant Settler in the Sydney Gazette, 15 May 1823, criticised Malthus' population theory. He was supported in this by the Australian, 19 June 1829, which declared that "the unnatural doctrines and astute arguments of Malthus do not suit New South Wales; however they may apply to overpopulated France".² The Australian went on to mix old mercantilist notions of wealth with the new popularist notions of sovereignty to support its argument, stating that: "the people are the nerves of the state. They comprise its strength, its wealth, its dignity". The Australian criticised the government for not giving out enough land and "other ready inducements", as a means of encouraging marriage and the growth of the population. These it argued had recently been given out only to "the favourite flock...where it least of all was actually

1. Bigge, Report, Vol.1, p.105.

2. For critiques of Malthus' population theory, see also Sydney Gazette, 15 May 1823, "An Old Emigrant Settler".

wanting".¹. The writer "An Emigrant" also criticised the shortage of women in N.S.W. and claimed every woman in N.S.W. had 10 suitors. He argued that the cause of crime in England was excessive population and that penitentiaries did not solve the crime problem. Even if they trained the prisoner in a trade, the ex-prisoner would only take the job of another, who would in turn be reduced to poverty and crime. Transportation was the only solution, especially the transportation of women, to Britain's crime problems whilst also improving morality in the Colony.².

Having dealt with the press' and government concern with establishing the family, in the next section I will analyse more closely the ideological construction of women and domestic life as reformatory influences.

1. Australian, 19 June 1829.

2. Australian, 13 January 1825, "An Emigrant".

(D) WOMEN, HUMANITARIANISM AND DOMESTICITY

It is misleading for Anne Summers to say that "from 1788 until the 1840's almost all women were categorised as whores - or 'damned whores' - as Lt. Ralph Clark called them".¹ Nor is it correct to state that "within this penal colony, women were assigned only one main function. They were there primarily as objects of sexual gratification."² Anne Summers believes that the God's police stereotype notion of women did not become significant till the 1840's.³ Whereas I would argue it existed and was important from the very beginning of N.S.W.. I believe Anne Summers does not do justice to the full range of ideological processes occurring in colonial N.S.W., especially with respect to the moral role of women and marriage in controlling the twin evils of ignorance and desire.

It is true that there was a strand of thought and practice which treated women simply as a means of servicing the sexual desires of the men. One could point to the "whore's camp" established by Phillip, to the private assignment of female convicts and to the marine women as early examples.⁴ The Monitor, 13 September 1827, argued that N.S.W. would benefit most from the importation of "virtuous women", but seeing they would not come out, "convict women will be gladly received; for they would introduce a better sort of immorality at least, than that what exists in our excessive male population, living in ruffian gangs without any female intercourse

1. A. Summers, Damned Whores and God's Police, p.267.

2. Ibid., p.268.

3. Ibid., p.21.

4. Heney, op.cit., pp.19, 34-35; J. Copley, Sydney Cove 1788, p.67.

whatever". The implication here is that prostitution and illicit intercourse between the opposite sexes was better than homosexuality. On the 19 November 1827, the Monitor wrote: "in a society where convicts are compelled to work and live together by night and by day in hordes, we consider the addition of a female, to the number of those who subsist even by prostitution, favourable to public morals". On the 9 June 1826, the Monitor asked the rhetorical question: "Is it not better for society that we should be troubled with an unmarried childless prostitute, than with the same person bringing up children and training up her daughters to be prostitutes before they can even have any inclination to unchastity?" Such arguments justified the professional promiscuity of some women as the means of containing the spread of licentiousness. Indeed the professional promiscuity of some women would serve to protect the chastity and virtue of others. Thus, the Monitor, 19 November 1827, claimed that "by shutting up the convict women in the Factory, lest they should turn prostitutes or concubines, we add to the temptations by which our free Anglo-Australian female youth, of the lower orders, are daily and hourly beset in a colony, where the sexes are naturally disproportioned".¹

Historians have paid so much attention to the whore stereotype that they have largely ignored or downplayed the significance of those ideological constructions of gender

1. See also Sydney Gazette, 14 August 1825, on p.198.

Former Attorney General Bannister claimed that in 1825 200 girls between the age of 3 months and 11 years old were violated; S. Bannister, On Abolishing Transportation, and Reforming the Colonial Office (1837), p.39. For cases of the rape of infants see Sydney Gazette, 1 January, 20 May 1804, 13 June 1812.

relations in early N.S.W., which assigned a reformatory role to women. Part of the importance marriage assumed in N.S.W. lay in the perception of women as being able to provide a check to the vicious propensities of the male, whilst marriage saved her from her own freedom.

The union of the sexes has, in all countries, tended towards what may be denominated, a softening of the asperities of society, whereas a distinct separation has invariably tended to render the males savage, and the females abandoned. 1.

Commissioner Bigge stated the Reverend Marsden's opinion to be "that marriage, even in New South Wales operates as a corrective of vicious propensities; and that in that point of view is to be encouraged, by giving as early permission as possible to the wives of convicts to follow their husbands to the colony, to prevent the latter from forming connections there".².

The Opposition Press used the notion of women as a civilising and missioning influence to criticise the increased penal discipline which emerged after the Bigge Report. To cut men off from female society, to herd them by night and day in gangs, the Monitor argued, was to degenerate them "into a species of wild beast, but cursed with intellect to do mischief".³ Women were thus a domesticating influence in all senses of the word - not only in the sense of producing a love of home, but also in the sense of bringing under human control animal characteristics. This domesticating quality of women and more generally, of family life, was often the reason given for assigning convicts to rural settlers. "Dispersed among the farmers, and domiciled in farmers' houses, there

1. J. Henderson, Observations on the Colonies of New South Wales (1832), p.18.

2. Bigge, Report, Vol.I, p.104.

3. Monitor, 4 February 1828.

would be some little chance of their picking up a few habits of virtue, such as industry, decorum, orderly manners, sobriety".¹ In homes, convicts would also discover those intimate emotional ties from which they would learn to feel sympathy for others. In the charities of domestic life convicts would discover their sensibilities.² Accordingly, the Monitor, 15 December 1826, referred to marriage as "a principle in nature, which in its sympathies between a man and a wife, and between them and their offspring, God has ordained shall humanise and domicile wretched cut-throats and burglarists".

Women were often presented as symbols of humanitarianism inside the space of the family. It was no accident that the First Report of the Auxiliary Bible Society of N.S.W., in 1817, hoped "that woman may rise to her just elevation and legitimate influence".³ The writer "Selector", at the end of a poem titled "Conjugal Felicity", stated the happiness of the marriage state was not to be found "where a monstrous disparity is found to exist, but, wherever the union has been formed in unison (in equality)".⁴

The new humanitarianism of the age was especially directed towards women. Criticisms of wife bashing can be found as early as the Sydney Gazette, 17 July 1803. The Sydney Gazette, 30 April 1829, stated that it was in the dark ages that women were thought of as a "subordinate rank

1. Monitor, 23 March 1827, see also 9 March, 24 July 1827.

2. Monitor, 23 March 1827.

3. Sydney Gazette, 15 March 1817.

4. Sydney Gazette, 12 December 1817.

in the scale of society". For this reason they were often then punished more severely than men. It gave the example of the previous criminal classification of a wife's murdering her husband as petit treason, whereby she was punished by being burned at the stake. Humanitarianism, it was argued, had resulted in the woman being strangled before the fire was lit and in the recent abolition of this form of punishment. It had also resulted in the abolition of the flogging of women. The Sydney Gazette further called for an end also to displaying women in public stocks and for a greater use of solitary confinement. Though many of the colony's women were "degraded" and "irreclaimable", still the Sydney Gazette claimed it could "never witness without regret, the spectacle that is everyday exhibited of women being consigned to the stocks, and exposed, in some seasons, to the full power of an almost insupportable, heat, for four, and sometimes six hours". Whilst acknowledging the necessity for laws and punishments, the Sydney Gazette questioned the humanity of some laws regarding "that part of creation which forms the chief pleasure and solace and comfort of human existence - woman". It believed that men could not but be affected by the sight of suffering of that being to whom they owed their existence and that women ought to be viewed with sympathy and accordingly punished less than men. Under similar humanitarian motives, the Sydney Gazette, 8 December 1825, criticised feeding the worst behaved women prisoners in the Factory bread and water and asked they be given their tea and sugar. Women, I would argue, were the focus of these humanitarian attitudes because they were expected to become the bearers of them.

A woman was expected to be the custodian of her husband's morals, his external conscience. Howe's Weekly Commercial Express, 25 July 1825, presented the following case of the hardened gambler who was also the father of a family.

The mother of his children, lovely in her tears strives with tender assiduities, to restore his health, and with it to restore his temperance, his love of home, and the long-lost charms of domestic life. She pursues him, with her kindness and her entreatises, to his haunts of vice; she reminds him of his children; she tells him of their virtues, of their sorrows, of their wants; and she abjures him, by the love of God, to repent and return. Vain attempt... The brute has no feeling left... Return disconsolate mother in thy dwelling, and be submissive; thou shalt become a widow and thy children fatherless. Further efforts will be useless - the reformation of thy partner is impossible.

The newspapers of N.S.W. are full of such melancholic tales. Often the woman dies of a broken heart or the rest of the family are destroyed either morally or physically. Such, for example, was the fate of poor Jane and her three children in the poem "The Progress of Intemperance".¹ Contained in this poem was also the notion that a woman should remain silently submissive to her husband despite his drunkenness and violence towards her. It was his destruction of her which would in the end destroy him.

To some extent, the woman's capacity to soften the male's harsher characteristics arose from the contagious influence of her own subjective disposition and constitution - one primarily of gentleness and delicacy. The Sydney Gazette published the view that women were "gifted by nature with sensibility far more refined and acute than man can ever feel".² As a symbol of sensibility she was also a symbol of morality

1. Sydney Gazette, 11 January 1817.

2. Sydney Gazette, 13 July 1827 "Confessions of an Old Bachelor".

inside the space of the family. She was prone to weeping.¹

There was an interesting ideological process occurring here. In the previous two chapters, I have shown how the hierarchical relationship between the body's vulgar passions and the refined intellectual emotions of sensibility, which formed the basis of morality, was a metaphor for class relations. Here it operated as a metaphor for relations between men and women. Women stood in relationship to men in the same way that the upper classes stood in relationship to the lower classes. Women were, in effect, symbols of the sources of bourgeoisie morality inside the space of the family.

Weeping was both a measure of the woman's humanity and morality; but also her weapon in her becoming the conscience of her husband.

Married women weep to conquer. Tears are the most potent arms of matrimonial warfare. If a gruff husband has abused his wife, she weeps, and he relents and promises better behaviour. How many men have gone to bed in wrath, and risen in the morning quite subdued with tears and a curtain lecture?

Sydney Gazette, 5 September 1828, "Weeping".

The notion of women as superior moral beings, through sensibility, however, did not deny or destroy the relationship of obedience they owed to husbands or fathers. Indeed, husbands in one moral tract were presented as reproducing

1. Cunningham, referring to female convicts, complained that he had been "most scientifically duped at Sydney by one of these weepers", whom he sarcastically referred to as "this paragon of sensibility". Cunningham was pointing out the dangers of officials entrusting their decisions simply to humanitarianism, which without reason, often fell a victim to the artful preys of others. This was a common theme through which the dominant class justified their authoritarianism. Cunningham, op.cit., p.322.

over their families that power which Christ exercised over the Church.¹

For the head of every man is Christ; and the head of the woman is the man.- The man is not of the woman, but the woman of the man. Neither was the man created for the woman, but the woman for the man. ...the woman is commanded to be under obedience; not to teach, not to usurp authority over the man, but to be in silence with all subjection; and if they will learn anything, let them ask their husbands at home. 2.

We are now in a position to explore, in the next section, this relationship between sensibility and patriarchal authority. How sensibility in fact made women vulnerable, how women who moved outside of the control of their husbands and fathers became emotionally and intellectually unstable. These are some of the themes that were pressed in the journalistic literature, of the early eighteenth century in N.S.W.. In this newspaper literature, the very thing which made women moral beings, the grounding of morality in the noble feelings of the body, in sensibility, was also what made them vulnerable and thus also dependent on male authority.

1. Anon., Relative Duties, p.22.

2. Ibid., p.23.

(E) SEDUCTIONS AND THE EMERGENCE OF AN IDEOLOGY OF
NON-CAPABILITY WITH RESPECT TO WOMEN

THE SEDUCER

Mark! how he comes,
With stealthy step, upon his destined prey,
The praise of virtue on his pallid lips.
The love of vice displayed in every deed.
See! how insensibly he germinates
The seeds of passion in her spotless mind.
Tainting with noxious vows the sacred shrine,
Unwearied, labouring to his own dread doom,
Within those portals innocence once lay,
Heedless of all the torture that awaits
The issue of his crime; nor does he cease,
'Till the full harvest of his crime is reap'd,
And maiden modesty lies trod to earth.
Like the dark weed, unpleasant to eye -
Nor vivifies, again to shine
The fairest bud of beauty born,
A tender plant, whose blushing petals send
The grateful incense o'er the looing air.

Australian, 10 July 1829.

The seduction was always of a female, I have not come across any case of a woman accused of seducing another woman's husband. A number of reasons could be forwarded for the popularity in N.S.W. of seduction articles which referred for the most part to acts of seduction in Britain. I would argue that seduction articles articulated the problematic nature of establishing the family in N.S.W.; the competition which was taking place between men for the favours of women; and the prominence of sex outside of marriage. Many of the articles involved the seduction of young women and girls by older men. In the case of a colonial seduction reported by the Sydney Gazette, 30 December 1824, the girl was 15.¹ Such articles reflected, I believe, the tension emerging out of the unequal

1. For articles involving young women, see Sydney Gazette, 29 March 1827.

distribution of the sexes in N.S.W., which forced older men to court the female youth born in the colony. In evidence to Bigge, 23 January 1821, William Bland stated that there were in N.S.W. very frequent instances of the seduction of young females.¹ Many of the seducers in the press reports of trials were military officers and it is tempting to suggest that these trials might have reflected some of the tension between ex-convict parents and the military bachelors who had previously been their overlords. One writer in the Sydney Gazette, 23 September 1824, spoke about the evil which existed in the colony's towns whereby poor female orphans were "exposed in the tender years of youth to the seductions of the affluent and the licentiousness of the military". Other reasons for the frequency of seduction trials will be suggested throughout this section.

Generally, what was reported in the press was the court case and its verdict which resulted, if successful, in the payment of compensation by the seducer to the father or husband of the daughter or wife seduced. The compensation payment was for loss of service, that is the man's property rights in the woman's labour, for damages done to his and the family's honour and reputation, as well as to his peace of mind. If there was any resulting child, money might also be awarded for its upkeep. Juries might also take into account any mental torment the woman might have endured as a consequence of the seduction. This was especially the case in trials for Breach of Promise. Compensation payments also took into account the need to deter future offenders, thus damages were sometimes determined by the wealth

1. Ritchie, Evidence, Vol.1, p.145.

of the seducer. There was also the damage done to society, for the seduction attacked the family as an instance of that basic social contract upon which society was built.

The learned Judge, with his wonted eloquence, dwelt upon the enormous evil of the crime of seduction; not only as a violation of the first principles of Christianity, but as the bane, the curse and ruin of all social compact, and the blot upon modern civilisation.

Sydney Gazette, 31 May 1826, (my emphasis).

As the above article implies, the seduction also attacked a sacred bond. Thus the Sydney Gazette, 31 May 1826, reported the seducer as having "carried off his victim from the house of God".

Compensation payments could often be quite high, between two and three thousand pounds. Generally, the higher the social circles from which the seduced woman was drawn then the higher the resulting compensation payments. This was partly because the resulting scandal was all the greater, for the upper class woman was much more a symbol of morality than lower class women, who were questioned much more closely with respect to their virtue and virginity. It was also partly because the higher classes were seen to have more refined and delicate sensibilities and for this reason their disappointments were all the greater. Thus, in order to obtain lower compensation, one defendant's lawyer in a case of Breach of Promise referred to the lowly status of the seduced woman:

those actions address themselves very much to the situation in life, the habits and feelings of the parties; and it is quite erroneous to take it for granted that they are to be compensated in the same measure when they occur in the humble walk of life, where they want that refinement and delicacy of feeling which belong to those who move in a higher sphere, and whose feelings from their education and habits, render their feelings more acute under a mental and moral suffering or disappointment.

Sydney Gazette, 4 February 1828.

Not everyone agreed with the last speaker's views. Poor families containing a seduced woman would make claims to respectability equal to that of more wealthy families in order to obtain higher compensation. Seduction articles came to articulate attacks upon the aspirations of working class families to share in that specific ideology of moral respectability and virtue, which surrounded and governed the integration of the bourgeois family into the public sphere. In a trial reported in the Sydney Gazette, 8 February 1828, the Plaintiff's lawyer argued that though his client "was a clergyman of the Church of England... [who] had brought up a large family on a very moderate income...the plaintiff was not therefore the less entitled to a compensation for the shame and disgrace brought upon his family by the defendent". Here's another example from the Sydney Gazette, 9 March 1827:

The plaintiff in this case was in a low rank in life [a ticket porter in London]; but having stated that, he [his lawyer] was also instructed to state that he was in possession of that which placed him upon a level with the most wealthy men in the kingdom - the plaintiff was possessed of honour; he followed the business of a ticket porter of this city, and unless his character was unblemished and most respectable, it would be impossible for him to retain that situation.

Sydney Gazette, 29 March 1827.

What the above articles also illustrate was the emergence of egalitarian notions of the family. The family, as long as it was moral, deserved to be compensated equally no matter what its station in life. So long as it adequately supervised itself, then it deserved recognition and support from the state against the threat to its unity and moral integrity posed by the seducer.

Though the plaintiff in this case was a person in a humble situation of life...he had done his duty well by the child, but his peace, his honour, had been sacrificed

Sydney Gazette, 29 March 1827.

The seduction was seen to cut across class relations, "all distinctions of family or fortune, or rank or situation were entirely to be lost sight of".¹ Seduction trials demonstrated the commitment of the British constitution to preserving private life. The honour of the family was upheld against that species of egotistical pride which was seen to lead seducers to boast of their triumphs.

An important consequence arose from the court's concern with establishing the amount of compensation to be awarded on the basis of the damages done to the woman's character and the respectability of her husband and family. This meant that inscribed within the trial of the defendant there was also another investigatory process going on. This was concerned less with whether the offence occurred and the guilt of the defendant, and more with the correctness of the familial relations from which the seduced woman was drawn.² The seduction trial made public the private space of the family; it was a way of investigating and judging what it was about this space, the organisation of its obligations, which made it susceptible to an attack.

Mr. Williams in mitigation of damages, said the plaintiff was negligent in permitting his daughter to be up after the rest of the family were in bed, and it was clear from the daughter's account, that she was not so unshaken in principles as to render the father's loss deserving of large damages. [Jury only gave 70 pounds damages]
Sydney Gazette, 8 February 1828.

The trial was therefore to some extent a mechanism by which the state was able to legitimately intervene right into the very heart of this domestic space, not only to pass judgement on its

1. Sydney Gazette, 31 May 1826.

2. "The character of the father certainly did not appear in the clearest point of view; his conduct at Bahia was highly reprehensible, therefore the injury to his feelings and to his conduct, could not be very great"; Australian, 8 February 1828.

operations, but also, in doing so, to objectify and codify its social relationships; and thus to give these social relationships a conceptual form outside of their own immediacy. The trial, in particular, became a way of investigating to what extent the father or husband fulfilled his role of protector, of sealing off the family from potentially dangerous situations.

The conduct of the plaintiff to his wife was not quite the thing - he had not taken that due care of her chastity and conduct which it was incumbent on him, in a place where she was held up to so much temptation. It was not quite the thing for the wife going to bed when the husband rises - it was a bad state of society.- It was not the thing for married people to act like the heavenly bodies in their rising and setting. The plaintiff should have acted more discreetly: he ought to have taken his moon to bed with him and not have suffered her to sit up alone - 'Looking so modest all the while.' The plaintiff had left his fences open and unprotected for stray cattle to enter in, and enjoy the tempting things the gods provided them.
Australian, 26 August 1826.

In the case of the seduction of a daughter, the extent to which a mother fulfilled her protective duties in the absence of a husband was also relevant. In one case only 60 pounds damages was awarded; the crucial evidence which destroyed the family's claims to respectability came out during the questioning of the daughter.

Defense Lawyer: Where did it happen?

Witness: That's not a prudent question.

Defense Lawyer: I am afraid it is prudent; tell me where it happened.

A Pause

Mr. Justice Holroyd: Answer the question.

Witness: It happened at my mother's

Defense Lawyer: When used he to visit you on these friendly and close terms?

Witness: It was in September; he used to come in the evening, and stay till eleven o'clock. My mother was there; he never stayed after she went to bed. 1.

1. Howe's Weekly Commercial Express, 26 September 1825.

The trial was also a way of investigating the moral character of the seduced woman. The seduction had to be completely out of character if high damages were to be awarded. Thus one defense lawyer took up the strategy of arguing that "no one ever became very base all at once - it was done by steps, and therefore it was not probable that Mrs. Webb had descended by one step only".¹ This lawyer sought to undermine the underlying paradigmatic structure of seduction trials by substituting a notion of progressive, cumulative evil, (a notion I investigated in the last chapter on executions).

One of the important indications of the woman's moral character was the way she answered questions, whether in the course of doing so she deviated from the ideal of a modest retiring woman, who could be easily embarrassed. The readiness with which a woman blushed was taken as an indication of her moral virtue.² The Sydney Gazette, 29 March 1827, reports one defendant's lawyer as putting "it to the Jury whether they had ever witnessed a young female in her situation reciting such a narrative of her distresses with more composure or calmness, adapting her questions, and then adjusting her words to the particular object of the inquiry". What disturbed this lawyer was that the seduced woman chose not to be emotional, she chose to present the seduction in a detached rational form. He was, I believe, implying that such a woman, a woman lacking in emotional sensibility, could not conceivably be moral. This was perhaps more clearly brought out in the Australian, 30 December 1829, where a defendant's lawyer sought to reduce damages by using the following argument:

1. Sydney Gazette, 20 April 1827.
2. "Lovely is the blush, that breaks for female wrongs, on beauty cheeks"; Sydney Gazette, 1 April 1824, "The Blush and the Tear".

What evidence was there to support his claim for redress - the testimony of a girl who had given her evidence in that box with a degree of hardihood and effrontery, seldom, he believed, witnessed in any court. She had undergone a scrutinizing examination, without eliciting a blush - she had given her testimony in a manner that could only have arisen from the good tutorage she had received. She evinced a boldness which she should not have been able, though used to courts of law, to have maintained in such a situation.

Australian, 30 December 1824.

Such examples of controlledness undermined the very notion of seduction, that is the presentation of women as the sensitive vulnerable victims of their affections. The extent of a seduced woman's mental and emotional suffering partly determined the size of the compensation payment because it denoted the strength of her moral fibre.¹ That is, it denoted the extent to which the seduction was a violation of her own moral constitution, as well as of her physical boundaries. The sexual violation of the woman outside of marriage was largely often a violation of all that which morally restrained and regulated her. For this reason her seduction often led her to insanity and suicide. Suicide, incidentally, was viewed as an act of insanity.² What the seduction represented, I would argue, was the release of the woman from discipline, such that her body with its passions gained primacy over her social obligations to her parents or husband.

No doubt, the seduction represented a critique of women's autonomy and an assertion of parental and husband control over women. Such a view, however, should also take into account the

1. "The contamination of mind, where marriage did not heal the sore, always followed the loss of virtue, was owing to the defendant, the first seducer"; Sydney Gazette, 8 February 1828.

2. For seductions resulting in suicide, see Sydney Gazette, 8 January 1824, 6 February 1827; Monitor, 19 November 1827; Howe's Weekly Commercial Express, 19 September 1825.

way the family in N.S.W., like the family in Britain, was being ideologically constructed, through the notion of romantic love, around the bourgeois values of freedom. As an article entitled "Feminine Conquest" in the Australian, 1 May 1828, put it:

No one, not even a parent, can tell what character will render a lady happy, but herself. On herself, on herself alone, then, must and ought to rest the responsibility of her choice...I am convinced that the parent who officiously interposes stands answerable to God, his child, and his conscience, in a degree of responsibility most fearful and tremendous.

In the British literature of this period the notion of romantic love was partly a political critique of an aristocratic system organised around land, as this was seen to manifest itself in an emphasis on arranged marriages.¹ N.S.W. newspaper articles on romantic love, though not a critique of a landed aristocracy, were nevertheless a critique of an old tyrannical order.² They contained stories of how old fathers and mothers who refused to allow their children to marry often ended up destroying their children. Such was the story of the poem "First Love" in the Sydney Gazette, 23 May 1818. Here both lovers died because a father prevented his son from marrying a poor shepherdess. No doubt part of the implicit view of this article was that in transcending class, so also did love destroy its participants. However, the critique was more of the patriarchal father than of the participants. For the father lived out the rest of his life in guilt and with the dread "lest his God should withhold that mercy denied to his child". What this poem also asserted was the notion of love as a natural prison against which it was useless for fathers to interfere.

1. Brown, op.cit., pp.99-100, 147, 159.

2. For the role of British affective tragedy in subverting an aristocratic order ideologically organised around notions of hierarchy and the heroic see Brown, op.cit., pp.69-101.

No force a first love can restrain;
 'Tis entwin'd with the life like the breath:
 The soul it enslaves - and its chain
 Can only be broken by death.

Sydney Gazette, 23 May 1818, "First Love".

The Monitor, 21 January 1828, also gave an example of the abuse of parental authority in forcing a marriage. This was the case of a mother, who on her death-bed extracted a promise from her daughter to marry a man she did not love. The daughter fulfilled her promise, but committed suicide the day after, before the marriage could be consummated.

The presentation of romantic love was often one of spontaneous freedom. The Sydney Gazette, 13 October 1821, presented the story of a bride who at the altar suddenly changed her mind because she had just seen a man she fancied more. To save time and expense, the bridegroom went ahead and married one of the bridesmaids. All lived happily ever after. Love was an assertion of intuition rather than reason.¹ It was also part of that irrational realm of the passions on which society through marriage was grafted. The Sydney Gazette, 13 July 1827, published criticisms of those who conceived of love purely in platonic terms: "Prey, let us ask, does a young gentleman, when pressing his lips to those of his mistress, think for an instant of the beauties of her mind? Far from it; mind is well enough in its way, but for heaven's sake, let it not monopolise all". Part of the fascination with love in the press was a concern with how it violated and threatened the categories of sociality. Such was the case of that "deuce of a white man", who "wretchedly disannull[ed] his nature as to fall in love with a ridiculous native jin". The Sydney Gazette, 1 March 1817, thought that this was "unaccountable, and scarcely practicable

1. Australian, 1 May 1829 "Feminine Conquest".

to belief itself". It confirmed the idea that love "is a mania that transcends all others, and must forever hold its predominancy at the tip top of the page of lunacies".

Love and Madness...are too intimately blended in innumerable instances to admit a doubt of their alliance. Sydney Gazette, 2 December 1804.

Seduction trials are discursive sites for exploring this realm of irrational freedom in which lust and love continually transcend and break up the marriage bond. However, though the woman is seduced, it is not she who is presented as a lustful being, rather it is the man; she is wooed by him and as such she is more the passive recipient of his desires. The lover, in contemporary literature, was partly, as Paulson says, "a tempting symbol of freedom".¹ But he was also a symbol of love outside marriage as captivity. In a sense the seduction was partly a statement that freedom outside of a structure becomes captivity.

From that moment ["the ruin of the unfortunate girl "] the influence of her seducer over her became unbounded. She saw nothing but him in the world. She forgot all that was due to herself, her family and society.... Shortly after this M. de F. [her father] overwhelmed with sorrow and anguish, died - Madam de F., [her mother] soon after fell sick, and rapidly followed him to the grave. Those dreadful visitations had no effect in recalling to herself the infatuated girl. She was still in love and pleased with ruin when she died, at the age of 22 - a victim of the basest and most cold blooded seduction, and after having caused the death of her father and mother.

Australian, 6 July 1827.

Tied up with the seduction was a whole notion of woman's sexuality, for it was she who was constructed as vulnerable, who became a victim of her passions and the rational schemes of men.² Many articles dealt with the theme of the

1. Paulson, op.cit., p.66.

2. The theme of women as victims was prominent in contemporary literature; see P.M. Spacks, Imagining a Self, p.65.

older mature male seducing the younger innocent woman who, though out of childhood physically, was not yet fully mentally ready to deal with the artifice of the world. Thus the seducer might be referred to as a "designing villain".¹ The Sydney Gazette, 31 May 1826, spoke of "the art of the veteran seducer". Marsden, in a sermon preached on the 17 July 1818, claimed that:

the artful and unprincipled seducer who wantonly stabs ye peace of families at an incurable wound, and imperiously boasts of the triumphs he has made over Innocence and Virtue must be numbered amongst the wicked. 2.

The British contemporary philosopher Paley said: "The seducer practices the same strategems to draw a woman's person into his power, that a swindler does, to get possession of your goods or money".³ In short, the seducer was a symbol of rational evil, who would arouse the imagination and passions of the woman to the point at which she lost control over herself.

In a short time he acquired a complete mastery over the mind of Mademoiselle F... by a correspondence of the most mystical and romantic nature, filled with the most glowing and high-flowing expressions of attachment, accounts of the persecutions of secret enemies, nocturnal visits, and mysterious messages, relative to the passions existing between him and Mademoiselle F... in fine, all that species of romantic jugglery calculated to sway a weak mind and ardent imagination.

Australian, 6 July 1827 (my emphasis).

The seduction attacked the family at its most vulnerable, but also at its most moral source - the woman. Through her sexuality, the woman was the ultimate embodiment of sensibility and because of this, morality. But it was also her sensibility

1. Sydney Gazette, 6 February 1827.
2. Marsden Papers, Vol.8, p.44 (my emphasis).
3. W. Paley, The Principles of Moral and Philosophical Philosophy, p.250. "The crime is always contrived and committed by the man; the punishment and infamy are borne by the woman. These are the principles of Europe"; from Letters of Love, Marriage and Adultery (1789), p.64 quoted in R. Trumbach, The Rise of the Egalitarian Family, p.153.

which made her vulnerable to the artifice of the seducer.

...we shall contend that the very excess of the poor girl's tenderness is the condemnation of her seducer, who by the most odious artifices, caused her love to become bewilderment, and her passion delirium.

Australian, 6 July 1827.

Following Brissenden, I would argue, that seduction articles were partly philosophical explorations into the relationship of Sensibility to Reason in the construction of a moral being. Sensibility without Reason made one naive to the evil schemes of others; this was a statement about the corruption of moral innocence by Reason and of a morality without Reason as vulnerable. In the case of the seducer the philosophical statement was that Reason without Sensibility, without feelings for others, could never be morality.¹

Another explanation can now be proposed for the frequency of seduction articles in N.S.W.. They can perhaps be partly attributed to their construction of women as victims, and, therefore, to some extent, as morally neutral, as not responsible for their fall which, in the case of N.S.W. women had led to their exile. John Nichol stated that though he heard female convicts "boast of the crimes and murders committed by them and their accomplices; but the far greater number were harmless unfortunate creatures, the victims of the basest seduction". He said he would not trouble the reader "with their histories as told by themselves".² One only wishes he had, for he implies that women convicts used notions of seduction and victimage to construct autobiographical accounts of themselves.³ Reid, in his describing his voyage out to N.S.W. and the

1. R.F. Brissenden, "La Philosophie dans le boudoir; or A Young Lady's Entrance into the World", in Studies in Eighteenth Century Culture, Vol.2, ed. by H.E. Pagliaro, pp.121, 133.

2. C. Grant, The Life and Adventures of John Nicol Mariner, p.34.

3. The Remarkable...suffering of...Elizabeth Watson...who was seduced...and transported to Botany Bay. F365/1A1-2.

conditions of female prisoners, also felt the need to add at the end a section on seduction, which he blamed as one of the primary sources "in the development of vicious principles in some of its most powerful and mischievous ramifications".¹ He blamed seductions by men on the reason for women becoming prostitutes and falling into a life of crime.² By being constituted as not responsible for their fall, women were also being constructed as reclaimable; their previous life histories could therefore be erased such that they could emerge as symbols of moral order in N.S.W.. Their transgressions were not wilful and thus a reflection and indictment of their inner selves. Cunningham thought that the offences of women should be viewed "more with an eye to pity than of anger, and reform rather than punishment should be our object" because, he argued, the women "are almost invariably led astray by the men".³

I do not deny the pervasiveness of the view of women convicts as morally reprehensible. But this view was not the only discursive strategy the upper classes employed to dominate women and to make them into objects of knowledge. Seduction trials were major discursive sites for articulating an alternative conception of women within an ideology of non-culpability. Cunningham believed, for example, that N.S.W. women were "certainly more abandoned in their expressions when excited" than the men, but, he went on to state, "this probably arises not so much from their greater profligacy of disposition, as from their having less controul [sic.] over

1. T. Reid, Two Voyages to New South Wales and Van Dieman's Land, p.xiv.

2. Ibid., p.370.

3. Cunningham, op.cit., p.323.

4. Ibid., pp.315-316.

their passions and their tongues".⁴ Women here were presented, not as the embodiments of evil emerging out of freedom, but as prisoners of themselves; they lacked that measure of control over themselves which would allow them to be fully free and rational creatures.

Such a view no doubt promoted the confinement of women in public institutions run by philanthropists, and their confinement to the private space of the family under their husbands' or parents' care. To escape from the family was, for the women, to be threatened by insanity and suicide. What seduction articles represented partly were warnings against the promiscuous lifestyle pursued by women in N.S.W.. They were warnings that there were no safe domains outside of the family for them; that the outside lover rather than being a tempting symbol of freedom was a symbol of captivity. He represented part of an illusory imaginative space within which the woman risked losing her sanity, moral identity and life.

In the next section, the emphasis will shift to investigating how the escape of husbands from familial restraint threatened their mental well being and the survival of the family. As in this section, I have found it profitable to explore the ideological construction of the family at those points at which it failed to control and contain its members. Here more than elsewhere, the role of the family in the ordering of society was contemplated and explicated. The emphasis of the next section will be the importance of the family for structuring the act of consumption and for privatising the pursuit of pleasure. The cultural production of a working class involves not just the production of labourers but also of consumers.

(F) THE POLICING OF PLEASURE AND THE ROLE OF THE FAMILY
IN THE PURSUIT OF RATIONAL HAPPINESS

I begin this section with a number of portraits of men who denied familial dependencies. These portraits are of contemporary stereotypes: the first being the miser, the second, the bachelor, the third, the drunkard, and the fourth, the gambler. After which I explore in greater detail the ideological construction of familial relations and identity in the press.

I noted at the beginning of this chapter that a man working for his family was a symbol of ordered sociality because he was a symbol of altruism, of man subsuming and identifying his self-interest with the interest of others.¹ The opposite archetype to this was the egoism of the miser; for he was an example of unrestrained asceticism that denied familial dependencies in order to foster the goal of egoistic accumulation. Such was the miser, Thomas Clark, reported in the Sydney Gazette, 4 December 1819. He was a labouring man with savings which amounted to between 800 and 1000 Pounds. He lived alone and when he died, a poor old sister inherited all his property. He had been suffering for years from a painful gall bladder, which he avoided treating because of the cost. When he did treat it the cost of the operation embittered the remaining years of his life. He threatened to imprison an old woman who charitably looked after him whilst he was sick because she could not account for two pence out of two shill-

1. See pp.182-185.

ings she had received. Though recovering from his operation, Thomas Clark was found one morning "lying almost stiff with cold, and unable to move himself". He died a few days after. His death was a consequence of his refusal to buy coals or to use the bed clothes the doctor made him purchase for his operation.

On the 24 October 1812, the Sydney Gazette presented another biographical portrait of the miser and spoke of this case as providing "the most perfect drawing that nature has ever given to the world". This was an example of an individual who had died in an obscure lodging in Dublin. He had originally belonged to "the low and labourious condition of a journeyman cooper", but had managed to accumulate savings of 300,000 Pounds. He viewed the whole world and all his social relationships only with an eye to money.

A woman he considered only an encumbrance on a man of property, and therefore he could never be prevailed upon to admit one into his confidence. His wife was the public funds, and his children guineas; and no parent or husband paid more deference or care to the comfort of his family.

The evening prior to his death his friends sent him to a physician, to which he didn't object till he thought of the fee. Upon which he bid the doctor's fee down from eight to six and a half Guineas, claiming he was a strong man who could cure himself. At his death he gave his money to a rich West Indian family claiming that his own numerous relations were not "in his opinion, qualified, for want of experience in the management of money to nurse his wealth". What the miser connotes is the unproductiveness of property without family; of irrational acquisitive desire which has only itself as its own object. In both of these moral tales these acquisitive desires

threaten the lives of the individuals involved as they bargain with doctors and their health. No doubt, the miser is an example of the fetishisation of money. But he is also an attempt to explore the anti-social character of self-contained egoism which, in rejecting women and children, rejects feelings of sensibility. The miser's exclusive concern with rational calculation represents the mathematisation of reality through money carried to its ultimate, anti-social extremities. He explores that realm within which the private no longer has a public function. Instead it has gained a self-contained autonomy of its own, becoming the pure expression of individualism articulated and measured not by other men, but through the anonymity conferred by money.

The Sydney Gazette, 13 July 1827, published more criticism of that "detestable anomaly", the confirmed old bachelor, who has "steadily adhered to his selfish principle of living alone, heedless of the charms of women, untouched by the spells of home, unaffected by the sight of children!". Unlike the austere working class miser, the bachelor was more of a wealthy dandy. Rather than representing the solitary private pursuit of asceticism, he represented the solitary pursuit of external pleasure. When threatened with love culminating in marriage, the Bachelor decides to leave his beloved women for about six years and writes: "Change of place, change of scene, change of society - how much does it efface impressions once the most deeply stamped on the heart!" Upon returning to his beloved, Ellen, the bachelor is surprised to see she has grown fat, her skin was not as soft and fair as previously and he was uncertain whether her darker hair was an improvement. His awareness of her external faults contrasts sharply with his

lack of awareness of his own external and internal shortcomings. The bachelor was spoken of as being deaf to the call of nature and as having violated its first law: "increase and multiply". He also violated the need for man to provide himself with a successor. As such, the bachelor was seen to cut himself off from the great family of man:

...he the bachelor dwells apart from human nature - an anchorite in thought; a solitary in the midst of society...like Logan, he is the last of his race, and the same tomb which closes over his ashes, closes but once and forever over his memory.

Sydney Gazette, 13 July 1827,
"Confessions of an Old Bachelor".

Speaking of marriage, the Sydney Gazette, 6 March 1824, published the view "that it is the most useful state in which the human being can be placed; and consequently that, in which most honour may be brought to God." It argued that those who lived a life of celibacy "lived a comparatively useless life; and died, as they should, unregretted".

In another autobiography satirising the bachelor, the Sydney Gazette presented the story of a wealthy individual who was totally immersed in his own self-image. His narcissistic qualities led him to downplay his own faults and to readily excuse them away; it also led him to concentrate and emphasise the faults of others and the outside world as a means of elevating and maintaining his own self-conception. As he gets older and fatter the bachelor blamed the bad air at Paddington for his inability to play cricket; he also

blamed his tailor for his inability to fit into his old clothes, and blamed his old clothes for shrinking. He also thought the "young men now-a-days - much too small in the waist". Getting rid of his old tailor, he acquired a new tailor in Bond Street claiming "Some of these fellows make a man look ten years younger. Not that that was the reason". As his hair became thinner, he remarked "Counted eighteen bald heads in the Pit at the Opera. So much the better - the more the merrier". He noticed a few grey hairs in his whiskers, "all owing to carelessness in manufactory of shaving soap". This bachelor's emphasis on his own appearantial aspects and on the superficial aspects of everyday public life was juxtaposed against the way he lacked an introspective self-consciousness. In short, the implicit meaning of this article was that in being removed from the private domain of the family so was the bachelor removed from self-truth.¹

Alongside these articles on the miserable life of men who refused women in favour of a solitary existence, were articles

1. Sydney Gazette, 4 March 1824, "The Bachelor's Thermometer"
(From Fleming's Weekly Express).

about men, who despite being fathers of families, nevertheless denied their families by pursuing individualist forms of self-gratification outside the home. These articles were often a description of the destruction of a family through the absence of a suitable patriarch, as in the case of Gabriel Mason, who because of his drunkenness stopped being an elder in his church. His wife died in the prime of her life because of the hardship he inflicted on her. The Monitor, 30 March 1829, under the title "Anatomy of Drunkenness" provides us with the following description of what happened to the rest of Gabriel Mason's family.

His oldest son, unable, in pride and shame, to lift up his eyes at kirk or market, went away to the city, and enlisted into a regiment about to embark on foreign service. His two sisters went to take farewell of him, but never returned; one, having died of a fever in the infirmary, just as if she had been a pauper; and the other - for the sight of sin, and sorrow, and shame, and suffering, is ruinous to the soul - gave herself up, in her beauty, an easy prey to a destroyer, and is now at peace. The rest of the family dropt down one by one out of sight, into inferior situations in far-off places...

Monitor, 30 March 1829
"Anatomy of Drunkenness".

To be involved in sensuality outside the home was to deny obligations to the family. The writer, "Amicus", in the Sydney Gazette, 23 October 1819, thought "it too obvious to need any illustration" that "those who are deepest sunk in sensuality and vice are the farthest removed from kindred affection of whatever kind it may be". Moreover, to be lost to feelings of domestic attachment was to be lost to all feelings of sensibility. It was to enter an internal world of self-gratification which had no reference to the outside world and the feelings of others. It was to enter a world of the living dead. Thus the compulsive family gambler was

spoken of as having no heart. "The club with which he herds would meet, though the place of rendezvous were the chamber of the dying; they would meet, though it were an apartment in the charnel-house. Not even the death of kindred can effect the gambler. He would play upon his brother's coffin - he would play upon his father's sepulchre."¹.

The opposite to these unfeeling individuals were those articles which dealt with men and women morally redeemed by discovering notions of moral sensibility, through familial love. The Sydney Gazette, 20 October 1821, reported how the female prison philanthropist, Elizabeth Fry, upon entering an English prison, asked and obtained permission to gather the children together in a religious school inside the prison. "The female prisoners, in spite of their profligate and vicious habits, joyfully embraced the opportunity of ameliorating the condition of their children. Much was already effected by restoring these women to the first sentiment of nature; namely, maternal affection." Similarly, the capitally convicted prisoner in the Sydney Gazette, 24 September 1809, who upon hearing the death sentence "shrieked aloud and fell upon his knees imploring pity", who "repeatedly called Heaven to Protect his wretched family" was seen to be "not quite so callous to the natural feelings of humanity as to hear unmoved a doom which was to separate him forever from his unhappy offspring!"

1. Howe's Weekly Commercial Express, 25 July 1825.

The family was seen to be the natural basis of society and consequently the source of its strongest social and moral feelings. "The ties of children, those strong links which chain us so firmly to our nature."¹. One of the strongest instincts to which the family tied the individual was self-interest: "So ought men to love their wives; even as their own bodies; he that loveth his wife loveth himself. For no man ever yet hated his own flesh, but nourisheth and cherisheth it, even as the Lord the Church"². To attack the family, especially one's own, was to separate oneself from the natural affective basis of humanity. The implicit meaning of many articles was often that in destroying their family, so parents were also destroying themselves. They became alienated from themselves, which was expressed by them entering a world of unrestrained self-punishment.

The loose enjoyment they once delighted in become insipid, and the noblest creature of creation sinks into a hateful opinion of himself. Unfortunately, however, conviction seldom finds its way into the mind until affliction lays it open to the horrors of repentance and remorse. ...depravity erects her standard in the mind, distress impends over all that are dependent on the aggressor, and pale infirmity brings to an untimely conclusion a series of miseries heightened and embittered with regret... 3.

This theme was also evidence in the Sydney Gazette's, 14 June 1807, account of the first woman in N.S.W. who was believed to have killed her own child. She contracted an illness and died, before she could be executed. However, her death was seen to result more from the power of her conscience, which would not let her rest, till she was put to rest.

1. Sydney Gazette, 13 July 1827 "Confessions of an Old Bachelor".

2. Anon., Relative Duties, p.21.

3. Sydney Gazette, 19 July 1803, "Censor".

Many melancholy tales of familial self-destruction were often attempts to explore how the guilt of the father, in destroying his wife and children, further confirmed him in his vice, ultimately also destroying him. He became a victim of his own egoistic desires. The drunken husband begins to drink more in order to escape his punishing conscience. Here conscience, the source of redemption and salvation, was being presented as the source of further sin and irreclaimability. The drunken husband was:

A testimony of weakness, which even the welfare of a family is not able to contend with, nor a relapse to be guarded against by the reproofs of a conscience labouring beneath a load, of which it can only be disburdened by giving a loose to an excess that must add to the affliction. Sydney Gazette, 3 June 1804, "Veritas" (my emphasis).

Repeated here were those notions we explored in the last chapter: of man as a prisoner of himself and the source of his own wilful destruction; of man who escapes from structure, in this case the family, and in doing so increases his irrationalness. Thus, the writer "An Old Emigrant Settler" spoke of the entry of the drunken husband into his household as being "marked by the guilty ferocity of the wretch who is conscious of having robbed his offspring!"¹. Here, the unthinking father, like the condemned prisoner, was seen to express within his own person the disorder he introduced into society: "When he reflects that he is himself the spring and very source of misfortune to those dependent on his labour, he becomes impatient, his brain inflames, and all his meditations are rash, impetuous, and ungovernable."². The spectacle here being the paradox of egoism which cannot live with itself.

1. Sydney Gazette, 6 March 1823 "An Old Emigrant Settler".

2. Sydney Gazette, 30 October 1803.

In such articles the interiority of the household and the interiority of the deviant family member's mind were equated; one mirrored the disorder of the other. Often in this discourse the public domain was constituted as the futile realm for escaping one's conscience.

From the sweet and peaceful fire-side of harmonious and happy affections and purposes; from the household serenity of a satisfied conscience, and of a blameless life, it is forced abroad to seek, without success, to slake its thirst for happiness in streets and taverns, in routs and riots.

Sydney Gazette, 29 July 1824 "Cestria".

Much of the discourse of the press, as should be obvious by now, was organised around the manufacture of guilt. In these psychological "Macbethian" dramas, peace of mind was to be ensured by fulfilling familial obligations. The writer "Amicus" spoke of the sober, industrious and moral family as a little community where each member was conscious of its duty "and with the regularity of an unimpaired machine performs the daily task allotted with a cheerfulness arising out of that greatest of all pleasures an approving mind". In contrast to this, "Amicus" also gave the example of the immoral family where violence, born out of an attempt to escape from guilt, was the norm.

The man and the woman, feeling a mutual discontent, conscious that they are always neglecting their duty to their children...are agitated by a peevishness of temper, which, upon the slightest occasion, kindles into impetuosity, and then some direful consequence ensues.

Sydney Gazette, 14 October 1815.

I want to explore this last theme in greater detail. It was part of a discursive strategy which juxtaposed the interiority of the family, as a self-contained zone of truth and happiness, against the corrupting sensuous pleasure of the outside world. As the poem "Conjugal Felicity" put it, the family was for its members a site of "guiltless pleasure",

where: "Their hearts, their fortunes and their beings blend". The poem asked the rhetorical question: "What is the world to them, its pomp, its pleasure, and its nonsense all!"¹. In the outside world, wants assumed a superficial character; but also an unbounded form. Hence the continual portrayal of the Drunkard and the Gambler (the two outside public figures of habitual, unsatisfiable desire) as the opponents of familial life. This theme was also evidenced in a story in the Sydney Gazette of 13 November 1808 about two parents, whose vanity or imaginative engagement in external appearances led to the destruction of their prosperity. The Sydney Gazette, in this moral tale, makes the point that "home had no longer any attraction left; it was remote from gaiety - an impediment that could only be relieved by frequent visits to the busy town". In leaving the family as the site of consumption, these two parents were seen to enter a site of infinite consumption which mirrored their own egoism.

Their wardrobe was of course the leading object of attention; the humbledress of industry was thrown aside for something more genteel; the rugged hamlet that long had sheltered them from the vicissitudes of heat and cold, was now neglected and despised, and, in imagination a lofty turrent already occupied the site; contentment had left the humble dwelling; want followed want; and the gratification of the last provoked some new desires.

Sydney Gazette, 13 November 1808,
(my emphasis).

Such articles were part of a broader concern with privatising the pursuit of happiness. In part this involved constructing the family into an emotional refuge from the world. If the family was also a moral space, a space of spiritual rejuvenation, it gained this ethical equality from being a sanctuary based on sensibility, on affections, rather than reason.

1. Sydney Gazette, 12 December 1818, "Conjugal Felicity".

In the happy family all is order and harmony, union and love. As there is no motive, so there is no effort to form a separate interest; joys and sorrows are shared among all the kindred members; and the safe celestial bond of pure affection encircles and consolidates the whole.

Sydney Gazette, 1 July 1824,
"The Friendly Visitant".

To use Christopher Lasch's phrase the family was a "haven in a heartless world".¹ Its private rituals and intimacies would provide its members with innocent pleasures.² The family would thus be partly isolated and rendered impervious to the more morally corrupting forms of public entertainment.

The pleasures felt in their innocent society, and cares for their free welfare, form a greater and purer source of delight to him that is not thoroughly debased, than any pot-house could ever afford.

Australian, 27 April 1827, "New South Wales - No. XIII".

Individuals were increasingly being asked by the press, philanthropists and the state to seek their pleasures and fulfillment in the private space of domesticity. The Sydney Gazette, 2 April 1803, published the statement that "he who does not make his family comfortable will himself never be happy at home; and he who is not happy at home, will never be happy anywhere".³

1. C. Lasch, Haven in a Heartless World, especially pp.xix, 5; "The Family as a Haven in a Heartless World", Salmagundi, Vol.35, 1976, pp.42-44.
2. The innocent pleasures of family life were narrated in the following picture of a father and his children: "After dinner he is in his glory; the nursery bell is then rung, and down comes his troop of young ones with their round laughing faces. ... In a few minutes they have all arranged themselves in order; the glasses of wine are distributed with a due attention to seniority, and the youngest, (who, by the bye, is generally the favourite) is sure to place herself on Papa's knee, to tweek his nose with her youghful digits, stick pins in the calf of his leg (which, if he happens to be in ill-humour, is highly gratifying), and throw his wig, should he be unfortunate enough to wear one, head-foremost at her brother John. We ourselves can properly appreciate those peculiar blessings, inasmuch as we have been thrice married, and are at this present moment of writing, the happy father of two and twenty bouncing pledges. Sydney Gazette, 13 July 1827, "Confessions of an Old Bachelor".
3. This article was an extract "From the Reports of the Society for Bettering the Condition and Increasing the Comforts of the Poor".

The writer "The Friendly Visitor", Sydney Gazette, 1 July 1824, similarly argued that: "a community is made up of families and individuals, and if happiness exists at all, it must be domestic and personal".

The press' concern with happy families was largely directed towards changing the expenditure of the labouring classes, to move their forms of expenditure away from public acts of shared consumption, often regarded as dissipation, to more private forms of consumption within which the working class would bear the cost of reproducing their labour power. Thus, the writer "The Friendly Visitant", Sydney Gazette, 6 January 1825, criticised those wives in the Colony who ate "the bread of idleness by spending their time visiting public houses and grog shops; where the little money which should be laid out in feeding, clothing and educating their children, is spent in the purchase of strong drink". Newspapers lamented the fact that high wages in N.S.W. could not be productively confined to the private sphere because of the shortage of women. The Monitor, 4 February 1828, put the argument as follows: "in such a land therefore, where the labouring population cannot, for want of wives, continue their species, high wages are of no service with regard to public prosperity by improving the morals and increasing the numbers of people". This was because "the addition of wages, instead of being by our Emigrant labourers expended in raising and educating children, is spent by them in debauchery". Similarly an argument in the Australian, 27 April 1827 stated that "Single individuals who have only their own wants to provide for, will squander the overplus of their earnings in the low debauchery, which the married couple, who have the cares of a family upon their shoulders, are necessitated to apply to their subsistence."

The problem was one of rendering the act of consumption productive, by making the working class bear the cost for re-producing its species.

Not all articles on the family were directed toward controlling its outside public expenditures. The press from its very early origins was actively seeking to internally construct the family into a rational unit of consumption. Apart from criticisms of gambling, drinking and idle wives who smoked tobacco, this involved a whole series of domestic hints, which at first sight look trivial.¹ Instances of such hints are comments critical of poor families for having too many pets, particularly dogs;² recommending that they purchase a pig to fatten up;³ that they boil instead of roast their meat, making soup with the remaining broth;⁴ that they bake bread using the bran in the flour.⁵ The press was, in short, concerned with diffusing a "science of nutrition" into the family - the principles of which the Sydney Gazette, 8 February 1817, stated as being "the means of obtaining the greatest quantity of nourishment from the smallest quantity of provisions" or the "means to be adapted for increasing the quantity of food".⁶ Historically, the general ideological thrust of all these sorts of recommendations has been to promote the professionalisation of parenthood and in particular of motherhood.

1. Sydney Gazette, 6 January 1825, "The Friendly Visitant"; see also Sydney Gazette, 11 December 1803, "Inquisitive Observer"; 23 April 1814, "Incognitor".
2. Sydney Gazette, 26 March, 2 April 1803; 29 April 1804.
3. Sydney Gazette, 5 March 1803 "Extract from the Report of the Society for Bettering the Condition and Increasing the Comforts of the Poor".
4. Sydney Gazette, 2 April 1803, 16 August 1817 "An Inhabitant".
5. Sydney Gazette, 12 June 1803.
6. See also Sydney Gazette, 15 February, 22 February (Letter by "Civic"), 1817.

What these recommendations also represented was the progressive rationalisation of everyday life, as utilitarian ideology was permeating and reorganising a whole range of social practices, including leisure time. They represent an attempt to culturally incorporate the working class into the dominant structures of capitalism by organising production and consumption in the household along the lines of capitalist principles of economic rationality. The construction of the family into the site for the maximum realisation of happiness implied the introduction of a calculus, which accorded relative weightings to consumables and which, in doing so, structured and organised the act of consumption. The family became accordingly the site for the pursuit of rational happiness. This, as we have seen elsewhere, was also dependent partly on its ability to privatise its joys and consumptions.

Whereas, previously, I examined the threats posed to the survival of the family by the irrational pursuit of happiness outside its domestic boundaries, I want to now examine briefly those articles dealing with the theme of threats to the family which opened up its doors to outsiders. Such a family was spoken of as destroying its domestic peace by making itself the site for illicit, promiscuous consumption. The writer "Veritas", Sydney Gazette, 3 June 1804, stated that "possessed of industry without economy, the ends of labour are perverted". "Veritas" was "surrounded by neighbours of the inferior order". In one family, the husband was industrious and the wife was attentive to her familial duties and four young children. "But they are apt alas! after an unremitting assiduity of many weeks, in a single gust of intemperance to reduce their families to a condition little above actual want." This was brought

about by them "having called in friends to partake of their improvident hospitality, or rather to bear testimony of their folly and extravagance, who less destitute of indifference to the wants of a family, than themselves, neglect to repay the liberality at the expense of its comforts". The seducer was often presented as being able to disrupt and even destroy the family's unity because, as a close friend of the husband or father, he enjoyed free access to the house, often dining there: only he ended up consuming more than he ate. The Sydney Gazette, 20 April 1827, published a court case in which the plaintiff's lawyer said: "He could not imagine any character more truly dispicable than that of a shameless adulterer, who meanly stole to the fireside of his neighbour, drinking his wine, and robbing him of his domestic peace". The seducer, "foregetful of his honour and duty, invaded the sanctuary of the plaintiff's home"¹. Some articles dealing with atrocious murders explored the theme of the family which was partly destroyed as a consequence of it allowing strangers to reside within its walls.²

What such articles expressed was a concern with sealing off the family from the outside world. Similarly, the writer "Candidus" stated that "it must have frequently come under your observation, that the peace of families has been disturbed by friends, whom I compare in my plain ways to wolves in sheep's clothing, meddling and intermeddling between the master and the mistress"³. The Sydney Gazette, 13 March 1823, felt the need to speak out against those individuals who "from motives of envy, jealousy, or hatred" employed their time in

1. Sydney Gazette, 31 May 1826.

2. Sydney Gazette, 2 January 1819 "Horrible Atrocity (From a Paris Paper)"; 26 May 1829 "Murder".

3. Sydney Gazette, 5 March 1809 "Candidus".

"prying into all the minutiae of domestic occurrences". The writer "A Friend of the 'Master of the Rolls'" objected in the Sydney Gazette, 12 May 1825, to the Australian publishing a domestic squabble between a tradesman and his wife, which had gone to court.

The concern with sealing off the family from outside disruptive influences was also part of a concern with regulating the public meeting places of the poor. Thus Governor Macquarie attempted to encourage marriage and to protect the family by regulating the hours and number of places selling liquor late at night.¹ He attacked those public sites at which the lower classes were seen to produce a popular hedonistic culture, often associated with criminality. Many public houses, the writer "Admonitor" argued in the Sydney Gazette, 22 January 1824, were "little better than places of rendezvous for vagabonds, prostitutes and drunkards, and the nurseries of every species of vice". "Adminitor" complained about "the great number of such persons congregated together at these temples of licentious and unhallowed pleasure".

We are sometimes filled with horror when we hear of the extravagant and obscene ceremonies, with which the poor heathen celebrate the achievements of their dieties; but how can we congratulate ourselves on our moral superiority over them, whilst multitudes amongst us celebrate the Incarnation of the Son of God, and indeed every other public festival appointed by our Church, by assembling at these houses of general resort, for the sole purpose of indulging in the most profane and disgusting excesses?
Sydney Gazette, 22 January 1824, "Admonitor".

The Monitor, 9 March 1827, however, sought to bolster the family against these corrupting haunts, by suggesting the liberalising of licensing laws. It argued that the attempt "to prevent the

1. Sydney Gazette, 24 February 1810.

common people from congregating together" would be more effectually fulfilled by the legislature allowing all shopkeepers to sell the settler liquor.

After taking a comfortable glass or two at the counter, to excite his domestic remembrances and affections, he would spend the remainder in calico, print...soap, candles, tea and sugar. But now he is compelled to go to a regular drinking house. Here (if it be winter) is a lively crackling fire,..pipes, bacon, and newspapers...a smiling hostess...Jack and Tom, whom he hasn't seen for so many years...the thoughtless men sit down to rise no more that day.

The writer "An Old Emigrant Settler" in the Sydney Gazette, 13 September 1822, stated that so great was the need to prevent the lower orders from congregating together, that if the authorities could undertake the General Muster without calling the people together then they would be bound to do so. This writer equated "all public spectacles, shows, and sports, at which great assemblages of people attend", with the corruption of Christianity by heathenism which had occurred in carnivals and holidays from Constantine to the present day. He found his "convict labourers dissatisfied and idle on race day. The village was in uproar; and drunkenness and fighting prevailed at night; horrible oaths, and language ingenious for its damnable impiety were the order of the day". "An Old Emigrant Settler" saw all promiscuous assemblages of the people as bringing out the fallen depraved nature of man.¹ Crowds corrupted man. More importantly, he stated that: "God has divided mankind, as depraved creatures, into families; he has prevented large associations by the institutions of marriage; and by forbidding the inter-marriage of near relations, has destroyed clanships and feuds".

1. On this point see also the Sydney Gazette, 24 March 1826 "Lectures on Practical Divinity in Macquarie Street Chapel"; 23 August 1822, "Bardo-Narrong".

Here, once again, the peace and well being of society were equated with the isolating qualities of familial life - its almost penitentiary qualities.

For similar moral-political reasons the writer "Censoria", Sydney Gazette, 9 December 1824, criticised proposals to establish drama on a more regular footing in the Colony. He claimed that it "loosens the strongest family ties, and frequently dissevers them forever". He would only support the stage if it could be shown that it:

...confirms young men in decent, and young women in modest behaviour;- if the stage will lessen the prevalence of seduction, and leave on an affectionate mother in honourable possession of her daughter, and the husband of his wife - if it will cause one seducer to relent, and bring the seduced a repentant to her parents as the wife of her betrayer. Monitor, 9 March 1827.

This concern with the policing of pleasure, this concern with breaking up the social and cultural domains within which working class solidarities might be formed, was partly an attempt to render the act of consumption and leisure time 'rational'. Newspapers were actively engaged in educative proposals seeking to employ the space of unproductive leisure.¹ Reading especially was a way of productively confining the settler to his home. The writer "Well-Wisher" advocated Sunday Schools, for by educating the child "Would not the family that is now divided and scattered up and down, for the want of something to engage the attention of its members, be thus drawn together, and uniting in a little well disposed circle, pass their evenings cordially, happily - instead of profanely miserable". The Sydney Gazette, 15 March 1817, published the first Report of the Auxiliary Bible Society, which stated, in part,

1. See for example, Sydney Gazette, 22 May 1808.

that "the lonely settler who can read...will now find a means of collecting his little household about his fireside...Instead of roaming from farm to farm to visit neighbours after his day's labour, and to converse with those who had as little to entertain him as he had to entertain himself". This theme of religious literature morally unifying the family was also evidenced in the Sydney Gazette's publication of a speech by British evangelist reformer William Wilberforce, who asked his audience to:

take a single copy of the Scriptures, follow it into the little dwelling in which it is delivered and see those who have not enjoyed the benefits of instruction, with which a bounteous Providence has favoured us, hanging upon the words of truth and mercy that are there recorded for the consolation of the sorrowful, and for easing the guilty heart of its pangs. Then we behold them with a deep feeling of compunction, reading of a Saviour who died for sinners, of a Holy Spirit promised them for the change of their natures, while a principle of gratitude begins to warm their hearts; soon you will find them engaging in one common prayer...

Sydney Gazette, 20 May 1820, "Fifteenth Anniversary of the British and Foreign Bible Society continued".

The ideological significance given by the press, schools, and philanthropic societies to religion will be investigated further in the next chapter. Before turning to a summary conclusion of this chapter, I would like to make the point that the concern with isolating individuals into familial units complemented that concern which sought to make individuals dependent on the printed word for their information, whether this took the form of religious literature or newspapers.

(G) CONCLUSION

In this chapter I explored the family as an object of discourse, how it fitted into the general pedagogic role of the N.S.W. press. The tacit idea running through most newspaper articles on the family was a view of it as a natural social unit beyond which to trespass was to enter a world of irrational pleasures and violent illegalities. The family was seen as an instrument for ensuring the better policing of a free society; it would prevent crime by confirming its members in habits of industry and by confining their acts of consumption to those private forms they could afford.

I started off by analysing how newspaper treatment of the family supported the state's concern with using the family to keep ex-convicts in N.S.W. and to ensure they kept working after their departure from the penal system. The private space of domesticity was seen to have sufficient moral force to compel the labourer into the market place. Thus, the N.S.W. press campaigned for the emigration of women to N.S.W. and for the release of female inmates from British and N.S.W. total institutions. Part of the interest in women also emerged out of a view of them as the bearers of a civilising influence on the more brutal characteristic of men. Familial life would domesticate men and integrate them into a moral order. The acquisition of familial property was especially seen as a sign of moral reform and of a commitment to rational activity. Increasingly, the successful carrying out of familial duties was being constructed into a new secular form of universalism; it denoted the common partaking of moral sentiments in a culture characterised by religious relativism. The successful private citizen was emerging as a new democratic criteria of public

success.

Part of the importance the family assumed in the N.S.W. press was derived from the difficulties the authorities had in establishing marriage as an instrument of normalisation, that is for incorporating the working class into bourgeois norms. I argued that women in particular were avoiding placing a monopoly over their labour and person, both sexual and non-sexual, in the hands of men. Prostitution was seen to give women a domain of independence outside of men and work. The press saw her natural place as in the home. Her biological role as the bearer of children was used to naturalise her exclusion from the public sphere. This ideological thrust was supported by moral tales which narrated how women, who ventured beyond the household, as a domain of pleasure and obedience, were destroyed.

Seduction articles were a variation of this same idea: they were a statement of the dangers of insanity and suicide which awaited those women who ventured sexually outside the patriarchal control of their fathers or husbands. The very thing which made women an extension of the sources of bourgeois morality, their sensibilities, also made them vulnerable to the rational artifice of outside men. Seduction articles articulated men's rational dominance over women. The seducer would employ calculated and rational schemes to arouse and control the imagination and passions of the women to the point at which she lost control over herself and any regard for her family. Contained in these articles were also statements that only women who were passive could be moral. The courtroom scene also supported the stereotype of virtuous women as inactive

deferential beings, more creatures of bodily emotions than of articulate rational speech. Seduction trials also became ways of investigating and judging what it was about the particular nature of a family's internal relations which made it susceptible to outside attack.

In the last section of this chapter I explored further the ideological formulation of the family as an emotional sanctuary, which would guarantee its members peace of mind, so long as they remained within its boundaries and defended those boundaries from outsiders. Here I concentrated mostly on articles dealing with men, whose public pursuits of pleasure, threatened the family. The implicit meaning of many of these articles was that in destroying their families, so men were also psychologically destroying themselves. The 'natural' egoism of individuals and the wider interest of society were artificially equated through the notion that peace of mind was only to be found inside the intimacies and rituals of family life. The family's private consumptions and joys would hopefully protect its members from the more corrupting forms of pleasure that were associated with the unrestrained sensuality of public places. The family was thus more than an ideological device for promoting and ensuring the maintenance of a disciplined free labourer. It was also one of the means of disciplining and atomising the act of consumption, in fact it was part of a concern with privatising the pursuit of pleasure. In the next chapter we will move from the policing role of families over its members to the policing of families by institutions and the press.

CHAPTER FOUR

PHILANTHROPY, STATE EDUCATION AND THE FAMILY

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(A) INTRODUCTION: PHILANTHROPY AND THE BUREAUCRATISATION
OF GUILT

Like the previous chapter, this chapter is also concerned with the family as part of the cultural formation of a working class. However, it focuses on the discursive strategies which took the family as an object of political knowledge concerned with solving the problem of order through institutional means. Much of the progressive bureaucratisation of state-class power in N.S.W., that is its progressive confinement to institutional contexts subject to formal rules, derived its justification and intervening power by focusing on the family and especially its problems. This chapter will document how the family became the means for proliferating wider institutional structures devoted to institutionally appropriating that same socialisation role, which the press also wished to allocate to the family. As we saw in the previous chapter, the family was one of the mechanisms in N.S.W. for accomplishing a more effective and less centralised moral supervision of individuals. However, it was also the ideological means for facilitating the creation of more public institutions, mainly concerned with the family's welfare, and with ensuring that the family exercised an effective moral supervision over its members.

The approach I adopt treats the statements which contemporaries made about the morality of the lower orders, not literally, but ideologically; not simply as description, but as the means for producing a particular kind of power structure. Anne Summers was the first to criticise historians for taking the continual exposure of the failure of the family and, in particular, the moral critiques of women by contemporaries as simply

descriptive.¹ She argues these critiques were coming from men and represented the ideological means, through the whore stereotype, of producing women as a subjugated group to whom men could have ready sexual access.² More recently, Michael Sturma has criticised Anne Summers' all-inclusive male conspiracy theory by pointing out that the critiques of women's morality were coming from the upper classes and represented their value judgement of normal working class sexual relations.³ As such, I would argue, these critiques were part of the means by which outside state and private policing agencies, including the press, were able to justify the centralised gaze they were increasingly subjecting the family to, as well as the proliferation of a whole series of modern pedagogic institutions and discourses around the family. Here, I am wholly in agreement with Donzelot's point that "the celebrated crisis of the family setting the stage for its liberation", should be seen not so much as a threat to the existing social order but "as a condition of possibility of that orders emergence".⁴

Under the patronage of the State, the Press and the wealthy, the following institutions were established.

Female Orphan School	1801
Female Factory	1804
Free Public Charity Schools	1809-10
Lunatic Asylum	1811

1. Sturma, op.cit., p.3.

2. Summers, op.cit., p.286.

3. Sturma, op.cit., pp.3, 4, 7.

4. Donzelot, op.cit., pp.7-8.

Sydney Hospital	1811
N.S.W. Benevolent Society	1813 (begun privately 1809)
Black Native Institution	1815
Auxiliary Bible Society	1817
Male Orphan School	1819
Convict Barracks	1819
Wesleyan Auxiliary Missionary Society	1820
Wesleyan Sunday Schools	1821
Sydney Institution	1822
Sydney Bethel Union Society	1822
Australian Religious Tract Society	1823
Female School of Industry	1826
Female Friendly Society	1826
Sydney Dispensary	1826
Society for Promoting Christian Knowledge	1826

I only intend to provide a brief institutional history of these societies. This work has already been well done by historians.¹ I am more interested in the pedagogic ideology which underpinned their praxis insofar as this manifested the general pedagogic role which the press assigned to all institutions. These philanthropic societies represent the emergence of a growing sense of collective responsibility for society amongst N.S.W.'s dominant class. They also represent the socialisation of cultural reproduction.

1. D. Peyser, "A Study of the History of Welfare Work in Sydney from 1788 till about 1900", RAHS, Vol.XXV, 1939, Part II, pp.89-128; M. Horsburgh, "Government Policy and the Benevolent Society", RAHS, Vol.63, September 1977, Part 2, pp.77-93; E. Windshuttle, "Discipline Domestic Training and Social Control: The Female School of Industry, Sydney, 1826-1847", Labour History, Vol.39, November 1980, pp.1-14; E. Windshuttle, "Women and the Origins of Colonial Philanthropy" in Australian Welfare History, Critical Essays, ed. by R. Kennedy, pp.10-31; R. Cage, "The Origins of Poor Relief in New South Wales", Australian Economic History, Vol.20, No.2, pp.153-169.

In newspapers, these philanthropic societies published their meetings, rules, resolutions and reports as well as lists of donations, with all the competitive status implications involved in publicly stating the amount each individual contributed. As a rule the Governor headed the list with the largest private subscription. Even large donations from the Treasury were presented as coming from his person. This helped to reinforce those symbols of personal benevolence and munificence with which the Reprieve had acted to cloak state power.¹

We have an infant population, to whom the benevolence of the Governor has extended itself in a very superior degree; and in whose favour the heart of the philanthropist has shed its brightest rays.

Sydney Gazette, 23 December 1819.

The involvement of prominent government officials, wealthy landowners and merchants in N.S.W. philanthropic societies further helped to couch state and class power in a personal paternalistic idiom. However what these philanthropic societies also represented was the progressive bureaucratisation of class power, its confinement and application to institutional contexts, where it could be subject to rules designed to render it more efficient and less arbitrary. These philanthropic societies represented also partly the increasing specialisation of knowledge and power with respect to the socialisation process in N.S.W.. Each of them carved out its own special social niche within which to operate. Their common concern with reforming the morals and disciplining the poor can be seen as

1. In its 1820 Annual Report, for example the Committee of the N.S.W. Benevolent Society resolved unanimously: "that His Excellency the Governor, in condescending to preside at this Meeting, renews his claim to the sincere respect and grateful acknowledgements of the Society, as thus affording the high testimonial of His Excellency's continued approbation of the Society's proceedings, and evincing the undiminished influence of those benevolent sentiments which have characterised as strongly His Excellency's private conduct, as his public administration."

part of a process of fragmenting the working class by introducing and emphasising moral distinctions and divisions within their ranks.

One of the main measures of society's moral progress was taken to be the number and size of its philanthropic organisations: "let it be borne in mind, that the public institutions of a country tend much to the elucidation of its character".¹ The philanthropic endeavours of England were taken as a model for the achievement of a normal society. England was referred to as "that land of innumerable institutions".² In the late 1820's, the demand for civil rights was articulated partly by pointing to the normalness and morality of N.S.W. as indicated by all its diverse philanthropic societies and meetings.³ These philanthropic endeavours occurred within the context of an ideological process whereby the process of moral salvation was increasingly being constructed into a cumulative historical process.

It must be borne in mind, that all vast designs have ever been brought about by small and almost imperceptible means; in proof of which we shall merely cite one instance, viz the preaching of the Gospel by a few illiterate fishermen!
Sydney Gazette, 6 December 1822.

