

GOVERNMENT

THE QUEEN'S COMMISSION

IN 1838 TWO NEW GOVERNORS took office in the colonies, bringing with them Her Majesty's commission and recent memories of Victoria's girlish hand—she was only eighteen and not yet crowned—held out for their kissing. Sir George Gipps, a major in the Royal Engineers and lately an eminent civil servant, arrived towards the end of February to govern New South Wales. George Gawler, an unattached lieutenant-colonel whose chief interests were military tactics and religion, came in October as second governor of South Australia.

Sir George Gipps, his family and suite—including Lady Gipps, Master Reginald Gipps, George Bather, nephew to His Excellency (travelling for his health), Henry Watson Parker, private secretary, and Gilbert Elliot, aide-de-camp—arrived off Sydney Heads aboard the *Upton Castle* on the morning of 23 February. There the vessel stood for the rest of the day, fighting adverse winds. Gipps was blind to omens, good or bad, but those on shore were impatient. Eventually the steamer *King William the Fourth* was sent to collect the governor and his party. They landed soon after nightfall, their ship coming in next day with the rest of the passengers and the viceregal baggage.

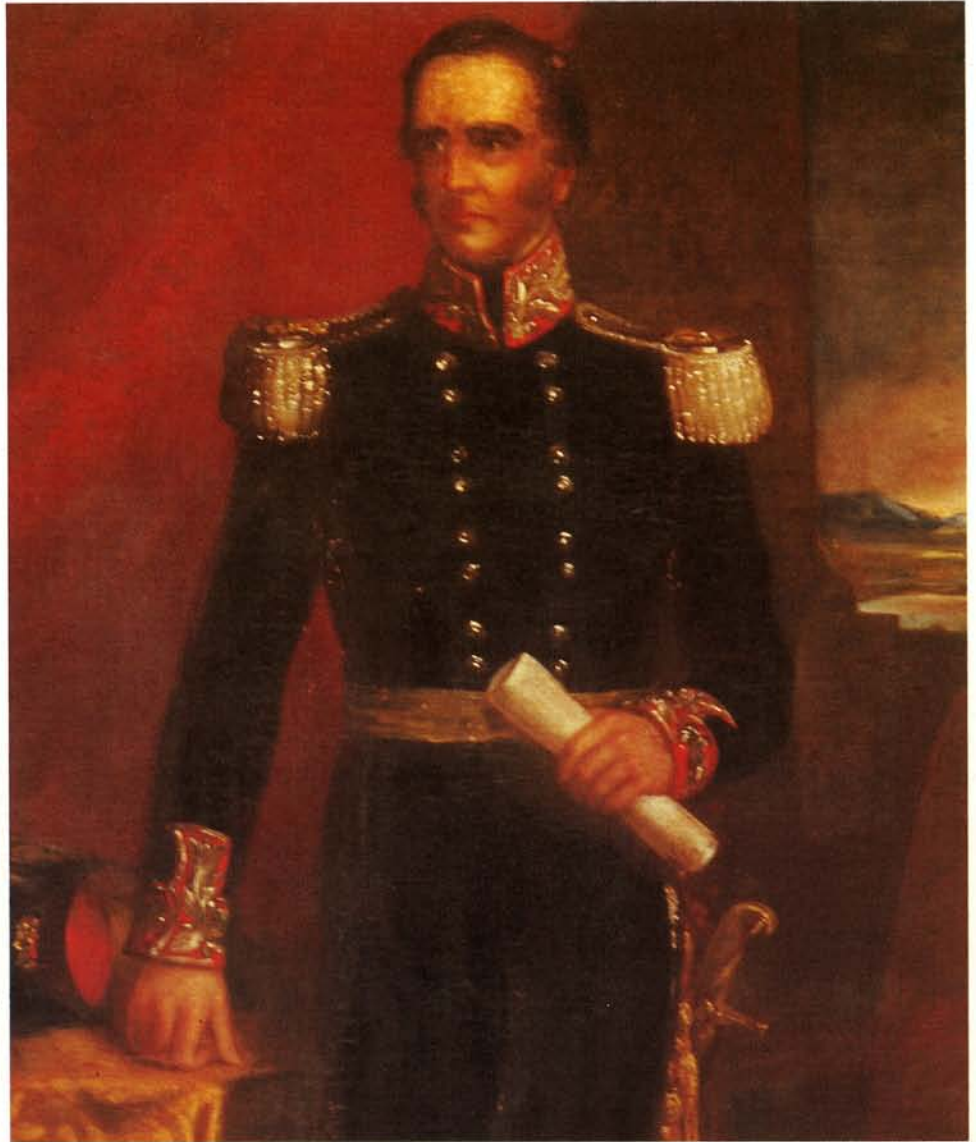
The late governor, Sir Richard Bourke, had departed two months earlier, leaving in charge the commander of the forces. The acting governor, as soon as he had met and spoken with Sir George, issued a proclamation announcing his arrival and his intention of taking the oaths of office next day. Accordingly, at about two o'clock the judges of the supreme court, the attorney-general and barristers, the bishop of Australia and numbers of his clergy, and most of the gentlemen bearing Her Majesty's commission in the civil departments and local regiments gathered at government house to meet their new chief: to hear his commission read and the necessary oaths administered, to shake his hand and call him 'Excellency'.

In the drawing room of government house the air was heavy with the significance of royalty. The governor himself wore the dress appropriate to his office: dark blue tunic hung with gold lace, white pantaloons and stockings, and a sword which Gipps, as an officer of engineers and a thoroughly gentle man, was



A published lithograph, 1838. Reproduced in this form, portraits of the young Queen were sold all over the empire.

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Sir George Gipps in the uniform of a governor, plumed hat beside him, commission in hand. In the background is a view of his colony. Oil by Eden Upton Eddis (detail), painted in 1849, after Gipps's death.

GOVERNMENT HOUSE, SYDNEY

never likely to draw in anger. Around him in their various ranks stood those whom the monarch's favour had decked with scarlet and silver, blue and gold. Sir George moved among them, his extended hand drawing them within those sacred boundaries which only he, as the representative of Majesty, could establish within colonial society. Among the splendour darted a man named Bawny, one of Sydney's 'swell mob', whose hands were also busy, so that those who noticed him 'paid most particular attention to their pockets'.

Meanwhile the people of Sydney gathered on the lawn in front of the house and waited for His Excellency to appear and address them. Unlike former governors Sir George Gipps had not landed in pomp, with cannon, flags and music, nor walked in open procession to government house. Now, to the intense disappointment of the people, he remained indoors, performing only those inaugural duties that he considered absolutely necessary. Gipps was a shy man who made a virtue of his shyness, believing that government had more to do with paperwork than pomp. Yet he was certain of his own virtues. Lady Franklin of Van

Diemen's Land found him, at first meeting, to be a man of 'self-confident manner, grizzled hair, small sparkling eyes, [who] does not look you in the face'. Gipps placed little weight on public ceremony, and a disappointed public answered him in kind. On Governor Bourke's arrival in 1831, Thomas Wood the lamp contractor had supplied every street in town with illuminated decorations. Now Wood's own shopfront was the only place where lights were set to honour the arrival of the new ruler.

The *Sydney Monitor* admitted at the time that radicalism was rife among the lower orders. But, the paper added, they still kept up old habits, and enjoyed the local imitation of 'old English monarchical pomp'. Sir George Gipps would do well to remember that 'popular attentions, and Government-house hospitalities, are of more consequence to a Governor, personally, than wise government'. Sir George was unmoved. He aimed to succeed through simple honesty, genuine humanity and hard work. He was very good at all three.

By contrast, the installation of George Gawler as governor of South Australia was a splendid affair, as gradual and as generous as a minor coronation. Landing at Glenelg on the afternoon of Friday, 12 October, Gawler was met by 'a large body of colonists' gathered for the occasion, who were introduced to him one by one by George Milner Stephen, the acting governor. Gawler then waited at the port until the following Wednesday, no doubt observing as much as he could, before setting off in state to ride the ten kilometres inland to Adelaide, escorted by his people on foot and horseback. As he approached the seat of government he was welcomed by 'at least a thousand persons', shouting happily. The total white population was about five thousand.

As with Gipps, the first document to be read announcing his authority was the Queen's commission. This was done in the presence of the executive council. His Excellency and the official party then moved to the ground in front of government house, where the people formed a circle around them. The oaths of office were administered for all to hear, the governor received a loyal deputation bearing a welcoming address, and the ceremony closed with 'numerous rounds of hearty cheers' for the hero of the day. 'It was a great day here', wrote Alexander Thomson, a young Scottish mason who stood among the crowd. 'He seems a very nice man.' This was exactly the verdict Gawler wanted.



For each of the new governors the climax of the installation ceremony was the reading of the Queen's commission and the taking of the oaths: an oath to support the sovereign and royal family, an oath to act with justice as governor, an oath to uphold the laws of trade within the empire. The Queen's commission, in stately language, conferred both pomp and real power. It gave legality to the governor's position and formally defined the extent and limits of his authority.

Crucial to British ideas about government were its limitations, the spatial and civil boundaries that distinguished rightful power from tyranny. Both Gipps and Gawler, like the governors of Van Diemen's Land and Western Australia, were reminded at their swearing-in how far their government extended. From a territorial point of view, as Gipps's commission shows, the definition was formal rather than practical. The colony of New South Wales stretched from Cape York in the north to Wilson's Promontory in the south, westwards to the border with Western Australia, more than two thousand kilometres from Sydney, and eastwards from the shoreline so as to include 'all the Islands adjacent' and Norfolk



Lieutenant-Colonel George Gawler, governor of South Australia. Detail of an oil painting by Samuel Lawrence, 1843.

PARLIAMENT OF SOUTH AUSTRALIA



Lord Glenelg, secretary of state for war and the colonies since 1835. Detail of an engraving by C. Turner after T.C. Thompson.
BRITISH MUSEUM

Island. From that area the province of South Australia had been subtracted during the time of Governor Bourke. Strangely, however, the western boundary of the province fell short of the Western Australian border by three degrees of longitude. There was therefore a thin strip of land between South and Western Australia that was part of New South Wales. But no European had ever been there: the area of Gipps's empire was largely a geographical expression.

As if to emphasise the gap between government in theory and practice, Gipps was instructed to divide all of New South Wales and its dependencies into various districts—*counties* as near as possible to 40 miles square, *hundreds* of about 10 miles square and *parishes* of about 5 miles square. This was not to be done simply by drawing straight lines on a map, but rather by having the whole colony surveyed and relating the boundaries to natural divisions such as rivers, streams and mountains. These instructions reflected the traditional European assumption that a country could be governed properly only when it had been subdivided into a series of smaller administrative units. They ignored the fact that by far the greater part of New South Wales in 1838 was an unknown country which white men and women could do little more than dream about.

The Queen's territories included every part of the mainland and Van Diemen's Land, and her sovereignty embraced every inhabitant, from gold-braided Excellencies to the merest convict in a road gang. This assumption was so fundamental to the nature of British government that any reference to it in the royal commissions would have seemed superfluous. Officially at least, Aborigines were also subjects of the Queen, and Governor Gawler implied as much on the day of his swearing-in, when, through an interpreter, he told the party of Cowandilla and Onkaparinga peoples in front of government house to love the Queen and people of Great Britain and be good subjects. Yet the exact status of Aborigines was not as clear as it might have been, as we shall see.

The governors' civil authority was extensive but limited. Gipps's commission empowered him, among other things, to control finance and commerce, build fortifications, and pardon or reprieve criminals. But in all this he was to share his authority with an executive council made up of himself and four of the colony's leading office bearers. He was also empowered to make laws for the peace, welfare and good government of the colony. But here he was required to act with the advice of a legislative council which had been set up by an act of the British parliament. Beyond these broad constraints Gipps and his fellow governors had to act obediently to the wishes of the government in Downing Street—which for most practical purposes meant the secretary of state for war and the colonies.

The secretary of state at this time was Lord Glenelg, who had come into office with Lord Melbourne's Whig administration in 1835. His political opponents, and even some of his colleagues, said he was lazy and incompetent. Although they exaggerated, there is no doubt that much of the burden of colonial administration fell on the parliamentary under-secretary, Sir George Grey, and the permanent under-secretary, James Stephen junior. A lawyer by training, Stephen had been associated with the Colonial Office for 25 years and probably knew more about individual colonies than anyone else who had never visited them—and more than many people who had. He read, or to save his poor eyesight had read to him, every despatch that arrived from the Australian governors and usually drafted replies for Grey and Glenelg to approve and sign.

The policies and decisions of Glenelg, Stephen and their colleagues were influenced by numerous outside pressures. The old building at No 14 Downing Street which housed the Colonial Office was under perpetual siege by people with some cause to argue or favour to beg. Parliament, too, was taking an increasing

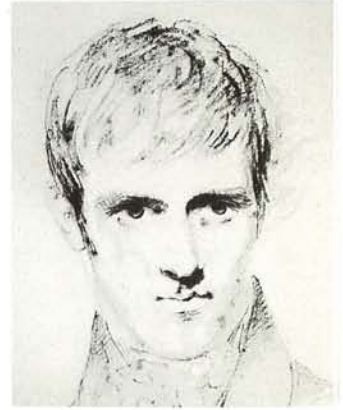
interest in colonial affairs. In March a young baronet and member of the radical party in the House of Commons, Sir William Molesworth, moved a vote of no confidence in Lord Glenelg, accusing him of 'proverbial indecision and supineness'. The motion was defeated, but only after Molesworth had denounced the conduct of colonial affairs throughout the British empire.

In the imperial scheme of things the Australian colonies were relatively unimportant. Other places seemed to have more urgent problems, including rebellion in the Canadian colonies and threatened upheaval in the West Indies. Even so, there was a constant flow of paper from Britain to Australia. The number of despatches sent during the year to each colony reflected its importance in Whitehall: 343, of varying length and consequence, to New South Wales; 215 to Van Diemen's Land; and a little under 50 each to South Australia and Western Australia. These served as a regular reminder to each governor that he was accountable to a remote authority who might, if he failed to measure up, withdraw the Queen's commission and subject him to the shame of an unceremonious recall.

SERVANTS OF THE CROWN

Foremost among the dignitaries who attended Governors Gipps and Gawler during their installation ceremonies were the senior officers of the public service. A few of these had royal commissions of their own and wore uniforms proclaiming their high office. They were the channels through which the governors gave effect to their commissions and their instructions from Downing Street. Or so it was intended, but in South Australia Governor Gawler complained that every department was so lacking in discipline and regularity that he had to do all the work himself.

That was certainly not the case in New South Wales, where there was a well-ordered public service. The 665 people on government salaries included a police establishment of 137, a judicial establishment of 92 and an ecclesiastical establishment of 89—the clergy of the Church of England and the Presbyterian and Catholic churches. Then there was the post office, the convict establishment, the surveyor-general's department, the colonial engineer's department, and various



James Stephen junior, permanent under-secretary of state for the colonies since 1836.

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The treasury, Hobart Town. The town stocks, capable of seating two, appear in front. Lithograph by John Atkinson, c1836.

TASMANIAN MUSEUM AND ART GALLERY

other offices decreasing in size to that of the surveyor of distilleries, with three members, and the commissioner for convict servants, who had to carry out almost unaided the task of assigning convicts to masters. The governor was at the head of the payroll with a salary of £5000 a year. He was followed far behind by the chief justice and the Church of England bishop, each on £2000, the colonial secretary and two puisne judges each on £1500, and the attorney-general on £1200. Clerks based in Sydney could generally expect to earn between £90 and £340. The crier in the supreme court received £50, while four telegraph masters, who raised signal flags to vessels approaching Sydney, each received £12 a year—about what a common labourer might expect from a fairly stingy private employer. In addition to these salaried officers there were numerous lesser functionaries, assistant clerks, messengers, boatmen and others, who were paid a small daily wage.

The most important civil officer in New South Wales after the governor was the colonial secretary, Edward Deas Thomson. All official business reached the governor through him. As colonial secretary and as a member of the executive council he was the governor's confidential adviser. He was also, in effect, the head of the public service, and responsible for seeing that the governor's decisions were carried out.

Thomson's career to date, like the careers of so many other colonial officials, owed much to patronage. In 1828, having been unable to obtain satisfactory employment in Britain, he was appointed clerk of the councils in New South Wales through the patronage of William Huskisson, then secretary of state. He worked hard and won the respect of governors Darling and Bourke, men of very different ideas and temperaments. In 1833 he married Bourke's daughter Anne and, at the beginning of 1837, nominated by his father-in-law, he became colonial secretary. Bourke's resignation soon afterwards came as 'a dreadful blow' to Thomson, and he and his wife wondered how they would manage under a new regime. Meanwhile his father in London busily cultivated the new governor, Sir George Gipps, and tried, as he put it, to get at some of Lady Gipps's connections, assuring his son that he could 'depend on every exertion of your old dad on this occasion'. As it happened, such exertions might well have worked against Thomson's interests. Gipps, whom some regarded as a political radical, held in contempt the patronage aspirations of others and took pride in the fact that his own career had rested on ability alone.

Such criticisms of the patronage system were new and relatively unfamiliar. In New South Wales, except for a few junior clerical positions for which candidates had to sit a short dictation test, jobs were filled by men who were personally known or recommended to the person doing the appointing, who was said to have 'the patronage of the position'. Although colonial governors were allowed to make provisional appointments which might or might not be confirmed by the secretary of state, many positions were filled in Downing Street and governors were simply informed of what had been decided. 'This [letter] will be presented to you by Mr Alfred Durlacher whom I have appointed Draftsman in the Surveyor-General's office in Western Australia', Lord Glenelg told Governor Stirling. Durlacher, the secretary of state explained, had been recommended to him by the Duchess of Kent, and he left the governor to find out for himself whether or not he had anything else to recommend him.

According to Anne Deas Thomson, Glenelg was notorious for sending out 'cargoes' of his own relatives—like Patrick Grant, whom he appointed police magistrate at Maitland in the Hunter valley at an annual salary of £300. Glenelg mentioned to Governor Bourke that Grant happened to be his own brother-in-law, '& any kindness you may please to show him would gratify me'. His future

advancement—‘which of course would be pleasing to me’—should depend solely on his own merits. A more revealing recommendation came from another of Grant’s connections, who hoped that he would now turn over a new leaf. ‘This fellow . . .’, he confessed, ‘has brought sorrow and trouble upon himself and upon others’, though he had never done anything vicious or disgraceful.

Grant turned out to be a conscientious police magistrate, popular among the lower classes. But the appointments system did not always have happy results. An early visitor to South Australia remarked that the colonisation commissioners, who were responsible for choosing the first civil officers, might have done just as well had they ‘scrambled blind-folded and caught a lot of persons going up any gateway in London’. Western Australia also suffered in some of its early appointments. On the suggestion of Governor Stirling, Sir Richard Spencer, a former naval officer who had suffered head wounds during the Napoleonic wars, was in 1833 appointed resident magistrate at Albany, a position equivalent to that of police magistrate in the east. Spencer made the best of his situation, placing his sons in various local jobs with government salaries. At one stage in 1838, one son occupied the positions of postmaster, magistrate’s clerk, customs’ officer and harbourmaster. Spencer made himself so unpopular with some members of the community that Governor Stirling was forced to appoint a board of inquiry, which dismissed charges of misconduct against him but referred discreetly to ‘a peculiar excitability of feeling resulting from Severe Wounds received in Her Majesty’s Service, and from constitutional temperament’.

