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Sodomy Re/verse :
Reading and re-writing the sodomitical archive on nineteenth century New South Wales

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Abstract:

In “Queer Spectrality” Carla Freccero writes that “queer historicism harbors within itself not only the pleasure, but also the pain, a traumatic pain whose ethical insistence is to ‘live to tell.’” Historical trauma, she argues, appears in the form of the unresolved spectres, as the troubled past made present by their unresolved demands to be made right, in the returners’ demands to be mourned and to impel the process to an as yet achieved historical justice. This thesis is haunted: it is haunted by the minor sodomitical figures of nineteenth century New South Wales who sound relentlessly the conditions of the injustice they experienced, and who speak in the name of the “queer.” In this way I do not so much, or only, look back to history, but I encounter a history that looks back towards my present. If the conditions of state persecution and disciplinary regulation under sodomy laws and general antisodomy rhetoric in this context made “queer” lives less liveable, it is the force of their sodomitical queerness – gender transgressors, racial “abominations,” lumpen class rogues, criminal recidivists, the imprisoned (convict) poor and petty offenders – that speaks back to the still limited, intolerable and in too many cases unliveable conditions of present heteronormative hegemonies.

Writing on the state of the antipodean convict colonies in 1832, William Molesworth, the Radical reformer, commented that the convict transportation system “barbarizes the habits, and demoralizes the principles of the rising generation, and the result is… ‘Sodom and Gomorrah.’” In 1879, during the sodomy cases against William Albion (alias Moore, alias Ernest Steele), William Tindall, police constable at Sydney, stated that he found on Albion when arresting him in Sydney’s Hyde Park “a handkerchief” and a “silk turban,” and that “his face was powdered.” Furthermore, when cross examined by the defendant Tindall answered that he had watched Albion in the act, stating, “your posterior was turned towards each man as they came to you in turns.” The leitmotifs in each of these examples index the central tropes that animate the dissertational prose and poetry of this thesis: disciplinary disorder and gender inversion (in the above examples: disciplinary barbarization and demoralization, and the gendered turning of the posterior to the anterior). The central argument of this thesis is that sodomy in nineteenth century New South Wales, as articulated by commentators and lawmakers and as lived by sodomitical offenders, indexes question of reversals, principally in relation to disciplinary penal order and gender order; and I dilate on this thesis mainly
through close readings in dissertational prose as well as in documentary poem form. Scholars have most often interpreted the history of sodomitical discourse in relation to the nineteenth century New South Wales as evidencing previously censored histories of homosexual subcultures (Aldrich; Wotherspoon), or in the case of penal reform documents as evidence of the hyperbolic rhetorics of this bourgeois reform movement (McKenzie; Reid). I use a double headed approach by drawing on the fields of queer historicism and queer theory, (Foucault; Freccero; King; Edelman), as well as on archival poetics, and objectivist poetics and criticism (Howe; Reznikoff; Niedecker; Quartermain; Du Plessis) to add to and revise this scholarship. I also made many new discoveries in state archives in relation to individuals I document in poems, thereby adding to existing scholarship on the history of sodomy. For example, I document in poem the extensive criminal record of one Samuel Jones, an incorrigible convict proximate to multiple attempted mutinies and transported, once again, in 1834 for sodomy to the notoriously severe penal island, Norfolk Island, then commonly known as “Sodom Island.”
Statement of originality

This is to certify that to the best of my knowledge, the content of this thesis is my own work. This thesis has not been submitted for any degree or other purposes.

I certify that the intellectual content of this thesis is the product of my own work and that all the assistance received in preparing this thesis and sources have been acknowledged.