Here salvation was not simply identified with the radical conversion of individuals but also with the more gradual institutional salvation of the nation. This in turn was indicated and measured partly by the removal of the necessity for employing state violence. Governor Macquarie, who improved the institutions of education, religion, and marriage in the colony,⁴

1. From the Third Report of the Committee of the Sydney Dispensary (1831); see also Sydney Gazette, 1 September 1821.
2. N.S.W. Benevolent Society, Annual Report, 1821, p.9.
3. Monitor, 22 November 1827.
4. Macquarie to Catlereagh, 30 April 1810, HRA, Vol.VII, pp.249-250, 252, 278-279.

also recommended magistrates avoid the use of corporal punishment and that their maximum punishment be only 50 lashes.¹

Howe's Weekly Commercial Express argued: "We have the means to punish crime; but let it be our glory, our boast, our ambition, as a rising state, that we have the efficient institutions to prevent it".²

This emphasis on institutional mechanisms of social control occurred alongside an equal emphasis on producing self-disciplined, autonomous, moral individuals. As the Australian, 21 July 1825 put it: "A thorough protection against frailties, must proceed from within - from principles inculcated in early life". The aim of philanthropic societies in N.S.W. can be seen as the formation of individual subjectivity in such a way that the state could economise on the increasing embarrassment it was feeling over the violent expenditure of state energy. This embarrassment evidenced itself in Governor Macquarie's order that magistrates not inflict more than fifty lashes and in the establishment of a treadmill at Sydney in 1823.³ As I shall show in Chapter Ten, the use of corporal punishment became a major subject of political controversy in the late 1820's Opposition Press.⁴

The ultimate desire in the press was to form individuals who would police themselves more perfectly than the state was capable of doing. The Australian, 31 May 1826, argued that the diffusion of a sense of morality throughout society was essential in a commercial nation like N.S.W..⁵ This was to

1. Sydney Gazette, 10 September 1814.

2. Howe's Weekly Commercial Express, 4 July 1825, see also 13 June 1825.

3. Hirst, op.cit., p.63; Ellis, Macquarie, pp.223, 324-325.

4. See for examples of criticisms in the Sydney Gazette, 15 August 1828, cf. pp.537-538, 543-547, 548, 553, 555-559.

5. See also Sydney Gazette, 24 July 1824, "The Friendly Visitant".

prevent "the numerous impositions which the most efficient of municipal laws cannot provide against". A religious education was seen to accomplish this by instilling within individuals an omniscient, self-regulative gaze. Thus, the writer "Amicus" urged people to send their servants to church: "This will render the property of their employers, as well as others more secure than locks and bolts; for the fear of God is better security than the fear of man. There may be ways of evading the laws of man; but the law of God is a perfect law, and therefore cannot be evaded".¹ Similarly, Howe's Weekly Commercial Express, 25 July 1825, viewed the problem of social order as one of producing a conscience which would represent an internalisation of God's omniscient relationship to sin. It argued "that the mere operation of law is perfectly inadequate to a radical transformation of morals"; and that crime itself had to be made inherently hateful through "the implantation of principles to which it stands diametrically opposed". This could only be done, Howe's Weekly Commercial Express argued, through a religious education in the penal system.

Convince the culprit that he is amenable to a tribunal infinitely higher than that of an earthly court, and that he is under the perpetual scrutiny of an EYE to which all things are pervious, and that an eternity of well-being is staked on his present conduct - and then you will have furnished him with a monitor whose frowns will be more terrible than the prison and the gibbets, and whose dictates will be [more] efficacious than all the mandates of human authority.

Howe's Weekly Commercial Express,
25 July 1825.

This internalisation of a religious omniscient gaze can be seen as an alternative way of realising the panopticon dream of perpetual moral surveillance.

1. Sydney Gazette, 23 October 1819, "Amicus".

Using a general theoretical argument of Agnes Heller, I would maintain that the emphasis on conscience, on the self-policing individual, who had internalised notions of omniscient guilt, was the necessary counterpart of a "free" commercial society, but more especially of a society characterised by structural differentiation, in which the number of specialised contexts which an individual may enter is relatively large.¹ Heller has argued that in such a situation detailed rules of conduct cannot be made to govern all possible social contexts. Instead, there is an importance placed on the practical ability of individuals able to apply generalised norms, which they have internalised, on the basis of viewing situations as analogous to each other. The government of social situations here proceeds not from the prescriptive rules of a detailed code which an individual is obliged to follow, but from the generalised application of norms. Such a situation, she argues fosters the growth of practical reason, it is the necessary counterpart to a stress on the autonomous decision making conscience; that is, to a society which demands self-policing individuals but which does not at the same time wish to legally govern in detail all realms.²

Whereas more homogeneous societies or ones characterised by strict hierarchy are organised around spectacles of shame; more differentiated societies are organised around more introverted forms of violence taking the form of guilt. In place of the condemnation of the crowd is substituted self-condemnation.³

1. A. Heller, "The Power of Shame", Dialectical Anthropology, Vol.6, 1982, p.216.

2. Ibid., pp.216,221.

3. Ibid..

I would argue that the expanding presence of religion in N.S.W., as evidenced in the increased number of philanthropic societies and churches, reflected the growing complexity of N.S.W. society and a need for more individualising forms of power. As I have shown and as I will further show, religion was the bearer of a whole individualising technology of power organised around self-scrutiny. It explored and unearthed hidden mental realms, forms of secret self-truths, and in doing so sought to construct a particular experience of subjectivity. In this chapter I want to explore some of the institutional sites which became the bearers of this form of moral subjugation, which took the form of forcing individuals to proclaim and become aware of their innermost truths. In brief, inscribed in the process of moral salvation was a political apparatus.

It is no wonder that Governor Macquarie in 1810 ordered all public houses to be closed at the time of divine service and prohibited all work on the Sabbath.¹ In 1814 Macquarie sought to enforce the order that masters take their convict servants to Divine Service every Sunday if they lived within 5 miles of a Church.² Some masters continued to evade these regulations, but this is not important for my argument. I am not concerned with the efficacy of these and other philanthropic endeavours, but with the ideological structures which underpinned their formulation. The regulations ordering state convicts to Church on Sundays helped to fuse together notions of secular and sacred power; as did the government order requiring the clergy to announce new government regulations in their Church. No doubt, the fact that the clergy were paid by the government,

1. Sydney Gazette, 28 January, 4 February 1810.

2. Sydney Gazette, 10 September 1814, 16 October, 6 November 1823.

occupied government positions, such as being magistrates, further fused together the realms of politics and religion.^{1.}

In fact, politics does not exist as a separate secular realm of discourse prior to the removal of censorship. The first issue of the Sydney Gazette stated that its columns would not be open for political controversy.^{2.} What does exist is a form of moral politics in which to attack religion was to undermine the power of the state.^{3.} Thus the Sydney Gazette, 15 September 1821, criticised private settlers for offering money to employ their own servants and government convicts on Sundays. The selfishness of these settlers, the Sydney Gazette argued, undermined the religious foundations of the legal system's authority.

Surely, the man who craves protection and justice from the law, should as far as his power extends, maintain sacred and inviolate the foundations upon which those very laws are grounded...Can moral habits be expected to spring forth from the wilful, determined, and constant infraction of religious tents, upon the due performance of which alone, depend our present comfort and external happiness?

Sydney Gazette, 15 September 1821.

In the next section, I will analyse in closer detail how philanthropy sought to constitute individual subjectivity in a way which politically strengthened the reproduction of class relations in a capitalist society.

1. Grocott, op.cit., pp.116, 225-235, 237-239.

2. Sydney Gazette, 5 March 1803.

3. Likewise one speaker spoke in one breath about "the reverence which was due to the sacred principles of religion and the respect which ought invariably to be maintained towards the constituted authorities"; Sydney Gazette, 2 June 1821, "Loyal Meeting at Blackheath".

(B) PHILANTHROPY AND THE POLICING OF MORALS

At the level of providing sustenance, the state in early N.S.W. played a prominent welfare role. In 1802, it supported 2,627 individuals whilst 3,273 lived wholly on their own labour. In 1807, out of a population of 7,162 only 4,820 wholly supported themselves.¹ Despite this public assistance, colonial N.S.W. possessed no state institutions for the confinement and regulation of the adult poor. It possessed no Poor Laws. Instead the state came to rely on private philanthropic societies which it increasingly subsidised.² Even its own institutions such as the Female Factory and the Orphan Schools were run in part on an honorary basis by private individuals as well as by paid public servants.³

Both the censored and uncensored Sydney Gazette justified the absence of full state responsibility for the relief of the poor. In 1817, the Sydney Gazette printed articles critical of the pedagogic effects of the British Poor Law system which was accused of cultivating habits of idleness and of producing crime.

The healthy labourer is less active in the search for employment, because, when no longer fed by his own industry, he is taught that he can prey on the industry and property of others. Sydney Gazette, 23 August 1817.

The Poor Law system was blamed for "the spirit of rapacity which it has substituted for that of industry, in the breasts of a once elevated and independent race of men, the domestic views of the British peasant have been corrupted at their source, until the contagion has touched the very vital prin-

1. Peyser, op.cit., p.99.

2. Ibid., p.124; Cage, op.cit., pp.160-162, Table 2.

3. Peyser, op.cit., p.92.

principles with which providence entwines the order of political society". This same article advocated that free relief be provided only to the young, the sick, the aged and those who could not provide for themselves; all others should be made to work for their upkeep. This would increase the nation's productive potential, whilst also acting "to preserve the fundamental virtue of a civilised community, by making each man depend upon his own labour".¹ As late as 1828, the Sydney Gazette was arguing that the state could not produce much in the way of positive good, but could simply prevent the occurrence of evil. This meant that people were not to be dependent on the state, but the state on the people.²

The first organised form of private charity to the poor was started by a group of individuals in Sydney in 1809.³ This group in May 1813 formed themselves into the New South Wales Society for Promoting Christian Knowledge and Benevolence in these Territories and the Neighbouring Islands. This society in 1818 became the New South Wales Benevolent Society. The first rule of the Benevolent Society was "to relieve the poor, the distressed, the aged and the infirm, and thereby to discountenance as much as possible mendicity and vagrancy, and to encourage industrious habits among the indigent poor".⁴ Some of the society's charity was directed to helping families become economically autonomous units. In its 1820 Report, an example was given of a poor family man who had a wife and four children and whose health was not good. He rented a boat and

1. Sydney Gazette, 16 August 1817.

2. Sydney Gazette, 4 July 1828.

3. Cage, op.cit., p.157.

4. Sydney Gazette, 30 May 1818, published the Rules and Regulations of the Benevolent Society of N.S.W..

wheelbarrow for 11 shillings and 6 pence a week. The Society donated both items and was pleased to have relieved him from the burden of poverty such that he would be able to support himself permanently on his own property and labour.¹ The 1824 Report claimed that a man, who in the previous year had been provided with a boat, had now repaid the sum and was "no longer a burden to society". The 1824 Report also gave the case of a more recent boat donation.² Donations of horses and tools were also part of the Society's concern with diffusing the notion of an independent poor who knew the moral value of work.³

It appears that the Society was not so much interested in removing poverty as in symbolically exploiting it for class purposes. In its 1821 Annual Report, the Benevolent Society of N.S.W. claimed that the Scriptures declared "that the poor shall never cease out of the land, to the end that we may never want a stimulus to emulate the bright example of the Redeemer".⁴ In its previous year Report the Society concluded with the saying "that it is more blessed to give than to receive".⁵ The Sydney Gazette justified keeping philanthropy in private hands on the pedagogic grounds that government support for paupers would destroy the need to keep alive in the community feelings of compassion and humanity. It would also destroy "that reciprocity of good feeling which it is politic to cherish between rich and poor".⁶

1. Peyser, op.cit., p.111.

2. N.S.W. Benevolent Society, Annual Report, 1824, p.14.

3. N.S.W. Benevolent Society, Annual Report, 1826, p.15; Peyser, op.cit., pp.111-112.

4. N.S.W. Benevolent Society, Annual Report, 1821, p.16.

5. N.S.W. Benevolent Society, Annual Report, 1820, p.20.

6. Sydney Gazette, 6 July 1827, 27 October 1829.

Between 1813 and 1818, the Benevolent Society relieved a total of 618 cases or 1,075 individuals at a cost of 981 Pounds.¹ The Society provided them with food rather than money, though it would occasionally pay for rent. Most of the recipients were aged and sick, with the average age being 65.² The Society justified its combination of physical and spiritual assistance, something which characterised nearly all philanthropic projects both in Britain and N.S.W., on the grounds that "the strongest argument to convince a man, when you reprove him for his wickedness, that you do it out of kindness to his soul, is by manifesting your regard for his bodily comforts".³ Here the sickness of the body became an external symbol pointing to a more profound, internal moral degeneration. The needs of the body could be metaphorically exploited and attributed to unsatisfied spiritual needs. From the threshold of death, like the reprieved prisoner, the sick and the aged would emerge spiritually reborn with new found moral conviction.

For, when the body is bowed down with disease, and the spirit humbled by affliction, then admonition and exhortation are received with attention, and often with thankfulness; and in such circumstances, the mind is found to be deeply impressed with the merciful dispensation of Christianity; the understanding is frequently convinced of the evil consequences, even in this life, of immorality; and many are the resolves which are made, in those seasons, of henceforth becoming more useful of society, and living as creatures formed for eternity. 4.

Despite the aged and sick nature of much of its clientele, the 1820 Report claimed that of the 43 cases receiving weekly relief from the Benevolent Society, 13 had families, roughly

1. B.T. Box 13, Vol.127, p.608.

2. N.S.W. Benevolent Society, Annual Report, 1821, p.14.

3. Op.cit., p.15.

4. N.S.W. Benevolent Society, Annual Report, 1820, pp.11-12.

one-third.¹ The Society was able to assume a tutelage relationship over these families, that is engage in a policing of families. The Society's 1820 Report gave the case of a paralytic man, with four children, whose wife had "dissipated habits and obnoxious conduct". "The rule adopted by the Committee of immediately striking off, for the time being, any pensioner who is seen in a state of drunkenness, with the watchfulness that is kept upon the conduct of the pensioner, has been so beneficial to this poor woman...in restoring her to more moral and peaceable habits, so that she is become more useful to her family, and a better member of Society". After narrating this case, the Committee called for information on any other cases of immorality, or disorderly conduct to be brought to it, they would suffer the same suspension of aid.²

All clients to the Society had to be recommended by a Subscriber. The 1820 Report describes how they in turn had to apply to the Visitor who supervised one of the 6 districts Sydney was divided into; if this was not possible the subscriber was to apply to the nearest visitor for the relief of his client.³ Visitors were to go to a client's place of residence where they queried the household on its needs but also on:

4. Whether any in the dwelling can read?
5. If they have Bible, Testament, or Prayer Book?
6. Whether they regularly attend Public Worship, except when prevented by Sickness, and if they labour by an honest subsistence?
7. Whether they and their children (if any) carefully observe the Lord's Day, doing no manner of work therein.
8. Whether their children (if any) are taught to read; are instructed, in the principles of Christianity; so that they may learn to fear God, to honour the King, and to labour truly to get their own living, that they may do their duty in that state of life into which it shall please God to call them. 4.

1. Ibid., p.17.

2. Ibid., pp.16-17; see also Sydney Gazette, 30 January 1823.

3. N.S.W. Benevolent Society, Annual Report, 1820, p.4.

4. N.S.W. Benevolent Society, Annual Report, 1821, p.23.

The Society in its 1821 Report revised its rules so as to allow individuals, who were not wealthy, but who had time to spare to become members. This would allow it to expand and properly maintain its visits to its pensioner clients. Moreover, the society believed that "persons moving in the lower rank of life may be useful to detect imposition, as being better acquainted with the real necessities of the poor... Many persons are too apt to judge the cases of others by their own; but this is not, at all times, the proper standard; it is only so in comparison to the circumstances in which the individual may have been placed".^{1.}

To ensure an effective policing system, the Benevolent Society's reports often emphasised the channelling of charity through their organisation.^{2.} In the press, this was supported by critiques of private charity as encouraging idleness and dissipation amongst the poor. The writer "Amicus" argued that: "It is this combination of gifts, and the forming them into a fund that can alone render permanent the ends of charity, and guard every populous town from the nuisance of wandering unprovided paupers". "Private charity", he claimed, "encouraged individuals to loiter and wander from house to house". "Amicus" raised the need for an Asylum, as a means of taking these individuals off the street, and as "a necessary act of self-preservation to a public".^{3.}

1. Ibid., pp.9-10.

2. N.S.W. Benevolent Society, Annual Report, 1822, p.10.

3. Sydney Gazette, 17 October 1818; see also N.S.W. Benevolent Society, Annual Report, 1823, p.10.

The 1821 Report speaks of the Society's Asylum being open for the reception of persons and the government providing the building, furniture and utensils.¹ The Rules of the Asylum required inmates to rise and go to bed at a fixed time, to pray together morning and evening; to fold their beds every morning ^{and} to take the bed clothes out in the sun twice a week. No healthy person was to lie on the bed in day-time, or smoke in the bedroom at all. Cleanliness of room and personal attire were to be continuously enforced. Similar disciplinary temporal regimes were to apply to eating meals during various parts of the day. Inmates from the Asylum had to obtain permission from the Committee before they could leave to make visits to town, etc., except for attending Sunday public worship. All those admitted were to be given employment suitable to their condition, and be rewarded on the basis of work performed.² By 1822, 13 men, 18 women and 5 children were received into the asylum; 6 men and 4 women either absconded or left. The Society's Reports complained about the lack of work and the need for inmates to be engaged in it. To counter notions of the Society encouraging idleness, the Committee asked potential donors to visit the Asylum to see the economy and correct usage of funds.³

The Asylum allowed the Benevolent Society to further police its clientele. When it became suspicious of the use to which Henry Cullen was putting the supplies it provided, it refused to give him any more till he became an inmate of

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1. N.S.W. Benevolent Society, Annual Report, 1821, p.26; N.S.W. Benevolent Society, Annual Report, 1820, p.14.
 2. N.S.W. Benevolent Society, Annual Report, 1822, p.
 3. Sydney Gazette, 30 January 1823; See also Sydney Gazette, 15 July 1820.

the Asylum. After initially refusing, Henry Cullen was forced to accept an inmate status. He only stayed two months because "his vagrants habits could not be indulged in". The aged and blind Benjamin Goulburn was refused the relief he applied for on account of his vagrant habits. He was offered relief as an inmate of the asylum. He also only lasted 2 months. Robert Williams was another case, he escaped twice from the asylum and was once expelled "for idle and disorderly conduct". On account of his "being in the streets as a vagrant", he was reported by the Society to the police and gaoled. When he was discharged from gaol, he was readmitted to the asylum, but he again left complaining of a bad back and being made to pick oakum, ¹.

In September 1820 the N.S.W. Benevolent Society established a Female Committee, whose sole object was the relief of poor Married Women during their confinement: "the duties of this Committee shall be to unite Christian Instruction, and Advice with temporal Relief".² The Female Committee would provide "the deserving and virtuous poor" with "all the sympathy and relief which female tenderness and commiseration can administer".³ The Society in its 1821 Report commented on the successes of the Ladies Committee. In 8 months they had relieved 6 cases and in all the cases the women had returned all clothing articles lent to them. The Committee believed that this was indicative of the poor's appreciation of the attentions of their superiors; and that N.S.W. would reap the same benefits

1. N.S.W. Benevolent Society, Annual Report, 1824, pp.11-13.

2. Sydney Gazette, 23 September 1820.

3. N.S.W. Benevolent Society, Annual Report, 1820, pp.12-13.

as England where "the same attentions have been found to produce economical, domestic, and cleanly habits with decorum, and respectful members".^{1.}

After the Benevolent Society the next major private philanthropic project was the Auxiliary Bible Society established in 1817.^{2.} According to Supreme Court Judge Field, part of the justification for its establishment was the belief that the distribution of the Bible would counter pauperism and dissipation.^{3.} This Society was formed in March 1817 from credit supplied by the British and Foreign Bible Society of London. Between the time of its beginning and August 1821 this Society distributed 1,514 bibles and 1,974 testaments. During this period it had also raised 1,210 pounds in subscriptions of which 1,040 pounds went to paying off debts to the British parent society.^{4.} By 1830 the Society had Branches at Port Macquarie, Maitland, Castlereach, Windsor, Liverpool, Parramatta, Campbelltown and Sydney. It had distributed since its inception 3,287 bibles and 3,487 testaments.^{5.} The literature was distributed mainly to inmates of prisons, hospitals and poor persons.

In its first report the Society justified its formation on the basis of a census it had conducted whereby every dwelling and room in Sydney was supposedly visited. It found that of the 920 dwellings it visited, containing 3,734 persons,

1. N.S.W. Benevolent Society, Annual Report, 1821, p.11.

2. Sydney Gazette, 8, 15 March 1817, 9 May 1818.

3. Sydney Gazette, 18 August 1821; Australian Magazine, September 1821, pp.154-155.

4. Ibid..

5. N.S.W. Auxiliary Bible Society, Fourteenth Report, 1830, p.7.

surprisingly 2,429 could read. Of the latter three-fifths were without a bible.¹ The Society concluded "if that be the case in Sydney, what must be the dreadful and deplorable state of darkness of the people in the more remote parts of the Colony and Dependencies".² The Society asked each member "according to his rank and influence, zealously to recommend the perusal of the Sacred Scriptures to all his friends, neighbours and acquaintances".³ The Reverend Carvosso of the Wesleyan Missionary Society claimed at an annual meeting of the Society "that God only could put it into the hearts of the rich thus to benefit the souls of the poor". Another speaker at the same meeting supported this couching of class power within a religious aura. He claimed "it was heavenly sight to see the Princes and Nobles of the earth, Governor and Judges, standing foremost in the great cause of Christianity and the Bible".⁴

In its first report the Bible Society attempted to enlist the support of lower class members. Though the poor could not materially benefit each other, they could spiritually, it was claimed, by providing each other with Bibles.⁵ In the Bible the poor would find "that consolation which the world could not give".⁶ This theme of religion as an opium for the masses was also disseminated by N.S.W. newspapers.⁷

1. N.S.W. Auxiliary Bible Society, First Report, 1817, pp.4, 31, 33.

2. Ibid., p.4.

3. N.S.W. Auxiliary Bible Society, Second Report, 1818, p.8.

4. Sydney Gazette, 16 August 1822.

5. N.S.W. Auxiliary Bible Society, First Report, 1817, Appendix, p.7.

6. N.S.W. Auxiliary Bible Society, Second Report, 1818, p.8.

7. See also Sydney Gazette, 14 October 1815, "Amicus".

The great and essential comfort of the poor, and particularly in old age and in sickness, is RELIGION. In labour and fatigue, in sorrow and anxiety, it is most comforting to the afflicted mind to look up with habitual hope and gratitude to THAT BEING, whose tender mercy, is over all his works. It is by confidence in his wisdom and goodness and by the hope of unfailing happiness hereafter, ...by these consolations delivered to us in his Divine Will,...and by these only that the rugged path of life can be smoothed, the crushed ways of man be made straight, and the rough places plain.

Sydney Gazette, 26 June 1803, "From the Reports of the Society for Bettering the Condition and Increasing the Comforts of the Poor".

The Bible was presented as a way of escaping from sinful imprisonment. It would provide "that heavenly liberty which makes them [the poor] free indeed; which releases them from the bondage of Satan, and converts them into the children of God".¹ Along similar ideological lines, the Sydney Gazette, 1 April 1824, reported a speech by Charles Phillip to the seventh annual meeting of the London Auxiliary Bible Society, 1819. Phillip referred to religion as "the great mound raised by the Almighty for the protection of humanity - it stands between you and the lava of human passions".

The importance of disseminating religious information was partly for the political purposes it served. Amicus in the Sydney Gazette, 23 October 1819, claimed it was the spread of religious knowledge among the labouring classes that had prevented the outbreak of open rebellion in England despite current severe economic problems. The Sydney Gazette, 19 August 1826, commenting on the successful education of the poor in England, pointed to "the essential necessity of educating the poor, in order to prevent them from being misled

1. N.S.W. Auxiliary Bible Society, First Report, 1817, Appendix, p.6.

by designing demagogues". At a meeting in N.S.W. of the Campbelltown Bible Association, reported by the Australian Magazine, the Reverend Reddall narrated the "true" moral tale of Robert Paine. Prior to his death he was in great bodily suffering which was "augmented by the horrors of mind to which he was subject, but which he strove to conceal in order to support his former fallacious doctrines". Paine, like the condemned criminal, was reported in his last days to be gripped by a compulsion to confess and unveil himself, which arose out of "the enormity of his guilt". During his last days he was looked after by a woman "of great benevolence".

One day...he inquired of the lady if she had ever seen a book he published, called "The Age of Reason?" She was reluctant to answer him, fearing it might add to the trouble of his mind; but being pressed for a reply, she said she had. Paine, grasping her hand, exclaimed, in such accents as truly demonstrated his real feelings, 'Aye, Madam, if ever the Devil had an agent on earth, I am the man!' This awful confession, wrung from the lips of a man just stepping into eternity, needs no comment - may it speak to the hearts of those, who, unfortunately for themselves and their dependents, have imbibed the same ideas. 1.

The censored Sydney Gazette is full of articles narrating the violent excesses and tyranny of the French Revolution, whilst also glorifying the liberties and economic prosperity bestowed by the British constitution. These articles generally justified keeping political power in a monarchical-aristocratic state and pointed to the dangers which emerged from a usurpation of power by those to whom it was foreign.²

1. Australian Magazine, 1 August 1821, Vol.1, p.17.

2. See Sydney Gazette, 1 April 1804 "From a London Paper", 20 May 1804 "His Majesty's Most Gracious Speech to Parliament", 24 June 1804 "Mr. Sheridan's Address to his People", 30 December 1804, 24 March 1805, 24 February, 15 June 1816.

Between 13 May 1820 and 25 July 1820, the Sydney Gazette published extracts from the Fifteenth Anniversary Report of the British and Foreign Bible Society. The general thrust of these articles was that the Bible was a means of cementing rich and poor into one joint solidarity by producing common sentiments in individuals. In its first report the N.S.W. Bible Society also articulated this egalitarian view of the Bible. It argued that the fallen nature of man meant that all men, no matter what their station in life, were dependent on the Bible.

Men of all ranks and situations in society stand in equal need of this blessed volume, the unhappy object confined to his cell, and doomed to die, can derive no consolation from any other source, under the awful prospect of a speedy and violent death, but the exceeding great and precious promises of the Gospel; the wealthy languishing patient in the hospital is consoled and refreshed with the living waters; and the monarch, when all the evils and anxieties of his government are ended, and his heart and flesh fail, is compelled to fly for comfort and safety to the everlasting covenant which God hath made with his Son, Jesus Christ, on the behalf of fallen man... 2.

In 1823 the Bible society gained an ally with the establishment of the Australian Religious Tract Society. It was concerned with "the circulation of small books and tracts, containing scriptural sentiments, expressed in plain and familiar language". Its literature was designed to "inculcate evangelic sentiments".³ Subscribers received free books to the value of three-quarters of their annual subscription, which was a minimum of five shillings. They could also purchase books four times the value of their subscription. The

1. See also Sydney Gazette, 14 October 1815, "Amicus".

2. N.S.W. Auxiliary Bible Society, First Report, 1817, p.8.

3. Sydney Gazette, 9 October 1823.

Society distributed books amongst the poor, in prisons and hospitals. In its fourth report it stated how it gave literature to a gentleman travelling several hundred miles inland to be distributed freely "among the stockmen, shepherds, and isolated settlers".¹ Tracts were also handed out to female convicts in the Factory and children going to Sunday School.² The number of tracts and books distributed in 1826 was stated to be 16,139. This made a total of 78,961 tracts and books since the Society's beginning.³ In its 1829 Report, the Society claimed to have distributed 122,040 pieces of literature.

The Tract Society's literature emphasised the individual's responsibility for his own condition. In its fourth report the Society summed up its general ideological position when claiming that it was of the opinion that its literature:

cannot be read, or attentively heard, without producing truly serious reflections, well calculated to improve the life, and to renovate the heart of man. These little works are, generally, compositions both scriptural and entertaining; also convincing and consolating. They set forth, in popular and lively expressions man's fallen condition and lost estate, and his perfect recovery to the Divine likeness and heavenly inheritance, through the merits and mediation of the Lord Jesus. 4.

Like the Bible Society's literature, these tracts were concerned with alienating the individual from himself, with making him both fallen but also divine. The dissemination of this ideological polarity into individuals was also the

1. Australian Religious Tract Society, Fourth Report, 1827, p.7.

2. Ibid., pp.7-8.

3. Ibid..

4. Australian Religious Tract Society, Fourth Report, 1827, p.9.

introduction of a process of subjugation, whereby the individual was called upon to monitor and subdue his own psychological processes. The ideological effect of this emphasis on self-alienation was often the individualisation of class relations; all social resentments were transformed into the interiority of psychological struggles.:

...to conceive ill-will at one who has attacked none of our rights, nor done us any injury, solely because he is more prosperous than we are, is a disposition altogether unnatural; it suits not the human constitution and partakes more of the rancour of an evil spirit.

Sydney Gazette, 6 March 1824.

So far I have examined the pedagogic strategies directed at adults. In the next section I analyse the ideological structures which underpinned the concern with educating children. This was also partly directed at reshaping the moral fibre of their parents.

In the previous chapter I criticised an exclusive acceptance of the view of women as whores. In further opposition to Anne Summers, I would argue that the Damned Whore stereotype should not be placed by the analyst in opposition to the God's Police stereotype. Instead it should be seen as the means whereby women could be constructed into God's Police or have that role appropriated from them by the State. It was the framework of interpretation within which a series of bureaucratic pedagogic strategies could be mounted. As Hirst points out, "the lives of convict women were much more closely controlled than those of men".¹ A female factory was established in 1804, whilst the convict barracks for men did not open till 1819. Similarly, the Female Orphan School was established in 1801, whilst the Male Orphan School did not open until 1819.

The Damned Whore stereotype aided the early N.S.W.'s state's concern with removing female children away from their mothers. How else would they be formed into God's Police? Certainly not by their parents. Hammersley, after pointing out that most women in the colony were unmarried and living as prostitutes claimed that unmarried mothers were reproducing a criminal culture: "the females as they grow up become prostitutes, and the boys live in idleness and thefts".² Governor King who established the Female Orphan School wanted to "withdraw them [female children] from the vicious examples of their abandoned parents".³ He saw the Female Orphan School as "the only step that could ensure some change in the manners of the next

1. Hirst, op.cit., p.56.

2. Hammersley, op.cit., p.6.

3. King to the Secretaries of the Treasury, 7 July 1800, HRA, Vol.II, p.524; see also Collins, op.cit., Vol.1, p.55; Marsden to Wilberforce, 1799, 6 February 1800, B.T. Box 49 - Missionary Papers, Vol.1, pp.75-76, 78-79.

generation".¹ Marsden also believed firmly that "if the young girls are only taken care and kept from vice the colony will prosper as it will be the principal means of checking the growth of national sins".² The Sydney Gazette, 19 January 1826, after pointing out that the Female Orphan School afforded support and tuition to 120 orphans, asked its readers to patronise the institution and "to consider it in its ulterior consequences, as a nursery for our servants - the partners of our Colonial Youth - and the mothers of our future operative classes". In short, women became the historical bearers of the moral salvation of the nation.

N.S.W. newspapers were concerned with women because it was on them "it chiefly devolved to form the mind of the child". The writer "Amicus", who made this point in the Sydney Gazette, 23 October 1819, also criticised the lack of female attendance at church: "the Bible teaches us that they who know not God are without natural affection". One first of all had to educate the educator before she could educate the child.³ This was perhaps why in September 1820 the N.S.W. Benevolent Society established a female committee, whose sole object was to relieve pregnant, poor, married women and "to unite Christian Instruction and Advice with temporal Relief".⁴

In the press, a materialist view of man, as the product of his life experiences, helped to construct parents as educators. The emphasis was on the moral importance of gaining

1. Governor King to Under-Secretary King, 21 August 1801, HRNSW, Vol.4, pp.499.
2. Samuel Marsden to John Stokes, 8 October 1814, in Some Private Correspondence of the Rev. Samuel Marsden and Family, 1794-1814, (ed.) G. Mackarness, p.53.
3. See also Australian Quarterly Journal, July 1828, "On Female Education", especially pp.216-217; Henderson, op.cit., p.11.
4. Sydney Gazette, 23 September 1820.

control over the first sensations reaching the child.¹

...upon the first impressions materially depend the course of inclination in a riper age.

Sydney Gazette, 13 July 1806, "Censoria".

The Sydney Gazette, 8 January 1804, wanted parents to take a recent donation by Governor King to "Nelson's Academy" as an indication of their own responsibility to society in bringing up their children. By all appearances, these exhortations had some effect. The Reverend Cartwright in evidence to Bigge claimed that convicts were eager to educate their children, whatever their own crime.²

The concern with an educative mother was partly a concern with sealing-off the child from outside, uncontrollable influences, especially those posed by the play-friends of the child. It was not only the collective world of adults that was under attack but also the playworld of children.

If then the mother takes no trouble to form the mind of the child, how then is it to be formed. By their play-fellows - and the consequence is, too often, that the child becomes accustomed to wickedness as soon as it can crawl from under the eye of the mother; thus drunkenness is a familiar object, and blasphemy is acquired by rote.

Sydney Gazette, 23 October 1819, "Amicus".

"Amicus" went on to criticise parents, who at no expense to themselves, deprived their children of an education, which reduced them to the mental level of Aborigines in their wildest state. The writer "A Friendly Monitor", who also criticised the want of a good example amongst parents, also demanded that parents find "less dangerous amusements" for their children that those which encouraged gambling and had no respect for the Sabbath.³ The Sydney Gazette, 21 August 1808, warned

1. See also Sydney Gazette, 6 July 1806, "A Friendly Monitor"; 22 January 1824, "Admonitor".

2. Ritchie, Evidence, Vol.1, p.157.

3. Sydney Gazette, 6 July 1806, "A Friendly Monitor"; see also Sydney Gazette, 8 May 1803, "An Inquisitive Observer".

parents of the dangerous criminal consequences of allowing their children to play "chuck farthing" which it argued closely resembled gambling. The writer "Well Wisher", who supported the establishment of Sunday Schools, argued that they had first been established in England by Robert Raikes in 1783 as a means of controlling the leisure time of lower class children employed in manufacturing. Raikes had formed the opinion, (through his frequent visits to prisons, where he found the majority of inmates could not read,) that ignorance was the greatest cause of crime.¹

Sunday Schools for N.S.W. had been initially proposed by "Amicus" partly to take the children off the streets, but also because he was unwilling to allow the family to undertake the task of educating its own children.

This supposed that children are not taught anything at home; but the probability is, that in very many instances they acquire as much evil by habit, and by rote, at home, as in the street; for too many parents are accustomed to teach their children to blaspheme God's holy name.

Sydney Gazette, 14 October 1815, "Amicus".

Paradoxically, at the same time that newspapers asserted the reformative influences of family life upon adults, they were also proposing and demanding the expansion of educative facilities, in order to morally protect the young from the corrupting influences and inadequate supervision of their parents.²

The Australian, 21 July 1825, advocacy of educational institutions was based on the statement that:

While children are not only unprotected by parental solicitude, but actually offered up as a sacrifice to pollution to satisfy the mercenary rapacity of parents; while, indeed, parents themselves live on the meretricious earning of their daughters, we need not wonder at the mass of iniquity with which the Colony is afflicted,

1. Sydney Gazette, 28 October 1815, "Well Wisher"; see also Howe's Weekly Commercial Express, 4 July 1825, colonial review of S. Wilderspin's book.

2. On this theme outside the press, see Marsden to Macquarie (enclosure 1) in Macquarie to Bathurst, 15 May 1818, HRA, Vol. IX, p.779; Collins, op.cit., Vol.2, p.51.

The Australian went on to argue that education would remove "the disinclination to marriage", which it regarded as a great check upon N.S.W.'s population.

The Sydney Gazette, 2 October 1819, sought to make parents feel guilty about depriving their children of an education.¹ It argued that the burns, scalds, drownings, kicks from horses and all the frequent childhood accidents it reported were due to mothers allowing their children to wander in the streets, instead of sending them to school. Schools were presented as a way of relieving the mother of the care and anxiety of exercising surveillance over her own children. This theme was taken up in the Sydney Gazette, 16 December 1824, by Richard Hill, who had just started an Infant School for 60 children between the ages of 18 months to 4 years. It was designed, he stated, to "relieve mothers during a considerable part of the day, from the care and anxiety of their infants when beginning to lisp; as well as during that time relieving the little ones from the danger of drowning, in wells, which all too often happens. And even at a less age than two years to commence storing their minds with sacred truths in an amusing manner; thus preoccupying the ground to prevent the growth of noxious weeds".

The writer "Amicus" in the Sydney Gazette, 10 June 1824, stated that though parents were "the natural guardians of their offspring", whilst the clergy and schoolmasters were their official instructors, we should nevertheless think of the whole

1. Parents were often made to feel guilty for the likely future sins of their children, see Sydney Gazette, 15 March 1817.

present generation "as collectively the parent of that which shall succeed it". J. Henderson made the underlying assumptions here more explicit, when he said that though according to the first law of nature man was the protector of his own child, this did not apply to a civil and free society, but was only the case in a sovereign state. He argued that "the government itself is the real protector, and the father is responsible to it for his conduct towards his child...if a man, therefore, is unable to educate or bring up his children, so as to become useful members of society, it becomes the duty of the government, or the holder of the soil, to do so on his account".¹ Henderson also argued that if it was accepted that the government had a duty to increase the wealth and prosperity of the nation then it followed that the government possessed a guardian role not simply with respect to the body of the infant, but also with respect to his mind.² The implicit structure of the above argument was that it identified the increasing concern with education, as the control and shaping of the mind, with an emerging sense of nationalism.

This educative ideology linked the moral and economic future of N.S.W. to the moral and intellectual development of the individual. As the writer the "Friendly Visitant" put it: "It has long been discovered that it is righteousness alone which exalteth a nation: now national righteousness consists entirely in the upright conduct of the individual member of the community".³

1. Henderson, *op.cit.*, p.33.

2. *Ibid.*, p.87.

3. *Sydney Gazette*, 1 July 1824, see also 24 March 1826, "Lectures on Practical Divinity, in Macquarie Street Chapel", 19 August 1826.

Contained in this educative ideology were the assumptions of utilitarian individualism, which equated the welfare of the nation as a whole with the aggregate welfare of each individual. Thus making the development of the individual a collective moral responsibility.

Public property is nothing else than the extensive diffusion of private property; and that which raises our individual above his fellows, is equally calculated to elevate a whole community in the scale of national importance. The British Empire owes her greatness not so much to physical superiority as to superior mental and moral cultivation. We are now laying the foundations of what will probably become a might Empire; and it is for us to ensure its real prosperity and happiness, by diligently improving the materials of which it will be constructed.

Sydney Gazette, 10 June 1824, "Amicus".

The consequence of this form of nationalism was that it gave rise to an emphasis on educating the poor.¹ After the Female Orphan School, the next major state educative initiative were the free public charity schools. One was already operating at Parramatta, when Governor Macquarie arrived. He established another at Sydney.² Public charity schools were to teach the rising generation dutifulness and obedience to "their parents and superiors".³ In the process of enlisting their children, the poor were also subjected to surveillance. They had to state in writing before the chaplain "their Names, Places of Abode, and Occupation, stating whether Married or Unmarried".⁴ The children attending government schools were required to attend Sunday Schools "for catechetical exercises, spiritual reading, and other lessons suited to their age and progress".

1. Australian Quarterly Journal, April 1828, p.114; Sydney Gazette, 19 August 1826.

2. Macquarie to Castleragh, 30 April 1810, HRNSW, Vol.7, p.338.

3. Sydney Gazette, 10 March 1810.

4. Ibid..

Between 200 and 300 children were by 1810 attending Sunday Schools as a result.^{1.}

In 1820 the colonial government spent 20% of its expenditure on education.^{2.} In 1825 expenditure on Public Schools and Charities amounted to 49,390 dollars of Colonial Revenue.^{3.} In 1828, Archdeacon Scott claimed there were 29 Government Primary Schools in N.S.W., they admitted children under 10 free. He complained that only 1,000 of the colony's 6,000 children regularly attended, with the inhabitants preferring to send their children to schools run privately by ex-convicts "or to have convicts assigned to teach their children at double the expense".^{4.} The Australian Quarterly Journal, January 1828, however, claimed that once the number of infants under three years of age were deducted from the total "then a larger proportion will appear to be in course of tuition than in the mother country".^{5.} No doubt, the Archdeacon's and the clergy's alliance with the moral ascendancy cause, which permanently condemned the bulk of N.S.W. parents, led to part of the unpopularity of the school system they managed. Many wealthy emancipists preferred to send their children to private ex-convict school teachers such as Dr. Halloran.^{6.}

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1. Sydney Gazette, 26 June 1823, "Parens".
 2. M.H. Ellis, Lachlan Macquarie, p.442.
 3. Monitor, 6 December 1827.
 4. Archdeacon Scott to Archdeacon Hamilton, 27 August 1828, Scott's Thomas Letter Book, Vol.2, ML, A851. Australian Quarterly Journal, April 1828, quoted the Archdeacon's figures as 1,245 children enrolled in public schools of which 862 regularly attended. The Third Report of the District Committee of the Society for Promoting Christian Knowledge (1829) claimed that in 1828 there were 32 schools with 1791 books and 1111 students in actual attendance, op.cit., Appendix 6, p.24.
 5. The Australian Quarterly Journal January 1828 claimed that there were 2,300 young persons who had or were being educated, meaning that over 50% of the colony's youth were or had received some form of education.
 6. Bigge, Report, Vol.1, p.104.

Part of the concern in N.S.W. with educating the child was that of creating him as an instrument of moral intervention into the family. The writer "Well Wisher", who advocated the establishment of Sunday Schools, also pointed out: "that the benefits derived from them were not confined to the children alone; but that whole families participated in their advantages". The uneducated father, who could not read, would learn the tenets of religion and the precepts of morality from listening to his child read.¹ Likewise, the Auxiliary Bible Society justified the establishment of a Juvenile Bible Institution in Sydney on the grounds that:

Parents are often induced to relinquish Sabbath-breaking, profane swearing, and other sinful and destructive habits, in consequence of attending to those portions of holy writ which their children read at home, while committing Scriptures to memory. 2.

To some extent, the child was also being constructed as the conscience of his parents. The Sydney Gazette, 30 May 1820, certainly felt that "there are youths in the Colony that will not put up with the infamy of mothers, and the seduction of men who call themselves gentlemen". It went on to give the example of a son who "entertained a suspicion regarding his own mother, he much lamented the misfortune of his family in the suspicions he could not do otherwise than entertain as related to a little sister...He one day however, caught the intruder, and both the decoyer and mother suffered alike; for the incensed youth beat them both almost to mummy - the youths of the Colony can now protect their sisters; and unless they find them utterly abandoned and unworthy of interference, they do so".

1. Sydney Gazette, 28 October 1815, "Well Wisher".

2. N.S.W. Auxiliary Bible Society, Fourteenth Report, 1830, pp.7-8; in point of fact this argument was copied from a report of the Committee of the London Hibernian Society.

(D) EDUCATION, SOCIAL HIERARCHY AND POLITICAL STABILITY

A frequent metaphor in the press was equating the government of society with the government of the mind.¹ "Without Government, [man] became a barbarian and a savage".² There was especially an emphasis on non-corporal forms of pedagogic control; on discipline, regularity and method.³ The Sydney Gazette, 24 June 1820, criticised "an active school master" who recently died in Spain and "who for 50 years had superintended a large institution with old fashioned severity... in the course of his exertions, he had given 911,500 canings, 125,000 floggings, 209,000 custodes, 136 tips with the ruler, and 22,700 tasks to set by heart...How vast the quantity of human misery inflicted by a single perverse educator! But we are growing more humane, and the rod, the spectre of pedagogue, yields to more rational and cordial treatment".⁴

In the "Outline of Instructions" given by the Ladies Society for the Education of the Female Poor, the teacher was ordered to enforce discipline "by strictness, rather than by Severity". For the first offence the child should be kindly admonished privately. It being believed that "the tenderness shown for her character may induce her to have greater regard for it herself". Only after this should the child be publicly admonished "while the whole school is fixed in silent attention". Upon this failing the irreclaimable girl should be expelled "in such a manner as to leave a lasting impression on the other

1. Sydney Gazette, 24 July 1824, "The Friendly Visitant" and "Cestria", 19 August 1826.
2. Sydney Gazette, 2 June 1821, "Loyal Meeting at Blackheath".
3. See Sydney Gazette, 6 November 1803, "Incognitor"; Howe's Weekly Commercial Express, 4 July 1825, colonial review of S. Wilderspin's book.
4. See also Sydney Gazette, 8 June 1824, "Cruelty of a Schoolmaster".

Scholars".^{1.} The Australian Quarterly Journal, when reviewing the management of the School of Industry, praised "the benefit arising from the practice of placing a child, found guilty of a fault, in a conspicuous part of the room having the nature of it painted on the walls".^{2.} These were essentially new techniques for producing shame and guilt without torture - punishment without pain.

The writer "Incognito", 24 November 1810, discussing an ideal educator he had in his youth, stated that his rewards and punishments were only praise and censure "which he dispensed with so strict a regard to equity, as to place his impartiality beyond suspicion". He organised his scholars into hierarchical classes and combined the teaching of moral maxims with his censures. His school was in effect a model of impartial bureaucratic equality: "He had no favourites whatever in the school; the circumstances and condition of the parent occasioned no difference in the treatment of the scholar, but to all he was equally diligent, equally indulgent, and equally just in every part of his deportment".^{3.} This bureaucratic equality which these pupils stood before their teacher was partly a metaphorical extension of the equality of men before the om-

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1. "Ladies Society for the Education and Employment of the Female Poor: Outline of Instructions...1828" P.L.M.F. 3P10, pp.7-8, 11.
 2. Australian Quarterly Journal, April 1828, p.205.
 3. Demands for the bureaucratisation of the education system were also dascilitated by demands for the licensing of teachers by a board, see Sydney Gazette, 25 March, 8 April 1824, letters by "Scaevola".

niscent gaze of God. "Incognito", speaking of his school teacher claimed:

I well remember if I was at any time conscious of meriting his displeasure, a single glance from his commanding eye pierced me to the very centre.

As partly indicated above, there was an increasing emphasis in the education system on the use of rewards, largely symbolic, to facilitate the process of learning. Governors of N.S.W. were reported in the press as handing out medals or books to meritorious scholars.¹ Many of the proposals for developing an efficient education system not using corporal punishments emphasised the need to classify and separate, to construct hierarchies of rank which would stimulate emulation and competition.

...the pupil...should be placed in that class which he approachest nearest, as by this method of subdividing the scholars into classes good order and regularity are easily maintained, much time is gained to the preceptor, and emulation stimulates to industry.

Sydney Gazette, 6 November 1803, "Incognito".

The above plan bears a striking resemblance to reform measures being advocated and implemented in the penal system. On the 9 June 1826, the Monitor supported the recent reorganisation of the Female Factory into three hierarchically graded classes.² Such pedagogic structures, I would argue, were designed to ideologically prepare students and inmates for the competitive individualism of capitalism. The Prospectus of the Agricultural Society stated that:

Competition and reward (call it emulation or pride if you will) are necessary (human nature teaches us) to excite this spirit; and, when once roused, personal interest and profit will easily keep it alive.

Sydney Gazette, 24 April 1823.

1. See also Sydney Gazette, 23 August 1822; 27 December 1822.

2. See also Sydney Gazette, 8 December 1825.

"An Inquisitive Observer", in the Sydney Gazette, 8 May 1803, applied this competitive ideology to teachers. He justified the Government's practice in the early years of not assuming the full cost for schools, other than the Female Orphan School, on the basis: "it was necessary that the teachers should by their assiduity and personal merit, solicit and maintain a preference, and that on the success of their exertions should depend their annual income". Competition for pupils between School masters, such as occurred in Sydney, he argued allowed parents to rate the relative merits of teachers.

The concern that education should teach the value of competition was really a concern that it teach the poor the value of striving. Education should not challenge hierarchy by being seen to provide a source of social mobility. It should not create a spirit of discontent by disseminating the notion that the occupants in positions of power and respectability in the existing social structure were only arbitrarily there. The Sydney Gazette, 2 May 1829, sought to counter this suspicion by arguing that in England "it was once the fashion to treat it [education] with derision. It was contended, that to teach the children of the poor to read and write, was to unfit them for the subordinate stations which they were destined to fill, inspiring them with an impatience of the restraints imposed by the laws of civil subordination, and with a restless ambition after something higher than their proper level". This had led the higher classes to oppose the establishment of Sunday Schools and the National School System. This had all changed now, the Sydney Gazette argued, even the British aristocracy "had at length been convinced that to educate the poor was not only to

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better their condition, but to fit them for a more faithful discharge of their various duties".^{1.}

The School of Industry in its fourth Annual Report (1830) felt the need to reassure "some persons who doubt the utility of a general education and who imagine mischief may arise from enlightening the lower order of society, because a spirit of discontent is apt to be aroused in the mind". It told them that it was only the species of knowledge which was communicated that produced such effects. Their aim was "to train the mind while it is ductile - form the character while it is yet unformed - and thus to...make them [the children] serviceable in the spheres of life in which they are likely to move". This organisation chose an interesting and cynical means of accomplishing this, namely to convince the children "that the lowest departments of labour may be rendered honourable by industry and uprightness, and that the highest stations of life must be debased by vice and crime".^{2.}

The underlying class disruptions that education posed was the reason why the emphasis was on providing the poor with a moral education or religious education. The first public school was managed on the Lancasterian Plan, "only Bibles and Testaments were used".^{3.} The writer "Friendly Visitant", Sydney Gazette, 15 July 1824, advocated intellectual knowledge for a few and religious knowledge for the rest. Along these lines, the Australian, 22 December 1825 argued that: "...it

1. See also Sydney Gazette, 12 June 1823; on opposition in Britain to the education of the masses, see Furniss, op.cit., p.148-149.
2. The Sydney Gazette also printed the argument that poverty was not the source of unhappiness but rather this was more a consequence of wealth and the desire for it; Sydney Gazette, 27 November 1819, "The Girdle".
3. Evidence of Thomas Bowden, 22 January 1821; Ritchie, Evidence, Vol.1, p.159.

is not high wrought education that is wanted; it is not proficiency in the learned languages that is a matter of the first importance, but, simply, as much instruction as serves to guard the mind from error, and to answer all the ordinary purposes of an ordinary station in life". When the Male Orphan School was opened in 1819 its rules stated that the education of the boys was to be "only in view of their present condition in Life, and future Destination; namely as Mechanics, Farmers, Servants and Labourers".

In opposition to demands for a more academically oriented education system, the writer, "A Subscriber" argued that the colony did not need a more "finished education" or "a theoretical knowledge of the circle of the sciences". He did not wish to appear not to support improvements in education, but he was "decidedly against our youth becoming a restless race of scribblers". He believed this would create "an army of political triflers" inferior to the practical men, the butchers and the bakers, of the colony. "A Subscriber" associated a literate education with the cultivation of dandish traits: "Scented soap, kid gloves, and other equally superfluous articles would then be in greater demand than ploughshares, brough hooks, or felling axes". He went on to describe the contents of the more practical education system which he favoured in preference to "superficial literary attainments". Moralising and religion, based around an explicit and clear account of the fear of God, he believed, was best adapted to rendering the youth useful in an improving society.¹ Contained in the above articles are perhaps the ideological origins of much of the anti-intellectualisms which characterise

1. Sydney Gazette, 6 March 1824, "A Subscriber"; see also Sydney Gazette, 29 January 1824, letter to the Editor.

Australian society and which often takes the form of an emphasis on pragmatic knowledge.^{1.}

So far I have shown that very early in N.S.W.'s history there emerged a quite explicit concern that education serve the purpose of reproducing class relations. However, the education system also operated to naturalise class differences. It did this by providing the appearance that the hierarchy of social positions, which education qualified individuals for, proceeded from inequalities in the mental faculties of individuals. Here, nature rather than society was seen as responsible for the differences in intellectual capacities.^{2.}

It is not necessary that all men should be equally learned; indeed it is impossible it should be so, for nature has herself prohibited it by varying their capacities. Sydney Gazette, 14 October 1815, "Amicus".

The result of this discursive strategy was to give social differences the semblance of proceeding from the non-political realm of nature.

1. Related to this in the moral domain is an emphasis on opposing the superiority of works, that is practical moral actions and example to an exclusive concern with moral rhetoric or precept, see Sydney Gazette, 4 August 1810, "Answer to the Query Continued by" [by "A Friend to Civilisation"].

2. See also Sydney Gazette, 6 November 1803, "Incognito".

(E) CONCLUSION

Like the previous chapter, this chapter analysed the class strategies employed as part of the cultural construction of a working class by those discourses which constructed the family as in a state of moral crisis. In particular, this chapter explored the conceptual forms within which those discourses demanded the expansion and proliferation of the number of institutional sites from which state-class pedagogic power could be exercised. The emergence of philanthropic and pedagogic institutions in N.S.W. represented the increasingly bureaucratisation and professionalisation of state-class power. Their emergence in N.S.W. also denoted the increasing socialisation of cultural reproduction; whilst the multiplication of these pedagogic institutions represented the increasing specialisation of knowledge and power with respect to the hegemonic process.

Through their ideological practices, N.S.W. pedagogic institutions and newspapers sought to morally coerce the working class into severing its ties with criminality, such that it would increasingly be incorporated into bourgeois norms. Part of this involved manufacturing and circulating the spectacle of self-imprisoned, punishing guilt to supplement (and increasingly in place of) the spectacular display of state violence. A free society was seen to require not simply a repression of evil habits but self-disciplined, autonomous, moral beings. Part of the production of such beings was seen to reside in instilling in individuals notions of perpetual moral surveillance. The press assigned this role partly to itself. However, it was also seen as being best accomplished

through a religious education which convinced individuals that they were under the perpetual omniscient gaze of God as He manifested His presence in their conscience.

I argued that part of the importance in producing self-policing individuals emerged not simply from the requirements of a free society; but, more especially, from an increasingly complex society in which the specialised contexts of meanings individuals could enter was multiplying. Detailed rules could not be made to govern all the minor and diverse forms of possible infringement; instead, through notions of disciplined self-surveillance, the onus was placed on the practical ability of individuals to police themselves. Guilt and the infliction of introverted forms of violence were a crucial part of the construction of such individuals. Though individuals could escape the punishment of authorities, they were presented as not being able to escape punishment in the next world, nor the unrelenting punishment of their conscience.

In the Sydney Gazette notions of moral self-sufficiency were equated with economic self-sufficiency. The policing of society was seen to reside not in the expansion of government welfare, as in the creation of an independent working class which lived off its own labour. The philanthropic societies organised the distribution of charity with this end in mind. Indeed, philanthropic societies saw it as their task to centralise the control of the distribution of private charity so as to ensure only the needy and the moral received it. The institutionalisation of charity was justified as an attack on idleness supported through indiscriminate forms of private

charity based on individual judgement.

The personification of class power was not completely obliterated by the emergence of new bureaucratic pedagogic institutions. Indeed, the economic support and participation which the wealthy provided to philanthropic organisations helped to couch state-class power in a benevolent paternalistic idiom; it helped give the semblance of welfare and goodness proceeding from the personal emotional sentiments which God had placed in the hearts of the upper classes. Part of the justification for the philanthropic circulation of religious information was a belief that in the bible the poor would find that spiritual consolation which the physical world denied to their bodies. Religion was seen to reduce political discontent by reconciling the working class to their station in life. By asserting the bible, and religion in general, as a source of collective sentiments, class relations and divisions could in part be obscured. Paradoxically, religion also acted to individualise class relations; it was part of that broader discursive strategy which translated social resentments into the ideological form of misplaced or distorted forms of subjectivity. Discontent had its origins not in an external social organisation, but in the interiority of the deformed workings of psychological processes.

After having initially concentrated on pedagogic strategies directed at adults, towards the end of this chapter I focus on those which came to be directed at children. The construction of a moral crisis around the family legitimated the private and public pedagogic surveillance of children. Schools were part of a middle-class concern with breaking up the unsupervised play-world of working class children.

Children's leisure time ought to be spent in less dangerous forms of amusements, not in games which were viewed as analogous to gambling, or in activities which did not recognise the sombre significance of Sunday. Schools were also offered up as a means of relieving mothers of the care and danger in supervising their own children. Mothers were made to feel guilt about leaving their children to play on their own in a dangerous, corrupting, outside world, instead of sending them to the wholesome, disciplined, supervised moral spaces run by ever vigilant teachers. The collective welfare of the nation was seen to reside in the moral education of the young. Accordingly, parents were denied sole jurisdiction over their children; in a free or civil society, it was claimed, that the government was the real guardian of the child.

Though the education of the poor was especially seen as urgent, there was also a concern that education not produce excessive mobility or create those social ambitions, which we saw in Chapter Two as being held responsible for criminality. The emphasis on a religious education for the poor was seen to alleviate these anxieties. Noticeable in many articles is a critique of theoretical knowledge and an assertion of the virtues of practical knowledge. The valorisation of practical knowledge and the perception of the subversive nature of theoretical knowledge is still with us today and constitutes part of the underlying anxiety which our capitalist society has of revolutionary political discourse. In the period I am looking at, this anxiety often took the form of a critique of imagination, of a theoretical mind which existed independent from the existing nature of the world and which contemplated alternative possibilities to it.

CHAPTER FIVE

CONCLUSION OF FIRST VOLUME

In the first volume, I explored the historical development of capitalism as this was shaped by an ideological discourse concerned with the cultural construction of a working class. I began by analysing how such pedagogic processes came to be inscribed in the late eighteenth century British penal system and the demands of its reformers. The increasing concern that punishment take on non-corporal forms was part of the broader development of a whole series of philanthropic interventions which were concerned less with violent repression and more with developing strategies for ideologically incorporating the lower classes into bourgeois society and culture. There was an increasing demand that the judicial-penal system assume a pedagogic role organised around disciplinary regimes and increased surveillance; its bloody public rituals and spectacles were accused of sanctioning and teaching the lower classes to use violence. In place of violent, monetary spectacles, reformers emphasised the reformatory value of discipline, work and solitude. Discipline and ascetic regimes would internalise within criminals those notions of order, regularity and restraint which they were seen not to possess. It was hoped that these regimes would lead to the formation of disciplined habits of work, but also to disciplined habits of consumption. Part of the meaning of the new, ascetic, penal rituals was that of asserting the dominance of reason over the undisciplined body and its unreflective, egotistical desires and passions. Solitary confinement especially promoted such ends. It was also the means by which sections of the dominant class could efface the increasing embarrassment they were feeling over the infliction of violent corporal punishments - prisoners were increasingly asked to non-corporally punish themselves through introverted forms of violence.

New materialist theories of man, which saw man as a product of his experiences, promoted the emergence and expansion of such total institutional practices. The total institution offered the pedagogic dream of complete control over the experiences of inmates. The development of non-corporal punishments reflected the process whereby total institutions came increasingly under the control and influence of expanding secular knowledge professions - especially that great preserver of the body, medicine. Moral and medical concerns were frequently equated, such that punishment took on the medical attributes of a curative intervention, which aimed to heal the moral degeneration of individuals, but also a growing gangrene in the social body. Reform was directed not simply at individuals, but also at society and its institutions. The latter were held increasingly responsible for the physical and moral corruption of individuals, who, it was increasingly believed, if isolated from external corrupting social influences and thrown in upon their own interiority, could find the path of moral truth.

Part of the attack on violent punishments emerged out of their increasing identification with the excesses of a monarchical state. The penal system was one of the first domains within which scientific theories of man began to play a role in reshaping the deployment of state-class power. Underpinning the demand for certain and consistent punishment which was non-arbitrary and non-violent was the emerging science of psychology. Associationalist psychology argued that weaker, more frequent and more certain representations of punishment were more effective than violent, momentary and arbitrary spectacles. A relationship of certainty would fuse the ideas of crime and

punishment more effectively than a relationship of severity. The demand for certainty in the realm of punishment was part of the use of a scientific ideology to legitimise demands for the bureaucratisation of the state, that is for a state whose power would be systematic, evenly distributed and which would appear to be above all non-arbitrary. In the penal system this bureaucratisation process took the form of a critique of royal reprieves, a demand that the state assume direct supervision of prisons and that it appoint outside inspectors to police wardens. Punishment should reflect the functionings of an abstract impartial legal system and not the arbitrary will of any individual, whether he be the monarch or a prison warden.

In the second chapter, I examined the assumptions underpinning the cultural construction of criminality and punishment in colonial N.S.W.. I analysed crime literature from the perspective of representing a contemporary philosophical exploration of certain possibilities of human existence. Through the ideological definition and construction of outsiders, of transgressors, an emerging bourgeoisie was able to give conceptual form to the articulation of state-class power in N.S.W.. Crime literature was one of the discourses through which this bourgeoisie mapped out its own conception of what constituted subjective normality and the kind of society it wanted.

The prisoner's crime attacked not simply the distribution of property, but also the realisation of economic progress through moral progress. He was often presented as a symbol of unproductive egoism, which rejected the possibilities society offered for self-realisation. His escapes from work were often presented as the source of his entrapment in undisciplined,

habitual desire. Through such discursive presentations, crime acquired an individualised form: it emerged not from social circumstances but from a free subjective choice between good and evil. The construction of individuals as prisoners of corrupt subjective dispositions justified the necessity for external forms of authority to contain their undisciplined egoism. Indeed, the class struggle often assumed the ideological form of a struggle between reason and the passions. The state was identified with reason, whilst the lower orders were equated with the vulgar passions of the body and with undisciplined consumption. The lower classes were also culturally constructed as creatures of impulse, of the momentary, whilst state violence was seen as an attempt to create temporal beings, who could remember past punishments and their future potential to exist for them. Punishment became part of an attempt to create a calculative human being, one who could adequately weigh up the short term benefits of crime versus the long term costs of being caught and punished. In short, in Chapter Two, I explored how terror was created and mediated by culture; especially how it gained its meaning within a particular cultural construction of the self.

Whereas a strong ideology of hierarchy in N.S.W. emphasised interdependence, the criminal represented the opposite - self-contained egoism: a species of lawless independence associated with the piratical state, whereby the individual asserted himself as completely autonomous and as being able to live off himself. Crime disturbed the social hierarchy by having its origins in ambitious individuals who denied their allotted social positions by aspiring to a lifestyle above

their status. Executions as shameful events were a restoration of hierarchy. The execution, by attacking the individual's control of his body, represented society denying the individual the right to control the emergence of his identity in public, his right to appropriate roles or an outward self not his own, that is his right to self-definition. In the execution's final moments, society used the undisciplined dancing of the body at the end of a rope to point to the true disordered self from which the prisoner's crime originated.

The trial preceding the execution also provided an opportunity for symbolically asserting and re-establishing hierarchy. Through a cult of melancholia, the authorities articulated not only a reluctance to use violence, but also the superiority of the feelings which formed the basis of their morality and their place in society. An ideology of sensibility allowed an emerging bourgeoisie to ground their moral authority in nature - in the feelings of the body. Moral truths now no longer came exclusively from outside of man, but were part of his material constitution. The concept of sensibility helped to provide class relations in N.S.W. with a personal paternalistic form. It allowed the authorities to ground their hierarchical status in society in that moral authority embodied in the feelings of their own bodies. Sensibility, like reason, was what God gave man so as to govern his passions; it was His gift of order to man through nature. Perhaps the key implicit ideological tendency was that which metaphorically presented social hierarchy in terms of that internal psychological hierarchy which was needed to be a moral being. The ordering of society was equated and dependent on the ordering of personality.

This metaphorical process was often expressed during the last climactic moments of executions when a repentent prisoner might take and express within his own personality the disorder he introduced into society. He often entered a silent world of suffering introspection which sometimes climaxed in the convulsions of the horror of self-realisation. The scaffold became a site for expressing not simply the inescapability of sacred and secular justice, but also of the power of conscience.

In the third and fourth chapter I explored the role of the family and philanthropy in disseminating the notion of an omniscient conscience - how this was seen to be part of a well-disciplined, commercial society organised around self-policing individuals. In Chapter Three, I concentrated on how the breach of familial duties and obligations became in the press part of the further aestheticisation of subjective terror. Stories of individuals who existed outside of their families were used to give the spectacle of self-imprisoned punishing guilt a wider circulation than the climactic moments of the execution. To leave the family was to enter a world of self-alienation. The family was constituted as the source of true identity. The well being of its interior space was equated with the well-being of the subjective interiority of its members. To leave the family, to transgress its boundaries, was to leave a sanctuary of mental peace and to enter a world within which the individual lost his identity in the superficial, ephemeral world of the senses.

Articles containing these kinds of discursive strategies were concerned with fragmenting the working class into isolated

familial units within which the pursuit of pleasure would assume a privatised form. This process of atomisation was complementary to other processes which sought to render the working class dependent on centralised institutions for their information. N.S.W. newspapers used their almost monopolistic control over the distribution of public knowledge to articulate philanthropic attacks on that collective hedonistic culture associated with criminality and the promiscuous intimacy of the lower orders. The family as an object of discourse in N.S.W. emerged in a context where the reproduction of a moral order was problematic: new persuasive mechanisms were needed to reproduce the reformatory goals of work, discipline and isolation on those leaving the penal system. The family was increasingly seen as part of this decentralisation of power in a free society; it was a structure capable of developing an alternative source of pedagogic power to those of a violent, coercive state and even to those of the state's total institutions.

Women in particular were constructed as the bearers of moral order. I believe that part of the reason for the increased humanitarianism shown to women over men emerged from them being expected to become the bearers of a humanitarian influence. Women were symbols of sensibility, as such, they reproduced the sources of bourgeois morality. Women stood as a civilising influence to men in much the same way as the upper classes stood to the lower classes. Wives were asked to assume the role of an external conscience. Her passivity and vulnerability would provide a point of contrast that might lead the brutal and unfeeling husband to reflect upon his lack of humanity. She was a symbol of guilt: often the

violence she suffered was seen to emerge from her husband's desperate attempts to obliterate that moment of self-reflection which she represented.

However, at the same time as women were being constructed as symbols of moral order, in seduction articles, they were also constructed as in need of rational guidance, of the patriarchal care of their fathers or husbands. In seduction articles, women were constructed within an ideology of non-culpability, they were victims of an inner determinism they could not control. Such an ideology on non-culpability was important in N.S.W. where most women had been transported for some offence. This ideology allowed women to be constructed as moral figures, their past crimes could be attributed to the designs of men and not only to women voluntarily choosing between good and evil. In short, in Chapter Three, I analysed ideological construction of the family as a site of psychological and social order by analysing those articles dealing with the failure of the family to contain its members.

Chapter Four dealt with the expansion and consolidation of those pedagogic forms of social control which were increasingly deemed expedient for the government of a more "free" and "capitalist" society. It dealt essentially with the increasing socialisation of the cultural reproduction of a working class. The crisis of the family was shown to have been a means of proliferating the so-called "helping professions", who had as their object the better policing of the poor, the sick and the young. The defence of the helpless provided the rallying cry for the deployment of new hegemonic structures. Philanthropy, bible societies and schools can be seen as represent-

ing the increasingly professionalisation of class power, with the expansion of bureaucratic management into the realm of the social.

The religious emphasis of these pedagogic institutions denoted their concern with the shaping of "disposition"; with creating a subjective aesthetic attitude of self-alienation which continually involved a struggle for self-knowledge as the means of self-realisation. All forms of transgression, despite their class context, were centralised in the attitude of having sinned against God. Such a centralisation and personification of the concept of transgression was instrumental, I believe, in the legitimation of a secular power structure, which codified all legal injunctions as proceeding from the central legal figure of the Governor. He, for all intentional purposes, was the source of Law in N.S.W., occupying in effect the position of God in the religious realm. What I am arguing is that the centralisation and personification of religious power was analogous to, and legitimated, the centralisation and personification of political power in N.S.W..

The diffusion of a technology of individualisation amongst the lower orders initially complemented that individualisation of political power which took place at the apex of society through the personification of the state in the figure of the Governor. At the risk of anticipating too much, I show in later chapters how the increasing diffusion and demand for more individualising forms of power became in the press a demand for the removal of the figure of the Governor and a demand for the expansion of a more formal bureaucratic apparatus as the basis of the government of society. Increasingly, the development

and diffusion of new pedagogic technologies of power were rendering the figure of the Governor obsolete, in so far as he was bound up with the terror of the scaffold, as a secular manifestation of the fear of God or His personal discretionary power. The realisation of bureaucratic, non-corporeal, pedagogic strategies was seen in the press to be increasingly bound up with the emergence of a democratic rather than a monarchical state.

In the second volume, I will concentrate on the period after censorship when the philanthropic process in the press became directed towards state agencies, demanding their expansion and bureaucratisation. This process was bound up with the emergence of certain democratic capitalist interests. The first chapter of the second volume will begin by documenting the emergence of capitalism in N.S.W. and the process of its specialisation. After which I will turn to examine how these divisions came to be expressed initially in the press through a concern with the philanthropisation of the economy. The welfare of families and their democratic minimum right to a certain amount of happiness became the focus of a political discourse concerned with the distribution of wealth between various sectors of the economy. In this discourse there was a concern that economic power assume a certain anonymity which would be the guarantee of its impartiality. There was an emerging critique of economic monopoly as a manifestation of personal economic power.

With the end of censorship, there emerged an increasing demand for the philanthropisation of the political system. It became criticised increasingly for its centralised arbit-

rary personal nature which was viewed as breeding violence. There was a demand that political power assume a certain rational anonymity, that it reside not in a person, but in an apparatus capable of expressing the collective will of the people and their diverse interests. This in turn was bound up with the scientificisation of politics and the privatisation of religious morality.

SECOND VOLUME :

NEWSPAPER DISCOURSE

AND THE

REPRODUCTION OF CAPITAL

CHAPTER SIX

STATE AND CAPITAL IN N.S.W. 1788-1821

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(A) INTRODUCTION

In this chapter I outline the emergence of domestic capital in N.S.W. and its dependence on the state for its processes of capital accumulation. This dependent relationship was maintained throughout much of early colonial N.S.W.'s history. It underlay many of the social and political struggles which dominated newspaper discourse during the 1820's. In this chapter I account for the early origin of these ideological struggles by analysing their emergence out of transformations in the initial form which relations of production assumed in N.S.W.. These relations shifted from being based exclusively on soldiers and convicts to relations based increasingly on capitalists employing convicts and wage-labourers, often side by side. With the passage of time, the social composition of capitalism in N.S.W. was also gradually transformed. It became more fragmented, as a result of the specialisation of capital between agriculture and trade; and as other socially distinct groups were added to the initial group of landowning officers, groups such as wealthy ex-convicts and British free-settlers. Between these groups emerged controversies and conflicts, which were nearly all concerned with what role the state should play in reproducing class relations.

(B) THE PENAL CONTEXT OF N.S.W. AND THE EMERGENCE OF AN
AUTONOMOUS CAPITALIST SECTOR

Unlike previous British colonisation projects which were begun as private ventures, N.S.W. was a government initiative. It was not founded, like the American colonies, by large chartered companies pursuing profits.^{1.} Not until 1824, with the Australian Agricultural Company, did a major British company enter the colony seeking profits in land. Most of the imported capital which was invested in land, prior to 1830, was of a private individualistic form. In the 1830's British banks were established in N.S.W.; they helped finance the pastoral boom.^{2.}

Instead of a creation of private capital, the initial colonisation of N.S.W. occurred in a context where Britain was competing with other European powers for overseas colonies.^{3.} During this period, Britain's own state administration was undergoing a process of centralisation, with prisons moving from local and private concerns into those of the nation state. The result was that the penal system became partly an extension of national mercantilist concerns.^{4.}

1. D.K. Fieldhouse, "British Colonial Policy", G.J. Abbott and N.B. Nairn, Economic Growth of Australia 1788-1812, pp.9-29.
2. S.J. Butlin, Foundations of the Australian Monetary System 1788-1851, p.227.
3. Those stressing the colonisation of N.S.W. on the basis of overseas trade motives include K.M. Dallas, "First Settlement in Australia", Tasmanian Historical Association, K.M. Dallas, 1952, No.3, see also his Trading Posts or Penal Colonies; R.A. Swan, To Botany Bay; see also H. Forber, Rival Empires of Trade in the Orient 1600-1800, Chapter 3, pp.125-184.
4. This general point has been made by Rusche and Kirchheimer, op.cit., pp.68-69.