Out of the patronage system came various ‘networks’ among public servants, like the friends and proteges of the former governor of Van Diemen’s Land, Sir George Arthur, and the relatives of Colonel Augustus Snodgrass in New South Wales. James Stephen had kinsmen sprinkled throughout the colonies, including his cousins Alfred, lately attorney-general in Van Diemen’s Land, and George Milner Stephen, who was appointed by accident to the positions of advocate-general and crown solicitor in South Australia early in 1838. During the year G.M. Stephen became acting governor and, on Gawler’s arrival, colonial secretary.

Patronage worked through close ties, in which favours granted by one person left the other dependent and obligated. George Frankland, surveyor-general in Van Diemen’s Land, wrote to the new governor Sir John Franklin, more in anticipation of future favours than appreciation of past ones: ‘as long as I receive your support, and as long as I have you *alone to look to as my Master*, in the Colony, so long shall I feel pleasure in my duties’. Major Thomas Mitchell, surveyor-general in New South Wales, maintained that the satisfaction of his patron Sir George Murray was ‘an object of first importance to me from my childhood’. Such personal bonds strengthened the formal ties between Britain and its colonies.

But patronage could just as easily be divisive, and many quarrels among officials originated in some act of personal favour. In Hobart Town a convict named Clapperton was at the centre of a major fracas which led to the public humiliation of the colonial secretary, John Montagu, and the chief police magistrate, Matthew Forster, who were closely identified with the previous regime of Governor Arthur.

Clapperton had been employed in the house of the former attorney-general, Alfred Stephen, who disliked Montagu and had become an opponent of the Arthur faction after falling out with the governor in 1836. When Stephen discovered that Clapperton had been defrauding him, he took the convict to court, where he was tried and convicted by Matthew Forster in his capacity as chairman of quarter sessions. But it happened that Clapperton was known to be a good cook, and before he could be sent to a penal settlement or placed in hard labour, Montagu asked to have him. Forster, who had control over convict assignments as chief police



Captain Sir Richard Spencer, RN, government resident at Albany, Western Australia, as a young man. Oil by an unknown artist, 1816.

ALBANY HISTORICAL SOCIETY



George Milner Stephen. Undated watercolour miniature by an unknown artist. When 1838 began G.M. Stephen was a clerk in Hobart Town, 'a raw inexperienced young man' who 'wrote a fine hand and made good figures'. Having been confused with his older brother Alfred, in February he was appointed advocate-general and crown solicitor of South Australia. By default he then became senior member of council, and thus, when Governor Hindmarsh sailed home in July, acting governor. When Governor Gawler arrived he became colonial secretary.

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Campbell Drummond Riddell, colonial treasurer of New South Wales. The grandson of a Scottish baronet, Riddell was appointed colonial treasurer in 1830 through the influence and patronage of his friends. Naturally conservative, he imagined that patronage was the only way to dispense the bounty of government. Undated oil by John Partridge.

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magistrate, was happy to oblige his friend, so Clapperton was merely transferred from the house of one senior official to that of another.

Stephen protested at this miscarriage of justice and after a public outcry Franklin intervened, taking Clapperton from Montagu's kitchen and sending him out of Hobart Town. Montagu wrote to his old patron, Sir George Arthur, now in London, to complain about 'the deplorable state of weakness' of Franklin's government and to ask him, in terms that must have been familiar to many patrons, to defend Forster and himself at the Colonial Office.



The men in Downing Street expected colonial officials to offer their governor loyal support; and where a governor managed to maintain harmony among his people and to rule with a minimum of expense, he could be confident of Colonial Office support. But these were ideals, sometimes far removed from reality.

In South Australia the system of government existing before the arrival of Colonel Gawler might well have been created to encourage dispute. Whereas in the other three colonies authority was vested in the governors, in South Australia it was shared between a governor, who was responsible to the Colonial Office, and a resident commissioner, who was responsible to the colonisation commissioners in London. This reflected the unusual origins of South Australia as a joint enterprise between government and private capital. The commissioners had charge of all matters relating to emigration and the land fund, and their resident commissioner controlled much of the colony's finances. This gave him considerable power. The previous resident commissioner, James Hurtle Fisher, a truculent character, had taken every opportunity to challenge the governor. The Colonial Office solved the problem by removing both Fisher and Governor Hindmarsh, and appointing Colonel Gawler as successor to both.

In New South Wales Thomson, the colonial secretary, experienced a private crisis of loyalty towards Sir George Gipps. The problem lay in what Thomson saw as a slight by the governor and in what he called 'a want of stability' in His Excellency's character and purpose. Perhaps it was also part of the process of Gipps's settling in—Thomson was an ardent disciple of the previous governor, his father-in-law. He thought his new master was too ready to sacrifice his principles for the sake of a quiet life, as a result of which many things were left undone. Although talented, Sir George seemed to lack 'firmness and decision', and tried to make up for it with abruptness. Others besides Thomson thought that Gipps, who took pride in his openness and candour, was careless in what he had to say. He made rash promises without having the means to carry them out. He spoke so much during interviews with colonists that they became confused in presenting their cases and went away dissatisfied. He made indiscreet remarks, offending those whom he most needed to conciliate.

Yet the New South Wales public service was a relatively sophisticated and polished system, and the conflict—if such it was—between Thomson and Gipps was of vastly different dimensions from the public brawls in Van Diemen's Land and South Australia. Thomson agonised over 'the delicate position in which a Colonial Secretary is placed between his duty to the Government he serves, and the paramount one which he owes to his conscience'. He decided in the end that Gipps was entitled to his friendly co-operation, and determined that no petulance on his part would be responsible for any breach. The public at large heard nothing of his misgivings, and the government of the colony went on apparently undisturbed.

LAW MAKERS

Most of the workings of government were hidden from public view, but there were great occasions, like the installation of a governor, that were organised chiefly to impress the people and retain their loyalty. In mid-1838 light was suddenly admitted to one aspect of the governing process when debates in the legislative council in New South Wales became public for the first time. In Van Diemen's Land this had been one of Governor Franklin's first reforms, during 1837. The concession was welcomed in each colony as a significant constitutional step forward, even though it fell well short of elected representation, which many leading men were then demanding. In Sydney, by presenting an order signed by the governor or by a councillor, thirty to forty people might now be admitted to a new gallery specially built for them.

The gallery looked down on a long table, at the head of which the governor sat resplendent in his viceregal uniform. Before him on either side sat the seven members who held seats by virtue of their public offices and the seven 'unofficial' members, leading colonists selected by the secretary of state. Members were seated in strict order of precedence, the officials sitting closest to the governor in order of rank, and the unofficial members in order of the dates of their appointment. The most recent appointees sat directly beneath the gallery, out of sight and sometimes out of hearing of those above them.

Nomination to the legislature was the highest honour a colonist could reasonably aspire to, though not everyone saw it that way. In October Edward Close, a Hunter River settler who had served on the council some ten years as an unofficial member, angrily resigned, complaining that during the present session he had travelled four times to Sydney only to be confronted with week-long adjournments: he had 'neither inclination or ability to suffer such losses of time'. For those who took the honour of appointment more seriously, questions of precedence were important and often delicate. Early in the session, Bishop Broughton suggested that he should occupy the seat at the governor's left hand currently occupied by the commander of the forces. Colonel Snodgrass, after hearing an opinion from the attorney-general and protestations of personal disinterest by the Lord Bishop, agreed to change places. In the meantime the chief justice sat secure in the second position in the chamber, at the governor's right hand.

Though the opening up of the councils in New South Wales and Van Diemen's Land was welcomed for symbolic reasons, the public were not much interested in hearing proceedings themselves and the seats reserved for visitors were often empty. Those who did attend were unlikely to have been impressed. The *Hobart Town Courier* remarked that, except for one or two officials, the members were generally too ignorant of essential details to debate profitably. In New South Wales the quality of debate was higher, but there too the officials, with access to privileged information, had a marked advantage over other members.

Sir George Gipps tended to dominate debates. He was president of the council and proud of his mastery of official detail. The legal officer Roger Therry agreed with the colonial secretary Thomson that the governor talked too much for his own good. In Therry's view sincerity was one thing: but it was hardly dignified of Gipps to tell the council that 'He did not care three farthings' whether they passed a particular measure or not; or, with regard to another bill, that they 'were welcome to make ducks & drakes of it if they pleased'. Such comments were fairly empty in any case, since the governor, as well as having the sole right to initiate legislation, enjoyed through the presence of the official members a permanent majority in the chamber. In Western Australia the council was composed entirely of officials,

while in South Australia a small 'council of government', also composed of officials, fulfilled both executive and legislative functions.

The main purpose of the legislatures was to pass acts for the better government of the communities they were intended to serve. Each governor was also empowered within the limits of his commission and instructions to make rules and regulations, which were published in the form of government notices and proclamations. Some of these, such as the regulations for the distribution of convict servants and those that laid down daily rations for convicts, had more impact on the lives of individual men and women than many acts passed by the councils.



It was current wisdom that governments should intervene as little as possible in the lives of the people. Gipps, who professed a particularly refined version of this philosophy, praised benevolent and other institutions which were run by committees elected by their subscribers. Such institutions, he observed, prepared people to manage their own affairs and relieved the government of the need to interfere. Limited government meant economical government, an object especially close to Gipps's heart. When several immigrant ships arrived with cases of typhus fever, scarlet fever, smallpox and other diseases aboard, Thomson urged the appointment of a health officer to implement quarantine procedures. The governor resisted. 'What salary', he asked, 'wd. the Colonial secy. propose . . . Would the Health Officer be allowed to practise privately? Would he not soon want an office, & stationery, & Clerks & Messengers &c &c &c?' Eventually Sir George relented, but only as a grudging deviation from the general rule that governments should avoid spending money. It was better that matters be left to take their own course.

Similar thinking permeated the work of colonial legislatures and their committees. When an outbreak of the highly infectious and incurable sheep disease, catarrh, threatened to decimate flocks in southern New South Wales, the legislative council, responding to public pressure, appointed a committee to decide what, if anything, should be done. The committee faced a dilemma. While its members were sympathetic to the view that 'the less the grazier is controlled in the management of his sheep, so are they less liable to disease', a majority of the graziers they consulted agreed that the council had to interfere to save them and the colony from ruin. Hesitantly, the committee proposed and the council passed an act which placed heavy penalties on stockholders who took infected sheep beyond the boundaries of their own properties.

Whatever might have been *said* about the proper role of governments, the legislatures in the two more populous colonies were busily regulating the day-to-day activities of the people. From its opening in 1824 until the end of the 1837 session, the council in New South Wales had passed 171 acts. During 1838 it passed another 30, more than in any previous session, on subjects as diverse as the distillation of spirits, the unauthorised occupation of crown lands and the temporal affairs of certain religious denominations.

The Police Act of 1838, which extended the provisions of earlier legislation for Sydney to other large towns, imposed restraints on town dwellers with a forbidding thoroughness. Some of its clauses were borrowed from the British act of 1829 which established the London Metropolitan Police Force. But it went beyond that act to impose penalties for damaging public buildings and fountains, obstructing footpaths, keeping swine near streets, allowing rain to fall from eaves onto footways, throwing dead animals into waterways and emptying privies in the

daytime. In England municipal councils, vestries or local magistrates normally attended to such matters. In New South Wales and the other colonies, where there were no comparable institutions of local government, responsibility rested with the legislative councils.

There were certain things that the colonial lawmakers could not do. Instructions sent to governors throughout the empire precluded them from passing laws permitting the divorce of persons joined in holy matrimony. One person who found this particularly frustrating was the Perth newspaper owner William Nairne Clark, who returned from a visit to King George Sound to discover that his wife had begun an affair with a retired army captain. Adultery was proven in court and Clark, as the injured husband, received £50 in damages. But he could not get a divorce without returning to England and petitioning both houses of parliament.

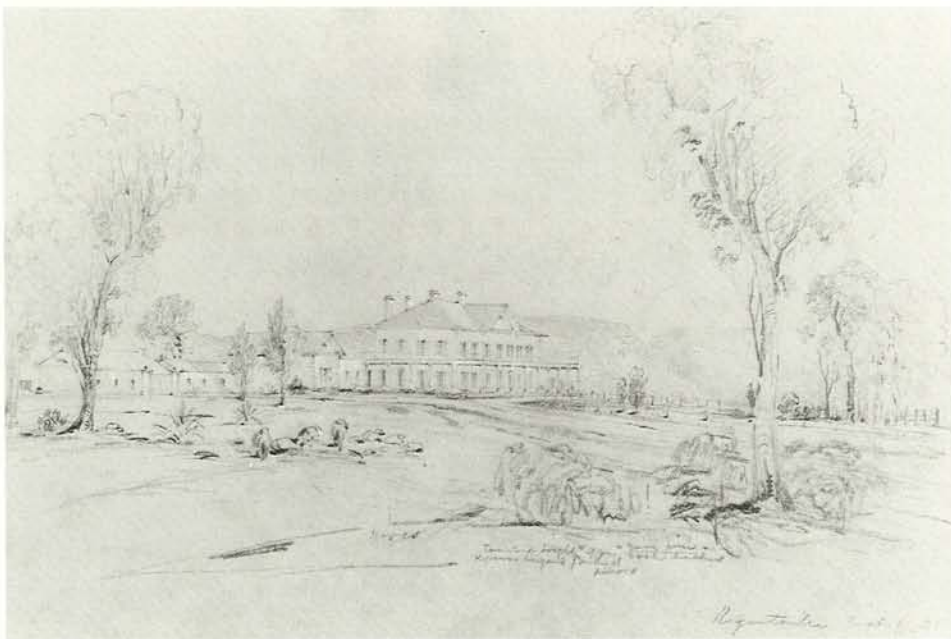
Colonial legislatures also had to ensure that the acts they passed were consistent with the laws of England. Legislators in South Australia were less careful on this point than they might have been. George Stevenson, private secretary to Governor Hindmarsh as well as editor of the *South Australian Gazette and Colonial Register*, declared that

What we want in this colony is not the transcript of the English Statute Book; but well considered laws applicable to the state of society existing in our infant colony, unfettered by precedent . . .

Hindmarsh himself was on record as saying that he wanted 'no rigmaroles of forms and damned Acts of Parliament that nobody can understand'.

THE APPEARANCE OF POWER

A number of buildings within the four colonies were designated 'government house' or 'government cottage'. Some were in regular use by the various governors, while others were so honoured only during occasional viceregal tours. Some had not been used by any governor for years. All were reminders of the governors' authority, though they varied a good deal in size and splendour.



Government hut,
Adelaide. Watercolour by
Martha Berkeley, c1838.

ART GALLERY OF SOUTH
AUSTRALIA

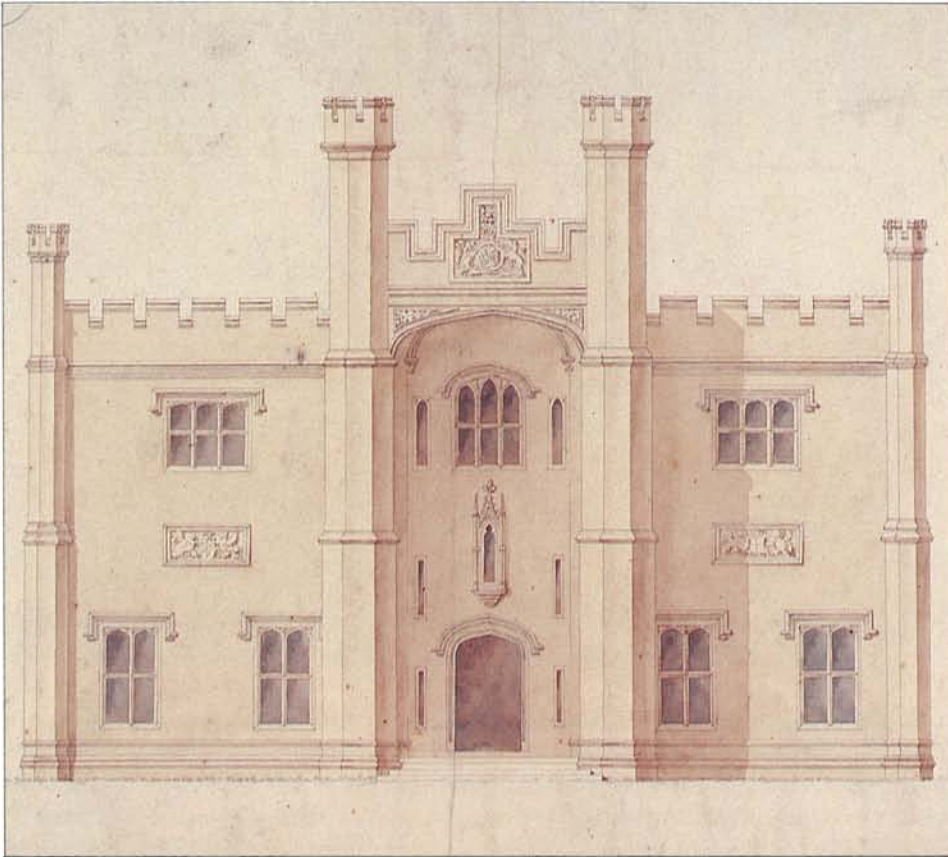
Even the houses in regular use, at Sydney, Parramatta, Hobart Town, Adelaide and Perth, were of differing standards. The Adelaide house—locally known as the government hut—was exceedingly primitive. It had a dining room and a drawing room, so it was better than most huts, but it had been poorly built, of slabs and thatch, and the windows were unglazed holes. It was so small that gentlemen waiting to see the governor were obliged to stand outside. When Colonel Gawler arrived in October he found no room for half his family attendants, who had to live in a tent nearby. He immediately ordered that tenders be called for a new house, of brick. But at the year's end he faced an apparently intractable problem: how to get a building that sufficiently demonstrated the dignity of his office when the colony was still small and money was scarce.

In Sydney a new government house was already under way. The old residence was much more elaborate than the Adelaide one, but it, too, was the original home of the governors, its central core dating back to Governor Phillip's time. All the governors since Sir Thomas Brisbane had suffered from its haphazard layout, its shabbiness and a vile smell that crept up from its foundations. As in South Australia, the cost of replacement was the main problem. But by 1837 New South Wales was so prosperous that the British government was prepared to sanction the expenditure of £25 000 on a new house. Officials in London were especially aware of 'the necessity of maintaining in so remote a dependency of the Empire some of the visible state and splendor which should belong to Her Majesty's Representative'. A London architect had therefore been commissioned to design a mansion to be built on a high point of the government domain, overlooking Sydney Cove and commanding a broad sweep of the harbour. New settlers were to be left in no

Government house, Sydney. In 1838 the two-storey part of the house, which can be seen on the right, was more than forty years old. In the foreground of this picture a man—probably a convict—is rolling the gravel path and watching the elegant couple who walk in front of him. Watercolour by Augustus Earle, 1828.

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Proposed entrance to a new government house, Sydney. New South Wales was deemed by men in London to need a grander government house, in the fashionable Tudor Gothic style. Pen and wash drawing by Mortimer Lewis, after Edward Blore, 1834.

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doubt, on their first arrival, that this was a community in which British sovereignty, and all it stood for, must be taken very seriously.