X
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Table of Contents

Acknowledgements vii
Illustrations ix
Tables xi
Abbreviations: xii
Notes on style: xiii

Introduction: Sodomy Re/verse 1

Penal Discipline 70

Slade’s Lash, “the fancy girls of men” and “twigging” 71
Sodom Island 136

William Williams & جان ال-دين (Solomon John) 185
Samuel Jones 206

Bodily/Gender Disorder 243

Smooth and Hairless, a Finger and a Cauliflower 244
Sodom’s Public 280

Francis Quincey 328
Portrait of Hyde Park and The Domain, 1834-1895 341
Harrison, als. Carrie Swain 344
William Albion, als. Moore, als. Ernest Steele 357

Conclusion 369

Bibliography 382
Parliamentary Papers 382
Legislation 382
Archival and manuscript collections 383
Newspapers 389
General References 393
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For patience and assistance with my many enquiries and requests, few of which were properly formulated, thank you to the archivists, curators and librarians at the State Records of New South Wales, the Tasmanian Heritage and Archives Office at the State Library of Tasmania, the National Archives of the United Kingdom, the Fisher Library at the University of Sydney, the Mitchell Library at the State Library of New South Wales, various reading rooms at the British Library, Llyfrgell Genedlaethol Cymru / the National Library of Wales, and the Kingston and Arthurs Vale Historic Site Museum at Norfolk Island.

I am very grateful to the University of Sydney for an Australian Postgraduate Award/Research Training Program Stipend, which materially supported me and gave me so much time to research and write this thesis. I’m also very grateful to the Department of English for a Thomas Henry Coulson Scholarship, a Doctoral Research Travel Grant and for Postgraduate Research Support Scheme funding which enabled me to do research at various archives, museums and libraries in England, Wales, Tasmania and Norfolk Island.
Illustrations

**Figure 1:** Reproduction of Slade’s Lash, Hyde Park Barracks Museum, Sydney. Photo by author  
**Figure 2:** Robert Jones, “The Flogging of Charles Maher,” in *Recollections of 13 Years Residence in Norfolk Island and Van Diemen’s Land*, dated 1823, probably 1850, 13, Mitchell Library, State Library of New South Wales.  
**Figure 3:** William Hogarth, “The First Stage of Cruelty,” print, 1751.  
**Figure 4:** Henry Williamson Lugard, “Plan, Sections and Elevation for Proposed New Gaol, Norfolk Island,” January 31, 1839, TAHO: PWD266/1/1887.  
**Figure 5:** Detail from Lugard, “Plan, Sections and Elevation of the Convict Hospital, Norfolk Island,” January 31, 1839, TAHO: PWD266/1/1906.  
**Figure 6:** Detail from Lugard, “Plan, Sections and Elevation of Gaol, Norfolk Island,” January 31, 1839, TAHO: PWD266/1/1886.  
**Figure 7:** Lugard, “Plot and Plan of the Convict Barrack, Norfolk Island,” January 31, 1839, TAHO: PWD266/1/1896.  
**Figure 8:** Detail showing upper story of barrack with number of convicts per ward and room dimensions, from Lugard, “Plot and Plan of the Convict Barrack, Norfolk Island,” (detail), January 31, 1839, TAHO: PWD266/1/1896.  
**Figure 9:** Unknown artist, *Norfolk Island Cooking-pot Riot*, watercolor on card, [July 1846], Launceston Local Studies Collection, TAHO.  
**Figure 10:** Public buildings on George Street marked in red and yellow squares, and Hyde Park and the Domain shaded green, detail from Francis Shields, *Map of the City of Sydney*, February 1, 1845, City of Sydney Archives, http://atlas.cityofsydney.nsw.gov.au/maps/city-of-sydney-shields-1845/  
**Figure 11:** Conduct Record, Solomon John Per Waterlily (detail), November 13, 1842 – December 19, 1854, TAHO: CON 37/1/1, 140  
**Figure 12:** Tasman’s and Forestier’s peninsulas, Van Diemen’s Land. Map, 1840-50, Libraries Tasmania Online Collection.
FIGURE 13: PLAN, RICHMOND GOAL, JANUARY 1, 1845, TATE: PWD266/1/1638

FIGURE 14: NAMEPLATE, MASTHEAD & “THE OSCAR WILDE’S OF SYDNEY” ARTICLE, SCORPIOV, APRIL 24, 1895, 2, MITCHELL LIBRARY, STATE LIBRARY OF NEW SOUTH WALES, Q059/S, AUTHOR PHOTOGRAPH.


FIGURE 16: COVER PAGE, “MISS CARRIE SWAIN.” ILLUSTRATED SYDNEY NEWS, 17 MAY 1887, 1.