As a state initiative, the initial social relations which the first Governor had to create a self-supporting colony consisted almost exclusively of those between convicts and soldiers. These military relationships were judged by a succession of early Governors, and later on by the Bigge Report, to be a costly and inefficient means of appropriating labour. Whilst the soldier and the convict both worked for the Crown, the soldier had no real interest in the duration and quality of convict labour. Phillip, Hunter, as well as the military officers who ruled N.S.W. in the intervening years (1792-95) when there was no Governor, wanted to substitute for the state's appropriation of convict labour more private forms, based on what they regarded as the organisational virtue of pursuits involving self-interest. There was also a concern with reducing the Crown's administrative costs by transferring the long term cost of feeding and clothing convicts to free settlers willing to take them off the Crown's hands.^{1.}

Phillip continually asked the colonial office to send out free settlers.^{2.} He pointed out that government supervision of convicts required the prior establishment of a costly military infrastructure which included stores, barracks and houses. Settlers would operate under no such constraints, they would move readily into new areas, bringing them under cultivation in a shorter period of time than the government could.^{3.} Propertied free settlers would also, Phillip believed, provide a labour market for ex-convicts; thereby

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1. Phillip to Grenville, 17 July 1790, HRA, Vol.1, p.196;
Grose to Dundas, 9 January 1793, *ibid.*, p.414;
Hunter to Portland, 25 October 1795, *ibid.*, pp.553-554;
Hunter to Portland, 28 April 1796, *ibid.*, p.558.
 2. B.H. Fletcher, Landed Enterprise and Penal Society, p.16.
 3. Phillip to Grenville, 17 June 1790, HRA, Vol.1, pp.180-181.

ensuring ex-convicts remained in N.S.W. and were separated from the morally contagious influence of the Crown's convicts.^{1.}

The state's difficulties in appropriating convict labour emerged very early in N.S.W.. The officers of the first marine detachment deemed it as not in keeping with their duty, let alone their sense of respectability, to supervise government employed convicts. They and later officers, however, had no such qualms in employing and supervising privately any convicts which might be assigned to them.^{2.} A continual complaint of early Governors was the lack of "respectable" individuals able to supervise convicts employed in public agriculture or public works.^{3.} Often, the Crown's convicts were supervised by individuals drawn from their own ranks.^{4.} Even soldiers of the N.S.W. Corps were recruited from convict ranks.^{5.}

Early N.S.W. failed to attract significant numbers of free wealthy settlers. By the time of Governor Hunter's departure in 1800, twelve years after the colony was first settled, only eight married men with their families and three single men had arrived. Between 1800 and 1806, during Governor King's rule, only 290 persons arrived of whom 76 were men, 85 women and 130 children.^{6.} Very few of these early free settlers brought any significant amount of capital

1. Phillip to Grenville, 5 November 1791, ibid., p.270.

2. Phillip to Sydney, 16 May 1788, ibid., pp.34-55.

3. Fletcher, op.cit., pp.101, 129-130; see also p.335; Bigge, Report, Vol.I, p.154.

4. Phillip to Sydney, 15 May 1788, HRA, Vol.I, p.15; Collins, op.cit., p.33.

5. Collins, op.cit., p.455.

6. Figures from R.B. Madgwick, Immigration into Eastern Australia, p.19.

with them.^{1.}

Increasingly, the N.S.W. state looked to its own ranks for that private class of individuals who would be interested in the profitable employment of convict labour. In 1789, the Colonial Office gave Phillip permission to grant land to non-commissioned officers.^{2.} In 1791 and in late 1792, prior to his departure, Phillip asked the Colonial Office whether he could and should make land grants to Crown Officers;^{3.} he had already assigned them 51 convicts to farm land temporarily.^{4.} This permission was received in early 1793.^{5.} Part of the British government's motive in settling soldiers was to secure the Colony's "protection and defense" both from external and internal threats.^{6.}

At the time of Phillip's departure, in December 1792, the government was the major grain producer, farming 1,014 acres or 70.9 percent of the area sown. By the arrival of Hunter, in 1795, this had declined to 340 acres or 12.5 percent of the area sown.^{7.} In the intervening period the colony was ruled by the military officers, Grose and Paterson. They set about dismantling public agriculture, whilst at the same time granting free land and convicts to fellow officers.^{8.}

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1. On the poor quality of the early settlers see Hunter to King, 30 April 1796, HRA, Vol.I, p.565.
 2. Grenville to Phillip, 22 August 1789, *ibid.*, p.124.
 3. Phillip to Grenville, 24 November 1791, *ibid.*, pp.35, 316; Phillip to Dundas, 4 October 1792, *ibid.*, pp.383-384.
 4. Phillip to Grenville, 4 October 1792, *ibid.*, p.384.
 5. T.M. Perry, Australia's First Frontier, p.48.
 6. Fletcher, op.cit., p.13.
 7. Ibid., p.28, table 1,
 8. Ibid., p.29.

Governor Hunter continued much the same policy.^{1.} By the time of Hunter's departure in 1800, 39 military and civil officers owned 14,584 acres, in addition to 1,528 cultivated acres of land and 6,295 head of stock.^{2.}

The officer's initial interest in agriculture declined and they, like many other large landowners, began to increasingly move into the more "respectable" occupation of pastoralism.^{3.} In 1804 the officers owned about two-thirds of the colony's privately owned sheep and cattle.^{4.} By 1808, as a result of resignations from the N.S.W. Corps and increased competition from free settlers and ex-convicts, the officers' ownership of private livestock declined to 18.2 percent.^{5.} Large landowners invested in livestock so as to provide meat to an expanding private local market and in anticipation of future government purchases.^{6.} Sheep were initially kept mainly for meat rather than wool.^{7.} In 1808 the government began to make small purchases of meat from settlers. These purchases expanded greatly under Macquarie: between 1810 and 1820 the government purchased almost 10 million pounds of meat from settlers.^{8.} In 1821 meat sales to the government

1. Governor King reduced the number of government maintained convicts assigned to the officers from 250 to 58; Fletcher, op.cit., p.67.
2. Ibid., p.66.
3. G.L. Abbott "Governor King's Administration" in Abbott and Nairne, op.cit., pp.170, 173; B.H. Fletcher "Agriculture", Abbott and Nairne, op.cit., p.199.
4. Fletcher, Landed Enterprise, p.65, Table 6; see also G.L. Abbott "The Pastoral Industry" in Abbott and Nairne, op.cit., p.223.
5. Fletcher, "Agriculture", p.199.
6. Ibid., pp.223, 235-236.
7. Abbott, op.cit., pp.220, 241.
8. Fletcher, Landed Enterprise, Appendix 9, p.237.

accounted for £90,000, almost seven times the value of exported wool.^{1.}

It was the small ex-convict farmer who remained in the more labour intensive and less profitable grain market.^{2.} The absence of livestock on their properties deprived many of them of manure and led to progressively lower yields forcing many off their properties.^{3.} Often these poorer settlers had no storage facilities and were forced to sell their grain at harvest times when prices were low.^{4.} When unable to obtain access to a full government store, they would sell their grain to Sydney traders who would store and sell the grain at more favourable prices.^{5.} With the growth of urban centres, many small farmers became market gardeners supplying "fruits, pigs, poultry and other second-rate substantials, which the wealthy free settlers will not condescend to rear".^{6.}

The N.S.W. state initially consciously subsidised the emergence of an officer-capitalist class, providing it with a significant portion of its capital. The officers, like all later free settlers, received larger plots of land than ex-convicts. Phillip's second instructions allowed free settlers a minimum of 100 acres more than ex-convict settlers. Larger

1. J. Ritchie, Punishment and Profit, p.290.

2. Bigge, Report, Vol.1, p.140.

3. Ibid..

4. Bigge, Report, Vol.3, p.23.

5. Evidence of Cordeux, Ritchie, Evidence, Vol.1, pp.96-97; Fletcher, op.cit., p.193.

6. Cunningham, op.cit., p.274.

land holdings also meant greater entitlement to convict labourers. During their own rule and most of Hunter's, the officers received convicts clothed and fed at the Crown's expense. This was much to the annoyance of the British Government, whose distance from the colony made it powerless to stop such costly practices.^{1.}

Grose, Paterson and Governor Hunter transformed the state from a producer of grain into a consumer of what the officers produced. They saw the state, in this remote penal colony, as needing to provide settlers with a guaranteed market for their produce.^{2.} Accordingly, they transferred the control of state resources (land, convicts, tools, livestock) at no expense to the officers, who then produced the farming products which the state purchased in order to feed the convicts employed by the officers. As a result large sums of money were transferred from the British Treasury to the officers. This allowed the officers to purchase land and livestock from other settlers and to engage in trade.^{3.} In 1800 the officers sold the Commissariate Store one-third of the grain it purchased.^{4.} In the same year the officers received all the £3,652 worth of Treasury Bills drawn in favour of residents in N.S.W.. Between 1800 and 1806 inclusive the officers received £10,729 or to just over 30 percent of the Treasury Bills drawn in favour of N.S.W. residents.^{5.}

1. Dundas to Grose, 31 June 1793, HRA, Vol.1, p.443; Portland to Hunter, 8 June 1796, 11 August 1796, *ibid.*, pp.572, 580; see also A.G.L. Shaw "Labour" in Abbott and Nairne, *op.cit.*, p.111.

2. Hunter to Portland, 25 October 1795, HRA, Vol.1, p.533.

3. Fletcher, *op.cit.*, pp.64-70, 72.

4. *Ibid.*, p.80, Table 9.

5. Abbott, "Governor King's Administration", p.164, Table 1.

One reason for the more efficient appropriation of convict labour within the private sector lay in its ready access to imported trade items such as spirits, tobacco, tea and sugar.¹ Hunter claimed these luxury items provided "a strong stimulus to industry, because the more a man labours the more of those comforts which he is desirous of having he will be able to afford himself". Hunter called on the British government to ship out directly, and thus more cheaply, luxury items for the N.S.W. government's use. This, he argued, would not represent careless expenditure, because the resulting increased labour would more than compensate.² Governor Hunter's argument implies that part of the underlying rationale behind the state incorporating a capitalist sector into the penal system was the recognition that the more efficient appropriation of convict labour, using rewards, could not be as readily undertaken by the Crown without it contradicting its penal goals of economy, deterrence and reformation.³ The awkwardness of the Crown's position was heightened by the fact that labourers "preferred receiving liquor for labour, to every other article of provisions or clothing that could be offered them".⁴

The officers were the first major traders in the colony. They were accused by many contemporaries of possessing a monopoly which allowed them to charge mark-ups of between 200

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1. For the extensive use of rewards by private masters to appropriate convict labour, see: Butlin, op.cit., p.19; Evidence of Rev. Robert Cartwright, B.T., Box 24, Vol.27, p.5307; Bigge, Report, Vol.1, p.76.
 2. Hunter to Portland, 20 August 1796, HRA, Vol.1, pp.593-594; See also Hunter to King, 4 June 1798, HRA, Vol.II, p.155.
 3. See Shaw, Convicts, p.73.
 4. Collins, op.cit., Vol.1, p.260, cf. p.450.

and even 1000 percent.¹ Lord Hobart prevented Governor King regulating the prices which private merchants could charge for imports: "The commerce carried on by individuals must be open and unrestrained, and the authority of Government must by no means be interposed".² The British government, however, felt no need to veto local legislation which controlled the wages paid to free labourers and to convicts working on their own time.³

One of the officer's main sources of wealth was imported spirits, which early Governors were unable and often unwilling to stop, given the fact that their military subordinates organised the trade.⁴

To oppose its [spirits] being landed, my Lord, will be vain on my part, for the want of proper officers to execute such orders as I may occasion to give. 5.

Bligh was the first Governor to try seriously to control the circulation of spirits, he was soon overthrown.⁶ Watered-down rum was too profitable. Through it Crown officers and also ex-convict traders acquired the grain, livestock and farms of smaller settlers.⁷ Many free wage labourers were paid with spirits.⁸ Rum importers who were also farmers, such as the officers, were able to use the enormous difference between the wholesale and retail price of spirits to reduce their effective labour costs. Prior to Bligh and

1. D.D. Munn, The Present Picture of N.S.W. (1811), pp.68-69; Hunter to Portland, 2 March 1798, HRA, Vol.II, pp.135-146; Hunter to Portland, 1 February 1800, ibid., pp.440-446.

2. Hobart to King, 24 February 1803, HRA, Vol.IV, p.39.

3. Shaw, op.cit., pp.72-73.

4. Butlin, op.cit., p.19.

5. Hunter to Portland, 15 January 1800, HRA, Vol.II, p.436.

6. H.V. Evatt, Rum Rebellion; M.H. Ellis, John Macarthur, pp.285-287.

7. Fletcher, Landed Enterprise, pp.97-98.

8. Butlin, op.cit., pp.21-23.

Macquarie, the demand and acceptability of rum meant that it became partly a substitute for money, it became almost a medium of exchange in its own right.¹

The officer's early trading dominance received official recognition in 1798 when Governor Hunter gave them the exclusive right to purchase from foreign ships calling at Sydney on behalf of the rest of the community. This was supposed to prevent overseas traders exploiting competition between Sydney merchants.² Prior to this the officers trading dominance emerged from them being the only initial group in the colony with the required wealth, respectability and contacts abroad to organise trade. They also were the only initial group with sufficient access to the foreign exchange necessary for overseas trade.³ The officers were in charge of funds in England for paying their subordinates. They therefore had access to sterling and could purchase speculative cargoes to send out to N.S.W..⁴ Their subordinates were often paid in kind or with promissory notes.⁵ The officers, as prominent landholders, were able to gain further access to foreign exchange by selling grain to the N.S.W. government. The store receipts they received in return for their grain were periodically consolidated into British Treasury Bills.⁶ By trading and extending credit to small rural settlers supplying the government store, the

1. Ibid., pp.22-23.

2. D.R. Hainsworth, "Trade within the Colony", Abbott and Nairne, op.cit., pp.271-272.

3. Butlin, op.cit., pp.44, 55.

4. Ibid., pp.33-36; Hainsworth, op.cit., p.269. Hainsworth estimates that between 1792 and January 1800, the officers invested £51,315 from paymaster bills to purchase imports, D.R. Hainsworth, Builders and Adventurers, pp.9-11.

5. Butlin, op.cit., pp.34, 54.

6. Ibid., pp.4-5, 31-33; Hainsworth, "Trade", p.269.

officers, like all other future traders, were also able to gain access to more store receipts and Treasury Bills. When these small farmers failed to pay their land fell into the hands of traders. The two paymasters of the N.S.W. Corps, William Cox and Macarthur were at the turn of the nineteenth century the largest purchasers of land in the colony.¹

Access to foreign exchange was important because N.S.W. did not have an internal currency acceptable to overseas merchants. No money had been brought out in the first fleet.² Moreover, the relative absence of a significant reliable export in early N.S.W. led the value of imports to exceed the value of exports. The N.S.W. economy as a whole did not earn foreign exchange but was continuously exporting any which did find its way into the colony.

Given the unfavourable balance of trade, the colony's internal commercial transactions had to be done in a separate medium of exchange, known as "currency" which had only local acceptance.³ A significant part of "currency", especially in the early years, were promissory notes.⁴ These were issued by individuals, often on printed forms to prevent forgery. Claims to respectability and property were used as guarantees of an ability to pay. Prominent individuals who issued promissory notes functioned as private bankers. They were virtually able to print their own money.⁵ Promissory notes also facilitated the ability of individuals to engaged in over-

1. A.G.L. Shaw, "New South Wales 1788-1810", RAHS, Vol.57, Part 2, June 1971, p.102.

2. Butlin, op.cit., p.12.

3. Ibid., pp.5, 65.

4. Ibid., pp.13, 18, 26-30, 65.

5. Ibid., p.65.

seas trade. Promissory notes could be exchanged for store receipts and any overseas currency in N.S.W. at a rate of discount which varied from between 25% to 40%.^{1.}

In 1819 the Bank of N.S.W. was established. It issued its own notes; as such it involved many traders combining together to create a more centralised means of creating money and to exchange "currency" for foreign exchange. Some individuals resisted the new "monopoly" and continued to issue their own notes. These individuals however, declined in number.^{2.}

The point to note so far is that due to imports continually exceeding exports, government expenditure (whether in the form of the foreign exchange provided by paymaster receipts or by store receipts) was a major determinant of the amount of imports coming into N.S.W.. The one early major industry which helped reduce an exclusive reliance by merchants on government expenditure were maritime adventures associated with the neighbouring "Ocean frontier". By trading with Pacific Islands for pork and sandalwood, through whaling and sealing, export income was generated by merchants to finance imports into N.S.W..^{3.} However, the development of a shipping industry in N.S.W. was hindered by legislation designed to protect the East India Company, which had a monopoly over trade with India till 1813 and over trade with China up until 1833.^{4.} From the outset, the Company had opposed

1. Ibid., p.67.

2. Ibid., pp.9, 67-68.

3. G.J. Abbott, "Economic Growth" in Abbott and Nairne, op.cit., p.148.

4. D.R. Hainsworth, The Sydney Traders, p.13.

the settlement of N.S.W. on the grounds it would create the basis for a rival trading empire in the region.¹ To remove some of the East India Company's fears, local governors were ordered to prevent the building of colonial ships able to reach Europe or Asia.² In 1791 Phillip ordered that no boat longer than 14 feet be built without a permit.³ Up until 1820 no ship smaller than 350 tons was allowed to trade between the United Kingdom and the colony.⁴ This disadvantaged the smaller, locally built and owned ships.

1. Ibid., pp.13-14.

2. Ibid., pp.14, 116 Footnote 3.

3. Ibid., p.116.

4. Sydney Gazette, 12 February 1820; Melbourne, op.cit., pp.62-63.

(C) THE ECONOMIC EMERGENCE OF EMANCIPISTS AND THE
BEGINNING OF THE SPECIALISATION OF CAPITAL

The officers were not the only individuals moving into the opportunities for profit. Under the officers' patronage emerged a group of ex-convict traders who initially acted as retailers of the officer's imported goods. The officers assumed the more respectable role of wholesalers.¹ Emancipist traders were often accused by contemporaries of having made their money by retailing spirits to convicts and the poor.² By 1800, ex-convict traders like Simeon Lord, Walter Nichols, Thomas Reiby, Andrew Thompson, Henry Kable and James Underwood had accumulated sufficient capital to challenge the officer's trading monopoly, some by establishing themselves as importers.³ The collapse of the officer's monopoly was further facilitated when Governor King, in 1800, ended their exclusive right to purchase cargoes from foreign ships calling at Sydney.⁴ About the same time, more free settlers arrived in Sydney. Throughout the whole history of early N.S.W. many free settlers brought their capital out in the form of trade goods.⁵ Some of these adventurers remained in trade, others used their profits to invest in land.⁶ Apart from these one-off speculators, there were also more professional arrivals who acted as agents for overseas merchant houses. The first to arrive was Robert Campbell in 1795. He was an agent for

1. Hainsworth, "Trade", p.270; W.C. Wentworth, A Statistical, Historical and Political Description of the Colony of New South Wales (1819), p.334.

2. D.D. Mann, The Present Picture of New South Wales (1811), pp.69-70; Fletcher, op.cit., pp.86-87.

3. Hainsworth, op.cit., p.271.

4. Ibid., p.270.

5. Butlin, op.cit., p.67; Bigge, Report, Vol.3, pp.37-38.

6. See p.413.

an Indian Trading Company.^{1.}

It was during the Macquarie decade (1810-1820) that trade became increasingly a professional activity engaged in less by part-time speculators and more by permanent business houses.^{2.} Part of the professionalisation of trade involved the removal of government officials from commercial activities. Many military and civil officers who had been active traders were recalled to face charges or to give evidence in Britain at trials dealing with the overthrow of Governor Bligh. Their recall improved the position of other traders, including ex-convict traders.^{3.} N.S.W. traders also received a boost from government measures designed to more clearly separate the public and private domains, such that government officials would not again feel called upon to intervene in politics in defense of their own private self-interests. Upon assuming office Macquarie ended the practice of issuing land to military officers.^{4.} In 1816 the government prohibited its civil and military officers from engaging in trade.^{5.} In 1818, Mccquarie, with the permission of Lord Bathurst, ended the practice of issuing land grants to civil officers.^{6.} Macquarie told Lord Bathurst that land grants led civil officers to neglect their official duties and to resist government economy measures designed to reduce the price of grain and meat. Civil officers and their

1. Steven, op.cit., p.123.

2. Ibid., p.184; Hainsworth, op.cit., p.283; Hainsworth, Sydney Traders, pp.106-109.

3. Hainsworth, Sydney Traders, p.98.

4. Fletcher, op.cit., p.126.

5. Sydney Gazette, 17 August 1816.

6. Fletcher, op.cit., p.128; Bigge, Report, Vol.3, p.36.

favourites gained preferential access to the government stores. Instead of being supporters of the government, civil officers, "in their character of landed proprietors with extensive herds and flocks, form a strong party in the colony to the prejudice of the Crown".^{1.}

The economic position of ex-convicts was further boosted by Macquarie's large public buildings program.^{2.} Kitchen provides some estimate of the scale of Macquarie's works program in his claim that the General Hospital alone cost £140,000 to build.^{3.} He also claimed that between 1810 and 1820 the government employed a total of 33,888 convicts (though not all at one time) at an estimated cost to the government of £847,200. A further £75,657 was also spent by the government on public works from the police fund.^{4.} Many ex-convict skilled tradesmen benefitted from the building activity. Many convicts came from a manufacturing background.^{5.} This proved useful in the domestic industries which emerged to supply building materials.^{6.} The difficulties which ex-convicts experienced in acquiring land often led them to invest any capital they had in manufacturing.^{7.} In evidence to Bigge, Kitchen stated: "that to be concerned in the conducting of the Public Works of this Colony is the same thing as to be

1. Macquarie to Bathurst, 13 May 1817, HRA, Vol.IX, p.394; Fletcher, op.cit., p.127.
2. J.D. Lang, An Historical and Statistical Account of N.S.W., Vol.1, 1834, p.292.
3. Kitchen to Bigge, 29 January 1821, B.T. Box 26, Vol.133, p.5946.
4. Ibid., p.5969; Ritchie, Evidence, Vol.2, p.148.
5. M.J.E. Steven, "Enterprise" in Abbott and Nairne, op.cit., p.130.
6. Hainsworth, Builders and Adventurers, pp.150-161.
7. Ibid.; G.J.R. Linge, Industrial Awakening, p.87; Australian, 3 February 1827, article copied from the Morning Chronicle.

raised from indigence to opulence". Many of these individuals, Kitchen claimed, were corrupt and through this means ex-convicts came to possess the most substantial and best private buildings. He was referring to the buildings owned by Nichols, Gandall, Rouse and Fitzgerald.¹

Apart from public works there was also a great deal of private building going on during the Macquarie period. Bigge pointed out that there were in the towns of Sydney, Parramatta and Windsor 59 stone, 221 brick and 773 wood houses owned by private individuals. He further pointed out that most of the stone and brick houses were owned by ex-convict retail traders and publicans.² Some of the wealth which flowed to urban emancipists was channelled into rural properties. Bigge estimated emancipists had by 1820 purchased more land than they were granted; 50,884 acres were purchased out of the 83,502 acres which emancipists collectively held.³ In evidence to Bigge, the Surveyor General accused the capitalists of Sydney (a euphemism for emancipists) of buying up the farms of small settlers before the 5 year period during which land grants ought not to be sold.⁴ Urban emancipist traders did not receive large land grants and could only acquire large landholdings by extending credit to existing landholders.⁵ Just over 54 percent of the total land purchased by emancipists in 1820 was purchased by ex-convicts residing in the district

1. Kitchen to Bigge, 29 January 1821, B.T. Box 26, Vol.133, p.5944.

2. Bigge, Report, Vol.3, p.42; see also Ritchie, Evidence, Vol.2, p.265.

3. Bigge, Report, Vol.3, pp.34-35.

4. Ritchie, Evidence, Vol.1, pp.72-73.

5. Bigge, Report, Vol.1, pp.141-142.

of Sydney.¹ The largest emancipist landholder was the urban trader Samuel Terry who had purchased 17,000 acres of the 19,000 acres held.² Bigge and the exclusionist Archibald Bell made the point that although emancipists often possessed large rural estates: "they are not generally occupiers of it, nor do they live on their estates, or can they be considered as practical farmers".³ They were often absentee landlords. Emancipists often chose to stock their properties with cattle rather than sheep, perhaps because the breeding and production of fine wool for export was more time consuming and something which could not be optimally undertaken from Sydney.⁴

The emergence of ex-convict traders, tradesmen, and manufacturers, as well as the immigration of free merchants like Robert Campbell, represents the beginning of the specialisation of capital in N.S.W.. There was an increasing separation of mercantile from landed capital and urban from rural capital. In 1812 Hannibal Macarthur wrote to his uncle, John Macarthur, (both of whom had in the early years of N.S.W. been extensively engaged in trade and had helped to develop N.S.W.'s wool industry), that: "the business of a merchant is so incompatible with that of a Farmer that one or the other must be given up". He regarded himself more suited

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1. Figures taken from "A list of persons residing in the District of Sydney who have been convicts and have become landholders, including those persons on ticket-of-leave, October 1820", B.T. Box 24, Vol.123, p.5160.
 2. Ibid..
 3. Evidence of Lieut. Archibald Bell, 27 November 1819, Ritchie, Evidence, Vol.1, p.89; Ritchie, Evidence, Vol.2, p.265; Bigge, Report, Vol.1, p.142.
 4. Fletcher, op.cit., pp.28-29; G.L. Abbott, The Pastoral Age, p.46; Abbott, "The Pastoral Industry" in Abbott and Nairne, op.cit., p.239.

to the role of farmer; this also appeared to be the more likely source of future profits.¹ The separation of commercial from landed interests was facilitated during the 1820's when many new pastoralists began selling their wool directly to local merchant houses. Previously, growers of fine wool had consigned their wool to English agents who sold it on their behalf.² Under the old system pastoralists had to finance both the shipment and marketing of their wool in England and might not receive any income for up to three years. By contrast many of the newer settlers and some of the older settlers, in the 1820's, chose to sell their wool directly to merchants in N.S.W., who with their creditors, then bore the cost of providing pastoralists with more immediate returns for their wool and in effect, helped finance the pastoral boom.³

I want to emphasise the point that I am describing tendencies. A complete and radical separation of landed and commercial interests was unrealisable so long as merchants depended on agricultural produce for foreign exchange to purchase imports. By investing in land, merchants, through the sale of meat and grain to the government or the export of wool overseas, gained direct access to foreign exchange. The 1828 Census lists nine merchants with holdings larger than 5,000 acres and 20 merchants with holdings between 1,000 and 5,000 acres.

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1. H.H. Macarthur to John Macarthur, 18 November 1812, Macarthur Papers, Vol.5, ML, A2901, p.26; see also Hainsworth, Sydney Traders, p.101.
 2. Bigge, Report, Vol.3, p.53.
 3. G.J. Abbott, The Pastoral Age, p.57; P.D. McMichael, Pastoralism and Capitalist Development (Phd. Thesis), pp.107, 117-118, 127; J. Ker "The Wool Industry in New South Wales, Part II", BAH, Vol.2, February 1962, pp.31-32, 42.

The fact that many traders invested in land should not lead us to deny the growing separation of landed from commercial pursuits. The 1828 Census lists 26 merchants out of a total 62 merchants as possessing no land. A further two merchants had less than 100 acres and another five merchants had between 500 and 1,000 acres. The point being that by 1828 almost half the merchants had no major interest in land. More revealing, only nine merchants in the 1828 Census had more than 1,000 sheep; two other merchants were listed as having sheep, one had 350, the other 116. The Australian, 26 August 1826, referred to the relative absence of direct mercantile investment in export oriented landed pursuits. It saw this as aggravating a commercial crisis partly brought about by a shortage of foreign exchange.

Some few, and only some few merchants, had the prudence and forethought to limit their transactions within moderation, and to employ, without endangering at the same time the success of their mercantile affairs, a portion of their means in agricultural pursuits, and in growing produce for exportation. These, and these alone, will have a chance to escape the very consequences of a serious crisis. Australian, 26 August 1826.

The relationship of opposition newspapers to particular sectors of the economy will be explored in later chapters. In the next section I want to deal with the political ramifications surrounding the emergence of urban and emancipist capital prior to the end of censorship.

(D) IDEOLOGICAL CONFLICT AND PROBLEMS IN REPRODUCINGA LABOUR FORCE

Phillip's keen interest in free settlers was partly from the standpoint that they would fill government positions and become the moral representatives of state power vis-a-vis the convicts.

...the first settlers, I think every possible encouragement should be given. In them I should have some resource; and amongst them proper people might be found to act in different capacities, at little or no expense to Government, for as the number of convicts and others increase civil magistrates &c. will be necessary. 1.

The early absence of free settlers had two major consequences. Firstly, the early N.S.W. state in its upper echelons took on a military complexion, as military officers were appointed to magisterial positions and to act as jurors. Early Governors complained to the Colonial Office about this blurring of civil and military functions, if anything, because it partly undermined their own personal power by placing the administration of justice in the hands of military subordinates who often had vested interests opposed to the Crown's.² Secondly, the state was forced to integrate convicts and ex-convicts into the lower echelons of its administration, such as in the role of clerks and policemen. The first Judge Advocate, Collins, regretted that none but convicts "fill many of those offices to which free people alone should have been appointed".³ It was not until Macquarie's time (1810-20) that ex-convicts would be appointed to high public posts such as magistrates.

1. Phillip to Grenville, 17 July 1790, HRA, Vol.1, p.196; see also Phillip to Grenville, 28 September 1788, ibid., p.74; Phillip to Grenville, 30 October 1788, ibid., p.95.

2. In the early years there was a strong conflict between the military and the Governor's attempts to create a Police and civil administration that would be independent of the military, see Melbourne, op.cit., pp.14-15; Whitfield, op.cit., pp.13, 14.

3. Collins, op.cit., Vol.1, p.44.

The previous Governor, in evidence to the Select Committee on Transportation, 1812, stated that he only appointed magistrates from "the most pure" class of persons and would never have selected those from convict origin.¹

Macquarie's appointment of ex-convicts to prominent public positions reduced his administration's reliance on military and ex-military officers.² Prior to his Governorship the officers had demonstrated their commitment to the pursuit of their own private self-interest by overthrowing Governor Bligh. Many of N.S.W.'s civil officers returned to England to give evidence at trials emerging out of the rebellion, this led Macquarie to appoint outsiders, like the emancipists, to prominent state positions.³ Isaac Nicholls was appointed postmaster; Redfern became Surgeon General; Andrew Thompson, Simeon Lord and Reverend Henry Fulton became Magistrates; Hutchinson was appointed Principal Superintendent; Greenway was the architect in charge of many public projects, whilst Richard Fitzgerald was Agricultural Superintendent.⁴

All this aroused the opposition of free settlers, military officers, and the Reverend Samuel Marsden; the more so because the Governor invited emancipists to dine at his table and to official functions where they were forced to socialise with them.⁵ Marsden's immediate reaction was to

1. Evidence of Bligh to Select Committee on Transportation, 1812, p.34.
2. Colonel Fouveaux pointed out to Macquarie the political advantages to be gained from appointing ex-convicts in his administration; Monitor, 28 May 1821; M.H. Ellis, Lachlan Macquarie, p.228.
3. Ellis, John Macarthur, p.404.
4. Shaw, op.cit., pp.86-88.
5. For examples of this opposition see Ritchie, Evidence, Vol.1, p.90; M.H. Ellis, Lachlan Macquarie, pp.222, 224-227.

refuse to sit as a magistrate on a Bench including ex-convicts.¹ He wrote home to Bathurst, the Archbishop of Canterbury and the evangelist reformer Wilberforce criticising Macquarie's policy and appealing for help.² Others figuring prominently in opposition to Macquarie's policy included the Macarthur family, who could appeal to an extensive patronage network in England.³ Macquarie in 1817, complained to Bathurst that many military officers, who had played a prominent role in the overthrow of Bligh, had been allowed to return to N.S.W. in a private capacity and were now actively engaged in opposition to him. He also accused the Crown's servants of having throughout the colony's whole history "at all times attempted a most indecent and insubordinate interference with the Governors of this Colony by opposing their measures here, and by writing home false and malignant representations".⁴ Many of the wealthy landholders of N.S.W. continued to be drawn from an officer class. Some were retired N.S.W. government officials. Many new settlers from Britain were retired military officers. As such wealthy free settlers were often united through a common cultural tradition emphasising military honour and the ceremonial display of rigid social hierarchy. This partly accounts for the solidarity of those opposed to the expanding wealth and influence of emancipists.

1. Ellis, *op.cit.*, p.227.

2. *Ibid.*, pp.227-228.

3. A. Atkinson, "The British Whigs and the Rum Rebellion", RAHS, Vol.66, Part 2, 1980, pp.73-90.

4. Macquarie to Bathurst, 1 December 1817, HRA, Vol.IX, pp.496-497.

Macquarie, as early as 1813, claimed "many of the Free Settlers (if not all) would prefer (if it were left to their choice) never to admit persons who had been convicts to any situation of Equality with themselves".¹ However, he regarded N.S.W. as a convict country and told both Hannibal Macarthur (his opponent) and Lord Bathurst (his superior) that those who were too proud or whose feelings were too delicate should either leave or not come out to N.S.W.. He warned Hannibal Macarthur "to avoid a Party which is existing among some of the old school", telling him that "if any Man, even the Lt. Governor was to set himself up in opposition to any of his public measures he would ship him off, in the first vessel leaving the colony either for India or England".²

The British government was also concerned about Macquarie's appointment of ex-convicts to prominent public posts; it was also concerned with the high cost of his public works program, and with whether N.S.W. was becoming too civilised to function effectively as a penal colony. In 1819 Commissioner Bigge was appointed to investigate these issues.³ He sided with the exclusionists and recommended no more convicts be appointed to prominent public posts.⁴ Bigge recognised that no reduction in British Treasury costs could be achieved so long as domestic agriculture was dependent upon government

1. Macquarie to Bathurst, 28 June 1813, HRA, Vol.vii, pp.775-776.

2. Quoted in Ellis, op.cit., p.443.

3. Bigge, Report, Vol.3, p.18; Bigge to Bathurst, 20 November 1819, B.T. Box 26, Vol.142, pp.3218-3220; see also Bigge's speech in the Sydney Gazette, 9 October 1819.

4. Bigge, Report, Vol.1, pp.148, 174-175.

expenditure to purchase meat and grain and as long as commerce depended on government expenditure to provide some of the foreign exchange for purchasing imports.¹ His solution was to encourage agricultural and mercantile capital to escape the limitations of a small domestic market, not by depending upon access to British Treasury Bills, but by producing for an export market.² He recommended that the duty on N.S.W. wool imported into Britain be reduced to 1d. per pound. N.S.W. wool would thus gain an advantage over wool from Europe, which would continue to receive a duty of six pence per pound.³ This policy laid the basis for the rapid expansion of pastoral capital in N.S.W. in the 1820's. The advantage to Britain was the production of a colonial export which did not compete with the product of her own soil, but which helped to render British manufacturing independent of "foreign" supplies for its raw materials.⁴

Bigge further recommended that no free settler coming out to N.S.W. be granted land unless he possessed a minimum of £500. The size of a settler's grant was made to depend on the size of the capital he brought out. Public works were to be scaled down, with the government's convicts, particularly the valuable skilled convicts, being given to the large pastoralists. Wealthy pastoralists were to receive

1. Bigge, Report, Vol.3, p.50. Macarthur pointed out to Bigge the dependence of agricultural capital on government expenditure; see Macarthur to Bigge, 19 December 1821, in S. Macarthur Onslow, Some Early Records of the Macarthurs of Camden, pp.349-355.
2. Bigge, Report, Vol.3, p.64.
3. Ker, op.cit., pp.31,33.
4. Bigge, Report, Vol.1, p.161.

preference over small rural settlers and over urban settlers in the allocation of convicts.¹ Bigge accepted Macarthur's argument about the reformatory value of the solitude associated with rural pursuits. Convicts in the hands of pastoralists were more likely to undergo that suffering form of introspection on which lasting reformation was increasingly seen to rest.² Wealthy settlers would also be able to provide those material rewards which would encourage convicts to work.³

Other arguments given to Bigge supporting the allocation of convicts to pastoralists included Archibald Bell's novel argument that: "the constant employment" of agricultural occupations "while it serves to promote health produces a degree of fatigue which induces to retirement for rest at night, and thus so far disinclines to the toil of prowling about for plunder".⁴ William Howe argued that by being allocated to respectable families convicts would be removed from sources of temptation, would be provided with good models to imitate, would be supervised in greater detail and, through the judicious use of rewards and punishments, the well disposed would consequently "separate themselves from the more profligate".⁵

Bigge was concerned with finding a way of tightening up prison discipline in N.S.W. so as to make the colony an effective deterrent to the masses back in Britain.⁶ He

1. Bigge Report, Vol.3, p.148; Vol.1, pp.157, 158, 159, 161.

2. A.G.L. Shaw, "Labour" in Abbott and Nairne, op.cit., pp.115-116.

3. Ibid., p.115; Bigge, Report, Vol.1, p.76.

4. Archibald Bell to Bigge, B.T., Box 21, p.3633; See also Bigge, Report, Vol.1, p.186.

5. William Howe to Bigge, 22/1/21, B.T. Box 26, p.5822-3.

6. This theme will be taken up again on pp.429-430.

recommended that convicts no longer be paid a wage, and that the ration of convicts in the barracks which Macquarie had increased to one and a half rations be reduced.¹ Newly arrived convicts were to be worked in gangs clearing land for the new pastoralists so as to initiate them into hard labour.² Bigge also criticised the privileges which educated ex-convicts received and their rapid entrance into good positions such as teachers, clerks and traders. He regarded this as destructive "of those distinctions between the free and the convict classes, that were the essential characteristic of the early discipline of the colony".³ To further prevent the appearance of equality and to maintain the distinction between the free and the convict classes, Bigge recommended a tightening up of tickets-of-leave such that they would no longer be given freely to just arrived convicts who could support themselves.⁴

Bigge criticised government land grants to ex-convicts and recommended that they be only given to ex-convicts with capital or some skill. He recommended that none of the new land in the interior be given to ex-convicts, instead they should be settled on small plots of land, not exceeding ten acres, around towns. This was not entirely feasible since most of this valuable land was already in private hands. Part of the reason for making it more difficult for ex-convicts to become landowners was a concern that they should

1. Hirst, op.cit., pp.46, 47.

2. Bigge, Report, Vol.1, p.159.

3. Ibid., pp.103-104.

4. Ibid., p.125.

"become resident labourers, rather than settlers".¹ In 1819, 808 emancipists and 49 ticket-of-leave holders farmed an average of 43 acres, this meant that almost 17 percent of the male ex-convict population was not wholly dependent on the sale of their labour.²

The criticism that Macquarie unduly favoured small ex-convict settlers is misplaced. Indeed under Macquarie's government land policy moved almost wholly away from the settlement of small settlers. After 1813 migrants coming out to N.S.W. were required to possess £500 capital, with the size of land grants being made to depend upon the capital they brought in; free passage to emigrants was also abolished.³ In 1804, there were 592 grants under 200 acres and they accounted for 48.6 percent of the total area. In the period 1812-1820, there were only 39 land grants given under 200 acres and they accounted for 3.5 percent of the area granted. Macquarie focused mostly on giving away middle-sized properties of between 200 and 1,000 acres. Whereas in 1804 these numbered 25 and accounted for almost 20 percent of the total area, Macquarie gave away 174 land grants in this group, which accounted for over 50 percent of the total area granted. The number of large land grants above 1,000 acres also increased in absolute terms under Macquarie. However they did not increase at the same rate as middle-sized land grants. Land grants over 1,000 acres rose from occupying 31.5 percent of the total area in 1804

1. Bigge, Report, Vol.1, p.173.

2. A.G.L. Shaw, "Labour" in Abbott and Nairn, op.cit., p.105.

3. Fletcher, op.cit., pp.17, 130; K.W. Robinson, "Land" in Abbott and Nairn, op.cit., p.100; Madgwick, op.cit., p.37.

to 45.8 percent of the total area granted between 1812 and 1820.¹ As we shall see in Chapter Eight, Macquarie would be glorified in the Opposition Press for sponsoring the creation of a middle class rather than aristocracy. His patronage of emancipists was directed not towards the small and poor rural emancipist settlers, but towards those he believed capable of forming a stable middle class.

Many exclusionists, in their evidence to Bigge used moral and penal concerns to criticise government land grants to ex-convicts, which acted to deprive them of access to free labour. Oxley, for example, acknowledged some degree of success amongst these small settlers, but claimed most "as soon as they acquire a little property they return to the towns and chiefly to Sydney where they find more profitable employment in retailing merchandise and spiritous liquors". Oxley stressed that the acquisition of property was unstable in the hands of small ex-convict settlers and that they were not industrious, "but addicted to drunkenness and prefer a licentious and unsettled life to the attention requisite for the proper cultivation of their lands".²

What offended Bigge and the exclusionists were the opportunities to mobility offered by the new colony. These disrupted the "normal" reproduction of class relations in which convicts should ideally have become wage-labourers. I would argue that the emancipist-exclusionist conflict and the Bigge Report arose out of the inability of the penal system to reproduce the dominance of a particular group - the free

1. Statistics from Robinson, op.cit., pp.72-74.

2. Ritchie, Evidence, Vol.1, p.74.

settlers - across time. The only way the penal system could reproduce itself over time was by importing new convicts or by reconvicting those already in N.S.W.. However, this did not allow the penal system to reproduce relations of subordination and domination with respect to those leaving the penal system. By giving convicts land too freely, Marsden argued, Macquarie reduced the supply of labourers and had induced "that class to consider themselves as masters who should be servants".¹ Eagar claimed that every member of the Macarthur family "were the avowed advocates of keeping the emancipated colonists for ever in state of degradation, vassalage and bondage to the emigrants. It has been the well known opinion of the Macarthur Family, or as they are more properly called in the colony 'The Macarthur Faction', that emancipists should never rise to any higher condition than that of labourer, or at most tenants to the emigrants".²

Macquarie argued that by appointing ex-convicts to government posts he was simply restoring individuals to their place in society and encouraging reformation. In opposition to this, Bigge argued that Macquarie was not returning individuals to their former status in life, but elevating them to positions well above those they held prior to their conviction and in doing so Macquarie was threatening the natural rank of society.³ This was also why Darling never invited them to dine at his table.⁴ Marsden argued that Macquarie attempted

1. Marsden to Bigge, 27 December 1820, Ritchie, Evidence, Vol.2, p.117.
2. Eagar to Bathurst, 6 November 1822, Ritchie, Evidence, Vol.2, p.214-215.
3. Bigge Report, Vol.1, pp.147-155.
4. Darling to Goderich, 21 June 1832, Colonial Office, Miscellaneous Letters N.S.W. 1832, M.L., A2146, p.104.

"to raise one class of the community and to lower the other; so as to bring bond and free more upon one common level". To achieve this, Marsden argued: "he [Macquarie] would not only have the established laws, customs, and opinions of Society to alter; but to change the inherent principles of mankind, which no power on earth can possibly do".¹ Bigge argued that it might be true that few of the free settlers lived up to the governments expectations, few came out with property, "yet it should always have been remembered by Governor Macquarie, that they were the magistrates of the colony; that it was through their means...that the control of convicts, the punishment of their offences, the moral ascendancy was to be maintained".² Even before Bigge's appointment, Bathurst expressed concern that the appointment of an ex-convict to the position of magistrate would reduce "the respect and deference which ought to be paid to his decision"³. What Macquarie's elevation of convicts to government positions threatened were those notions of moral purity and hierarchy which legitimated the incorporation of a capitalist class into the penal system.

The exclusionists struggle to reproduce their dominance outside the penal system, using an ideology which emphasised moral purity, was an explicit attempt to construct N.S.W. into a "caste society".⁴ "The term pure merinos, a design-

1. S. Marsden, An Answer...to Governor Macquarie, (Pamphlet 1826), pp.3-4.
2. Bigge, Report, Vol.1, p.147-148.
3. Bathurst to Macquarie, 3 February 1814, HRA, Vol.viii, pp.134-135.
4. The exclusionist J. Mudie in his book The Felony of N.S.W., p.6 explicitly referred to the different social groups in N.S.W. as castes.

ation given to sheep where there is no cross blood in the flocks, was applied to mark a class who were not only free and unconvicted, but who could boast of having no collateral relationship or distant affinity with those in whose escutcheon there was a blot. These pure merinos formed the top-most round in the social ladder".^{1.}

These moral distinctions were also applied to the children of the respective groups: "it was painful to witness the averted eye and the unwelcome shrug of the shoulders that the young and blameless relations of the strictly-excluded class had to encounter on appearing, as if they were intruders, at places of entertainment".^{2.} A monetary metaphor was used to characterise the relationship between these two groups of children; with the children of emancipists known as "currency", the local form of money, and those of the exclusionists as "sterling". To understand the power of this metaphor, we need to remember that currency circulated at a depreciated value in relationship to sterling. Wentworth argued that: "the covert aim of these men is to convert the ignominy of the great body of the people into an hereditary deformity. They would hand it down from father to son, and raise an eternal barrier of separation between their offspring, and the offspring of the unfortunate convict".^{3.}

The Sydney Gazette and the Opposition Press always reacted angrily to suggestions that the morality of the curr-

1. R. Therry, Reminiscences of Thirty Years Residence in New South Wales and Victoria, p.58.

2. Ibid..

3. Wentworth, op.cit., p.348.

ency lads was similar to that indicated by their parents previous criminal career. Commenting on a N.S.W. writer in the Edinburgh Review, the Sydney Gazette, 4 March 1824, claimed he would "mercilessly visit the iniquities of the fathers unto the third and fourth generation; nay to all posterity!!... Why should man be less merciful than his Maker? God does not literally visit the iniquities of the fathers upon the third and fourth generation - witness Abel and Enoch!"

Recently, Hirst has differentiated a convict society from a slave society in terms of the ability of the latter to reproduce relations of domination alongside relations of biological reproduction: "it was the maintenance of perpetual bondage from generation to generation which characterised the slave societies and gave them their peculiar and acute problems of controlling a subject people". I agree with this point, but Hirst then goes immediately on to make a statement which is totally erroneous: "the rulers of New South Wales never faced problems of this order and there was no parallel in the colony to the ideologies which justified the oppression of the slaves"(my emphasis)¹. Firstly, I believe Hirst's statement completely ignores the way the legal system in N.S.W. functioned as an ideological device for the constitution of class relations. Secondly, I believe Hirst ignores the way the moral ascendancy ideology was directed towards giving a permanence to those asymmetrical power relations which the legal system established but was incapable of reproducing, both with respect to those leaving the penal system and with respect to their children.

1. Hirst, op.cit., p.82.

(E) CONCLUSION

To say that exclusionist opposition to the rising social and economic wealth of emancipists was simply the product of prejudice is too simplistic. It leads one to ignore, firstly, the specific organisation of the rhetoric within which what passed for prejudice was being expressed and, secondly, the class context within which prejudice was formulated and operated as a political device. What passed for prejudice in the social context of colonial N.S.W. represented partly the phenomenal form within which two socially distinct sectors of capitalism, urban versus rural or commercial versus pastoral struggled for the control of the state. The idea of a moral ascendancy of a tainted class was the ideological means by which the exclusionist sought to justify the exclusion of emancipist capital from state positions of power, including juries, the magistracy and legislative houses. In doing so, the exclusionists sought a monopoly over those state instrumentalities important to processes of capital accumulation.

There had always been in British penal theory a strong element of anti-urbanism, which exclusionist pastoralists like Macarthur and Marsden picked up and conveyed to Bigge as a critique of existing state policies.¹ These had deprived them of convict labour, particularly skilled convict

1. Macarthur claimed to Bigge that rural pursuits were better "calculated to lead to the correction of vicious habits - When men are engaged in rural occupations their days are chiefly spent in solitude - they have much time for reflection and self-examination, and they are less tempted to the perpetration of crimes, than when herded together, in towns, amidst a mass of disorders and vices". Macarthur's reply to Bigge's circular, 7 February 1821, B.T., Box 27, p.6309-10; see also Evidence of William Howe to Bigge, 22 January 1821, B.T. Box 26, p.5821-2; Evidence of Archibald Bell to Bigge, B.T. Box 21, p.3633; Rev. Marsden in Ritchie, Evidence, Vol.II, p.92; See also J. Macarthur, New South Wales, Its Present State and Future Prospects (1837), pp.33, 43.

labour which was useful in the construction of urban public buildings.¹ After the Bigge Report, an element of anti-urbanism became official government policy, providing the state with the ideological means for asserting a new symbiotic relationship with capital. The new Governor, Brisbane, was instructed that convict labour was not to be so much for the benefit of the colonists, but directed more towards the realisation of penal goals. These could be best achieved by removing convicts "from the Towns, where no precautionary measure can prevent the contagion arising from evil association and connections".²

Prior to Brisbane's arrival, much of the anti-urban anti-emancipist opposition to Macquarie's administration was focussed on Principal Superintendent, William Hutchinson. He was an ex-convict and free settler magistrates were dependent on him for convicts, which they in turn distributed in the countryside. The exclusionist, pastoralist, Robert Lowe, complained to Bigge that Hutchinson distributed the best convicts to those in Sydney, under the Superintendent's patronage, in preference and at the expense of settlers in the countryside.³ Country magistrates like Howe, Nicholas Bayly, Hannibal Macarthur, John Jamison wanted more direct control over the selection of convicts sent to them. It was only when Hutchinson, Eagar claimed, refused to give these magistrates preference over others, that they stopped communicating with him on the

1. Bigge, Report, Vol.1, pp.18-19.

2. Bathurst to Brisbane, 30 May 1823, HRA, Vol.XI, p.55.

3. Evidence of Lowe, Ritchie, Evidence, Vol.2, p.50; See also Bigge, Report, Vol.1, p.18.

grounds he had previously been a convict.¹ The emancipist-exclusionist distinction here was in effect the ideological means by which rural capital voiced its opposition to urban capital.

A shortage of labour, particularly skilled convict labour, was a recurring feature of early N.S.W.. In the countryside, the magistrates, who were large pastoralists, controlled the distribution of convicts.² There is every reason to believe they used their positions to favour large settlers over small settlers and above all free settlers over ex-convict settlers. Though the distribution was supposed to be made by lot, Marsden for one, "considered it to be a degradation to the honest part of society to be put on the same level with that class that had been convicts, he allowed the former to select in the first place, such men as would answer their purpose, and then the settlers, who had been convicts were allowed to draw lots for the remainder".³ This was at the time when, the emancipist Eagar claimed, the distribution of convicts between emancipists and free settlers was one of the most important issues in the colony. He complained that poor free settlers were often allocated convicts whom they could not employ and whom they then hired out to emancipists not able to obtain convicts.⁴ From figures given by Eagar to Bathurst, which would have been inclined to overstate the emancipists case, we can calculate that in 1822 emancipists employers had on average one and a half convicts each while free settler em-

1. Eagar to Bathurst, 6 November 1822, *ibid.*, p.239-240.

2. Bigge, *Report*, Vol.1, pp.18-19.

3. Bigge, *Report*, Vol.1, p.18.

4. Eagar to Bathurst, 12 November 1822, B.T. Box 28, pp.6899-6900, c.f. 6864-6865.

ployers had assigned to them approximately 28 convicts.¹

Eagar, describing the early history of the emancipists-exclusionist controversy, argued that emancipists were often turned away from the government store and forced to sell, at reduced prices, their grain and pigs to an Emigrant Magistrate or an Emigrant Deputy Commissioner who then sold it to the government. The early civil and military officers, he claimed, also prevented emancipists from becoming importers by not allowing them to purchase directly from ships. They wanted the emancipist to become "labourers and at the most tenants tne retail traders under the Emigrants".² In the 1830's William William would reproduce this argument when he claimed the real reason why the exclusionists opposed Macquarie's lenient attitude to emancipists, as evidenced in 366 Free Pardons, 1,365 Conditional Pardons, and 2,319 Tickets-of-Leave, was not because he threw upon the colony a numerous body of tainted men, but because he released a group of men who were able "to compete with those who claim an eternal superiority or precedence over them in every station in life". Opposition to Macquarie arose not because the moral character of emancipists threatened society, but from the increased competition in trade.³

All these issues will be explored further in Chapter Eight, when we deal with the period after censorship. I have

1. Figures from Eagar to Bathurst, 6 November 1822, J. Ritchie, Evidence, Vol.2, pp.212-213.
2. Eagar to Bathurst, 12 November 1822, Bigge, Appendix, B.T., Box 28, pp.6901-6902.
3. William Williams, Party Politics Exposed..., (1833), pp.20-21.

in this Conclusion sought to outline briefly their history within the changing social structure of N.S.W.. In the next chapter I want to deal with the period just prior to the end of censorship when the first public political conflict revolving around economic issues first emerged in the N.S.W. press. What will concern me will be the ideological structure of this economic controversy.

CHAPTER SEVEN

THE TRANSFORMATION OF ECONOMIC DISCOURSE
INTO A RATIONALISED MEDIUM FOR POLITICISING

THE MASSES

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(A) INTRODUCTION

In November 1821 the new governor, Thomas Brisbane, arrived in N.S.W.. Under his administration the form and content of N.S.W.'s newspaper discourse changed. In early 1822 Brisbane relaxed state controls on what could be discussed in the Sydney Gazette, though he did not remove censorship officially till the publication of the Australian in October 1824. I will refer to the Sydney Gazette during intervening period of time as the "liberalised" Sydney Gazette. The Sydney Gazette, 6 December 1822, summed up its new position with the statement that it was now "under no unnecessary restraint or undue influence". This however did not mean it would publish any article, since it believed that loyalty and liberty had to go together if the problem of anarchy was to be avoided.¹ On the 6 November 1823, the Sydney Gazette further clarified its new editorial position, when it claimed that freedom of the press meant publishing articles only from writers possessing two essential criteria: "some portion of respectability and some degree of competence". These two criteria, synonymous with property (or power) and education, would have effectively excluded the working class from directly politically expressing itself in the "liberalised" Sydney Gazette.

Indeed, what you have in the liberalised Sydney Gazette, and later in the Opposition Press, was the increasing appropriation in N.S.W. of working class grievances and conflicts by middle class political agitators. This chapter wishes to investigate the initial ideological structure of this process;

1. See pp.534-535, 538, 573-574, 586.

especially the way the economic rights of the subjugated poor became gradually a way of reshaping state power along new democratic lines.

In the liberalised Sydney Gazette there emerged for the first time public press criticism of government policies. The whole debate revolved around new government cost-cutting measures. Many of the economic disagreements would continue into the uncensored period of newspaper discourse and, indeed, into our own modern period. These early economic disagreements in the liberalised Sydney Gazette anticipated a more extended and bitter political debate, which was to emerge with the end of censorship. Their importance lies in that they reveal the underlying the progressive social organisation of competing fractions of capital in N.S.W. into opposing political factions, which held different views concerning the distribution and production of wealth.¹

What this liberalised period also marked was the emergence of economics as a critical social science concerned with the technical means the state should be pursuing for achieving the greatest happiness for the greatest number. It marked the increasing process by which, to use a phrase of Engels, "economics took on a philanthropic character".² In this discourse the perfection of society was not located any longer

1. In this thesis I use the word fraction to refer to specialised components of capital which gain their unity through their relationship to the mode of production. By faction I refer to those corporate groups whose identity, through the mediation of political and ideological practices, cuts across the specialised nature of their economic involvement.

2. F. Engels, "Outline of a Critique of Political Economy" in Appendix to K. Marx, Economic and Philosophic Manuscripts of 1844, p.162.

simply in the moral make-up of individuals, but in society. Indeed society, through the management of the economy, became responsible for the moral make-up of individuals.

To some extent the notion of social responsibility did exist prior to this period of liberalisation. Indeed, it was inscribed as an ideological moment of the reformatory side of the penal system; it underpinned state support to new ex-convicts and emigrant settlers; it also underlay state relief to settlers in times of crises, such as the Hawkesbury floods of 1806.¹ When in 1798 Commissioners Marsden and Arden reported on the plight of small settlers, whereby of the 73 settlers Phillip settled only 21 remained, they blamed not the settlers but their circumstances.² Though the theme of social responsibility received some acknowledgement in the correspondences between government officials and in government policy, it received no such major acknowledgement in the public economic discourse of the censored Sydney Gazette. Indeed, the Sydney Gazette attributed the Hawkesbury floods to God's vengeance upon the sinfulness of the inhabitants.³

What dominated the censored Sydney Gazette was a view which attributed economic wealth and progress to the personal munificence of the Governor. He was generally presented as a symbol of plenty. The other side of this discourse blamed the poverty of individual settlers not on government measures, but on the morality of the individuals afflicted.

1. Peyser, op.cit., p.99.

2. Robinson, op.cit., p.71.

3. Sydney Gazette, 6 April 1806.

If, therefore, we are poor (in the rigid sense of the term), we cannot allow that it is a consequence of bad Government, nor of the increase of our families but of a criminal neglect of virtue, and a high relish for those vices which are not less destructive of the morals, than they are prejudicial to the physical and political strength of the people. Sydney Gazette, 4 August 1815.

In the liberalised Sydney Gazette many writers began to move away from this position. Economics was transformed increasingly into a public discourse concerned with the political mobilisation of the masses around new philanthropic notions. These no longer held the masses accountable only for their plight, but blamed their plight increasingly on social circumstances as these came to be assigned to the responsibility of the state.

(B) THE CHANGING STRUCTURE OF ECONOMIC DISCOURSE IN THE
"LIBERALISED" SYDNEY GAZETTE

Prior to Brisbane's arrival, economic discourse in the Sydney Gazette consisted primarily of applying science to the production process. The Sydney Gazette saw its task as one of circulating knowledge of new discoveries and opportunities to the agriculturalist and trader: such as suggesting to them new crops and fruits, the value of whaling and wool, the virtue of using a plough, how to preserve potatoes. The whole conception of wealth was one of cumulative addition to the production process and the improvement through science of existing techniques.^{1.}

This changed significantly under Brisbane, with the dis-tribution of wealth within society becoming the dominant theme. The economic discussions which emerged in the liberalised Sydney Gazette evidenced strong rivalry and resentment between agriculture and commerce. The allocation of resources, especially state resources, between these two sectors became a contentious issue. In particular, there emerged a strong critique of merchant, financial and manufacturing capital: with one group of writers taking up the theoretical position of the physiocrats in England by arguing that agriculture was the main, if not the sole, source of wealth in a country; all other forms being parasitically derived.^{2.} Agriculture was partly here presented as the source of a stable hierarchical social structure which would guarantee that those at the top deserved to be there and were the most moral of all available men.

1. See Sydney Gazette, 26 March, 3 July 1803, 16 December 1804, 13 January, 28 July 1805, 10 August 1806.

2. See pp.361-362, 366, 376-377.

The culture, of lands, and the breeding of cattle, has ever been an inexhaustible fund of wealth in all countries, where those profitable callings have met with support and encouragement by wise and beneficent maxims of state and policy. It is from the grazier and husbandmen that the most elevated ranks (esteemed as such by men) are furnished not only with the necessaries, but even the luxuries of life. Sydney Gazette, 14 June 1822.

Opposing these writers were another group, who pointed out that the agriculturalist was dependent on the merchant's credit for his prosperity and luxury items. These writers argued that the merchant did more than circulate wealth produced by agriculture; that the merchant's profit was a separate addition to society's collective wealth.¹ The Sydney Gazette published both points of view, though I believe it tended to side more with the physiocrats. As we shall see shortly, many other writers supportive of the merchants cause also thought so.²

At the centre of this debate, over the relative economic advantages to be gained from agriculture or commerce, were a number of government austerity measures. Brisbane was ordered to reduce Macquarie's large public works program and to allocate the Crown's convicts to large pastoralists. He further reduced government expenditure by reducing the price of grain from 10 shillings to 8, and the price of meat from 5d. per pound to 4d.. Brisbane's administration also substituted Spanish Dollars for Treasury Notes in paying for all local

1. See pp.373-374; see also p.406.

2. In the Sydney Gazette, 1 July 1824, "Scaevola" felt the need to point out the contribution made by those in commerce to the colony's progress. This, he claimed, had not been sufficiently done by the Sydney Gazette.

produce and the wages of its staff. All government financial transactions were to be reckoned in Spanish Dollars, which were regarded as "currency" and thus circulated at 20 percent below the value of sterling.¹ By substituting Spanish Dollars for Treasury Bills, the colonial government immediately reduced the administrative cost of N.S.W. to the British Treasury by 20 percent.

"Mercator" began the economic debate on the 17 May 1822. He criticised the fluctuating value of Treasury Bills in relation to a bushel of wheat. He believed such fluctuations to be detrimental to industry and commerce and for this reason supported the introduction of Spanish Dollars, arguing that: "the only check is a fair metallic currency; for the ounce of silver or gold, however it may change in nominal price, changes less in intrinsic value than any other species of property, and is current throughout the world". He also supported the government reducing the number of Treasury Bills as a measure which would "have effect of stimulating enterprise in improving our domestic resources both to diminish our dependence on other countries, and to increase our powers of remitting manufactured returns". On the 7 June 1822

"Mercator" was attacked by an anonymous writer, who argued that the colony's ultimate object should be to adhere to the mother country's policy of supplying its colonies "with manufactured articles, and to receive in return the staples of

1. The writer "Democritus", in the Sydney Gazette, 5 July 1822, argued that the complaint was not over the importation of the dollar, but over "the government compelling the public to buy this merchandise at its own price". He complained that the intrinsic value of the dollar was 4s.2d. yet the public was forced to buy it at 5 shillings. On this point see also S.J. Butlin, Foundations of the Australian Monetary System 1788-1851, pp.143-150.

raw produce of the soil". This writer cast disparaging remarks on the notion of N.S.W. exporting manufactured goods. He argued that the exports necessary to pay for imports should be of an agricultural kind like hemp, flax and tobacco. "Mercator" was further criticised for wanting N.S.W. to jump ahead of the agricultural stage, when all school boys knew that all societies needed to go through different progressive stages: 1. The Hunter; 2. The Shepherd; 3. The Agricultural; and 4. The State of Manufacturers, Arts and Commerce.¹ "Mercator" replied in the Sydney Gazette, 19 July 1822, to these criticisms stating that his use of the word "manufacture" was inaccurate and that he neither expected nor wished to see in the colony a population of manufacturers.

Such views supported the British and local government attempts to stifle the emergence of a manufacturing industry in N.S.W.. Bigge in his report pointed out the dangerous competitive consequences to Britain of a colonial manufacturing industry. Apart from threatening Britain's overseas markets, the colony's dependence on the mother country for its supplies would also be reduced. Consequently Bigge recommended the assignment of convicts into the countryside, recognising it would hurt urban tradesmen and manufacturing.²

1. The early run up to this debate can be found in a letter by "Australis Incola", Sydney Gazette, 26 July 1817. He wanted to encourage manufacturing for the employment of the colony's youth. The writer "Atticus", Sydney Gazette, 20 September 1817, responded to his letter by claiming that manufacturing was dependent on agriculture for its raw materials and if not this led to the ruinous importation of raw materials. "Atticus" believed: history demonstrated "that the extension of agriculture has in every state, colony, or kingdom, occupied the first attention of its inhabitants"; that the colony's population was too small to sustain a manufacturing class; and that apart from wool the colony produced no single item which could be manufactured for export.

2. Bigge, Report, Vol.1, p.158.

Apart from settlers supplying grain and meat to the government, some of the other main losers from the government's cost-cutting measures were merchants. In the last 12 months, the writer "Mercator" in the Sydney Gazette, 19 July 1822, claimed no store receipts had been issued at Sydney. The government had paid for its provisions sometimes in Treasury Bills but mostly in Bank notes. The only money issued by the government that could be transformed into British Bills "were made at the out-stations". Even then the amount of dollars paid did not exceed £5,000. An address to Governor Brisbane claimed that as a result of the introduction of Spanish Dollars: the merchants access to foreign exchange would be reduced by 20 percent; the scarcity of Treasury Bills would push up the cost of imported goods, as merchants were forced to offer greater discounts for Treasury Bills; and that the rising cost of imported goods would push up the price of labour.¹ This Address was supported by many other writers in the Sydney Gazette, one of whom, "An Old Emigrant Settler", claimed that all in all the poor settlers' income would be reduced by 30 percent.² Another loser was the Bank of N.S.W. which, under Macquarie, had an arrangement whereby it could exchange its notes for Treasury Bills. Thus the Bank could obtain as much sterling as it needed simply by issuing its own notes which circulated not at the depreciated value of local "currency" but on a par with sterling.

1. This petition was published in the Sydney Gazette, 30 August 1822.

2. Sydney Gazette, 20 September 1822, "An Old Emigrant Settler"; See also the letters by "A Colonist" in Sydney Gazette, 27 February, 8 May, 24 July 1823.

The Bank of N.S.W., in fact, received a 20 percent subsidy from the state and since it was comprised mainly of emancipists and merchant shareholders, so did they.^{1.}

Governor Brisbane replied to the Address by criticising the previous arrangement between the Bank of N.S.W. and the government. It had resulted in an over-issuing of paper-money by the Bank which had reduced the value of the pound and thereby increased the number of Treasury Bills the government needed to pay for its commitments. Brisbane claimed that a Bank note could only purchase 16 shillings of silver, yet the public was forced to trade in it for the value of 20 shillings; the Bank of N.S.W. had depreciated the currency and everyone's income by 20 percent and, if allowed to continue, would ruin the colony.^{2.}

Brisbane further argued that: "Paper, to be perfect as a circulating medium, must be on a par with gold or the silver it promises to pay. To this end it is essential, however, that the issues of that paper should be placed under some other control than the fluctuating discretion of a few Bank Proprietors". What Brisbane emphasised was the importance of taking economic power, especially the control over the value of money, out of the arbitrary hands of a few individuals by placing it in the hands of an anonymous medium of exchange, where the value of money was determined by the silver in the dollars. It would be all too easy to criticise the government's view of gold and silver remaining relatively

1. Butlin, op.cit., p.145; Ellis, Lachlan Macquarie, pp.421-2.

2. Sydney Gazette, 30 August 1822, "His Excellency's Reply".

constant in value; and opponents of the government did.¹
 But what this ignores was the emergence of an ideology which emphasised the virtues of anonymity, which asserted the importance for the public welfare of placing social power in impersonal mechanisms. In later chapters we will see how, with the end of censorship, this demand moved from the realm of economics into the realm of politics.

Brisbane was supported by many other writers equally critical of the "fictitious" value of the Bank of N.S.W.'s notes. In general, these writers argued that the colony's real trading problem was not reduced government expenditure, but imports exceeding exports. The rising value of Treasury Bills and imports was attributed to merchants competing for Treasury Bills to fund their excessive imports. The Bank of N.S.W. was criticised for issuing too many of its notes in order to purchase the fewer remaining Treasury notes. It was too much to expect the Commissariat to transform Bank notes into Treasury Bills so as to governmentally fund the excessive imports of merchants.²

The Sydney Gazette, 28 June 1822, had originally opposed the Dollar Standard because of the damage it might do to the Bank of N.S.W.. On 6 December 1822, it changed its mind and stated that it was the bounden duty of all inhabitants to support the government by which they were protected and supported. Those who opposed the Dollar Standard, the Sydney Gazette believed, consisted of three sorts: (1) those who

1. Sydney Gazette, 31 May 1822, "Continuation of the Reply to Mercator", 20 September 1822, "An Old Emigrant Settler"
2. Sydney Gazette, 14 June 1822 (Anonymous writer); 28 June 1822 "A Subscriber"; 24 July 1823; 14 June 1824 "Anonymous writer"; See also Butlin, op.cit., pp.145-146, Footnote 11 on p.146.

had no regard for Old England and the national debt she was suffering under; (2) those who enjoyed "opposing the powers which God has placed over them"; and (3) those who tired of mercantile speculation intended to leave the colony with as much sterling as possible.

On the 27 September 1822, the Sydney Gazette published a letter from "A Colonist". He supported the introduction of Spanish Dollars, arguing that none would suffer except "the merchant will not be able to realise the immense the shameful profits, which many of them have hither to done; aggrandising themselves at the expense of the real Colonists, the cultivators of the land; for all others can only be considered drones, who fatten on the labours of the agriculturists". This writer pointed out that it "has been the reproach of Englishmen to be called a nation of shopkeepers". He argued that government measures which disadvantages "the real settler, the occupier of the land", went unnoticed, whilst those which affected shopkeepers led to dreadful outcries "and the whole vocabulary of 'oppression and ruin' resound, from shop to shop, with the utmost anxiety of alarm and apprehension". He thanked the government for its enlightened policy of seeking to "alleviate the real oppression which the settler has so long undergone from the mercenary and overbearing trader". Similarly the writer, "A Subscriber", blamed the indebted state of landed settlers on the ready ability of individuals to manufacture paper currency "far exceeding the wants of the colony".¹

1. Sydney Gazette, 13 September 1822, "A Subscriber".

(C) ECONOMICS AND THE POLITICISATION OF THE POOR

The defense of the oppressed emerged as a dominant political idiom in the "liberalised" Sydney Gazette and especially in the uncensored Opposition Press. We saw in the first chapter, that this idiom was already playing a prominent ideological role in introducing reforms into the British penal system. Here the rights of defenceless prisoners to life, to shelter, food, clothing and warmth - their judico-medical rights - became a way of transforming the conceptualisation of state power from a personal paternalistic idiom into that of a liberal, humanist, bureaucratic idiom. What occurred in N.S.W., during the 1820's, was the gradual diffusion and application of this discursive strategy to other areas of social life marked by confrontation or a perceived arbitrary use of power. Struggles emerged, especially with the end of censorship, to liberate individuals from despotism, religious and social bigotry, racism, ignorance and poverty. These struggles to free individuals from unholy forms of determinism, as in the case of the defense of the family, became a means of proliferating institutional structures, especially those of the state. It was being called forth constantly to assume responsibility for the management of society and the economy; to use its pedagogic and economic influence to remove those sources of disquiet in society which prevented the maximum realisation of happiness.

This section analyses the way the rights of poor and middle class families to a livelihood was becoming, in the liberalised Sydney Gazette, part of these discursive strategies. The focus of discourse in the liberalised Sydney

Gazette was on questioning the distribution of wealth between agriculture and commerce in class terms, whether it either exacerbated or mitigated the development of class inequalities. For example, "An Old Settler" criticised the lack of buyers for the wheat of agriculturalists, such as himself, by blaming the merchants who were unwilling to build flour mills so long as they could import flour. He pointed to Mr. Cooper, who was building a new distillery, as the only merchant willing to take the settler's grain. This writer argued that the colony would only begin to prosper when a few more merchants gave up their selfish ways and undertook similar domestic manufacturing ventures. This however was unlikely whilst they could obtain more from one ship than from the two or three year operation of a mill or distillery. "An Old Settler" implied such practices represented a conspiracy by merchants to deprive the poor of their income. Contained in this writer's arguments were also embryonic socialist notions, which identified labour as the source of all profit and wealth, whilst accordingly demanding a just and equal remuneration for the poor.

The interest or comfort of us, poor settlers, is not studied; so that our money can be screwed out of us, that is all these disinterested merchants require. The way the merchants of Sydney assist the poor settler is by taking from him 20 Pounds for a chest of tea that cost 3 Pounds! ...There is no wonder, then, that these men of money despise us poor settlers, and will not deign to consider the interest of those who are helping them to live in great houses, keep large retinues, support extensive establishments, and roll along in their splendid equipages! The merchant sits very composed behind his counting-house, reckoning on his 50 and 75 per cents, while us, poor animals of settlers, are earning a loaf for our wives and families by the sweat of our brow.

Sydney Gazette, 9 December 1824, "An Old Settler".

The ultimate reference point around which this economic debate came to gravitate was the ability of poor and middle

class families to survive as moral and social units. "An Old Emigrant Settler", who was opposed to the government's policies, argued that in exact proportion as prices were low so would the Sydney pubs be full of grain growers searching for their fulfilment outside the home, whilst the peace of the domestic household would be correspondingly disrupted.

The settler's wife and children will in vain look through the ill-shaped window of their little dwelling for his return from market at the accustomed hour... they shall at length hear the wretched husband at a distance shouting the song of drunkenness, and his entry into his cot shall be marked by the guilty ferocity of the wretch who is conscious of having robbed his own offspring! reproaches will be generated on both sides, and the domestic fireside will be converted into the place of fiends.

Sydney Gazette, 6 March 1823, "An Old Emigrant Settler".