In its details the design of the new house carried the same message. The style was 'gothic' to match the enormous stables that Governor Macquarie had built for himself twenty years before. With its tower, battlements, parapets and turrets, the new house was to be especially suited to a country where the governor was an autocrat, charged with defending the prerogatives of royalty. Visitors, having passed the gatekeeper at the entrance to the domain, were to be confronted by a great archway, shaped as if for a portcullis and topped by the royal coat of arms. The front door itself was in another archway. Visitors penetrating so far would find themselves in a lobby from which they could seek direction to particular parts of the house. The great central hall, facing them, was for state occasions, when the governor wore the full regalia of vicerealty. To the right were the music and drawing rooms, designed for more private parties and opening onto the garden.

To the left was the waiting room, one of five rooms devoted to business. Two others were provided for the governor's two principal officials, his aide-de-camp and his private secretary. The aide-de-camp's room was well placed to regulate traffic between the lobby and the waiting room, while the private secretary, responsible for bringing gentlemen into the presence of the governor, was positioned on the other side of the waiting room. Even then conversations with His Excellency were normally to take place, not in the intimacy of the governor's study, but in a special audience room. All in all, it was to be quite impossible to meet the governor without first being ground small and humble by the millstones of architecture and etiquette.

Government house, Hobart Town. Watercolour by Owen Stanley, c1840.

It is a confused, irregular pile of building, added to, from time to time, as the increasing wants and importance of the place required. It is devoid alike of beauty, convenience, or comfort, although its site is well adapted for business, and commands some of the most charming prospects both of the port and river, whilst the grounds by which it is surrounded are laid out with taste and judgement. In 1827 Colonel Arthur made some progress towards the erection of a new government-house ... The design, after considerable discussion, was abandoned, alterations and additions in the earliest colonial palace having been made to do duty for a new and more courtly abode. (*David Burn, A picture of Van Diemen's Land, Hobart 1973 [1839], p 42*)

TASMANIAN MUSEUM AND ART GALLERY



Whatever their style of architecture all the government houses were, in a sense, fortresses. Only the members of a certain class—ladies and gentlemen—were usually admitted even to the public rooms. The governor and his wife made all final decisions as to who qualified—decisions often disputed out of doors. In Van Diemen's Land Sir John and Lady Franklin gave offence several times because of the people they allowed into government house. They were more adventurous than most viceregal couples and at one of their early levees an ironmonger, a greengrocer and a bootmaker were permitted to mingle with ladies and gentlemen. As this caused some dissatisfaction, in 1838 Lady Franklin thought of dividing people she wanted to meet into four ranks and receiving different ones on different occasions. But this offended entire classes. After the Queen's Birthday ball in May the editor of the *True Colonist* demanded to know why inferior public servants should have been allowed to strut in His Excellency's presence while this honour was withheld from 'some very respectable young persons of the families of importers and wholesale and retail dealers'.

Fortunately, there were a small number of watertight rules to which governors might cling. Ex-convicts and their relations were never admitted, except by mistake. Men who had borne the Queen's commission, in army, navy or public service, were always acceptable, while those who had served in lower ranks were not. In Sydney the Queen's Birthday ball this year saw a dramatic application of this last rule when Henry McDermott, once a mere sergeant-major, was ejected on the spot. McDermott, though a well-known radical, did not argue about the rule itself. But he did protest that he had since married the daughter of a lieutenant, and thus had the connections of a gentleman. This logic was not good enough. While connection with an ex-convict was enough to keep one out, connection with an officer was not enough to get one in.





Government house, Port Essington. Watercolour by Owen Stanley, 1839. A cottage sufficed for ritual as well as administrative purposes in the infant settlement.

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It was one of the fundamental rules of etiquette that while men and women of inferior rank could not venture upwards in their day-to-day contacts, those above them could always venture downwards as far as they liked. Wherever there was a difference of rank, etiquette required that movement be one way only—a simple but marvellously efficient rule in the maintenance of social authority. Distinctions of rank were kept up, and yet the powerful might move backwards and forwards as they liked so as to keep familiar control over their own dependents. The only difficulty, which applied especially to women of rank, was the danger of moral contamination from mixing too freely with the abject poor.

The system was very useful to governors. Normally only the rich and very respectable were admitted to government house, but the governor and his wife might themselves move beyond this closed circle to make contact with others. Lady Gipps, soon after she arrived, began to look in at infant schools in Sydney, where she talked to the children of the poor and won praise for her kindness. Viceregal appearances at the theatre were especially common. As we have seen in chapter 6, theatres were places where all ranks assembled, each in its appropriate place. Even more than churches, theatres encompassed the whole community, and appearances by the governor were in a sense viceregal visits to the people in the people's own house. This is why theatres were given such illustrious names and why their advertisements carried the royal coat of arms. Both the Theatre Royal in Hobart Town and the Royal Victoria Theatre in Sydney boasted of, or sought, regular viceregal patronage.

The governor's appearance anywhere was a theatrical event. At such moments the people might witness those signs of gracious condescension or sympathy which, as the rulers well knew, helped heal the wounds of official injustice and popular resentment, and repair the ranks of rich and poor, proud and humble.





Sir John Franklin in full naval uniform. Undated watercolour by an unknown artist.

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THE MAN WHO LOOKS ONE WAY AND ROWS ANOTHER.

Sir John Franklin and reform. New governors were usually watched hopefully by reformers for signs of liberal feeling. Governor Franklin was believed to have inclinations of the right kind—one of his first acts was opening the doors of the legislative council so that the press and public might listen to debates—but in the last resort a governor was obliged to maintain his authority. Here the Launceston paper, the Cornwall Chronicle, 1837, expresses the disappointment of reformers.

In order to reach beyond their capital towns, the governors made tours. Tours required a special effort, an unusual exertion of personality, and their frequency and success were a precise measure of a governor's relationship with his people. We have already watched Governor Gawler on his way from Glenelg to his inauguration at Adelaide, a small tour in itself and a very effective one. It was characteristic of Sir George Gipps that during the whole year, after his arrival in February, he did not move beyond Sydney, Parramatta and Liverpool. As with his inauguration, the people waited for the honour of his presence among them, and he did not come. In March the leading men of Parramatta had the chance to present him with an address of welcome when he came to stay at the local government house, but even they were told in reply that because of 'the increasing business of Government' Sir George could not look forward to seeing them very often. After some weeks of disappointment the two other main towns in the county of Cumberland, both within a day's ride of Sydney, sent delegations to the capital to meet the new ruler. The governor was apologetic. It was only 'the urgent press of business', he told the party from Windsor, that kept him in Sydney, 'for I can assure you that I am most anxious to visit the interior of the Colony'. But by now it was too late. Legislative council sittings were to keep him tied up for the rest of the year.

In Van Diemen's Land Governor Franklin was well known as an explorer even before he took up office. He and his wife were constantly on the move, investigating the remote corners of their dominion. It gave Lady Franklin pleasure to surprise humble men and women in their homes, to ask them questions about themselves, and to see their eyes light up with the honour of viceregal company. The governor himself was more straightforward, but he too liked to talk with the people, listening sympathetically and occasionally making unguarded promises.

On their arrival in 1837 the Franklins had made a long tour which was meant to be the first of a series of annual expeditions. They were especially ambitious in 1838, departing from Hobart Town on 2 January with the intention of being away for two months. The party was small: they took only Mary Franklin, their niece and ward, Henry Elliot the aide-de-camp, and two servants, a man and woman. They travelled up the east coast, stopping first at Spring Bay, where they stayed with the assistant police magistrate and his wife, whose three children were sent to a neighbour's house to make room. They then proceeded north as far as Great Swan Port, before making their way across country to Campbell Town on the highway between Hobart Town and Launceston. After visiting the remote settlement of Avoca they followed the main road north to Evandale, staying with the Coxes at Clarendon, and finally reached Launceston on 15 January.

Here they were escorted into town by a party of settlers led by Major Ryan, the local commandant. Such courtesy was common for great dignitaries, but this time it was organised at short notice. 'Many apologies were made by the major that he did not meet us with a larger body of gentlemen at a greater distance from the town', wrote Lady Franklin. Afterwards there was a dinner. The viceregal party stayed at the government cottage in Launceston for a week, as Sir John explained, 'transacting public business'. Lady Franklin organised two evenings at which she and the governor received members of the best local families, taking care this time to avoid anything like an 'open drawing-room'.

They then went on down the Tamar valley to Colion's Inn, where they were to embark for the Aboriginal settlement on Flinders Island. Lady Franklin remarked on the 'extraordinary civility' shown them by Mrs Colion, 'who regretted she had not been apprised of our arrival. We had some of her ginger beer and raspberry puffs'. They crossed briefly to the other side of the river, where they found a farmer named Bickford who took them to his cottage to meet his wife.

He seemed to wonder at our unexpected visit and to think it must have some particular object. The W. bank of the Tamar had not been so honoured before, and he seemed to look for an explanation.

Their next stop was Flinders Island. Here they were comforted to observe among the Aborigines 'much cheerfulness and hilarity', though Sir John was forced to admit that this might have been a result of his presence among them.

At this point they had to cut short their tour because a French naval vessel had arrived in the Derwent and Sir John felt obliged to give a proper reception to its officers. Viceregal etiquette knew no national bounds. The governor was not only part of a worldwide brotherhood of gentlemen—he was also the representative of the Queen, and as such bound to honour men who bore commissions from other sovereigns of the civilised world.

DEMANDS FOR CHANGE

In all four colonies there were organisations partly or wholly designed to challenge the ideals and operations of government, led by men who wanted constitutional reform. On many issues they did not seem to use the same language as those who spoke on behalf of the crown, and they longed to see power shared by men who could understand them. The few governors who showed some slight interest in reform, such as Sir Richard Bourke, the former governor of New South Wales, were their special heroes.

Sir Richard Bourke, governor of New South Wales from December 1831 to December 1837. Engraved by John Carnichael from portrait by Richard Read, c1835. DIXSON GALLERIES



With thee, far-famed illustrious man!
Our freedom flourished, and our fame began.
Thy lofty mind our num'rous wants beheld,
Corruption stayed, and tyranny repelled;
The lib'ral standard in thy free-born hand
You waved with judgement o'er our prostrate land;
Our Towns with bright magnificence array'd,
And wisdom solid in thy deeds displayed.
Though wretches envious, and bigots, brawl,
Deny thy virtues, and predict thy fall—
Yet will thy name triumphant rise,
Pierce through the clouds and penetrate the skies.
Long will our sons with joyful mem'ry trace
Each glorious trait and beauteous grace,
And gladly bless those feelings of reform
Which us irradiate, thyselves adorn.

*(Published anonymously in
The Australian Magazine, Jan 1838.)*

The reformers were usually marginal men whose manners, habits of dress and private lives were, like their ideas, not quite correct by the most polished standards. Their leaders were mostly men fond of writing and making public speeches—men who enjoyed performing. Many of them had connections with journalism, a world in which gentlemen of superior rank were rarely seen. Many were lawyers, and the law courts of the colonies were a good arena for their skills and their ideals, and the principle of 'equality before the law' allowed lawyers to stand up as public advocates of the poor—or at least of small capitalists—in their battles with the rich.

The fact that so many reformers lived by their public behaviour, and by jostling with all ranks of men and women, in itself amounted to a rejection of the rules of the 'best' society.

It was characteristic of the reformers to lead irregular married lives. This can be said of William Charles Wentworth, William Bland—the finest mind in the reform movement—Edward Eagar and Sir John Jamison, all leading lights in New South Wales, of R.L. Murray in Van Diemen's Land and of William Nairne Clark in Western Australia. Bland's wife had run away from him many years ago. Wentworth had lived for some time with Mrs Eagar. As we have seen, Clark had charged his wife with adultery and was trying to divorce her. Reform in the colonies was a masculine business, a topic suitable for men who liked to be away from home, at outdoor meetings, newspaper offices, courtrooms and public houses, deep in the arcane learning and gossip which men alone might penetrate.

The cause of reform was linked with some of the most dynamic institutions in colonial society. Law courts and newspaper offices might be seedy places, but no-one could doubt that the talk there was vital and interesting; and public houses were central to the working of urban society, as we have seen in chapter 4. Another institution, even more significant in some ways, was freemasonry. The history of freemasonry in Australia went back to Governor Phillip's time, but the first regularly constituted lodge had been formed in Sydney in 1820. Since then the craft had flourished within certain circles of colonial society. In New South Wales it was closely associated with ex-convicts. One Sydney lodge had tried to bar ex-convicts from membership, but had received a ruling from the mother lodge in Dublin that distinctions of this kind were 'un-masonic'. The ex-convict connection was triumphantly affirmed in 1838 at the funeral of Samuel Terry, 'the Botany Bay Rothschild', an ex-convict, a mason and a generous friend of reform. Terry was carried to his grave with full masonic honours: tyler and inner guard, both with drawn swords, deacons with wands of office, senior and junior wardens, banners flying over all and masonic music playing.

Terry's lodge, the Lodge of Australia, no 548, was the most prestigious lodge in the colonies. It was affiliated with the Grand Lodge of England and met at St John's Tavern, George Street. In its membership the Lodge of Australia looked very like the New South Wales reform leadership under another name. The former governor, Sir Richard Bourke, had been its patron, and Sir John Jamison was Worshipful Master, though his duties were usually carried out by John Stephen junior, one of a family of lawyers, whose members were active in the reform movement in both New South Wales and Van Diemen's Land. Bland was a mason, and so were Wentworth and a good number of other lawyers, including G.R. Nichols—'Radical Bob'—who was also proprietor and editor of the *Australian*. Nichols was the first candidate initiated by the Lodge of Australia and by 1838 he had become a skilled and devoted mason. His abstract way of thinking, his love of ritual, and his anxious, inward-looking energy, made him a good member of the brotherhood. He also had a profound distrust for all women.

In Van Diemen's Land the three most active masons, Henry Melville of the *Colonial Times*, R.L. Murray of *Murray's Review*, and Thomas Horne, a lawyer, also led the movement for reform. In South Australia there was a masonic lodge that had been formed in London as early as 1834, for intending settlers. The first meeting on colonial soil was in August 1838. South Australia, unlike any of the other colonies, was a creation of British liberalism, which partly explains why freemasonry was there so early. In Western Australia there was still no sign of it.

Freemasonry resembled the ideal society of which the leading reformers dreamed. To begin with, it was a community where rank depended mainly on



Regentville, Sir John Jamison's house near Penrith. Jamison was official leader of the reform movement because of his title, and because of his status as a rich landed gentleman. At his house he not only hosted occasional reform meetings, but also displayed the easy generosity expected of a man of his political and social importance. Pencil sketch by Conrad Martens, 1835.

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popularity. No class distinctions were observed, members were all called 'Brother' and any could be elected to superior office. Secondly, freemasonry paid scant attention to religion. Although the ritual of the masons had many Old Testament references—especially to King Solomon and the Temple at Jerusalem—its tone was secular and humanist. In the same way, very few of the reform leaders were religious men. Rather they fought against the influence of the clergy in public affairs. In Van Diemen's Land R.L. Murray used his newspaper to abuse the bishop of Australia, William Grant Broughton—'My Lord Will'—and especially His Lordship's plans for a school system controlled by the Church of England. Murray admired the 'liberal and enlightened' principles on which the new and entirely secular University of London had been formed—as did W.C. Wentworth and his friends in New South Wales.

Thirdly, men alone could be freemasons. In their secret ceremonies the masons were citizens of a perfect republic, and part of the perfection lay in its being entirely masculine. The reform movement was much the same. In fact, some reformers looked forward to a 'republic' of men, where mere manhood would be the only formal qualification for voting and public office. But this was a remote and quixotic vision. Few of the leaders would go nearly so far and insisted on some property qualification. The lodges themselves, for all their egalitarian procedures, were for all practical purposes closed to poor men.

The opponents of reform had interests very different from these. They were not the kind of men who valued exotic and secret rituals like those of freemasonry. In many cases they already saw a good deal of *public* ritual because of their ties with government and, unlike the reformers, their lives were also well regulated by *domestic* ritual—the daily round of family life. There were many officers of the army and navy among them, and many clergy, especially from the Church of England. Most prided themselves on being practical men, who took seriously the duties of their class and sex: 'manly' and 'gentlemanly' were adjectives they prized.

Some of the conservative leaders were intellectuals, but they were never journalists and rarely lawyers. Instead they tended to be of a collecting, categorising cast of mind—amateur entomologists, geologists and botanists, who took more delight from the pattern of a butterfly's wing than from a well-turned piece of

THE MACLEAY FAMILY TREE



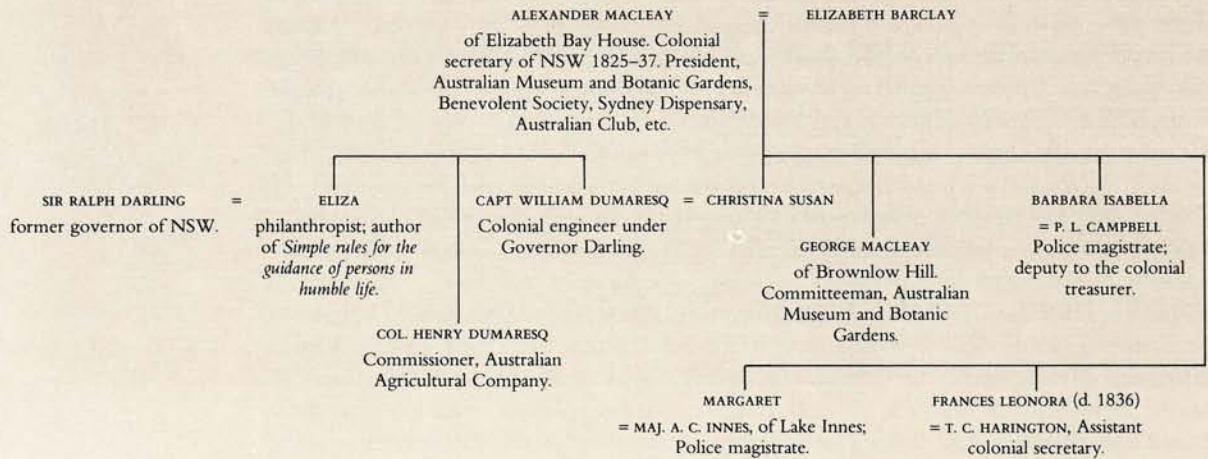
Alexander Macleay, Fellow of the Royal Society and Fellow of the Linnean Society, former colonial secretary of New South Wales. Undated oil by an unknown artist.

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Eliza Macleay, mistress of Elizabeth Bay House, wife of Alexander Macleay, and mother of seventeen children. Undated oil by John Hoppner (or after Hoppner).

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rhetoric. Some created great gardens full of curiosities around their houses. The Macleay family of Sydney were typical. Elizabeth Bay House, their mansion on Sydney Harbour, with its great library, its specimen cases and its gardens—though still unfinished in 1838—was a splendid epitome of the conservative vision.

Conservative interests were usually ones which women could join in, especially as gardeners or artists drawing specimens and landscapes, and all the most accomplished women of the generation came from conservative families. Men and women such as these promoted a very comfortable view of the world, in which human beings, like the rest of creation, were to be classified and ordered: gentry, clergy and people, rich and poor, male and female, all with a proper and public place under heaven. In conservative eyes, the worst sin of the reformers was their disregard of the time-honoured categories of humanity. Instead of living *within* categories, reformers seemed to seek out their margins.

The men who wanted reform in the colonies varied greatly in what they wanted, but for simplicity they can be gathered under two headings: liberal and radical. Both terms were used at this time. The most ambitious organisation for reform was the Australian Patriotic Association, founded in New South Wales in 1835. It was dominated by liberals, but radicals were struggling to be heard in 1838.