FIGURE 17: GEORGE TREMAIN, ALIAS CARRIE SWAIN PHOTOGRAPHIC DESCRIPTION, GOULBURN GAOL, JULY 1, 1891, SRNSW: NRS2232, [7/13804], 67.

FIGURE 18: FRANCIS QUINCEY PHOTOGRAPHIC DESCRIPTION, DARLINGHURST GAOL, JULY 21, 1879, NRS2138, [3/6043], 46.

FIGURE 19: MATHEW JOHNSON PHOTOGRAPHIC DESCRIPTION, DARLINGHURST GAOL, JULY 17, 1879, SRNSW: NRS2138, [3/6043], 45.

FIGURE 20: THE FORBES HOTEL, YORK STREET, 1875-77, PHOTOGRAPH, STATE LIBRARY OF NEW SOUTH WALES, SPF/604

FIGURE 21: THE TOMBOY / LEONARD GROVER, 1886-7, THEATRE ROYAL, SYDNEY, STARING CARRIE SWAIN, NATIONAL LIBRARY OF AUSTRALIA, J.C. WILLIAMS’S COLLECTION OF THEATRE PROGRAMS IN THE AUSTRALIAN PERFORMING ARTS PROGRAMS AND EPHEMERA (PROMPT) COLLECTION.

FIGURE 22: HOLM & CO., “CARRIE SWAIN, IN A TROUSER ROLE.” CABINET PHOTOPRINT, 1887-8, MITCHELL LIBRARY, STATE LIBRARY OF NEW SOUTH WALES.

FIGURE 23: “MISS CARRIE SWAIN,” IN ELLIS, PETS, (SYDNEY: EDWARD ELLIS, 1888), 60.

FIGURE 24: “TRACING SHEWING BY A GREEN TINT THE LAND AT HYDE PARK TO BE DEDICATED TO THE PUBLIC,” MAP, 1854-57, SRNSW: NRS13886, [SKETCH BOOK 7, FOLIO 85].

FIGURE 25: WILLIAM ALBION ALIAS MOORE ALIAS ERNEST STEELE PHOTOGRAPHIC DESCRIPTION, DARLINGHURST GOAL, APRIL 20, 1878, SRNSW: NRS2138, [3/6042], 144B.

FIGURE 26: DETAIL FROM “TRACING SHEWING BY A GREEN TINT THE LAND AT HYDE PARK TO BE DEDICATED TO THE PUBLIC,” MAP, 1854-57, SRNSW: NRS13886, [SKETCH BOOK 7, FOLIO 85].

FIGURE 27: “HYDE PARK [SYDNEY],” 1870, PHOTOGRAPH, STATE LIBRARY OF NEW SOUTH WALES, SPF/218.
Tables

**Table 1:** Proportional representations of types of sodomitical conviction by decade. (Data source: de Waal, Unfit)  

**Table 2:** Comparison of percentage rates over nineteenth century for types of convictions (Data source: de Waal, Unfit)
Abbreviations:

*BPP*: British Parliamentary Papers

*SRNSW*: State Records New South Wales

*TAHO*: Tasmanian Archives and Heritage Office

*TNA*: The National Archives, UK

*OED*: Oxford English Dictionary (online edition consulted, and hyperlinks given in footnotes)


Notes on style:

In footnote citations throughout this thesis have I have excluded details such as very long titles, journal special issue titles and, where possible without losing significant detail, subtitles. All this detail in contained in the bibliography. Online source references, where possible and practicable, are also contained in the bibliography to assist with access.
Sodomy Re/verse
Reading and re-writing the sodomitical archive on nineteenth century New South Wales