Here the civilising process was partly seen to lie in the acquisition of homely comforts. The family which was well off was able to domesticate its inhabitants. On the other hand, poverty was seen to brutalise individuals and to tear the family asunder. Thus "An Old Emigrant Settler", who criticised low government prices also wanted the government to tax very moderately the domestic necessities consumed by the poor. He argued that the work of Colquhoun and the Report of the House of Common's Committee on Mendacity proved that poverty was the cause of "debasement and demoralisation, the certain effects of poverty without hope". He warned that poverty in N.S.W. was leading settlers to live a life below that of English gypsies, that their minds and those of their children were "fast degenerating towards the brutality of the Aborigines". The savage state of the Aborigines, this writer claimed, was not noble but barbarous; what distinguished and aggravated the condition of the poor settler, was that they, unlike the Aborigines, were conscious of their "lost, fallen

and degraded state".^{1.}

In opposition to the government's economy measures, a concern emerged in the liberalised Sydney Gazette, and later in the Opposition Press, with using the rights of families to a livelihood to shape state taxation in such a way that it equally affected rich and poor in proportion to their incomes. This principle of equity underpinned criticisms of flat-rate taxes, such as custom duties. "An Old Emigrant Settler", who criticised the inequalities of a taxation system based on custom duties, argued that whereas one of say 10 percent simply deprived the country squire of his hounds, it at the same time deprived "the mechanic's wife, or the children of a banker's clerk, of a winter's blanket; or, of a portion of the fuel of their peaceful winter's fire; or, of the butter and sugar with which heretofore they used, at tea, to regale themselves". "An Old Emigrant Settler" queried the equitableness and reasonableness of this system. He also raised, in the press, for the first time, the political question of "if country squires and princely merchants were not members of Parliament, would such equitable statutes...ever pass in the Lower House?" The latter question, though not strictly applicable to N.S.W., nevertheless, cryptically raised the question of the suitability of confining political power exclusively to the wealthy. "An Old Emigrant Settler", however, went on to deny some of the innuendo of political radicalness contained in his argument, by claiming he did not wish to elevate inferior men into the House of Assembly, that he was much too fond of an aristocracy for that. In effect, he was primarily arguing for a democratic living standard.

1. Sydney Gazette, 6 March 1823, "An Old Emigrant Settler".

Every citizen has a right to the necessities of life when others are living voluptuously. The rich have a right to their luxuries only when the poor are provided with their necessities; for, as all government and law are for the benefit of the many, and not for the few, and as (according to Paley) all right of property is founded on the laws of the land; therefore the poor have not only a right to their loaf untaxed, but, in case of employment failing, a working family has a right to be fed gratis. On this principle the poor laws were originally founded by our rude but honest fathers.
Sydney Gazette, 15 May 1823, "An Old Emigrant Settler".

The same writer went on to criticise the Edinburgh Review and Malthus' "no-poor-rate system", as being against that fundamental axiom of morals and legislation based on sympathy, which required one to do to others as one would have done to oneself. He criticised the present economy of the government as "extravagance in disguise" which would turn N.S.W. from a rising kingdom into a place of secondary punishment, that is "a second Coal River on a vast scale". This would be achieved by destroying the economic prosperity of the family:

...another harvest, or two at most, will bring them our pockets as low as he himself can desire. What little we have then left, we shall expend in rum; the more naked our children, the greater will be our despair; the rage of intoxication will adequately deteriorate and brutalise the Colony; so that we should be no longer considered a rising Kingdom...but a second Coal River on a vast scale.
Sydney Gazette, 15 May 1823, "An Old Emigrant Settler".

Underlying these arguments was the newly espoused idea that poverty was the cause, rather than the effect, of immorality. A new economic determinist view of society emerged in which the state's policing role, of preventing crime, came to be used increasingly to praise or to question the state's management of the economy, as this was seen to mitigate or to exacerbate economic divisions within society. Thus, "An Old Settler of the Middle Class" opposed the new government's economy measures on the ground they would increase poverty and

consequently crime. He thought the convict barracks at Sydney, Parramatta and Windsor should be treated as "a political barometer, by which government may always safely regulate the price of our grain and animal food. When these asylums are nearly empty, our worthy Chief may venture to lower the price of produce;... But, if after the first or second reduction of prices, the penitentiaries gradually begin to fill, let it be a warning to elevate them to their old standard. No test can be more infallible of the impolicy of continueing the depreciated prices."¹. In a later letter, the same writer claimed that the introduction of Spanish Dollars would increase immorality, theft and murders: "Our criminal courts will be doubly filled with unhappy culprits and the colonial police expenses will be much increased".². This writer also complained that the reduced price of eight shillings per bushel he received from the government for his grain was unacceptable to his creditors, whom he had agreed to pay in sterling. Furthermore, he could only sell 30 bushels of wheat to the government instead of a customary 400, whilst at the same time, the government had purchased foreign American flour, thus depriving settlers of a market and merchants of Treasury Bills. Instead of being in a position of financial independence, where he supported six or eight prisoners, he and his eldest son would have to become labourers so as:

to obtain a living for a wife fast declining in years, and the younger branches of the family, who in the event of an unforeseen accident happening to me, will have no recourse, but to make application to Governor for relief, or to the Benevolent Society, as well as being exposed to

1. Sydney Gazette, 31 May 1822, "An Old Settler of the Middle Class".
2. Sydney Gazette, 7 June 1822, "An Old Settler of the Middle Class".

all the miseries, all the immorality, too often caused by poverty and despair. Sydney Gazette, 7 June 1822, "An Old Settler of the Middle Class".

In the same article, "An Old Emigrant Settler of the Middle Class", claimed that the introduction of Spanish Dollars would ruin "very many of the small settlers, and those of that class who like myself may now be styled the middle society, numbers of whom have, heretofore, fondly anticipated the prospects of being somewhat independent". On 16 August 1822, "The Old Settler of the Middle Class" repeated his claim that government economic policies were destroying "an aspiring middle class"; settlers were being forced to sell their wheat at below cost; to slaughter their female cattle, often just before calving; and to irretrievably mortgage their farms. This led to: "despair, idleness and dissipation and all their consequent miseries... In fact, Mr. Editor, I fear we are fast approaching to a state of only two classes of Society, the rich and the poor. When the wealthy man will have the high minded gratification...of obtaining that the prospect of being rivalled, by an aspiring middle class, must be removing far beyond any chance of success during his life-time."¹.

There had always existed in the N.S.W. press a sense of sympathy with the poor. What was new about the early 1820's was that this came to be increasingly transformed into a sense of class and political solidarity. The discussion was partly one of the rights of the poor to the necessities of life, but also one of their right to luxury goods, to happiness. Here the emphasis was no longer simply on production, instead Adam Smith was praised for having demonstrated "that consumption is the great secret of wealth".² We may feel some

1. Sydney Gazette, 16 August 1822, "The Old Settler of the Middle Class".

2. Sydney Gazette, 15 May 1823, "An Old Emigrant Settler".

cynicism about this debate,³ for those who supported the rights of the poor to luxury items, particularly spirits, were also concerned about the ability of merchants to import these items, given the new government's economy drive. For example, "An Old Emigrant Settler", who supported the Bank of N.S.W. and opposed the new Dollar system, also denied that this had resulted in too many imports into N.S.W.. He claimed that a family in N.S.W. could only get one out of every three commodities it might want, and that every town in the back woods of Western America, with a similar population to Sydney's, had five times, if not more accurately, 20 times the stock of those at Sydney.¹ In a later letter, the same writer argued that: "the people of New South Wales will never be reformed of their inebriety until they also [like the Americans] can afford to drink a pint per family per day". In America, where the duty on spirits was one pence per gallon, more spirits were drunk, yet the people were more sober than in England because they could afford to regularly, yet moderately, drink in their own homes.²

"A Colonist" responded to this argument, by asking the following question of "An Old Emigrant Settler":

Is it for some over-gourged vulture that he has taken the field, who trembles lest the new era should pervert his further fattening upon the starving settler, whose suffering the Emigrant has so feelingly, and I believe so accurately described?

Sydney Gazette, 8 May 1823, "A Colonist".

The general argument of those opposing the merchants and supporting the government's economy measures was that excessive imports were used to bring in excessive amounts of drink which was the source of all crime. They argued that the poor

1. Sydney Gazette, 20 September 1822, "An Old Emigrant Settler".

2. Sydney Gazette, 6 March 1823, "An Old Emigrant Settler".

in N.S.W. could only enjoy the luxury of a glass of grog when the poor of England could afford to be fed. The latter argument, however, did not deny the principle of an egalitarian minimum standard of living, but saw it in international terms. The writer "A Colonist" accused the cold, calculating, self-interested merchant of being the only individual who could contemplate the following British picture of distress with calmness and complacency.

But look at home England! Can the peasant there find the means to obtain where-with to produce intoxication sufficient to stimulate him to drunken song, and dance? Look at him, starving on the naked floor of his desolated hut, contemplating the miserable remains of the forlorn partner of his want, who perhaps has just given up her spirit with absolute exhaustion! Look at his expiring babes, endeavouring to draw support from the bosom, cold in death, from which the poor innocent's last supply is now withheld forever! Sydney Gazette, 8 May 1823

The reply of "An Old Emigrant Settler" to this argument was that the colonists would be only too happy to alleviate the burdens of England if they could. This, however, could be best achieved through their employment of convicts, which in turn was dependent on the government's price for their produce. Any attempt by the government to reduce its costs at the settler's expense would only be short term and add to the government's costs in the long run. This writer went on to argue that agriculture was "the only source of wealth in a country destitute of mines by nature, and of fisheries for want of capital to conduct"; and that the government must be careful to preserve the fountain of wealth. He concluded:

The greater the prices which government gives for colonial produce in our present infantile state, the greater will be our demand for convict labour; the less will be the amount of the bills, at least in the long run, which will have to be drawn by our Commissary on the Treasury; the greater will be the reformation of the convicts; and, above all, the greater will be the virtue of the rising generation.
Sydney Gazette, 31 May 1823, "An Old Emigrant Settler".

The Sydney Gazette, 13 February 1823, claimed criticisms of the switch to dollars on behalf of poor agricultural settlers were in reality coming from "the hungry shopkeeper who is prompted thereto by the vulturine merchant, whose only aim is to make the former the instrument of ruining the settler". On the 27 February 1823, "A Colonist" supported the Sydney Gazette, it had "most ably exposed the real wolf who is threatening the sheepfold...the class of individuals who you have well designated 'hungry shopkeepers', acting upon the impulse of 'vulturine merchants'".

"A Colonist" praised the fact that instead of a quarter of a million pounds being drawn from the British Treasury and Britain's starving millions, only £40,000 would be drawn this year. He claimed that the resulting reduced trade had resulted in "much fewer mortgages and warrants of attorney taken than formerly by the hungry shopkeeper, from the improvident settler". Reduced government expenditure saved the land settler from the "'hungry vultures', who alone have fattened by the prodigality with which bills on England were until lately drawn." Claims of mischiefs resulting from the government's measures were "in reality nothing, but a phantom, a ghost conjured up by the avaricious trader for his own base mercenary purposes". The dollar system by pushing up the price of rum, would save the settler from himself. "A Colonist" further believed that the Bank of N.S.W.'s charter should be ended so that these men would have to rely on their own resources and so that the colony would be stimulated to find an export. In the meantime, the colony should consume only colonial produce and avoid unnecessary foreign articles.

"A Colonist" thought the greatest evil which had even fallen upon the Colony was the establishment of the Bank of N.S.W.. This had allowed the hungry shopkeeper and vulturine merchant to carry out their trade of discount upon discount, using false capital and at the expense of the indebted settler whose land they acquired.¹ "A Colonist" argued that all statesmen regarded banks in small communities as injurious. He wanted the government to stop the system of Bill discounting or to heavily control it, to prevent traders dealing in false capital:

If instead of trading discounts, an establishment was formed for the assistance of agriculturalists, upon equitable terms, such a one would answer the most useful purposes; for it prevents the settler being subjected to the vulturine claw; his ready penny...

Sydney Gazette, 8 May 1823, "A Colonist". 2.

On the 6 March 1823 the Sydney Gazette reported that some individuals had complained about the letter by "A Colonist" in its 27 February 1823 issue and "have insisted that we ought to take it upon ourselves to reject all matter that may be offensive". The Sydney Gazette responded that some individuals seemed to prefer slavery to freedom and in reality wanted "a hampered press...that will either please all or say nothing. To be sure it is no small matter to attack an army of shopkeepers or merchants, but it is pure ignorance to say that it is our fault". The Sydney Gazette tried, to some extent, to distance itself from the backlash "A Colonist's" letter had created by arguing that its task was to print all letters coolly written whether it agreed with their opinions or not.

1. Sydney Gazette, 27 February 1823, "A Colonist".

2. "A Colonist" repeated his claims that the Bank of N.S.W. had always been a public evil in the Sydney Gazette, 29 July 1823.

On the 24 April 1823, the Sydney Gazette reported receiving a letter threatening the life of its printer, Robert Howe. The convict school teacher Lawrence Halloran, who educated the children of wealthy Sydney inhabitants and emancipists was convicted along with another convict Thomas William Parr.¹ In the court trial it was stated that the letter was seen either prior to being sent or after by many prominent emancipists and traders, such as James Underwood, Samuel Terry, Michael Hayes and James Hankinson. In the resulting trial for libel it was reported another press was on its way out to the colony.²

In its 1 July 1824 issue, the Sydney Gazette discussed rumours of the establishment of an Opposition Press in the colony. It believed the colony was not ripe for removing censorship and that the prosperity of N.S.W. needed no such aid, especially since the government in the last 3 years had progressively relaxed letters to the press. The Sydney Gazette stated it would never allow its columns to be opened up to anything contained in an opposition journal, thus denying it an effective opposition role. The Sydney Gazette then went on to identify those whom it would be refusing to open an avenue to in its columns, implying that it was opposed to these groups and that they were behind the establishment of a rival paper.

We have no objection to hail and assist a professional man in the pursuit of honest industry, but we have no notion, after 22 years hard service, to enter the bits with milkmen and dealers, millers and merchants, horse jockies and inn-keepers &c &c. We are by no means angry, but more amused with such a motley group, as all trades must live.

1. Bigge reports that D. Halloran was preferred by the wealthy inhabitants of Sydney over the government school; Bigge, Report, Vol.1, p.104. The Monitor, 26 May 1826 reports that Simeon Lord sent his children to Dr. Halloran's School since 1819.
2. Sydney Gazette, 24 April 1823.

(D) CONCLUSION

The importance of the period 1822 till the end of censorship in October 1824 was the way the legitimization of the state came to be founded on its problematic management of the economy. Previously, this relationship was unproblematic in the press, with the emphasis being on improvements in morality being the source of economic advancement. As we have seen, this relationship was reversed in emphasis in the liberalised Sydney Gazette, with writers arguing that poverty was the source of immorality and crime. Ideologically, the economy was increasingly receiving priority in the determination of social and cultural factors. Social welfare theories concerned with the moral unity of the family unit, increasingly became concerned with it as a unit of happiness and consumption which the state had to minimumly ensure. State intervention in society became increasingly predicated and located in an ideology which emphasised that the state should govern through the economy.¹

I now raise the speculative question of whether there was not something about economics which allowed the N.S.W. state to initially provide this as the forum within which criticisms of itself could be undertaken. Was it perhaps not the fact that economics was the most axiomatised of all the embryonic social discourses and made the most pretensions to a science? By allowing criticisms to be voiced in this new rational medium was the state being really disadvantaged or was it not showing itself to exist in relationship to a socratic dialogue

1. Much of the above has been inspired by D. Meuret "Political Economy and the Legitimation of the State: A Detour via the Eighteenth Century", Ideology and Consciousness, No.9, Winter, 1981-2.

which was contributing to the progressive rationalisation of society? The writer "Mercator", who began the economic debate in the Sydney Gazette, 17 May 1822, started off his discussion with the statement that: "Perhaps a newspaper can seldom be more usefully or legitimately employed, than by giving publicity to such discussions, properly conducted. Truth is best elicited by comparison of opposite opinion".

No doubt the emergence of economics in the press, as the technical science concerned with providing the greatest happiness for the greatest number, marked partly the popularisation of this technical enterprise. However, this economic discourse also represented the increasing construction of the art of government into a scientific, technological enterprise. The economy was linked ideologically to certain social and moral results which in turn constituted a "political barometer" for measuring the scientific effectiveness of the state's interventions in the economic domain.

Underlying this government through the economy was a philanthropic concern with an equitable minimum standard of living. Previously, economic discourse in the Sydney Gazette was dominated by a concern with disseminating new discoveries, with suggesting new products and methods to add to the cumulative stock of existing industry. This notion of economic progress did not disappear but in the liberalised Sydney Gazette formed the premise for a new economic discourse concerned with the relative distribution of resources for the most efficient economic results. A conflict emerged between various sectors of society all defending the democratic rights of families to unity and comforts as a means of defending their own sectional interests.

In the next chapter, I deal with this discourse in the uncensored press. The popularist political mobilisation of opposition to the state on economic issues was built upon and reflected divisions within the dominant class of N.S.W.. I begin the chapter with a general introductory statement of the position of the uncensored press in N.S.W. society. I then examine its role in articulating an ideology of personal liberty and freedom which reflected the general interest of capital in freeing human nature from state repression and interference. After which I analyse how the Bigge Report and new government policies were seen to disadvantage the urban manufacturing and petty bourgeois sector of the economy in favour of large scale international capital. The distribution of land and convict labour and the issue of taxation were used in the press to unite a whole series of social groups into a political force opposed to the exclusionists and the crown. This opposition increasingly took on a political demand for democratic representation and some form of political independence.

CHAPTER EIGHT

THE EMERGENCE OF A FREE PRESS AND ITS ROLE

IN MAKING THE STATE RESPONSIBLE FOR THE

PROGRESSIVE RATIONALISATION OF ECONOMIC AND

SOCIAL LIFE

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(A) INTRODUCTION: BRIEF OUTLINE OF THE HISTORY AND POSITION
OF THE PRESS IN COLONIAL N.S.W. SOCIETY DURING THE 1820'S

The Australian's publication on the 14 October 1824 ended the period of newspaper censorship. Its editors, Doctor Wardell and W.C. Wentworth, did not ask Governor Brisbane's permission to begin publication.¹ Nor were they legally required; English law only required that a newspaper's printing press be registered with a magistrate.² Being an independent newspaper, Brisbane and the Crown's law officers believed the Governor did not have the power to regulate its contents without going to the Legislative Council, which was as yet not operating. Brisbane therefore thought "it most expedient to try the experiment of the freedom of the press". On application from its printer, Brisbane also stopped censoring the Sydney Gazette so as not to competitively disadvantage it.³ Additional factors which might also have influenced Brisbane was that: (1) there was already an independent newspaper being printed in Tasmania; (2) the 1823 N.S.W. Act, which separated the jurisdiction of N.S.W. from that of Tasmania, also required the Chief Justice of the Supreme Court to declare that colonial laws did not as far as practicable contradict those of England, where Government censorship was prohibited; and (3) the removal of censorship also occurred at a time when the British government was introducing more liberal-democratic institutions into N.S.W.. The 1823 N.S.W. Act established a Legislative Council to advise the Governor; a Supreme Court with the power to veto any government legislation was also established as a further

1. Brisbane to Bathurst, 12 January 1825, HRA, Vol.XI, pp.470-471.

2. J.M. Wicks "Aspects of the Colonial Career of Robert Wardell", ADHS, Vol.16, 197, p.6.

3. Op.cit.

check upon the Governor; and trial by jury in civil cases was also introduced provided it was agreed upon by both parties. A free press was another experiment in this gradual introduction of English political institutions.

The Australian claimed immediate success and to have sold out its first issue at 625 copies,¹ more than half its sales were in Sydney.² The Sydney Gazette, 10 October 1825, claimed a circulation of 576 (6 years earlier it had claimed, on the 25 December 1819, a circulation of less than 300). Disturbed by the competition of its rival, in 1825 the Sydney Gazette's editor published briefly another newspaper, Howe's Weekly Commercial Express, "for the purpose of steering a middle course, with reference to politics, between the Sydney Gazette and the Australian".³ Partly an attempt to undermine its rival's unique political position, the new newspaper was perhaps more of an attempt to capture the support of commercial groups which the Australian, as we will see, was apt at cultivating and which, as we have seen, the Sydney Gazette was apt at alienating. Howe's Weekly Commercial Express ended the same year it began; with its editor choosing instead to publish the Sydney Gazette twice instead of once a week.⁴ In May 1826, the Monitor joined the ranks of opposition newspapers.⁵ It was printed by E.S. Hall, who

1. Australian, 6 October 1825; see also Australian, 13 October 1825.
2. Australian, 13 October 1825 listed the areas where it was sold. This list shows that 333 copies were sold in Sydney out of a total of 651 copies.
3. Sydney Gazette, 24 May 1828.
4. Ibid..
5. The Monitor was owned originally by E.S. Hall and A. Hill. On 2 March 1827, the Monitor noted that Hill had sold his share of the partnership to Hall.

had come out to the colony in 1811 with a recommendations from Wilberforce. Hall had been active in philanthropy in Britain and later in N.S.W.¹. On 11 June 1826, the Monitor claimed that in its third issue it had reached almost 400 subscribers. In April 1827 the Gleaner began publication, but its life was to be less successful, lasting only five months. It was printed weekly by L.H. Halloran and Arthur Hill and had a circulation of 200.²

In this thesis I concentrate on the Australian and the Monitor, the two longest surviving opposition papers, as the main exponents of the dominant ideological tendencies within which opposition to State policies was formulated.

This chapter does not document the chronological progress of legislative issues and conflicts in N.S.W. colonial history. Like the rest of the thesis it is not an exercise in constitutional history. Instead it explores issues from the point of view of their revealing the changing ideological framework within which the state was becoming politicised. What the emergence of a free press represented was the emergence of a new political organisation outside of the state for mobilising popular agitation against the state.

...without the aid of the gentlemen of the press, it becomes a matter of physical impossibility to give any publicity to complaint or remonstrance. 3.

Though uncensored, the Sydney Gazette agreed with Hannibal Macarthur's description that it still was "the Organ and the

1. J.A. Ferguson, "Edward Smith Hall and the 'Monitor'", RAHS, Vol. 17, 1930, pp.166-167, 169-170.
2. Clark, History, Vol.2, p.164.
3. Sydney Gazette, 24 July 1824, copied from the Asiatic Journal, 23 October 1823, titled "Mr. Buckingham and the Indian Press".

Journal of the Government":

we unhesitatingly avow, that we think it a duty, from which we shall never swerve, to protect and forward the interests of Government at every opportunity...

Sydney Gazette, 22 September 1825.

The Sydney Gazette claimed that its was a free and loyal allegiance to the Crown and denied that the government directed it on what it should print.¹ No doubt the approximate £150 revenue the uncensored Sydney Gazette received for the printing of Government Gazettes and Public Advertisements helped to make up its allegiance.² Previously, this was done free in return for the use of the government's printing equipment which, with the removal of censorship, was sold to the Sydney Gazette allowing it a semblance of independence.³ Not until 1832 did the government print its own Gazette and finally separated the state from the press. The Australian and the Monitor printed government notices and advertisements for the benefit of their readers, but at no cost to the government. They questioned the government's need to pay the Sydney Gazette for the printing of that which they did for nothing and often called the Sydney Gazette "the paid official". This was not entirely inappropriate, for even the Colonial Secretary, Murray, directed Governor Darling to use government financial pressure to control what the Sydney Gazette printed.⁴

Adapting Adorno and Horkheimer's general thesis in Dialectic of Enlightenment, I would argue that the end of censorship in N.S.W. marks an intensification of the process where-

1. Sydney Gazette, 11 April 1829.
2. Murray to Darling, 27 August 1829, HRA, Vol.XV, pp.148-149.
3. Sydney Gazette, 14 October 1824.
4. Murray to Darling, 27 August 1829, HRA, Vol.XV, pp.148-149.

by culture was being transformed into a commodity.¹ Opposition newspapers, as autonomous institutional entities dependent on private capital and advertising, often became cultural vehicles for interest groups other than those of the state. For example, the Australian was originally owned and run by two lawyers, Wentworth and Wardell. Wentworth's legal papers show he was very prominent in disputes between traders.² The Sydney Gazette, 31 March 1825, criticised this combining of the duties of editor with those of barrister in the small community of N.S.W.. This it argued was destructive of the liberty of the press, "it being impossible but that the Public, or the Client will meet with tokens of partiality - there is no intermediate line of conduct to pursue". Similarly, the writer "Themachu" accused the Australian's editors of using their paper to pervert the cause of justice by giving unfair publicity to trials in which they were to represent the case of a party.³

Wentworth in 1826 sold his share of the Australian to Wardell. In 1828 the Australian was again sold in eight equal shares of £450 each. All but one of the new proprietors was an auctioneer. As such they stopped advertising in the rival independent newspaper the Monitor, forcing this newspaper to move from being published twice a week to once a week.⁴ Prior to this the Australian had defended auctioneers against new government regulations which required them to purchase a

1. T. Adorno and M. Horkheimer, Dialectic of Enlightenment, see especially pp.xi-ii.
2. Wentworth's Family Papers, Account Book 1825-1827, M.L., A759/CY Reel 701.
3. Sydney Gazette, 24 February 1825, "Themachu".
4. Australian Quarterly Journal, July 1828, p.242; Monitor, 31 May 1828.

license and to pay a one and a half percent tax on all their sales.^{1.}

On average, the newspapers of N.S.W. carried between 70 and 80 advertisements.^{2.} The type of pressure that newspapers might come under from commercial advertisers was evidenced by Howe's Weekly Commercial Express, 23 May 1825. In bold type it wrote that because of last week's leading article in the Sydney Gazette on spirit and tobacco duties, a certain merchant house was discontinuing its advertisements in and subscriptions to the Sydney Gazette.

The Reverend J.D. Lang accused the colonial press of being under the control of publicans closely associated through their clientele with the criminal classes.^{3.} Many of the publicans had also been convicts themselves. The 1828 Census, which was taken after the licensing laws were tightened up in 1826 and which made it more difficult for ticket-of-leave men and ex-convicts to become publicans, lists out of 131 publicans, tavern keepers, and inn keepers, 67 of these as being previously ex-convicts; 46 as having arrived as free settlers; and 19 as born in the colony. The latter would have been made up largely of the children of ex-convicts. Given that the average circulation of newspapers in 1825 was between 550 and 650, the customership provided both directly, and indirectly through their clientele, by public houses would have been significant, especially in urban centres, where newspapers sold half their issues.^{4.}

1. Australian, 11 July 1827.

2. Cunningham, op.cit., p.243.

3. J.D. Lang, An Historical and Statistical Account of New South Wales, Vol.1, pp.237-238.

4. The Monitor, 6 October 1826 claimed that in Sydney it had 272 subscribers, the Australian 289 and the Sydney Gazette 261; E.A. Webby, Literature and the Reading Public in Australia, 1800-1850, Vol.1, p.114 (unpublished thesis).

For as every public house has a tap; and as every tap must have newspaper, the swallows of the vile and villanous stuff that is sold in these haunts of dissipation must have something equally worthless in the shape of literature to swallow along with it. 1.

Lang, in fact, accused the publicans of constituting in N.S.W. the fourth estate.² He accused the Opposition Press of having a vested interest in continually defending the rights and privileges of this powerful group. Taxes on spirits provided two-thirds of the locally raised government revenue and underlay much of the antagonism between the government and the Opposition Press.³

What was distinctive about this period of colonial history, as R.B. Walker has pointed out, was "that colonial conservatives had no newspaper in which to propogate their views"⁴. Not until the publication of the Sydney Morning Herald did the Tories and exclusionist pastoralists of N.S.W. gain a public mouthpiece. Prior to this, all colonial N.S.W. newspapers supported, if not Whig political principles, then the cause of emancipists as they struggled for juridicial and social equality with free settlers. One qualification needs to be made, however, namely, that the ability of the Sydney Gazette to support the emancipists was partly restricted by their criticisms of existing government policies, which the Sydney Gazette was pledged to defend. The British government at the time was also Tory, thus making it difficult for the Sydney Gazette to support the government's Tory line whilst not also appearing to favour the exclusionist's conservative, hierarchical, political ideology. The Australian, 12 January 1826,

1. Lang, op.cit., p.238.

2. Ibid., p.237.

3. Ibid., p.238; see also Australian, 2 February, 30 March 1826.

4. Walker, op.cit., p.11.

referred to the Sydney Gazette as the "slavish press", which "by supporting the monstrocities of the Commissioner, lent a helping hand to the exclusionist faction". Due to the relative absence of a major public medium for propogating the exclusionists views, I have had to partly rely on their private correspondences and the books they published in the 1830's to give the reader an idea of the contents of the ideological position which newspapers were reacting against.

The egalitarian ideology which all N.S.W. papers articulated against the exclusionists can partly be accounted for in terms of the close relationship between the N.S.W. press and ex-convicts. George Howe, the first editor of the Sydney Gazette was a former convict and upon his death in 1821 he was replaced by his son, Robert. When he died in 1829 he was replaced by R. Mansfield who married Robert Howe's wife. W.C. Wentworth's mother had been a convict, and his father was suspected of coming to N.S.W. to avoid a charge of highway robbery. The Monitor claimed its methodism led it to feel sympathy for the convict cause. Hall in his early years in N.S.W. had been in commercial partnership with emancipist Simon Lord.¹ In evidence before the Select Committee on Secondary Punishments in 1831, James Busby claimed that though there were no longer any ex-convict newspaper editors, the fact that ex-convicts formed the bulk of the population meant that "there cannot be the least doubt that the prejudices of this class are flattered by the editors of the papers merely to procure a sale for their papers".² Alan Atkinson analysing the death notices appearing in the Australian in 1838 argues that these suggest that even at this late date "the Australian had yet to free

1. Ferguson, op.cit., p.168.

2. Report of the Select Committee on Secondary Punishments, Parliamentary Papers, 1831, p.81.

itself from the ex-convict and urban small-trading interest with which it had always been linked, as the main organ of the emancipist party".^{1.}

It was not only for a domestic audience that the N.S.W. press wrote its columns, but also for a British audience. The Monitor, 22 September 1826, claimed it sent its journal to 20 eminent members of parliament; they included Sir M. Ridley, Mr. Drenman, Mr. Bright, Sir James Macintosh and Mr. Brougham.^{2.} The opposition press was extremely conscious of itself as informing British ministers and the British Opposition parties of colonial grievances. This perhaps explains partly why you have the increasing incorporation of British political rhetoric revolving around the Whig-Tory distinction into N.S.W. newspaper discourse.

The end of censorship marks a period when the discourse of the colonial press was no longer directed exclusively towards a British Tory government, but towards British public opinion. There was an increasing appeal to ideological principles articulating struggles in Britain for bringing about change in N.S.W.. Many of the proposals for social reform which were initially partly responsible for beginning transportation to N.S.W. were gaining wider political acceptance in Britain and culminated in the November 1830 defeat of the Tory Government. The Opposition Press partly saw itself as providing ammunition from the colony for these parliamentary reformers whilst also expecting support from them. The success of this strategy paid off when the new Whig government in March 1831 appointed Whig-Liberal Governor Bourke, much to the disgust of exclusionists.

1. A. Atkinson, "A Slice of the Sydney Press", Push from the Bush, 1838, No.1, May 1978, p.93.

2. See Ferguson, op.cit., p.181.

(B) THE OPPOSITION PRESS AND A FREE DEMOCRATIC MARKET PLACE

The Opposition Press' general political-economic position lay in defending and prologating Adam Smith's free market philosophy, which sought to protect capital's general interest in the free pursuit of self-interest from government interference and regulations. A major concern was to take the control of economic enterprises out of the state's hands and to disperse economic decision-making power to individuals. They, it claimed, were the true sources of knowledge about their own welfare and of society's since society's happiness was simply the summation of their own.

The public interest, consists of the aggregate of individual interests. Arbitrary Governments say, that they are the best judges of individual prosperity. But free Governments say, that the individuals themselves are the best judges of their own prosperity. Hence, free Governments avoid a meddling, officious interference with individuals and let them alone as much as possible.
Monitor, 13 August 1827.

Thus, the Australian, 13 September 1826, criticised new government regulations which required one quarter of the estimated value of all newly granted land to be spent on its improvement within seven years.¹ The Monitor, 28 July 1826, called on the N.S.W. government "to adopt the English principles of letting mankind do as they please, so long as they do not break the peace and immediately injure their neighbours".² The collective interest was presented as being furthered through the individualistic pursuit of self-interest, which the government should encourage and not fetter. This theme, in its most systematic materialist form, was concerned with constructing a science of government around the pursuit of happiness.

1. See also Australian, 31 March 1825.

2. See also Monitor, 21 July 1826, "Extracts from the Work of M. Garnier continued".

These discursive strategies acted partly to popularise processes of capital accumulation by presenting the systematic economic pursuit of self-interest as identical with the more general pursuit of happiness. What these discursive strategies also did was to naturalise processes of capital accumulation by making them appear to be a natural psychological manifestation of the human condition. Moreover, in the Opposition Press the free pursuit of self-interest, the natural rights of individuals to property and happiness, became ways of defining and circumscribing state power. In the Opposition Press, property became nature resisting the state.

Of this one truth, government may be assured that there is in human nature a principle of rebound which will heave beneath oppression whatever shape it may assume. Men will not tamely allow themselves to be trod down to the earth if they can by any struggle rise up again. Second only to the love of existence itself, that first instinct of the entire animal creation is our anxiety for the preservation of our property.

Australian, 16 December 1824. 1.

The emphasis now was not on founding the power of the state on the repression of human nature, conceived of an inherently evil and unbounded; but on the scientific management of nature, of certain inherent human desires which had a right to independence.² The free realisation of desire as inherently good became part of a popularist discourse concerned with criticising the power of a state, whose absolutist tendencies were conceived of to be corrupting and despotic to the extent that they prevented individual self-fulfilment. In the Opposition Press, increasingly the state, rather than the individual, became the source of evil in society. When the gov-

1. See also Australian, 31 March 1825.

2. On the impossibility of oppression weighing down or destroying "independence" as an "inherent principle of man"; see Australian, 20 January 1827 (Letter by 20 native born youth).

ernment decided to deprive ticket-of-leave holders of the possibility of holding liquor licenses, it was criticised in the following terms, as having prevented freedom and diversity, the free realisation of desire.

If a prisoner be worthy of receiving a ticket-of-leave, he is worthy of applying his indulgence in the most profitable manner to himself and his family; and no matter whether he desire to turn publican or ploughman, so long as he don't return sinner, he has the claims not to be thwarted in that desire.

Australian, 10 February 1821.

Part of the popularisation of self-interest organised around property was the capitalist Opposition Press concern with championing the autonomy of the private family and the consummation of the sexual desires it embodied. I discussed in the third chapter how the Opposition Press juxtaposed the family against the encroaching power of the state, how it saw the family as a more effective instrument of reformation than the state's total institutions, even when inmates were under religious guardianship, like the Female Factory. When we look at the structure of this rhetoric it was partly one of the dangers of repressed desires. Instead of repression functioning as the means of legitimising the state, it was seen as a critique of the state, as the source of sudden outburst of violence. The outbreak of a small insurrection in 1827 at Norfolk Island led the Gleaner to warn the authorities of the:

Ineffably shocking consequences, inseparable from an association of men of unbridled, sensual passions, excluded from all intercourse with the other sex...if this brutal arrangement prevent the commission of natural vices, it plants the germs of an unnatural and infinitely more abominable and enormous crime. 1.

Similarly, the Monitor, 3 February 1827, complained about the non-assignment of prisoners to their wives in the following

1. Quoted in Cumes, op.cit., p.90.

terms:

discipline and obedience are, we admit to be enforced - but beware in enforcing them, of outraging the laws of nature and the instincts of our kind. Power can do much - but we never saw the exercise thereof prosper, and accomplish its legitimate end, when the strongest passions of the humans breast were to be destroyed in the process.

This concern with liberating desire from oppression was a concern with the autonomy of private life, with protecting the boundaries of civil society from state intervention. It was a concern with giving autonomy to new decentralised structures of social control - the family and private property in the free market place. These were presented as more competitive and effective alternatives to direct state intervention. In effect, the concern with liberating human nature was a concern with naturalising the operations of capital, but also of state interventions which were to be reorganised to ensure the optimum realisation of human nature in civil society.

Accordingly, the Opposition Press criticised government economic involvement, especially in the role of rival producer.¹ It favoured public works being performed by tender.² The emancipist Edward Eager had also recommended this to Bigge.³ The Australian, 23 September 1826, supporting the tender system, argued that the colony would be enriched to the extent that "useful mechanics and private capitalists" were able to enrich themselves. It also believed the private tendering system to be a much more efficient use of public money and convict labour.⁴ Many state activities were de-

1. Monitor, 23 March 1827.

2. See Australian, 23 September 1826; 23 July, 3 October 1828. See also E.S. Hall, The State of New South Wales in December 1830 (1831), pp.10-13.

3. Evidence of Edward Eagar, 19 October 1817, Ritchie, Evidence, Vol.2, p.23.

4. See Australian, 23 September 1826, 23 July 1828.

signed to reduce government expenses either directly by supplying its needs or supplying the income for this. Criticising these, the Australian, 16 February 1826, argued: "It is for the general happiness that governments are formed,...and it is tolerably evident that happiness cannot be promoted by entering into a competition with individual interests, or by abridging the profits of the agriculturalist and the merchant". It opposed the government's sale of wool and agricultural produce from its farm: "those huge establishments...which tend seriously to repress the energies and neutralise the industry of the community".¹ The Australian, 21 April 1825 was also critical of the colonists being forced to support prisoners in government establishments growing wheat, maize and tobacco, which competed with that grown by colonists. Now that it had proved that tobacco would thrive in N.S.W., the government was asked to leave the field to private speculators.

...to him let the profits exclusively gravitate. Grow flax - cultivate the grape - make wine - lead the people into discoveries, and if they [the people] must maintain the refuse population of the mother country, give them some consideration for their expenditure.

Australian, 21 April 1825.

In general, the Opposition Press wanted government to be a site of experimental knowledge and research, exploring the profitable possibilities which private capital could later undertake. The state's role was not to compete, but to complement the activities of private capital; to undertake or subsidise those unprofitable research activities the private sector was unwilling to invest in, but which might be necessary for its future growth.² In effect the state was being called to socialise the costs of production, whilst privatising profits.

1. Australian, 16 February 1826.

2. See Australian. 21 April 1825.

The Opposition Press' free enterprise notions were, thus, only in some respects concerned with reducing the state's management or role in economic activities. Indeed, the Opposition Press was continually promoting the expansion of state involvement in society and the economy through its ever increasing demands for new social, economic and political infrastructures. Thus the Gleaner, 2 June 1827, praised government arrangements for the establishment of an inland postal service; its new plan for lighting Sydney's streets; and went on to point to another much needed object of public utility, a good fresh water supply to Sydney. The Australian, after having originally proposed that the new postal system be subcontracted out, for the sake of efficiency, changed its mind.¹ On the 4 July 1828, it acknowledged that it was only proper "that all post offices be under the government's control". The Australian, 9 January 1828, even advocated the government lending money for encouraging the further development of a whaling industry. The Monitor, 21 July 1826, printed an article which argued the task of government was to create a national market: "by forming safe and convenient roads, by the circulation of sterling coin, and by securing the faithful fulfilment of contracts." This article argued that labour productivity was in "proportion to the number of exchanges which can be made, and to the ease and readiness with which these can take place".²

As Marx has pointed out, such demands by capital for state involvement in society do not represent a denial of the principle of egoism. They represent an attempt to create the conditions within which it can be successfully and maximumly pursued.

1. See Australian, 22 April 1826.

2. Monitor, 21 July 1826, "Extracts from the Work of M. Garnier continued".

Security is the supreme social conception of bourgeois society, the conception of the police, the idea that society as a whole only exists to guarantee to each of its members the maintenance of his person, his rights and his property. By the conception of security bourgeois society does not raise itself above its egoism. Security is rather the confirmation of its egoism. 1,

The concept of security here used by Marx, I interpret to refer not simply to protection against violence, but to all forms of social, political and economic security which capital may deem necessary for the protection of processes of capital accumulation.

In another context, Marx has also pointed out that historically in Europe demands by the bourgeoisie for a free market were made primarily with respect to the championing of "freedom of competition inside the nation".² This situation was very much the case in N.S.W.. For the one major area the Opposition Press wanted to structure state involvement in the economy, so as to defend the interests of domestic capital, was through duties. Criticised vigorously were duties on goods being exported from N.S.W., such as cedar.³ The Opposition Press was more favourable towards duties on imported goods if they would facilitate the establishment of import substitution industries.

...inasmuch as the roads, bridges, police, &c. of the colony ought to be paid by the colonists, it was reasonable they should be paid by a principle of taxation which least affected the fountains of industry and enterprise.

Monitor, 28 July 1826.

In particular, the Opposition Press promoted the creation of a colonial distillation industry. Between 1826 and 1828

1. K. Marx, "The Jewish Question", in Karl Marx Early Writings, translated and edited by T.B. Bottomore, pp.25-26.

2. K. Marx and F. Engels, The German Ideology, p.81.

3. Monitor, 28 July 1826, 23 March, 19 June 1827.

inclusive, there was produced in the colony 49,219 gallons of spirits, 417,842 gallons were imported.¹ A larger colonial distillation industry would reduce the amount of foreign exchange exported as payment for imported spirits, whilst also increasing demand for locally produced grain.² The Monitor, 28 July 1826, believed agriculture could be best encouraged by placing no taxes on colonial spirits or at most a tax of a penny a gallon. To encourage colonial brewing it also advocated taxes on English beer and foreign wines. The Monitor further criticised state regulations, which it attributed to Bigge, the faction and spirit importers, for preventing the development of more decentralised, low cost forms of distillation. Regulations had tied up this form of capital in expensive sites which increased its risks.³

The problem of how much state protection should be given to domestic import substitution industries acted partly to separate the Monitor from the Australian's economic policies. The Monitor adopted a more international, free market philosophy, arguing that duties on imported goods should not exceed the value of the taxes on similar locally produced goods. This would ensure the most rational use of capital and labour in the colony. The Monitor claimed excessive duties would divert the attention of young capitalists away from indigenous areas of enterprise such as wool, beef and mutton into "unnatural efforts" producing goods not suited to "the nature of the country and the habits and character of the population".⁴ It believed the most patriotic employment of capital lay not

1. Sydney General Trade List, 30 July 1829.

2. Howe's Weekly Commercial Express, 9 May 1825.

3. Monitor, 9 March 1827.

4. Monitor, 22 December 1826, see also Monitor, 20 January 1827.

in producing manufactured colonial goods, which were simply "apish imitations of, or substitutions for English goods", but in producing and exporting raw materials for British manufacturing; such as hemp, flax, skins and wool.¹ On the 5 November 1827, the Monitor criticised a recent letter published in the Australian by the Chamber of Commerce, which advocated the establishment of import substitution industries. The Monitor believed this would kill all trade and thus all trafficking in intelligence and civilisation. It believed the colony should concentrate on producing exports and viewed wool and fishing as the two most important, though skins, hides, flax, tobacco and timber should also be considered. Its general argument was that the most efficient use of capital lay in its specialised use. For this reason the Monitor also objected to duties on wheat imported from Tasmania and wanted free trade to operate between the two colonies. This would allow capital to take advantage of the differences in climate. More importantly, the Monitor saw the geographical specialisation of capital taking place through free trade as part of the naturalisation of capitalism:

...free trade makes way for nature to do her part; and always causes things to be done in the most natural as well as the cheapest manner. Free trade gives to every man the rights of nature; those benefits in fact for which he bargained, and which he has a right to enjoy; namely, the natural advantage of his situation. All laws which make an inroad upon thee, are unjust in their principles...

Monitor, 9 August 1827.

The Monitor was not completely opposed to domestic manufacturers, but believed they should be "strictly confined to domestic ones, such as soap, candles, leather, salt, shoes, furniture, beer, spirits, pottery, cooperage, shipbuilding and wheelwright's work". It considered the following forms of domestic manufacture

1. See also Monitor, 28 July 1826.

"hats, blankets, cloth, ropes, and sails, an impolitic employment of capital and labour in so young a country as this".¹.

In general, the Monitor favoured import duties on agricultural products which could be grown in N.S.W.,² though even here it objected to high duties especially on imported tobacco and spirits.³ This, it argued pushed up the price of labour.⁴.

The only area the Monitor consistently favoured high duties was on imported luxury goods, believing that the burden of taxation should fall on the rich and not the poor.⁵ "Taxes, to be just and equal, should be laid on things which affect all the King's subjects in proportion to their means".⁶ Grog and tobacco the Monitor regarded as necessities in Australia.

In contrast to this, the Sydney Gazette, 13 August 1827, praised taxation on popular consumption items as a means of increasing the industry of the poor.

The Australian opposed the more world-wide free trade system advocated by the Monitor. On the 15 May 1829 it voiced fears about what it saw as the increasing incorporation of an international free trade philosophy into British foreign policy. It wanted Britain to confine free trade to its own colonies. Thus, the Australian suggested that Britain encourage tobacco growing in its colonies by placing duties and restricting the importation into Britain of non-colonial tobacco. Britain was accused of economically supporting the growth of rival nations, such as America, at the expense of the favourable cultivation of economic ties within its colonies, "her

1. Monitor, 20 January 1827.

2. Monitor, 9 March 1827.

3. Monitor, 20 January, 8 November 1827, 4 February 1828; Sydney Gazette, 11 February 1828.

4. Monitor, 15 June 1827.

5. Monitor, 28 July 1826, 9 March, 8 June 1827.

6. Monitor, 8 September 1826.

natural offspring". In 1825 the British government had removed the unfair advantage N.S.W. wool had over European wool by equalising the tarriffs on both.¹ The Australian argued that instead of Britain structuring its relations to its colonies with the view primarily of keeping them in a position of overt political dependence, it should cultivate more subtle and effective relations of economic dependence. Instead of denying its colonies free institutions and in doing so maintaining inefficient political control over them through a local monarchical representative, Britain would be better off using the efficient persuasive motive of self-interest to bind the colony of N.S.W. in a relationship of economic dependency calculated to thwart the growth of a radical independence movement.

Slavish and arbitrary institutions in a British Colony, never fail to beget weakness, and inspire disgust; but INTEREST is the adamant chain which links society together all over the world. Were it ten times more populous, wealthy and powerful than it is, and, as we trust New South Wales will and must be before many years, still the strong tie of INTEREST would hold this Colony to the Mother Country, and so long as New South Wales possessed the free institutions of Great Britain - so long as profitable connection were encouraged between both Colonies, who would burst such sacred bonds with the sword of democratic zeal?
Australian, 15 May 1829.

What should be noted was the way self-interest emerged increasingly in the press into a principle of government, ideologically structuring not simply the role of the colonial state in N.S.W., but also the ideal role the British state should adopt in international relations. No doubt this increased influence of self-interest in political discourse manifests the influence of capitalism in the N.S.W. press. However, it also marks the rise of a new political notion of man, of the state being

1. Ker, op.cit., Part II, p.33.

founded not on the repression of human weaknesses, but built upon an exploitation of the biases and prejudices of human nature.

Following Weber, we can further argue that the Opposition Press was partly seeking the more effective "rationalisation of action " in the sphere of economics, by substituting the predictable pursuit of self-interest for authoritarian or command direction in the distribution of resources. As Weber points out:

One of the most important aspects of the process of 'rationalisation' of action is the substituting for the unthinking acceptance of ancient custom, deliberate adaptation to situations in terms of self-interest. 1.

In this section we looked at how the Opposition Press articulated the general interest of capital via the state. In the next section, I wish to continue this theme but paying attention to how the changing structure of capital in N.S.W., sponsored by government policies, acted to politicise certain groups and the press.

1. M. Weber, The Theory of Social and Economic Organisation, p.123.

(C) THE OPPOSITION PRESS DEFENCE OF COMMERCE

In the previous chapter we analysed how, in the immediate post-Macquarie period, there emerged in the liberalised Sydney Gazette a critique of merchant-manufacturing capital on behalf of small landholders. This was replied to in the same paper by an equally vigorous defense of the right of commercial capital to exist in N.S.W.. However, the really vigorous defense of the merchant's right to profit, in opposition to landed interests and to the state, did not come till the removal of censorship.

The Monitor, 28 July 1826, argued that N.S.W. Governors continually sought to repress the development of commerce in the colony because they saw it as contradicting its penal character. This had not occurred, the Monitor argued, in the American colonies which had been founded by merchant firms. Here "the governors were not like the governors of these colonies, jealous of every attempt to extend commerce, lest the convicts should run away and turn bushrangers". Up until the time of Governor Brisbane, commerce, the Monitor claimed, had been effectively stifled by duties on the export of raw materials as well as by exorbitant shipping and port fees.

On the 14 and 21 of July 1826, the Monitor published a review article on the political-economic philosophy of M. Garnier. He attacked the view of agriculture as the sole source of wealth and praised Adam Smith for discovering "that the universal agent in the creation of wealth is labour".¹

1. Monitor, 14 July 1826, "Extract from the late popular work of M. Garnier, on Political Economy".

Such an argument, in effect, amounted to a political defense of commerce and manufacturing. Garnier's argument was that whereas the possibility of improving land was finite, determined by its physical characteristics, the possibility of improving labour power was infinite, determined by human intellect. The implication being that the manufacturing power of labour was the true source of future wealth in modern society.^{1.}

Other examples illustrating the Opposition Press' support of commercial capital in its struggle with rural capital include the Australian's, 14 September 1827, questioning of the value of growing sugar in the colony. This would have deprived merchants of the profit gained from importing sugar, as well as of the profit accruing from exporting an equivalent item to pay for the sugar imported. By reducing these two sources of trading profit, so would the merchant's capacity to purchase goods from other community groups be also reduced. The Australian further concluded that it was universally known that agricultural countries were poor "whilst commercial nations must be rich". All policies, therefore, which adversely affected commerce had ruinous consequences. The writer "Pro Bono Publico" defended commerce in more personal terms, attacking Governor Darling's administration as one of patronage and favouritism:

He [Governor Darling] must...cut away every illiberal feeling towards MERCHANTS and SHOPKEEPERS, for it is by those people that the Colony must advance, as well as by AGRICULTURALISTS or GRAZIERS. To gain the vox populi, no glaring distinctions should be made nor any system of favouritism pursued.

Australian, 28 November 1828
"Pro Bono Publico".

1. Monitor, 21 July 1826, "Extracts from the Work of M. Garnier continued".

In support of the merchants, the Opposition Press strongly criticised the expenditure cut-backs of Governors Brisbane and Darling and their attempt to increase local taxes so as to transfer the administrative cost of N.S.W. from Britain to the colonists. The new taxes took the form mainly of custom duties, which pushed up the cost of imported goods to the trading community.¹ Land taxes in 1832 amounted to only £13,682, most of the £122,833 in government revenue came from custom duties.² Treasury bills continued in the 1820's to be important for purchasing imports.³ The greater reliance on local taxes reduced the merchant's access to foreign exchange. As the Monitor, 22 December 1826 put it: "the Commissary was in effect a foreign customer - in effect an exporter".⁴ The Monitor, 28 May 1828, explained Macquarie's popularity over Governor Darling's by discounting authoritarian style of government as the cause. Instead it referred to their different economic policies.

Our Government has certainly all along been a military despotism; and General Macquarie exercised unlimited power - a power more arbitrary indeed than Governor Darling is invested with. But Macquarie raised few taxes - drew most liberally every year on the British Treasury - bought the Settler's produce at high prices - gave them estates - cattle to graze on them - and servants victualled from the Crown to plough them.

Referring to the foreign exchange provided by the government expenditure needed to feed, clothe and employ convicts on public works, the Monitor, 14 July 1826, asserted that "Macquarie knew the sterling value of these fellows". It further argued that

1. Opposition to duties can be found in Australian, 27 September, 18, 22 November 1826, 24 October 1827.
2. H. King, Richard Bourke, p.178.
3. Chief Justice Forbes to R.W. Horton, 24 March 1825, 26 May, Forbes Papers, M.L., A1819, pp.3, 40.
4. See also Australian, 10 May, 27 September 1826; Gleaner, 19 April 1827.

government convicts at Sydney "cost the mother country nothing, so long as the colony of New South Wales was thereby being advanced in capacity to buy and pay for English Manufactures".

The Monitor, 30 June 1826, also called on the British government to include non-monetary social benefits in its accounting procedures. Post-Macquarie economic austerity measures were criticised for ignoring the repeatedly contemporary proven fact that transportation to N.S.W. was a cheaper punishment than keeping prisoners in English penitentiaries and hulks. Even if the expense were the same, the Monitor further argued, common sense showed Britain had an interest in reducing the worst part of a labouring population consisting of 10 million unemployed. Not only did "transportation convert roguish manufacturers into wealthy consumers, i.e. customers", but also had "that other still greater benefit, namely, the purification of society by the removal of that inflammatory portion, whose presence is so great an incumbrance to an old community, and so great a profit to a new one".

The Monitor, 12 June 1827, observed that it did not really matter whether Governor Darling's austerity measures initiated with him or came from Britain. Since it knew that "Macquarie exercised an unlimited discretion in putting in force the orders he received. Macquarie would write back and tell first Lord Liverpool and then Lord Bathurst, that their orders were fraught with danger, and craving them to send him fresh ones suggested by himself, and in the meantime jogged on in the old track." The Monitor expected Governor Darling to adopt similar stalling tactics to subvert policies from the mother country which were detrimental to domestic capital in N.S.W.. On the 6

January 1827, the Monitor, criticised military Governors in general on the grounds that being removed from the people, so could they be stingy with government expenditure.

From his old habits too, he becomes a niggard with the public money; wrings it from the people, and keeps it safely in the chest: his primary object being the happiness of the people?- oh no! to keep his situation as long as he can - and the less money he draws from home, the longer he will be friends with the cabinet.
Monitor, 6 January 1827.

Government expenditure to finance imports became even more important after 1826, when a 3 year drought began. This combined with low wool prices and reduced capital inflow, from fewer settlers, to produce a crisis in the mercantile community in the late 1820's. Further aggravating the commercial crisis was government selling of livestock and land to pay for local expenses. This further reduced the number of British Treasury Bills drawn.¹

The Opposition Press believed the government's austerity measures were against both the interests of mother country and N.S.W. since it checked the growth and prosperity of the new colony it also postponed the time when the colony could become financially independent from Britain. The Australian, 26 May 1825, went so far as to suggest there was a deliberate policy to prevent the economic and, hence, political growth of the colony, so as to maintain the control of the mother country over N.S.W. for as long as possible.

1. Ker, op.cit., Part II, pp.38-39. For discussions by contemporaries of the slump and its causes see: Letter of the Chamber of Commerce to Governor Darling, 15 August 1826, Executive Council - Appendix to Minutes, N.S.W. Archives, Reel 4/1438, Vol.1, pp.136-137; President of the Bank of N.S.W. to Governor, 15 December 1828, ibid., Reel 4/1439 Vol.2, pp.185-186; Address of Sir John Jamison to Agricultural Society in Sydney Gazette, 7 April 1828; Australian, 30 May 1828, 10 May 1826, 24 October 1827. For opposition to government land selling see Monitor, 22 December 1826; Australian, 22 August 1828.

It would appear to be a maxim with all States that the internal strength and improvement of their Colonies must necessarily militate with their own interests. Else whence happens it that Colonies are constantly neutralised in their industry, and checked in their advances to wealth by the coercions of inappropriate system of Government? Australian, 26 May 1825.

The Opposition Press, which supported the emancipists, reacted angrily to government expenditure cutbacks. A very large cross-section of the urban emancipist "class": its merchants and shopkeepers; its tradesmen and unskilled labourers had become wealthy from Macquarie's large public works program.¹ Large emancipist landholders, who stocked mostly cattle to supply the government with meat, and the many small emancipist farmers, who counted on a government market to take their grain, were also dependent on government expenditure.

Macarthur, in his evidence to Bigge, pointed out this high degree of economic dependence by emancipists on state expenditure. He predicted partly the outburst which was to occur in the Opposition Press, when the new Governors after Macquarie sought to reduce the cost of N.S.W. to the British Treasury.

In our present state Governor Macquarie's distinguished convict friends are the majority and their voices preponderate in every public question - they depend altogether upon the continuance of the government expenditure and when that becomes seriously diminished they will be involved together in a mass of ruin and bankruptcy - and their abuse and clamour against the organs of such a change whenever it does take place, and take place it must (unless it be intended the Colony shall subtract Millions instead of hundreds of thousands of pounds of the public wealth) will be of course outrageous. 2.

1. See Lang, op.cit., pp.136-137. See also pp.331-331.

2. J. Macarthur to Son, 20 February 1820 in S. Macarthur Onslow, Some Early Records of the Macarthurs of London, p.38.

Later supporters of the exclusionists cause, like P. Cunningham and J.D. Lang, implied, likewise, that the emancipist had done nothing to improve the colony. That their boasted wealth was built on British money, "which their favourite Governor dealt for among them with a wasteful lavishness" at the expense of the "over-taxed, over-tithed, over-wrought population of Great Britain".¹ Lang went on to argue that the emancipist used this income not to produce new wealth, by building houses and cultivating land, but to purchase at low prices the houses and lands of poorer emancipists. He claimed it was not until the arrival of free settlers that this system of exploitation was ended and the vast resources of the colony were tapped by men of enterprise.² They turned the attention of the colony from a concern with government expenditure, he claimed, to one of a search for markets.³ In the next sections of the thesis I want to deal with the ideological consequences of this increasing intrusion of free migrants into N.S.W..

1. Lang, op.cit., p.292, cf.141.

The London Magazine reviewing P. Cunningham's book Two Years in N.S.W. summed up his argument as being that: "the greater part of the capital of New South Wales seems to have accrued from the profits of individuals on a large, if not wasteful government expenditure; and there was, at least in the early times of the settlement, such a scarcity of not only capital, but of intelligence and honesty, that moderate portions of these qualities enabled the convicts to amass fortunes. They have, in fact, we believe, if not the greatest land possessions, the greatest part of the wealth of the colony". This review was published by the Australian, 11 January 1828, which also severely criticised its arguments.

2. Lang, op.cit., p.291.

3. Lang, op.cit., pp.291-292.

(D) THE RELATIVE DISPLACEMENT OF EMANCIPIST CAPITAL BY
THAT OF FREE SETTLERS

Along with reduced public works and Crown expenditure, Bigge also recommended the British government only encourage the emigration of wealthy free settlers to N.S.W.. They would provide private capital for employing convict labour released from public works and any future convicts Britain might transport. Free land and convict labour at cost, as well as a promising British wool export market, were enough to tempt many middle-class Englishmen to N.S.W.. Figures compiled in 1830, show the numbers leaving the United Kingdom for New South Wales and Van Dieman's Land increased from 320 in 1821 to an annual average of 733 for the years 1822-1824. In 1825, the numbers dropped to 485.¹ Under Darling's administration, between 1826 and 1830, the annual average was 930.² Many of the latter new migrants were ex-army and navy officers. Governors were advised to give them priority over other settlers.³

The increased presence of Free Settlers in the colony affected the relative social and economic position of emancipists and was partly responsible for politicising them and the press against government policies.⁴ As the Monitor, 1 September 1826, pointed out, ex-convicts had only been able to move into positions of wealth and influence through the relative absence of free settlers in the early years and through

1. Madgwick, op.cit., p.49.

2. Ibid., p.54.

3. Bathurst to Darling, 1 October 1826, HRA, Vol.XII, p.593.

4. J.M. Ward, James Macarthur, p.31.

government land grants to them. Both of these conditions no longer existed in N.S.W. after the Bigge Report. Whilst it is true that most convict land grants were small and often quickly sold, it should also be remembered that they were often sold to wealthier ex-convicts. From the sale of their land, less well-off ex-convicts received small amounts of capital, which could be invested in trade or in some other way to establish themselves in the more preferred urban environment.

It was also in urban areas that many free settlers were making their presence felt. Not all of them became pastoralists or large rural landowners. Many, who did not possess enough capital and could not qualify for land grants, became merchants, shopkeepers, bakers, and even retailers of perfume.^{1.} In evidence to the Select Committee on Secondary Punishment, one witness, Walker, argued that "the various professions and respectable callings in life are so filled by free emigrants, that there is not the same opening for the emancipists to rise to wealth and influence as there was formerly". This speaker also stated he knew of no instance "of an emancipist having acquired influence or property since the arrival of General Darling" and that existing wealthy emancipists were so from former days.^{2.}

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1. Madgwick, op.cit., pp.58-59; Darling to Hay, 16 December 1826, HRA, Vol.xii, pp.165-168; Darling to Goderich, 10 October 1827, HRA, Vol.xiii, pp.531-533.
 2. Minutes of Evidence before Select Committee on Secondary Punishments 1831, pp.72-73.

Walker's evidence is supported by the 1828 Census. Of the individuals listed in the 1828 Census as merchants and who arrived in the colony prior to 1821, five were ex-convicts as against ten who were free settlers. On the other hand, out of those who arrived after 1821, not one ex-convict was able to become a merchant, whilst 33 free settlers were able to establish themselves as merchants. The same relative displacement of ex-convicts by free settlers was also going on in smaller commercial ventures. For example, in the period prior to 1821, the 1828 Census lists 66 individuals from an ex-convict background as having arrived and who were able to establish themselves as shopkeepers and dealers compared to 13 free settlers; on the other hand, for those arriving after 1821, the Census lists only four ex-convicts as having been able to become shopkeepers and dealers, compared to 16 free settlers.

Table 1 was compiled from information in the 1828 Census and shows in aggregate form the number of individuals in various commercial and professional occupations according to their date and condition of arrival. From the table it can be inferred that the really major expansion of emancipist capital, in terms of the number of individuals involved, took place between 1810 and 1820 under Macquarie's administration. During that period, of the total occupations listed in the table, 173 ex-convicts compared to 35 free settlers entered the colony. On the other hand, between 1821 and 1828 only 22 ex-convicts compared to 141 free settlers entered the colony and were able to establish themselves in the occupations listed in the table. Of the total of those listed in the 1828 Census, in the various occupations Table 1 contains, nearly 92.3 percent of those with an ex-convict background

had arrived prior to 1821, whilst for free settlers the figure was 30.7 percent. This implies that the growth of emancipist capital, in terms of the numbers of individuals involved, between 1821 and 1828 was only of the order of eight percent, whilst for free settlers the expansion was closer to 70 percent.¹.

1. In interpreting these figures some allowance has to be made for the fact that many convicts arriving between 1821 and 1828 would not have served their full sentence. However, about half the convicts transported were transported for sentences of seven years and after three years well behaved convicts were eligible for tickets-of-leave and could start up their own business. Many convicts also had served part of their sentence in Britain and on the voyage out to N.S.W.. What Table 1 also showed is that it was not just length of servitude which determined occupational mobility. Ex-convicts listed in Table 1 who had arrived before 1810 number only 78, whilst those who had arrived between 1810 and 1821 number 173. This supports the point that it was in the Macquarie period that ex-convicts made rapid social and economic progress.

TABLE 1

OCCUPATIONS LISTED IN 1828 CENSUS ACCORDING TO SOCIAL STATUS AND DATE OF ARRIVAL IN N.S.W..

Occupation listed in 1828 Census	Before 1810		Came to New South Wales				1825-1828	
	Ex-convicts	Came Free	1810-1820	1821-1824	1825-1828	Ex-convicts	Came Free	
	Ex-convicts	Came Free	Ex-convicts	Came Free	Ex-convicts	Came Free	Ex-convicts	Came Free
Distiller		1	2					
Merchant	3	6	2	4		13		20
Storekeeper		1		1		1		2
Miller	2	1	9	3	1			3
Dealer	10	1	33	2	4	1		6
Boatbuilder	1	1	1		1	2		
Solicitors & Lawyers				1		1		7
Sailmaker				1	1	2		1
Auctioneer			1			2		
Draper								1
Woollen Manufacturers			1		1			
Timber Merchant	1			1				
Surgeon	1		2	3		1		3
Innkeeper	7	2	9	1		3	1	4
Printer		1	5			1		2

TABLE 1 (CONT'D)

Occupation listed in 1828 Census	Before 1810		Came to New South Wales				1825-1828	
	Ex- convicts	Came Free	1810-1820 Ex- convicts	Came Free	1821-1824 Ex- convicts	Came Free	Ex- convicts	Came Free
Brewer			3	2	1	3		2
Schoolmaster & Teacher	4	3	6	1		7	2	3
Shopkeeper	8	3	15	7				9
Publican	19	8	28	5		11		9
Baker	14		30	3	4			6
Butcher	8		26		4	4		10
TOTAL	78	28	173	35	19	53	3	88

GRAND TOTAL

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Emancipist trading capital reached perhaps its most organised form in the Bank of N.S.W., where they and their liberal supporters gained increasing influence.¹ The appointment of Dr. Douglass as a director in 1826, Charles Macarthur argued, was obtained through the influence of the convict faction.² All the newspaper editors of N.S.W., such as Wentworth, Hall and Robert Howe, apart from supporting the emancipists, were all prominent shareholders and participants in the Bank of N.S.W.'s affairs.³ Robert Howe, however, would later become an opponent when the Bank of N.S.W. refused at the end of 1827 to accept his private promissory notes.⁴ When the Australian newspaper was sold to eight auctioneers, one of them, John Paul, had been the fourth most indebted individual to the Bank of N.S.W., having borrowed from it \$50,443 against a deposit of \$14,076.⁵

The Bank of N.S.W. mainly engaged in discounting, that is converting "currency" into Treasury Notes and Sterling. It was thus more a bank for facilitating trade rather than providing mortgages.⁶ An Inquiry in 1826 found the merchants Robert Cooper, Raine and Ramsy and Robert Cambell between them

1. Butlin, op.cit., pp.110-113, 119-120; Sydney Gazette, 9 January 1828.
2. C. Macarthur to P.P. King, 3 October 1826, King Papers, Vol.1, M.L., A1976, pp.436, 442.
3. Holder, Bank of New South Wales, Vol.1, pp.53, 70-71, 83, 88.
4. Butlin, op.cit., pp.204-206, see also footnote 101.
5. Alexander McLeay, William Lithgow, Stuart Ryrrie to Darling, 12 May 1826, Executive Council, Appendix to Minutes, Vol.1, N.S.W. Archives, 4/1348, p.51.
6. Butlin, op.cit., pp.126-128; Figures from Butlin's book show that the Bank of N.S.W. between 1817 and 1820 inclusive discounted £299,621 of bills and notes; whereas for the same period it only lent out £34,050 in mortgages.

owed the Bank \$249,046. Very few of the Bank's large shareholders were fully paid up: "on a Money Capital of less than \$50,000 the present Directors of the Bank have thought proper to extend their Discounts, and issue notes of upwards of \$565,000 or more than ten times the amount of money capital actually advanced by them".¹ For the same sum of less than \$50,000 the proprietor had access and control of deposits which reached a peak of \$398,726 on the 13 March 1826, after which they declined to \$282,793 on the 10 May 1826.² The Bank of N.S.W. started out paying a dividend of 12 percent, in 1826 it paid the extraordinary dividend of 53½ percent.³ By 1828 this had declined to 12 percent again.⁴

The Bank's high profits aroused the envy and opposition of free settlers opposed to emancipists and their liberal supporters.⁵ Under John Macarthur's leadership the Bank of Australia opened its office in July 1826. Emancipists were excluded from participating in its affairs.⁶ John Macarthur Junior wrote to his father that "the establishment of the new Bank will, no doubt be a curb upon the convict faction".⁷ Charles Macarthur thought it would soon overthrow the old Bank.⁸

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1. Alexander McLeay, William Lithgow, Stuart Ryrie to Darling, 12 May 1826, Executive Council Minutes, Appendix, Vol.1, pp.49-51, N.S.W. Archives 4/1438, p.57, cf. pp.49-50.
 2. Ibid., p.57.
 3. Butlin, op.cit., p.195.
 4. President of the Bank of N.S.W. to Governor Darling, 15 December 1828, Executive Council Minutes, Appendix, Vol.2, N.S.W. Archives Reel 4/1439, p.186.
 5. Cunningham, op.cit., p.232; Macarthur, C. to P.P. King, 3 October 1828, King Papers, Vol.1, M.L., A1976, pp.436-437.
 6. Cunningham, op.cit., p.232.
 7. John Macarthur Junior to his father, 18 July 1826, Macarthur Papers, p.353.
 8. C. Macarthur to P.P. King, 30 October 1826, King Papers, Vol.1, ML, A1976, p.442.

So far I have dealt with the emergence in the press of two major forms of conflict that between landed capital and commerce and that between emancipists and exclusionists. These two forms of conflict to some extent became fused together in a struggle between the Bank of N.S.W. and the Bank of Australia. The press claimed that the Bank of N.S.W. represented the interests of emancipists and those of the trading community;¹ it was also referred to as the People's Bank.² The Bank of Australia, on the other hand, it was claimed, represented the interests of pastoralists and exclusionists.³ It tended to lend more of its money out in mortgages to land owners,⁴ and was accused by the press of being part of the exclusionist search for landed monopoly.⁵ In twelve months, loans from the Bank of Australia increased from £33,505 in March 1827 to £62,404.⁶ As late as June 1830 the Bank of N.S.W. had only £36,828 of loans.⁷

Some historians have seen the conflict between emancipists and exclusionists as a conflict between merchant and pastoral capital.⁸ As we have seen in Chapter Seven, it was often phrased in these terms. In Chapter Six I preferred to use the terms urban versus rural and commerce versus pastoralism to express this conflict.⁹ The use of these words

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1. Monitor, 9 March 1827.
 2. Monitor, 20 January, 9 March 1827.
 3. Monitor, 9 March 1827.
 4. Monitor, 1 September 1826.
 5. Australian, 16 March, 15 April 1826.
 6. Butlin, op.cit., pp.203-204.
 7. Ibid., p.227. It was not till the 1830's that banks played a larger role in financing the pastoral boom: in 1836 the Bank of N.S.W. loans amounted to £222,787, whilst those of the Bank of Australia were £208,340; ibid., pp.227-228.
 8. Dow, op.cit., p.158; Holder, op.cit., p.109; McMichael, op.cit., p.138.
 9. See pp.348-350.

was designed to express some doubts I had about seeing merchants as representative of the entire urban-commercial sector, which was also deeply divided. A number of reasons underpin my doubts about identifying mercantile capital with emancipist capital. Firstly, the exclusionist Bank of Australia, though accused of lending too much money for land mortgages, was also extensively engaged in discounting.¹ Merchants used both banks as a means for facilitating their trading ventures.² Secondly, many merchants and not just pastoralists founded the Bank of Australia. Possibly ten merchants obtained shares in the new bank:³ many of them were involved in exporting wool. They included Alexander Berry, Edward Woolstonecraft, Robert Campbell, Alexander Riley, Richard Jones and Thomas Icely.⁴

Referring, I believe to the importation of new free settlers and to the competition between the two Banks, the Monitor, 27 January 1827, claimed that the "old faction" was being joined by a "new faction" which it defined as "the harbouring in men's bosoms of principles hostile to the interests of the people i.e. emancipists of this colony". The Australian, 1 December 1825, clarified who it regarded as the members of the "oligarchical tribe"; they consisted not only of the Macarthur family, but also included "all who are on the watch and catch for woolfreight, and for family-custom, and such other things as the worshippers of dollars are on the look out for". As I pointed out in chapter six, merchants in the 1820's played a greater role in financing pastoralists.⁵ The

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1. Butlin, op.cit., pp.204, 589 (table 1b), 594 (table 3b).
 2. See Evidence of Macarthur and Woolstonecraft to the Executive Council, 7 December 1828, Executive Council Minute Book, p.268.
 3. Butlin, op.cit., p.196.
 4. Dow, op.cit., p.158; Butlin, op.cit., p.196.
 5. See p.333.

export of wool linked significant sections of merchant capital to large-scale pastoral capital and this was reflected in the membership of the Bank of Australia.

Contemporaries, like Chief Justice Forbes' wife in her memoirs, help perpetuate the exaggeration that the prejudice against emancipists was in reality a prejudice against trade by exclusionists.¹ Such views, however, don't stand up to close scrutiny because many merchants were in fact free settlers and exclusionists. As Margaret Stephen points out, prior to 1820 emancipist traders were joined by "respectable" wealthy free settlers with English connections, these included Walker, Jones, Riley, Alexander Berry and Edward Woolstonecraft and Robert Jenkins.² Discussing the late 1820's, Therry describes how: "some young men...of good English families, with the advantage of a University education, and some of mercantile training in London, with capital of their own, arrived about this time, and 'pushed from their stools' the inferior agents of Liverpool and London Houses. Up to this time (1829) commercial business in Sydney consisted almost exclusively of mere agency transactions."³ We must be careful not to accept as descriptive the ideological divisions within which much of the conflict going on in N.S.W. assumed a political existence. Emancipists in their political speeches called themselves merchants because of the connotations of higher respectability it contained than the more derogatory

1. A. Birch and D.S. MacMillan (eds.), The Sydney Scene 1788-1960, pp.46-47.

2. Steven, op.cit., p.284.

3. R. Therry, Reminiscences of Thirty Years Residence in New South Wales and Victoria, p.55.

label of shopkeepers.¹ However, Bigge claimed that at the time of his report that out of 12 independent importers only three were ex-convicts and that the bulk of ex-convicts in commerce were retailers.² The 1828 Census confirms this trend: out of 66 merchants it listed 51 as having come free; on the other hand, the Census listed 55 ex-convict dealers compared with five who had come free.