The Patriotic Association had been formed in response to a letter from a British member of parliament, Henry Lytton Bulwer, to Sir John Jamison. Bulwer had suggested that Jamison and his friends form a permanent committee, which might act as a clearing house for 'all communications of a public nature, complaints, &c.' that the people of New South Wales might want to lay before the British public and parliament. They should appoint an agent in London—Bulwer offered himself—who would make sure that everything sanctioned by the committee got a proper airing in the mother country. Hitherto the only official means of communication was through the governor to the Colonial Office in Downing Street. What Bulwer was suggesting was a means by which antigovernment opinion in Britain might co-operate with antigovernment opinion in the colony in order to bring about reform.

The machinery described by Bulwer—a colonial committee and a London agent—was sanctioned by old usage in the American colonies, and John Macarthur had suggested it for New South Wales more than ten years before. The Sydney reformers took up the idea with enthusiasm and built on it in a remarkable way. A committee was appointed with Jamison as president, Wentworth as vice-president and John Stephen as secretary. Bland was corresponding secretary, and acted as the voice of the committee in its dealings with London. But the committee was to be part of a much larger body—the Patriotic Association—which was to debate and vote on all issues. Votes taken by the association as a whole were to be forwarded to London as decisions of 'the people of New South Wales'. In this way 'the people' were to be organised, not only to achieve reform of their constitution but also to bring about other changes as well.

Nor was this all. Its founders saw the association as itself a kind of House of Commons: 'our now firmly established COLONIAL HOUSE OF ASSEMBLY'. Their debates were to be carried on, they hoped, in parliamentary style, and they looked forward to some formal recognition, as far as the law allowed, from their own 'king' and 'house of lords'—Governor Bourke and the legislative council. This was not forthcoming and most members of the association soon grew tired of the exercise when they found how long it took for their carefully orchestrated discussions to get anywhere at all.

Their main achievement was their sanctioning of two alternative schemes for a new constitution, both of them drawn up by Wentworth. Both provided for elections among 'the people'—meaning in this case men of property. Legislation was no longer to be the preserve of a few gentlemen appointed by the crown. A system of nomination was to be continued, but nominees would have to co-operate with the elected representatives of 'the people', sitting either together or in separate chambers. These proposals were sent off to Bulwer at the beginning of 1836, with the hope that one or other would be adopted by parliament and passed into law.

In spite of the ex-convict traditions of the reform movement, its leaders could not now make up their minds whether ex-convicts should be eligible to sit as members of the colonial legislature. Wentworth gave no definite instructions on this point, and it was left to parliament to decide. Ex-convicts would, of course, be allowed to vote in elections.

Meanwhile a similar body, the Political Association, had been formed in Van

Diemen's Land. Like the Patriotic Association, its main aim was an elected or partly elected legislature. At its formation late in 1835, however, Anthony Fenn Kemp, a very old colonist—and the first man to be admitted a freemason in the Australian colonies—moved that the association should also 'represent the Colonists to the Local Government'. In other words it was to play a role, as the Patriotic Association hoped to do, in day-to-day colonial affairs.

The Political Association did not survive long. In 1838 it was a thing of the past. There was a great meeting for reform in Hobart Town in June that year, and some hoped that it would be the means of reviving the association. But the meeting simply adopted a petition to the Queen, and appointed a committee to collect signatures. The speeches showed that the reformers now wanted nothing more than an elected legislature in Van Diemen's Land. Even so they did not aim at anything like a democracy. No-one made radical demands. The longed-for constitution was to be for the benefit of 'the respectable, the wealthy, and the intelligent free inhabitants of the colony'. Those elected would, they supposed, be 'magistrates, and . . . other gentlemen of known wealth and character'. In short, the campaign in Van Diemen's Land was distinctly liberal, not radical. There was no intention of giving a political vote to all free men, irrespective of property.

Nevertheless there was a strangely egalitarian tradition in Van Diemen's Land politics, which surfaced once again at this June meeting. In the old Political Association members had not been required to pay any money at all, and no-one was allowed to give more than a shilling a week. At the 1838 meeting money was taken to meet the cost of the petition, but no-one was allowed to give more than one pound. Such self-denial was very high minded and brotherly, but it put a limit to funds. Besides, it did not make for an energetic, long-term campaign, because it hindered the emergence of an ambitious leadership, with money sunk in the cause. It is not surprising that the Political Association should have languished so soon.

Matters were differently managed in New South Wales. At the establishment of the Patriotic Association in 1835 the leaders had set a minimum rather than a maximum subscription—£1 per annum—and no-one could vote at meetings unless he bound himself to pay the same amount for four years running. Also, no-one could belong to the executive committee unless he subscribed at least £5 a year. About one hundred and fifty people signed up altogether, with a few promising as much as £50. Numerous large subscriptions, promised yearly rather than dribbling in weekly, gave the Patriotic Association a much better chance of survival than the Political Association.

But survival itself created problems. Most of all it gave time for the emergence, over the first years, of a group of radical members. These made themselves the champions of the small subscribers and used the association to air views that seemed subversive to the liberal leadership. The radicals wanted to promote the interests of free working people in the colony, and to make sure that in any elective system the right to vote was widely held. Most urgently, they wanted to reduce the power of employers. As we have seen in chapter 4, the need for discipline that came with the presence of convicts in the workforce affected even free employees. The convict system, so useful to rich men like Jamison and Wentworth, was anathema to the radicals.

By 1838 the Patriotic Association, though it survived, was in disarray. A few conservative members, mostly large subscribers, had joined in 1835 because they wanted moderate reform. These were disappointed that Wentworth had not included a ban on the election of ex-convicts in his proposed constitution, and they had left to set up an organisation of their own. Other members were not impressed by the embezzlement, in 1836, of £500 worth of funds. Annual subscriptions

POLITICIANS' CONVERSATION

The following conversation took place at a meeting of the Australian Patriotic Association in Sydney on 22 May (*Sydney Herald*, 24 May). Fewer than ten members had turned up when the meeting began, with Sir John Jamison in the chair, and Richard Roberts maintained that this was not a quorum.

Mr [Simeon] Lord, senior, asked why more members did not come?

Mr Roberts—They don't come because they are afraid of the bailiffs; they are afraid of being arrested at the suit of the Association if they leave their houses. (This alluded to a report in circulation that it was intended to have some bailiffs in readiness; so that if any refractory member presented himself and made awkward remarks, he could have been sent off, if he did not happen to have sufficient money in his pocket to answer a certain execution taken out at the suit of the Trustees.)

Mr Lord—Why don't they pay then? Because a vagabond ran away with a lot of the money has that anything to do with it?

After a few other remarks in this strain, Mr Roberts continued to urge upon the Chairman that the meeting was not properly constituted, and he said that there was not a more numerous meeting because the public despise the Association.

Sir John Jamison—Yes, there always will be a portion of the public that will despise all liberal institutions.

Mr Roberts—Liberal institutions! oh yes, very liberal—send the bailiffs into a man's house.

Mr William Hutchinson [Roberts's stepfather]—Well, then, why didn't you pay? You know very well that the Association is pledged to fulfil certain contracts entered into in England, and we were obliged to make those who signed the bond pay their engagements, or how were we to fulfil ours?

Mr Roberts (in a loud tone)—Very well, but suppose Sir—

Mr Hutchinson—Don't bully me; I did not come here to be bullied by you.

Mr Roberts—I am not bullying you—but I have freedom of speech—I am a member of this Association, and a native of the Colony, and I will express my sentiments.

Sir John Jamison said, that although Mr Roberts had freedom of speech, there was no occasion for him to raise his voice so high. (About this time five or six more members entered.)

Mr Roberts—I am very sorry if I have offended, but I have a peculiar kind of voice, and sometimes it echoes, and then, Sir, I am obliged to speak out. But, Sir, it is evident to every one that the affairs of the Association have been grossly mismanaged; the Committee have been guided by a parcel of old women (hear, from Mr Cape, sen. [headmaster of Sydney College]); yes, I say old women (hear, hear, hear, from Mr Cape): hear, hear, well I do say that the Committee have been guided by a parcel of old women, and you (to Mr Cape) are one of them.

Mr Cape here called Mr Roberts a couple of names, which, as Mr C. and Mr R. afterwards 'made it up', and declared that by what they had said they meant nothing (except in a Pickwickian sense we presume), we will not insert.

failed to come in, and all the officers collecting them resigned 'in consequence of the insults they were constantly receiving'. In February the committee decided to sue members who had not paid up. The Patriotic Association seemed bound to destroy itself as surely as the association in Van Diemen's Land had done—though not in this case from too strong a sense of brotherly equality.

The Patriotic Association faced two further crises during the year. First, news arrived that the British government intended to end the assignment of convicts to

private employers. The committee decided that the association should meet straight away to protest against a move which would

accomplish a perfect revolution in Colonial property, and prove the destruction of agricultural and other capital, and bring masters down to the level of their servants.

According to the liberal leaders of the association nothing would more seriously damage the colony. But they were obliged to abandon the calling of an association meeting to protest. Radical members would have spoken strongly against such a protest, split the association and possibly won a vote against the leaders. Faced with this prospect, Sir John Jamison chose instead to join a group of large landowners in calling a protest meeting quite separate from the association.

Then in June members heard at last of the fate of their campaign for a new constitution. Neither of Wentworth's proposals had been accepted in London. Instead the Colonial Office had decided on a system of elected district councils combined with a central assembly, the first electing the members of the second. The British government thus hoped to keep demagogues away from positions of real authority. This was a travesty of the kind of reform that Wentworth and others had been demanding for years. But the committee made no move to call the association together in protest. Any such meeting would have brought the radicals together and given them a chance to raise the matter of convict assignment. Both liberals and radicals regarded this as the most crucial question for the future and they were in violent disagreement.

G.R. Nichols was now secretary of the association, as well as being editor of the *Australian*. He was outraged at the latest news from London, but there was little he could do on his own, beyond promising to provide readers of his paper with 'Memorabilia towards a history of the approaching Australian Revolution'. Even this never came to pass.

Nor was even modest reform actually implemented. In October the *Australian* announced, without comment, that the secretary of state in London had changed his mind. Lord Glenelg was not prepared to give any kind of elective constitution to a colony that depended so much on convict labour. The Colonial Office itself must retain control of everything affecting the penal system, and on these grounds there was to be no reform for at least three years.



George Robert Nichols, 'Radical Bob', native-born, editor, freemason and patriot. Undated oil by an unknown artist.

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The failure of the Patriotic Association was partly due to the radical members, who were now so powerful that they could bring proceedings to a standstill. The association itself had given them a platform to stand on, and this they now lost. But their strength came also from the growing numbers of free immigrants, working men and women, who were settling in Sydney. Many brought new political ideals, and were fired by anger at an employment system in which they were often on a level with convicts. In 1837–38 radical opinions became more common in the Sydney press, and at least one new paper, the *Sydney Times*, had a purely radical voice. During the year a number of admirers of Robert Owen, an Englishman who taught extreme views on the relationship of master and man, formed a club, apparently meeting in a public house in Clarence Street. All this was evidence of new enthusiasm, and indeed news from England about the activities of the Chartists gave some hope that even extreme radicalism might triumph in the near future.

Among the other three colonies only Western Australia could boast anything like such radical activity. In 1836 William Nairne Clark had established the *Swan River Guardian*, especially to confront the government and employers. He had

already organised the 'Poor Man's Petition', an appeal to Governor Stirling for the reform of the civil court. The existing court, Clark wrote, was so ordered as to 'close the door of Justice against the poor man, leaving it open to the wealthy and independent members of this community only'. His newspaper took the same line against colonial society as a whole.

The *Swan River Guardian* not only broadcast Clark's views to the world, but gave a public voice to other men who believed they suffered under the present regime—as long as they could write letters to the editor. In all the colonies radical ideas circulated mainly among the literate poor—small traders, artisans and labourers. Radical writers were often self-consciously proud of their skill with the pen, and a little scornful of the large numbers beneath them who could neither read nor write. In January 1838 a correspondent to the *Guardian* complained about the worthless constables appointed by Sir James Stirling for Guildford, where the governor had his principal estate:

I am told they have one of the *Illiterate*, who unless from custom could not distinguish one of those *Dear Summonses* from a supplement of the '*Guardian*' but *Patronage* is all the rage. This person is one of the Governor's tenants & his salary enables him to pay his rent.

The ideals of the radicals were offered to all the poor. But as with the liberals, they had a preference for men like themselves.

The government in Western Australia took strong and effective measures against the *Guardian*, by passing an act against libel. Owners of newspapers were now obliged to register themselves with bonds totalling £400 in case they broke the law. Clark was able to find this money in 1837, but not in 1838. He published several issues of the *Guardian* beyond his legal term, in one of them pointing out the injustice of the present Masters and Servants Act:

Had the People been properly represented in Council (which they are not) such an law which was framed to favour the Agriculture Society & the *Gentlemen* retailers (Members of the same body) never would have been passed.

The last *Guardian* appeared on 22 February. Thereafter the public voice of reform was quiet in Western Australia.



Neither the liberals nor the radicals in Australia were any match for government. For some years the leaders of reform had looked forward, especially in New South Wales and Van Diemen's Land, to the time when officials in London would, by a kind of natural process, loosen their grip on colonial affairs. The main point of their agitation had been to hasten that time as much as possible. Now, to their surprise, they found that instead of giving up control the men in Downing Street were showing a new interest in the colonies and a new determination to interfere. This was the real reason why officials had decided to postpone elective constitutions for New South Wales and Van Diemen's Land. They rightly believed that they could not work through elected assemblies.

In Great Britain the 1830s saw a rush of remarkably ambitious legislation. Colonies seemed even easier to reshape than the mother country, because their population was small, because there were few vested interests with any real power, and because Downing Street was still formally in control. The manipulation of the price of Australian crown land was begun early in the 1830s. The pamphleteer, Edward Gibbon Wakefield, had outlined a plan for an assisted immigration scheme

and, although historians differ about the extent of his influence, assisted immigration followed his proposal more or less directly. Labour relations in the convict colonies were a cause of special concern, as employers in those places first learned in 1838. Also in 1838, settlers in all four colonies discovered that Downing Street was now watching very carefully their dealings with the Aborigines. The trial of the Myall Creek murderers was an especially clear sign of the new attitudes.

Instead of marching towards imminent victory—towards the triumphant accession of the 'rights of Englishmen'—reformers in the colonies now found themselves caught in a rearguard action. The cause of constitutional reform was lost for the time being; the struggle now was to keep what they had. Far from giving up power, government was bent on new conquest.

GOVERNMENT AT WORK

How did government work? What did it do? What made it effective? In many ways government and politics were a kind of theatre, played out by leading men and women before the vast audience of the people, and complicated by the fact that they had to take some account of the people's expectations. No-one could vote for governments in the Australian colonies, but efficient administration depended all the same on a sensitive use of authority. Moreover, government was not completely like theatre because it changed the lives of its audience. The audience acted too, escaping or embracing, for their own benefit, the impact of power.

Government in the four colonies had some peculiar characteristics—peculiar at least compared with the British model on which it was based. In the two convict colonies—New South Wales and Van Diemen's Land—government was very much geared to penal discipline. Officials were aware, as we see below, that in the management of the convicts they must meet three different ends all at once, ends which were not always quite compatible. They must consider the new demands being made from Great Britain that convicts be reformed, and by the most up-to-date methods. At the same time they must see that the male convicts continued as an effective work force, for most employers depended absolutely on their muscle power. Thirdly, the government must ensure that methods of penal discipline made for a proper relationship between the various ranks of society.

Reformers in Great Britain did not always understand this last point properly. Men and women with the power to use the labour of other men and women, whether convicts or not, were to be maintained in their dignity as far as possible, or the fabric of society itself would weaken. Convicts for their part must be encouraged to respect, or at least fear, those with power over them—once again, as far as possible. Where employers lapsed into behaviour unworthy of their rank in society, the government must be prepared to step in, in order to set things right as quickly as possible. Government in the colonies had always had extraordinary authority in the creation of ranks, and in the repairing of breaches in the hierarchy. In England the local aristocracies did this kind of work themselves.

Officials were responsible not only for the regulation of the convicts but also for their welfare: for ensuring that certain standards of food, clothing and accommodation were maintained; for medical and hospital care and burial of the dead; for the support of convict mothers during childbirth and nursing; and to some extent for the care and education of convicts' children. In both New South Wales and South Australia government had to cope also with the similar needs of large numbers of assisted immigrants. These were poor men and women who arrived, often with small children, under official sponsorship as a new supply of labour. Many were helpless for a time after their arrival. In New South Wales the

habits of a convict administration carried over fairly easily to this new work. In South Australia the assisted immigrants made up such an enormous part of the population that officials had no choice but to take their needs very seriously indeed.

In all four colonies the progress of settlement, and the structure of society, depended very much on land use. So the survey and alienation of crown land was important. Both in their management of immigration and in their distribution of land, governments were increasingly ambitious. As with the convict system they had three aims. They must satisfy British public opinion, and the new concern in London with the types of communities being created across the world. Secondly, they must create wealth, which depended on the fruitful union of land and labour. Also, they must maintain and reinforce the traditional structure of society, in which—ideally—every rank had not only its rights and duties, but also its correct relationship with the soil.

In every area of the work of government, these three aims tended to pull against each other, and nowhere more than in dealings with Aborigines, the last area of official activity to be covered in this chapter. Opinion in Great Britain was focused most of all on the Aborigines, and government had to bear responsibility for the way in which the settlers' desire for land affected Aboriginal livelihood and lives. Events in the colonies themselves meant that inter-racial violence, the removal of the Aborigines from their own lands and, if possible, their resettling in places where they might be less dangerous and more useful to the progress of the empire, had become matters of prime concern for local officials. At the same time the governors of all four colonies were being urgently called to account by their masters in London.

In every important aspect of its work government in the colonies was only partly successful. Failure was most obvious and most dramatic in its dealings with the Aborigines—so obvious that even the most humane officials in London found in the end that they could do little more than await 'the impending catastrophe'.

THE PROPER MANAGEMENT OF CONVICTS

William Wentworth Bucknell occupied a grant of 2560 acres on the Upper Paterson River, a tributary of the Hunter in New South Wales. His property was called Elms Hall, which was perhaps a little grandiose, for as well as being a farmer and grazier he was a storekeeper supplying the neighbourhood with general provisions. He lived there unmarried, with a housekeeper who was free and with at least one convict woman and fourteen convict men.

It was as an employer of convict labour that Bucknell had most to do with government, and found that government intruded most into his life. Here he was typical of many colonists in New South Wales and Van Diemen's Land who might have remained largely impervious to the presence of government were it not for their need for convict servants. Bucknell was also representative of a smaller number of colonists who broke the rules of convict assignment and exposed themselves to the wrath of government.

Much official time and effort in the convict colonies was devoted to administering the convict system, and especially to regulating the assignment of convicts to private settlers. In New South Wales in 1838 there were nearly 22 000 assigned servants, more than in any previous year—66 per cent of the total convict population and 22 per cent of the whole population. The records do not say how many masters had convicts in their employ, though they do show that during the year about a thousand colonists received in all about two thousand assigned men and women. The task of the local government was to regulate the distribution of

convicts, to see that they were properly fed and housed and to ensure that the situations in which they were placed would improve, or at the very least not impede, their prospects for reform.