It would be more accurate to characterise the class basis of the conflict between emancipists and exclusionists as a conflict between a bourgeoisie and a petty bourgeoisie. Engels describes this distinction in the following terms:

In all countries the bourgeoisie emerges from the petty bourgeoisie with the development of world trade and large-scale industry, with the accompanying free competition and centralisation of property. The petty bourgeoisie represents in land and coastal trade, handicrafts, manufacture based on handwork — branches of industry which operate within a limited area, require little capital, have a slow turnover and give rise to only local and sluggish competition. The bourgeoisie represents world trade, the direct exchange of products of all regions, trade in money, large factory industry based on the use of machinery — branches of production which demand the greatest possible area, the greatest possible capital and the quickest possible turnover, and give rise to universal and stormy competition. The petty bourgeois represents local, the bourgeois general interests. 3.

Exclusionists, in N.S.W. tended to form the bourgeoisie, in the sense, that they represented the increasing incorporation of N.S.W. into the international world economy. Most of the capital of the new free settlers was brought out by them from Britain.

1. "In status conscious Sydney merchants with stores ranked higher than those who kept shops. The former, who included such people as Richard Jones, Robert Campbell and Alexander Berry, aligned themselves politically with the exclusionist, conservative group; organisations like the Library and the Agricultural Society were their preserve". G. Abbott and G. Little, The Respectable Sydney Merchant, p.36.
2. Bigge, Report, Vol.3, p.62; Ritchie, Evidence, Vol.2, p.265.
3. Engels, The Constitutional Question in Germany, MECW, VI, pp.75-91, quoted in M. Cain and A. Hunt, Marx and Engels on Law, p.227.

They were attracted to N.S.W. by the prospect of producing wool for the British market and were granted large portions of Crown land and convicts according to their capital for this purpose. In commerce they dominated international trade. The emancipists, on the other hand, I would argue, represented more a petty bourgeoisie, with the majority of its members, who were not labourers, being involved in small-scale manufacturing, commerce, agriculture and in skilled occupations.¹ It is not simply the scale of capital which for Engels represents a criteria for defining a petty bourgeoisie and in N.S.W. one has very wealthy emancipists capitalists like Samuel Terry, William Hutchinson, Thomas Hyndes, Isaac Williams, Simeon Lord and Robert Cooper.² The other criteria Engels gives is whether this capital is of an indigenous origin, directed towards local markets. Such was very much the case not only for the smaller emancipists, but also for the richer ones, who on their large landed estates kept not so much sheep for exporting wool, but cattle for providing meat to the domestic market. The wealthier emancipists also made their money from lending locally to less well-off settlers and from manufacturing enterprises, such as distillation, timber, iron mongering, blanket and hat making for the local market.

In the N.S.W. press, evidence of this conflict between a bourgeoisie and a petty bourgeoisie can be found in the Sydney Gazette in early 1824; where, for the first time, emerge

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1. "Our emancipist body...forms the most useful and enterprising portion of our community, all the distilleries, nearly all the breweries, and the great portion of the mills and various manufactories, being owned by them", Cunningham, op.cit., p.252.
 2. Some of these names and their respective annual income can be found in "Lists of Emancipists and Expirys on the Special Jury List", Francis Forbes Papers: Trial by Jury, ML, A741, p.77.

articles referring to conflicts within the mercantile community, rather than between merchants and landed settlers, as previously.¹ The writer "A Citizen of the World" perhaps reveals most about this conflict when he characterised the merchants of New South Wales as "so many hungry wolves ready to swallow one another up".² He was referring to, and regretted the fact that, many of the new younger merchants wanted to "crush the first adventurers in trade". He attributed the lack of liberality and sense of solidarity amongst N.S.W. merchants to them being "composed of an heterogenous mixture of the gentleman and the shopkeeper - not sufficiently in manner for the former, and a betwixt and between sort of thing of the latter". This writer went on to hope that the youth of wealthy settlers might be educated commercially so as to produce a class of Australian merchants.³ Quite clearly here we have the distinction between new and old merchants, between large merchants and shopkeepers, and between imported versus national capital.

By pointing out that the emancipists constituted primarily a petty bourgeoisie we should not ignore that many free settlers were also joining the ranks of the petty bourgeoisie and were in fact becoming aligned against the exclusionists. This is evidenced partly in the Monitor's discussion of the aristocratic pretensions of the newly created Chamber of Commerce Committee, which the Monitor complained was "raised up on unpopular and narrow principles" and against the interest

1. Sydney Gazette, 22 January "Monitor", 4 March "A Settler", 10 June "Joseph Underwood", 1 July "Scaevola", 1824.

2. Sydney Gazette, 17 June 1824 "A Citizen of the World".

3. Ibid..

of the people.¹ The Monitor, 3 February 1827, claimed that the political feud created between emancipists and emigrants by Judge Field "cannot any longer be the cause of the want of harmony among the merchants of Sydney", because all those in the Chamber of Commerce were emigrants. If they avoided each other now it was not because of their dislike of the company of rich emancipists but of each other. The Chamber of Commerce had been started by the free settler merchants Woolstonecraft, Sparks, Brown and H. James.² It was referred to by one writer as the stronghold of "Sydney Tory Merchants".³ The Monitor, 5 November 1827, along similar lines, accused the Chamber of containing too many magistrates with close links to the government.

It was not only in commerce that ex-convicts were being displaced, but increasing also at the level of tradesmen and labourers, though the main working class immigration did not begin till the 1830's.⁴ J.D. Lang criticised those statistics which showed that Sydney's population between 1825 and 1828 had remained constant at 10,774 persons. He claimed from personal knowledge that there had been a great deal of immigration from "the industrious classes".⁵ Discussing the immigration of Scottish mechanics into N.S.W. in 1831, J.D. Lang claimed it provoked strong opposition and resentment from ex-convict tradesmen, who rallied in support of Macquarie's supposedly

1. Monitor, 13 April 1827, 1 September 1826.

2. Monitor, 28 July 1826.

3. Monitor, 21 December 1827 "An Old Hand".

4. T.A. Coghlan, Labour and Industry in Australia, pp.198-199.

5. Lang, op.cit., pp.280-281.

frequently heard statement that: "This country was established for the reformation of convicts; free people had no right to come to it". Lang goes on to state that the Scottish working class immigrants were regularly abused in public in the following terms: "These are the bloody emigrants who came to take the country from us".¹ In other words, the emigration of capital and labour into N.S.W. in the form of free settlers was creating the basis for the emergence of a collective sense of nationalism in N.S.W., which was partly articulated through the emancipist-exclusionist opposition, that is through the penal categories of moral contagion, moral hierarchy and reformation. In effect state hegemony provided the political categories for the articulation of class struggles.

Aggravating emancipist and press opposition to the government was the post-Bigge Report policy of gradually replacing ex-convicts with free settlers in government administration. Brisbane began the implementation of this policy, however, he confined its operation primarily to the upper echelons of administration.² What partly accounts for the greater hostility shown towards Darling's administration was that he applied this policy to the lower echelons of state bureaucracy.³

The "inviting to resign"; or the discharging by hook or by crook from our public offices, no matter how long and faithful their services, all those clerks who came to the Colony some ten, twenty, or thirty years ago in bondage, marks a strong line of distinction between the administration of Governor Darling and Brisbane in this most important respect.

Monitor, 19 June 1827.

1. J.D. Lang, Immigration and the Scotch Mechanics of 1831, (187?), pp.4-5.
2. Clark, op.cit., Vol.2, p.34.
3. For Press opposition to the removal of ex-convicts from the public service see also Australian, 11 May 1827; Gleaner, 10, 26 May 1827.

The Monitor, 15 June 1827, complained about the dismissal of James Hardy Vaux from the position of clerk he had held for seven years. This was seen to attack the whole notion of pardon and the possibility of a full restoration back into society. Moreover, the Monitor claimed that this went against the fact that N.S.W. was a country originally given to emancipists by the laws, it was "his city of refuge".

Having provided a brief history of the changing social composition of capital in N.S.W. and the responses it provoked, in the next sections of this chapter I examine other measures arising out of post-Bigge Report policies, which continued to disadvantage urban and emancipist capital. Firstly I look at the issue of convict labour and its distribution and then turn to the issue of land grant distribution. The primary focus will be not on the history of these economic measures - this has already been mapped out by others - but on emergence of an egalitarian popularist ideology.

(E) URBAN CENTRES AND THE ISSUE OF THE DISTRIBUTION OF
CONVICT AND FREE LABOUR

In a speech to the House of Commons introducing the N.S.W. Bill, William Horton claimed that "transportation to New South Wales had lost so much of its character and terror, that previous to the report of Commissioner Bigge, and the present bill, it was almost decided to send no future convicts there"¹. There was a felt need by the government to ensure that transportation to N.S.W. was seen by the British masses as a punishment and not as an advantage. N.S.W. was to be no longer a "Newgate joke". To accomplish this, the penal system would be increasingly bureaucratised so that punishment would be certain yet "unattended with unnecessary severity". Three new penal settlements were to be established, one of which included the recolonisation of Norfolk Island. Here the worst offenders would be sent to form a self-sufficient colony based on "a system of severe and painful privation, together with the necessity for labour"². It was further intended to separate N.S.W. convicts as much as possible from the local population. Any money the convicts might bring into N.S.W. was in future to be taken from them partly to prevent them acquiring illicit goods, but also "to prevent their acquiring that compound character of convict and colonist, which has been so much the practice of late". Horton did not think penitentiaries suitable for a young country like N.S.W. and indeed saw transportation to N.S.W. as avoiding many of the criticisms then being levelled at English penitentiaries.³ Other recommendations of Bigge, which were opposed by the Opposition Press, included working all prisoners on their arrival in N.S.W. in chain

1. Sydney Gazette, 22 January 1824.

2. Australian, 19 March 1825.

3. Sydney Gazette, 22 January 1824.

gangs clearing land for pastoralists and making tickets-of-leave and pardons subject to fixed rules and harder to obtain. This renewed emphasis on punishment was seen by some in N.S.W. to be destroying the reformatory side of penal theory.

One of Bigge's major recommendations, which promoted local opposition to Governors replacing Macquarie, was the relative movement of convict labour from urban to rural areas.¹ Macquarie's large public works' programme kept large numbers of convicts in Sydney, indeed nearly 51 percent of the convicts the Crown employed on public works were in Sydney. In 1820 this meant 1,524 convicts out of 3,275.² The Monitor, 16 March 1827, published figures which estimated that on the 1 January 1827 there were only 1,096 convicts in Sydney out of a total of 4,068 in government employment. This reduction was significant given that the total number of convicts in N.S.W. increased from 10,873 in 1820 to 17,049 in 1827.³

Many of Macquarie's urban convicts, despite the openings of the convict barracks in 1819, had to find their own lodgings after working for the government and thus needed private employment to pay for these lodgings. Even the convict barrack's men were allowed to work for Sydney inhabitants every Saturday. Such practices benefited the shopkeepers, manufacturers, and publicans of Sydney, many of whom were emancipists. The convicts provided customership and also a source of labour. Since emancipists owned many of Sydney's public and private houses, they would have benefited from any convict demand for lodgings.

1. Brisbane to Bathurst, 28 April 1823, HRA Vol. XI, pp.78-79; Australian, 30 March 1826 "Government Notice".

2. G.J. Abbott "Government Works and Services" in Abbott and Nairne, op.cit., p.319.

3. Figures from Clark, Documents, p.406.

The Sydney Gazette supported the government's distribution of convicts into the countryside. It argued: "there will be no peace in society till every householder resolutely banishes the fiend anarchy from within his dwelling".¹ On the other hand, the Gleaner, like the Australian, believed a better ordered society would result from assigning convicts to urban households. Here they would be "under the constant observation of their employers, and the surveillance of a vigilant police", something which, it argued, was not possible in rural areas, where crimes were often overlooked and proliferated because of the distance and cost involved to the settler in obtaining redress.² In an early article, the Gleaner approached from a different angle the accusation that new Government penal policies were counter-productive and contributing to increased crime. It criticised Commissioner Bigge's system of "the like treatment of all classes of prisoners, on their arrival in this Colony, and their indiscriminate association, and banishment from the Metropolis, with the exception of those, retained in Government service".³ Bigge's system did try to introduce individualising distinctions into the act of punishment in N.S.W.. Hence he recommended the establishment of road gangs and penal settlements for difficult prisoners.⁴ However, even these punishments had in common a rural element and because of

1. Sydney Gazette, 3 February 1823.

2. Gleaner, 4 August 1827; see also Australian, 20 March 1827.

3. Gleaner, 9 June 1827.

4. Apart from helping new free settlers, the clearing and burning of trees and the removal of their roots by chain gangs had certain desirable individualising penal consequences. Bigge argued that it separated convicts, facilitated their supervision and, moreover, allowed their punishment to be quantified and tailored to an individual's physical condition and crimes. Likewise, Bigge argued that the assignment of convicts to free settlers should be based primarily on "the degrees of their crimes, as well as to their capacity for labour", Bigge, Report, Vol.1, pp.103, 157, 159.

this Bigge's system was seen to be "amercing all crimes in a like penalty". The Gleaner criticised Bigge's system on the grounds that "it violates every principle of retributive justice; it generates despair; and palpably tempts to the commission of greater and more lucrative offences by equalising the punishment of all".¹.

The penitentiary principles of increased moral surveillance, dispersion and hierarchical classification and punishment, which Bigge had used to legitimate the assignment of convicts into rural areas, were now used to legitimate their allocation to urban areas. This demonstrates the malleability of concepts: though they may occur in coded and organised forms, this does not determine their use, which is above all a question of politics, of strategic advantage. What it also demonstrates, however, was the hegemonic role which penal categories continued to exercise in the construction of critical discourse. The interests of urban capital had to be partly phrased within the language of penal theory to constitute an effective critique.

The Gleaner was not in principle opposed to moving prisoners into the countryside, but wanted exemptions to protect "artisans, manufacturers and private families in Sydney" from inconvenience.² Whereas in 1828 there were in the colony as a whole 134 free individuals to each 100 convicts, in Sydney the competition amongst free individuals for convicts was greater with 222 free individuals for each 100 convicts.³.

1. Gleaner, 9 June 1827.

2. Gleaner, 26 May 1827; see also 4 August, 9 June 1827.

3. R. Mansfield, An Analytical View of the Census for the Year 1841, pp.17, 41.

The Gleaner, 4 August 1827, argued that the scarcity of Sydney servants and tradesmen which resulted from government policies had "encouraged 'American' insolence in servants". Employers were often forced to submit to their demands "and even serious outrages" because of the extreme difficulty of gaining replacements. It went so far as to argue that the relative movement of convicts into the countryside amounted in effect to a "Tax on male labour!"

Within the urban context the competition for convict servants created resentment between the private commercial classes and the military and civil officers, who received convicts as part remuneration for official duties. The Monitor, 23 March 1827, argued that General Darling could not be praised or censured for assigning convicts to settlers in the countryside rather than those in town, since this order came from Britain. However, the Monitor wanted convicts distributed to Sydney inhabitants in a more equitable way which did not favour the civil and military officers.

It was not only convicts who were being moved into the countryside, but also ticket-of-leave men. The ticket-of-leave was first introduced by Governor King. It allowed a convict to find work and thus not be supported by the government. Under Macquarie, ticket-of-leave men were free to work where they liked and, given a free choice, many of them preferred an urban context, much to the annoyance of landholders.¹ Under Brisbane, however, they were confined to certain districts and

1. See Sydney Gazette, 20 April 1826 "From a Correspondent"; Lang, Historical, p.154.

and under Darling to one specific district. The Monitor, 24 February 1827, regarded the latter legislation as favouring "the old pure Merinos", and as a species of "genuine Botany Bay cunning...worthy of our Australian magistracy which invented it". The latter were accused of wanting to reduce the bargaining power of ticket men and thus the wages they could charge. The Monitor favoured greater mobility for labour, and supported this with the argument that most of the fencing work was done by ticket men who needed to travel.

To confine them therefore, to one particular district, is to deliver them into the hands of the gentry of that district; and the said gentry to our personal knowledge will nick the poor fellows out of their wages by all sorts of chicanery. Monitor, 24 February 1827.

Between 1813 and 1820, Macquarie gave out 1,655 tickets-of-leave, of which 450 went to convicts who did not qualify in that they had not been 3 years in N.S.W..¹. In the post-Macquarie period, ticket holders were deprived of their right to have convict servants assigned to them;² relatively fewer were also given out; many were cancelled; convicts were made to wait a fixed period before they could apply; and had to have spent a specified time with any one master as an indication of their good behaviour. The Monitor 24 February 1827, looking over the ticket-of-leave regulations published by Macquarie, 9 January 1813, by Brisbane, 15 November 1822, and under Darling, 1 January 1827, observed: "that as the Colony grows older the government grows less merciful and benignant. Every change is in prejudice of the sweet attribute of mercy". Table 2 summarises the conditions of servitude under which various grades of prisoners were liable to apply for ticket-

1. Shaw, "Labour", p.113.

2. This occurred in 1826; Coghlan, op.cit., p.110.

of-leave under different administrations.

Table 2

Number of Years Prisoners Had To Serve
Before Being Eligible For Tickets-of-Leave

Number of Years Prisoner was Transported For	Macquarie	Brisbane	Darling
7 Year Men	3 years	4 Years with 1 Master	4 Years with 1 Master or 5 Years with 2 Masters.
14 Year Men	3 years	6 Years with 2 Masters	6 Years with 1 Master or 8 Years with 2 Masters or 10 Years with 3 Masters.
Men Transported for Life	3 years	8 Years with 3 Masters	8 Years with 1 Master or 10 Years with 2 Masters or 12 Years with 3 Masters.

What the new regulations represented was not just increased penal severity, but also the greater bureaucratisation of the penal system in N.S.W.. Increasingly, formal rules were being used to determine the eligibility of prisoners for tickets-of-leave, as well as pardons. These regulations to some extent limited the discretionary power of the Governor to pardon - as such they were seen to be part of the secularisation of the state, the removal of the divine quality of mercy as an instrument of legitimation. This was especially evidenced in a letter sent by a convict to the Monitor, 27 August 1827, titled "An Unfortunate Lifer". The writer expressed his dismay at Darling's new ticket regulations, he claimed that he along with "30 out of 50 lifers who came to this country 5 to 10 years back, will never get tickets". He pleaded with the Monitor:

Honoured Sir, be pleased to let me and the other lifers know what we are to do, if we are not to have any liberty; I hope God Almighty will in his infinite goodness, take us all out of this cruel world, a world unfit for us poor convicts to live in, now the first of the divine attributes, mercy, has left it - and may we be found worthy of mercy from him, who shows mercy for all.

Monitor, 27 August 1827, "An Unfortunate Lifer".

The Opposition Press wanted to return to Macquarie's more favourable treatment of prisoners.¹ The Monitor, 19 May 1826 praised Macquarie for removing "the jailor-like habits" of all previous administrations until his time. He substituted "the decent term of prisoner...for the degrading one of convict". He allowed prisoners the right to claim wages, which the Monitor wanted restored, whether in the form of money or clothes or other comforts. In contrast to this, the Monitor, 13 January 1827, accused Darling's administration of using flimsy excuses to cancel tickets-of-leave. It claimed that three out of four tickets-of-leave cancelled under Darling's administration "have been so done for immoralities and improprieties not cognisable by law". On the 8 September 1826, the Monitor even objected to a ticket man being deprived of his privilege for verbally abusing a constable. He should have been punished by tread mill or solitary confinement, but not by having "the King's provisional pardon" taken from him.

By reducing the number of ticket-of-leave holders, the state was tightening its hold on the economic structure of N.S.W. to the disadvantage of urban centres, where most ticket men preferred to work, and to the advantage of pastoralists. The Monitor, 15 December 1826, identified graziers, made up mainly of magistrates and civil officers, as the main pressure

1. For the Australian's point of view see 14 June, 11 November 1826.

group in the colony resisting the granting of more tickets-of-leave and pardons to the convict population. This had to be resisted, the Monitor argued, by impressing upon the government "a strong sense of humanity, and a patient consideration of those profound principles of political economy which reveal the ultimate expedient of liberal measures". The association together of humanitarianism and economic and political liberalism was a recurring feature of the Opposition Press.

Thus, the Monitor, 14 July 1828, in an article praising Governor Macquarie's administration, argued that he "was profuse with his ticket-of-leave, thus supplying the settlers with free labour as well as with bond". In an earlier article, the Monitor, 24 February 1827, condemned the new ticket-of-leave regulations as having "contracted the terms of freedom" and "as being perniciously and wantonly arbitrary. They are judgement, untempered with a sufficient degree of mercy". Not only was the new policy unpopular but bad, the Monitor argued, for free labour was twice as productive as bond; and moreover voluntary labour was always accompanied with better morals than the labour of slavery".¹.

Let the governor always remember, that a sober, industrious man, will do more work as a free man, than as a prisoner... so tickets-of-leave, rightly administered, will prosper the colony more than bond-services. Monitor, 7 June 1826.

The Monitor, strangely enough, like the Sydney Gazette, was also for moral reasons in favour of assigning convicts increasingly to the countryside.² This was because it supported the greater use of free and ticket-of-leave labour in urban areas. It believed the government should "hire for itself only

1. Monitor, 24 February 1827; see also Australian, 14 July 1826.

2. Monitor, 24 July, 1827; see also E.S. Hall, The State of New South Wales in December 1830, (1831), pp.12-14).

free mechanics".¹ On 23 March 1827, it argued rural convict assignment would push up the price of urban free labour and would allow these mostly married individuals "to bring up their families with greater decency". It claimed that ticket men in the countryside were persecuted by the magistrates and that "their persons will be much safer under our Sydney magistrates". It also believed that the expense of hiring free and ticket labourers would be more easily born by the free towns-people, and that moreover, "the morals of the towns will be thereby promoted; because ticket and free labourers, as being more commonly married men, are better able to withstand the temptations of the towns than convicts".

The Australian, 11 May 1827, criticised new disciplinary measures as being designed to close off from convicts "the most obvious and legitimate means of obtaining support for themselves and families". It listed the new prohibition as: "Free women, the wives of prisoners at penal settlements shall not keep shops; and industrious ticket-of-leave men shall not hold public houses, and emancipated men shall not obtain a foot of land in the territory". The new ticket-of-leave regulations, the Australian argued, were creating disquiet in the prison population by not holding out enough incentives for reform.² Ticket-of-leave holders, it believed, should be free to become publicans;³ so did the Monitor, 3 February 1827, which accused Sydney magistrates of giving preference to "the pure Merino publicans" in allocating the last liquor licenses. The Australian, 11 November 1826, also criticised the new regulations, which made tickets-of-leave depend on the length of servitude with one

1. Monitor, 24 July 1827.

2. Australian, 3 January 1827.

3. Australian, 4 March 1826, 10 March 1827.

master and argued that there were many bad masters and that servants were not always responsible for their leaving places of employment. It complained that an employer would be able to take advantage of the legislation to deny tickets-of-leave to good convicts and that the effect of the new regulation was that it made the employer into "a tyrant".¹

In Chapter Ten the ticket-of-leave issue will be returned to as part of a broader analysis of how it was part of the Opposition Press' critique of a penal system which resorted to punishment rather than rewards for the reformation of man. In this chapter, I have shown how the ticket-of-leave issue was part of a discourse which promoted small property ownership and a freer labour market for the benefit of urban areas. These areas saw themselves disadvantaged by the relative movement of convicts into the countryside. In the next section I turn to the issue of land.

1. See also Monitor, 7 June 1826.

(F) LAND AS THE FOCUS OF CONFLICTING POLITICAL PHILOSOPHIES(i) Exclusionist View of the Necessity for a Landed Aristocracy

The exclusionists, Macarthur and Marsden, both warned Bigge to establish an aristocratic class of landed free settlers to head off what they saw as the revolutionary tendencies of the emancipist cause. Marsden warned that the emancipists were dangerous, powerful men, lacking in moral principle yet possessing "Numbers, Influence and Riches, which is Power in a certain sense"; that their delegates Eagar and Redfern would soon be talking about resisting England; and that "the best part of the Community are now too poor, and too weak to contend with the unprinciples part".¹ Along these lines, the Australian quoted Macarthur as criticising Governor Macquarie's small land grants policy on the grounds it would keep N.S.W. poor and wretched and "rear up a turbulent and immoral democracy like that of America, which will in the end overturn the government, and found a licentious republic on its ruins".² Macarthur had also warned Bigge there was no time to be lost, that what was needed in the colony were British free settlers with capital and not needy adventurers who tended to side with the emancipists' democratic demands.

Adventurers without Capital retard all improvement, and as they sink deeper into poverty and distress swell the mass of discontent, become most furious democrats and attribute the misery into which they plunged not to their own idleness or want of discretion but to the errors of Government and the oppression of the wealthy. 3.

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1. Marsden to Bigge, 10 March 1821, B.T., Box 27, Vol.127, pp.6358-6359.
 2. Australian, 3 March 1825 "New South Wales", copied from the Morning Chronicle.
 3. J. Macarthur to Bigge, 19 December 1821, in S. Macarthur Onslow, Some Early Records of the Macarthurs of Camden, p.351.

Similarly Marsden complained to Bigge that the political cause of the emancipists would gain in strength as they were joined by "needy unprincipled settlers...from motives of private interests".¹.

In effect, the exclusionists provided Bigge and the British government with a social engineering proposal for manipulating N.S.W.'s social structure so as to head off the growth of independence and democratic colonial political movements. The latter, Macarthur claimed, had grown and become more organised under Macquarie's rule. Macarthur's solution to them was the emigration from Britain of between 40 and 50 free settlers who would be given a minimum of 10,000 acres. Such a landed body, he argued, would quickly become wealthy, forming an aristocracy, and in doing so would look to the government for protection from the democratic multitude who "would look upon their large possessions with envy, and upon the proprietors with hatred".² With typical Machiavellian cunning, Macarthur wanted to exacerbate class divisions within N.S.W. so that the lower sections would find themselves totally subordinate to an aristocratic class which would look to the local state and Britain for support in protecting its property in the ensuing intensified class struggle.

Underlying the exclusionist's social policy was the idea that an aristocracy marked, and was responsible for, the progress from savagery to civilised life. Hierarchy in all its various forms was seen to contain those discriminations nec-

1. Op.cit...

2. Op.cit., p.349, c.f. pp.346-355; see also Macarthur to Bigge, 7 February 1821,; Ritchie, Evidence, Vol.2, pp. 74-75.

essary for any rational civilisation. This view was held even in the Opposition Press by writers who opposed the establishment of an oligarchy; hierarchy was identified with the generalised necessity for society to possess assymetrical social distinctions as the basis of order.

A virtual aristocracy will exist in all kingdoms, even in republics, however pure. But an oligarchy is an artificial thing, the result of original conquest. Rich and learned men to the poor and ignorant - grey hairs to the young - parents to their children - masters to their servants - these are all natural aristocracies which exist in every nation and tribe under Heaven - they decrease in strength as you recede from a civilised to a savage life. Among the New Zealander's aristocracy holds but little - among the tribes of New Holland, the most ignorant and destitute people in the world, it exists in the weakest degree.

Australian, 17 March 1825, "An Emigrant".

Even supporters of the emancipist case in Britain used the emergence of an "aristocracy" and middle class to justify the normality of N.S.W. and, hence, its right to an extension of civil rights.¹

In N.S.W. a "wealthy and high-minded Aristocracy" was presented by exclusionist supporters as being necessary to maintain the morality of more subordinate groups, who lacked adequate self-guidance and needed others to provide a stable model for action: "When we see no-one around us that we consider better than ourselves, and whose censure or esteem we are heedless about, we are apt to fall into a carelessness not only of our personal appearances, but a remissness of our moral duties, if our principles are not steadfastly honourable, or fixed by strong religious sentiments".² Without an aris-

1. See the speech of Mr. Bright to the House of Commons reported by the Australian, 19 March 1825.

2. Australian, 3 March 1825, "New South Wales", copied from the Morning Chronicle.

tocracy N.S.W. would be threatened with collective moral debasement. An aristocracy was presented as the unifying moral force of a society "formed of all kinds of discordant materials, both with respect to political and religious opinions".¹.

What emancipists political demands threatened society with was a moral homogeneity premised on the collapse of all moral distinctions.

Liberty - say they - perfect liberty - perfect equality - are necessary to the welfare of the Colony - and to bring this about we must first confound all received principles of right and wrong and raise convicted infamy to the same level as unblemished reputation. 2.

Likewise, Hannibal Macarthur claimed that the appointment of ex-convicts to juries and the judiciary would not improve N.S.W. society by providing convicts with an incentive to reform, but would instead "degrade the respectable portion of the community and produce a general debasement throughout the Colony".³ Bigge, many years after his report, continued to believe that the "emigration of numbers", as suggested by John Macarthur, was not sufficient to morally purify N.S.W. society and that it was also necessary to give the more respectable settlers greater influence, by allowing them only "to fill the high and influential situations in N.S.W."; "by exalting those who are pure, or by Discouraging & Discountenancing the licentious & the corrupt".⁴ In short, emancipists lacked within their personalities that rigid moral hierarchy

1. Ibid.

2. James Macarthur to brother John, 9 June 1827, Macarthur Papers, Vol.35, p.36.

3. Macarthur, op.cit., p.84.

4. J.T. Bigge to James Macarthur, 12 December 1827, Macarthur Papers, Vol.26, pp.18-19; see also Bigge, Report, Vol.1, p.155.

which ought to be reflected in the organisation of social and political institutions; they threatened to reduce N.S.W. to the undifferentiated sameness of the savage.

Emancipists as symbols of moral disorder, threatened aristocratic society with a brutal social egalitarian ethos. This point was forcefully made by the following exclusionist writer and though he downplayed the political significance of the egalitarianism that emancipists were the bearers of, other writers did not.

Equality is the via sacra ... It is not the equality of the laws, because these are administered impartially to all, nor is it the equal right of sitting on criminal juries, because the emigrants themselves do not enjoy this, nor can it be the equal right to the magistracy they claim of the legislature, because the government can do this whenever it is satisfied individuals are to be found among them sufficiently respectable for such offices; nor is that species of equality they long for, so popular during the late French Revolution, where the individuals who had unfortunately attained the dangerous distinction of being aristocratically higher by a head, than the common herd of his fellow citizens, forthwith underwent the republican crop, in order to reduce him to the proper democratic level; but it is that species of spartan equality insisted on by Lycurgus and now insisted on by our liberty-loving emancipists, the equal right of slobbering up their black broth at the same table, engulfing their heavy Hanbury cheek by jowl, and while blowing their evening cloud, enjoying the proud privileges of spitting in the same dish."

Australian, 20 April 1827, "New South Wales - No. XII".

In contrast to the perceived vulgar, spartan egalitarianism of convict culture, the allegiance of wealthy emigrant capital to the colonial state authorities and their desire to be an extension of state hegemonic influence was expressed culturally through their reproduction and imitation of the more genteel aristocratic aspects of British culture. This was significant seeing that it was unlikely that many of them were from the British aristocracy. In the press this British cultural trad-

ition was satirised for its dandish, if not homosexual, qualities.¹ This adoption of British symbols of class domination was evidenced in an exclusionist writer's discussion of how the monotonous and solitary nature of life in N.S.W. was giving way to more varied forms of entertainment as a result of "the recent importation of respectable settlers, and increase of the higher class of government civilians". This writer spoke of women dressing up more fancily, of more balls, dinners and other convivialities; he however regretted the lack of a public ballroom and theatre. More importantly, he spoke of how the landholders at Bathurst "in imitation of their worthy old English compeers" had formed the Bathurst Hunt with the aim of hunting the native dog.²

The distinguishing uniform being a green coatee, and black velvet trimmings, with gilt buttons, bearing the inscription "Bathurst Hunt", and a native dog embroidered in gold upon the collar. Each member keeps two fox hounds of the best English breed, and a piece of ground has been obtained, on which to build a ball and supper room. 3.

In contrast to the exclusive fellowship of the above forms of landed entertainment, the Monitor, 8 June 1827, pointed to the political significance of more popular forms of recreation. Though, "as rigid moralists", the Monitor often opposed these, it was nevertheless willing to acknowledge them as a "substitute for baser vices". It argued that the great authority of political theories justified them as means of blurring class distinctions.

...one of the few advantages of races, balls, theatres, concerts, &c. is, they bring the aristocracy and the common people together - they tend to abate the haughtiness of rank, while the poor are made to feel themselves to be somebody in the State; and that feeling generates

1. Sydney Gazette, 9 October 1823 "Fanny Flirt", 30 October 1823 "Betsey Bandicoot", 15 January 1824 "Fanny Flirt".
2. Australian, 10 February 1827 "New South Wales - No.IV".
3. Ibid..

in them a veneration for their superiors, while they see them once a year condescend as it were to a species of equality. Monitor, 8 June 1827.

I will now turn to analysing the discursive strategies whereby the press formulated its opposition to the aristocratic culture of gentility which was emerging around land.

(ii) Opposition to a Landed Aristocracy

Opposing the exclusive establishment of landed aristocracy, Opposition newspapers wanted the government to allocate small parcels of land on an extended scale to ex-convicts,¹ poor free settlers² and to the colonial born youth.³ They argued that political stability rested on the emergence and growth of a propertied middle class, a yeomanry; and that by giving out large parcels of land to foreigners, in seeking to construct only a landed aristocracy, the government was creating those extremes in wealth on which political disorder flourished. As the Australian, 3 March 1825, put it: political stability existed "when the various orders of society insensibly blend together, and the extremes of wealth and property are connected by imperceptible gradations". Referring to the exclusionists attempt to establish an aristocracy in N.S.W., the Australian argued:

The only effect an aristocracy in N.S.W., or indeed in any other Colony, would be to raise up a servile and degraded population - a timorous and turbulent mob - at one time crouching under the crowns of their proud and worthless masters, at another time joining in some scheme of assassination to rid themselves of their oppressors.

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1. The Australian, 11 May 1827.
 2. The Australian, 31 March 1825, 13 September, 6 December 1826.
 3. The Australian, 19 January 1826.

England had originally tried to impose on America "both parsons and placemen, who would have grown into Bishops and titled aristocrats", but America had resisted and as a result was now rich and powerful. The Australian further argued that all distinctions and inequalities which do not emerge "as the natural result of industry and judicious employment of capital", were destructive to the prosperity of a new colony. It claimed that "the Drones of our Society...the great people with trifling pensions", were inundating the colony. It satirised claims that the establishment of a wealthy aristocracy would improve the moral fibre of the colony: "to polish public manners, teach us to pull off our hats to our superiors, and to pay more attention to our personal appearance"¹. The Monitor, 20 January 1827, identified the middle classes of society as its most moral.

Mechanics, shop-keepers, domestic manufacturers and little settlers of New South Wales! Understand, that in your classes dwell chiefly the domestic virtues, frugality, temperance, chastity, and piety! Impress it on your own minds and on those of your children, that history proves...that whenever the liberties of a country have been sold, they have been sold by the nobility and gentry, never by you, the people!

Monitor, 20 January 1827.

The writer, "An Emigrant", argued that history and the last 30 years of modern experience disproved the claim "attributing all morality to an aristocracy, and recommending it chiefly as an engine of Colonial moral reformation". The English nobility had not always been the most moral in Europe; their morality was not the cause but the effect of the people gradually paying more attention to religion. The Colony's morals were more likely to be increased "by the increase of Sunday Schools, benevolent societies, bible societies, &c &c than by the sudden

1. Australian, 3 March, 1825.

creation of a 'high minded aristocracy'".¹ It was through the medium of bureaucratic pedagogic institutions, rather than the development of personal aristocratic power, that morality was to be spread.

In general, the press cast disparaging remarks on the notion of an exemplary moral centre, as this was seen to underly exclusionist demands for the permanent establishment of a titled aristocracy in N.S.W.. The moral and social pedigree of this landed aristocracy was often questioned. The Sydney Gazette, 21 April 1828, pointed out that many of these "primal aristocrats", from the N.S.W. Corps and the 102nd Regiment, were in the early years of the colony "common retailers of haberdashery, as well as notorious grog-sellers... [who] contrived to sustain and perpetuate their aristocratic pride and self-importance, by retailing yards of calico, measuring inches of tobacco, and serving out quarters of well-dashed rum". They provided the convicts and soldiers "with the necessaries and luxuries of life to the tune from 4 to 800 percent!" The writer "An Emigrant" also claimed that through such means military and civil officers acquired their land, sheep and cattle from the poorer marine and convict settlers.² The role of these "old hands" in overthrowing Bligh was also continually referred to in the Press.³ The Monitor, 17 February 1827, went so far as to refer to them as "disturbers of every government".

The Sydney Gazette, 13 January 1825, observed that "the Colony, now a days, is deluged with gentlemen and esquires",

1. Australian, 24 March 1825, "An Emigrant".
2. Australian, 31 March 1825 "An Emigrant".
3. Sydney Gazette, 15 February 1828.

very few of whose titles were based on inheritance, birth, "or some other powerful recommendation". The Sydney Gazette complained that it always understood "that there were no hopes of any member of a poor man's family attaining the dignity of a gentleman before the third or fourth generation". The Gleaner, 17 May 1827, asked "who-pray-are these Demi-Gentry, these mock nobles, who are thus playing 'high life below stairs', and affecting to condemn an association with opulent, and respectable citizens, 'because they had once fallen'". It observed that they were no longer made up old settlers and old prejudices born out of "those days, when two classes only existed in our community... Oh! no - these squeamish recusants, are not of the number of old settlers, they are more recent importations, lured to our shores by the scent of convict gold, by the anticipation of enriching themselves by convict labour, - by the sweat, and the blood of the unfortunate". N.S.W. newspapers complained that these gentlemen had no hesitation in trading with the same emancipists whom they opposed being placed on equal political and personal footing with themselves.¹

O' yes;- they will do the Emancipists the honour to consume the fruits of their 'honest industry', their tea, sugar, wines & on a credit 'ad Groecas Calendar'; but, to be coup'd with them in a Jury-Box - to incur personal converse, and contact, pari Gradu, - would be degradation, contamination, abomination!.

Gleaner, 17 May 1827.

Such criticisms, as the above, evidence the emergence of an ideology of social egalitarianism, which recognised only the talent of individual industry and exertion. In effect, what was emerging in opposition to British free settlers, and

1. See Sydney Gazette, 18 November 1824; Governor Bourke similarly pointed to the seeming paradox of free settlers only too ready to be commercially involved with emancipists yet refusing to sit with them in a jury-box: Bourke to Goderich, 19 March 1832, HRA, Vol.16, p.564.

the "old", hierarchial, aristocratic order they represented, was an ideology of egalitarianism premised on the competitive individualism of capitalism. This egalitarian ideology was not so much in opposition to the development of a hierarchical society, but wanted an aristocracy of merit rather than an aristocracy based on privilege or inheritance.

Governor Macquarie's favourable emancipist policy made him perhaps the first most powerful advocate of the position. Ritchie has aptly summed up Macquarie as holding the belief "that industry and application should be rewarded by promotion and acclaim", whilst also believing "that subordination was the only basis which might promote happiness and order".¹ Likewise, emancipist Eagar, in a letter to Bathurst, proclaimed "that there should be subordination of Rank is natural and just". This meant that a convict "should give the most unquestionable testimony of his reformation, good conduct and character, before he is restored to Rank in society...but having redeemed his character and entitled himself to just consideration, it is too much to have continual reference to unhappy circumstances".² In short, this egalitarian ideology stressed the redeemability of man, that his rank in society should be the result of personal effort and not social ascription. Thus the Gleaner, 26 May 1827, wanted the government to be fair in its appointment to public offices "by opening them to a fair competition of merits and abilities, and by no longer confining eligibility, to one particular caste".

The tendency of this ideology was to individualise class relations by providing them with the semblance of being

1. Ritchie, Evidence, Vol.1, p.199.

2. Eagar to Bathurst, 12 November 1822, B.T. Box 28, p.6912.

the unequal realisation of the inherent psychological differences Godly nature had placed in individuals. The egalitarianism of this ideology lay in its assumption that all individuals ought to be equally free to realise their inherent different abilities. This ideology denied the moral relevance of private familial circumstances, property, or even life history for the public or political being of the individual. Personal insignia was to have no public political relevance. However, as Marx points out, the demand for formal public equality in capitalist society does not remove or destroy class relationships but makes their reproduction a product of civil society.¹ The private, especially as the source of individual differences in wealth and aptitude, becomes the domain for the depoliticised reproduction of class relationships.

I have moved away somewhat from the issue of land and new migrants, to which I will return in the next section. However, I have done so only to point out certain major ideological tendencies inscribed in these issues. I have sought to point out that urban newspapers rather than constituting a radical press which denied class relationships, in fact, sought to ground them ideologically in a form of competitive individualism which effectively blurs and depoliticises the reproduction of class relationships. This ideological tendency, which naturalises class relationships by making them an expression of individual aptitude, culturally dominates the construction of class relationships in our own time. Moreover, this ideology of competitive individualism, apart from coming from discursive sites which favoured the freeing up of capital and labour, was also linked to an historical form of Australian

1. Marx, "Jewish Question" in Bottomore, op.cit., pp.29-30.

nationalism. As a convict colony, established as a land of opportunity for the reformation of the fallen, N.S.W. was juxtaposed against the artificiality of British hierarchical society, which stunted and prevented the development of man's inherent psychological qualities. In effect, the Opposition Press appropriated many of the critiques of the artificiality of an aristocratic culture which were articulated by the politically aspiring British middle classes at the time, but gave these a nationalistic edge.¹ Their ability to do this was partly dependent and determined by the landed settlers in N.S.W. imitating British aristocratic culture as the means of establishing their cultural hegemony over other classes.

This theme will be continued partly in the next section, where I also examine discursive strategies in the press which attempted to turn less-well-off British emigrants against the more organised and wealthier forms of British capital coming into N.S.W., as well as against the wealthy indigenous landed bourgeoisie who were seen to be aligned with the latter.

1. For these critiques in Britain see J. Sekora, Luxury: The Concept in Western Thought, Eden to Smollett, pp.107, 117-118, 285.

(G) THE MOBILISATION OF OPPOSITION TO LARGE-SCALE LANDED
CAPITAL AND WEALTHY FREE SETTLERS

As I have shown, the Opposition Press opposed large land grants to free settlers; but especially large land grants to Corporations.¹ The Monitor, 13 September 1827, criticised private stock Companies, such as a recently proposed one for growing sugar at Port Macquarie, by arguing that "the lands of the colonies ought to be reserved exclusively for individual emigrants". Likewise, the granting of one seventh of new land grants to the Church and School Corporation provoked strong hostility against the Anglican Church.² The Monitor argued that England:

has laid the foundation of a mighty power, which if suffered to acquire strength in proportion to its sub-structure, will annihilate every interest and every sway in the Colony. The Clergy will reign trimphant - the tyrants alike of the people and the constituted Authorities - their possessions and their wealth will serve to crush on the one hand, enslave on the other; and New South Wales from being a prosperous and rising Colony, will sink into a Priest-ridden, nerveless Community!

Monitor, 6 June 1826. 3.

Three weeks later the Monitor complained about how government policies were leading to the creation of "a kind of holy aristocracy, very different from the ungodly pure Merino oligarchists, who in the old faction and the new faction, wish to reign alike over Governor and People". The Australian, 3 January 1827, criticised the clergy for seeking material wealth and power; and claimed that: "Half the schisms in religion have proceeded from the avarice of the Priesthood".

The granting of one million acres to the Australian Agricultural Company was similarly opposed. The latter's land grant

1. Australian, 29 August 1828.

2. Monitor, 20, 27 January, 6 June 1827; Australian, 30 December 1826.

3. Monitor, 27 January 1827.

required it to invest one pound per acre and to take 1,200 convicts off the governments hands. The Australian Agricultural Company became a symbol of excessive and wasteful land grants to foreigners, which were not in the interest of the colony. Opposition also emerged because those appointed to the Committee advising and managing the Company's colonial affairs were mainly exclusionists. They included the Rev. Archdeacon Scott, Captain King, James and Hannibal Macarthur, and James Bowman. Through the Company, the exclusionists, especially the Macarthur family, gained further influence and powerful friends in England, for combating the convict faction.¹ The Sydney Gazette, 4 November 1824, stated the Company's British directors included:

The Attorney General, the Solicitor General, the Hon. H.G. Bennet, Mr. Brougham, Mr. Hume and 25 other distinguished Members of Parliament - the Governor, Deputy Governor and eight Directors of the Bank of England - the Chairman, Deputy Chairman and five Directors of the East India Company - besides many of the most wealthy and eminent Bankers and Merchants of the Metropolis.

The Company was viewed in the Opposition Press as a political instrument:² "as an engine for augmenting family influence, as a means of facilitating political manoeuvres, and as an easy mode of enriching subordinates and dependents".³ The fact that the Company did not import any livestock meant that its extensive purchases in N.S.W. could be used to create personal relationships of obligations and patronage.⁴

It would appear that criticisms of large land grants were coming from the urban petty bourgeoisie. The writer "A" responded to criticisms of the Australian Agricultural Company by

1. John Macarthur to (Father) John Macarthur, 12 June 1825, Macarthur Papers, Vol.15, pp.300-301.
2. See Monitor, 19 June 1827.
3. Australian, 2 August 1826.
4. See the Australian, 3 March, 13 April, 25 April, 4 May 1827.

another writer by seeking to expose his real motives, which were namely him having placed his independence of mind and liberty "in the hands of butchers, bakers, tailors, and shoemakers".¹ Not all those of the latter class who opposed government policies were emancipists. Darling, writing in 1826, complained there was a whole class of recently arrived shopkeepers who knew nothing about agriculture and yet who hoped to get land. "Too many of this class come out", Darling complained, many of them bringing out their capital in trade goods they obtained on credit. They became alienated from his administration because of their failure to receive land whilst others did.²

Though always opposed to the Australian Agricultural Company, the Monitor initially supported the emigration of wealthy free settlers to N.S.W.. However, in September 1827, it changed its mind and joined the Australian in jointly arguing that what N.S.W. needed was labour and not more capital, for the latter did not increase the sum total of production in the colony but instead gave everything a fictitious value.³ The Opposition newspapers wanted the government to reverse its policies and to make land grants to settlers of limited means so as to encourage the emigration to N.S.W. of labourers and mechanics. The effect of the Australian Agricultural Company was to increase competition for labour, both convict and free; the relief it offered the Colony, the Australian claimed, "is

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1. Sydney Gazette, 18 March 1824, "A".
 2. R. Darling to W. Hay, 16 December 1826, Transcripts of Missing Despatches from Governors of N.S.W., 1823-1832, M.L., A1265-4.
 3. Monitor, 13 September 1827.
 4. Monitor, 4 February, 26 April 1828; Australian, 18 November 1824, 31 March 1825, 6 December 1826, 4 May 1827.

the relief which a master tradesman experiences on loosing capital workmen".^{1.}

On the 12 April 1826, the Australian claimed that the Company was part of a selfish exclusionist plot to sacrifice the nation, "to throw the resources of the colony into the hands of English capitalists". The exclusionist pastoralists sold the Company much of the stock it needed to begin its operations. It was complained that the Company would monopolise the future profits of the Colony, shipping these back to England as dividends rather than investing them in the Colony. By selling the Company stock, the Colonists were "abandoning the true sources of wealth to strangers, and laying the foundation for exhausting the Colony of its riches"^{2.} The Opposition Press also complained about the Australian Agricultural Company's exclusive access to Newcastle coal.^{3.} This meant, argued the Australian, 29 July 1827, that: "Coal, in place of becoming a source of profit, will prove an additional and a constantly active means of draining money from the Colony". Dividends would have to be paid in British currency, as such they threatened the colony's ability to purchase imports. The future of the colony was asserted to be that of Ireland: "the people of Ireland have always been kept in a state of poverty and distress, owing to the great Land Proprietors spending their incomes in England".^{4.}

Along these lines the Monitor criticised the Church and School Corporation claiming it would create a parasitical holy

1. Australian, 4 May 1827, 12 April 1826.
2. Australian, 12 April 1826.
3. Monitor, 28 July 1826; Australian, 26 April 1826.
4. Australian, 2 August 1826.

aristocracy who, upon retiring to England, would drain the colony of its wealth.

They [ecclesiastics] are not a jot more to be feared in a political view than the Agricultural Corporation. The rents drawn by the Agricultural Company will be sent to London. Those of the Church Company, too, will be sent to London, to pay our Archdeacon when he retired from this vineyard.
Monitor, 27 January 1827.

One complaint about the importation of too much capital was that it was pushing up prices, "putting it beyond the means of the poorer class of settlers to gain a subsistence, or create a little store, by the purchase and breed of a small stock".¹ The Australian, 24 November 1825, claimed that the rising price of merino sheep was preventing "the rearing of sheep becoming gradually diffused" and that a new monopoly was rising up "and confining within its own circle a considerable portion of those profits which disseminated among the small emancipist farmers".

In general, Opposition newspapers exploited the economic and social divisions within the landed community: they played on the distinction between emancipist and exclusionist which was part of the broader distinction between large-scale imported capital and small-scale domestic capital. In particular, they tried to fuse the interests of small emancipist farmers with those of new free settlers who were experiencing difficulties because of the price of establishing themselves on farms.² Thus, the Monitor, 26 April 1828, argued that because Merino ewes had risen from 30 shillings to £30 and the same could be said for other livestock as well as land, this

1. Australian, 12 April 1826.

2. See Australian, 30 May, 6 June 1828.

had "entailed ruin on newcomers. Their fortune of one thousand and pounds capital...bought nothing". The only persons who benefited from the introduction of capital, the Monitor claimed, were the "rich old hands" whose property acquired a greater value.

When the price of livestock became depressed after 1828, the Australian, 6 June 1828, chose the occasion to argue that the great stockholders had no right to complain for they had obtained their land free and that even at low prices they were still making profits. This is contrasted with the position of new settlers who had been forced to purchase stock at exorbitant prices and who, because of difficulties in being allocated land, had either to purchase or rent land if they were not to miss the season.¹ The only benefactors from the previous inflationary situation were asserted to be those interested parties who, on the incorporation of Australian Agricultural Company, "contrived by artifice and finesse to double, and treble, and quadruple the then existing prices".²

Governor Darling attributed his unpopularity partly to the Monitor's endeavour to persuade those who cannot obtain land as much and as many convicts as they wish, that they are treated with harshness and injustice by the Government".³ This was despite the government having set up a Land Board "to relieve itself from the imputation of partiality" with respect to the distribution of convicts and land to settlers.

1. See also Australian, 14 September, 24 October 1827.

2. Australian, 6 June 1828.

3. Darling to Goderich, 21 June 1832, C.O. Miscellaneous letters N.S.W. 1832, pp.99-100, M.L. A2146.

Darling believed that opposition to him came from the poorer free settlers who despite their limited resources wanted a large land grant. He accused many of them of engaging in "the grossest impositions" by borrowing money for a day or two whilst appearing before the Land Board. The failure of their farms Darling attributed to the drought and to their having borrowed money at high interest rates.¹

Let us look at some more examples of how the press was mobilising this sector of public opinion.² The Monitor, 22 November 1827, blamed the Australian Agricultural Company and the Church Corporation for the difficulty new settlers were having in being allocated land. The Monitor, 17 February 1827, wanted to know reasons why Governor Darling's administration gave freely "convicts to the rich old hands, permitting poor struggling Johnny-newcomers to go without servants at all". The government it is true, the Monitor claimed, had reduced the number of its convicts in the Barracks from 1700 to 500 by allocating them to settlers. But it had done this by letting "out to the old hands of the Colony, (the rich old emigrants of Governor King's time) gangs of 20 men each to clear their estates, and make those richer who were already too rich". They had picked all the best of the Barrack convicts to be assigned to themselves, leaving to the new emigrants the "huk, lame, blind, daft, (as Scotch say) imbecile, in short all possible sorts of useless wretches". The Monitor, pleaded for "equity, humanity and commonsense" and asked "who ought to be compelled to pay the high wages of free labour -

1. Ibid.; H. King, Richard Bourke, p.146.

2. See also Monitor, 1 September 1826.

such men as our councilmen Mr. McArthur and Mr. Throsby? or newly arrived emigrants?" Referring also to the distribution of convicts, the Australian, 2 February 1826, complained that: "The wealth and influence of some of the settlers have occasioned distinctions and an inequality in the judicious distribution, to the great prejudice of the people at large". The Australian also criticised new regulations which required small settlers wanting convicts to apply firstly for a certificate to a Magistrate, clergyman, or three landholders. This, the Australian argued, would reduce the settler "to a state of vassalage and subserviency".

He the [settler] must think as a great landholder thinks. He must submit as his captive. He must surrender his independence of mind; otherwise he will not be deemed capable of maintaining the number of servants that he may apply for...these regulations...are well calculated to stock the farms of the great people; they are well calculated to suit the Agricultural Company, who, by their large herds...will always have a claim for more servants, however many they may have.

Australian, 2 February 1826.

The Monitor accused the government of readily giving land grants to its civil officers, who already had surplus acres, whilst new free settlers were forced to wait.¹ Along these lines, the Australian, 27 April 1827, accused government officials of having large landholdings themselves and thus "an interest in advancing the value of land by augmenting the difficulties of obtaining it". The Australian was responding to proposals to sell Crown land and to charge quit rent for it. It believed a better way of increasing the value of land would be through the encouragement of emigration by making land more readily available to the lower orders.² The

1. Monitor, 17 February, 31 December 1827.

2. See also Australian, 20 July 1827, 29 August 1828.

Monitor, 8 September 1826, also criticised the proposed land tax on all new land grants as a policy which would only increase the value of "Old Settler" estates. These settlers would not have to pay the tax and because they had arrived first, and, therefore, had their farms closer to market, they would have an unfair advantage and be able to undersell the newcomers.

A further consequence of the emigration of wealthy free settlers was to encourage the emergence of a sense of egalitarian nationalism amongst the colonial born youth, for whom the same ready access to land and convicts did not exist. Charles Darwin wrote about his visit to N.S.W. in 1836, that: "There is much jealousy between the children of the rich emancipist and the free settlers; the former being pleased to consider honest men as interlopers."¹ In evidence before the Select Committee on Secondary Punishments 1831, Thomas de la Condamine claimed that much of the demand for trial by jury and civil rights though coming both from free settlers and emancipists came principally from "what is called the Currency, that is, natives born of European parents".² The Australian, 19 January 1826, believed the colony's youth possessed sufficient wealth and the numbers to improve the country and that they possessed the added advantage of not being "strangers to the climate and the system of agriculture which ought to be adopted".

The people who are born in the Colony, are the people who will beautify and improve the Colony. It is from them we must expect that attention to not only changing the face of nature, but adorning the spot which surrounds their dwelling. It is to them we are to look for the neat farm-

1. A. Birch and D.S. McMillan, The Sydney Scene, 1788-1960, p.73.
2. Minutes of Evidence before Select Committee on Secondary Punishments 1831, p.73.

house, and fenced paddock; the yeoman's dwellings, and the squire's mansion with parks and plantations...

The Australian, in the same issue, printed an address to Governor Darling threatening dangerous consequences, if that spirit of discontent amongst the present generation were not extinguished. It being pointed out that the Colony's youth, not having been brought up in Britain, did not have the same commitment of absolute loyalty to the mother country as their parents. The native youth, it was claimed, were not interested in "the patronage of office", but were distressed to find "grants of land, which they consider their own as it were by natural inheritance", being given to strangers without the means of improving it. The address concluded that the native born youths wanted in future to be treated equally with emigrants and to enjoy the civil rights of free men which the British Constitution granted. On the 20 January 1827, the Australian printed a letter by 20 native born youth who believed the soil to be "their birth-right, their legitimate inheritance!" They complained about present policy, which was "to relinquish to schools - to churches - to 'levianthan' companies, and monopolising families, the pleasant possessions of the best land in the Colony, and the advantage of priority of selection". The Australian in the same issue supported the native born youths with the following forceful nationalistic statement".

Emigrants and strangers, and foreigners and capitalists, and non-capitalists, rich and poor receive grants of land in proportion to their means, in proportion to their wants, or according to some capricious rule, while the native born youth are passed over - their claims unattended to - their equal rights unheeded. Australian, 20 January 1827.

Apart from land, the other issue native born youth wanted equal treatment with free settlers via the state was in the appointment to the public service. In 1830 the Sydney College

was established by emancipists and their liberal supporters. In an early prospectus in 1825, when it failed to be established, it stated as its goal the education of the children of Sydney's inhabitants and of the middle class of society.¹ The Sydney College's first annual report proclaimed knowledge to be power and that without proper qualifications the colony's youth were destined "to move only in the humble spheres, either of private or of public life". The unavoidable consequence of this was stated to be that "every situation of confidence, of opulence, of respectability, of honour, must (if merely from the present unfitness, for want of education of the rising generation of the Colony to fill them) be occupied successively by strangers".²

The editor of the Monitor in a letter wrote that though he was proud to call himself an Englishman, his children and many other native born youth gloried in another name: "To be Australian is their signal-word, as opposed to Emigrants. Already do they club together, and in bands at their harvests and feasts, challenge and insult the British born". Hall spoke about how British policy would "convert sons into disaffected rebels".³ This theme of opposition to Britain and the exclusionists was very pronounced in the issue of taxation which I analyse in the next section. As we will see the issue of taxation was part of a continuing critique of government patronage which sustained a parasitical unproductive aristocracy.

1. L. Halloran, Proposal for a public free Grammar School, (1825), p.5.

2. First Annual Report of the Sydney College...(1831), p.6.

3. Darling to Murray, 6 July 1829, enclosure No.1 Hall to Murray, 12 March 1829, HRA, Vol.XV, p.58.

(H) TAXATION AND THE CRITIQUE OF A PARASITICAL ARISTOCRACY
SUSTAINED THROUGH PATRONAGE

Taxation raised most of the mutterings in the Opposition Press of an independence movement being formed that might, if not checked, lead the colonists to violently break their ties with Britain, such as America had done when Britain tried to forcibly impose taxes on her.¹ The Monitor, 5 November 1827, pointed out that the £65,000 of taxes raised in N.S.W. were almost the same size as the taxes in the American colonies before they revolted. R. Mansfield has estimated that government revenue per head of the free population almost doubled between 1821 and 1828, rising from £2 5s. 5d. to £4 10s. 8d.² Under Governor Darling, taxation increased from £64,000 in 1826 to £117,000 in 1831.³

The Sydney Gazette justified the new taxation measures by arguing that it was only right that a dependent colony like N.S.W., whose wealth depended on Britain supplying convict labour, should assume some of Britain's colonial administrative costs. It also argued that so long as the mother country paid £120,000 per annum in supporting the colony then N.S.W. could not hope to assume political independence through the establishment of a local House of Assembly:⁴

...our independence will be in exact proportion to the amount of taxes raised amongst us; for if the Government is to be supported by British funds, it is but rational to suppose that British influence and patronage should prevail in our Councils.

Sydney Gazette, 19 October 1827.

1. Australian, 9 May 1827; Monitor, 20, 27 January 1827.
2. Mansfield, op.cit., p.57.
3. Hazel, op.cit., p.145.
4. See also Sydney Gazette, 10 August, 10 December 1827, 8, 11 February, 9 June 1828.

The Opposition Press argued that if the state was to raise revenue from the local population, then it should also incorporate the elected representatives of that population into the state to advise the state on their needs.¹ The Chief Justice of N.S.W., Forbes, supported this claim. In his secret correspondence the British Under Secretary, R.W. Horton, Forbes echoed what he believed to be the unanimous feeling of the colonists: that, for the annual sum of £60,000 they contributed in taxes, the colonists only received the personal assurance of the Governor that it would be well spent. He went on to say that in the allocation "of public resources, our governments have not invariably acted with a view to the public advantage"; and that without some substitute for self-taxation the colony would remain in a state of political agitation.

...you must find some means of consulting the payers of taxes as to the manner of laying them on - some check upon the appropriation - some audit, to which every public accountant may be brought - some channel thro' which you will communicate your accounts to the people. 2.

In particular, Opposition newspapers objected to taxes raised locally being spent on "purposes exclusively British; such as in the erection of barracks for troops and convicts". They wanted these local taxes spent on Colonial projects in the building of "schools, churches, courthouses, and jails, in making and improving townships, roads, and bridges; in the maintenance of an effective police; in the judicial, ecclesiastical, and surveying departments."³ New remote penal

1. Gleaner, 10 May, 21 July 1827; Australian, 29 July 1826.
2. Private letters to R.W. Horton, 6 February 1827, Chief Justice Forbes, p.85-86, M.L. A1819.
3. Australian, 31 March 1825; see also Australian, 9 February 1826.

settlements, such as at Moreton Bay, were also criticised by the Opposition Press, which wanted the money spent closer to headquarters.¹

The expense of transporting 400 men to Port Macquarie, &c. is a dead loss. Their labour is not worth, at these penal settlements, above a fourth of what it is in this old colony. The dead loss altogether, food, clothing, freight, loss, risk, &c. &c. &c. may be estimated at 50£. per man, which, for 400 men, is 20,000£. per annum.

Monitor, 1 September 1826.

Ministers of religion, the Australian, 30 December 1826, reports were in future, by an order from Britain, to be paid out of the Colonial Fund and not from the British Treasury. The Australian demanded that the power to select ministers be given to the people in return for paying their salaries and giving them one-seventh of the colony's land.

The Australian, 22 November 1826, likened taxes to a form of political encroachment, a way of "exacting our submission". It was quickly taking over the colony and "creating the means of doing without the people's assistance, and the people's interference, while they are made to pay the piper". Governors of N.S.W. were accused of seeking to accomplish what the King of England could never accomplish, independence from the people.²

N.S.W. newspapers acquired a special interest in the taxation issue when Governor Darling's government in May 1827 sought to impose a four penny stamp duty tax on all newspapers. The Chief Justice vetoed the implementation of this tax.³

Nevertheless, the threat of its implementation further politic-

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1. Australian, 20 July 1827.
 2. Similarly, the Australian, 7 September 1827 opposed the collection of quit rents on the grounds that this tax would "render the Government independent of the people". For other statements of opposition to a Land Tax see Australian, 27 September, 6 December 1826.
 3. Melbourne, op.cit., p.138.

icised the press against Darling's administration. The stamp duty tax led the Opposition Press to increase its identification with the interests of manufacturing capital:

Next to the wisdom of not taxing colonial industry - such as distillation, tanning, soap boiling, candle-making, shoe-making, bread-baking, &c. would be that of not taxing the man who prints or the Colonists who reads...

Monitor, 8 June 1827.

The Opposition Press sought to broaden the conflict between itself and the government by constructing this conflict as a conflict between pastoral and manufacturing capital. The Monitor, 11 May 1827, claimed that the legislative council; "being composed of men of land and sheep, the Archdeacon himself being the Shepherd of a flock...would never tax their own property, but prefer other people's for this honour". Parliament, the Monitor claimed, had recognised this and for this reason had given the Chief Justice the power to veto legislation. This was done to protect "domestic manufacturers in the colony of hats, leather and newspapers". The Monitor had no reason for making this claim. But this is not important. What is important is the rhetorical and political context within which such claims could be made to circulate as truth. Central to this was the context of conflict and competition engendered in the press by the perceived unequal political representation of pastoral capital in the Legislative Council. For the Monitor and for the Opposition Press in general, the Supreme Court was a site of justice and equality which could be juxtaposed against a landed oligarchy seeking to monopolise wealth by directing taxes away from land. The Chief Justice was given his power of veto, the Monitor claimed, because "Ministers wished no tax to be levied but what was general and equitable - taxes by which the owners of manors and sheep might be made to pay

rather more than mechanics and manufacturers - or a poor author".^{1.}

The struggle against taxation was also phrased in the Opposition Press as the struggle against an emerging arbitrary, parasitical aristocracy supported by state patronage through taxation. Opposition Newspapers were especially opposed to British ministerial appointments, on the basis of Tory patronage, to N.S.W. positions. There was especially opposition to the Archdeacon's modest salary of £2,000 being paid for from local taxes.^{2.} N.S.W. was characterised as a "society...sur-charged...with so large an intermixture of the refuse population of the mother country, burdened too with the maintenance of a set of useless and needy placemen, whose numbers appear to be daily on the increase". The Australian, 16 December 1824, which made this claim, went on to say that outsiders had only one interest, that was to institute principles of economy. The Gleaner, 21 July 1827, complained that many appointments were "little less than sinecures for ministerial patronage" and that this was incompatible with the rigid principles of economy Britain espoused for N.S.W.. The writer, "Multi, alias Maize", who criticised the government's economy measures of which taxation was a part, argued that this "cold-blooded, unfeeling calculating system, mistaken for economy, has the effect of wringing from the already impoverished settler as much as possible, whilst sycophants and useless placemen too often fatten on their distress".^{3.} The Australian, 9 May 1827,

1. Monitor, 11 May 1827.

2. Monitor, 6 January 1826.

3. Australian, 15 May 1829 "Multi, alias Maize".

criticised new custom taxes as the means of providing the government with "plenty of patronage...plenty of filling old shoes with new shoes". On the 1 June 1827, the Australian followed up its criticism with the following comments on the annual sum of £73,000 from customs duties:

Here is a Princely Revenue, raised out of the poor and industrious and ill-used colonists! Here is a fine source of Corruption - if we possessed a Government disposed to act corruptly!...and with the means of Patronage, which the money ground out of the people creates, well may our Masters deal with their Selves after the fashion of persons in possession of uncontrolled powers.

Here, patronage, the result of no taxation without representation, was equated with arbitrary undisciplined personal power. The Monitor, 17 July 1827, warned the colonists that: "taxes produced taxes. They have in them the power of procreation"; that if they were not careful, the sum of £80,000 would be silently increased such that:

the recipients of those thousands will get more and more into power, and they will have the whole wealth of the Colony, as well as its liberties, IN THEIR OWN HANDS! The aristocratical part of England receive 70 million pounds sterling a year from their industrious productive neighbours next door, DOING LITTLE OR NOTHING FOR IT!

The Monitor went on to argue that such a situation produced political conservatism and prevented all reform. On the 27 September 1827, the Monitor, hearing that the new Principal Clerk under the Collector of Customs would receive 400 Pounds a year, carried the latter argument further. It argued that taxes in producing a parasitical aristocracy living off the poverty of the people, also produced the need for an expensive military force to oppress the people. This not only increased taxes further but created the need for a larger more expensive tax collecting bureaucracy, which in turn further expanded the influence of the Crown. In later chapters we will analyse much more closely the critique of military power and the demand for democratic institutions which the Opposition Press expounded.

(I) CONCLUSION; SUMMATION OF THE MAJOR ECONOMIC CONFLICTS
IN N.S.W. AND THE POSITION OF THE GOVERNOR

Historians have often characterised the conflict between the press and the state in the late 1820's as a conflict between emancipists and exclusionists. More recently McMichael, Holden, and Dow have characterised this as partly between merchant and pastoral capital.¹ I have argued that it was predominantly a conflict between a bourgeoisie proper linked increasingly into international trade and a petty bourgeoisie more dependent on the formation of a national market which, in turn, was determined by government expenditure. This approach has the virtue of being able to take into account the way the less wealthy urban and rural settlers of recent British origin were also being drawn by the press into supporting the emancipist cause. In terms of the economic structure of N.S.W., the Opposition Press can be seen as the beginning of an embryonic political party seeking to create a pluralist platform able to incorporate intellectually the disparate economic and social groups of N.S.W. into a common political movement.

D. Webster, in his article on the changing structure of newspaper discourse, has argued that between 1838 and 1840 the conceptual divisions and images through which men organised their relationships to the world changed.² There was "the gradual phasing out of the old, convict-based terminology of emancipist/exclusive, pure/stained, Whig/Tory and its replacement by a new terminology of people/aristocracy, classes/

1. See p.420 Footnote 8.

2. D. Webster, "Terminology, Hegemony and the Sydney Press, 1838", PB, September 1981, No.10, pp.31-46.

monopolists and even workers/capitalists".¹ In short, the ideological categories through which class relationships were conceived and constituted moved from being based on a prison terminology to being based on categories more appropriate to a capitalist economy. I have a number of things to say about this argument. Firstly, the Whig/Tory distinction is hardly a convict based terminology. Secondly, as we have seen from the very end of censorship "the new terminology" for articulating social struggles occupied a prominent place in the field of newspaper political discourse. Indeed, the two terminologies were partly transformations of each other. As I show in the next chapter, emancipists, as the bulk of the population, often called themselves the "People". Thirdly, the use of this terminology was partly directed towards the British political scene where it was already in vogue. Fourthly, the use of this terminology can hardly be equated with the decline of the convict system, for after 1820 the number and percentage of convicts in N.S.W. expanded. What it has to be related was the need for less specific and more generalised categories capable of articulating the diverse interests and components of N.S.W.. The struggle against landed exclusive monopoly was capable of uniting small settlers with urban groups, both of whom were comprised significantly of emancipists.

Having covered the major economic conflicts in colonial N.S.W. history I will conclude with an analysis of how they were managed. However, to reiterate, these conflicts are between:- (1) the interests of the penal system (punishment,

1. Ibid., p.32.

reformation and low administrative costs) and the interests of capital; (2) the state and various factions of capital (urban versus rural, emancipist versus exclusionist, bourgeoisie versus petty bourgeoisie) over the distribution of convicts, land, government positions, the size and nature of public works, and the issue of taxation, when the Crown attempted to transfer the cost of administering N.S.W. to the colonies; and (3) ex-convicts and the Crown over its immigration policy. Basically all these conflicts are interrelated and tied up with the social reproduction and expansion of capital in its diverse forms. They have as their common element the participation of the state as a party to the conflict and the means of resolving it.

What dominates the life of N.S.W. and arises out of the very penal origins of N.S.W., is the state: it provides the political, social, cultural and economic infrastructures within which the reproduction and accumulation of capital could be successfully undertaken. Furthermore, because the state does play such a large role in the life of N.S.W. it becomes the site not only of a series of struggles between classes and class factions, but over the very form which the society of N.S.W. should take. Different factions of capital became bearers of opposing models for the state's role in manipulating N.S.W. social structure.

However, these struggles need to be related to the historical form that N.S.W. state assumed. In particular, the centralisation of power in the figure of the Governor acted to produce him as an object of contention. Significantly all Governors after Phillip were recalled because of their struggle

with various factions of capital. In the early years, the officer-traders and pastoralists, who formed the backbone of the exclusionist faction, were instrumental in recalling the early Governors up to and including Macquarie.¹ It was Governors Brisbane and Darling who encountered the wrath of the emancipist faction and the Opposition Press. Governor Brisbane towards the end of his rule became reconciled to the emancipist cause and encountered the wrath of exclusionists.² It was not the wage labourers or the convicts who produced the recall of the Governor, though they waged their own type of individualistic struggles against the state, but the diverse interests of capital.

It was out of this conflict between the policies of the metropolitan British government, being implemented by the Governor, and the interests of capital that the mutterings of independence from the mother colony emerged in the late 1820's. But these various threats of independence, of pointing out to Great Britain and Governors the American Revolution as an historical example of what can happen when the mother colony fails to take sufficiently into account the needs of domestic capital, are just that, merely threats. There was a cement that bound N.S.W. to Great Britain, even though the Crown was implementing policies such as the raising of local taxes that were seen by domestic capital as being against their interests.

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1. The Australian, 16 September 1826, offers an interesting commentary on the Macarthur faction and how their influence in the colonial office was such that it allowed them to produce the successive recall of Governors.
 2. Governor Brisbane came to be revered by emancipists and liberals in much the same way as Macquarie; see Australian, 8 June 1827; Clark, History, Vol.2, p.59.

This cement was economic in character: Britain provided domestic capital in N.S.W. with a cheap convict labour force and through local expenditure by the British Treasury provided a market for colonial produce and the means of purchasing imports. Britain also provided N.S.W. with an export market for wool, cedar, fishing products and other goods. This was why an American revolution could never happen in N.S.W., no matter how strong the personal hostilities and the struggles against policies being implemented by the Governor became.

Though there was a strong relationship of interdependence that bound the colony to the mother country, the conflicts between the policies of the metropolitan government and the varying interests of domestic capital did not just disappear, but had to find some other political form, apart from an independence movement, to work themselves out. Often these conflicts took on a personified form, they were given the semblance of being a conflict simply between personalities. This allowed the structural contradiction between the interests of the metropolitan government and the varying interests of domestic capital to be individualised and thus contained. The Governor implemented the policies of the metropolitan government and was expected by domestic capital or its components to modify these to take into account their interests and, in general, to argue their case to the colonial office. If the Governor overly antagonised these local interests by implementing the policies of the colonial office he was withdrawn and if he did not implement these policies he was withdrawn anyway.

Patronage was one means whereby a Governor might seek to reconcile potential opponents to his policies, but often its use was itself divisive. Through his control over the distribution of land,¹ of convicts, particularly skilled convicts,² of the allocation of government posts³ and of contracts, the Governor's powers of patronage were quite extensive. But patronage cannot be simply a cohesive factor for it often occurs within a context of scarce resources in which different groups are competing for slices of the same pie. Macquarie's appointment of ex-convicts to positions of magistrates and his favourable attitude to them only acted to antagonise the exclusionist faction, who saw it as challenging their position of privilege⁴. On the other hand, the granting of land and convicts by Darling to the exclusionist faction and imported capital was attacked by the emancipist press who saw the Governor as searching around for respectable moral support within the colony to justify to the colonial office his unpopular policies. Patronage within N.S.W., therefore, though it could be used to win a faction over to the policies of a Governor often only antagonised the opposing faction, thus

1. "With regard to the distribution of land and cattle it is to be remarked that both have been considered in this colony rather as the personal gift and favour of the Governor, than as National property to be applied to National purposes and distributed impartially..." Evidence of Edward Eagar to Bigge, 19 October 1819, Ritchie, Evidence, Vol.2, p.23.
2. "...the assignment of a mechanic has always been considered the greatest favour that could be bestowed by the Governor, and it has been granted only to individuals whom he wishes to distinguish or oblige, or who could plead the execution of some important government undertaking". Bigge, Report, Vol.1, p.18.
3. For criticisms of official positions being used by Governors for purposes of patronage, see Australian, 9 May 1827, 1 June 1827. "We know that appointments to the Magistracy are looked upon by Governments as a convenient and a cheap mode of purchasing adherents"; Australian, 22 June 1827.
4. For charges of favouritism against Macquarie, Ritchie, Evidence, Vol.1, pp.202, 210.

leading to further personification of the conflict, that is, to its centralisation around the figure of the Governor. But this personification of the conflict is also a way of managing it, a way of containing the scope of criticism, of maintaining the fundamental relationship of N.S.W. to Great Britain as unproblematic whilst, at the same time, criticising the Governor for the implementation of policies often not his own.

In the next chapter I move away from the politicisation of economic issues, which has been the focus of this chapter, and examine in detail the political demands of the Opposition Press.

CHAPTER NINE

THE POLITICAL DEMANDS OF THE OPPOSITION PRESS

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(A) INTRODUCTION.

With the emergence of an Opposition Press, the discussion in the liberalised Sydney Gazette over the best economic policy for achieving a democratic living standard developed into a debate over whether democratic political institutions were suitable and compatible with the colony's penal character. The uncensored Sydney Gazette tended to emphasise the continuation of a penal-military form of political domination, often arguing that the time was not yet right for the introduction of more liberal political institutions.¹ On the other hand, the Opposition Press struggled for a more democratic state, wanting trial by jury and a House of Assembly immediately.

I believe Alan Atkinson in a recent article has downplayed the political significance of this democratic movement by arguing that prior to 1827 "discussion was meagre".² Later in the same article, discussing the formation of the Australian Patriotic Association and the meeting of its Directors in December 1835, he argues that: "This was the first time since 1827 that the details of constitutional reform had been broached in public, but they now could hardly be avoided".³ Such a view, I consider, assigns too much importance to meetings and petitions and underestimates the instrumental role of the press in manufacturing a political crisis both before and after 1827. It also underestimates the scope of the political demands in the early uncensored press, which was con-

1. Sydney Gazette, 2 June 1825.

2. A. Atkinson, "The Parliament in the Jerusalem Warehouse", PB, Vol.12, 1982, p.76.

3. Ibid., p.86.

cerned with no less than the state's role in the production of a social structure. For example, I showed in chapter eight that the press supported native born youths, small emancipist farmers, and free settlers with limited capital against the state and imported capital. The press saw itself as struggling against economic monopoly by wanting to diffuse the control of the economy into the hands of numerous small-scale producers; in the realm of agriculture, this involved the production of a yeomanry rather than a landed aristocracy as the economic backbone of the nation. It is difficult to reconcile such demands by the press with Alan Atkinson's claim that popular agitation prior to 1827 was confined to Sydney.¹ The printing presses might have been, but many of the groups the press sought to politicise were in the countryside. Though Alan Atkinson qualifies the latter claim by acknowledging that a number of large landowners were active in the reform movement in the 1820's, he believed their real concern to have been mainly the taxation issue and the spending of colonial funds.² This assigns too much importance to a search for private motives and ignores, as I showed in the previous chapter, the way the taxation issue was ideologically part of a struggle against patronage and a military style of government.

I regard it as also incorrect for Alan Atkinson to suggest that "it was only in the 1830's that the people in fact began to think of themselves as extending over space at all, from a political point of view"³. and that, moreover, it was this new sense of political geography which led in the late

1. Ibid., p.76.

2. Ibid..

3. Ibid., p.96.

1830's to the question of "What kind of parliament will we have?" being substituted by the larger questions of "What is our relationship with the land, what kind of people are we, and how are we to live in future?"¹. The first question was always inseparable from the latter larger questions, as even the briefest examination of the Opposition Press in the late half of the 1820's would reveal.

The problem with Atkinson's analysis I consider emerges out of his failure to ground sufficiently the early political debates on the social and economic structure of N.S.W.. He sees them primarily as constitutional issues in keeping with "a community that was moving forward steadily, in a well established direction".². This is to gloss over too much. I argue that the Opposition Press was concerned with how the distribution of political power could be best achieved in a society in which capital was becoming more fragmented and specialised. The political problem was more than one of "the mere details of liberty: was there to be one chamber or two; who was to vote; who was to be qualified for election".³. The struggle to democratise the state needs to be related to a struggle to bureaucratise the state, as a means for more rationally achieving the specialised diverse needs of capital equally.

1. Ibid., p.98.

2. Ibid..

3. Ibid..

(B) DEMOCRATIC DEMANDS AND ALLIANCES

Though exclusionists opposed the establishment of any democratic House of Assembly,¹ many supported some type of legislative check upon N.S.W. Governors. Some, like John Macarthur, had been active in overthrowing Governor Bligh in 1808 and had appealed to Whig rhetoric, which asserted the legitimate people's right to overthrow a despotic monarch, to justify the insurrection.² The experience of Macquarie's appointment of emancipists to prominent public posts, no doubt contributed to exclusionist apprehension about the Governor's powers. Hannibal Macarthur believed Macquarie to have been equally as arbitrary as Bligh.³ In general, exclusionists had an interest in seeking legislative protection and control over the state, without at the same time opening up the door to the democratic multitude.⁴ They favoured a Legislative Council which would be independent from the Governor but representing "the property and public opinion of the free untainted colonists".⁵ Therefore, they supported the establishment of a Legislative Council made up of government nominated individuals rather than of elected members.⁶ This was, the Australian claimed, "because they knew full well,

1. Ellis, John Macarthur, p.470.

2. A. Atkinson, "The British Whigs and the Rum Rebellion", RAHS, Vol.66, 1980, pp.73-89.

3. H.H. Macarthur to John Macarthur, 18 November 1822, Macarthur Papers, Vol.5, p.28, M.L. A2901.

4. John Macarthur suggested to Governor Darling that the Executive Council be increased to nine members, 5 would be government officers and would include his son-in-law Dr. Bowman whilst the other 4 should be landowners. Darling however thought that the introduction of Macarthur and his friends would "prove extremely inconvenient to the Government", Darling to Huskisson, 7 April 1828, HRA, Vol.XIV, p.121.

5. Mudie, op.cit., pp.236, 238, 241, 243.

6. See for exclusionists legislative reforms the Address to Bathurst, enclosed in John Macarthur to William Horton, 11 July 1826 CO 201/179. McMinn op.cit. p.22

that they never would be Council men elected by the people. This is the grand secret of their opposition to representative government".^{1.}

In 1828 the number of males above the age of twelve was 7503 for ex-convicts and 4126 for those who had come free. The major portion of the 3503 males above twelve listed as born in the colony would have been children of emancipists.^{2.} The exclusionist writer of the article "New South Wales" argued that the reason why emancipists wanted representative legislative institutions and trial by jury was so as to dominate free settlers by their numerical superiority.^{3.} This, however, was not to be the case.

With Governor Darling's arrival to N.S.W. an Executive Council was established in 1825. It consisted of the Lieutenant Governor, the Chief Justice and the Archdeacon. The members of the Executive Council were also members of the Legislative Council which, in 1825, had three non-official members appointed - John Macarthur, Charles Throsby and Robert Campbell. Its members were sworn to secrecy not to disclose its meetings. The Council could not initiate or veto legislation, they could merely voice and record their disagreement. The real check to the Governor's power lay in the Chief Justice. He had to validate all new legislation as being in accordance with the laws of England as far as local circumstances would allow. The Chief Justice saw himself as exercising the powers of a house of review.^{4.} In 1828,

1. Australian, 1 December 1825.

2. Figures from the "Returns of the Colony, 1828", N.S.W. Archives Reel 4/257.

3. Australian, 3 February 1827, "New South Wales No.11".

4. Melbourne. op.cit... pp.117-118.

the British Government, still unwilling to allow completely democratic institutions in a penal colony, enlarged the size of the Legislative Council to between 10 and 15 members in order to allow it to incorporate a greater diversity of interests.¹ The new Council did not contain any emancipists, nor could it initiate legislation; the most it could do was to compel the Governor to give his reasons for over-riding its decisions. The right of the Chief Justice to veto legislation by withholding his signature was, ^{also} removed. The Council could temporarily over-rule the Chief Justice's decision till the British authorities made a permanent decision.²

Apart from opposition to the political representation of emancipists in any legislative house, the exclusionists also opposed their appointment as jurors. Marsden told Bigge that no civil rights should be given to ex-convicts, for this would place the administration of law into the hands of individuals who lacked principles, thereby reducing the beneficial influence of free settlers. He believed "evil communication" had already sufficiently corrupted the good manners of the mass of the population and of those in high stations.³ Archibald Bell also told Bigge that ex-convicts should not be allowed to sit on Juries because they could not discriminate between good and evil. He believed "the present constitution of the Criminal Court to be as good as possible as the [military] officers who compose it are so perfectly independent and free from all local interests and prejudice".⁴ John Macarthur

1. McMinn, op.cit., p.26; Clark, op.cit., Vol.II, p.132.

2. McMinn, op.cit., p.26.

3. Marsden to Bigge, 10 March 1821, B.T. Box 27, Vol.127, pp.6359-6360.

4. Ritchie, Evidence, Vol.1, p.93.

argued that ex-convicts should not act as Jurors because: "most of these unfortunate individuals cherish the highest degree of Malignance towards those, who have not suffered similar degradation with themselves, and nothing affords them a sincerer gratification than to sink either by contrivance, or calumnies, respectable men to their own level".^{1.}

Supporting the general thrust of this ideology, an anonymous exclusionist writer in the Morning Chronicle argued that few emancipists had undergone an actual moral reformation: theirs was a reformation from "a worldly point of view". This was because they regretted their crimes only to the extent that it effected "their character in society". A real moral reformation would involve offering up their regrets "as a matter of atonement to their offended Creator".^{2.}

Though the N.S.W. Act did introduce trial by Jury in 1824, the names of emancipists were left off the prospective Jury lists by the magistrates on the recommendation of the Attorney General, Saxe Bannister,^{3.} who pointed out to them "that in England a pardoned felon could not sit on a jury."^{4.} This caused an outcry, especially in the Opposition Press which argued that the rights of free British subjects ought to be transferred to all those eligible in N.S.W..^{5.} Even the

1. John Macarthur to Bigge, undated. Ritchie, op.cit., p.159.

2. Australian, 27 March 1827 "New South Wales, No.X".

3. J. Bannister, Statements and Documents Relating to Proceedings in N.S.W. in 1824, 1825 and 1826...Part II, (1827), p.36.

4. Bannister to R.J. Horton, 8 February 1825, Governors Despatches Transcripts of Missing Despatches 1823-1832, ML A1267.

5. Gleaner, 10 May 1827.

Sydney Gazette criticised the fact that the new Jury lists did not include all those eligible by property to sit. It likened such discriminations to the Indian caste system.^{1.}

The jury issue supported the emancipist Edward Eagar's earlier complaint to Bathurst after the Bigge Report, that whilst subordination based on rank was natural, the exclusionists sought forever to illegally subordinate the political rights of emancipists to their own.

With regard to subordination of Rights, it means nothing more or less then, that one class shall surrender all those Rights of person and property which the law of the land confers upon them, and submit to an usurpation of Rights in the other Class, which the law does not acknowledge. 2.

J. Mudie, one of the exclusionist theoreticians in the 1830's was more explicit about this. He argued that conviction rendered forever a man infamous and denied him full citizenship rights. The emancipist, he argued, existed only through the mercy of English law. He had been sent "to expiate, upon the waste of waters", to create a new world for a future generation. The emancipists were outcasts expelled by Britain, their lives were themselves an indulgence England permitted.^{3.}

The Australian, 9 February 1826, referring to the exclusionists, questioned whether in reality they cared "about Emancipist-Jurors, or untainted jurors". Their real concern was "to have the seats of justice reduced again to summary tribunals,

1. Sydney Gazette, 18 November 1824.

2. Eagar to Bathurst, 6 November 1822, Ritchie, Evidence, Vol.2, p.231.

3. Mudie, op.cit., p.3.

and they themselves to have a hand in influencing the decisions, as heretofore". Along these line, the writer "A Banished Man" criticised the bias inherent in a judicial system where the "expenalist" had his disputes with free settlers judged by another free settler.¹ On 30 January 1829, the Australian accused of being pure hypocrites those who claimed emancipists possessed "a leaning toward the offender, calculated to thwart the aims of justice". It argued that property interests overrode all other forms of discrimination, creating a common identity amongst the possessors that welded society together against all others.²

Is the emancipist, we ask, less likely to understand and follow accurately the dictates of SELF-INTEREST, than the pure exclusionists? and is not the interest of the one, on the whole, similar to the interest of the other, namely - the preservation of law and of property?...INTEREST is the great shackle that links society together.

Australian, 30 January 1829.

Bigge, in his report, spoke about how the bonds of sympathy which existed between ex-convict masters and their convict servants, that often made the former unwilling to prosecute the misdemeanor of their servants, was "not corrected until they [ex-convicts] acquire property and a disposition to improve and augment it".³

The Monitor also believed that there existed a common bond of property and self-interest between emancipists and pastoral exclusionists. It believed this had grown too strong and had led to rich emancipists losing their sense of sympathy and compassion for those now undergoing convict servitude.

1. Australian, 3 February 1825, "A Banished Man".
2. This argument was repeated by Broughton to Darling, 14 September 1830, HRA, Vol.XV, p.775; Bourke to Howick, 28 February 1832, HRA, Vol.XVI, pp.543-544.
3. Bigge, Report, Vol.1, p.76.

On 15 December 1826 it accused wealthy emancipists and emigrants of being united in supporting a brutal penal system:

the emigrants, and even many of the emancipists, are decidedly hostile to the improvement of the convicts, insofar as coercion and perpetual slavery may tend to reform and humanise them.

The Monitor, 20 April 1827, claimed that criticisms of its "protection, advocacy, and apology for the prison population" had come not simply from "the old faction" or "the new faction" (referring to recent emigrants), but also from some emancipists. On the 7 July 1827, the Monitor accused some wealthy emancipists with being only interested in money at the expense of political participation to bringing about civil liberties which might protect the convicts from the same sorts of arbitrary oppression they had originally suffered. The Monitor wanted trial by Jury and the political representation of the colonists to protect the convicts and it accused wealthy emancipists of not being able "to sympathise with who we know in the same friendless unprotected state they themselves once were in, liable every hour to be sent to a penal settlement, where the will of the Commandant is law".¹

The Monitor, 15 December 1826, had argued that the interests of wealthy emancipists like that of emigrants was one of keeping tickets-of-leave and pardons to convicts to a minimum, so that they would not have to pay higher wages for free labour on their plantations. They were also accused of having a common opposition to marriage on the grounds it would increase labour costs. However, the Monitor, in the same issue, also claimed that the political cause of wealthy emancipists, which rested on them being eligible to sit on juries and have an

1. Monitor, 7 July 1827.

electoral franchise equal with emigrants, meant that the wealthy emancipists "cannot refuse to join the philanthropic portion of our society, by whose influence chiefly that lust of power, which would rivet the chains of the convicts without hope of mitigation is steadily opposed". In other words, though the economic interests of wealthy emancipists was similar to emigrants, with respect to keeping the supply of free labour from the penal system to a minimum, political reasons, the Monitor claimed, forced them to support a more philanthropic popularist ideology. Popularism in its philanthropic form, was a necessary strategy for incorporating the lower classes into the political strategies of a particular faction of capital.

The Monitor tended to argue that the major division in N.S.W. increasingly was no longer between emancipists and exclusionists but between rich and poor, between "the gentlemen" and "the people".

The difference which now exist are...1st whether the people or the gentleman shall legislate for the colony.
Monitor, 3 February 1827.

On the 20 January 1827, the Monitor identified more clearly the groups it viewed as "THE PEOPLE". They consisted of "Mechanics, shopkeepers, domestic manufacturers and little settlers" whom it called upon to become conscious of their "comparative strength as a collective body!" The fundamental axiom of British politics, the Monitor claimed, was that which invested in them "the virtual sovereignty of the State". It was in their ranks that "real independence" was to be found: "for you are too numerous to be bought by governments, and too humble in rank to be tempted either by the lust of ambition or the golden dreams of popularity!"

In the previous chapter I demonstrated how the Monitor and the Australian articulated the social, economic and cultural interests of a petty bourgeoisie comprised mainly, though not exclusively, of emancipists. Our concern with the political in this chapter, means that we need to recognise that the emergence of "the people", as a political concept in the press, represented an attempt to redefine the terms of political controversy so as to forge a political movement transcending divisions created by industry, by town or country, by social status and even by wealth. The fact that the term "the people" does not represent the complete subordination of the emancipist-emigrant conflict is evidenced by the Monitor's, 20 January 1827, definition: "the gentlemen of New South Wales are emigrants - and two-thirds, if not three-fourths of the people, are emancipists and their adult children".

It would be misleading to see the agitations for Colonial representation as originating from the working class or as serving their interest. Bigge, in his report, claimed that the bulk of the emancipists possessed no political aspirations, that this was "the ambition of their leaders, Mr. Redfern, Mr. Eagar, Mr. Terry and Mr. W. Hutchinson".¹ Alongside demands for political representation, wealthy emancipists and their liberal allies also advocated property qualifications for electors and elected. It was the wealthy emancipist, Samuel Terry, in a petition for Trial by Jury and a House of Assembly in January 1827, who seconded George Blaxland's amendment "that the qualification of Freeholders be left on the same footing as in England".² This would have meant that only

1. Bigge, Report, Vol.1, pp.147-155.

2. Monitor, 27 January 1827; see also Wentworth, op.cit., p.356; McMinn, op.cit., pp.16-17.

the wealthy were likely to gain representation in any proposed elected legislature.¹ Recommended property qualifications for voters would have effectively excluded the poorer sections of the working class who did not live in houses worth £10 per annum.²

Cunningham reveals that part of the division between rich and poor emancipists was mediated and constituted through penal categories. Cunningham satirised the emancipists by arguing that they reproduced the same ideology of moral purity as the exclusionists. He claimed that wealthy emancipists religiously excluded from their tables that caste of ex-convicts who had suffered a criminal conviction in the colony.³ Wentworth in his book argued that the latter should not be allowed to vote in the proposed House of Assembly.⁴

Increasingly political debate between the emancipists and the exclusionists became one over whether property in N.S.W. was a sufficient criteria of respectability as it was in England. When we look at the nature of contemporary political rhetoric, what stands out is the idea that somehow social gradations in wealth and power are correlated with psychological gradations in respectability, moral virtue, intelligence and industry. The whole ideological framework within which class relations were being discussed was largely predicated on this correlation. One cannot understand the documents of this period unless one is continually aware that statements like the

1. For property qualifications in Britain, see Cannon, op.cit., p.36. The petition which was sent to Britain mentions the figure of 1,000 acres as a requirement for elected legislative members, Sydney Gazette, 27 January 1827.

2. McMinn, op.cit., p.23.

3. Cunningham, op.cit., pp.250-251.

4. Wentworth, op.cit., pp.354-355.

"respectable section of society" or its "most industrious section" are ways of talking about the dominant class. It was precisely the use of this register that the increasing wealth of emancipists and their appointments to government posts under Macquarie disrupted or rendered problematic. Free settlers and exclusionists found it more difficult to use the English criteria of property ownership to justify their social and political claims to superiority over the rest of the population. Indeed, one of their main discursive strategies became the argument that property in N.S.W. could be no indication of character. James Macarthur accused the emancipists of wanting "full participation in civil rights and political privileges, upon the basis of property alone, without reference to character and conduct".¹ Something which Cunningham also thought absurd in a penal colony. He thought "character" should be the major criteria determining access to civil rights.²

This argument appears to have gained some acceptance in England. On 24 March 1825, the Australian reprinted a speech given in the House of Assembly by prisoner reformer H.G. Bennet, who was protesting against ex-convicts being allowed to sit on juries. He argued that the Bigge Report had shown that there were only 359 out of 4,876 ex-convicts, "who were living in any respectability upon their means", and that "many of the most opulent and extensive landholders have obtained their property by acts of the lowest-swindling upon the poor settlers".

The Australian rejected this argument, arguing that whilst in the past emancipists might have been the major money lenders,

1. J. Macarthur, op.cit., (1837), p.27.

2. Cunningham, op.cit., Vol.2, p.247.

this was no longer the case. Free settlers were also lending money on land and if emancipists were to be denied access to civil rights on these grounds the same argument should apply for free settlers.¹

Emancipists and the Press took up this language, which equated gradations in wealth and power with the subjective dispositions of human beings, to argue that emancipists were proportionately respectable and hence also had a right to hold government positions.² In the Sydney Gazette, 14 March 1828, they were referred to as "that class of colonists whose principle crime now seems to consist of being pre-eminently wealthy, and of course proportionably respectable and respected in society". Emancipists wanted the state to recognise not simply their wealth, but to take their wealth as indicative of their moral transformation and of hence their rights to political equality with free settlers. This was why many emancipist complaints to British authorities started off with a statement of their collective wealth.³ In effect emancipists supported those notions of democratic individualism which underlay the reformatory aspects of penal theory. Here, work and labour redeemed the individual and made him moral. Property acquired through hard work and industry was presented as a sign of reincorporation back into society.⁴

The Australian, 12 January 1826, accused the exclusionists of having "managed to represent themselves as combining

1. Australian, 24 March 1825.
2. Australian, 17 November 1825.
3. "The Humble Petition of the Emancipated Colonists", enclosed in Macquarie to Bathurst, 22 October 1821, HRA, X, p.550; Monitor, 17, 21, 24 January 1828 "Mr. Eagar's pamphlet".
4. Australian Quarterly Journal, July 1828, pp.240-242.

the wealth of the colony, while everybody else was either a degraded being or a poor man". Bigge was accused of engaging in this conspiracy. Earlier, the emancipist Eagar, in a letter to Bathurst in 1822, had accused Bigge of "artfully" and "insidiously" underestimating the relative wealth of emancipists so as "to lessen the numbers and thereby the claims and Interests of the Emancipated Convicts". Instead of comparing the wealth of emancipists and their children with that of Emigrants and their children, Bigge chose to compare the wealth of adult emancipists against that of the rest of the population. In doing so Eagar accused Bigge of deliberately ignoring the very close economic relationships which existed between emancipists and their children and of inflating the wealth of free settlers by statistically presenting the wealth of the emancipist's children as that of free settlers.¹

Emancipists' demands for free legislative institutions were also supported by many "Emigrants of the first respectability, and generally those persons who advocate liberal opinion". Francis Forbes, who made the last statement preferred to characterise the emancipist-exclusionist conflict as in reality one between emigrants and liberals², as did the press, which also referred to the conflict as one between Tories and Whigs. King has argued that British free settlers who, back in England supported Whig principles, in N.S.W. supported the emancipist cause, while Tory free settlers supported the exclusionists.³ Free settlers supporting the emancipists

1. Eagar to Bathurst, 12 November 1822, BT, Box 28, pp.6957-6860, 6862.

2. "Opinions of Sir Francis Forbes on the two petitions sent home in 1836" in Forbes Papers: Petitions and Reports, M.L., A745, p.113.

3. King, op.cit., pp.152-153.

included James Jamison (President of the Agricultural Society), W.C. Wentworth, E.S. Hall, Gregory Blaxland, Robert Campbell Junior, the two Justices of the Supreme Court (Forbes and Stephen), William Cox, Lawson, Major Druitt, M. Henry.¹

Darling characterised those who signed a petition wanting him removed as Governor as not only seven former convicts and 11 sons and or relatives of former convicts, but also as "2 Attornies, 3 editors & printers of opposition newspapers, 1 coach painter - deaf and dumb, 1 soap boiler, 1 insolvent Jew Broker, and 2 individuals not known".² Cunningham also remarked on the increasing close relations between some emigrants and emancipists which he put down to common commercial interests.

Of late, indeed some free emigrants have been attending the dinner parties of the wealthy emancipists, but, being chiefly of the trading or borrowing community, private interest of course forms the chief incentive to their conduct. 3.

William Williams put it partly down to the small size of the colony. He believed most emigrants to be "reconciled to social intercourse with the emancipists, both by mutual obligations, intermarriage, and the thousand other civilities incident to a limited society".⁴ The magistrates Dr. Harris and Lawson, who supported the emancipist cause were both married to convict women.⁵

1. These names were partly taken from the Monitor, 20 January 1827, which listed those emigrants signing a petition calling for a House of Assembly and trial by Jury.

2. R. Darling to Goderich, 21 June 1832, Colonial Office Miscellaneous Letter N.S.W. 1832, M.L. MSS A2146, p.102. Darling had also removed 5 names from the list he sent claiming they were forgeries; Ibid..

3. Cunningham, op.cit., p.252.

4. William Williams, op.cit., p.11; See also Mr. Bright's speech to House of Commons, Australian, 19 March 1825.

5. John Macarthur to his Son, 16 May 1827, Macarthur Papers, Vol.3.

(C) POLITICAL PLURALISM AND THE CRITIQUE OF PERSONAL
MILITARY POWER AND ITS SYSTEM OF PATRONAGE

The Opposition Press favoured a low property franchise which would not give too much weighting to land thus ensuring some political representation for emancipists and urban commercial interests. The Opposition Press also favoured a large House of Assembly. One with fewer than 50 members, the Monitor claimed, would be too liable to influence by the government's extensive patronage powers, which would result only in military and magistrates being elected:

...the Government by its vast influence in having power to distribute land and convict-servants to those voters at elections who vote as they wish them, would return all their own members and then we should be in a pretty mess! we should then have a Board of 50 tyrants, the creature of the Government!
Monitor, 24 February 1827.

The Monitor was not opposed to the political participation of government officials, but believed that a large House of Assembly would ensure they were "met in the House by an adequate portion of members, chosen by the people". A House of Assembly consisting of "thirty tyrants", the Monitor, 15 December 1826 argued, would oppress the convicts and organise taxes ingeniously so that they fell not on the higher orders but "exclusively on the middling or lower classes". Numbers, the Monitor, 24 December 1827, claimed would ensure both the incorporation of a diversity of talent and protection from partiality. The Monitor believed a large House of Assembly would function much like the free market system where all participants pursuing their own self-interests also realised the maximum welfare of society. A large chamber would be a site within which competing factions of self-interest would confront and balance each other.

In the House of Assembly, the selfish Grazier will be met by the selfish Merchant; and the selfish Trader by the selfish Grazier; and both by the selfish manufacturers, cedar-cutters, and all by the cunning lawyers, and the soi-disant philosophers.

Monitor, 26 June 1827.

The Opposition Press' preference was for a House containing a hundred members. The Monitor believed one with 30 members would simply lead to the formation of an oligarchy which would later actively resist further expanding the House of Assembly, since this would destroy their monopoly of power. The Monitor listed the 30 individuals whom it believed would form the oligarchy, claiming there was not one whom it would vote for.¹ In a petition to the House of Commons printed in the Australian, 27 January 1827, the petitioners claimed they "would prefer continuing in that degraded condition in which they are, rather than have an elective legislature created amongst them of such circumscribed extent as would leave them the name of 'popular representation', whilst in reality it delivered them into the hands of an oppressive and rapacious oligarchy".² The British government was to do the latter and as late as 1836 Colonists petitioned the British House of Commons "that they would infinitely prefer a recurrence to the old despotic form of Government, under which the Governor for the time-being, combined the legislature as well as Executive authority in his own person". They were unhappy with the power exclusionists gained in the existing Legislative Council.³

1. Monitor, 15 December 1826.

2. See also Monitor, 29 November 1827.

3. 1836 Petition in response to the Emigrants Petition, Forbes Papers: Petitions and Reports, ML MSS A745.

The exclusionist writer of the article "New South Wales" used the same argument of undue oppressive influence only to criticise the establishment of the proposed elected House of Assembly. He argued that only in the districts of Cumberland and Sydney were there individuals with sufficient wealth and talent to devote their time to legislative issues without being at the same time concerned with their own private interests. He knew of no settler in the larger settlement of Argyle, Bathurst and Hunter River who could do the same (a slight exaggeration). Indeed he suggested that their voting power would fall into the hands of the corrupt Sydney shopkeepers who extended credit to them.

...the patriotic shopkeepers of Sydney, who administer spirituous consolations, and other household hilarities to these drooping denizens of the wilds, at a moderate 200 per cent profit, from their smuggled investments, after (like the pious methodist) they had 'wet the tobacco, sanded the sugar, and watered the rum', would beneficently [sic.] undertake to stand proxies for their grocery clients upon these momentous occasions...

Australian, 3 February 1827,
"New South Wales - No.11".

Howe's Weekly Commercial Express, 9 May 1825, suggested a House of Assembly composed half from individuals chosen by the Government and half from individuals connected with colonial distillation. By thus protecting the interest of the merchant, the government, Howe claimed, would gain his support. What is important about Howe's Weekly Commercial Express' recommendation was not its radicalness, but the recognition by the government printer that the problem was one of incorporating the varied interests of capital into the state.¹

The general argument in the Opposition Press was that the increasing complexity of colonial affairs required more than

1. See also Howe's Weekly Commercial Express, 16 May 1826.

the existing half a dozen Legislative Council members, who, by their interests and haughtiness, were removed from the people.¹ What the Opposition Press opposed was the influence which landed capital had in the existing Legislative Council. This was the significance of the address below which was given to both Governor Brisbane and Darling. Its emphasis was on numbers, on a state based not on family patronage, but on reconciling and advancing the specialised interests of capital, especially those of fishery.

We also feel...the interests of our trade, arising as well from the production of the seas and islands which surround us, as from the soil we occupy, never have been, nor never will be understood in their practical details, by a small number of colonists, however eminent they may be for talents and integrity and even though they should be elected by the colonists themselves. Numbers are now indispensable in the legislature of New South Wales, to collect those various data, and that variety of information with respect to our agriculture, commerce, manufactures, and revenue, which are essential to a sound and healthy legislation, particularly in this colony, where the legislature ought to be purged of all party spirit, private interest, and family jobbing.

Australian, 14 January 1826. 2.

Many emancipists, early in the history of N.S.W., chose pursuits involving shipping partly because they were not given large tracts of land. They included Andrew Thompson, Simeon Lord, Isaac Nichols, Raby & Wills, Kable & Co., Cooper and Levy, and Underwood.³ Hainsworth claims that of 127 ship owners between 1800 and 1821, 57 were definitely ex-convicts with the figure possibly being as high as 69. Many of the other free settlers engaged in shipping were either related

1. Monitor, 3 February 1827.

2. See also "Address to Governor Darling", enclosed in Darling to Bathurst, 1 February 1826, HRA, Vol.XII, p.145.

3. M.J.E. Steven "Exports other than Wool" in Abbott and Nairne, op.cit., p.290; G.F.J. Bergman "Solomon Levy in Sydney", RAHS, Vol.49, 1964, p.408.

to, or in partnership with, ex-convicts.¹ Maritime investment was especially stimulated by government expenditure cut-backs after Macquarie, by the drought after 1826, and by low wool prices. All of which forced merchants to find alternative sources of foreign exchange.² J.D. Lang claimed that the colonial sperm-whale fishing fleet consisted in 1823 of not more than two ships based at Sydney and that by August 1830 this had increased to 26.³ This shipping interest, along with other sections of capital, to some extent found itself hindered by new government regulations and charges.⁴

We assure your Excellency, as a fact which is indisputable as it is important, that New South Wales, from its want of judicious local laws in her Revenue, Agriculture, domestic Manufacturers, and coasting and fishing Trades, has been impeded in her prosperity, and her inhabitants subjected to individual loss and vexation to an incalculable degree, especially until within the last three or four Years; and Your Excellency may rest fully assured that a Legislature, founded on the same basis as the Legislatures of the American and West Indian Colonies, can alone make us a happy and contented Peoples... 5.

Though wool exported increased progressively in quantity throughout the 1820's their total monetary value fluctuated greatly, as Table 3 below illustrates.

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1. D.R. Hainsworth, Builders and Adventurers, p.74.
 2. President of the Sydney Chamber of Commerce, HRA, Vol.12, pp.509, 24. G.J. Abbott, The Pastoral Age, p.12; Australian, 10 May 1826.
 3. Lang, op.cit., pp.307-308.
 4. Howe's Weekly Commercial Express, 27 June 1825.
 5. Address to Governor Darling; in Darling to Bathurst, 1 February 1826, HRA, Vol.XII, p.145.

Table 3

Quantity and Value of Exported N.S.W. Wool 1822-1831

	Quantity (lbs)	The Returns of Exports (Pounds)
1822	172,880	Not Known
1826	552,960	48,387 (first recorded total value)
1827	407,116	24,306
1828	834,343	40,851
1829	1,005,333	63,555
1830	899,750	34,907
1831	1,401,284	75,979

In 1830 wool only accounted for £35,000 of the total value of £141,000 of exports from N.S.W..². It was not until 1834 that the value of exported wool exceeded the value of exported fishery items.³ The writer, "Monitor", Sydney Gazette, 22 January 1824, argued that "sperm whales are the real merinos of New South Wales". The Australian, 28 May 1828, thought that: "Flocks and herds are well enough in their way. Extensive grants of land are, doubtless, good things. Grazing profits are very tempting...but what are they when put in comparison with the Sperm Fishing?" Hall in his pamphlet claimed it was only the rapid expansion of the whale fishery industry which saved the capital and commerce of N.S.W. from collapse during the 1820's.⁴ All in all, the Opposition Press gave a lot of support to the fishing industry vis-a-vis pastoralism, often arguing that the colony would benefit if some of the investment in land and wool was transferred into fishery. The government was praised when in 1826 it appointed Robert Campbell, as a representative of commercial interest, to the Legislative Council, though the Opposition Press also thought this was inadequate and criticised John Macarthur's appointment.⁵

1. "Return of Wool Exported from the Colony of New South Wales", in Agricultural Papers, M.L. MSS A280, p.77.

2. Holden, op.cit., p.105.

3. Ibid., p.106.

4. E.S. Hall, The State of New South Wales in December 1830, (1831), p.56.

5. Australian, 5 January 1826.

Revealingly, the Gleaner, 10 May 1827, presented the emancipist cause historically through the metaphor of the rising bourgeoisie, which had to struggle against the fetters and oppressiveness of a feudal system before it could liberate the diverse energies of the nation. Early N.S.W., the Gleaner argued, was like feudal England: "comprised, with few exceptions, only her Barons, and their vassals"; the civil and military officer were the "petty despots" and the convicts the "wretched Helots".

By degrees, however, a third description of persons emerged from the latter; persons, who having burst their legal fetters, were enabled to employ their talents, and exertions, previously devoted to the Public Service, or to the enrichment of their task masters, to their own personal, and individual advantage.

It was this freeing of self-interest, "enterprise", which resulted in the present prosperity of the colony. Not only was the military monopoly ended, but by becoming "dealers, merchants, ship-owners", emancipists "diverted the stream of acquisition, which previously flowed in a single channel, into a variety of branches".^{1.}

The pluralist model of political power articulated by the Opposition Press, I would argue, represented, in part, the means by which the varied interests of emancipist capital sought political representation. This democratic demand made its presence felt through the demand for the incorporation and production of specialised bodies of knowledge within the state apparatus - for "the union of wisdom and power"^{2.} This could be best ensured through an elective legislature, for "the law makers must not be archdeacons just arrived, not colonels of

1. Gleaner, 10 March 1827.

2. Howe's Weekly Commercial Express, 16 May 1826.

marching regiments, nor the high officers of Government who fear to offend his Excellency...whenever they think his proposals injurious, but they ought to be taken from among the farmers, merchants, shipbuilders and manufacturers, for whose benefits as a body local laws are intended to operate".¹. Along these lines the Monitor, 22 September 1826, argued that intelligence and integrity should be the qualifications necessary to become a magistrate, instead of mere surplus acres, or sheep and cattle.

The Australian, 10 January 1827, initially praised the establishment of Boards, such as the recent Assigned Servants Board, which it likened to a House of Assembly. Here the colonists would be able to provide information on the specialised needs of the colony to their foreign rulers, who were strangers to the colony's interest. These boards represented part of the progressive bureaucratisation of the state in N.S.W. as it sought to move the control of resources away from the personal discretionary power of the Governor. In doing so, James Macarthur argued, they partly weakened the power of the Governor: "One great weakness of our present government is their having deprived themselves of the patronage and means of influence which former administrations derived from the distribution of Government men".². Similarly, the Sydney Gazette, 3 February 1825, claimed that the present and all future Governors could not follow Macquarie's unlimited power and from this "will arise the absence of that universal popularity as regards future Government".

1. Hall, op.cit., p.21, see also Monitor, 21 June 1827.

2. James Macarthur to brother John, 9 June 1827, Macarthur Papers, Vol.35, p.43.

Darling claimed he established the Land Board, which also was in charge of distributing convicts, in order to relieve the government "from the imputation of partiality" with respect to the distribution of convicts.¹ The exclusionist writer of the article, "New South Wales", praised the Land Board as getting rid of the conflicts engendered by the Governor's discretionary authority to give or withhold land to favourites or opponents.² In effect, the exclusion of emancipists from prominent government posts placed these Boards under the control of exclusionists and their allies. They were now able to appropriate an ideology of impartiality to legitimate and mystify the partiality of their increasing incorporation and control over state resources. As we can see below, these boards came to be criticised by the Opposition Press for providing unrepresentative and partisan or interested forms of advice to the Crown.³

...we hereby do now protest against the further sitting and operations of the said knots, clubs, or boards, particularly where the same are composed of Commissaries, Majors of Brigade, Owners of Cedar Grounds, and Importers of Rum and Gin; because by reason thereof, military domination, ruinous duties on raw produce, and horrible excise taxes on manufactured commodities, the necessaries of life, are likely to be promoted and enforced, to the great damage of the people, and of our said Lord the King, his Crown, and dignity. Monitor, 10 February 1827.

What we notice about the late 1820's was the emergence within Australian society of that modern relationship between the state and knowledge, in which demands for the fragmentation and specialisation of knowledge within the state apparatus was not so much a consequence of processes internal to knowledge, but more a consequence of the specialisation of capital and the

1. R. Darling to Goderich, 21 June 1832, C.O. Miscellaneous Letters N.S.W. 1832 A2146.

2. Australian, 3 February 1827, "New South Wales - No.11".

3. Monitor, 19 June 1827.

demand by these competing factions for political representation. Competing factions of capital claimed political representation on the basis of their claim to a monopoly of knowledge.

...in a thriving country, where cedar-cutting, ships, craft, and boat-building; whaling, sealing and skinning; tobacco, flax and wool growing; distilling, brewing, soap-boiling, and tanning; occupy the people; Judges, Generals, and Archdeacons, make bad law-makers; and that master shipwrights, merchants, farmers, and manufacturers, understand what laws would suit them, much better than the said professional men. ...a numerous House would let in practical farmers, whalers, and manufacturers.
Monitor, 21 June 1827.

This ideological strategy served to increasingly secularise the state, identifying it increasingly with the progress of practical reason as this was embodied in capital.

The demand for the incorporation of the varied and specialised interests of capital into the state in an advisory capacity was partly "to correct the encroachments preserved in more through ignorance than contempt of the law".¹ The extensive foreign and internal dealings of the colony made local knowledge necessary, the Australian, 23 April 1828, claimed if the legislature was to guarantee the rights of others. The reason for Governor Darling's unpopularity with the people, the Monitor, 8 June 1827, claimed, lay in "all the odious restrictions on colonial industry such as brewing, distillation, fishing, cedar-cutting &c.&c.&c.". On the 21 July 1826, the Monitor further criticised a Legislative Council "far removed from the habits and details of trade and domestic manufactures". It was referring to a recent Act of Council which prohibited individuals from issuing promissory notes under 20 shillings. It regarded this as an invasion of "the lawful and laudable customs of a free people".²

1. Australian, 23 April 1828.

2. See also Gleaner, 4 August 1827.

The early history of N.S.W. tends to support Engel's idea that the growth of state bureaucracy emerges historically with the growth of domestic capital or a petty bourgeoisie, whose varied and local interests generate conflicts requiring the expansion of the state to regulate the growth and reproduction of capital.

The bureaucracy was set up to govern petty bourgeoisie and peasants. These classes, dispersed in small towns or villages, with interests which do not reach beyond the narrowest local boundaries, have necessarily the restricted horizons corresponding to their restricted mode of life. They cannot govern a large state, they can have neither the breadth of vision nor the knowledge to balance the different conflicting interests. And it was exactly at that stage of civilisation when the petty bourgeoisie was most flourishing that the different interests were most complicatedly intertwined (one need only think of the guilds and conflicts). The petty bourgeoisie and the peasants cannot, therefore, do without a powerful and numerous bureaucracy. They must let themselves be kept in leading strings so as to escape the greatest confusion and not to ruin themselves with hundred and thousands of lawsuits. 1.

I believe, with respect to N.S.W., we can dismiss Engel's idea that the petty bourgeoisie lacked the breadth of vision and the knowledge to administer a bureaucratic state and for this reason also has to accept a subordinate position with respect to the bureaucracy. The position of the Opposition Press in N.S.W. was rather one of incorporating the petty bourgeoisie into the bureaucracy, of expanding government so that it was capable of expressing its numerous specialised interests. One could perhaps also more accurately say that the demand for an enlarged state bureaucracy in N.S.W. coincides not so much with the growth of conflicts within an expanding petty bourgeoisie, as Engels argues, but also with the emergence of conflicts between the bourgeoisie proper and the petty bourgeoisie.

1. The Constitutional Question in Germany, MECW VI, 75-91 in M. Cain and A. Hunt, Marx and Engels on Law, p.229.

Weber has pointed out that the growth of capitalism, predicated as it is on calculation gives rise to a demand for a bureaucratic structure which can ensure both stability and the incorporation of technical knowledge into its administration of society.¹ This incorporation of technical knowledge into the state, Weber sees as partly necessitated by domestic capital's need for protection from outside foreign competition and partly by its need for state provided infrastructures.² What do we notice in the N.S.W. Opposition Press if not this critique of the state, that its legislation by not consulting the wishes of the people and taking them into account makes predictable rational economic behaviour impossible. What the press partly demanded was stability of government, an increasing formalism, whereby fixed rules would be given preference over the discretionary power of the Governor. The Monitor presented the following criticisms of the arbitrary unknowledgable state of government in N.S.W.; many of these criticisms were repeated by the Chief Justice in his private correspondence with Horton.³

Instead of allowing every man to distil and brew out of an iron-pot and a wash-tub, as the Americans are allowed by their fostering and paternal Government to do, our Military Rulers have proclaimed laws and imposed burthens, heavy and grievous to be borne on our industry: and when under their influence, distilleries of the dimensions of palaces, fitter by their magnitude for London and Paris, than for Sydney, arise, immediately the Government shifts its ground - the regulations and duties, (on the faith of which the Builders with finances strained and credit put to the rack erected them) are suddenly altered; the consequence is, all the great distilleries both here and at Van Dieman's Land were shut up ere they had well begun to take handsel - the same by the cultivators of the soil - the same may be observed of Tobacco - the same with regard to the regulations for distributing land and convicts to new emigrants. Hence - hence - not in the idleness of the people, is the dilapidation of N.S.Wales!

Monitor, 23 March 1827

1. Weber, op.cit. pp.338-339.

2. Ibid., p.339.

3. Chief Justice to R.W. Horton, 6 February 1827, Chief Justice Forbes, MSS A1819, p.93.

Part of the Press criticisms of the state in N.S.W. lay in the fact that relations of patronage were seen to prevent the full incorporation of men of knowledge into government. The British government was criticised on this point as much as the local government. It was claimed by the Australian, 13 December 1824, that the reason Britain voted to keep N.S.W. in a state of political dependency and thus as a penal colony organised along military lines was because it afforded opportunities of patronage for the mother country. The Monitor, 24 May 1828, accused the local government of collusion in this process. It argued it was in "the interests of Majors of Brigade, Military Secretaries and Civil Officials in general to represent this colony as a mere penitentiary" because of the unlimited power of patronage it made available to the local government. Field, in a letter to Marsden in 1826 referring to British Crown appointments, wrote that Maclay's has been the only recent appointment obtained absolutely without favour".¹ The historian Hazel King has argued that Tory patronage was responsible for nearly all N.S.W.'s civil servants' appointments up until 1831.² Chief Justice Forbes complained to Horton about the quality of government officials sent out from Britain during Darling's administration. They were only too ready to be commanded, being hard working and efficient, but they did have "the spirit to command - to create, collect, animate, and to embody".³ Forbes also pointed to the disappointment colonists experienced in expecting a spirit of reform from Governor Darling upon his assuming office.

1. B. Field to S. Marsden, 26 July 1826, Marsden Papers, Vol.1, M.L. p.458.

2. King, op.cit., pp.132-133, 154, 162-163.

3. Forbes to Horton, 22 March 1827, Private letters to R.W. Horton, M.L. A1819.

How could it be otherwise? The Governor, his private secretary, and the colonial secretary, the real cabinet of the colony, were not only new to the colony, but novitates in the office of governing - that is of governing according to the laws of England.

Forbes also criticised Darling, like the Opposition Press, for appointing his relatives to government posts.¹ The Monitor, 6 January 1827, complained that this had the effect of moving N.S.W. bureaucracy away from a professional civilian model toward a military model. It complained:

A military governor (naturally enough) has military friends, and takes especial good care, that they have good civil situations, to which (nine out of ten of them) they are utterly inadequate; so depriving many worthy civilians of the bread of life.

Governor Darling was personally not immune from this criticism. The Monitor, 15 June 1827, argued that the Governor was appointed on the basis of patronage and not on the basis of his merit. His previous military career was seen to make him ineligible for the Governorship. The Monitor, 6 January 1827, argued that what the colony needed as a Governor was not a military man, "who has spent all his life in drilling and being drilled; and whose ideas have never wandered beyond a barrack square". Rather N.S.W. needed a civilian Governor, who had been well educated at university in law. Such a man would "make the equitable division of the rights of man his primary object". What it is important to note for the time being was the way law was being equated with equality in the press. On the other hand, military government was seen to deny the rule of law and of equality vis-a-vis the state in favour of arbitrary, superficial discipline.

1. Forbes to Horton, 22 March 1827, Chief Justice Forbes, pp.117-119, M.L., A1819.

Habitually accustomed to military regularity - to the bugle at this hour - to the totto at that; accustomed as well to obey as to be obeyed, he will consider that the perfection of ruling consists not in equitable enactments - public-spirited liberality - or the equal distribution (as much as possible) of property - not in rewarding merit; and (though last, not least) in personal urbanity, but in providing that the marginal line of a letter be all in a certain, specific, equidistant station... Monitor, 6 January 1827.

Part of the criticism of military style of government was that of its centralised patriarchal character. Forbes in a private letter to Horton, praised Brisbane's administration precisely for its decentralised form. He argued that in the last 12 months of Brisbane's rule more than twice as much was transacted by departments as in the current 15 months of Darling's rule. "The secret lies in this, the late government was entirely one of departments - every principal officer did that which appeared to him to be most pressingly required by the public". Darling's unpopularity arose partly because he began the task of once again centralising government administration: "the business of every office, the details of every department were to be revised, and made to pass in review before the Governor"¹. Darling claimed he did this in order to gain control over government expenditure and to place some check on the independent power of departments which he disliked.² He earned the dissatisfaction of many principal public officers by abruptly checking "the assumed independence of their situations".³

Chief Justice Forbes told Horton that the problem in the colony was not one of reorganising government but creating it. Governors had so far taken upon themselves most of the detailed

1. Ibid., pp.115-116.

2. Darling to Hay, 2 February 1826, HRA, Vol.XII, p.149.

3. Ibid.; Rose, op.cit., pp.56-57.

administration of the Colony: "they made laws, levied taxes, laid out all the monies, repaired the roads, appointed the constables, door-keepers &c. &c. and in short descended to the minutia of counting the stock of the settler". This was all very well in a small penal colony made up of soldiers and settlers, but was impossible to continue given the existing scale and increasing complexity of the colony: "Busied with such pursuits, the government office has become in the course of time, so encumbered with details, that it has no time for the loftier objects of political economy".¹.

It is quite melancholy to see the Hand of the Chief Officer in the Colony impressed upon every minute arrangement, and the details of business taken out of the proper departments. A people cannot shake off subserviency and servile feelings, so long as they see every intermediate rank between themselves and the governor dispossessed of its due share of influence, and its legitimate authority; and so long as they are taught to believe, that every frivolous affair and every affair of importance must be referred to, and approved and settled by ONE MAN.

Australian, 13 March 1827.

The Monitor, 3 February 1827, similarly criticised the total personal nature of state power in N.S.W.. Government in N.S.W., it argued, exercised such a direct impact and influence on society, that it rendered the people virtual slaves of their government. It criticised the minute influence of government "over all descriptions of colonists, bond or free, rich or poor, little or big".

As we will see further in the next chapter, such criticisms, though often phrased as demands for a reduction in state power, were more often a concern with multiplying the number of centres from which state power can be exercised.

1. Forbes to Horton, 6 February 1827, Private letters to R.W. Horton, Chief Justice Forbes, A1819, p.92.

This is perhaps the profound historical meaning of the demand for the dispersal of state power. This demand often made its presence felt as a critique of patronage, which was taken to be a manifestation of excessive personal centralised power, and as a demand for impersonal fixed rules before which everyone was equal. As the Australian, 24 October 1827, put it referring to land grants: "a preference of grantees should not take place either on account of personal predilection or personal oppenency". The point I want to emphasise is that the emergence of egalitarianism as a popularist ideology in the press has to be related not to shepherds minding sheep, but to competition for political power between different components of capital.

Moreover, this competition promoted a demand for the bureaucratisation of the state. The struggle against despotism and oligarchy provided emancipists, small property owners and certain forms of urban-commercial capital with the political resources for criticising a State which patronised imported capital and the exclusionists while systematically excluding them from access to the resources controlled by this State and also from participation in it. Weber has perceptively characterised the general tendency of the above processes in the observation that any attempt to organise the state around "a spirit of formalistic impersonality", which is essentially the bureaucratic form, will at the same time promote a spirit of equality. Weber also points out that "every process of social levelling creates a favourable situation for the development of bureaucracy; for it tends to eliminate class privileges, which include the appropriation of means of admin-

istration and the appropriation of authority as well as the occupation of offices on an honorary basis or as an avocation by virtue of wealth".¹ I have sought to ground Weber's dialectical relationship between egalitarianism and bureaucracy to divisions created within the dominant class by the increasing specialisation of capital and their unequal political access to the state.

1. M. Weber, The Theory of Social and Economic Organisation, p.340.

(D) CONCLUSION

This chapter has examined how the changing social structure of N.S.W. made it increasingly ideologically difficult for Governors to rule on the basis of personal power and patronage. New ideological forms were needed and demanded if the state was to be a site for producing mass consensus. As we have seen there were increasing demands for the incorporation of conflicts between dominant class factions within the institutional materiality of the state. The pluralist model of state power being demanded was that of the need to achieve working compromises between competing factions of self-interest. In this context, the role of the Governor became increasingly problematic as the very centralised personal nature of the state was seen to exacerbate divisions between factions of capital and gave rise to criticisms of arbitrariness and partiality. State officials were partly aware of the need for new tools of legitimation. Indeed, I have argued that the increasing bureaucratisation of the state and the increasing decentralisation of state power were partly underpinned by these ideological requirements. For example, the Sydney Gazette, 25 August 1825, claimed that the colony had not really benefited from a Legislative Council; the only benefit it could see was that of "relieving the Governor in Chief of that ponderous responsibility under which he previously staggered". Though not really removing effective political power from the hands of the Governor, the Legislative Council can be seen as an attempt to spread the sphere of state responsibilities away from the Governor and the metropolitan government through the incorporation of local interests. The establishment of the Land Board was

intended to have similar ideological effects. However, as I have shown, the selective incorporation of "free settlers" only into these institutions, along with the magistracy and trial by jury, only acted to surround state patronage with a mystifying ideology of impartiality which the Opposition Press continually sought to unmask. In the next chapter I look in closer detail at other discursive forms articulating the critique of the centralised and personalised form which political power in N.S.W. assumed.

CHAPTER TEN

THE RESTRUCTURING OF POLITICAL

DISCOURSE AND THE EMERGENCE

OF A CRITIQUE OF STATE VIOLENCE

...the art of legislation consists not in sweeping laws - but in laws adapted to men and things - laws which are full of exceptions - laws which encourage the industrious and discourage the idle. Sweeping military-like laws are generally impolitic, oppressive, vexatious, and demoralising.

Monitor, 20 January 1827.

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(A) INTRODUCTION

This chapter examines further the changing structure of political discourse in N.S.W. with the liberalisation and removal of censorship. The politics of patronage and personal influence, which I partly analysed in the last chapter, came to be increasingly criticised and displaced by the politics of public opinion. A new consensus style of politics emerged which glorified freedom of the press as a means of putting an end to that secret, clandestine form of personal politics which was associated with exclusionist, landed magistrates and their influence. Personal power would increasingly be accused of being an irrational power, an undisciplined power which resulted in tyranny and bloody excesses. There was a growing identification of the politics of patronage with military despotism and, moreover, with a power structure which situated itself at the level of the brutal punishment of the body. As we shall see, this critique of personal power and the consensual meanings which the press was generating around the issue led to measures being taken to control the press.

These measures were unsuccessful. In the N.S.W. press the issue of illegal punishments exercised by exclusionist magistrates continued to provide a focus for articulating a struggle against that authoritarian violent style of government, which was associated with N.S.W.'s past history prior to Macquarie. The exclusionist symbolised the continued existence of this past within the present. They, the Bigge Report and Governor Darling's tightening up of convict discipline, threatened to reassert this old despotic order.

The truth of this imagery is not as important as the way the defense of convicts from tyranny, oppression, starvation and flogging became a struggle to bureaucratise the penal system and to move state-class power into a legal structure of fixed rules in place of a structure predicated on personal discretion. The concern with protecting convicts from their master's tyranny represented partly an attempt to limit the power of exclusionist landholders. Indeed, the Monitor, 23 March 1827, used the oppression exercised by exclusionist pastoral magistrates as an argument for assigning convicts to Sydney.

But this humanitarian assertion of the rights of the oppressed also represented an attempt to assert the autonomy of the legal system from the penal system. Previously they were more closely fused together. Increasing legal rights, based on an abstract humanitarian view of man, were asserted in the press as the basis of stable legitimate government. This assertion of the autonomy of the legal system was partly a reflection of that autonomy from the penal system which class relations in the urban context were partly acquiring.

(B) THE NEW POLITICS OF A FREE PRESS AND GOVERNMENT
ATTEMPTS TO CONTROL THE POLITICISATION OF THE MASSES

It was perhaps no accident that the relaxation of press censorship occurred at the beginning of 1822 at a time when new unpopular government measures were being introduced. There emerged with the freeing up of discourse a safety valve view of the press. It was perhaps a way of controlling, what one writer termed, "a sullen and contumelious temper" or the spread of "a spirit of murmuring and discord through the community".¹ The Australian, 2 July 1828, described its own beginning as one of removing the repression of built-up discontent, which might have suddenly unleashed itself as a violent revolutionary fervor:

Men seemed to breath [sic] a purer air, and gave utterance to their thoughts with a candor and a bluntness of expression likely to be far less mischievous in effect than when those sentiments were smoothed down and smothered, and never likely to burst forth, but on startling emergency, with the suddenness and destructiveness of a volcanic eruption.

This safety valve view of the press supported the notion of newspapers as an expression of public feeling, as the "mirrors which reflect the state of society".² The Monitor, 24 May 1828, argued that the press did not cause or create public discontent but allayed it and that:

When a community becomes exceedingly agitated by some obnoxious measure of Government, the Press, by giving vent to the public feeling, carries off the paroxysm. Stifled animosity is much more dangerous, than when it can find a legitimate medium through which men can expend their passion without public danger.

The liberalisation of newspaper discourse can perhaps be seen as a way of buying off more radical political discontent.

1. Sydney Gazette, 6 February 1823, "An Old Emigrant Settler"; see also Sydney Gazette, 20 February 1828; Australian, 31 March 1825 "An Emigrant".

2. Australian, 17 October 1827.

The very fact that the government allowed criticism of itself was used by the Sydney Gazette to continually justify the political organisation of the colony as one based on liberty and rational freedom. In the Sydney Gazette freedom of the press confirmed the symbolic typification of the Governor as a symbol of bounty and plentitude; it was "one of the noblest gifts our Governor had to bestow".¹ Freedom of the press was referred to as "an act of grace that renders illustriously pre-eminent the name of Brisbane".² Here, freedom of the press was presented not as an inherent right of the people, but became the means of legitimising a state centralised around the notion of an exemplary moral personage.

For the Sydney Gazette a free press provided greater opportunities through open debate of vanquishing "the enemies of past and present Administrations" who would otherwise have "murmured in secret, and again fanned the flame of rebellion".³ An uncensored press allowed it to more fully defend the Authorities and to give greater publicity to their benevolent motives. The Sydney Gazette even thought a free press would have prevented Governor Bligh's overthrow.⁴ The Opposition Press also argued that good government could not be undermined by criticism, but only strengthened.⁵

In the liberalised press discontents moved partly from the private uncontrolled realms of whisper, gossip and secret

1. Sydney Gazette, 28 October 1824.

2. Sydney Gazette, 6 January 1826; see also Sydney Gazette, 8 May 1823, "A Colonist".

3. Sydney Gazette, 20 February 1828; see also Sydney Gazette, 29 February 1828.

4. Sydney Gazette, 20 February 1828.

5. Australian, 20 June 1827, copied from The Times.

correspondence and were located in a field of visibility subject to public scrutiny and judgement. Governor Darling wrote to Under Secretary Hay that "the animosity against the McA-s [Macarthurs] is, I believe, violent in the extreme, founded in a belief, amounting to conviction in the minds of the inhabitants in general, of the access, which this family has to your Department, and the means which they thus possess of insidiously conveying false and injurious impressions of persons and things. The Public Papers are filled with observations to this effect".¹ The Monitor, 28 May 1828, referring to the political manoeuvres of the 'old aristocracy', claimed that the reason Governor Brisbane and Major Goulburn allowed a free press was to protect themselves from "the secret stabs and poisoned arrows of their enemies". Similarly the Sydney Gazette, 24 July 1825, praised liberty of the press as the means of dealing the death blow to that secret-channel of communicating colonial displeasure to the mother country, which had resulted in the recall of recent Governors. On another occasion, the Sydney Gazette argued that public servants had now nothing to fear from the influence of "the secret and malevolent quill-driving fraternity".² In a similar vein, the writer "Mnemon" argued that British ministers wanted a free press to operate in N.S.W. so that they could read open frank reports in place of which they had previously "preferred the private, underhanded, self-interested reports of a party".³ In brief, the press justified the removal of censorship as the means of controlling political manoeuvres, especially those of

1. Governor Darling to Under Secretary Hay, 10 December 1825, HRA, Vol.XII, pp.83-84; Sydney Gazette, 15 February 1828.

2. Sydney Gazette, 8 September, 1825.

3. Australian, 6 January 1829, "Mnemon"; see also Australian, 5 December 1828.

the exclusionists, operating through the hidden channels of patronage.¹ A new form of politics was emerging, one which ought not to operate through the secret, clandestine relationships of personal influence and private friendship, but one based ideally on the open competitive courting of public opinion.

Newspapers took upon themselves the right to discuss the pros and cons of any situation, everything was up for surveillance including the very role of surveillance. Nothing that was public was given a right to stand outside their critical gaze, everything except the intimate privacy of individuals ought to open itself up for inspection.² If there was one thing these central observers loathed it was public secrecy.

Secrecy we like not. Secret preparations denote a guilty conscience, and the Government should for the sake of their political credit, and their political character have done what they resolved upon openly, and not clandestinely. Australian, 8 June 1827.

Singled out for special criticisms were the meetings of the Legislative Council whose members were required to take an oath not to reveal their contents.³ Others criticised included the Magistracy, especially when the Bench tried to exclude the Sydney Gazette's reporters from its trials.⁴ The struggle against secrecy was seen partly as a struggle against "petty tyranny".⁵ The Australian, 8 July 1826,

1. See also Australian, 16 September 1826; Monitor, 3 December, 21 December 1827, "An Old Hand".

2. This ideology will be further analysed on pp.604-607.

3. Australian, 18 May 1827.

4. Sydney Gazette, 16, 23 July 1827.

5. Australian, 2 July 1828.

claimed that publicity to court proceedings protected the community from "overbearing magistrates", whilst also protecting "men of character amongst their body, from having unworthy imputations cast upon them". In short, this politics of the gaze was directed towards the removal of arbitrary violence as an expression of the politics of unchecked or undisciplined personal power.¹

This new form of open press politics represented not so much the complete removal of state controls as a reformulation of the parameters within which state control operated. The state's granting all social grievances a public outlet in the press was part of the process of inscribing and containing the dangers of all social discontents within the structures of discourse. As I will show in Chapter Twelve, this process of seeking to translate all social conflicts into the realm of discourse has to be understood in the context within which our culture was beginning to develop new powerful conceptual techniques for handling and individualising discursive threats. Those conceptual techniques which came under the direct control of the press will be dealt with in a separate chapter of their own. In this chapter I want to examine why the state attempted to apply the individualising structures of the judicial-penal system against the press and how the press in turn responded to these largely unsuccessful attempts by criticising a state which gave too much scope to individual discretion.

Alongside the emergence of a 'free' discussion of ideas in the liberalised Sydney Gazette, there also emerged a rapid increase in discussions and reportings of court cases for

1. See Australian, 14 October 1824, 15, 24 August, 14 November 1828.

libel and sedition. It did not take long for the economic debates in the liberalised Sydney Gazette to become accusations of libel between opposing writers.¹ These were to be shortly joined by more direct forms of state intervention. Government court actions against newspapers proved initially unsuccessful as juries either refused to convict or to impose heavy penalties. Governor Darling's government was finally able in 1829 to secure the conviction and imprisonment of both Opposition newspaper editors: the editor of the Monitor, Hall for 15 months and the editor of the Australian, Wardell, for 6 months.²

Darling had come to N.S.W. weary of exclusionist influence and trying not to appear aligned with them.³ In fact Bannister claimed that "from December 1825 until late in 1826, Governor Darling openly and unjustly took the side of the emancipists, whom he afterwards unjustly deserted".⁴ Initially, Darling and his brother-in-law Henry Dumaresq, had friendly ties with Wentworth and more especially with the Australian's then only editor, Wardell.⁵ The Australian was accused by the Sydney Gazette, 5 July 1826, of manoeuvring to secure the government printing contract so as to become the government or ministerial newspaper of N.S.W.. Bannister claimed that the reason he was slandered was because he would

1. Sydney Gazette, 14 June (Anonymous letter), 2 August (Anonymous letter), 9 August "Subscriber", 16 August "The Old Settler of the Middle Class", 1822.
2. Darling to Twiss, 7 July 1829, HRA, Vol.XV, p.70.
3. Rose, op.cit., pp.52-53.
4. S. Bannister, On Abolishing Transportation and Reforming The Colonial Office...(1837), p.84.
5. J.M. Wicks, "Aspects of the Colonial Career of Robert Wardell", ADHS, Vol.16, 1973, pp.10-11.

not participate "to give power to the Australian newspaper".^{1.} He claimed that during this period the Monitor was the only real Opposition Paper.^{2.} In November 1826, Wardell received from the government a land grant in the Bathurst area.^{3.} During this period Darling refused to prosecute the press and claimed that government officials had only been criticised in their private capacity, a reference to their alliance with the exclusionists.^{4.}

In early 1827, relations between the Australian and the government broke down when Wardell failed to be appointed Attorney General.^{5.} John Macarthur claimed that Wardell's application had been supported by the Chief Justice Forbes, whom he accused of being associated with the convict party^{6.} and of being a "constant slanderer and enemy of the Company [Australian Agricultural Company] and for no other reason than because they were taken to be an obstacle to the completion of his favourite schemes of universal liberty by universal demoralisation".^{7.} Apart from being unfriendly towards each other,^{8.} Macarthur also accused Forbes of displaying openly

1. S. Bannister, Statements and Documents relating to proceedings in N.S.W. in 1824, 1825 and 1826... (1827), p.37.

2. Bannister, On Abolishing Transportation, p.35.

3. Curry, op.cit., p.204.

4. Rose, op.cit., p.55; Darling to Bathurst, 1 November 1826, Transcripts of Missing Despatches from the Governor of N.S.W. 1823-33, ML, A1267-4, pp.153-154; Ellis, Macarthur, p.498.

5. John Macarthur to son John Macarthur, 16 May 1827, Macarthur Papers, Vol.3.

6. Ibid.

7. James Macarthur to his brother John, 9 June 1827, Macarthur Papers, Vol.35, pp.44-41G (crossed).

8. Rose, op.cit., p.51.

contempt for the Governor and his brother-in-law.¹ He believed it useless while Forbes was Chief Justice to bring libel cases before the court and resigned himself to attacks upon his character.² James Macarthur accused the other judge of the Supreme Court, Stephen, of being Forbes' "tool" and of being aligned through Forbes with the convict party, though he acknowledged Stephen had no direct ties with them.³ Most of the upper echelons of the legal profession were aligned with the convict party, including the two judges of the Supreme Court and the two best lawyers in the colony (acknowledged as such by James Macarthur), Wentworth and Wardell. James Macarthur claimed that law in the colony had become "the refuge of vice".⁴

Before Darling arrived in N.S.W., Bathurst wrote to him expressing disquiet over the lack of any government regulations on the N.S.W. press. Bathurst thought this to be "highly dangerous in a Society, of so peculiar a Description". However, he was not in favour of reinstituting press censorship, for this would make the laws of N.S.W. "at variance with the spirit of the law in force in the Mother Country". Instead Bathurst pointed out to Darling that even in England the legal system required: (1) that the names of Printers, Publishers and Proprietors be submitted to the stamp office and be printed on every newspaper issue; (2) that the publishers enter into a bond with the Crown and submit two sureties for serving the

1. John Macarthur to John Macarthur Junior, 16 May 1827, Macarthur Papers, Vol.3.

2. Ibid..

3. James Macarthur to brother John Macarthur, 9 June 1827, Macarthur Papers, Vol.35, pp.32-29 (crossed).

4. Ibid..

payment on any fine for conviction of blasphemy or seditious libel; (3) the newspapers apply annually to the Governor for a licence, which could be forfeited for any conviction of blasphemy or seditious libel; and (4) that a stamp duty be imposed on each newspaper circulated¹. Darling was initially reluctant to implement these measures. In April 1827, continued press criticism of his administration and the difficulty of achieving any conviction of libel whilst the proprietors and publishers of newspapers were protected by legal anonymity led Darling to implement Bathurst's recommendations. He came to agree with John Macarthur's and Archdeacon Scott's view that newspaper criticisms of the government were exciting a strong spirit of prisoner discontent.²

Chief Justice Forbes became aware of Bathurst's instructions in April 1826 and wrote to Governor Darling requesting no proposed tax be placed on the press because it would only augment the antagonism felt for the government as well as being injurious to the press whose criticisms he considered to be mild.³ Chief Justice Forbes did not attend the Council meeting on 2 May 1827 which imposed a four penny stamp duty on every newspaper printed in N.S.W.. Macarthur claimed that the Bill was unanimously passed and that some even agreed with his doubts that four pence was not sufficient "to prevent the papers from being bought by the prisoners".⁴ To cut a long

1. Bathurst to Darling, 12 July 1825, Sir Francis Forbes Papers on the Liberty of the Press, M.L., A748.
2. Governor Darling to Francis Forbes, 14 April 1827, Sir Francis Forbes Papers: Liberty of the Press, M.L., A748; James Macarthur to brother John, 9 June 1827, Macarthur Papers, Vol.35, pp.39-40.
3. Darling to Hay, 24 May 1826, HRA, Vol.xii, p.24.
4. John Macarthur to son John, Macarthur Papers, Vol.3, 27 May 1827.

story short, Chief Justice Forbes vetoed this part of the legislation on the grounds that the money it raised was far in excess of its stated aim, namely to pay for the printing of government advertisements. The Monitor, 11 May 1827, claimed the stamp duty would cost it alone annually £800 and would collectively take £3,000 out of the pockets of newspaper proprietors.¹

The Monitor, 4 May 1827, queried what the Governor had to fear from a colonial press where two journals were run by methodists and the other by a lawyer. It pointed to the inconsistency in the N.S.W. government imposing a stamp duty on the press when recent news from England showed she had dropped her stamp duty "in order to diffuse political knowledge among the lower classes". Rulers, the Monitor, 15 June 1827, claimed, taxed the press because they did not want the people to think about state affairs because this might lead to their questioning their ruler's taxation policies and overgrown salaries. Archdeacon Scott, Charles Throsby and John Macarthur as sheep farmers would never have taxed land, sheep or wool, the Monitor complained.² Instead, "the men with large salaries and grants of thousands of acres of the richest land in the Colony doubtless knew...that by passing a law which tended to impoverish the proprietors of Newspapers, they would get rid of the said Press, more effectually, than by placing a censorship upon it".³

1. See also Australian, 9 May 1827.

2. Monitor, 11 May 1827.

3. Ibid..

The control of what newspapers printed was all the more important the Sydney Gazette, the exclusionists and the government argued, because of the penal nature of the colony.¹ One of the reasons the Bigge Report advocated the assignment of convicts to pastoralists was to keep them separated from each other. One of the government's criticisms was that the N.S.W. press, in particular the Monitor or the "convict newspaper, was becoming the means for creating "a very extensive communion of sentiment, or unity of purpose" amongst convicts which would not otherwise exist.²

The safety of New South Wales depends on the separation and disunion of the convicts, and no resistance to the government can be effectual unless it is general; to be general it must spring from a general conformity of opinion, and a general knowledge of that conformity.³

One of the main, new, explicit topics of political discourse in the uncensored press became the art of government as the expression and control of public opinion. The Sydney Gazette, 9 June 1825, for example, argued it was because government was always "founded on opinion, not on force" that it was dangerous to weaken "the reverence which the multitude owe to authority by speculation that they may one day be freed from their duty". The Sydney Gazette tended to argue that because "public opinion is the grand controlling power of the state" it was all the more important that newspapers control what they published. Since they both formed and expressed public opinion, it was important therefore that they should

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1. Sydney Gazette, 5 December 1828, "Acasto"; B. Field to S. Marsden, 13 March 1827, Marsden Papers, Vol.1, pp.461-462; James Macarthur to brother John, 9 June 1827, Macarthur Papers, Vol.35, pp.39-40; Governor Darling to Sir Francis Forbes, 14 April 1827, Sir Francis Forbes Papers: Liberty of the Press.
 2. S.K. Proctor, "Henry Dumaresq on the Sydney Press in 1827", RAHS, 1971, Vol.57, p.176.
 3. Ibid., p.175.

give "honest, unbiased, and dispassionate opinion on everything affecting the public weal".¹ This meant in practice that they should pay proper respect and deference to the properly constituted authorities. Criticising the use of satire and irony, the Sydney Gazette argued "the most serious injury" could only result from causing "the great bulk of the people" to rejoice "to find their superiors reduced to a level with themselves". This would produce "unsubordination to authority and breaches of the law".²

In an age emphasising the personal majesty of individuals, as the means of articulating power relations between them, then to satirise the private character of an official was not simply to attack him personally, but also partly the whole hierarchical structure of public power as this depended on a personal moral idiom for its articulation. Thus Archdeacon Scott claimed that in his criticisms of the N.S.W. press he did "not allude so much to the attacks on public as on private character". He saw this as "a wicked attempt to sap the foundation of Society and destroy every beautiful feeling of Domestic happiness".³ Exclusionists, such as Archdeacon Scott, with their aristocratic pretensions and their notions of a moral hierarchy were particularly susceptible to being undermined through the democratic levelling effects of personal satire and irony.