The distribution of male assigned servants was one of the government's most difficult tasks, the main problem being that ever since Governor Darling's time the demand for convict labour had far exceeded the supply. Darling had created a board to allocate land and convicts, and laid down rules to govern its functions. These gave its members plenty of discretion, leaving the board and the governor open to charges of favouritism. Darling concluded that there was 'no one subject half so embarrassing or perplexing' as convict assignment.

Governor Bourke had inherited the problem and the perennial complaints. One member of the assignment board, overwhelmed by applications for convicts, complained that

With the generality of assignees in this Colony it is give, give—they ask & grumble, & grumble & ask. If they get any men *good*. If they get none there is nothing lost, but a sheet of paper.

Bourke's solution was to introduce detailed regulations by which landholders were to receive convicts in strict proportion to the amount of land they occupied and had under cultivation. If they wanted convict mechanics—meaning skilled men—they had to forego a specific number of labourers. The only landholders to receive priority were new settlers, and the only convicts to be allocated without reference to landed qualifications were domestic servants and mechanics being assigned to masters in the same trade.

These regulations, published in 1835, reflected the broad changes which were taking place in the colony's government. One thing new about them was the way in which they were put together. Governor Bourke had taken advice from several magistrates and prominent settlers, representing large and small holders, grazing and agricultural interests, before approving a final draft of the regulations. Unlike his predecessor, who relied on his own judgement and the advice of a small party of relatives and friends, Bourke took care to involve influential people, scattered throughout the colony, in various aspects of government decision-making.

The thinking which lay behind the regulations was also symptomatic of change. Where Darling had talked about 'good order' the main theme of Bourke's pronouncements was 'equity'. He and his officials used the term often in relation to convict assignment. They saw themselves as balancing various interests: new settlers and old, landholders and tradesmen, wool growers and agriculturalists. Although their scales were heavily tilted towards landed property, they saw their policies as benefiting the colony at large, in contrast to the old system which served only the few. They consciously surrendered some personal influence in favour of rules and regulations, written down for all to see. As Bourke summed up the changes to the assignment system, 'invidious discretion' was giving way to 'strict rules of qualification'.

Enterprising colonists quickly found ways of getting around the regulations—such as by renting land to relatives, including young children, and organising them to claim convicts for land which had already been made the basis of a claim. So the complaints continued, and Governor Gipps had to introduce more regulations to curb the worst abuses. Nevertheless, Bourke's system did achieve a wider distribution of the convict work force. It was still true that the more land a master occupied the more convicts he was likely to receive, and that wool growers profited most from the system. But assigned servants were also important to agriculturalists, to civil and military officers, to storekeepers and tradesmen.

Masters and mistresses were instructed by written rules to provide their assigned servants with weekly rations of grain, flour, meat, salt and soap, and to issue clothing appropriate to the season. They were also expected to do something for moral reform. If a master was discovered to be neglecting the physical or moral welfare of his convicts, the governor might remove them from his service. In 1838 the government's power to revoke assignments was used more than ever before, with 69 employers losing a total of 101 convicts. This was roughly double the number in preceding years.

The sharp rise was partly the result of events in Britain. The battle against slavery in British colonies in America was drawing to a successful conclusion, and public attention was beginning to turn to types of labour which could be seen to resemble slavery. We have already seen, in chapter four, that the employment of Indians in Australia was condemned on these grounds. Similarly, it became fashionable to liken the convict to the slave and the master of assigned servants to the slave owner. Some of the moral passion of the anti-slavery movement was therefore transferred to a campaign against transportation and assignment in New South Wales and Van Diemen's Land.

The most determined opponent of the system was Sir William Molesworth, a radical member of the House of Commons whom we met earlier as a thorn in the side of Lord Glenelg. In April 1837 Molesworth succeeded in having a select committee appointed to inquire into the effectiveness of transportation as a punishment, its influence on the moral state of the penal colonies and whether or not it might be improved. What he wanted the committee to recommend was that transportation should cease forthwith, and as chairman he selected witnesses and asked questions to achieve this end. Not surprisingly the committee's evidence, much of which was made public in July 1837, revealed widespread corruption and immorality. In the final report, presented to the House of Commons a year later, Molesworth selected what evidence he needed to depict a system which not only corrupted the convicts and their masters but created and sustained whole societies that were 'thoroughly depraved'.

These findings were sensational. Yet the Molesworth report had little effect upon British government policies. Long before Molesworth had completed his investigation, influential cabinet members had decided on major changes to the system, including the abolition of assignment to private settlers. We have already seen the effect of this decision on the Australian Patriotic Association. Cabinet members also made sure that the committee finally recommended that transportation be discontinued not immediately, but only 'as soon as practicable'.



If Molesworth's voice was muted in Whitehall, in New South Wales and Van Diemen's Land it was like a siren warning those who benefited from transportation that its days were numbered. When the first accounts of the hearings reached Sydney and Hobart Town late in 1837 many colonists rejected the adverse comments outright, while others conceded that they bore some truth. Either way, those who had an interest in maintaining the flow of convicts and attracting free immigrants as a future labour force tried very hard to show that the colony was a more upright place than it was depicted to be and that the assignment system was morally justifiable because of its good effect on convicts.



Sir William Molesworth, Bart, MP, chairman of the select committee on transportation. Detail of an oil painting by Sir J. Watson-Gordon, 1854.

NATIONAL PORTRAIT GALLERY, LONDON

The task of improving the image of assignment rested mainly with the colonial governments, especially the governors, Gipps and Franklin, and with the magistrates throughout their territories. When Sir George Gipps was appointed in July 1837, the Molesworth committee had just completed its first set of hearings and the British government was pondering the future of transportation and assignment. Gipps was probably told before he left to prepare for an end to assignment 'in due course' and, in the meantime, to do his best to clean up the system. Once in the colony he was confronted by anxious employers of convict labour who opposed a sudden end of assignment on the grounds that it would ruin the colony. So in order to purify assignment for his Downing Street masters and prolong its life for his colonial subjects, he urged colonists to pay stricter attention to the reformation and moral improvement of their convict servants. He also did his best to see that employers who failed to heed this advice had their servants taken from them.

Convicts were removed from their masters for a variety of reasons. The most common offence on the part of a master was excessive familiarity or lack of control—or what T.C. Harington, the assistant colonial secretary, called a 'vicious softness'. Such conduct was seen as undermining the system, which was premised on the assumption that employers would enforce orderly and obedient behaviour in their charges. It also tended to undermine the dignity of masters in general.

REASONS WHY CONVICT SERVANTS WERE WITHDRAWN FROM THEIR EMPLOYERS

Familiarity or lack of control	27
Assault or verbal abuse	11
Drunkenness of master, mistress or master's spouse	8
Illegal activity not involving the convict	7
Immorality [of master]	4
Lending of convict [by one master to another]	4
Neglect	4
Obtaining convicts contrary to regulations	2
Inciting convict insubordination	1
Insane	1
Unknown	1
TOTAL FOR 1838	70
	=

When it was discovered that Christopher Dodding, an ex-convict master, was letting his assigned servant work as a free man and receiving five shillings per week in return, he was condemned for a serious breach of proper discipline and his convict was withdrawn. Thomas Harris, a free immigrant of Penrith, west of Sydney, lost all four of his assigned servants for allowing one of them to fight pitched battles for the Sunday entertainment of his neighbours and putting wagers on the outcome. John Bailey, another ex-convict located near Windsor, also west of Sydney, had his two convicts withdrawn when the local magistrates discovered he was in the habit of playing cards with them. Other masters lost their servants because they assaulted them, or subjected them to verbal abuse, or were found to be drunk—as often as not while they were before the courts bringing charges against their assigned servants.

A number of revocations resulted from the complaints of assigned servants against their masters. Some convicts complained only as a final resort, such as James Sheridan, whose master William Falwasser had not provided him with bed or

blankets during his four and a half years' service. Sheridan eventually left Falwasser and gave himself up to the Parramatta authorities. He brought with him the rotting remains of the bed and blankets he had carried off the ship as he had arrived in the colony. Benjamin Saville was charged by his master Peter Fagan with disobedience, but he managed to turn the case to his own advantage. Noticing the magistrates' concern as to whether or not his master had called him a bugger, Saville took the cue and claimed that 'his master bounces him so, and calls him such names, that it is more than he can bear—that his life is miserable with him'. The bench decided that Saville had been ill-used, sentenced him 'only to 7 days solitary confinement', and chastised Fagan for using language 'highly improper to address to prisoners who are placed under him for reformation as well as punishment'.

William Wentworth Bucknell, unlike Peter Fagan, was a gentleman, but like Fagan, his livelihood was threatened by an assertive convict servant. His troubles began in September while he was away from Elms Hall on business, having as usual left the property and store in the care of his housekeeper, Susanna Barker. One morning a free settler on a neighbouring farm, by the name of Thomas Stapleton, came to Bucknell's store and purchased two gallons of wine from Mrs Barker. Stapleton then strolled down to the hut of two of Bucknell's assigned servants, James and Mary McDonald, where a group of his friends had already gathered for a breakfast of beefsteaks and liquor. Mrs Barker followed, and when they reached the hut said to him: 'you ought to think more of yourself than to come amongst such a parcel of rubbish'. Mary McDonald called out: 'I suppose you think we are not as good as you because we are Prisoners', and according to Bucknell's later testimony proceeded to abuse the housekeeper in a most shameful manner. Mrs Barker replied that she was a convict bitch, and that she and her husband ought to be given 50 lashes twice a week. Then she returned to the homestead.

James McDonald missed all this, but on coming home for dinner he determined to defend his wife's honour. Marching up to his master's house, he asked the housekeeper by whose authority she had gone to the hut to abuse his wife. Mrs Barker replied, 'Give me none of your Impudence or I will send you to Court and get you flogged'. McDonald responded that *she* was not his overseer, Mrs Barker answered that she was, and here the matter rested until James McDonald, in what we might see as a pre-emptive strike, made his way to the police office at Paterson and reported the whole affair to the local authorities. Shortly afterwards Bucknell returned home to find himself 'charged by James McDonald with Keeping an Improper female on his Establishment, to the great annoyance of his Assigned Servants'.

In the inquiry that followed the police magistrate showed great interest in the intimacy which seemed to exist between Bucknell and his housekeeper. James McDonald let slip that he had often seen Mrs Barker coming out of his master's bedroom in the morning, and Mary McDonald testified that 'He and Her slept together the same as my Husband and myself do'. It also transpired that Bucknell was the father of Barker's child.

The magistrate concluded that the defendant was in the habit 'of placing his Establishment under the orders and directions of his *prostitute*'. Such an example was 'bad and immoral, thereby causing discontent amongst the unfortunate men placed under his charge'. It followed that Bucknell was unfit to be the master of convicts.

James and Mary McDonald had made up their own minds about Susanna Barker's unsuitability as their overseer and had resolved to put an end to her pretensions by appealing to the local authorities. We need not ask whether or not they were genuinely offended by their master's relationship with his housekeeper. What matters is that they knew or guessed the bounds of official morality and

correctly anticipated that the magistrate would judge Barker's conduct harshly. Like many other convicts in New South Wales and Van Diemen's Land they understood that the assignment system gave them certain rights and imposed upon masters certain duties. It was not a free labour market, so that the power of masters was not naked economic power. The behaviour of masters had to be respectable, as the government understood that term. By seeking redress within the system convicts gave the lie to the argument of Molesworth and other critics. Assignment was not simply a form of slavery.

But if assignment was less oppressive than Molesworth made it seem, it still fell far short of punishing all masters who treated their convicts improperly. Much depended on whether information about abuses reached the magistrates, and on whether the magistrates were then prepared to do their duty. Even when magistrates were vigilant, masters who possessed sufficient influence could appeal to a higher authority. Some masters were in a position to influence official decisions about their right to manage men and women of the convict class. The government believed that, in the colonial secretary's words, 'The privilege of withdrawal should be exercised with great tenderness'. Some masters were treated more tenderly than others, with large proprietors faring better than masters who had only one or two convicts in their charge.

William Wentworth Bucknell was a large proprietor, though by no means one of the biggest. When he heard the magistrate's decision, he refused to let matters rest there. Hurrying to Sydney, he waited upon Sir George Gipps—as his rank as a gentleman entitled him to do—and argued that justice had been denied him. He told the governor that 'but for the connexion that may be supposed to have existed between myself and this female' his character was entirely unsullied, and he warned that the withdrawal of all his convicts would be his inevitable ruin. Why should he be penalised because of the squabbling of two women?

Gipps was evidently impressed. The absolute degradation of a gentleman was to be avoided if possible. Instead of ordering the withdrawal of all Bucknell's servants, the governor issued instructions for the removal only of James McDonald and his wife. But he warned Bucknell that any further interference by his housekeeper in the management of his servants would lead to every one of them being withdrawn. Then, less than a month after the events which led to McDonald's recall, the episode was repeated. Again during Bucknell's absence, Susanna Barker, with remarkable stupidity, wrote a note to the local chief constable asking him to take one Daniel Watson into custody for disobedience to household orders. Shortly afterwards she brought two more assigned servants before the magistrate on charges of stealing.

ARCHIVES OFFICE OF NEW
SOUTH WALES

Chesham

To the Chief Constable,
Please to take Mr Bucknell's
assigned servant Daniel Watson into
custody, being employed in the house for
disobedience of household orders.
Susan Barker.

Nov 1st 1838.

Bucknell now adopted a tone of bravado typical of a gentleman who knew that all was lost. He told the bench that 'he was quite independent of the Government and above the opinion of the world and that he did not care if all his Assigned Servants were immediately removed from his service'. After dismissing the accusation against Watson and refusing to consider the charges against the other two convicts, the magistrate reported to his official superior that Bucknell's immoral conduct and utter contempt for the government made him totally unfit as a master, and that convicts were not safe in his service. Nevertheless, Gipps ordered the removal of only those three servants who were the subject of Barker's complaints, and he left Bucknell free to seek replacements.

By the end of the year Bucknell had surrendered four of his male convict servants, but had gained two by virtue of his land entitlement and through the usual processes of application. His sacrifice, though small, helped to improve the outward appearance of assignment by emphasising the moral concerns of those who administered the system. With many other similar, small events, it served also to suggest that even the back country of New South Wales was beginning to feel the force of invasion from the committee rooms of the House of Commons.

IMMIGRATION

Pytchley was a small village in Northamptonshire, England, and Joseph Flavel, his wife Mary and seven children were among its destitute poor. The leading men of the village, especially the vicar, the Reverend Abner Brown, made several attempts to get a free passage to South Australia for the Flavels and for a smaller family named Dainty. Brown was a keen supporter of the new ideal of self-help, believing that it was the duty of influential men like himself to find ways in which the poor might become self-reliant. The colony of South Australia had been founded in 1836 partly to promote such principles, so that it is not surprising that Brown turned to the South Australian Commissioners in his efforts on behalf of the poor of his parish. Families like the Flavels and the Daintys were to be given the chance of a new life, and at the same time were no longer to be a burden on the funds set aside for parish poor relief.

On 10 August 1838 Brown received a letter from the commissioners stating that his application had been approved. The commissioners themselves would pay for the adults, which was the most expensive part of the exercise, and take responsibility for the families on shipboard and on arrival in the new world. The two families would depart for South Australia by the *Prince George* on the 25th of that month, if harbour conditions permitted.

The parishioners of Pytchley had now to find the extra money needed to cover the children's voyages and the expenses of the trip to the port of embarkation. There could be no effective self-help unless the families had the means to behave and dress decently, and here too the parish had to bear the cost. The two beds already owned by the Flavels were inadequate for a family of ten, including three adolescents, and two more were provided for them. Everyone had to have several changes of clothing, as it was impossible to wash clothes on board ship. The men must have tools, including hoes, spades, shovels, sickles and scythes, with which they might earn a living. On 23 August the Flavels, who now included a baby, Amos, three weeks old, the Daintys and an overseer from Pytchley parish arrived in London, having travelled by cart to their county town and thence by canal boat, a journey of two days. They brought their new tools with them and got the other articles in the city. The families were put on board the *Prince George* with the blessings of the parish, some pocket money and a bible. As an observer noted, 'for a little over £60 the Parish was relieved of 16 poor souls'.



The emigrant ship Lady Kennaway arrived in Sydney Cove on 12 August 1838, carrying 283 emigrants from Leith, in Scotland. Reproduced in the Adelaide Observer, 16 Aug 1919.

MITCHELL LIBRARY



Passengers being landed at Port Adelaide, colloquially known as 'Port Misery'. Watercolour by John Michael Skipper, 1839.

SOUTH AUSTRALIAN ARCHIVES

It had been only months before that Joseph Flavel heard the news about South Australia from the Reverend Mr Brown and from the colonisation agent who had come to spread the gospel of emigration near Pytchley village. On 12 December part of the good news became reality, as the *Prince George* slipped her moorings, left the Downs, and headed down the Thames for the wide expanse of the oceans.

The voyage out was no paradise. It was monotonous and unyielding in its demands on all passengers. No matter how thorough the Colonization Commissioners were in their hygiene inspections before sailing and no matter how effective the ship's doctor, the arduous life at sea took its toll of all emigrants. Day after day of dreary existence exhibited itself in their shipboard diaries. The dangers and unpleasantness of cramped society made incessant demands. There must have been a general sigh of relief as the *Prince George* drew into port on 26 December, and as its passengers stepped onto the South Australian shore.

The start of the Flavel's colonial life was as exacting as the tedium and dangers of the voyage. The first night was spent in a cargo shed. The family were stung by a myriad of mosquitoes and their mouths were parched from lack of water. Their two-year-old son, George, was languishing—and the common experience of other immigrant families must have given them little hope that he would live. On the following day they made their way to Emigration Square in Adelaide, were told they would be housed for up to three months and were given a fortnight's rations. They would then be on their own.

The Flavels' experience was common among the thousands who emigrated to Australia in 1838. Some fared better, some worse. Most were the subjects of a newly devised government system for sending free men and women to supplement the labour of the transported convicts. From the early 1830s the British government wanted, as Lord Glenelg remarked to Sir Richard Bourke, a 'more systematic and efficient promotion of emigration to the Australian colonies'. Emigration had a twofold value: it reduced over-population at home and at the same time answered the colonies' need for labour.

The basis of a system of emigration, by which labouring men and women might be sent to Australia, had been laid in 1831 by the then secretary of state, Lord Goderich. The money gained from the sale of land in the Australian colonies was to finance the shipping out of able and industrious labourers who it was hoped, would provide colonial employers with muscle power necessary to work the land. At the same time Britain would find accommodation out of sight and mind for the surplus humans who cluttered her cities and overburdened countryside.

Edward Gibbon Wakefield was a pamphleteer who provided the theoretical basis of this scheme. His much publicised arguments for systematic colonisation combined the ideas of previous thinkers with the new and fashionable vision of transposing the ordered structure of British society to foreign shores. Success depended on a land-owning class buying Australian land, and the proceeds being used to send out labourers. The price of the land was to be set at a level which would make those labourers work for a number of years before they could afford to buy land themselves. There was to be considerable room for enterprise, but the accumulation of wealth was not to be so rapid as to disorder society.

In 1837 the British government appointed Thomas Frederick Elliot Agent-General for Emigration. It was Elliot's task to oversee a network of agents throughout Britain who sold emigration to the public and then selected the best available persons to go to Australia. County grandees soon saw the advantages of this government-sponsored emigration, as their poorhouses were cleared and their over-inhabited districts thinned out. In Dorset Lord Portman, for instance, declared it to be 'the appointed means of peopling what remains unpeopled in this earth'.