The press was regarded by one writer as the most powerful of all recent human inventions. Its power lay in its

1. Sydney Gazette, 10 July 1829.

2. Sydney Gazette, 2 January 1828.

3. Archdeacon Scott to T. De Condamine, Scott Thomas Letter Book, Vol.2, ML, A851; see also James Macarthur to brother John Macarthur, 9 June 1827, Macarthur Papers, Vol.35, pp.34-36.

ability to generate consensual meanings through "the rapid and ample interchange of sentiment which they afford". In doing so, it was accused of creating "above all, a subserviance to public opinion" which gave periodicals "a power despotic in its character, and (primarily) unlimited in its extent; there is no mystery they cannot penetrate, there is no concealment they cannot remove, there is no recess they cannot enter". The press, by rendering public officials accountable to public opinion, was further accused of exposing them "to the influence of party spirit, to the temptation of party applause, and shackles them to the restraint imposed by party, or even personal prejudice".^{1.}

In its first publication issue, the Australian argued that its role was to provide more than "a mere miscellany of news or compilation of events". It wanted to "become the medium of extensive and general communication among all the members of the Colony, thereby concentrating public opinion and giving a tone and a direction to public feeling".^{2.} In effect, newspapers functioned in much the same way as political parties now function and saw themselves as striving to ideologically unite the state with the people. The Opposition Press wished to achieve this by reformulating the state along the lines of public opinion while the Sydney Gazette sought to make public opinion aware of the true benevolent principles of the state. Both strategies had the effect of seeking to construct that defining characteristic of the nation state in

1. Sydney Gazette, 8 May 1823.

2. Australian, 14 October 1824.

which the people unite with the state in a collective will or conscience.

As Dumont points out, whereas religion is the ideological unifying force in more "traditional" societies, in modern society it is politics and the state which assumes the role of merging the consciousness of each individual into a collective conscience.¹ Instead of the individual discovering the transcendence of his particular perspective through its unity with that of other men in the notion of God, it is increasingly the state and the press which now assume this transcendental role of uniting the sentiments and ideas of men in a structure outside of themselves. This process or strategy had always been inherent in the penal system with its coercive pedagogic rituals and disciplines for producing consent. What was distinctive about the Opposition Press was the renewed vigour given to the concern with producing consent without recourse to violence, by using persuasion, the force of arguments, to unite free men in common political ideas.

1. L. Dumont, From Mandeville to Marx, p.21.

(C) CONVICT REBELLION VERSUS MILITARY EXCESSES

The Opposition Press tended to picture man as rational and thus having a right to be subject to humanitarian treatment.^{1.} On the other hand, those supporting the government pictured him as a prisoner of momentary habitual impulses. Dumaresq believed that the great mass of N.S.W.'s population was removed from the disciplined, rational opinion forming processes which came from being close to reality and its external facts. Instead he saw them as turned more inwards, closer to the internal reality of their undisciplined bodies.^{2.} The control of public opinion was presented as being all the more important in a colony where government ruled men who were more governed by their own passions than by reason or virtue.^{3.} In short, the government's position rested on those old penal notions we examined in the execution chapter, that government exists to repress the baser passions of mankind. This meant that government was necessary as a principle of terror to restrain the "favourite, but vicious propensities".^{4.}

What the Sydney Gazette and those writers supportive of the Government were worried about was the impact of newspapers on the uneducated classes. They were especially seen to be vulnerable to the influence of a "venal press".^{5.} The Sydney Gazette originally criticised the proposed establishment of Opposition Press. It argued: "Some are opposed enough to what is equitable; if an unrestrained Press were allowed

1. Australian, 13 July 1827.

2. Dumaresq, op.cit., p.177.

3. Ibid..

4. Ibid..

5. Sydney Gazette, 23 June 1825.

such folk, they would become outrageous".¹ On the 15 May 1823, the Sydney Gazette reiterated its criticism of the proposed free press by arguing that "the Colony is too tender for so powerful an engine; there are noxious weeds enough in the soil without the visitation of additional evils". A Free Press would be "subversive of sound politics" since the people were not prepared for it. The Sydney Gazette supported the political maxim of it being just "as difficult to make a slavish people free and wise, as it is to deprive a free people of their liberty and knowledge".²

Archdeacon Scott argued that the "blasphemous and libellous newspapers" of N.S.W. were "written in a style to catch the vulgar so they are most industriously circulated amongst the military and the convict population with no other view than to excite mutiny and rebellion".³ John Macarthur claimed that all the newspapers were published by desperate, shameless, and ill-principled radicals supporting "the convict interest". All those not connected with the convict interest dreaded the most dangerous consequences from "their operation upon the common people". "Their present most apparent effect is discontent, determined idleness", and in many cases insubordinate and open contempt towards their masters and the magistracy.⁴ James Macarthur also accused "the liberal or rather radical counsel" in the colony of subverting all the necessary principles needed to maintain "legitimate restraint"

1. Sydney Gazette, 2 January 1823.

2. Sydney Gazette, 15 May 1823.

3. Archdeacon Scott to Bishop of Calcutta, 31 July 1828, Scott Thomas Letter Book, Vol.2, M.L., A851.

4. John Macarthur to son John, 27 May 1827, Macarthur Papers, Vol.3, M.L.

in the colony and of encouraging convicts and emancipists to imitate their spirit of licentiousness.¹ The Monitor, 25 August 1826, copied the below oath made by John Raine, owner of the Darling Mills:

He had reason to believe, that from the matter published in the Monitor, his servants had become more insubordinate and were continually intoxicated, and consequently their harbourers had evidently become more open in their transactions.

Underpinning government-exclusionist opposition to the press was a wholistic ideology of the body-politic.² The writer "An Australian" in the Monitor, 11 August 1826 accused that paper's principles of having "the tendency...to dissolve society" and that by attacking the parts comprising the state body, the press was in fact undermining the whole structure of state order.

The Governor is bound to protect the officers of his Government, inasmuch as they are members of his administration;- to mutilate one of those members is indirectly striking at the Government itself;- as the arm is a member of the body, so are the Magistrates members of the government body - destitute of its members the body would be disabled from performing its natural functions,- so much with an administration - the destroying or vilifying its necessary functionaries, incapacitates and invalidates the whole.

Monitor, 11 August 1826, "An Australian".

Though the Sydney Gazette often criticised the Opposition Press' politicisation of the masses,³ it also sometimes, (such as in early 1828,) criticised stories of a convict rebellion, dismissing them as an exclusionist fabrication. It

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1. John Macarthur to brother John, 9 June 1827, Macarthur Papers, Vol.35, p.38; See also James Macarthur to John Macarthur, 17 May 1827, ibid., p.105.
 2. For other claims that the N.S.W. press was producing social disorder, see Woolstonecraft to A. McLeay, 29 September 1830, HRA, Vol.XV, pp.763; Ross to Darling, 3 September 1830, HRA, Vol.XV, p.759.
 3. Sydney Gazette, 30 August, 9 September 1826.

justified the press' deservedly ill-treatment of the Macarthur family who were blamed for the stories: they being its means of justifying the repression of the press. There appeared, the Sydney Gazette claimed, to be some who, despite the increasing wealth and respectability of N.S.W.'s population, wanted to return to "the good old times, when despotism, under the influence of iron-bound censorship, swayed the ignorant oppressed and slavish multitude".¹.

The Sydney Gazette, 29 February 1828, argued that instead of the free state of the colony being responsible for a convict insurrection, it was responsible for the tranquil state of the colony. Without the influence of the free colonists on the prison population, the Crown "would at least require a fourth of the British army to keep the colony in a state of subjection".² The Sydney Gazette did not deny the possibility of the press abusing its position by publishing unfair criticisms of individuals. But it advocated a self-policing system, claiming the public would withdraw their patronage from any such paper and that this was the most effective check on the press' excesses.³ The Sydney Gazette found painful the thought of the reimposition of official censorship and believed that such a circumstance, by denying opportunities for self-development through literature, was analogous to the repressiveness of the Holy Inquisition.

The power of the latter is exerted in torturing the corporeal frame, whilst the influence of a censorship imposes fetters on the mind, obstructs the growth of literature, and harrows up every feeling of the soul.

Sydney Gazette, 7 March 1828.

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1. Sydney Gazette, 20 February 1828.
 2. This argument was repeated in the Sydney Gazette, 7 and 19 March 1828.
 3. Sydney Gazette, 20 February, 19 March 1828.

The Sydney Gazette's opposition to convict rebellion stories did not last long into 1828 and it was once again soon advocating the need for controls, something which it continually oscillated between. The Monitor was accused of satirising the authorities so as to put "the mob into good humour". It was referred to as the "one-eyed monarch of the blind", whose articles were published "for the amusement of the ragamuffins in the iron gangs, road parties, and prisoners throughout the Colony".¹ In effect, the Sydney Gazette was criticising the new notion of politics as entertainment. The Sydney Gazette, 3 December 1828, claimed the Monitor was "replate with infamy, falsehood and military insubordination". Something which it claimed was dangerous in a colony which did not have the extensive means of defense Britain had. It would rather see "the Editor of the Monitor...put down, and the press itself suppressed, than see weekly scurrility and falsehood retailed...to the utter extinction of all respect for either King, Country or Laws". Whereas the Sydney Gazette had at one stage dismissed the idea of a convict rebellion as an exclusionist fabrication, increasingly it came to support and propogate the idea. Thus the Opposition Press was accused of advocating dangerous anarchic principles and of attempting to transform the "ignorant portion of the community into a revolutionary force, by undermining the basis of state authority through sedition and by exciting the crowd on the basis of misconceived grievances".² Chief Justice Forbes also initially believed that criticisms of magistrates and of the military to be disruptive of prison discipline.

1. Sydney Gazette, 16 and 23 April 1828.

2. Sydney Gazette, 19 December 1828, see also 4 July 1829.

New South Wales is principally peopled with prisoners, whom it is necessary to keep in subjection, by "a vigor beyond the law" - A military force is essential to overawe the prison population... Writings which pretend that the prisoners of the Crown are illegally, or harshly dealt with, are dangerous to the public safety. And equally so are publications, that undue severity is exercised towards the military, the safeguard of the peace of society in this convict country. 1.

However, by late 1827, Forbes was writing home stating that Governor Darling's claims, of the press having excited a spirit of rebellion amongst the prisoners, were mistaken. He believed his presence in the Supreme Court and on the Executive Council made it impossible for such a spirit of discontent to exist without his knowledge. He had also been assured by the convict's Superintendent that the prisoners were "as quiet and well-disposed as they have been for years past".².

The Monitor, 24 May 1828, proclaimed it to have become "fashionable in the present administration to kindle the fears of the timid by cries, 'the wolf! the wolf! the convicts! the convicts!'. These the people treated not with alarm but derision, "seeing it came from a few red-coated placemen", who dwelt in the towns where the free people greatly outnumber the convicts. The Monitor suggested it would have been more appropriate for the cry to have come from isolated settlers in the interior and that "Major Gillman should have hired some of these to begin the cry of 'the wolf! the wolf!'" With mock sympathy, the Monitor argued it was unfortunate for the Major that in a recent incident convicts had loyally and valiantly protected their master's property and their lone mistress from

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1. Forbes to Horton, 4 December 1826, Chief Justice Forbes: Private Letters to R.W. Horton, ML, A1819, p.62.
 2. Forbes to Horton, 7 October 1827, ibid., p.178; see also 20 September 1827, ibid., p.257.

bushrangers and at much cost to themselves. The Monitor's narration of this incident ridiculed government and exclusionist's claims of a threatened rebellion.

Unfortunately for the Major, in an attack on a farm by some run-away convicts called bushrangers, the servants, notwithstanding their master was from home, defended their lone mistress and master's property, and engaged the marauders in a deadly encounter. And after a skirmish of several hours, during which one of the bandits was shot and one of the faithful convicts had his arm crushed to pieces with the butt end of a musket, the whole of the bushrangers (if one recollects right) surrendered at discretion. Thus at the very period our placemen were representing the convicts to be ready to rise en masse, and massacre the free people, were the former giving a striking example of their subordination and their fidelity to their employers!" Monitor, 24 May 1828.

Stories of an impending convict rebellion can be related to the increasing arrival of wealthy free settlers in N.S.W. in the 1820's. The exclusionist-emancipist conflict, the struggle between democracy and an aristocracy, between Whig-liberals and Tories came to be increasingly centred on gaining the political allegiance of this new group, many of whom had contacts and influence back in Britain. In opposition to demands for democratic political rights, the exclusionists tried to scare free settlers into the belief that a military style of government was necessary to maintain the subordination of convicts. The Australian, 24 January 1827, referred to the convict threat as the artful contrivance of "rigid, cruel disciplinarians" aimed at wrapping and augmenting "the minds of all newcomers with imaginary fears".

The Opposition Press tried to allay some of these fears. For example, the Monitor, 12 June 1827, dismissed the convicts as individuals "who on all late occasions have shown themselves the greatest cowards and fools in existence". The

Australian, 8 June 1827, argued that whilst N.S.W. inhabitants knew that the convicts were a cowardly lot, "unable as ten thousand would be to face ten score of bayonets", this was not so in Britain. Indeed, it claimed that stories of a threatened convict rebellion were designed more to convince English authorities that the colony was in danger.

In opposition to stories of a threatened convict rebellion, the Opposition Press circulated stories stressing the excessive and violent use of military authority.¹ Such stories were partly a critique of the organisational form of the state in N.S.W. and an attempt to convince free settlers they had more to fear from the military than the convicts. Thus, the Australian, 23 July 1828, reported "a most cowardly and disgraceful outrage...perpetuated by a tumultuary body of soldiers", who had been issued with what they considered poor quality bread. The Monitor, 15 December 1826, argued that Sydney inhabitants were unable to walk in the streets after 9 o'clock without incurring insult or physical attack from a new military patrol. When the inhabitants complained to the magistrates, they were unable to obtain justice since the soldier's officers were sitting on the Bench. The Monitor wanted no more officers appointed as magistrates claiming that "we are too military a Government already".

There appears to have been strong resentment between the military and the wider population; this was in part a conflict between emancipists and emigrants. The Sydney Gazette, 24 March 1825, reported an incident in which the military with

1. See Gleaner, 2 June 1827; Australian, 24 March 1825; 5 January 1826; Sydney Gazette, 24 March 1825; Monitor, 8 November 1827, 7 December 1829 "Dreadful Military Outrage".

their bayonets and the native born youth with their stones fought a street battle. The Sydney Gazette lamented that it had long known of animosity existing between the colonial-born youth and the military. It attributed the origin of this resentment to the military abusing the youth of the colony for their parents' previous offences. Singled out by the Sydney Gazette for specific criticism was that soldier who publicly promised "in our streets that he would give five pounds for a convict's head!". In allocating moral blame for the incident, the Sydney Gazette argued that it was not of any great consequence that "many of the military either despise, or affect to despise all prisoners" since no familiarity existed between the two. However, the Sydney Gazette regarded the extension of this resentment to the colonial born youth as unjustifiable and praised their resistance to it in the following racist terms:

it cannot be expected, by any rational being, that such unnecessary ill-will can be calmly born with; indeed, they would be wretches, of the lowest caste, were they quietly to submit to a species of degradation that would reduce the Australian beneath the uncultivated Aborigine!
Sydney Gazette, 24 March 1825.

Some subtlety is required in dealing with these critiques of military power, because the military, I would argue, was partly a symbol of that wider rigid hierarchical structure of authority against which emancipists and the press were struggling. Many old exclusionists and new free settlers had been military men and so were all the Governors of N.S.W.. Governor Darling in fact was a General. Therefore to criticise the military was to simultaneously criticise the class structure of N.S.W., particularly as this was seen to increasingly support an oligarchy.

The Opposition Press wanted the N.S.W. government to take on a less military complexion. The Australian, 24 October 1824, argued that the original state of the colony, as simply a receptacle for convicts, might have initially justified an "unnatural combination of the civil and military functions" for the sake of discipline, but that once the settlement acquired free settlers it should lose its penal complexion as military authorities became subject to civil power. Like the Monitor, the Australian criticised the continued appointment of military officers to the magistracy, arguing that there were enough free settlers in each district to assume those functions. It wanted to abolish much of the penal character of the colony "that military ascendancy, the symbols of which meet us at every corner".¹ On the 5 January 1826 it expressed reservations that Governor Darling had ceased to wear the traditional Governor's coat in favour of his military coat.

The Australian wanted the military in N.S.W. to be like that in England, namely to be rendered "a protective body, and placed at the disposal of the civil magistrate".² The Australian's opposition to the military was strengthened in February 1825 when its editor, W.C. Wentworth, was arrested by a military patrol, and marched off to a military guard house. Though he was only detained 20 minutes, he was outraged by this violation of his "personal liberty" and wanted to prosecute the individuals involved on behalf of protecting the rights of his fellow citizens.³

1. Australian, 28 October 1824; see also Australian, 27 May 1826.
2. Australian, 28 October 1824.
3. Wentworth to Brisbane, 26 February 1825, W.C. Wentworth legal letter book, M.L. A1440, pp.22-23.

In the Sydney Gazette, 6 January 1825, the writer "A Free Inhabitant of Newcastle" criticised the use of military vocabulary as administrative terms, especially singled out were the words "command" and "headquarters".¹ Two weeks later he was praised by "A Coal River Emigrant", for pointing to "the evil effect of a jumble of civil and military offices" and for trying to introduce a line of demarcation between the two as a means of "repelling inroads on his privileges". "A Free Inhabitant of Newcastle" received further praise for pointing out:

that the British freeholders do not allow themselves to be commanded, and that the station of the King's colours is not the place to deposit the records of civil processes, or the history of the convicted felons of Great Britain.

"A Coal River Emigrant" also denied that the jarring elements of N.S.W. society made military domination necessary.²

The Australian, 7 February 1827, chose the occasion of the Sydney Soldier Barracks receiving a new coat of paint to voice once again the demand for the separation of the military and civil spheres of N.S.W. society. It complained that the barracks occupied one of Sydney's best positions which could be better used by selling the land in allotments for housing and commerce. The military, the Australian further suggested, should be posted outside of towns, in fact, distributed throughout the whole colony rather than congregated in one spot, where they had little to do and where they learnt "indolent habits". In effect, the principles of penitentiary practice were here being turned against military power demanding its fragmentation.

1. See also his previous letter in Sydney Gazette, December 1824.

2. Sydney Gazette, 20 January 1825.

Much of the criticism against military power was, I would argue, a metonymic critique of that combination of too many administrative functions in one centre that was often levelled at the Governor. Thus, the Monitor, 7 July 1826, criticised the arbitrary and absolute power of Commandant's at penal settlements, where he became simultaneously "accuser, judge, jury and executioner". There the legal system assumed an inverted form, the Monitor claimed, as convicts were forced to prove themselves not guilty. Such a criticism was partly a demand for the dispersal and separation of state functions and an assertion of the impersonal rule of law in place of a power organised around personage.

Perhaps the most controversial and sustained contemporary critique of the bloody and violent excesses of personal power was the Sudds and Thompson case. Both Governor Darling and Chief Justice Forbes acknowledged its political importance for the democratic cause.¹ Sudds and Thompson were two soldiers believed to have deliberately stolen goods so as to be removed from the army. Governor Darling used his power to commute sentences, to alter their seven year punishments from transportation to a penal colony to that of working in a road gang. Moreover, he ordered the two to attend a military parade where they were stripped of their military uniforms and dressed in yellow convict clothing. They were also placed in chains with spiked iron collars around their necks. Shortly afterwards Sudds died.

1. Darling, HRA, Vol.XII, p.751; Forbes, HRA, Vol.XII, p.764.

This caused an outrage in the press which questioned the Governor's use of the power of clemency to increase a sentence and, moreover, the right of Governors to suspend the previous legal process.¹ For the Opposition Press, the Sudds and Thompson case was an example of tyranny, a manifestation of the excesses of military authority when it placed individuals above the law and made them a law unto themselves.² Historians have tended to concentrate on these spectacular controversies. I have concentrated more on how they formed part of a broader discursive strategy which was concerned with legally codifying all social arrangements and freedoms. To the extent that violence was seen as irrational and associated with the excesses of personal power, then this struggle for the rule of law was part of the growing rationalisation of social life.

The military were perhaps the most visible symbol of coercive personal authority which could be attacked. Others criticised included magistrates and constables. The writer "Scotus" complained about constables stopping people in the middle of the night, asking their names and their business and threatening to take them to the watchhouse if they did not answer. This was too much for someone who dressed and thought

1. Australian, 29 November, 2 December 1826.

2. See Monitor, 22 December 1826, 30 March 1827. Other cases in which the rule of law was asserted against the Governor's arbitrary or prerogative power include the cases of Alexander Edwards (alias Lookaye), Amus Crisp, Joseph Furnis, Peter Tyler, Joh Hogan, Colonial Office, N.S.W. 1832 Miscellaneous Letters, pp.354-356, 372-374, 375-376, 378, 378-380.

of himself as a gentleman.¹ In the same issue, the Australian supported this writer arguing that: "the very dress of a person, which can be tolerably well observed, even in the darkest nights, ought to be a sufficient passport from molestation, unless something of a doubtful nature is noticed in his manner or deportment".²

The wealthy's right to pursue their business unhindered was supported by articles which asserted the protection of the powerless between whom and oppression stood only the autonomous rights of civil society. The Monitor, 26 June 1827, argued that a mechanic ordered to the watch house by a constable without sufficient reason should have knocked "the constable down for his impertinence". Two days later, the Monitor was outraged to learn that a free servant of Daniel Coopers, Robert Hesketh, had been arrested whilst selling butter in the Sydney Market. The reason for his arrest was that a soldier's wife had complained that she had given Hesketh a dollar, which he denied receiving. He claimed in turn she was trying to cheat him. The Monitor implied that the real reason for the arrest was not this, for one person's word was as good as another's. Rather, the real reason was that when the woman threatened to take the matter before the officer's of her husband's regiment, Hesketh replied "in the coarse language of the humble ranks of life, 'he did not care a damn more for soldier officers, than for other folks'". The Monitor then proceeded to criticise the magistrate hearing the case, Mr. Dalhunty, who angrily threatened to teach Hesketh a lesson "for such conduct to a gentleman". The Monitor argued that such conduct though rude

1. Australian, 21 June 1826 "Scotus".

2. Op.cit..

was not illegal, and that "Mr. Dalhanty does not sit in Court to teach the lower orders refinement of speech" but to impartially administer English law without favour or affection to rich or poor, or military officers as against butter-men.

Reportings of these sorts of cases increase dramatically towards the end of the 1820's. They were part of a discursive struggle against arbitrary power, against excessive personal authority, which knew no legal bounds and which threatened the autonomy of civil society. They represented part of an egalitarian demand for the rule of law, for the political rights of Englishmen to protect the citizens against encroaching coercive state authority. Here law was no longer identified with the authorities but with the protection of the oppressed. This is clearly evidenced in the long catalogue of criticism listed by the Monitor, 22 September 1826:-

And what were those acts in the dunciation of which The Monitor has been taxed with sedition? These are the acts!
 (1) Administering 50 lashes to a man after refusing to hear evidence in his defence. (2) Committing another to jail and subjecting him to the disgrace and inconvenience of a trial for felony, when the accused tendered evidence in exculpation, and by which evidence he was ultimately acquitted. (3) Fining a poor washer-woman ten dollars for giving hospitality to a convict at half-past eight in the evening, who on account of his excellent character, was allowed to sleep out of barracks and visit and lodge where he liked - by which the said washer-woman, in order to raise the money, was compelled to sell her pig and her wash-tub, and pawn her clothes - the informing constable receiving the ten dollars then and there, in open court, but as it is believed to share with some other person who shall be nameless. (4) Entering by intimidation into the private house of a shop-keeper in Parramatta, and on finding a number of Catholic convicts peaceably sitting after having come from mass, and where they had written permission to go, (which permission they exhibited instanter) and a number of free Protestant christians, natives of the colony, to whom the master of the house had been reading a chapter in the bible, hand-cuffing them as belong, dragging them in that shameful state to the watch-house... (5) Committing a free woman to jail and refusing her bail, who

appeared herself in court with her witnesses, to make a charge against the accuser for a gross assault and batter on her person at her master's door, in the presence of her master, (who stood there ready to give his evidence),...

To some extent the struggle against arbitrary state power was in part a struggle against the incorporation of an aristocracy into the administration of the state. As we will see shortly, the large landed exclusionists were often associated by the press with the tyrannical use of violence, both with respect to the history of N.S.W. and in their present capacity as magistrates.¹ The critique of exclusionist magistrates was part of a wider identification of repressive violence with aristocratic monarchical power which, as we saw in the first chapter, was current in Britain. The Monitor, 23 March 1827, criticised the execution of 5 convict mutineers who had demonstrated the superiority of the English race by seeking their freedom and in the course of doing so had shed no blood. It believed that their lives should have been spared and explained their execution as resulting from a coercive English penal code which had been aristocratically inspired.

...the statutes of an overbearing aristocracy, which would take men's lives for killing a hare, or eating a turnip out of a field, had caused sentence of death to be recorded against five men who perished last Monday...
Monitor, 23 March 1827.

The identification of a landed aristocracy with violent severe punishments was not completely unjustified. The exclusionist writer of the article "New South Wales" wanted the

1. The Australian, 31 March "An Emigrant", 20 October 1825; Monitor, 22 December 1826.

power of capital punishment over convicts added to the power of magistrates. Magistrates already had the power to inflict "corporal punishment, hard labour, imprisonment, and prolonging of sentence to three years". This writer also wanted the power to inflict unlimited transportation to a penal settlement given to magistrates. He wanted a more frequent use of hanging and less use of the Reprieve, which he blamed for destroying the deterrent effect of punishment by making it uncertain.¹ He claimed Brisbane's emphasis on transportation to a penal colony, as an alternative to executions, was producing bushranging. He also criticised feelings of pity for criminals and gave the satirical example of how:

the other day, a respited ruffian at Port Macquarie, on being threatened with punishment for some offence, coolly took up an axe, and cleft the skull of the nearest individual to him, damning that they must hang him now. It was really amusing to hear some of our Weeping Billys pathetically descant upon the serious impropriety of driving men to desperation, as if villany ought to be put down by bribery to an honest course of life, instead of deterring from it by the terrors of effective punishment.

Australian, 31 January 1827,
"New South Wales No.1".

The Monitor, 22 December 1826, argued that in every country magistrates were a legitimate subject of press censure, but even more so in N.S.W. where magistrates were appointed through the influence of Commissioner Bigge and the exclusionists and not on the basis of education. This had resulted, the Monitor claimed, in magistrates acquiring too much power which had led to torture, malpractice and a general abuse of power.² All of which would not be corrected until Juries of

1. See also Australian, 27 January 1827, "New South Wales - No.xi".

2. Similarly, the Monitor, 22 September 1826, argued that instead of the government using land, sheep and cattle as the only criteria for appointing magistrates, it should also rely on the qualities of "intelligence and integrity" then it would not have in commission those "whose hands are defiled with the blood of illegal torture".

12 men replaced magistrates in determining major judicial decisions. The Parramatta Bench, which included the exclusionists Hannibal Macarthur and Marsden, was especially criticised for practising a system of torture that the Monitor, 22 September 1826, claimed was unknown in the colony till Brisbane's arrival. The implication being that it was the rise of exclusionist influence, with the removal of emancipists from the Bench on Bigge's recommendation, that had led to a corruption of magisterial power. So much, it quipped, for "the boasted improvement in the respectability of our magistracy".

In fact, the Monitor, 22 September 1826, claimed the appointment of "the faction to the magistracy, in lieu of the friends of the people whom Macquarie had promoted to the post" was designed to render the colonists "leaner, and consequently more humble". It was designed to subdue the spirits of the people by reviving that "good old moral-making rate of from one to five hundred lashes...and...those excellent times when the people were nobody, and the civil and ecclesiastical officers were everybody". Such a situation would "once more...gladden the hearts of the only honest man in the Colony!"

The point I want to emphasise is that violent punishment, as degradation ceremonies of shame, were seen to be fundamentally bound up with excessive hierarchy and it was for this reason that they were partly attacked. The Monitor, 19 March 1826 argued: "let not lust of distinction and superiority, so natural to man, cause us to make use of the term discipline, when in fact our real meaning is, that we should exalt ourselves, by thrusting our inferiors lower down the scale than is lawful".

Exclusionists were characterised by one writer in terms of "that peculiar habit of severity with which they conducted themselves to their betters, and their haughty and over-bearing demeanor over their inferiors".¹ The Monitor, 17 February 1827, recommended to the "old hands" that they abandon "the old pinching, starving, flogging system and to treat their convicts in future like Britons and not like Negroes". This would result in them obtaining more cheerful labour from their convicts and there would be less need for them to complain about not being able to get new men. Three weeks later, the Monitor claimed that some masters showed more feeling for their dogs and horses than to assigned convicts who had worked years for them. Overseers of West Indian plantations showed infinitely more affection to their negroes.

The political significance of this emerging sympathy for convicts is explored further in the next section. This section has sought to point to the association of excessive violence with certain hierarchical distinctions such as those based on a landed aristocracy, the military, and exclusionist magistrates. In the next section I examine the theme of egalitarianism as it was emerging to deny the use of violence.

1. Sydney Gazette, 16 December 1824, "An Exile of Erin".

(D) EGALITARIANISM AND A LABOUR THEORY OF VALUE

Part of the sympathy felt for the convicts emerged out of a recognition of labour as the source of wealth. A new sense of guilt developed within sections of N.S.W. dominant class about having coercively appropriated the life and labour of fellow human beings. These guilt feelings aesthetically underpinned much of the Opposition Press' egalitarian political ideology. The Monitor, 30 June 1826, defined the exclusionists as that ungrateful group "who though their lands were tilled and their houses built by the convicts, ever treated them with harshness and cruelty". On the 20 April 1827, it responded to an article which advocated perpetual hunger for convicts, by referring to the exclusionists as: "Ye haters of the convicts, by who nevertheless you live and have grown rich!" The Monitor, 20 January 1827, regarded it as unchristian that there should be men in N.S.W. who "while the bread they eat and the luxuries they enjoy, and the pomp and splendour with which they are surrounded, have proceeded from the labour and sweat of their...convict servants should feel not pity - no regard - no sympathy for these dependents but on the contrary cherish among themselves a savage contempt and hatred for them".¹ This labour theory of value was also used by all the newspapers, including the Sydney Gazette, to justify political rights for emancipists.² The Australian, 20 July 1825 lamented the plight of ex-convicts:

As we who have felled the ponderous trees, prepared the maiden earth for the plough, and made wide ranges of these dense woodlands habitable for civilized men...who have sought escape from the worst of all possible deaths, that inch by inch murderous toil under fiends in human shape ...to...now contribute to the spurious attempt at oligarchy.

1. See also Monitor, 11 August 1826.

2. Sydney Gazette, 18 November 1824.

Curran, discussing English newspapers at about the same time, argues that the popularisation of a labour theory of value allowed the readers of radical papers "to make sense of the world in a new way...the assertion that the wealth of the community was created by labour that became a recurrent theme of the new radical press was of crucial importance in developing a corporate class pride and establishing an ideological base from which to resist middle-class propaganda".¹ It is very problematic whether the labour theory of value in the N.S.W. press was an expression of working class sentiments, though it certainly must have appealed to them. Perhaps more significant is the hegemonic role it played. For it acted to ideologically incorporate the interests of the labouring classes into a particular faction of capital, whose wealth was derived not so much from land but more from the intellectual and manual labour of urban-manufacturing-commercial enterprises. As I pointed out in Chapter Eight, the labour theory of value was part of the Opposition Press' defense of the interests of urban-commercial capital against the physiocratic position which viewed land as the source of all wealth.² The point I stress here is that the labour theory of value in N.S.W. emerged and operated in a context of political, social and economic rivalry within the dominant class. The humanitarian and egalitarian sentiments it supported operated as a populist political critique of pastoralism's incorporation into the increased discipline of the post-Bigge penal system.

1. J. Curran, "The Press as an agency of Social Control" in Newspapers History from the Seventeenth Century to the Present Day, ed. G. Boyce, J. Curran, P. Wingate, p.66.

2. See pp.405-406.

In Opposition to the haters of convicts, the Monitor, 20 January 1827, taught the common depravity of man since the fall of Adam. This in itself was not a novel idea, were it not for the fact that the Monitor fused with it a new social determinist view of man. The sympathy felt for the oppressed partly proceeded from a view of the social causes of action and that all men in equal circumstances would have behaved the same as the convicts. It was only God's will that placed men in different stations in life:

if one man be better than another, he is so by the special favour of the Deity, and that in like circumstances, he would have acted as others have acted... if we are saved from misery and disgrace in this life, and condemnation in the next, it will only be by the mere mercy of God...

Monitor, 20 January 1827.

Here the unique individuality of the prisoner in the Christian ontology of sin was fused with an emerging new concern with attributing the source of crime to the uniqueness of an individual's station in life. Circumstances, life history, became increasingly the bearer of determinants of individuality as defined by the life one led.

However, underlying this view was also a secular notion of a homogeneous abstract man, that all men are essentially the same. This sameness is not simply the common fallibility of men since Adam's fall, but the fact that all men would have acted the same in the same environmental circumstances. I would argue that given that all the newspapers which articulated this sympathetic environmental view of man were located in urban commercial areas, held a labour theory of value and were concerned with freeing up of labour through the granting of more tickets-of-leave, that this increasingly

forms of bloody violence as the destruction of the inner productive potential of man.

The emergence of a form of production independent of land and a system of bonded labour, also creates the conditions, as Pashukanis points out, for the expansion of the legal system's notion of abstract man: "the genesis of the legal form should be sought in relations of exchange".¹ Pashukanis' argument, taken from Marx, is that as labour acquires a commodity form, and thus an abstract form, then so man becomes increasingly an abstract juridical subject, he becomes the subjective bearer of rights.²

...the principle of legal subjectivity (which we take to mean the formal principle of freedom and equality, the autonomy of the personality, and so forth)...is...a concretely effective principle which is embodied in bourgeois society from the moment it emerges from and destroys feudal-patriarchal society...the victory of this principle is not only and not so much an ideological process (that is to say a process belonging entirely to the history of ideas, persuasions and so on), but rather is an actual process making human relations into legal relations, which accompanies the development of the economy based on the commodity and on money... 3.

The relationship of pastoralism to urban areas in N.S.W. I would argue, can be seen as analogous to the relationship of feudalism to bourgeois society, that Pashukanis talks about with respect to Europe. The newspapers of N.S.W. often themselves made such comparisons.⁴ This analogy was constituted through the common opposition between a commercial society appropriating labour through its free sale for rewards versus a more coercive military appropriation of labour through

1. F.B. Pashukanis, Law and Marxism: A General Theory.

2. C.J. Arthur, "Towards a Materialist Theory of Law", Critique, Vol.7, 1976, p.36.

3. Pashukanis, op.cit., p.40

4. See p.502.

violence and despotism. The possession of rights, particularly property rights by labourers with respect to their own person, is a fundamental legal precondition for the construction of wage labourers able to sell themselves in the market place. As Marx put it: "This sphere...within whose boundaries the sale and purchase of labour-power goes on, is in fact a very Eden of the innate rights of man. There alone rule Freedom, Equality, Property and Bentham".¹

In terms of the penal system, this increasing dominance which exchange relations acquired in N.S.W. manifested itself as a humanitarian concern with convict rights. It was perhaps because state power revealed itself so overtly in relationship to convicts that a discussion of the rights of convicts vis-a-vis the state became of necessity a discussion of the broader rights of subjects in relationship to the state.² As I intend to show the concern with codifying the minimum rights of convicts so as to protect them from abuse and violence was part of the struggle to bureaucratise the state and to remove the sphere of uncontrolled personal discretion from state power. This concern was often phrased as one that state power should not repress or destroy the sentiments of its subjects but should be built upon a knowledge of human nature.

The Monitor, 20 April 1827, argued that all those supporting the new increased prison discipline were of "the party now

1. K. Marx, Capital, Vol.1, p.172.

2. Ignatieff has made a similar point, but at a more general level, in his discussion of the British prison system, namely that: "The appearance of a new style of authority within the walls obviously must be linked to changes in class relations and social tactics outside the walls. Hence a study of prison discipline necessarily becomes a study, not simply of prisons, but of the moral boundaries of social authority in a society undergoing capitalist transformation"; Ignatieff, op.cit., p.xiii.

called 'the Faction'".¹ It argued that the Parliamentary Act which gave rise to chain gangs would only "scare our children, brutalise our youth, and blast the growth of moral sentiment. The sight of human woe and degradation continually before our eyes, will gradually impress upon our imaginations the feelings of gaolers, and felonise as it were every conception of our minds - will impede the mask of philosophy, and drag down the soul aspiring to Heaven, to the abyss of Hell".

On the 20 April 1827, the Monitor, argued that God had set limits to human power by creating human nature as He did. Beyond a certain level punishment produced physical and moral degradation which defeated its own ends. The Monitor, asserted "leniency, as the only remedy pointed out by God to man, for the reformation of the wicked, and therefore the only remedy lawful for man to use". Human nature, the Monitor claimed, was unchangeable, history had proved this and it was therefore useless for men to employ severity and torture to morally reform individuals.² Similarly, the Australian, 14 June 1826, argued that government should not be comprised of men who advocated or used the "bonds of iron" in place of the "mental or moral bond" for controlling convicts. "Mild measures are a thousand fold more efficacious than a rigorous treatment, however awfully exercised".

Increased convict discipline raised the question of the extent to which the state's power should be founded upon violence. Violence was seen to have an homogenizing effect.

1. See also Monitor, 28 May 1827 (Letter to Sir J. Mackintosh).

2. Monitor, 20 April 1827.

It was accused of brutalising all men's feelings, often reducing them to the common level of the savage. The writer "A Looker-on" criticised Bigge's policy of "barbarising the convicts" on the grounds that they would later have to mix with society.¹ Violence was seen to be destroying the pedagogic power of the penal system by destroying men's capacity to engage in subtle moral discriminations.

What was demanded by the Opposition Press was a discriminating, graduated system of punishment that would be individualising, that is capable of taking into account the unique nature, circumstances and behaviour of those to whom it was applied. This demand was simultaneously the demand for a system of classification, which would render penal praxis more efficacious by tuning it into the psychological diverse nature of the material it had to shape.

We shall, therefore, never cease to raise our voice, and to exert our most earnest remonstrances, against the continuance of a system, which confounds all diversity, and distinction of crime, by consigning to hard labour in chains for minor offences, as well the man of cultivated, and susceptible mind, and of more refined habits, as the brutal unfeeling ruffian, who is callous equally to shame, and to the rigor of infliction. It is in this...that we condemn the defects of our legal Code; and it is for the remedy of these defects, that we impressively appeal to the compassion, and to the wisdom of the Colonial Government, for a classification of the unfortunate beings, ...and for a graduated sale of punishment...

Gleaner, 26 May 1826.

The individualising quality of punishment and power in general was a Benthamite theme, which was part of an egalitarian ideology. The Monitor, 9 March 1827, quoted Bentham in support of its idea that fines should be variable, to take into account the social position and wealth of the individual.

1. Monitor, 13 December 1827, "A Looker-on".

Fines should be greater for the wealthy in monetary terms and less for the poor. In this way they would exercise equal deterrent power.

What the cutbacks on tickets-of-leave, which we discussed in Chapter 8, raised was the issue of the compatibility of increased penal discipline with the individualising quality of punishment.¹ To ensure the latter, the Opposition Press wanted a greater use of rewards rather than violence in the appropriation of convict labour. They wanted more tickets-of-leave and more pardons. The Monitor, 13 August 1827, argued that convicts should have the power to take masters to court for not providing them with sufficient rewards for the amount of work they completed. Human nature based on self-interest was here used to demand a just remuneration for individual effort. The Australian, like the Monitor, criticised the Legislative Council for passing a resolution whereby a master could not give his convict a pint of ale or a glass of spirits, without incurring a fine of 25 pounds. The legislation was criticised on the grounds that spirits and beer were used by settlers as incentives to hard labour.²

The Monitor, 23 August 1827, claimed the British government's concern with reducing the standard of living of N.S.W. convicts below that of the English working class would make "the remedy for crime...worse than the disease". Instead of the poverty of the English common people providing justification for the adoption of more severe measures it provided an argument in their favour and for the adoption of more lenient measures. The removal of crime was not to be achieved by adopting Bigge and his supporters' "plea of rendering trans-

1. Monitor, 7 June 1826; Australian, 17 November 1825.

2. Australian, 13 March, 4 May 1827; Monitor, 9 March 1827.

portation by extraordinary and unconstitutional severity a terror to the starving poor of England". Instead, it would be achieved by a policy which did not tax the necessities of life but which instead taxed the luxuries and pleasures of the British aristocracy.¹ As discerned in Chapter 8, the Opposition Press demanded a taxation system which was capable of taking into account the individual circumstances of individuals by taxing them equally in proportion to their wealth.

The writer "Cestria" claimed that because of the drought the government had reduced the ration of prisoners below that required to support a labouring man, thus, leading to increasing numbers of convicts escaping to become bushrangers. He also blamed the arbitrary personal power of unprincipled overseers and inadequate surveillance by magistrates as another factor contributing to that increased severity of punishment which led convicts to escape. "Cestria" believed that power should render itself more uniform in its severity by accommodating itself to the individual. The strong and able should only be selected to work in clearing parties so that the sick and weak would not be accused unnecessarily of shirking. "Browbeating, harsh, severe language, only hardens the hardened", he claimed: "The experience derived from our laboratories, in tedious solutions, might furnish some principles that could effectually be applied to render feeling and sensible the callous mind of many prisoners". This alternative strategy consisted of giving the convicts adequate clothing, good food "as much as they can eat...let a jealous eye be kept on overseers, never allow them airs of consequence, at the expense of their fellow men; more magisterial surveillance and

1. Monitor, 23 August 1827.

better performance of duty by constables would reduce bush-ranging".¹ In short, the critique of violence coincides with demands for the emergence of a bureaucratic structure which would be individualising and rewarding in its effects while guaranteeing the rights of prisoners by policing their supervisors.

In terms of penal theory we need to remember that Bentham's Panopticon was not simply an architectural device for "economically" surveying a number of subjugated individuals simultaneously from one point. It was also a device for surveying the surveyors, a device for the efficient mass administration of society through forms of bureaucratic self-surveillance. It represented the construction of a circular-feedback information system in which the state monitored its own monitoring and intrusions into the social body. The press believed the most efficient form of state monitoring could be best done by an institution independent from the state.²

The Opposition Press justified their own criticisms of the state as one designed to further the rational employment of power. The exposure of bureaucratic fault, anomalies and corruption would lead to their correction and the improvement of society; whilst to suppress the truth would ensure that power was "perpetuated in the least deserving hands".³ The Monitor, 11 August 1826, claimed:

The strength of a Governor of New South Wales lies in a free press. He need not fear the venality of underlings - we will keep his administration sound and healthy - and thereby take a load of care off his shoulders.

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1. Sydney Gazette, 30 December 1824, "Cestria"; see also Australian, 3 February, 12 May 1829; Monitor, 6 January 1827.
 2. Australian, 16 July 1828.
 3. Australian, 20 June 1827 (copied from the Times).

The writer "Mnemon", claimed that the English government viewed "the unrestrained operations of the free press in this Colony, as essentially necessary to control acts of arbitrary power, corruption, public abuse, &c., to which delegates in authority become actuated and encouraged from a sense of security afforded them where the public voice is restrained".¹.

At the same time as the press promoted itself as the ultimate external inspector of bureaucratic functions, it was also promoting an expansion of the role of surveillance within the state through construction of efficient internal bureaucratic hierarchies which rendered all subordinate state officials accountable to a superior. Discussing a recent Gaol's Report, the Australian, 16 June 1825, argued that:

The delinquencies and irregularities complained of are principally owing to a total want of surveillance in and over an establishment which requires more than almost any other to be frequently and periodically looked into. The Gaolers have hitherto had no check upon their actions, they have not been taught to look up to any persons as their superiors; but have been left with the entire management of the Gaol, as if it were their own house.

As a means of improving the efficiency and respectability of the police force, the Australian, 25 July 1828, supported a recommendation designed to encourage the enrolment of "active and steady men" in the police force. This recommendation was "to hold out to all such men a CERTAINTY of obtaining an increase of salary, and performment in other ways in proportion to individual merit and length of service". In brief, the Australian advocated the creation of an internal bureaucratic hierarchy within the police force with fixed rules designed to

1. Australian, 6 January 1829.

ensure certitude of promotion and reward as the basis for creating efficient and certain bureaucratic action. The Australian, 26 May 1825, advocated trebling the pay of constables so as to increase their efficacy.

The Opposition Press could not stand to find any inconsistencies in State activities. For the Monitor the demand for consistency was built into human nature, distinguishing the savage from civilised man.

Consistency of conduct is a most pleasing quality of mind. Incongruous, unsteady, and unequable behaviour, on the other hand, is proportionably discordant. The clangings of barbarous music are not more grating to a refined ear, than this sort of conduct in any men, but especially in those who by their public pretensions, and as teachers of the multitude, lead us to expect and demand of them better things.
Monitor, 6 April 1827.

I would argue that the demands by the Opposition Press for the conceptual systematization of State power, as well for its consistent application, can be seen as part of an attempt to transform the State in N.S.W. along bureaucratic lines. To be principled, that is rule-governed, at this time was to a large extent what was meant by being rational; it was also what Max Weber saw as the key characteristic of those bureaucratic structures which derived their legitimacy from rational notions. The ability of these bureaucratic structures to assume the form of rationality is, he argued, dependent on their ability to adhere to the legal method; defined as the systematic and consistent application of general principles to particular cases.¹

One of the characteristics which Weber saw as allowing legal-rational bureaucratic structures to develop around the

1. Weber, op.cit., p.330.

consistent application of impartial norms lay in the complete separation of the administrative staff "from ownership of the means of production or administration". By this Weber meant partly that participation in administrative office emerges as a full-time professional career for which individuals receive a salary. Ideally the official should not view his office or have the possibility of using his office to generate private income. There is a complete separation of private and public realms, especially with respect to property. Social control in such administrative structures operates through the construction of a hierarchy of rank based on varying scales of income where promotion is through length of tenure and merit.¹

An examination of articles in the Opposition Press reveals precisely this quest for a professional state bureaucracy in which the realms of public and private for its officials are completely separated. There are, for example, to be found critiques of unpaid magistrates, unpaid Land Board members, of a judiciary which relies partly on court fees for its income, and of constables who receive rewards for spying on domestic privacy, or for in some other way fulfilling their duty.²

Let us run through some of these criticisms briefly. Despite the expense, the Monitor, 10 January 1827 advocated a salaried magistracy, for this would result in "the indescribable benefits of a pure, discreet, lawful administration of the law. It believed this would force the magistrates to adopt a more professional and responsible approach to their duties, whereas

1. Ibid., pp.331-332.

2. On the 17 February 1827, the Monitor criticised the members of the Land Board for being unpaid on the grounds this allowed them to "do business when it pleases them"; they too were able to insist on indemnity for their mistakes on the grounds of them being unpaid. They were also accused of bias in the handing out of land and of having private interests to serve; see also Sydney Gazette, 19 June 1827.

now they could always excuse their blunders on the basis that it was a voluntary activity they did not get paid for.¹ The Monitor, 26 June 1827, argued that what distinguished the unpaid magistrates of Britain from those of N.S.W. was that the former were already men of fortune whilst the latter were in the process of making their fortune. This meant it argued that the N.S.W. magistrates were not as impartial judges for "they were everyday coming in collision with their fellow-citizens. Everyday they are liable to conceive personal animosity, being subject with farmers, merchants, brokers, and shopkeepers, like themselves, to all the little petty feelings arising from the competition of trade and occupation". The Australian likewise complained about the fusion of private interest with magisterial duties. The Australian, 16 August 1826, complained about the fact that an agent of the Australian Agricultural Company at Port Stephens was also a magistrate administering justice to the convicts in the company's charge.

On any fancied dereliction of duty, on any fancied breach of contract to himself, he complains where he is a party concerned, to himself; he establishes his case; he decides, passes judgement on his own cases, avenges by his own sentence his own fancied wrongs, upon the alleged wrong-doer, punishes as criminals, committed to prison, in his capacity of Magistrate, those he accuses, in the capacity of agent, and of party concerned.

The 1823 N.S.W. Act ended the practices of judges gaining personal remuneration from cases or decisions they had to make.² This was supported by the Opposition Press with the Monitor, 28 July 1828 referring to the prisoners situation as "those days of darkness and money oppression". Constables however continued to receive fees for the successful prosecution of certain cases. The Monitor, 21 July 1826,

1. Monitor, 13 January 1827.

2. Melbourne, op.cit., p.100.

referred to this as an inquisitorial system. It criticised giving "fines to spies or domestic privacy".¹ In short, the struggle to bureaucratise the N.S.W. state took the form of a struggle to separate the private from the public.²

When the state failed to do this it was accused of being not sufficiently individualising and discriminating, of homogenising and destroying the productive potential of its subjects. Paradoxically, this brutalising quality of the state was seen to come from the fact that it was overly individualised in its upper echelons. Its irrational homogenising violence and effects came from the fact^{that} in its upper echelons, power was being overly personified, that is placed too much in the arbitrary hands of individuals with private interests. As we have seen, this struggle to bureaucratise the state and to remove violence from the sphere of power coincides with the emergence of an increasingly abstract view of man which places the sources of his individuality in his environment and history. I have argued that this abstract view of man was being manufactured from a number of sites, from the Adamic myth of religious discourse, from the new scientific materialist views of man as a product of his environment and from a labour theory of value bound up with the commodification of labour. All these discourses fostered the bureaucratisation and codification of social relationships. In doing so they saw themselves as promoting structures of individualisation. In short, N.S.W. as a prison becomes a place for studying man so as to contemplate the effectiveness of the mechanisms which seek to objectify and fabricate his individuality.

1. Monitor, 11 August 1826.

2. See also Sydney Gazette, 1 July 1826 (Female Factory).

(E) CONCLUSION

I began this chapter by describing the safety-valve view of public discourse which emerged in the uncensored press. The liberalisation of newspaper discourse occurred at a time when new unpopular government measures were being introduced and was perhaps a way of buying off more radical political discontent. Political discourse moved from the private realm of secret correspondence and personal patronage and became partly located in the democratic field of public visibility. Indeed, removal of censorship was often presented as the means of putting an end or a brake upon a clandestine form of politics which was often associated with the corrupting despotic powers of an oligarchy or aristocracy. Politics increasingly became the seduction of public opinion.

The exclusionists and the government were worried by the increasing politicisation of the masses. They believed the press was unduly exciting the uneducated classes, which were seen to be more prisoners of their undisciplined bodies than of their minds. Stories of an impending convict rebellion were increasingly being circulated and were partly directed towards convincing the increased numbers of influential free settlers arriving in N.S.W. of the necessity for a strong authoritarian government. These stories were ridiculed by the Opposition Press and sometimes by the Sydney Gazette. The Opposition Press pointed to the abuses of power and to the arbitrary violence associated with undisciplined military power which existed outside of civilian control. It wanted no more military officers appointed as magistrates. Bloody violence was also associated with a landed aristocracy which

wanted to monopolise power and which emphasised hierarchy and violent rituals. In part the struggle against violence was a struggle against the personification of power, against a power which knew only the arbitrary limits of the psychological dispositions of those who wielded it.

In opposition to the hierarchical violence of an aristocracy there emerged a growing feeling of sympathy for oppressed convicts and a championing of their rights. Part of this sympathy for convicts emerged from a labour theory of value as this articulated the interests of urban-commercial-manufacturing groups. Violence was accused of brutalising society, of having a homogenising effect which reduced the white man to a level beyond which he could go no further, that of the uncultured and unfeeling savage. Violence was seen to destroy or go against certain fundamental principles of human nature. Moreover, there was a demand that punishment accommodate itself to the individual nature of the human material it had to deal with. Correspondingly there was a demand that punishment involve classification and that it be graduated. In short, that it be capable of individualising. The achievement of this was seen to rest in a greater use of rewards and in the development of a bureaucratic structure to police the graduated distribution of rewards and the despotic tendencies of gaolers. This attempt to free the reformatory potential of individuals from the violence of their supervisors was partly metaphorical of the attempt by capital to free itself from a centralised military power structure. It was also part of a struggle to create new impartial bureaucratic structures in which the public was clearly separated and contained no remnants of private interest.

CHAPTER ELEVEN

THE INCREASING SECULARISATION OF THE STATE

AND THE PRIVATISATION OF RELIGION

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(A) CHURCH AND STATE: THE PRIVATISATION OF RELIGION AND
THE RATIONALISATION OF POLITICS IN COLONIAL N.S.W..

A simplistic characterisation of political discourse in the uncensored press would be of a battle between two competing models of sovereignty; of how state power should be organised. The government and the Sydney Gazette stressed the importance of respect for the properly constituted authorities, where the flow of legitimacy came from the top through the Governor as the King's representative.¹

The Governor of a Colony, while he continues in office, is nothing more or less than the Representative of the Sovereign of that Country of which the Colony constitutes an appendage; in fact the Governor is the King for the time being, and is entitled to all that respect which is due to the Monarch himself, as far as respect for power can go.

Sydney Gazette, 31 October 1825.

In return for government protection and its pursuit of their interest, the Sydney Gazette argued it was the duty of the governed "not to trespass beyond the lines of demarcation, nor to obtrude on the borders of Authority, which, for the wisest ends should ever be preserved from the rude invasion of the multitude".² Anything in the Opposition Press which reduced respect for the properly constituted authorities was attacked by the Sydney Gazette as being conducive to the production of disorder. According to the Sydney Gazette "loyalty and liberty go hand in hand, and the moment a man ceases to be loyal, that instant his claims to the character of an Englishman [ie. his liberties] inevitably vanish".¹

1. For the importance of respect for King in maintaining secure and good government, see Sydney Gazette, 14 July, 24 October, 3 December 1828.

2. Sydney Gazette, 10 March 1825; see also 6 December 1827.

3. Sydney Gazette, 17 October 1828; see also 19 November 1827.

Not surprisingly, the Sydney Gazette, 12 May 1829, was outraged by a recent Monitor's comment that whilst "to fear God is indispensable...to honour the King is not always our duty". It declared this to be a "daring contradiction of Holy Writ" put out by "the radical faction", who seemed to "glory in their freedom from the Shackles of Revelation, even more than in their contempt of civil subordination, and the ancient establishments of the State". The Sydney Gazette further accused the Monitor of seeking "no higher sanctions than those of human compact".

The last revealing statement points to a major tendency in the Sydney Gazette to oppose secularist political trends and to emphasise the union of Church and State. Like John Macarthur, the Sydney Gazette believed that the statements to "Honour the King" and "Fear God" were inseparable.¹ The Opposition Press emphasised their separation. The Monitor, 10 January 1828, went so far as to deny that man should fear God and emphasised instead the love of God.² The Sydney Gazette was outraged by this:

We never heard of repentance being a consequence of love - hitherto we have always understood, it was the principle of fear operating on the mind, that generated repentance. No man ever repented out of love to God, for 'the fear of Lord is the beginning of wisdom', and if it were not for this fear, we apprehend there would be little hope of ultimate love to the Great Source of our being".
Sydney Gazette, 16 January 1828.

In effect, the Monitor was undermining the religious basis for exercising state terror. As we saw in the chapter on executions, state terror was presented as an extension of

1. Sydney Gazette, 20 June 1827; Clark, op.cit., Vol.II, p.86.

2. See also Monitor, 28 January 1828, "M.P."

that subjective terror which all men should experience before their Maker. By emphasising the separation of Church and State, the Opposition Press, I consider, attacked the ability of the state to be an extension of God's terror and made it more difficult for the Governor to be deified. The separation of Church and State was necessary if the Opposition Press' demand for the further bureaucratisation of the state was to be successful. The ontological personification of power which took place in the figure of God had to be removed from the state and the figure of the Governor if a state organised around impersonal and impartial rules was to be established.

The demand for the separation of Church and State represented partly the emergence of divisions within the intellectual community of N.S.W. - between its independent politicians and the largely state-aligned clergy. Increasingly an emerging professional political intelligentsia organised mainly through the medium of newspapers was opposing the cultural hegemony of Church officials in public matters. In attacking the perceived alliance of the Church and the Government, the Opposition Press accused religious men of seeking a monopoly over all intellectual work. This was not entirely inappropriate, for the Reverend Mansfield claimed that "where politics took possession of the heart, religion could not enter".¹ After accusing the Anglican Archdeacon of being instrumental in the late press gagging acts, the Monitor, 10 July 1827, claimed that "history proves, that the clergy always have a moral aversion of anybody save themselves, writing and printing their opinions. They have inundated the world with their polemics...while political literature

1. Sydney Gazette, 24 March 1826.

(partly newspapers) has been specially hated by them". Two months earlier, the Monitor had noted that clergy from all denominations no longer attended political meetings. In particular, it accused the Wesleyan Church of being "a Darling Church, a Government Church". Its ministers, Reverend Horton and Mansfield, were also accused of seeking to revive the ancient form of Church jurisdiction over politics. Something which the Monitor saw as denying political freedom and as containing within itself the possibility of new, violent atrocities.^{1.}

As I showed in the previous chapter, excessive hierarchical distinctions were associated with arbitrary violence and an inability to feel sympathy for the oppressed. The Church's alliance with the government and the exclusionists led it to suffer similar accusations. When the Reverend J.E. Keane of the Australian Religious Tract Society joined the Archdeacon in accusing the press of political irresponsibility the Monitor complained about political priests.^{2.} Moreover, it accused the Reverend Keane of seeking

to filch the rewards due to piety and sympathy, (which are among the finest and most delicate of the human heart) from the true labourers in humble life, and hand them over to the rich, who however carnal and worldly in their lives, generally receive from heads of religious societies the most unqualified praise, and the most marked attentions on such occasions.

Monitor, 24 September 1827.

The Monitor, 19 May 1826, also argued that Christian discipline, christian reformation and Christian morals could not be achieved until the clergy condemned not simply the wicked poor but also rich sinners.

1. Monitor, 11 May 1827.

2. Monitor, 24 September 1827. The Australian, 16 June 1825 criticised Archdeacon Scott for claiming the Press was dangerous to Christianity.

The Opposition Press wanted the Church removed from politics, from the public sphere, its legitimate domain was seen as the realm of private morals. The Monitor, 26 June 1827, commenting on the new magisterial lists, praised the exclusion of the clergy from the magistracy. So did the Sydney Gazette, it perceived an incongruity in "Pastors one day exhorting their flocks to repentance in the pulpit, and the next day, endorsing repentance from the Bench by the visitation of the cat-o-nine-tails".¹ In demanding the removal of the Church into the sphere of private morals, politics, as a new secular domain for the ideological construction of the public, would undergo a process of fissioning. So long as the private was in order, man was entitled to political diversity.

But if his private life be sound, his politics ought not to be impugned. This is the rule of modern Christian Churches. Formerly, Christian Churches constituted themselves judges of politics - and however pure your private life, if you happened to be a Whig when the said Churches were of Tory principle - or if you were a Tory when the said Churches were of Whig principles, you were sure to be considered a heretic - put in prison - and perhaps burnt alive. But in modern times, at least in England, Christian churches confine their spiritual domination to a man's private morals - they permit their members to be either Whigs, Tories, moderate Reformers, or ultra Reformers".

Monitor, 11 May 1827.

What this quotation also evidences is the ideological process whereby the privatisation of religion was simultaneously part of the secularisation of politics. As we shall see in greater detail in the next chapter, this secularisation of politics was in part a process of rationalisation. In effect,

1. Sydney Gazette, 20 June 1827.

what was occurring in the Opposition Press was a tendency to construct the public political sphere as the sphere of the Reason, whilst the private became the sphere of the emotions, of sensibility. The private was seen as the site of moral judgement founded on intuition and the heart, whilst the public became the site of moral judgement founded on Reason, or understanding.

Private morals are easily understood. Public morals require a considerable degree of intellect in order to apply them rightly. Private morals are so plain that they are considered a question of the heart. Public morals are so equivocal and abstract that they become a question of the understanding.

Monitor, 11 May 1827.

Marx was perhaps the first to point to how the secularisation of the state was the process of moving religion from the public to the private domain. Whereas I have emphasised the political diversity which accompanied this, Marx emphasised the religious diversity; how religion undergoes a process of fragmentation into various sects as it becomes a domain of civil society, the domain of egoism. In part, the multiplication of religious sects becomes an expression of individualism.

Man emancipates himself politically from religion by expelling it from the sphere of public law to that of private law. Religion is no longer the spirit of the state, in which man behaves, albeit in a specific and limited way and in a particular sphere, as a species-being, in community with other men. It becomes the spirit of civil society, of the sphere of egoism and of the bellum omnium contra omnes. It is no longer the essence of community, but the essence of differentiation... The infinite fragmentation of religion in North America, for example, already gives it the external form of a strictly private affair . 1.

1. K. Marx, "On the Jewish Question", in Karl Marx: Early Writings, (ed) T.B. Bottomore, p.15.

What do we notice in the N.S.W. Opposition Press if not the emergence of a form of relativism which asserts the legitimacy of diverse religious beliefs? The Monitor, 27 January 1827, praised religious freedom as long as it was Christian freedom. Singled out for special criticism was the granting of one-seventh of all new land grants to the Church and School Corporation. The Australian, 8 August 1827, claimed that this made the Church of England the national Church of Australia, whereas it was only a sect. It gave a government subsidy to one Church at the relative expense of Catholics, Presbyterians, Wesleyans and Jews. What was demanded was an end of government patronage to the Anglican Church and a removal of religion from the sphere of public life.^{1.}

The writer "Observator" perhaps most clearly evidenced this process whereby an emerging ideology of religious relativism was in effect a demand for the privatisation of religious beliefs - that their different dogmas be not made a public subject of rational discussion, but treated as part of the subjective emotional individualism seen to characterise the natural man of civil society. "Observator" criticised N.S.W. ministers of religion for "the schismatic dogmas" they publicly promulgated. He quoted Dr. Sturgess' claim that "internal religion is not an object of human cognizance: the individual is not responsible to any other than the Being to whom his thoughts or addresses are directed".^{2.} Religion here

1. Accordingly the catholic priest Therry phrased the problem as : "The civil power must be neutral and inactive in reference to the creeds which individuals or sections of the community may think proper to adopt"; Therry, op.cit., p.143.

2. Sydney Gazette, 13 April 1824, "Observator".

was part of the sphere of egoism and accordingly outside of the normative jurisdiction of the state or other public functionaries.

In the next section I analyse further the secularisation of the state. How it involved an attack upon the Governor as an embodiment of the sacred qualities of omniscience and omnipotence. These personal qualities of God were no longer to enjoy unquestioned public acceptance in the press as the legitimate idiom of public state power.

(B) FREEDOM AND THE DEMOCRATISATION OF REASON AND KNOWLEDGE
IN THE OPPOSITION PRESS.

In the Sydney Gazette the separation of the public and the private was not as pronounced as in the Opposition Press. As I showed in the chapter on executions, it was in part through the personality of the Governor that the union of the Church and State was accomplished. He was the earthly representative of God's transcendental power and attributes. It was especially through his personal qualities of Reason, Benevolence and Grace that he deified the State. The Sydney Gazette tended to give the Governor a monopoly over these attributes or at least to see him as an exemplary centre responsible for their diffusion throughout society. The Monitor, 15 June 1827, captured accurately the essence of this ideology which it was reacting against and which it saw as having its high day with Macquarie. In this ideology the personage of the King tended to be the origin of all public knowledge and morality; hence the ceremonial character of the N.S.W. state. His every gesture was almost a public statement.

Until General Brisbane arrived, the Governor of this Colony was quite patriarchal. Macquarie gave the tone to religion, morals and manners... In a few years the Sabbath, through his personal order, and personal example kept it as great strictness as it is in Scotland. The very sentiments and phrases of General and Mrs. Macquarie were diluted and ramified for popular use, and their very manners and gestures copied and served up in private society, as the perfection of grace and eloquence.

Monitor, 15 June 1827.

Though the Sydney Gazette tended to focus ideologically state power in the figure of the Governor it would be a mistake to assume that "the people", as a category for legitimating state power, were left out of its political discourse. The

latter accusation was often made by Opposition newspapers, as they competed with the Sydney Gazette for readers and political supporters. The Sydney Gazette's justification of monarchical power was partly based on presenting the Governor as an extraordinary individual imbued with enormous Godly capacities for sympathy and benevolence, which meant he was only able to realise his happiness through the happiness of his people.¹ The writer, "Cestria", expressed this view when he declared: "that the will of God is the foundation of all government"; and that "the Divine Being has committed to the hands of his delegate, the chief magistrate, to make people happy by framing and dispensing the most equitable laws". This did not mean, he argued, "that millions were made to be the slaves of one...for the source of a magistrate's happiness lies in the consciousness of having promoted that of his fellow man".² In this ideology which was also to a lesser extent articulated by the Opposition Press, state power and the will of the people were united through the person of the monarch, particularly his capacity to experience sympathy for the plight of his subjects.³ "Cestria" further argued that the threat of despotism could

1. "The political happiness of the Governor depends on the happiness of the people whom he has the honour to govern, whose happiness is the result of those laws which may be enacted in his administration; and until it can be proved that those at the head of the Executive delight in their own misery, and play with their own wretchedness, it would betray the grossest ignorance of the first principles of our common nature to imagine that the Legislature would make laws, the object of which was not to secure the peace and prosperity of society."
Sydney Gazette, 4 August 1825.

2. Sydney Gazette, 23 December 1824, "Cestria".

3. "His [the Governor's] only possible avenue to the hearts of the GOVERNED is through the exercise of the nobler virtues that dignify human nature, of genuine magnanimity, of beneficence, of justice, of mercy, and a human and paternal regard to the want and necessities - to the moral and intellectual improvement - the welfare and happiness of the people confided to his government! The greater his powers, the more should its use be tempered by moderation and clemency". Australian, 17 April 1829.

not be used to criticise a monarchical form of government. He implicitly rejected the Opposition Press' principle that power corrupts and absolute power corrupts absolutely.¹ He argued that experience and common sense had demonstrated: that nations have always suffered incomparably more from a multitude of little tyrants than from a single great one; and have been immensely more corrupted by a host of evil examples, than by a solitary pattern of wickedness, however great and splendid. A wise and good magistrate, so far as his information extends will choose none but wise and good men to aid him in the business of governing".²

"Cestria" also argued that because God had entrusted the magistrate with "the extensive power of doing good", this meant that the magistrate had a discretionary, personal power able to prevent, redress, relieve and remove both public and individual wrongs. The virtues of a monarch was that between the legal system and the people stood a set of human qualities capable of removing those injustices which might result from a strict and formal application of legal categories: "Benevolence will wisely temper the rigid application of those laws which are generally just, but which being applied without clemency are palpably unjust".³

The ability of the Sydney Gazette to present the Governor's policies as reflecting the voice of the people, or being in their interests, was somewhat restricted by the fact that the

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1. As the Monitor, 16 March 1827 put it: "all authority will be despotic if it can."
 2. Sydney Gazette, 23 December 1824, "Cestria".
 3. Ibid..

Governor, particularly Darling, was implementing policies which rendered him unpopular with the bulk of the population, that is the emancipists. Within the context of the conflict between the interests of the British state and the general interests of the inhabitants of N.S.W., as this came to be represented by the Opposition press, both the Sydney Gazette and the Governor found it increasingly more difficult to articulate a picture of the Crown as being representative of the people's interests, though this did not prevent them from trying. As a result, the Sydney Gazette sometimes employed the discursive strategy of arguing that public opinion did not always recognise what was in the general interest of the colony or the most rationally consistent course of action to pursue.¹

The Monitor, 17 July 1827, acknowledged this to be so occasionally, but argued it was nevertheless the duty of the Governor to "yield to the voice of the people, even tho' they should be in error, because Rulers are not the masters, but the high and exalted servants of the people. The people are not servants collectively - they are only so in their individual capacity".

To some extent the justification of monarchical power in N.S.W. lay in presenting the Governor as a symbol of the transcendental within man. Being removed from the world of interest, he was not thrust into its jarring pursuits which might lead him to become opposed to other men on the basis of interest. Rather from "a serene and clear atmosphere, he may calmly attend his important duties to the subject multitude, unannoyed by the

1. Sydney Gazette, 25 June, 17 October 1827.

storms and clouds that hurtle beneath...A Governor should never exhibit the paltry passions, the petty resentments of dwarfish minds".¹.

Along these lines, the writer "Cestria" warned of the dangers of democracy by arguing that the problem was not the inability of men to determine who are virtuous men possessing the proper qualifications for office. Instead, the problem lay in their inability to stick to these criteria and not be swayed by other qualifications, such as party attachment and personal favouritism:

All these are deplorable prejudices and palpable crimes, miserably weak, as well as dangerously sinful; fraught with innumerable evil, not always immediate, perhaps, but always near, certain and dreadful.

Sydney Gazette, 6 January 1825 "Cestria".

Here, once again, surfaces the use of the notion of man as inherently fallible to justify the concentration of political power in the hands of a moral few. Though I explored this notion in the chapter on executions partly under the period of censorship, it was not really until the liberalisation of the press, under Brisbane, that the underlying "official" political theory of the state, premised on the notion of fallible man, assumed an overtly political significance. As the Sydney Gazette struggled to deny the legitimacy of criticisms of government measures, politics emerged as a separate autonomous realm of discourse concerned with explicating the relationship of the state to the people. Underlying the Sydney Gazette's political discourse was a critique of Liberalism through the theory of human nature in its unrestrained form as the source

1. Australian, 17 April 1829, "Vindex"; this letter was in fact a critique of the government, but it was an interesting letter, for it attacked the state within the context of its own ideology.

of evil. This meant for the Sydney Gazette, that freedom was not "synonymous with licentiousness", that is exempt from every degree of restraint;¹ perfect freedom resulted from the free submission of the people to the constituted authorities.² Here Government represented the difference between absolute and rational liberty: namely the regulated, disciplined pursuit of self-interest. The Sydney Gazette put the difference between absolute and rational liberty in these terms:

The one is the prolific parent of anarchy, collision, and strife; the other, of order, unity and peace. The one is the frantic victim of impulse and of passion, pursuing, with the daring impetuosity of the untutored savage, its own exclusive interests, reckless of the interests of others - unawed by the sceptre of authority, unchecked by the monitions of conscience: the other is actuated by principle, and pursues its own interests by such means only as the laws of God, and the laws of man declare to be compatible with the interests of others. Subordination and order are necessary concomitants of true liberty.

Sydney Gazette, 28 October 1824.³

As we saw partly in the chapter on executions, this model tended to equate absolute liberty with unrestrained egoism and desires, whilst the state became the ultimate expression of external rational authority.⁴ The individual in this model was constructed as the source of irrational evil; his anarchic tendencies, that is his free unrestrained pursuit of individualism, justified the need for political structures to hold society together. In brief, an ideology of restrained freedom was articulated by the Sydney Gazette as the basis for the state's relationship to the individual.

1. Sydney Gazette, 15 January 1824.

2. Sydney Gazette, 24 July 1824, "The Friendly Visitant".

3. See also Sydney Gazette, 15 January 1824.

4. "Government is instituted in order to restrain the fury and injustice of the people"; Sydney Gazette, 9 June 1825.

Restrained freedom would appear paradoxical, were it not that the fact is well known, that the law of the land is only established to counteract the otherwise boundless rapacity of man. Sydney Gazette, 2 January 1823.

The Opposition Press opposed this discursive strategy which constructed the state as the source of all order, whilst tending to construct the mass of individuals as the site of an absolute freedom which denied the possibility of order. Instead, it constructed the individual, with his natural rights and liberties as the source of social order whilst viewing the N.S.W. state, particularly the Governor, as the site of a corrupting absolute freedom.¹

The Opposition Press objected to any aspersions being thrown on the "People". The Australian, 6 October 1825, argued that Editors of papers were free to be censored as much as possible "but libel not the people - proclaim not them a horde of slaves - with slavish feelings - slavish propensities - slavish minds". The Monitor, 24 February 1827, objected to the evangelical style of preaching of the Reverend Mr. Norman who stressed the inherent sinfulness of man. This, it argued, did not go down well in a land containing reformed characters. A writer in the Sydney Gazette, whom I believe was sympathetic to the emancipist cause, also objected that:

fulminations from the pulpit are unseemly as well as uncharitable. Imprecations of direful vengeance are disgusting, and decidedly opposed to the genuine dictates of Christianity. A wholesale condemnation of a congregation is bigotted and uncanonical...A cheerful man is (I presume) more acceptable in the sight of the Lord, than a morose, gloomy [hater of] all mankind. The one delights in the happiness of his fellow creatures, while the other is only satisfied when he can point out their failings, and seldom contemplates, or considers the good deeds they have done...

Sydney Gazette, 13 April 1824, "Observer".

1. For the Opposition Press this case symbolised those violent excesses in authority which flowed from the excessive centralisation of power in individuals. See Monitor, 22 December 1826, 30 March 1827; Australian, 2 December 1826.