Wakefield's ideas were used to supplement older methods of removing free labourers to Australia. As we have seen in chapter four, wealthy employers had for some years been selecting their own people in Britain and bringing them out under various forms of indentures. In New South Wales Governor Bourke had established a system of bounties, by which the government subsidised the cost of passage for such people, provided they qualified under the regulations. This was a particularly clear case of the state assisting private enterprise.



*Edward Gibbon Wakefield.
Engraved by B. Holl after a
painting by A. Wivell, 1823.*
NATIONAL LIBRARY

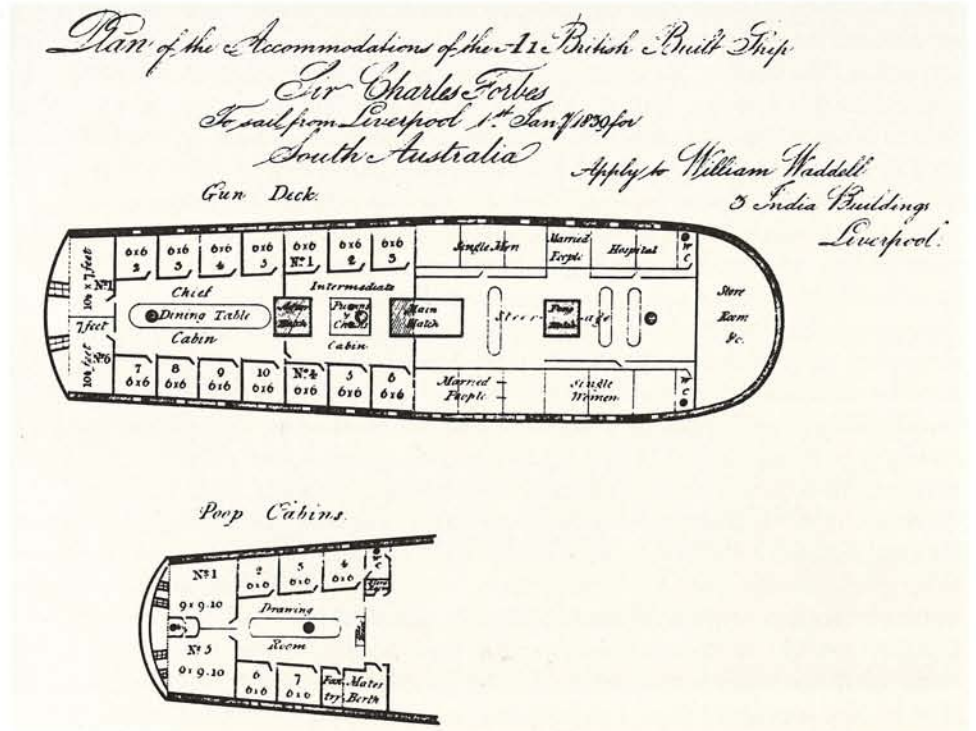


All four colonies wished to attract labourers and each sought to sell itself as the one which held out the golden prospect of independence at the end of a worker's hire. The Reverend John Dunmore Lang stated for the information of prospective emigrants that New South Wales was to be 'the destined seat of future and extensive empire'. He even quoted scripture to convince 'the British labourer and mechanic of reputable character and industrious habits' that they should come to the mother colony:

Be not slothful to go, and to enter to possess the land. When ye go, ye shall come unto—a large land—a place where there is not want of any thing that is in the earth.

Their coming in numbers, he said, 'will gradually elevate the character of society' and remove the stigma of the convict settlement. 'In short', he declared, 'New South Wales affords the fairest prospect for prudent and industrious families ... [They] will spend more and be raised to a higher standard of society.'

South Australia's supporters started their advertising by decrying the convict taint of the two oldest colonies:



Cabin and steerage.
 Advertisement for an
 emigrant ship bound for South
 Australia. Cabin passengers to
 the left, steerage to the right.
 STATE LIBRARY OF SOUTH
 AUSTRALIA

New South Wales and Van Diemen's Land have been forced, as it were, into unnatural importance, under the curse of convict labour ... The rest of the population is either confined to the sickly atmosphere of towns, admittedly sunk in moral turpitude and corruption.

Western Australia seemed to have no chance of succeeding. South Australia, on the other hand, offered boundless opportunities. Emigrants with a little money were told that they could double an investment in two years and then 'realize an ample fortune'. One writer finished his promotion of South Australia's virtues with a stirring call to action:

We therefore recommend Emigrants, wishing to live in a fine country with elbow room, and where industry is sure to be rewarded, to lose no time in shipping themselves and their children to South Australia. We want no idlers—no drunkards. But steady sober men, not ashamed to live by the sweat of their brow, will be welcomed—and cannot fail to become independent in a few years.



The attitude of the poor themselves is harder to gauge. The radical pamphleteer, William Cobbett, was currently doing his best to persuade the people that this 'shovelling-out paupers' was nothing but a new method of transportation. In July 1838 a lesser-known radical, William Ashton, who had spent time himself as a convict in Van Diemen's Land, used the same kind of argument to an audience in the Town Hall at Sheffield, Yorkshire. The assisted immigrants, he said, were 'victims', 'living cargoes', forced to exchange the rights which were naturally theirs in their native land for the mere right to survive in a place of perfect tyranny.

It is hard to find evidence of such attitudes among the immigrants; perhaps the people who held them stayed behind. Officially at least none was forced to go,

though parish authorities did make it very hard for some to refuse. In most cases, perhaps, men and women decided to emigrate without understanding much at all about what they were doing, but simply hoping for the best. Even those with a little education found it hard to get facts about Australia. Henry Parkes, a young ivory-turner with a pregnant wife and great ambitions, travelled from Birmingham to London during the English winter in order, first, to try London as a field of employment and, secondly, to find out what he could of New South Wales.

Parkes's first information about the colony came from published books, and it made him blissfully optimistic. He decided to emigrate forthwith: 'my hopes', he told his sister in Birmingham, 'are not extravagant though I make sure of getting rich and coming over soon to fetch all of you'. Land was worth only five shillings an acre, and it seemed to follow that his old father might easily buy an acre for a market garden, while his mother might have a dairy, 'for cows are only four pounds each, the very best'. He also searched the London newspapers. He and his wife, proud of their education, relied absolutely on the printed word, paying no attention to the returned settlers and others they happened to meet in London. Even so, further reading soon modified Parkes's original perfect hopes.

Others with much less information—like the Flavels and Daintys—might be more confident. In February James Macarthur, of Camden in New South Wales, told a parliamentary select committee in London that he had lately been to Bristol to talk to a shipload of poor men and women going out.

They asked me a variety of questions, but none exactly of the kind that I expected; that is, they seemed to be perfectly satisfied in their own minds as to the nature of the country. I was so struck by their making no inquiry on that head, that I asked their reason for not doing so; and they said they were perfectly satisfied it was 'a good country' from letters which they had seen from convicts in the colony ... they were fully satisfied ... that by going to New South Wales they would better their own condition.



Henry Parkes. Pencil drawing by Charles Rodius, 1854.
MITCHELL LIBRARY

These people travelled on the *Layton*, which was to become notorious as a fever ship. As we have seen in chapter three, every single family among them lost at least one baby between Bristol and Sydney, and some lost all. This gives us some idea of the large gap which could exist between expectations and reality.

People travelling on the *Midlothian* had a similar experience. Five families—sixteen children altogether—lost mothers on the long voyage from the Isle of Skye, one of Scotland's western islands. The men were faced with the task of caring for their remaining families and finding work at the same time. The ship's surgeon applied on their behalf for the children to be admitted to the government orphanages. His account of them shows something of the chaos which emigration could bring to families.

Alexander McAulay was feeble and emaciated after the voyage, and depended on his eldest son Donald, aged ten, to help him dress and move about. The government agreed that Donald should remain with his father until he, the father, could be taken in at Sydney Hospital and that he should then be apprenticed to a suitable master. The four younger children were to be admitted to the orphan schools. Anne, Flora and Mary were to go to the Female School, while Rory, aged ten months, was to go to the Male School, or to the Female Factory if he seemed too young. But Rory was dead before the government was obliged to come to any decision about him.

Hector McDonald, a stockman from Brackadale in Skye, was left with seven children, five girls and two boys, ranging in age from eleven years to twelve months. McDonald was required to keep the baby, Mary, but the other six were



The Brothers was chartered by James and William Macarthur to bring out emigrants, mostly farm labourers from Wiltshire and Dorset, to their estate at Camden Park near Sydney. It arrived in 1837. Undated oil by Robert Towns.

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accepted into the orphan schools. Similarly, the elder of John McKinnon's two children, Anne, aged two and a half, was accepted at the Female Orphan School, while his son, John, stayed with him. Angus McDonald's nine-month-old daughter, Catherine, and John McKay's fifteen-month-old daughter, Mary, were also left with their fathers, who, it was presumed, would be able to make some suitable arrangement for their care. Until they could marry again these men had no alternative but to find and hire for their babies substitute mothers.

Thus families emigrating to find a better way of life could instead be destroyed. Many arrived safe and sound and did well, but the gap between expectation and reality was expressed in a kind of suffering which the government found hard to ignore. The process of assisted emigration was closely watched within official circles in Great Britain and Australia. Inquiries were easily carried out, and statistics could be spun off in a succinct and cogent manner. The more up-to-date officials loved statistics. They were a new instrument of government, a dazzling expression of efficiency and power. In the case of assisted immigration, however, the columns which numbered the dead for every voyage measured failure. They charted the gap, not only between expectation and reality, but also between the large schemes of government and official ability to make them work. While immigration was supposed to establish a new order and a new sense of purpose among the families of the poor, it often brought chaos.

FATHERS OF THE PEOPLE

Although South Australia was a community of recent immigrants, the South Australian government was beginning to be concerned largely with the sort of matters that usually concern governments—not only with people coming from the ships anchored at Port Adelaide and Holdfast Bay, but with those trying to make lives for themselves among the new streets and farms. The authorities had a clear duty to look after poor men, women and children while they were still merely immigrants: to keep them fed and clothed and as far as possible healthy. But what happened when they became settlers supposedly providing for themselves?

Governments of the convict colonies had to ask themselves similar questions. While men and women were convicts they must be provided for. If prisoners had not been sentenced to death at their trials there could be no excuse for starving them, or killing them by neglect after they came to this country. But what happened when they ceased to be convicts? No government anywhere was expected to feed, clothe and shelter its free subjects, except in indirect and often piecemeal ways. This was hardly adequate for the sick and the helpless aged. In Australia, especially, there was not enough private wealth to finance the hospital system, and the state itself had to take some responsibility for having forced or encouraged poor men and women to come so far from family, friends and traditional means of support. There was still some official sympathy with Governor Macquarie's declaration that 'His Majesty's subject [ought not to] starve or perish from want of a house on the shores of New Holland'.

In Western Australia the government took the remarkable step of providing food for some of its less fortunate subjects. Here is a recommendation from a Perth magistrate to the colonial secretary, sent in October:

I hereby certify that I have examined into the circumstances of Maria Hudson of Perth Widow and I believe her unable to maintain herself and three young children by her own Industry—And that She is not an habitual Drunkard.

I recommend Two pounds of flour a day to be issued to the applicant, Maria Hudson.

But the situation in Western Australia was peculiar. There was much poverty because employers could not pay for anything but the most necessary labour, and the population was very small. Cases like Maria Hudson were both hard to ignore, and unlikely to set a crippling precedent. Matters were quite different in Van Diemen's Land, where the former governor, Colonel Arthur, had refused to provide any money for the systematic relief of the poor. By 1838 destitute men and women were for the first time cluttering the streets of Hobart Town.

In Van Diemen's Land the senior medical officer, Dr John Arthur, had long argued that the hospitals were meant for convicts, and that free men and women, even ex-convicts, had no right to their meagre services free of charge. If they were paupers they should, he thought, be put to work: 'the little comforts now issued to them, as of course, should be made the rewards of labor'. For instance, they might be told to help in the hospital garden, or to break stones like convicts. Governor Franklin and his advisers were doubtful about this idea, unless the work could be properly supervised by some responsible official: it was too easy to subject the old and the sick to petty tyranny. Besides, the government and most officials on the island still subscribed to an old-fashioned and relatively spendthrift kind of paternalism. They saw generosity as one of the hallmarks of a ruler certain of his power, and they were not inclined to be tight-fisted with government bounty. In colonial terms, Dr Arthur was a little ahead of his time.

All the same, by 1838 it had been definitely settled in both convict colonies that no free person could expect official charity as a mere matter of course. There was agreement with John Arthur's more general assumption, that men and women in authority should discourage the poor from expecting too much. In Van Diemen's Land any persons needing hospital care and unable to pay for it had to produce a letter from a magistrate or clergyman, confirming that they really were destitute, without friends to provide for them. In 1836 the newly appointed senior medical officer for New South Wales, John Thompson, had called at Hobart Town on his way to Sydney. He was impressed with this system of recommendation, and introduced it at Sydney.

In both convict colonies the situation was further complicated during 1838 by the fact that the British government now required all free paupers to be supported in future on colonial funds. The government hospitals were maintained by the imperial treasury, because they were intended for convicts and were therefore part of the imperial penal system. There were three such institutions in Van Diemen's Land—at Hobart Town, Launceston and New Norfolk—which also catered for free people; and seven in New South Wales—at Sydney, Parramatta, Windsor, Liverpool, Goulburn, Bathurst and Newcastle. The secretary of state now ordered that any free men and women among the patients who could not pay for themselves must be supported by the colonial government, so as to offset some of the burden on the imperial treasury. This hardly seemed fair to colonial officials. They argued that many of the free sick were ex-convicts who had always been invalids, and whose presence in this country had never benefited it at all.

Paupers gathered mainly in the big towns. The records of the Parramatta hospital suggest that about a tenth of the patients there were paupers. Throughout New South Wales the figure was more like a twentieth. Nearly all the rest were convicts, paid for by the government unless they were in private assignment, when their employers had to pay. A very small number were free people paying for themselves, at three shillings a day. Hospitals were asylums. No men and women went to a hospital for treatment if they had a roof of their own and friends to look after them, because there was very little more that a hospital could offer. So the free patients who paid for themselves all had a little money but no home.



The Reverend Samuel Marsden. For many years, as senior clergyman of the Church of England in New South Wales, Marsden had a range of official duties beyond promoting the worship of God. Later an archdeacon, and then a bishop, were appointed over him: still he was involved in the management of Church of England schools, of the female factory at Parramatta, and of similar enterprises. Watercolour by J. Read, 1833.

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Francis Laurentitz, for instance, had been a servant, and he had £7 to his name when he entered Sydney hospital in February. A sum which might well have represented six months wages was nearly gone in so many weeks on hospital fees. He then qualified as a pauper, and as such his continued treatment was approved by the governor.

Hospitals were not the only means by which people might receive medical treatment free of charge. The government surgeons were salaried, their main duty being to the convicts, but at the same time they carried on something like private practices. Patrick Hill, who was surgeon at Liverpool, maintained that 'nine tenths of my services have been rendered gratuitously', to people in and around the town. The main beneficiaries of this system were the free poor.

The question as to which treasury was to pay for the poor in hospital was a matter for government to decide. More important for the invalids themselves was Dr Arthur's idea that destitute men and women should not expect their governments to look after them without, if possible, their doing something in return. Arthur could find support among the most respectable and up-to-date writers. In England the new Poor Law, passed in 1834, was formed entirely on principles like this. Under the Poor Law paupers were positively discouraged from asking for state charity. Those who did so—if they were at all capable of working—were to be confined to workhouses. Men, women and children, including members of families, were to be permanently separated within the workhouses, and given labour appropriate to them. Only in this way, it was argued, would self-help be encouraged among those who managed to keep out.

In South Australia, the colony of immigrants, these were keenly debated issues. The province was supposed to be superbly up-to-date. As in Van Diemen's Land, so in Adelaide it was the principal medical officer, Thomas Young Cotter, who argued most strenuously that the government had no absolute duty to its people. Cotter was under the authority of the resident commissioner, and he was supposed to be mainly concerned with the immigrant labourers sent out by the commissioners in London. But he was also in charge of the hospital at Adelaide—the Infirmary—and for this he was responsible to the governor.

In January Cotter wrote to the colonial secretary complaining of lack of funds for the Infirmary, which was currently 'without either fuel, light, soap, or the means of procuring them'. The Infirmary was a hut of two or three rooms, one of them being used as a dispensary for out-patients. It was badly maintained by the government, partly because the colonial treasury was very short of funds. Cotter complained again during the winter, declaring

the building is ill constructed and badly ventilated, . . . the bedding consists of a few dirty blankets, great coats, and sacks sewn together and filled with shavings— . . . there are [only] three iron double bedsteads (*borrowed*) in the building.

The matron had left, and since there was still no money for wood, water or candles, Cotter now found himself obliged to announce that he could take no more patients. In response to this ultimatum, the acting governor set up a board of inquiry, which recommended that the government immediately supply eight stretcher beds and new bedclothes, and £10 worth of medicines, and that each week £2 be set aside for the employment of a matron and the purchase of supplies, together with fifteen shillings for the support of each patient.

Conditions in the Infirmary had already forced a certain degree of self-help on the patients. In January, when there were three of them, they had clubbed together to buy a candle. Later, when the matron left, they had looked after each other. It

was this spirit of self-reliance, though at a more respectable level, that Cotter wanted to encourage throughout the colony. In May he took action on his own. He composed a long letter 'To the Working Classes of South Australia' and published it in the *Southern Australian*. This document was a remarkable example of the kind of ideals which had formed the settlement in the first place, and which made it such a typical creation of modern English philanthropy.

Cotter began by congratulating his readers. They were members, he said, of a 'splendid scheme of Colonization'. In England, admittedly, they had lived 'in the bosom of a State' whose civilisation and liberties had no equal anywhere. But this had been no good to them as long as they were poor, living from week to week 'with little or no provision for sickness and old age, and none whatever for the support and future welfare of your children'. Here, thanks to the 'benevolent Founders of this Colony', they might prosper and so hope to become British subjects in a fuller sense.

But much depended on the working people themselves, he urged, for the members of *every* class must know and do their duty:

in vain have these gentlemen done this, if acting from habits which were perhaps natural in a position where hope was dead, you continue to live from hand to mouth, spending your earnings in reckless extravagance, making no provisions for the future;—in vain has been their toil . . . [and?] their pecuniary expenditure, unless by adopting habits of economy and forethought you avail yourselves of the opportunity of establishing an independence with which they have afforded you.

The lower orders must organise themselves. With 'a trifling monthly subscription' from each working family Cotter believed that a fund might be created, and a benefit society or 'Medical Club' might be formed which would make them secure for the future and independent of all charity. Such an institution would encourage 'habits of economy and forethought' in all aspects of working class life. The end result must be a more contented people, and a happier relationship between government and subjects, master and man.

The issue of the *Southern Australian* which carried this letter also announced 'To the Working Classes' that a meeting would be held in the Wesleyan chapel on the following Thursday night to plan an 'Independent Medical Club'. When the night arrived the chair was taken by David McLaren, manager of the South Australian company, whom we met in chapter four as an unsuccessful ruler of men on Kangaroo Island. The 'working classes' themselves did not rise to the occasion. Instead of forming a benefit society the gentlemen who turned up at the meeting therefore decided to found a new hospital, managed by themselves. Except in the case of accidents, patients were to be admitted only at their own recommendation, and it was up to them to decide who was worthy.

This was to be a voluntary, or free-enterprise institution, offering an alternative to the government Infirmary, and its founders were friends of the resident commissioner rather than the governor. But the arrival of George Gawler, as both resident commissioner and governor, made such duplication unnecessary. Instead the government itself adopted, as far as possible, the principles of self-help and free enterprise in its management of the sick.

In December the Infirmary was reformed. A board of management was appointed by the governor and a list of rules worked out which were very like the ones envisaged for the voluntary scheme. Only the truly destitute—after their poverty had been investigated by the board—were to be treated free of charge, and none was to be admitted without seeing a board member first and getting his

approval. When Cotter recommended independence to 'the Working Classes' he meant economic independence, not moral independence. In this new utopia individual action and character were to be the means of all success.



Welfare was an area of public affairs where there was a clear alliance between the government and the highest rank of colonial society. The moral traditions which had developed over centuries in England had made the government in the mother country in some sense a committee of the aristocracy and gentry, carrying out those paternalistic duties and enforcing those rights of property and status which were beyond the means of local elites. This was not altogether true in the Australian colonies, where the idea of the Queen's commission was more potent. It made the local executive—the gentlemen entrusted with Her Majesty's authority—like a delegation from abroad rather than a local institution. The rulers here did not have inherited patterns of authority and powerful independent institutions to work through. Power came from Downing Street.

Yet each colonial government still had to behave like a father to the people, inviting loyalty, obedience and affection by a show of concern for their comfort, security and health. The usual compromise in Australia was the creation of voluntary organisations linked to government by the participation of senior officials, magistrates and clergy, especially Church of England clergy. In some cases wives of such gentlemen were involved as well. If freemasonry looks like the reform leadership under another name, then the same can be said of welfare societies and the conservative leadership.

The official element was especially marked if there was also a government subsidy. On the other hand the voluntary aspect of these institutions meant that there was no need for the individuals in charge to follow the lead of the government in feeling responsible for the whole community. This ability to give or withhold, to invent their own standards, increased their power over the men and women who came to them for help. In dealing with the government the poor had some traditional rights. They had none against a body which, in theory at least, was a private charity.

The largest organisation of this kind in the four colonies was the Benevolent Society of New South Wales, formed in 1818. Its stated aim 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, as well as to afford them religious instruction and consolation in their distresses.

Supporters of the Benevolent Society found it impossible to separate religion and social concern and saw the development of religious habits as the first step towards rehabilitation, whether the object of their attention was a criminal or a pauper. It was a self-help, charitable organisation run on the subscriber system, heavily subsidised by government grants and supported also by fines imposed in the colonial courts. It operated under the management of a 'general committee' with the governor as patron. Alexander Macleay, the former colonial secretary, was president, Richard Jones, a senior member of the legislative council, was treasurer, and the Reverend William Cowper, dean of Sydney, was one of the two joint secretaries.

Membership of the society cost one guinea a year and a subscriber donating 30 guineas in one year, or a clergyman raising £30 from a collection sermon preached

on behalf of the society, was automatically given life membership. Donations were accepted in either cash or kind and subscription lists were open at all banks. The publication of subscribers' names gave the needy a means of access to the society, for only subscribers could bring cases to its attention.

Charitable relief offered by the Benevolent Society fell into two categories, indoor and outdoor. Indoor relief was dispensed at the Benevolent Society's asylum, just beyond the turnpike gate at the western end of Sydney. The case of the Tobin family gives a good picture of the indoor aspect of the asylum at work. Michael and Mary Tobin were an ex-convict couple living at Lower Portland, on the Hawkesbury River, with their two daughters, Catherine and Elizabeth. Michael was a boatman, and to all appearances a hard-working family man. But each Sunday, to supplement his income, he loaded his boat with spirits for illicit sale to the settlers up river. In August 1837 he threw, or was supposed to have thrown, one of his drunken patrons into the water, and the man drowned. His subsequent arrest shattered his family's security.

Mary Tobin, determined to attend her husband's trial, took the children and followed him to Sydney. In Sydney gaol Michael was relatively well looked after, but in the town Mary was quite alone, without food, shelter or income. She was also without hope. Her husband's principal witness had been confined to Windsor gaol for debt and was unable to give evidence, and another, a free settler named John Brown, dropped dead on the day of the trial. Michael was convicted of manslaughter and sentenced to Norfolk Island for life. On the following day, Mary and the children were admitted by the Benevolent Society to their asylum, that being the only institution providing temporary shelter where families could be kept together in times of crisis.

The Benevolent Asylum incorporated features of both poorhouse and workhouse. In England, under the 1834 Act, workhouses were intended to be 'the hardest taskmaster and the worst paymaster a man can find, and thus induce him to make the application for relief his last and not his first recourse'. This sentiment was only slightly diluted in the charter of the Benevolent Society. The society reiterated in its annual reports that it did not encourage or provide comfortable asylum for the 'idle, the dissolute and the incorrigible, the vagrant or wasteful', yet when such characters came under its care, as they often did, the policy was 'to exercise a strict and humiliating discipline for their moral improvement'.

The asylum carried a staff of only eleven, and in order to maintain services to the sick and dying it relied heavily on inmate labour. Inmates needed permission to leave the premises, a privilege sometimes granted for two hours on a Sunday afternoon. At other times they were kept within the asylum walls and even the religious services were held within the asylum by clergy and lay preachers on a roster basis. Thus Michael Tobin's imprisonment was followed by that of his wife and little girls. Mary Tobin was given permission to go out on 1 December, and perhaps she saw her husband then. He sailed for Norfolk Island aboard the *Isabella* two weeks later. They could not expect to meet again.

Accommodation and financial resources were stretched to the limit at the asylum, and the society made a practice of transferring all children over three to the government orphan schools, unless they were mentally or physically handicapped. Catherine Tobin was transferable and on 5 February the colonial secretary was asked to approve her move to the Female Orphan School at Parramatta. Whatever the colonial secretary might have thought, Mary, her mother, did not approve, and protested violently. She was brought before the house committee.

Disruptive behaviour would not be tolerated. In the crowded conditions in the asylum, discipline was necessarily rigid. Fights frequently broke out in both male

and female wards, foul language and abuse could be heard in the wards, and adversaries commonly emptied teapots and chamber pots over one another. The punitive measure most frequently taken was the withdrawal of tea, sugar and tobacco, but offenders who returned drunk after Sunday leave were often confined to the premises for up to three months. The worst behaved were given one week to find a situation and expelled. Mary Tobin's punishment, if any, is not recorded, but on 5 October Catherine was removed to the Catholic Orphan School, and not to the Parramatta school as originally planned. The Tobins were Catholics: Mary had at least won for her little girl guardians of her own faith. Finally, two days after Christmas the society sent her and her baby, Elizabeth, back to Windsor, with sufficient money and provisions to carry her safe home.



Distressed families living in Sydney and receiving 'outdoor' relief from the Benevolent Society were called 'outpensioners'. For them the regular issue of bread and meat was often their only relief in the face of starvation. Cases were carefully assessed before any help was given. The general committee delegated the routine executive work to an 'acting committee' of about nine members, who were responsible for the disposal of funds and decided which cases deserved relief. Six district visitors were appointed from the acting committee, each overseeing different parts of the Sydney area and calling regularly upon the outpensioners.

At their initial visit these all-powerful gentlemen assessed not only the size of the family to be helped, and its particular problem, but also whether any in the household could read, whether they had a bible, testament or prayer book, and if they attended public worship and observed the Sabbath. They also investigated whether children were being brought up with a right attitude to God, the Queen, and the need for honest work, 'that they may do their duty in that state of life into which it shall please God to call them'. The society's annual reports invited neighbours and others to report any lapses of behaviour, promising that these would always be punished by the 'marked displeasure' of the general committee, 'and, at least, a temporary suspension of the aid afforded'.

The Benevolent Society did not urge on Sydney people the kind of radical self-help that Thomas Young Cotter hoped to see in South Australia. But nor was it so old fashioned as to maintain, in simple Christian charity, the lazy, the wicked and the disrespectful.

MASTERS OF THE SOIL

The British based their title to the land, as against the claims of the Aborigines, on the argument that they alone 'used' the soil. By this they meant that they drew from it products which they could buy and sell.

It should have followed from this argument that any British settler, or group of settlers, who 'used' the soil thereby owned it. This was not the case. It was not enough simply to make a home for oneself on the land, to agree with neighbours about boundaries, to dig the earth and to send sheep and cattle among the pasture. In the four colonies this did not establish anything like a strong title from an official point of view. It might have done so in some earlier European settlements, at least for a time—the older American colonies for instance. Ironically, the Aborigines themselves allowed lawful possession roughly on criteria of this kind. Among the British settlers in Australia, however, the crown went everywhere first. The government alone decided who were to be first possessors of the soil, with a title good in law.



Surveying party at work.
Watercolour by Owen Stanley, 1846–49.
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In fact the crown might allow title even before land was used at all. Many colonial gentlemen had not even seen their estates when they took formal possession. As we have seen, the method of distributing land in South Australia was worked out in London, to conform with the principles of E.G. Wakefield's scheme of colonisation. Officials in London admired these principles so much that they tried to apply them in some measure to all the Australian colonies, especially by regulating the price of crown land. The maintenance of rank in society was one of their chief aims in the distribution of the soil. The price was to be set so that the rich might easily buy estates to support their dignity, while labourers were to be kept in their place because the cost of freehold was beyond them.

The British settlers in the Australian colonies were really the last people who should have talked about deserving the land because they 'used' it. As we shall see, some settlers did form expectations based on their use of the soil, but they received no official encouragement. Formal title to land in British Australia did not depend on use very much at all. It depended on power, including the power of government. It was government which drew the boundaries and put up the signposts for free enterprise—for the working of the real estate market described in chapter five—and thereby government decided, in general terms, who would be masters of the soil in Australia.

In their control of the land, governments in Australia shared their power with private capitalists. Since first settlement, landowners and potential landowners had usually understood that it was in their interests to accept the government as the arbiter of all claims. As we shall see, this was no longer quite true on the outskirts of settlement, but such a reliance on government generally made for good order in the process by which the British gradually spread themselves over the new country.

It did lead to some administrative problems. For one thing, officials were not always completely efficient in their survey and distribution of land. In Van Diemen's Land all grants made before 1826 had been drawn up in Sydney, because the island was then a dependency of New South Wales. Measurements made at such a distance were often wildly inaccurate, and when better surveys were done during the 1830s many Van Diemen's Land settlers lost part—or even all—of the land they thought had belonged to them, together with improvements. The problem had been complicated by the discovery, in 1829, that all grants made so far were invalid because of a legal technicality. In 1835 a caveat board was appointed by Governor Arthur to hear all cases of disputed possession. It sat as a court 'of equity and good conscience', which means that it had to take into account the way occupiers had used the soil. To some extent then, government was obliged to consider use as a basis for legal title in Van Diemen's Land.



Samuel Augustus Perry, acting surveyor-general of New South Wales. Before coming to New South Wales in 1829, Perry was an army officer. Painting by an unknown artist.

J. OPPENHEIMER

Throughout all four colonies, even with the best will in the world, and the most efficient methods, governments would have been unable to meet all demands for land. All the surveyors-general received complaints that they were too slow in their work, but their resources were very limited and their duties were enormous. The Queen's commission to the governors, as we have seen, included instructions to divide up their respective territories into counties, hundreds and parishes. This would have taken several generations to achieve, given the manpower available in 1838, but settlers seemed unable to appreciate the immensity of the task. They found it hard to believe that land they wanted was not yet available because it was unsurveyed.

Thus, on a spring afternoon in Perth a man named Peter Wicks entered the survey office and confronted the surveyor-general and his two draughtsmen. He was entitled to 200 acres from the crown, and he explained what land he wanted. He was told that the area he named was not included in any survey so far, so that he could not have it without making a special application. From this point we have only the official side of the story:

Much insolence and irritating language being then used by P. Wicks, he was told by the Surveyor-General he had received all the answer that could be here given him, and that he must immediately quit the Office, instead of which, he shewed ... a determination to resist, by putting himself in a threatening attitude, and telling [the] Surveyor-General that 'as he would not do the business of his Office it was quite time he was turned out of it'. The Surveyor-General then approached for the purpose of expelling him, if he did not immediately go out. Wicks thereupon seized the Surveyor-General by the collar with both hands, but was speedily ejected, placed on his back outside the door and finally forwarded to a magistrate to be dealt with.

Next day Wicks was convicted of assault and fined. As he was a labouring man on the make, he may well have believed that the government aimed to deny him the dignity of landownership.

In New South Wales the survey department employed only eight surveyors and

William Light, surveyor-general of South Australia. Self portrait in oil, c1839.

ART GALLERY OF SOUTH AUSTRALIA



Messrs. Fisher and Handcock's station near the Gawler Range, South Australia. Watercolour by William Light, 1839.

ART GALLERY OF SOUTH AUSTRALIA



was responsible for territory stretching from Port Macquarie in the north to the newly opened lands of Port Phillip in the south. The task of surveying land for pastoralists, and farmers, for town reserves and roads was immense and the situation was not helped by the fact that the surveyor-general himself, Major Mitchell, was absent from the colony. His duties were carried out by his deputy, Samuel Augustus Perry, who in January stated that 'the whole force of this department is insufficient to carry on even the current business of the office'. Anything beyond their normal round was out of the question.

The delay in distributing crown land within the settled districts was intolerable for most new colonists arriving with capital, and aiming to invest in livestock. Instead they chose to move out beyond the limits established so far by the government surveyors. In South Australia wool growers might apply for leases of unsurveyed land, and in several cases they were already in occupation when they did so. J.B. Hack's Joint Stock Cattle Company took up sixteen square kilometres on the Onkaparinga River, moved two hundred cows and heifers onto it, and built a dairy and stockyard before they applied for a lease. Presumably this strengthened their claims. But it gave them no certain prospect of a freehold title.

In New South Wales annual licences to graze stock on crown land supplemented crown leases. These licences were issued without any reference to the land being used. They referred mainly to the character of the licensee—the squatter—and not to the site he or she occupied. This was in spite of the fact that squatters could operate efficiently only by settling within fairly well defined boundaries. Moreover, squatters' runs were often distinguished by some name and contained huts and stockyards built by themselves. On these squatting runs tenure by *use* was beginning to run dangerously ahead of tenure by legal *title*. Governor Bourke had been keenly aware of the danger of letting squatters believe that they might have rights to the soil they used, a belief which could only strengthen with time. He had faced a similar problem as acting governor at the Cape of Good Hope. The licence system was a means of asserting the title of the crown over 'waste' land. His successor, Governor Gipps, had so far simply carried on this system, though it was fast becoming inadequate.

For those settlers in New South Wales who already owned land it was not difficult to establish respectability, and hence eligibility to hold grazing licences. Others had to provide proof of their capital, and of their intention to settle in the colony. There were many, however, who were ineligible for a licence, or unwilling to apply for one. They were mainly cattle owners, and included men and women who found it more convenient to run their stock among the bigger herds of friends and employers. Others had 'visible means of obtaining an honest livelihood', and for others again the invisible hand of free enterprise was a hand skilled at bringing in and rebranding cattle conveniently lost.

It was not a new practice to 'go bush'. Since the turn of the century people had found secluded sections of good country in remote parts and, without authority, built a slab hut and yards near water and, if undisturbed for some years, had begun to believe that they had a right to the land they occupied. Surveyor Larmer, working near Queanbeyan, found William Skate established as a blacksmith near a settlement of huts and a store run by Hurst and Buckley on the west bank of the river. Surveyor Townsend was working on a survey of a road running south to Port Phillip when he reported that at Bigalong, near the Murrumbidgee River, Edward Green had built a slab inn, consisting of six rooms lathed, plastered and ceiled inside, and a kitchen adjoining with two rooms. There were two huts for Green's men and he had thirteen acres fenced with post and rail. Neither Skate nor Green had any title whatever to such land.

Occupants of land such as these, who had established themselves without permission, were usually given official approval if they were considered useful to other colonists. In June, John Lambie, the commissioner of crown lands at Braidwood, was instructed to issue a grazing licence without fee to Michael O'Donnell who was living near the Snowy River at Myco. O'Donnell was a blacksmith by trade, useful to pastoralists and had a 'good character'. Similarly Daniel Driscoll, an honest, well-behaved, industrious man, who had established an inn at Eucumbene, the only place of accommodation for some twenty miles, was a 'deserving individual' and was recommended for a free licence.

The system of grazing licences was an attempt by the government to take account of land use already effective among the people. By offering free licences to men like O'Donnell and Driscoll government went even further, holding out a form of legal tenure before the landholders themselves had asked for it. It was important for the sake of law and order that government keep pace with the thinking and movements of the people, and accommodate within the legal framework of land tenure the many and varied ways in which the rights of possession were commonly understood.



From a popular point of view the best means of establishing a right to land was possession over many years. 'Birthright' was the best of all. It was the idea of birthright, for instance, which led some of the native born to argue that they, the very 'sons of the soil', had a better right than anyone to own it. This had clear implications for the Aboriginal title to land, as one native-born gentleman admitted. James Macarthur of Camden in New South Wales told a story of an Aboriginal elder named Bundle, whom he knew well. 'A long while ago,' he recalled,

Bundle was out with a flock of sheep which had strayed on to the Government land. A Government stock keeper met Bundle, and told him he would put his sheep in the pound. Why so? asked Bundle. Because they are on the Government land, says the keeper. The Government land, cried Bundle, well, that's a good joke; it's my land, and was my father's, and father's father's, before me, and if you're not off, I'll put you in the pound.

Here was an outraged sense of dynasty, of ancient attachment to the soil, which rather appealed to conservatives like Macarthur, though it cut directly across the government's control over titles. Besides, the sheep were probably his own.

The claim which men and women might establish over a well-defined piece of crown land by living on and working it—*using* it—as their own for a number of years had slightly more substance. Rights could be established in this way even within the system of grazing licences, as we have seen. The 'free will' to pasture might thus become an object of sale, like land itself. For instance by 1838 William Adams Brodribb had bought and sold one grazing run, and was occupying another with his cattle, beyond Yass, in the southern parts of New South Wales.

Small stockowners, in particular, were likely to attach themselves to pieces of crown land, and so establish a kind of informal right over it which they believed was proof against all comers but the crown itself. Such people were likely to depend on the maintenance of such rights rather more than the big men, who had the resources to move about between stations. A dispute in 1838 between William Lawson junior, a very big squatter, and some small stockholders beyond Bathurst shows the difference very clearly. This being a time of severe drought, grass was very scarce in the west, and the large flocks of the Lawson family were sent to wander in search of feed all over the district. The smaller squatters protested that

the wealthy Grazier possessed of large tracts of land of his own to which he may remove his sheep as they become poor is enabled by bringing in other flocks to hold out longer than one with less means and so force the latter from a country he has gone through many hardships perhaps to settle himself.

In doing so, they said, he interfered with boundaries in areas where 'there is no guide but old usage, which Mr Lawson has set at defiance most thoroughly'.

A community might also, by 'old usage', establish a right over land, which was thus held in common by the members. In earlier years land had actually been granted to townspeople for their common use—along the Hawkesbury valley for instance—and administered by them. But it was more usual for such common rights to be informal ones, although sanctioned by government. In South Australia the circle of reserved land around Adelaide, called the Parkland, was to some extent a common. It was also the home of a large number of new immigrants who were living there in tents until they could find something better. In May the governor ordered their removal. In a petition appealing for delay, the people admitted that His Excellency had the right to eject them, but they took it upon themselves, as they said, to 'return their thanks to your Excellency for your care of the Park Land as public property; and hope your Excellency will as the conservator of their rights, maintain them in the uses of that Property as assigned to them'. Their exact meaning is not very clear, but they apparently saw the rights of the crown as not quite absolute against their own, or at least as implying certain paternal obligations.