The Opposition Press grounded the power of the state less in the person of the king and more directly in the attributes of reason and to a lesser degree sensibility and mercy. Admittedly these were also presented often as Godly attributes in the Opposition Press. But here God assumes an indirect presence. He justified not the State directly through the Governor, but gave a universal or absolute significance to human qualities embodied in state practices. We should not allow the religious framework within which the Opposition Press often couched its discourse to blind us to the process of secularisation which was also occurring in it. Here God was still the ultimate reference point justifying the value of Reason, Benevolence and Sympathy, but in the Opposition Press, these were conceived to be much more human attributes, fundamental to the species of man. Thus, the Opposition Press tended to democratise these values or attributes, to place them within all members of society, particularly white members. They stressed the democratising aspect in the religious statement that man was made in God's image. The Governor was not seen by them as the supreme source of transcendental reason here on earth. Indeed the Monitor, 1 June 1827, claimed that "an enlightened, reasoning people like the English...well know their rulers are not a whit wiser than themselves and and very often not so wiser". On the 31 December 1827, the Monitor claimed: "Kings are liable to human frailty as those over whom they bear sway".

In accordance with its tendency to give the Governor a monopoly over these attributes and to see him as their exemplary centre responsible for their diffusion within society,

the Sydney Gazette, 19 October 1827, denied that most people possessed reason.

There never yet existed a government so constituted to impart universal satisfaction to the most numerous class of the people; and, for this reason, because the most numerous class are those least qualified, from intellectual attainments, to judge of what is most conducive to their own good.

The Sydney Gazette went on to accuse certain writers in the Monitor of exploiting "the passions of the ignorant multitude" with utopian schemes and attacks upon authorities. In opposition to this type of argument, the Monitor, 17 July 1827, attacked certain "shallow men...particularly priests" who had argued "that it is a proof of cowardice or imbecility in a Ruler, to succumb to the wishes and to value the opinions of his people". It believed "such language really imbecile and indicative of arrogance" it was not appropriate "amongst a sober-minded, intelligent, reflecting people, like the English". The Monitor characterised its difference from the Sydney Gazette in these terms:

The loyalty of the Gazette is that of the Constitution before Charles the 1st - which inculcated the divine rights of Kings - that the people were made for Monarchs and not Monarchs for the People.

Monitor, 10 February 1827.

The Opposition newspapers wanted to discipline state power by organising it into a number of independent centres which would competitively act as checks and balances upon each others political encroachments. This, it was hoped, would prevent the concentration of too much power in any one centre or person. In this political model, the press appointed itself as one of the ultimate scrutineers of state encroachments. It emerged to defend the natural and civil rights of citizens from the state as well as to defend government departments

from each others encroachments.¹

This concern with decentralising state power into a number of independent centres and with making the state politically accountable to the wishes of the people was, as argued in Chapter 8, the political expression of that same ideological thrust which, in the realm of economics, took the form of a free market philosophy. The concern here was likewise one of taking the control of the economy out of the state's hands and dispersing this decision-making power to isolated consumers and producers who, it was claimed, possessed the ultimate true knowledge concerning their welfare and happiness. In other words, the decentralisation of both economic and political power was ideologically predicated upon an epistemological individualism which constructed the individual as the site of all social knowledge. At the level of the implementation of penal theory in N.S.W., this epistemological individualism manifested itself in an increasing concern with suffering introspection, with moving the moment of self-reflection from the confessional moment of the execution into the isolation of rural pursuits where it could be mass produced. At the level of uncensored newspaper discourse, this epistemological individualism manifested itself in the emergence of public opinion. No longer was reason identified mainly with the state. Everyone was given the right to form and give an opinion on everything: "Liberty of the press...constituted the people as the arbiters and judges of all disputed points in learning, religion, and government".² Similarly, the

1. Australian, 3 March 1827; Monitor, 14 July 1826.

2. Sydney Gazette, 21 July 1825, "Umbra".

writer "Mnemon" considered:

...the right of every individual to enquire into and scrutinise the laws and policy of the country in which he lives, indisputable; for the public good is consulted by every person, who, in an independent manner, exercises the privilege of discussing the measures of the Administration by which the laws and the interests of the people are regulated.

Australian, 6 January 1829, "Mnemon".

In the first chapter we saw how a materialist theory of man underlay the growing epistemological individualism of the time, as the science of psychology sought to grasp the process of successive associations through which knowledge and ideas were derived from the senses of an individual. The importance of deriving knowledge from experience can now be seen as part of the process by which science was legitimising the democratisation of knowledge. In other words, the emergence of psychology, of deriving knowledge from the physical attributes of individuals, helped to justify a political philosophy which constituted the People as the ultimate checks on the arbitrary and encroaching power of a military monarch. The Australian, 8 February 1827, justified its democratic philosophy by arguing that the knowledge of the people was a practical knowledge coming from experience, rather than the theoretical knowledge of officials based on "second, third and fourth hand information". To assert the sovereignty of practical knowledge against that of the monarch was, within this cultural context, to assert the sovereignty and autonomy of the perceiving, knowing individual. He, rather than the sovereign, emerged in the Opposition Press as the site of rational order.

Mannheim has aptly summed up this same historical tendency

in Europe, recognising full well its secularist tendencies, though, I consider, he totally ignores the fact that reason and knowledge were also partly presented, at least in the last instance, as divine human attributes.

After the objective ontological unity of the world had been demolished, the attempt was made to substitute for it a unity imposed by the perceiving subject. In the place of the medieval-christian objective and ontological unity of the world, there emerged the subjective unity of the absolute subject of the Enlightenment - "consciousness in itself". Henceforth the world as "world" exists only with reference to the knowing mind and the mental activity of the subject determines the form in which the world appears. 1.

In brief, the Opposition Press propounded an epistemological model of political power which identified the flow of legitimacy with the people because they were the sites of a social knowledge about their own happiness. At the same time as the press proclaimed that power and knowledge came from the people, it also proclaimed itself as the voice of the people. The result was that it claimed a monopoly over the state's language of legitimacy and a right to censure the state. The press's claims to be a vehicle of democratic sentiments evidences itself in competing circulation figures by Opposition newspapers, with each paper claiming it spoke for a greater portion of the people.².

The emergence of a free press advocating the rights of subjects to form an opinion was part of an emerging wider political concern with constructing independent subjects as a principle of government. This concern was often phrased as

1. K. Mannheim, Ideology and Utopia, p.59.

2. Australian, 6 October 1825; Sydney Gazette, 17 October 1825.

the movement from a government founded on Will to a government founded on Reason. Chief Justice Forbes referred to Macarthur as part of that group of military men "who fancy that New South Wales was never so peaceful, so happy, or so well governed, as when Will was law, and the last the simple argument of power". He believed it useless to try to convince otherwise an individual who from his youth treated "the word of command as the rule of reason, and the measure of moral action". Such a man "would never be brought to admit that if his veterans could be remodelled into active, useful, and independent members of the state, they would in any degree be improved".^{1.}

The Opposition newspapers also saw the problem very much in these terms of substituting for compulsion the force of argument and public opinion. Their struggle to accomplish this was used to explain why all those in authority possessed "a sort of instinctive antipathy to the press".^{2.} They were "jealous of opinion".^{3.} This was, the Monitor claimed, because it "leans upon a species of power to which reason is not amenable...Functionaries of all nations are incensed at this: they act by will and are importuned by argument"^{4.} The Monitor also argued that the new directions from Lord Bathurst for a stricter penal system had led the soldier Governor of N.S.W. [a reference to Darling], to naturally "imagine, henceforward, that his will and not the laws, should be the measure of discipline; and that to talk any longer of the rights of convicts after such a severe and reiterated instruction had

1. Private letters to R.W. Horton, 16 September 1826, Chief Justice Forbes, M.L. A1819, p.49.
2. Monitor, 16 March 1827, article copied from The London Times describing the situation of the press in Hobart.
3. Ibid..
4. Ibid..

been received about them, was almost the same as talking sedition".¹ To a large extent the struggle against military despotism and the freeing of Reason were rendered coterminous, in the Opposition Press. Thus, the Australian, 27 April 1827, argued that for military governors "the independence of a people is hateful the possession of knowledge by the multitude is alarming". Almost two years earlier, the Australian had referred to the past oppression of the people by the oligarchists as that "time when the mind of man was depressed - debased". It argued that England was only a secondary world power "while the doctrine of passive obedience prevailed - while her press was in bondage".² The writer "Vindex" agreed with the general thrust of this argument when he wrote that though the Opposition Paper might occasionally be "licentious", "does not the Gazette as strongly incline to that servility of principle which generates the Tory doctrines of non-resistance and passive obedience, and degrades the human mind to an aptitude for the TYRANT'S YOKE!"³

Even the Sydney Gazette sometimes equated the freeing of Reason with freedom from Tyranny. However it used this argument to justify its own origins and existence. This discursive strategy was utilised for example in its 26 May 1828 issue. The Sydney Gazette began by espousing the universal truth that the human mind improves in exact proportion as literature becomes diffused throughout society. It further argued that "wherever the mind becomes enlightened" the natural result was "that the benefits of civil liberty, and legitimate freedom,

1. Monitor, 30 March 1827.

2. Australian, 6 October 1825.

3. Australian, 15 May 1826, "Vindex".

invariably become enrooted, and luxuriate even in the most apparently unpropitious soil". Referring to this process in N.S.W., it argued that between the Colony's commencement in 1788 and its own beginning in 1803 the colony suffered from poverty, the tyranny of some of its rulers, the character of its population as well as natural catastrophes. All of which meant that N.S.W. inhabitants were not far off from participating "in all the horrors of that barbarism which developed itself in the ferocity of those savage tribes by whom they were surrounded". The publication of the Sydney Gazette ended all this.¹

In short, there emerged a series of discursive strategies which identified Reason with freedom and which saw literature as part of a struggle against personal power, against tyranny and the barbarising effects of violence upon the human mind. Civilisation was seen to depend not on a coercive government centred on a personal will but on the emergence of independent rational individuals who would diffuse the governmental process to all those sites at which knowledge was being accumulated.

1. See also Monitor, 22 September 1826.

(D) CONCLUSION

Essentially, this chapter has been concerned with the increasing secularisation of politics in the N.S.W. press. In the first section I pointed out how the fusion of state and religion was largely accomplished through the person of the Governor. The demand for the separation of Church and State can be seen partly as an attack on (1) the state's right to be an extension of God's terror; and (2) on the personification of state power through the ability of the Governor to take on God's sacred personal aspects. Moreover, I also pointed out that this secularisation of politics was in part the privatisation of religion, and that this in turn involved a form of religious relativism as well as political pluralism.

In the second part of the chapter, I analysed attempts by the Sydney Gazette to transform its monarchical political model into a more popularist discourse. It did this by elaborating the notion of sympathy, of the monarch discovering his happiness only through the happiness of his subjects. Notwithstanding its popularist tendencies, this model continued to promote the centralisation of power by tending to give the Governor a monopoly over certain divine attributes. The application of this model was also severely limited by the political context of N.S.W.. Often the Sydney Gazette fell into the strategy of emphasising the fallibility of the majority of men and the dangers of absolute liberty. Whereas it emphasised the exemplary presence of Reason in the Governor and in God, the Opposition Press saw Reason in much more democratic terms emphasising its human species aspect. This democratisation of knowledge, whereby the people were con-

structured as the bearers of opinion, I argued, underpinned the Opposition Press' demand for the decentralisation of political power in N.S.W.. I also pointed out that the contemporary scientific construction of the individual as a perceiving and knowing subject to some extent ideologically supported the demand for the democratisation of knowledge and power. Increasingly, as knowledge became a more subjective phenomena, the individual emerged as the site of order rather than the Sovereign or God. The individual, as the site of Reason, was juxtaposed against a power structure emanating from a Will. This was part of an assertion of the sovereign autonomy of Reason. In the next chapter, I investigate further the ideological forms which the demand for the rationalisation of politics assumed.

CHAPTER TWELVE

POLITICS AND THE PRODUCTION OF TRUTH

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(A) INTRODUCTION

The previous chapters focused mainly on specific political issues in the uncensored press: those which expressed either the general interest of capital or those of its class fractions and factions in their opposition to each other or the state. This chapter focuses on other aspects of this same political discourse. But it shifts from a consideration of the socio-political context of the rhetoric to a more developed consideration of the common premises underlying the structure of uncensored political controversy. With the liberalisation of newspaper discourse new ways of legitimising statements emerged. The very possibility of a press critique of the state implied the use of new independent sources of authorisation outside the state for providing statements with a "truth-effect". This chapter investigates further the conceptual sources from which newspapers drew the ideological strength to proclaim the sovereignty and autonomy of their own discourse.¹

1. Here I am paraphrasing Foucault's discussion of intellectual revolutions in the West, from the Reformation to Newtonian mechanics, as giving rise to a need to discover "what was the moment...when the West first asserted the autonomy and sovereignty of its own rationality"; Foucault's introduction to G. Canguillen, On the Normal and the Pathological, p.xi.

(B) THE RATIONALISATION OF COMMUNICATION AND THE
SCIENTIFICISATION OF POLITICS

The end of censorship brought the N.S.W. press institutional autonomy. It also allowed a new ideology of impartiality for legitimating newspaper discourse to publicly emerge.

Impartiality is that quality of mind which ought to be tenaciously maintained by all political writers. Editors are political critics. And strict justice towards enemies, rivals, and former offenders, however difficult it may be to be maintained, is their positive duty, and no apology can be accepted from them for the least deviation therefrom. An Editor should maintain the calm impartiality of a Judge on the Bench.

Monitor, 21 December 1827, "An Old Hand".

This new ideology was no doubt partly the means by which, under the guise of freedom of speech and objectivity, the Opposition Press could represent the interests of emancipists or those of small urban and rural capital. However, this new ideology was also utilised by the Sydney Gazette in support of the government. This implies that this ideology of impartiality was not the ideology of a particular faction in N.S.W., but represented the public emergence of a new, more general consensus of how statements derived their authority, their right to be made.

The end of censorship represented perhaps not so much an increase in what it was publicly possible to speak about as more importantly a new means of controlling knowledge through a new ideology of truth. Coinciding with the end of censorship was a new view of the production of truth which held that objective knowledge could only be arrived at in autonomous spaces removed from the real world and its distortions.¹

1. See also Australian Quarterly Journal, No.1, 1828, pp.xi-xii.

In truth, it is only in the calm of the closet, or the shade of retirement, where the storm of worldly passion and contention comes softened to the ear like the distant thunder, where the murmurs of discord and strife are heard but in echo, that the immutability of truth, and our mysterious capacity for its discovery can be plausibly pronounced.

Sydney Gazette, 1 December 1828, "Cecil".

This view of knowledge can be seen as a reformulation of the same idea governing penitentiary practice, which asserted that the prisoner was capable of finding the truth about himself and God only in a secluded world removed from the temptations and attractions of everyday life.

The new emphasis on the value of knowledge as objective and impartial is everywhere in evidence in the uncensored press. Thus the Australian also subtitled itself "The Independent Weekly Newspaper". On the 6 October 1826, the Australian insisted that its statements were not market directed: "in the light of a mercantile speculation it would be perfectly indifferent to us whether ... circulation amounted to five or ten hundred". The Australian claimed as its purpose the pursuit of such altruistic aims as "the political happiness of the colony, dispensing freedom to the colony, and raising an indestructible fabric which will, in afar times, preserve to the colony all that is valuable to man - his liberties". Similarly the Gleaner, 26 May 1827, challenged the Monitor to produce any proof "that two of our Nobility are the real supporters of the Gleaner". It argued that its only support came from one individual "of no party, save that of truth and justice".¹ Likewise, the Monitor, 28 July 1826, claimed that its paper was not published "merely for bread as Mr. Robert Howe imagines". All these statements were designed

1. See also Gleaner, 2 June 1827.

to support the doctrine of newspapers as disinterested observers, governed by a scientific impartiality and objectivity.

Even the Sydney Gazette, which continually supported the government and praised the virtue of loyalty to those in authority, with the end of censorship, had set about institutionally distancing itself from the government. It was established as a separate corporate entity owning its own printing equipment. It now worked for the government on a contract basis. Such a development was necessary if the Sydney Gazette was to survive in a political cultural context where it had to establish its support of the government as that of an independent non-partisan decision maker.¹

We are said to "write according to order". We deny the imputation, in the widest and absolute manner...The Government and the Editor of the Sydney Gazette are two distinct parties; and we solemnly aver that from the moment of our entering upon the Editor office, down to the present 10 o'clock on Friday morning, we have never been either written to, or spoken to, or hinted at, by any Government Officer, high or low as to the political principles to be espoused by our pen.

Sydney Gazette, 11 April 1829.

This demand for the removal of discourse from worldly influence was partly a demand for the removal of discourse from the world of secular causality. Underlying this was a view of truth as emerging through freedom. Thus, the Gleaner, 26 May 1827, denied that its recent support of the government rested on "a servile and indiscriminate support of every Act of every Government". Instead, it claimed, it arose from "a rational exercise of that freedom of judgement, which is our natural right". Similarly, the liberalised Sydney Gazette

1. For other examples of the Sydney Gazette trying to distance itself from the Government; see Sydney Gazette, 10 May 1826.

used its newly founded existence as a "free" press to give greater ideological credence to its support of government measures by arguing:

Where there is no press, or no shew of freedom allowed in using it, the people expect to hear no truth through that channel; but, where the liberty of the press is a subject of boasting, they may well expect to hear the whole truth... 1.

Dickinson has pointed to the political significance of this ideological process among late eighteenth century English reformers.

The full potential of human reason however could only be achieved if men were granted the fullest possible political liberty. Only a free man could exercise his reason properly and choose the right course of action. Further progress therefore depended upon men being granted liberty and so reason led men to demand political reforms in order to improve every aspect of human existence. 2.

The explicit ideology of the Opposition Press was to fuse Knowledge with Power, to allow Knowledge to emerge into a new position of dominance in society. It saw itself as "one bright guiding beacon, which, through the obscurity of night, warns, and directs, and lights the mariner securely over the wastes of a turbulent sea". Indeed, the dominant metaphor of the press became that of truth as burning light, as "piercing radiance" dispelling "the murky clouds of prejudice and misrepresentation".³ Nothing ought to disrupt the diffusion of this cleansing light throughout society, for

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1. Sydney Gazette, 15 January 1824, copied from Cobbett's Political Register; though the Sydney Gazette had reservations about Cobbett, it nevertheless subscribed to the opinion of this article.
 2. Dickinson, op.cit., p.202.
 3. Howe's Weekly Commercial Express, 2 May 1825.

through its truth it liberated "innate energies", particularly those of man.

Foucault in The Birth of the Clinic describes the presence of a similar ideology governing the social reforms implemented by the French Revolution.

The ideological theme that guides all structural reforms from 1789 to Thermidor Year II is that of the sovereign liberty of truth: the majestic violence of light, which is in itself supreme, brings to an end the bounded, dark kingdom of privileged knowledge and establishes the unimpeded empire of the gaze. 1.

More recently, Foucault has pointed out that it was especially "journalism, that capital invention of the nineteenth century, which made evident all the utopian character of this politics of the gaze".² The N.S.W. press was no exception. The notion of press surveillance improving the moral and material well-being of society was not new to N.S.W., the chapter on the family contains many examples from the censored Sydney Gazette. But here the all-encompassing gaze of the press was of an authoritarian kind, it distributed the benefits of knowledge, moral example and censure from a centralised state position which held the people in contempt. With the removal of censorship the press became the moral voice of the people, it became a democratic gaze and correspondingly a gaze which had a free right to direct its attention to state instrumentalities and their role in promoting the happiness and well being of society. The new emphasis was on the press as a free searching luminous gaze, penetrating into all the dark recesses of power and not just of society, exposing and dissipating hidden evils in the bright purifying rays of public truth.

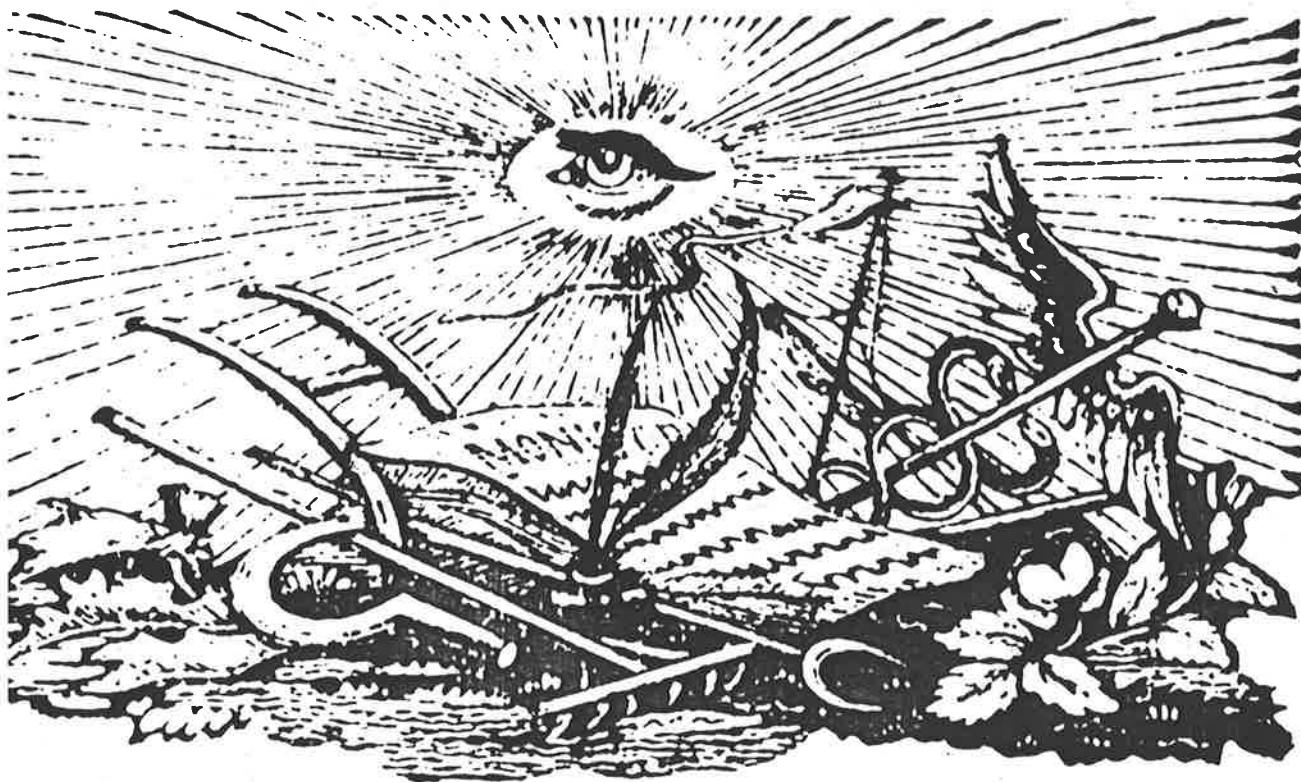
1. M. Foucault, The Birth of the Clinic, p.39.

2. Foucault, Power/Knowledge, p.162.

It is only by permitting the Press to be liberally conducted, that Truth becomes exhibited in its beautiful attire; it is the bright orb of day that disperses the shades of night: and from hence darts forth the effluence that brings to our often astonished gaze the hidden things of darkness, by which means the luminacy of the heavens is naturally rendered sickening and terrifying to those who love darkness rather than light.

Sydney Gazette, 6 December 1822.

This renewed emphasis on the omniscient gaze of the press was symbolically captured in the motif heading the front page of the Monitor.



What we have in this picture is a landscape dominated by a giant cycloptic eye. From this central eye proceeds a field of vision, represented as a set of radiating lines, that capture the totality of the world strewn before them by focusing this world onto this eye. This eye, however, is divorced from the world, it sits above the ploughed earth;

lying also in the background of things it surveys from its central position a territory on which is to be found a copy of the Monitor, a set of productive instruments and a sceptre symbolising legitimate power. This eye, I would argue, symbolizes in a non-discursive form the same position of the detached observer, which is articulated discursively by Cecil's letter to the Sydney Gazette, 1 December 1828, and which can be found on page 602. It articulates that new epistemological position which emerged with the end of censorship, wherein it was asserted that knowledge could only be produced by a contemplative gaze which stood outside the social world, above it, and grasped it in its objective totality. The detached nature of this observing eye, its non-partiality, is reinforced by the words printed on each side of this motif "Nothing Extenuate Nor Set Down Aught in Malice".

This eye is no doubt the "mind's eye"; it represents the sovereignty of Reason. However, we should not forget that a copy of the Monitor is to be found in the centre of the territory surveyed. It is spread over a plough and a hoe, partly touching the tilled soil and existing alongside a vine (the productive potential of the land?) and the sceptre of power. What is being surveyed by the Monitor's eye is its own relationship to the productive resources of society and to legitimate power. It exists alongside these things yet it also seeks to stand outside them and grasp their relationship to each other. Thus, the Monitor is no more than just a detached observer, he is also that observer who makes his comprehensive objective view of the world felt within this world.

The view of knowledge as objective and impartial acted to deny and mystify the role of interest in the sociological production of knowledge. As I have shown, isolation and solitude became part of a methodology which linked the production of truth to the emergence of autonomous realms of freedom. This view could not emerge into a position of public prominence before the end of censorship because of the intimate relationship between the government and the Sydney Gazette. This led to the latter being viewed as an extension of the state. So much so that the Sydney Gazette, 8 July 1824, in a defence against a libel suit, claimed it was under the apprehension that it was obliged to publish all that came through the official censor.

Under censorship, the authority of the state and the authority of statements were two closely related concepts. Hence, the significance of the words "Published by Authority", which the Sydney Gazette had placed on its front page since its beginning. It was because statements in the Sydney Gazette were seen to be closely bound up with the authority of the state, in that the state permitted them to be made and thus endorsed their circulation, that they were presented as authoratative. This ideological process to some extent continued after the removal of censorship because of the perceived close relationship between the Sydney Gazette and the Government. The exclusionists were critical of the legitimacy this was seen to confer on the uncensored Sydney Gazette's criticisms of themselves.¹ Thus, Marsden in 1825 claimed

1. See also Hannibal Macarthur's letter published in the Australian, 15 September 1825; Darling to Goderich, 16 January 1828: Enclosure No.6, Chief Justice Forbes and Judge Stephen to Darling, enclosure No.7, Darling to Chief Justice Forbes and Judge Stephen, HRA, Vol.xiii, pp.721-723.

to the Attorney General that:

It is the public conviction that the Gazette is published under the authority of the Crown...which arms it with all its poison arrows. It is the real or apparent public sanction that enables it to wound so deeply. 1.

Increasingly, Governor Darling felt the need "to divest the Sydney Gazette from even the appearance of a Government paper".

It was he, under pressure from the exclusionists, who asked that the words "Published by Authority", be dropped.² As they were from the 10 May 1826 issue.

What Gouldner has termed a "culture of critical discourse", (CCD), can be seen as emerging out of a process of separation, one in which statements were no longer able to rely unproblematically for their authority on the authority of the speaker. Indeed, they gained their authority by denying that their speaker occupied any position of interest in society. As Gouldner says: "From now on persons and their social positions must not be visible in their speech. Speech seems to be disembodied, decontextualised and self-grounded".³ The latter statement, stressing the increasingly impersonal form which discourse should ideally assume in our culture, sums up accurately the general ideology of the liberalised Sydney Gazette and the uncensored press in N.S.W.. Such a discursive ideal represented not only the ideological distancing of the press from the state, but also the removal of the self from politics.

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1. Marsden to Bannister, 16 September 1825 Enclosure 3; Marsden to Bathurst, 4 October, N.S.W. Governor's Despatches 1823-1826, quoted in S.K. Proctor, Aspects of the Sydney Press, p.112 (unpublished M.A. thesis).
 2. Darling to the Chief Justice and Mr. Justice Stephen, Chief Justice Forbes: Private Letter to Colonial Office, ML, A1819, p.295.
 3. A.W. Gouldner, The Future of Intellectuals and The Rise of the New Class, pp.28-29.

The latter involved an increasing demarcation being drawn between the natural man of civil society and that impartial universality which the individual should assume in the sphere of the state and in politics. This demarcation was partly phrased as the separation of the public and the private in discourse. Politics in newspaper discourse was to be ideally a public domain free from private innuendo or personal criticisms.

...there is nothing which so distinctly proves the weakness of a cause, and the unskilfulness of its advocate, as the wretchedness of personal abuse.

Sydney Gazette, 8 May 1823, "A Colonist".

The Monitor, 3 September 1827, claimed that though N.S.W. was a small society in which it could not but help to "hear of the private and domestic failings of our public men", it would never use such information to attack or defend itself from political opponents. In the press, the private, both in its domestic sense but also in the sense of private property,¹ constituted a space which ought to be free from the public gaze. It defined the moral boundaries of public knowledge. Thus, the Monitor, 10 July 1827, claimed that the press would only triumph

so long as the Press confines its censures to public measures and does not prostitute its power to destroy the privacy of domestic life, nor enter into men's parlours and counting houses, making every citizen shudder, lest he should be the next victim to be bared to the public gaze, to be mangled and racked on the stage of public exposure.

Similarly, the Australian, 25 October 1826, argued that public opinion would not tolerate those whose pens invaded "the precincts of private life...that sanctuary which should be veiled from the rude gaze of the public". It believed public opinion

1. See also Australian, 13 October 1825.

would act as a check upon the excesses of the press when its "rude gaze" began to break the distinction between the public and the private.

The ideology of newspaper discourse as a set of objective impartial statements led the press to value a non-personal discursive form: that criticism should take the form of a criticism of measures and not of men; that criticism should be stated in terms of impersonal principles and not personalities.¹ Writers were ideally to recognise "not their persons, but their pens - not their private actions, but their public writings".² The Sydney Gazette, 31 October 1829, perhaps most clearly stated this depersonalised view of politics as argument.

The law, in its strictest interpretation, does not prohibit reasonable controversy upon any of the measures of government, or the acts of public men, so long as it is conducted in a tone of moderation, which shows that argument is the only object; the writer abstaining from terms which are abusive and passionate, and therein indecorous towards the government, and offensive to individuals.

Sydney Gazette, 31 October 1829.

The Sydney Gazette, 21 July 1829, claimed that when it criticised the Opposition Press it did so not because of their different views; "but because they transgressed the laws of honourable warfare,- substituting abuse for argument...and personal animosity for political non-conformity". The latter, the Sydney Gazette claimed, was more sedition than constitutional independence. The appropriate language within which dissent should be expressed was that "decorous language", which

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1. "To censure works, not men, is the prerogative of criticism, and accordingly all personal censure is here avoided, unless where necessary to illustrate some general proposition." Australian, 23 January 1829, "Kaine's Elements of Criticism".
 2. Sydney Gazette, 1 January 1829.

"put it beyond all doubt that it is the policy they attack". This construction of politics into a public domain free from private emotional abuse represented in part the rationalisation of politics as a communication medium.

What was distinctive about the emergence of an Opposition Press was the increasing identification of the progress of Reason and of government, with the discursive form of a socratic dialogue between opponents. As the Sydney Gazette, 24 January 1829, put it: "Human intellect is improved by collision; human skill and industry are stimulated by competition... Any administration, however wise and upright would be a loser by the unanimity of the Press, whether that unanimity were friendly or hostile". The state came to be seen as rational precisely to the extent that it existed within the framework of an impersonal socratic dialogue with its opponents. The very fact that the state allowed criticism of itself, existed in relationship to criticisms, was used by Sydney Gazette to justify the organisational form of the N.S.W. state, as one which strives towards a rational ordering of its power.

But this division of sentiment is favourable, not only to the vindication of the defensible measures of an Administration, but equally so to the development of truth, and the enlargement of knowledge, in relation to the complicated science of political economy, and to the difficult art of good government. We all know what mighty improvements have, within the present century, been made in the Mother Country, in reference to these important questions; and for these improvements the nation is obviously indebted to the diversity of public opinion, - inciting, as it did, to more elaborate research and more animated discussion.

Sydney Gazette, 24 January 1829.

Such arguments no doubt owe a lot to evolutionist views of the survival of the fittest, of the progress of life through

struggle.¹ Something which was continually ideologically confirmed in the realm of capitalist competition. Marx was perhaps the first to point to how "the ideas of religious liberty and freedom of conscience merely gave expression to the sway of free competition within the domain of knowledge".² Along these lines, it can be argued that the view of politics as the competitive impersonal articulation of ideas was an expression of that same competitive, impersonal articulation of market forces which was taking place increasingly in the commercialised context of N.S.W.. James Curran has recognised similar ideological tendencies, in contemporary liberal British newspapers, when referring to the "self-righting process of truth" in the "free market place of ideas".³

In the next section, I explore further the structure of the impartial discourse within which newspapers placed themselves as something to be scrutinised and analysed. In place of the private scrutiny of the Censor, there emerged the self-policing censoring of public opinion. Whereas in our time newspapers rarely comment on each others articles, this was not the case in the late 1820's. The shame of not having spoken the truth, of misunderstanding the wider interests of society, of not recognising the partiality of one's own presence in discourse, became new sources of public theatre, a new public scaffold on which to suspend opponents. In this process was involved a new way of constituting individualism through the act of transgression, which itself acquired new meanings.

1. "It is one of the laws of nature that conflicting doctrines and contending bodies shall be coextensive with liberty of speech and action..."; Sydney Gazette, 19 December 1828.

2. Marx, Selected Works, Vol.1, p.125.

3. Curran, op.cit., p.52.

(c) THE SCIENTIFICISATION OF POLITICS AND THE
LANGUAGE OF THE PASSIONS.

With the removal of censorship, a whole new set of discursive strategies emerged which had as their object to strip away the veil of rationality surrounding a political opponent's statements by exposing their partiality. These strategies for deauthorising statements, of stripping them of their legitimacy, arose out of the same conceptual space of impartiality within which statements gained their authority. This section will analyse how the criterion of objective, impartial truth, which was part of the scientificisation of political discourse in the press, was also simultaneously a concern with analysing the systematic nature of political representations.

Before proceeding further I present a somewhat long example of the discursive form these strategies for subverting discourse assumed. Notwithstanding the normative view stressing the non-personal, impartial nature of discourse, what should be noted was the very personal form which the writer's criticisms assumed.

In subscribing this article to the public, I am entering the list with you; and whether I stand or fall in the combat, I shall have discharged a duty I owe to candour, justice and truth, in giving the full exposition of your motives and feelings, in the cowardly attack made upon the respective subjects you so invidiously strictured. First, I warn you, how you, in future indulge in bitterness of invective, and unmanly and unwarrentable personalities. As a public writer, you, in common with everyone, have the privilege of exercising fair and temperate criticism; but when you yield yourself up to a wanton, uncontrolled and deceptive use of it, you become dangerous and should be restrained. That the article I am about to criticise is of that character, the uniform disgusted feelings of your best readers will best remonstrate. To what shifts of envy, hatred and desparation must that man be driven (to appease a malignant and perturbed spirit) to attack the British munificance, in rewarding a ven-

erable, honorable and indefatigable efficient officer of the crown? Your attack upon Mr. McLeay (through your own radical organ, to which no other periodical would have dared to have given publicity) is alike, weak, wretched, and unmanly; and your fallacious exposure of Captain Dumaresq, Lieutenant Gandamine, Ensign Darling, and Doctor Gibson, is everything but unmanly and impartial. Your profession, Sir, of morality and zeal, for the Church and the Public Weal, must be strangely warped, and phantasmogorized, when you will contumaciously contrive to act in diametrical opposition thereto. It is the inward workings of the heart (maugre that of the tongue) that produces this anomolous effect; and you will do well to repress them by a less indulgence to so ruinous a passion. I will afford you the consequence of which, by your so constant displaying an eruption of the gall that moral mildness awaits the antedote of justice to correct.

Sydney Gazette, 5 December 1828, "Acusto".

I would argue that long before Freud there was an interpretive method which is revealed in the discursive conflicts between N.S.W. newspapers and which had as its object the undermining of discourse at its explicit level by relating this discourse to what it could not say, to what it could not reveal about itself.¹ This method, which in our own time psychoanalysis has systematised in the concept of the unconscious, was fundamentally reductionist and operated through the production of ambiguity.

If this method attacked discourse in terms of its explicit meanings, it was able to do so because it discovered another context of meaning, another presence, existing alongside this discourse that ought not be revealed by it. This was the speaker. If the level of explicit meanings had its authority subverted by this method it was because it sought to show that

1. This analysis is fundamentally indebted to P. Ricoeur's book Freud and Philosophy in which he argues that Freud was fundamentally concerned with cultural symbols and the problem of ambiguity, with how gestures and words mediate between different contexts of meaning and in doing so have the potential to be transformative.

the speaker has revealed too much of himself in their production and thus had violated that norm of impartiality and objectivity so central to constructing the newspaper as the site of a rational process. It was because a newspaper's statements could no longer assume the discursive form of a detached rationality, because they had become expressions of the speaker's own internal subjective deformatives, that they could be dismissed. An opponent's public discourse in this method only achieved its full meanings to the extent that it could be used to reveal a hidden irrational private realm that was seen to have causal priority.¹ It was this private realm of hidden causality that came to constitute the new framework of meaning for interpreting the explicit discourse of an opponent. In short, this process of accounting for the existence of an opposing discourse in terms of the subjectivity of the speaker was also a way of irrationalising discourse, of stripping it of its claims to objectivity.

However, it also represented a way of individualising discourse.

But, as soon as the fact is understood in the Mother Country, that the sentiments sedulously propogated in the Opposition prints were merely the acrimonious effervescence of one or two individuals, every respect that might have been entertained for such productions would necessarily be banished from the reflecting mind.

Sydney Gazette, 7 March 1828.

The process of locating discourse within the subjectivity of the speaker, of seeing this discourse as proceeding from the speaker's passions, prejudices and self-interest was also

1. The Sydney Gazette believed that the Australian and the Monitor's opposition to the government had gone to the point at which emotions and prejudices controlled them such that they could no longer be persuaded by reason or argument; Sydney Gazette, 17 December 1828.

a way of creating a boundary around those statements, of giving those statements a locus, or a field of causality no larger than the individual who holds them. In doing so this process relativised political statements and positions. The grounding of political opposition in a field of determinism attacked and denied that claim to reason which emerged out of freedom.

The misfortune is, that he (the Editor of the Monitor) was in early life entrapped into the snares of whiggism, and being naturally endowed with considerable power of original thinking, and a strong tendency to despise the established order of things, he gradually formed those discontented, censorious, and eccentric habits which have now acquired an incurable inveteracy and which have been so long exhibited in his libellous and seditious journal.
Sydney Gazette, 7 May 1828.

In the remaining section of this chapter I continue to analyse and document how this relativisation of discourse proceeded in the N.S.W. press. Its importance as a cultural phenomena lies in its partly representing a decline in the relative dominance of religious ontology as new deterministic views of man began to emerge and occupy a greater place in newspaper articles. The role of psychological determinist notions of madness in the deauthorisation process mostly took two discursive forms. One related the discourse of an opponent to undisciplined, uncontrolled emotions or passions, that is to more primordial forms of psychic energy which existed outside of the restraining influences of moral and rational ideas. The other strategy operated more at the level of intellect, it viewed the madness evidenced in an opponent's discourse as the fixation upon consciousness of one particular idea. Opponents were presented as trapped within a particular monotonous sameness which was not in tune with the subtle diversity of the world.

In place of these largely psychological accounts I concentrate on the emergence in the press of a more sociological view of misrepresentation. This was not opposed to the psychological view but an extension of it. The two can often be found alongside and indiscriminately mixed together in any one article. If psychology, as a science of mind, was increasingly intruding into political discourse in N.S.W., it was not only as the problem of madness, but also the problem of ideology: of men who continually and systematically misrepresent the nature of reality in their discourse because of the social interests they hold or represent. The word ideology was not used in the N.S.W. press, yet, I consider this should not disqualify us from using it to characterise their concerns and doubts about their opponents' discourse. These doubts clearly fitted the definition of ideology which Engels gives.

Ideology is a process accomplished by the so-called thinker consciously, indeed, but with a false consciousness. The real motives impelling him remain unknown to him, otherwise it would not be an ideological process at all. Hence he imagines false or apparent motives. Because it is a process of thought he derives both its form and its content from pure thought, either his own or that of his predecessors. He works with mere thought material which he accepts without examination as the product of thought, he does not investigate further for a more remote process independent of thought; indeed its origin seems obvious to him, because as all action is produced through the medium of thought it also appears to him to be ultimately based upon thought. 1.

Engel's definition of ideology is the same as that given by Mannheim in his analysis of the historical emergence of the problem of ideology in western culture.

It is only when we more or less consciously seek to discover the source of their untruthfulness in a social factor, that we are properly making an ideological interpretation. We begin to treat our adversary's views as ideologies only when we no longer consider them as calculated lies and when we sense in his total behaviour an unreliability which we regard as a function of the social situation in which he finds himself.

1. Engel's Letter to Mehring, 14 July 1895 quoted in Cain and Hunt, op.cit., p.118.
2. Mannheim, op.cit., p.54.

Unlike the systematic distortions of the madman which proceed from the overwhelming dominance of particular eccentric ideas or emotions, the distortions of politicians come more from their unconscious private pursuit of self-interest at the level of public truth. Within this conceptual horizon, political discourse in the uncensored N.S.W. press became a continual process of unmasking the subordination of truth to a will to power or a will to profit. Thus the Australian, 6 October 1825, referred to the political supporters of the Sydney Gazette as having the private motives of political influence and ambition, whilst those of the Sydney Gazette were purely economic gain: "While they are influenced by political feeling, he is seeking to add a few miserable farthings to the farthing he has got - while they hope to concentrate power and authority within themselves, he hopes to fill his columns with advertisements". Political discourse increasingly became the systematic methodical search for the hidden partiality of altruistic statements. A scepticism was introduced and came to dominate political discourse in the press. Let us look at a further example.

In estimating the characters of public writers, and determining the proportion of credit due to their statements, on subjects of a political nature, the influence under which they may be supposed to labour is of the very first importance to be borne in mind. One of the principles and rules of judgement in matters of human testimony, is to 'consider whether the narrator be honest and faithful, as well as skilful; whether he has no bias upon his mind, no peculiar gain or profit by believing or reporting that which he asserts, nor interest or principle which speak falsely; or to give a representation different from the real state of things. In short, whether there be no occasion of suspicion concerning his report.

Sydney Gazette, 24 November 1829.

All N.S.W. newspapers criticised each other for being in the business of printing not for altruistic political motives,

but for the interested concerns of profit and power. The Sydney Gazette, 4 August 1828, accused all the opposition journals of not expressing their genuine opinions but those of a set of patrons whose customership and influence they regarded as important. Instead of these papers expressing public opinion, they expressed the private interests of their proprietors, such "that the very individuals who are objects of censure today, would be lauded to the skies tomorrow, if the tide of interest but flowed the other way".

The problem of falsification as the problem of ideology was still, as in the case of the condemned criminal, the problem of egoism. However, it was no longer an undisciplined and unrestrained egoism, but an unlimited egoism situated in a social situation which was being investigated. The problem here was not egoism which transgressed because it had or knew no external societal structures; but egoism whose external societal structures provide it with interests, the pursuit of which ultimately lead it to threaten sociality. The conflict now was between the interests of a social part and the interests of society as a whole. The problem was not now the part not knowing its place in the whole and thus threatening social hierarchy; but rather the part, knowing only too well its place in society, ^{and} threatening the existence of the whole with its own partiality.

The problem of falsification as the problem of ideology was the problem of discovering consciousness to be distorted, as distinct from the old problem of discovering man as sinful. The problem was not one of relating the sources of man's false

consciousness to a personal notion of transcendental evil. Instead society comes partly to occupy the place of the devil as the site of that external transcendental evil which leads men astray from their inner morality. Society here becomes partly the source of its own evil, the source of an external corrupting influence.

Mannheim has argued that one of the general thrusts of this ideological process was to "no longer make individuals personally responsible for the deceptions which we detect in their utterances".¹ This notion of non-culpability was occasionally employed by newspapers as they denied the rationality of each others statements by denying that they emerged out of freedom. However, what prevented this notion from coming into a position of dominance was the penitentiary requirement that men should be conscious of their faults, it was their sacred duty to know themselves. Whereas previously this requirement had led men to interrogate and discover their removal from a knowledge of God, increasingly it led to a demand that men no longer deceive themselves, that their self-interest was identical with the collective interests.

It is so easy for a man, even when most blinded with passion - when his feelings are most prejudiced, to persuade himself that he is uninfluenced by anything but his duty - it is so easy for him to gather from within, the false assurances of his acting conscientiously, that we should be apt to suspect him the most, who finds it necessary to make a frequent appeal to his heart, and who can only uphold his conduct by the vague avowal, that he has not outraged his conscience, and that his conscience does not reproach him.

Australian, 12 August 1826.

1. Mannheim, op.cit., p.54.

(D) CONCLUSION

In this chapter, I argued that the end of censorship represented not simply the emergence of new topics, its effect was not simply quantitative. Indeed, certain qualitative changes took place. There emerged new forms of discourse, but also new regimes for regulating the acceptance and validity of statements. It was not just simply the contents of statements which changed, but also the rules governing their formation and acceptance as truth. In short a new politics of truth emerged in the field of discourse. Prior to this chapter, my concern had been to map out the changing context of power within which certain kinds of statements emerged and operated. In this chapter, I explored the changing structure of those power relations which came to circulate within the field of statements; how the regime governing the acceptance or rejection of statements came to be restructured.

Under censorship, statements in the press derived their authority by being associated with the sacred-transcendental qualities of the state. With the removal of censorship there emerged a more secular ideology of impartiality which emphasised that truth could only be discovered in autonomous spaces of freedom removed from a material world of causality governed by economic interests and political and psychological passions. As I showed, this ^{idea} idea of anonymous impartiality was continuously breached. There emerged a continuous process of scrutinising discourse for its private partiality. What this process represented was the increasing intrusion of the author into the realm of discourse.

Previously, nearly all authors in the press were anonymous, writing under some pseudonyms. In the censored press, only the Governor (and to a lesser extent the Judge Advocate) assumed the clear right to speak and give unchallenged opinions emanating directly from a clearly identifiable self. With the liberalisation of censorship, though most authors continued to remain anonymous, most of their opponents were concerned with documenting the influence of personal and private motives and interests in what was published. Attempts were made to map out the material and causal circumstances within which to locate the discourse of opponents. Writers began to guess the social positions of other authors. They were accused of being aligned with merchants, shopkeepers or pastoralists, of being government officials or aligned with the Church. Increasingly, authors lost their cloak of anonymity. They began to emerge as corporal beings full of egotistical emotions, passions, desires and other psychological processes. Authors were increasingly challenged in their right to speak as the voice of a transcendental, anonymous, impartial rationality. There was a growing search and uncovering of the material motives behind what others spoke. The emergence of these authors with private lives was the emergence of strategies of individualisation in the realm of ideas.

The major form that these strategies of individualisation assumed in the press was through the notion of discourse as an expression, as the objective exterior representation of a more causally fundamental subjective interiority. Discourse became an objective system of signs to be read so as to reveal a more authentic source of origin. The interrogation of discourse became one not so much that of uncovering the truth or falsity of what was said, but that of mapping out the private space of

subjectivity which the author occupied. Discourse became increasingly a dialectic between the public and the private and between the explicit exteriority of what was said and an implicit subjective causal interiority. More importantly, discourse became a struggle to destroy the transcendental anonymity of authors through a discovery of their empirical, social characteristics and existence. The empirical author emerged precisely to the extent that writing began to lose its transcendental character as it increasingly acquired social material conditions of production. The empirical author was partly a function of the extent to which his discourse transgressed certain normative constraints within discourse. To the extent that he challenged Church and State or the norms of objectivity and impartiality, so to that extent was the author mapped out as an empirical social creature.

The point I wish to emphasise is that it was at a particular point in time that the problem of assigning authorship to newspaper articles emerged. It was in a context where discourse came to be politicised, that it was important to tie it to an individual so as to relativise and contain the dangers that discourse posed. The other new strategy of individualisation, for tying discourse to an author, which I have only briefly dealt with were libel cases. Prior to the end of censorship they were almost non-existent. It was only with the removal of censorship that it became important to render individuals morally responsible for what they said, that is to apply those structures of individualisation which were bound up with the judicial-political system's treatment of criminality. The other new ideological structure of individualisation was the emerging science of psychology, it increasingly dominates the application of state-class power in our own time.

It was precisely to the extent that the author posed a threat that he was individualised. However what is also noticeable about uncensored newspaper discourse was that the author was not simply individualised by his opponents. Indeed, authors, especially the editors of the Opposition newspaper and in particular the Monitor, began to systematically practice acts of transgression as a means of gaining notoriety and publicity, but also as a means of asserting an autonomous, independent, non-conformist individuality. In effect such individuals began to normalise the process of constructing and asserting one's individuality through the act of transgression. Christ's struggle against the corrupt legal authorities of his day became a metaphor legitimating the individual's struggle against those in power in N.S.W. who constructed his words of truth as acts of transgression.¹ In short, what we see emerging in N.S.W. is that modern emphasis on the construction of individuality through acts of transgression.

1. We, the said Editor of the Monitor know, that on account of our Saviour's denouncing the Rulers of his day, as "vipers"; "serpents"; "hypocrites"; "devourers of widow's houses"; "who for a pretense made long prayer"; &c. &c.. The said Rulers apprehended him, thrust him into Gaol, convicted him of treason, scourged him spat in his face, and put him to death by the hands of the common Executioner - to a death considered viler and more cruel than our hanging. The fact therefore is with us, that Christ was in opposition, if not to a bad Government, at least to bad Rulers. So are we."

Monitor, 11 May 1827.

CHAPTER THIRTEEN

CONCLUSION TO THESIS

This thesis is organised around a paradox namely that of exploring how the emergence and circulation of strategies of individualisation amongst N.S.W.'s lower orders came to coincide with demands for the deindividualisation of power in the upper echelons of the social hierarchy. At the same time as the N.S.W. bourgeoisie was developing mechanisms of power capable of discriminating and adapting themselves to the particular circumstances of individuals it was also demanding the formal codification of power mechanisms. There was an increasing movement of power away from an idiom which personified it and centred its organisation in charismatic individuals and a demand that power assume a more anonymous legal rational form.

The first volume looked at how the penal system, executions, reportings of crime and familial disturbances, philanthropy and education institutions all became mechanisms for atomising and fragmenting the working class - that is, with breaking up the sites and solidarities which articulated collective working class resistance to bourgeois culture. The second volume analysed how demands for the expansion and increased incorporation of individualising forms of power into the state was simultaneously a demand for the expansion and increased bureaucratisation of the state. Power resting on the arbitrary will of an individual was seen to go mad, to be irrational, to know no boundaries, it was an homogenising violent power for those who were subjected to it. In short, personal power was seen to be not a discriminating system of power, that is one which could take into account the unique circumstances and conditions of the individuals to whom it was applied. In place of the brutalising effects of terror, there

was an emphasis on a graduated system of rewards that would be handed out by individuals encapsulated in a wider bureaucratic hierarchy which would supervise and monitor their acts of supervision. The most efficient pedagogic structures were increasingly seen to reside not in a structure of personal power organised around the punishment of the body, but in non-corporal bureaucratic strategies where power would increasingly undergo a process of formal, abstract codification.

In N.S.W., newspapers played an important role in the struggle to bring about such transformations. They brought into existence new conceptual fields for politicising society and the state. Accordingly, N.S.W.-newspapers were analysed as ideological phenomena in their own right; they did not simply reflect an external reality. Instead the internal conceptual structures of N.S.W. newspapers were treated as part of the formation of particular historical contexts. They became a means of bringing about changes in the conceptual forms through which class hegemony was exercised. New discourses and new forms of public knowledge concerned with the problem of order emerged in the N.S.W. press alongside the emergence of capitalist producers and an increasingly complex class structure. These new discourses and the struggles surrounding their emergence bore a striking resemblance and, indeed, reproduced many of the debates, struggles, and new goals which emerged in the changing British penal system of the late eighteenth and early nineteenth centuries.

Accordingly, my treatment of N.S.W. newspapers in later chapters was consistent with and a methodological extension of my treatment in Chapter One of the British penal system.

Both were increasingly becoming part of the cultural production of a disciplined workforce capable of accepting the rhythms and regimes of the capitalist mode of production.

In particular, reflected in the changes affecting the British penal system was that wider process whereby a scientific understanding of man was emerging and gradually being incorporated into the formation and legitimation of state-class hegemonic mechanisms. Processes of rationalisation, that is the scientific understanding of the world in terms of economical means-end relationships, were being increasingly incorporated not simply into industry but also into pedagogic processes. As a result new forms of power were emerging which were partly hybrids between the manufacturing techniques of mass production and the new materialist views of man, including the new science of the individual - psychology. Hence, the emergence of those modern structures of power which take the form of a mass production of strategies and techniques of individualisation.¹

One of the individualistic forms which processes of rationalisation assumed in the penal system was that of subjecting the prisoner's body, that realm of irrational passions and desires, to ordered discipline. New ascetic regimes and strict routines became part of a new institutional environment concerned with forming new sets of habits to govern inmates. Criminals were seen to be irrational prisoners of the momentary, idle, unreflective pleasures of their bodies. Consequently, they would increasingly be simultaneously punished and

1. D.J. Rothman, Conscience and Convenience, pp.5-6, 12, 43, 125. See also pp.150-151.

reformed by being subjected to work, enforced solitary reflection and to disciplined forms of consumption, which made rewards depend on good behaviour and personal exertion.

New materialist theories of man which constructed the individual as a product of his experiences underpinned the emergence of total institutions, that is institutional attempts to gain pedagogic control over the total environment of inmates. These materialist theories of man were also part of a growing critique of the existing social, economic and political structures of Britain. Society was increasingly blamed for the production of disorder. There were increasing demands that it be reformed, that it lose its haphazard and arbitrary character and that there emerge much more consistent bureaucratic, policing forms of power which would be based on a scientific-mathematical knowledge of human nature and society. Personal, discretionary power whether in the form of the monarchical reprieve or that of the corrupt, greedy warden came to be criticised as a suspension and violation of the formal, public egalitarianism of the legal system.

Underpinning a growing concern with the rights of the poor and powerless was an emerging cult of sensibility which tended to ground moral notions in the feelings and sensations of the body. This cult of sensibility, this growing tendency to base moral notions on sympathy, on making the feelings of others one's own, was part of a growing revulsion against corporal punishments and state terror. Associationalist psychology helped in this struggle for non-corporal institutional forms of punishment through the argument that weaker but more consistent punishments were more effective than moment-

ary, violent spectacles. Here a scientific view of man was being used to demand a bureaucratic power structure, one in which power was exercised not in a haphazard arbitrary form, but in an even, consistent, systematic form. Manifested in the late eighteenth century penal system was that process whereby hegemonic mechanisms were beginning to undergo processes of rationalisation and bureaucratisation as a science of mind was incorporated into the governmental process.

In later chapters, I explored how N.S.W. newspapers came to embody many of the above processes. The increasingly specialised nature of N.S.W. newspaper articles helped to diffuse processes of rationalisation and demands for increased bureaucratisation into a whole series of specialised discursive domains, which they helped to isolate and constitute. In short, the progressive emergence and multiplication of separate discourses in newspaper columns was part of the growing specialisation of knowledge and power in an increasingly complex society. However, the full significance of such processes can only be understood when contrasted with that personification of state-class power which initially dominated political life in early N.S.W..

In the Second Chapter, I pointed out how crime literature and execution reports used violence to personify state-class power. The creation of a culture of terror was predicated upon a particular cultural construction of the self, as this was constituted within certain aesthetic processes which explored the sublime nature of human qualities. The unrepentant condemned prisoner and the Governor (through the Reprieve) were constitutive of two opposing, extreme possib-

ilities of human existence. They manifested, in their person, the greatness of those awe-inspiring qualities which came from totally rejecting or closely approaching the sacred persona of God. The unrepentant, defiant, condemned prisoner explored humanity at those points at which it denied the divine attributes of reason and sensibility; through his jovial contempt for death and the terrifying ritual apparatus of the execution he approached the unfeeling savagery of the Aborigine. On the other hand, the Governor's reprieve, the judge's painful proclamation of the death sentence, the judge's speech and tears to the condemned prisoner and his ability to waver the legitimate infliction of the appropriate punishment were all means of sentimentalising power. They were part of a formal pageantry of power which paradoxically legitimated the personal and discretionary nature of power in N.S.W.. In these formal public ceremonies of power, social hierarchy was presented as reflecting, and as having as its constitutive basis, hierarchical differences in the ability of individuals to partake of the nobler feelings of the body. Through a cult of sensibility class relations were aestheticised, that is they were made part of a domain of objectifications for exploring the sublime and divine nature of human sentiments as revealed in their enormity. The grounding of social hierarchy in sensibility was also part of the naturalisation of class relations, which were ideologically constituted as moral differences encoded in the feelings of the body.

The repentant condemned prisoner, through the intensity of the mental anguish he often suffered in these last moments,

also gave a personal individual meaning to this ceremony. Through song, prayer and ejaculating speech, he displayed a world of interiority which in its suffering expressed the depth of his transgression and the greatness of the power that now seized him and confronted him with the reality of his own past actions. In these torturous experiential moments the execution was more than an informal ritual, in fact it seemed to lose much of its official character as it became a sympathetic communion between the audience and the prisoner. He often symbolised the fallible nature of fallen humanity, his concrete particularity became an expression of the universal nature of the human condition.

A major goal of the First Chapter was to challenge Adorno and Horkheimer's and, more recently, Foucault's thesis that: "the bourgeois republics have attacked man's soul, whereas the monarchies attacked his body".¹ I argued that even on the scaffold introverted forms of violence were important for the ceremonial spectacle of the execution. What the execution represented was the union of Church and State, the appropriation and incorporation of pastoral power into the state. Executions represented the initial secular appropriation of a religious technology for producing moral conversions, and for constituting subjects as individuals, which penitentiaries were later to further systematise and mass produce. In the execution's last moments, the criminal was asked to lay seige to his life with words. He often sought to efface the past dangers of his actions by translating them into discursive acts of repentance. By transforming his life into a first person narrative, the criminal explored those fractures in

1. Adorno and Horkheimer, *op.cit.*, p.228; Foucault, *Discipline*, Chapter One, pp.3-31.

social obligations which were held responsible for that secret realm of knowledge and transgression that alienated him from other men. Often, the criminal's union with other men was expressed and achieved through discursive acts of self-effacement in which he freely gave up and painfully shared his own unique knowledge of evil.

Crime was seen to have its roots in disturbances to the social hierarchy. It was often seen to originate from ambitious individuals whose imagination led them to pursue lifestyles beyond their means and allotted place in society. Through the degradation ritual of the execution, society restored hierarchy. The public shame of an individual who in his last moments could not control the disordered gestures of his body was symbolic of that disordered self which the criminal was seen to psychologically embody. In short, social relations were constructed within the idiom of the psychological relations needed to have a coherently ordered personality. The relation of reason and sensibility to the body was iconic with and the idiom for expressing the relationship of the state and the upper classes to the lower orders.

Chapter Three analysed how newspaper articles dealing with those who escaped and existed outside of familial obligations were a means of giving a wider circulation to the Macbethian drama of self-imprisoned, punishing guilt. The family was constructed as a source of identity, a means of tying individuals to role types and to the fulfilment of social obligations. Such articles appealed to the natural egoism of individuals to discover the peaceable world of altruism inside the family.

In the press, the family became a mechanism for fragmenting and atomising the collective hedonistic world of the lower classes. It was a means of breaking up those promiscuous, collective, uncontrolled sites within which the working class reproduced a culture which in its spontaneity, jocularity, illicit intimacy and illegalities stood opposed to the austere, melancholic asceticism of the dominant class. In short, the family was part of a discourse which tied the problem of a public, political order to the problem of a private, moral order.

The protection of familial units, of defenceless children and deserted mothers, was the idiom through which the press asserted itself as a centralised instrument of moral surveillance. The family was accorded the right to be a private space of freedom and intimacy so long as it sealed its borders from outsiders and kept its members within the boundaries of its shared reciprocities and guiltless pleasures. To transgress those boundaries was to open the family up to the press, to an external gaze concerned with policing everyday life through public exposure and censure.

The family became part of that broader process whereby the minute details of everyday life were becoming subject to critical study by centralised bodies of knowledge. The press was part of this centralisation of public knowledge: an omniscient gaze concerned with subjecting nearly all aspects of everyday life to a utilitarian calculus. Such a process was part of the increasing rationalisation of everyday life. The smallest uses of time and space, the organisation of social obligation in their most minutest form, and nearly all unre-

flective habits of excess were questioned so as to weed out their haphazard and careless consequences. They must from now on be part of a process of quantification which sought to maximise the pursuit of happiness by questioning everything in terms of its productive potential and social costs. The press sought to convince its readers that the maximum pursuit of happiness was that which assumed a privatised form. The promiscuous, sensuous, egotistical temptations of outside life were to be relinquished for the more wholesome, sacred, interior space of the family.

In N.S.W., the family represented the emergence of new decentralised mechanisms for policing and ordering everyday life. It was part of a proliferation of non-violent pedagogic mechanisms. It was one of a number of new persuasive mechanisms for ideologically incorporating the working class into bourgeois norms. Through the family the working class would reproduce bourgeois hegemony. The family was presented as a domain of rational freedom. It was a means of avoiding idle habits and those undisciplined, uncontrolled forms of consumption which led to crime with all its accompanying sacred and secular vengeful qualities. To escape from the family was to enter a world of transgression in which psychological instability reflected the disorder introduced into society and the family.

The family was seen as a set of natural social relations, it was that point at which society discovered its origins and union with nature. In short, the family was that point at which nature socialised man. Perhaps, this was the reason why the state initially promoted the family over and above the pedagogic power of its own penal practices. Even when the state

changed its mind on this, it had to fight the Opposition Press which often assigned a greater reformatory influence to the family over and above the state's total institutions, even when these run by ministers of religion. For the Opposition Press, the family was a means of checking the expanding brutalising power of the state which homogenised individuals by reducing them to a common savagery. In short, the family was seen by them as a more effective technique of isolation and reformation; it individualised the application of reformatory influences.

In particular the family was a space of sensibility, a site at which moral order was achieved partly through the natural feelings of the body. Women especially were the most potent embodiments of sensibility. As such they were seen to operate as a civilising influence on men. They were a means of breaking up male "ruffian gangs", those hordes in which men were made or chose to congregate in. They were also a domesticating influence in the sense of taming the wilder, animal aspects of the male. Women were perhaps subject to more official humanitarian treatment than men partly because, I would argue, she was expected to become the contagious bearer of those values. As embodiments of sensibility, women stood in relationship to men in the same way that the upper classes stood to the lower classes. They reproduced in their bodies and persons the sources of bourgeois moral authority.

Though women were acquiring a new found status in relationship to men, it would be a mistake to see their new found moral authority as completely displacing patriarchal authority. In-

deed, seduction articles constructed women as the vulnerable victims of those sensibilities which made them moral beings. She was often the victim of the rational schemes of the seducer who played upon the naivety of basing actions on intuition or feeling. He sometimes played upon the romantic tendencies of her imagination. Often seduced women, in escaping from the care of their husbands and fathers, were presented as entering an irrational world where they were threatened by insanity and suicide. Such views can be seen as part of an ideology which confined women to the private domain whilst creating men as the guardians of the boundaries of familial space.

The construction of the family as in a state of physical and moral crisis helped to increase and expand the institutional appropriation of familial socialisation processes. In Chapter Four, I analysed the discursive strategies which underpinned the proliferation and expansion of pedagogic institutions. The private and public participation of members of N.S.W.'s dominant class in these philanthropic endeavours helped to construct class relations within a personalised idiom. Philanthropic benevolence was a display and codification of the superiority of those moral sentiments which sustained and legitimated their right to rule as a corporate group of individuals.

However, philanthropic societies, also represented more than the couching of state-class power in a paternalistic idiom. The growing number of these philanthropic societies represented the emergence of a new form of state-class power in N.S.W., one which located itself in an institutional context where fixed

rules, committees, written forms, timetables ruled. Here state-class power depended not on the arbitrary charitable whim of an individual but on a codified structure of norms. The cultural formation of a working class was increasingly being located in bureaucratic sites which tied physical assistance to spiritual improvement. In these bureaucratic sites there was a hope that moral supervision would assume a systematic, omniscient presence. Moreover, in these institutional sites a knowledge was being built up not only of individuals but also of the effective techniques which could be used for pedagogic incorporation. The specific groups these societies constructed as being under their jurisdiction was part of the increasing development of specialised forms of knowledge and power.

The first volume concentrated on the role of the press in the cultural construction of a working class. In the second volume I showed how economic and political controversies, as represented in the N.S.W. press, were structured in accordance with a discourse focused upon the accountability of the state for the moral and material well-being of society. The moral management of society was being partly made to reside in the state's management of the economy. An economic determinist model of society emerged, which in part reflected the interests of capital and their dependence on state expenditure over which certain fractions of capital wanted more control. This new form of economic discourse initially took the form of a debate over the state's distribution of resources between competing fractions of capital, namely commerce and agriculture. As this debate progressed, it became transformed into a debate concerning the distribution of state resources between the rich

and the poor in N.S.W., as well as between the poor in N.S.W. and the poor in Britain. In other words, there emerged a discursive strategy which explicitly politicised the poor as a means of resolving competition between fractions of capital. Economic fractions were being transformed into political factions.

In this new popularist discourse the notion of personal responsibility, of individuals as the source of their own enslavement, gave way to a critique of society and the state as being responsible for the sinfulness of individuals. Encoded in this critique of the state was a new materialist view of the self as the product of its social environment. Instead of locating evil in the anarchic impulses of individuals, there was an increasing emphasis on more secular causal factors as the source of evil in individuals. Evil came not so much from within as from the outside. This outside corrupting evil did not take a personal form - the devil - instead it was an impersonal form of evil, located in such anonymous causal factors as the price of grain, the circulation and exchange of money, the distribution of land and tickets of leave.

The construction of individuals as products of their environments led evil to increasingly assume a secular rather than a religious form. Coinciding with this was a greater emphasis on individuals being inherently good rather than permanently condemned by their humanity. Correspondingly, instead of an emphasis on the need to repress the inherent evil nature of individuals, there was a view that the maximum amount of good could only be achieved by allowing individuals to freely realise themselves.

But as Marx points out the freedom of the individual in modern society is in reality "the recognition of the frenzied movement of the cultural and material elements which form the content of his life".¹ These material and cultural forces have been partly privatised, that is made into an aspect of civil society - the domain of natural man - of egotistical man. The modern state establishes itself as the political guarantor of this private domain of freedom. Freedom in the N.S.W. press became a struggle to reformulate the state such that it would guarantee the autonomy of familial life and private property. The N.S.W. press was concerned with freeing the operation of certain forms of capital from state control, with giving labour greater mobility, and with above all else giving the press greater ideological mobility in terms of the rhetorical resources available to its persuasive ends.

Such demands found some of their ideological rationale in an emphasis on the political necessity for acquiring decentralised structures of control. There was a demand that political, economic and cultural influence reside not so much in a few individuals as in a self-monitoring system of checks and balances. Personal arbitrary power, especially that founded on a system of economic, political and social patronage, was the subject of much attack and was accused of breeding undisciplined, irrational violence.

In effect, there was a struggle to remove the private, the personal, the individual, from the field of state activity. This represented an attempt to rationalise both discourse and

1. K. Marx "On the Jewish Question" in Karl Marx Early Writings translated and edited by T.B. Bottomore, p.29.

state activities; to create impartial abstract norms as the measure of all political legitimacy. The Opposition Press demanded that state power assume the form of legal anonymity. It was precisely to the extent that power was taken as an expression of personality that it was seen to irrationalise itself. Personage was now seen as too unstable to provide the ideological foundations of good stable government. To the extent that power was concentrated in individuals it was criticised:

the character of good government is, that the people desire their security from the law and not from the discretion of the governors...

Monitor, 24 December 1827.

The depersonalisation of state power was in effect the demand for the rule of law, which was also viewed as the perfection of reason. Law was, of all the ethical discourses at the time, one of the most axiomatised; the one which could make the greatest claim to representing the introduction of scientific ideology into the government of men's affairs.

The ideological struggle against a government by individuals extended into the upper most echelons of state activity, culminating in an ideological struggle around the Governor, over whether his personal majesty was sufficient justification for defining the moral truth of state activity. The radicalness of this ideological struggle which emerged in the 1820's was in opposition to that personification of state power that emerged out of the performance of executions and reprieves. The judge's and the Governor's public display of private sentiments in these final moments was crucial for the public legitimation of a culture of terror; they amounted to a personification of state power through the metaphorical extension of Godly personal attributes to secular authorities.

Indeed through the Reprieve, the Governor suspended the previous legal processes which culminated in the death sentence. His humanitarian sentiments, his personal discretion, became the basis for exercising state power. He in a sense became a figure who transcended the legal system. In the Opposition Press the ability of the Governor to transcend and alter the punishments of the legal system came to be criticised. The dangerous nature of this power was evidenced in the Sudds and Thompson case.

The Opposition Press wanted the ability of individuals to command made dependent not on their personal majesty or their personal discretion, but on their office, as this was defined and mediated by an impersonal legal order. Of course I do not neglect the obvious fact of the legal constitution of the Governor's powers. What I do assert is that under censorship, the charismatic element of his person, which was largely a metaphorical extension of God's personal qualities, was given greater ideological emphasis as a legitimisation instrument. On the other hand, with the emergence of an Opposition Press the subjugation of monarchical authority to that of an impersonal legal system acquired greater ideological emphasis for the legitimisation of the state. In short, there was a movement from charismatic authority to legal-rational authority as the major ideological framework of the state, though both were always continuously present.

The demand for a rational state organised around the consistent application of impersonal legal norms was an attempt to bureaucratised the N.S.W. state; that is to move it from a system of personal patronage to a structure where

everyone was equal before impersonal rules. This bureaucratisation process was fostered by the ideology of impartiality which uncensored newspapers were articulating about their own discourse, in which it was no longer permissible to criticise men, but only their measures. A new ideology about discourse emerged in the uncensored press, moreover this ideology articulated that "spirit of formalistic impersonality" which Weber saw as the defining characteristic of bureaucratic structures. There was a demand that men criticise each other in terms of principles rather than personalities, that they recognise only each others arguments. This depersonalised view of discourse was more conceptually congruent with a bureaucratic rationality that it was with attempts to personify state power.

The demand for the rationalisation of state power coincided in the press with the rationalisation of politics as a communicative medium for mobilising public opinion. Politics increasingly emerged as a discourse to be discussed along the lines of a science using empirical evidence to justify the axioms of a political platform. The divine origin of the state and its rulers as we have seen in the previous chapter was increasingly put in question. Newspapers turned increasingly to Britain, Rome, Greece, West Indies, America, Canada, France, and the savage world of the Aborigines to provide the empirical evidence for asserting those universal human truths on which their political philosophies rested. This is not to say that religion stopped being used as a source for providing these truths. But it is to assert that new secular sources, denoting partly the emergence of an anthropological science, were increasingly being resorted to. Different cultures and different

historical periods were increasingly used to provide a scientific universalism for political truths. This rationalisation of politics represented the emergence of a political science predicated on the removal of personality from discourse and on the increasing introduction of abstract scientific man, man in his species form, as the foundation of an ethical science of government.

In the realm of discourse the new materialist views of the self expressed themselves as the problem of ideology; that is as a concern with that hidden or unconscious realm of causality which led individuals astray from the truth, whilst all along believing themselves to be in it. In place of the central importance of confessing one's sins before God, the press moved to a position in which it became the secular interrogator of all individuals motives. It claimed a knowledge of the history and social position of individuals and because of this knew the determinants of their discourse. The omniscient gaze the uncensored press directed at society was also directed at individuals, it scrutinised their rights and credentials to speak the truth. In place of the legal prohibition of political discourse, that is in place of the censor, we have a new means of controlling statements: one which authorised and deauthorised them by scrutinising the conditions of their production.

In these concluding lines I would like to express my own personal sentiments about the project I have undertaken. I see myself as having been concerned with the emergence of modernity in Australian society. I was concerned with those modern ways of articulating knowledge and power which have

been increasingly responsible for those structures of domination within which we are currently imprisoned. I have sought to argue that the concern with liberating individuals from coercive and violent power relations has been nothing less than the progressive reformulation and expansion of structures of power. The humanitarian framework within which we currently exist has been partly responsible for creating modern bureaucratic and pedagogic forms of power. Rather than modern bureaucratic power being through its impersonal nature a denial of the individual, it has increasingly become a means of constructing him. It continually seeks to equalise itself with respect to individuals by incorporating and constructing within itself a knowledge of their individuality. It is against these normalising forms of individuality that modern youth has often revolted.

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