Occasionally community ideas about tenure of common land might prevail even in spite of strict legality. This was because of particularly strong English precedents arising from the fact that many English villages had held common land from time immemorial. At Guildford in Western Australia there was a piece of land next to the town originally laid out as a reserve for a school, and called the School Meadows. It was used by the townspeople as common land and they ran their livestock on it. It formally belonged to the crown, however, and the government had accordingly leased it to Richard Goldsmith Meares, a local magistrate, and he had cleared and fenced it and sown it with grain. The people of Guildford, on the other hand, argued that the land was 'part of the townsite in which . . . they all had an equal right'. They 'pull'd down the fencing on the town side, determined not to be fenced out and burn'd the timber'. Meares' crop suffered so much from 'the continued aggressions of the townspeople' that he ended up making a loss on it. He eventually admitted that 'The People have been right'.

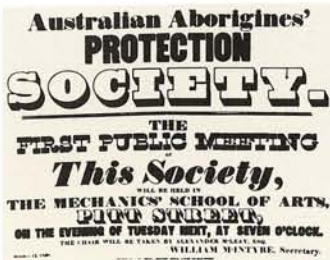
The government in Perth would agree to no such limitation of its power over crown land. Meares asked to be compensated, arguing that the lease was invalid, but he got nothing. His was not a case of enormous hardship. But it does show that even in Australia the gap between official title to land and customary rights might well be wide enough for even a man of substance to fall into.

THE IMPENDING CATASTROPHE

At the Westminster end of London's Strand stood Exeter Hall, the hub of Church of England evangelical activity and missionary work throughout the world. Above the high entry portal was the Greek inscription 'PHILADELPHIION', signifying 'loving brethren'. Inside was a great hall which housed over three thousand people, a smaller hall, and rooms to accommodate a host of associations fighting specific causes, from the prevention of cruelty to animals to the conversion of the Jews. Every year at the so-called 'May meetings' the building reverberated to tumultuous applause as orators denounced the evils of the world and proclaimed the Christian gospel as the means of righting them.



Exeter Hall, London. A crowd enters from the Strand to attend one of the meetings devoted to religious and moral reform, for which Exeter Hall had become a by-word throughout the empire. F.M. Holmes, Exeter Hall and its associations, London 1881.



Soon after the Aborigines' Protection Society was formed in London local branches were established in various colonies, including New South Wales.

ARCHIVES OFFICE OF NEW SOUTH WALES

The May meetings of 1838 included the first annual meeting of the Aborigines' Protection Society, which had been formed with the object of 'protecting the defenceless, and promoting the advancement of uncivilized Tribes' across the globe. In the chair was Thomas Fowell Buxton, the successor to William Wilberforce as parliamentary leader of the movement against slavery; and in the audience were baronets, parliamentarians, clergymen and other notables, including some with a special interest in the Australian colonies. A report was read which conceded that British influence, resources, enterprise and valour had unhappily spread misery and devastation; that extensive lands had been obtained with manifest injustice and cruelty from their rightful possessors; and that the British public had treated such matters with 'criminal indifference and apathy'. Yet the report left room for hope, its authors discerning a newly awakened spirit of inquiry in Britain. With this encouragement, the meeting concluded by unanimously supporting resolutions which welcomed the dawn of 'a new and better era'.

They had ample reason to be hopeful. In 1834 the House of Commons had passed a resolution supporting a just and humane policy towards the native inhabitants of the colonies, and in 1835 a select committee had been appointed to inquire into their treatment. This committee was chaired by Buxton and included four other members who subsequently sat on the founding committee of the Aborigines' Protection Society. Its final report, tabled in 1837, was a direct challenge to governments at home and in the colonies to do something about the treatment of indigenous peoples. Those who hoped for a new era could also take heart from the composition of the Colonial Office. Lord Glenelg, the secretary of state, and Sir George Grey and James Stephen, the two under-secretaries, all had strong connections with Exeter Hall. Grey had sat on Buxton's committee and had helped to draft its report. Stephen was the son of the elder James Stephen, who had stood beside Wilberforce in the struggle against slavery. He was also well known in his own right for his humanitarian commitment.

If just and humane policies were to succeed anywhere, surely South Australia offered the most likely venue. There were no convicts, and the immigrants were supposed to be mainly Christians of the dissenting sects and virtuous artisans. When the first colonists landed at Holdfast Bay late in 1836—at a spot which Governor Hindmarsh named 'Glenelg'—Lord Glenelg had already been twenty months in office. He instructed Hindmarsh to promote the Aborigines' advancement in civilisation, to protect them in the free enjoyment of their possessions, and to prevent by all lawful means any violence or injustice practised against them. The new governor took these orders seriously, warning the colonists in his first proclamation that he would use 'exemplary severity' in defence of the blacks. Perhaps the Colonization Commissioners were right in predicting that the settlement of South Australia would be 'an advent of mercy to the native tribes'.

Hindmarsh had some difficulty in finding an effective 'protector of natives', an appointment which Buxton's committee had recommended and the Colonial Office had insisted upon. The first protector held office for only two months. The second lasted a little longer, but was described by the *Southern Australian* as 'an old decrepit useless creature, . . . too impotent to excite anything but emotions of pity from the whites and contempt from the blacks'. He was replaced by the surgeon William Wyatt, whom we met in chapter six.

Although Hindmarsh and Wyatt tried hard to promote racial harmony, they were unable to prevent occasional aggression by one party on the other. In March 1838 the settlers shot several dingoes that had been killing fowls and worrying sheep, and blacks speared a white man in retaliation. This and another spearing on the following day threw the small community into panic. Hindmarsh acted quickly

and soberly, speaking to local Aborigines himself, and publishing a proclamation intended to allay the fears of the white population. He was confronted by violent calls, even from 'some of the superior class', to avenge the murder and had to move carefully. Not only the maintenance of peace, but even the continued authority of government was at risk.

The policy of Hindmarsh's successor, Governor Gawler, was more grandiose but less even-handed. A week after the banquet which we witnessed in chapter six, Aborigines speared and took away some calves and lambs. This prompted Gawler to issue a notice which differed significantly in emphasis from Hindmarsh's proclamation of eight months earlier. His Excellency impressed upon the settlers the need for forbearance. But he assured them at the same time that the government would use vigorous measures to check 'the disposition evinced by the Aborigines to commit depredations upon private property'. Even now he and his advisers were considering means of punishing such misconduct with 'wholesome severity'. Here was a bitter contrast to the 'exemplary severity' with which Hindmarsh had threatened British transgressors.

So far, most reported incidents of violence had taken place in or near Adelaide, more or less within the purview of the governor and the protector. What would happen once colonists began to settle in large numbers on distant farms? As early as December 1837 a group of settlers sympathetic to the Aborigines, and with the experience of other colonies before them, warned of an impending struggle for the soil. The rapid growth of the white population was in itself a threat: in October 1838 Acting Governor Stephen warned Lord Glenelg that the Aborigines' future means of existence was 'in truth seriously threatened by the tide of Emigration'.



The colony in Western Australia experienced no great tide of emigration; just a little wave which fell on a shore so barren that many potential emigrants decided to set their sights elsewhere or to stay at home. For all that, the colony suffered in its first decade a dismal history of race relations. The Aborigines resisted the British invasion by attacking the colonists, their livestock and other property. The colonists retaliated, often indiscriminately. In one notorious incident in 1834, Governor Stirling himself led an expedition against a party of blacks at Pinjarra, eighty kilometres south of Perth, which resulted in the death of one soldier and at least fifteen Aborigines. Again in 1837 there were numerous recorded acts of violence, and no doubt many unrecorded.

In Perth, where the Aborigines were probably more numerous than in Adelaide, the main instrument of government policy was Francis Armstrong, who since 1834 had occupied the position of interpreter and superintendent of the native institution. Armstrong was earnest and diligent, but ineffectual. He arrested Aborigines for stealing and cheating, only to find that no-one would punish them, presumably for fear of repercussions. He tried to get the constables to chase away or cover up those who came naked into the town, only to be told by the constables that they had better things to do. He attached pieces of cloth himself to offending Aborigines, but they soon returned to town in their former immodest state. When he took Aboriginal women and children into his care, one of his neighbours complained about the noise and the threat to property values.

By October, when he had nearly given up, a number of the colony's leading men, including several senior officials and magistrates, signed a petition to the governor asking him to do what Armstrong had so far failed to do: to suppress violence among the blacks and to conceal their nakedness. The author of the

petition, Henry Trigg, a builder, explained in a covering letter that he was 'fully aware of the ticklish ground on which His Excellency stands as to interfering with the Natives'. But, he said, 'when our feelings are outraged—our families contaminated—our laws broken—and our lives endangered, surely this is ground sufficiently solid on which to take footing, or to stay their outrages at least in our streets'. Stirling responded with a change of policy similar to the change we have already seen in Adelaide. He removed Armstrong from his position as superintendent of the native institution, where his duties were to protect and instruct the Aborigines, and made him a constable instead. He now had the title 'superintendent of natives', with responsibility to the magistrates for maintaining order and decency among the Aborigines in the town. From being, at least in theory, chiefly concerned with the Aborigines' welfare, Armstrong was now to be almost wholly involved in protecting the sensitivities of the settlers.

In the rural parts of Western Australia the problems were more serious. According to the resident magistrate at Guildford, eighteen kilometres east of Perth, the natives of that district knew all the settlers' movements, and there was some fear that they might attack homesteads when the men were absent. The little settlement of Peeltown, south of the capital, was thrown into alarm and confusion when Thomas Peel's house was set alight by hostile blacks, and an innocent Aborigine was accidentally shot during the melee. Meanwhile, settlers on the Canning River, a tributary of the Swan, complained of repeated outrages against sheep and cattle. Their resident magistrate wrote asking the governor 'what decisive steps to adopt' and enclosed a settler's warning that it would be impossible to keep stock in the district unless 'the country is cleared of the natives without delay'. Each fresh incident increased the pressure on the government to apply, in the words of the *Perth Gazette*, 'exemplary punishment' and 'coercive measures'. Such a course, the *Gazette* maintained, would alone prevent settlers from taking matters into their own hands: 'Forbearance is not mercy in our conduct towards the savage.'

A policy of repression was clearly one of the options open to the government. Most settlers would have warmly favoured it. The governor had already proved himself adept at it, at Pinjarra. Members of the legislative council had declared that it was more important and urgent to spend money protecting the settlers than in improving the condition of the natives. The advocate-general, George Fletcher Moore, who knew and cared about the Aborigines far more than most, warned a group of them, as they buried one of their kinsman shot by whites, that if they persisted in stealing, the governor 'would tell the soldiers and white men to shoot them as they did at Pinjarrah and at York'.

Yet in the face of almost universal pressure for coercion, Stirling held back from authorising systematic punitive measures, relying on other means of maintaining order. He set up an experimental penal settlement for Aboriginal convicts on the island of Rottne. As a means of rewarding a 'tribe' that had behaved well, he remitted the gaol sentence of one of its members. He asked the interpreter to provide, as quickly as possible, translations into the local language of the Lord's Prayer and the Ten Commandments. He warned magistrates to treat the Aborigines in conformity with the law.

Like Hindmarsh and Gawler in South Australia, Stirling had to exert the full authority of his government in resisting calls for all-out warfare. There can be little doubt that his forbearance owed more to his fear of the Colonial Office than his fear of the Aborigines or concern for them. As Henry Trigg put it, his situation was 'ticklish'. Having been sharply reprimanded for his activities at Pinjarra in 1834, Stirling was well aware of the present sympathy of the Colonial Office towards

native peoples. With only a short time remaining in the colony, he wished to avoid any bloody encounter which might damage any further his already spotted record.

In London, members of the Colonial Office were certainly aware that all was not well in Western Australia. If they had not read the accounts of violence which appeared in William Nairne Clark's *Swan River Guardian*, a journal sympathetic to the Aborigines, they had certainly perused and discussed the allegations of Dr Louis Giustiniani, a missionary who had spent many months defending the Aborigines against the settlers and the local government. When Giustiniani returned to England in 1838 he sent to Lord Glenelg, through Fowell Buxton, a list of atrocities to illustrate 'the blood-stained career of the Colonists'. They included one case involving a resident magistrate, and another in which soldiers had cut off the ears of an Aboriginal woman shot dead by a white man, and brought them as trophies back to York.

The Aborigines' Protection Society in London inquired into Giustiniani's charges, and recommended to the secretary of state that these 'grave cases' should be investigated on the spot. This responsibility Lord Glenelg bestowed on Stirling's newly appointed successor, John Hutt, who was about to depart to take up office. There was little else anyone in England could do. As the Aborigines' Protection Society conceded, none of the offending parties or witnesses involved in specific cases were available to them. Ultimately, the enforcement of justice in Western Australia had to depend on the local government.

Officials in Perth found that much was beyond even their control. Not only within the empire but within the colony itself, distance was an enemy of justice. When Governor Stirling asked late in 1838 for a report on an incident at York in which two Aborigines had been shot for an attack on cattle, the resident magistrate advised the colonial secretary against ordering a formal inquiry. It would, he said, yield nothing more than was already known. Furthermore, it would encourage settlers to conceal all future acts of this kind. This in turn would give the Aborigines a chance to attack settlers who, not being aware of conflict, would be off their guard. This system by which settlers took the law into their own hands was, the magistrate acknowledged, one which His Excellency could not officially sanction. But, he said, 'I fear it will be practised until some regular system is adopted, in order to punish Natives who commit the like depredations'.

Thus did a government official define the limits of government in Western Australia.



When Sir George Gipps arrived in New South Wales the history of contact between black and white in that colony was one of sporadic violence, leavened by efforts on the part of a few missionaries and others to defend and 'civilise' the Aborigines. In this process governments had played both positive and negative roles, ranging from Governor Macquarie's attempts to bring up Aboriginal children in European ways to a Colonial Office instruction in 1825 that it might sometimes be the governor's duty 'to oppose force by force'. As recently as 1836 the surveyor-general, Major Mitchell, had ambushed a party of Aborigines near the Murray River and stood by while his men shot 'as many as they could'.

Such an encounter—and Mitchell's casual report of it—was unpalatable to the new regime at the Colonial Office. Lord Glenelg had responded by sending a despatch to Governor Bourke which asserted the need to protect the Aborigines from aggression. At the same time he ordered the governor to make formal



Thomas Fowell Buxton, son and husband of Quakers, and chairman of the Aborigines' Protection Society. C. Buxton (ed), Memoirs of Sir Thomas Fowell Buxton, Baronet, London 1882.

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Phillip Parker King, of Dunheved near Penrith, New South Wales, urged Sir George Gipps to control the Aborigines, if necessary by force. He and his colleagues referred to themselves as 'pioneers of civilization'. Undated oil by an unknown artist.

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Watercolour of Dunheved by Owen Stanley, 1838.

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inquiry whenever an Aborigine was found murdered by British soldiers. Undoubtedly the treatment of the Aborigines was one of those subjects which Gipps, as governor-elect, had discussed with members of the Colonial Office in the weeks before his departure. Just as he had profited from being on hand during the Molesworth hearings on transportation, he was lucky to have been appointed shortly after Buxton's committee tabled its report. No other governor in office in 1838 was better informed about the current views of the British government towards indigenous peoples, and no other shared those views more wholeheartedly.

Within a month of his arrival Gipps received news of a bloody encounter near the Gwydir River, on the northern frontier of settlement, between a large group of Aborigines and a party of mounted police led by the commandant, Major James Nunn—an event described in chapter two. It was precisely the kind of outrage which the secretary of state had feared. Gipps initiated an inquiry and proposed to the executive council that a proclamation be issued as soon as possible, appealing to colonists to show kindness towards the Aborigines and outlining measures to protect the blacks against white men.

Despite Gipps's good intentions his government issued no such proclamation in 1838. Nor did it take any decisive steps to combat violence. The governor and his senior officials tried to put together a form of words, but the task proved extremely difficult. They recognised a need to acknowledge 'the rights of Aborigines as British subjects'. But what were those rights, and how should they be expressed? Best not to list them, Gipps observed, lest the government be called upon to acknowledge the Aborigines' right to the soil. Even the simple statement that the Aborigines were British subjects was dangerous. This was supposed to follow from

the Queen being sovereign over all the colonies. But what was the formal evidence or proof of her sovereignty? Best, thought Gipps, to avoid the issue by simply asserting British sovereignty without explaining it.

After several weeks of drafting and redrafting, Gipps approved a final version for publication. But just as it was about to be printed he heard of two clashes between British and Aborigines involving the deaths of white men. This made him falter. He sent a copy of the proclamation to Lord Glenelg, but postponed publishing it for fear of stirring up feeling against the Aborigines. In the ensuing two months he received reports of several bloody exchanges, especially in the Port Phillip district. Each successive report seemed to reinforce the argument for postponement, but the longer the governor delayed the more difficult his task became, as white attitudes hardened and support increased for repressive measures.

Especially powerful pressure came from a group of 'landholders and Proprietors of Stock' who presented a petition to Gipps in June. The petitioners, 82 in all and headed by Phillip Parker King, son of a former governor, expressed alarm at the 'murders and other outrages' committed by blacks on the southern road, linking Sydney with the Port Phillip district, and urged His Excellency to take coercive measures against them. If the government failed to come to their aid they, 'the pioneers of civilization', would be forced to protect themselves, with painful consequences. The petition was a measure of the opposition Gipps would have faced had he tried a more determined policy. Its signatories represented a solid block of influential and respectable colonial opinion. The governor, knowing he had the support of Downing Street, could and did refuse to give effect to this opinion, but he was reluctant to proclaim a policy which conflicted directly with it. There were also practical limits to his power. Apart from the regular infantry, the only forces available to the government for maintaining order on the frontier were the mounted police, Major Nunn's men, who were few in number and not very reliable as a means of encouraging black and white men to live peaceably together.

In July, when rumours of a slaughter of Aborigines at Myall Creek reached Sydney, Gipps at last seemed ready to act with resolve, and in his own hand began to draft a revised proclamation. He began by referring to 'a most atrocious massacre'. He let his pen drop after two and half pages, taking it up again merely to inform Lord Glenelg of the latest series of outrages and the pressure from P.P. King and his fellow petitioners. He also announced that, on the advice of the executive council, he had refrained from issuing the proclamation 'on account of the degree to which the Public mind continues to be exasperated against the Blacks'.

Confronted with Gipps's reports of increasing violence on the New South Wales frontier, the secretary of state and his under-secretaries could do little more than write encouraging replies, and hope that the governor would do his best to stem the bloodshed. In spite of all their best hopes, they were beginning to understand the limits of government in Australia. Even before news of the massacre at Myall Creek reached London, James Stephen was ready to write the Aborigines' epitaph. On reading Gipps's accounts of Major Nunn's exploits and the spate of clashes in April 1838, he advised his superiors:

The cause & the consequences of this state of things are alike clear and irremediable nor do I suppose it is possible to discover any method by which the impending Catastrophe, namely the extermination of the Black Race can long be avoided.

The events of 1838 seemed to justify his melancholy prediction.



Sir James Dowling, chief justice of the New South Wales supreme court. He was fond of his judicial costume and liked to wear it out of doors. Oil by Joseph Dennis, c1840.

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