Introduction: Sodomy Re/verse

To being with, some words on the title: “verse,” to start at the end of this title, via a break (‘/’), refers most directly to the poetry I have written which occupies a significant proportion of the pages of this thesis. Explanations are here demanded as to how such a genre can stand in a thesis. In the epistemological heavy lift of doctoral dissertation what use, if not obstacle, do aestheticized lines provide to the communication of research findings? How could poetry bring clarity to an object of knowledge? How could disjunctive syntax or enjambment communicate knowledge or refer to a thesis statement? In order to address these questions, let me first loop back to the first word of this title: “sodomy.” This thesis is concerned with the discourse of sodomy in sodomy trial records from nineteenth century New South Wales as recorded by the state’s archives, and in penal reform documents that described the convict colony of New South Wales as a “Sodom” and a place where sodomy among the convicts was said to be rife.
The poems in this thesis, furthermore, are based on sodomy trial records in relation to six individuals convicted of sodomitical crimes: William Williams; Solomon John; Samuel Jones; Francis Quincey; George Harrison, alias Carrie Swain; and William Albion, alias Moore, alias Ernest Steele. In the final passage of part one of *D&P*, “Torture,” Michel Foucault points out that alongside bourgeois reform of penal methods, which turned their emphasis towards techniques that sought to train the mind and habits of the errant rather than exercise brute force over criminals, was a related suppression of the popular material of broadsides and pamphlets on famous petty criminals (*D&P*, 65-69). Criminal broadsides and pamphlets were aimed at social control yet, nevertheless, Foucault argues, they acted as “two-sided” discourses in their tendency towards venerating criminals: “the condemned man found himself transformed into a hero by the sheer extent of his widely advertised crimes… against the law, against the rich, the taxes and their collectors, he appeared to have waged a struggle with which one all too easily identified” (*D&P*, 67). These pamphlets and broadsides, Foucault further writes, “glorified the criminal… that was why the people showed so lively an interest in what served more or less as the minor, everyday epic of illegalities” (*D&P*, 67-8). At the end of the eighteenth century such literature was suppressed by reformers and government, he continues, shifting the “popular function of illegality”; in place of these broadsides a new literature of crime emerged in the period where the crimes of “exceptional natures” were written instead (*D&P*, 68). This shift was ushered in by what he terms the “aesthetic rewriting of crime,” present in the writing of Thomas de Quincey and Charles Baudelaire, and in Horace Walpole’s *The Castle of Otranto* and in the emergence of the “adventure story” (*D&P*, 68). Such literature presented the “right” to crime as a right and privilege of the great, such as was often played out between detective and criminal mastermind: “The great murders are not for the peddlers of petty crime” (*D&P*, 69).
As a part of this transposition, newspapers took over the task of accounting for petty, everyday crime which they did so, he argues, in “grey, unheroic detail” (D&P, 68). The court archives, prison records and newspaper accounts of such “grey details” in relation to the minor sodomitical criminal figures of nineteenth century New South Wales, however, I will show in this thesis, still contain details of the live deeds of petty crime and queer history as hagiographic record of venerable “peddlers of petty crime.” Arrested, imprisoned, poor and poorly defended in court, the life deeds of these sodomitical criminal figures record exertions of force against the oppressive laws of sexual regulation and related economic and penal regulatory inequities of nineteenth century British imperial order. The poems in this thesis put these details to work – that is, to poetry and to literature – through quotation, citation and rearrangement of words from the archive to construct, and to honour, the minor heroes of the queer past made present in these poems. That is to say, I aim to rewrite the nineteenth century New South Walian sodomitical archive.

To return to the title, “reverse,” leads to my main contention in this thesis, dilated primarily in dissertational prose, that the discourse of sodomy in relation to nineteenth century New South Wales coheres around a metaphorics of reversed positionality and directionality, primarily in relation to social order, and gender and body politics. The dissertational bulk of this thesis is as an attempt to answer the question of what the historical category of sodomy meant in nineteenth century British imperial culture in relation to New South Wales, and is, therefore, a study of the discourse of sodomy in this cultural context. The principal texts which this study considers are sodomy trial transcript records from New South Wales courts, and historical documents from the penal reform movement against the transportation system that represented the convict colony of New South Wales as a “Sodom” and a place where sodomy among the convicts was rife. As an example, take the pamphlet publication of a parliamentary select committee on the convict transportation system,
published by William Molesworth, the Radical British parliamentarian and leading figure in the campaign, wherein he lamented that the effects of the poorly organised and poorly enforced penal system could only lead to a convict society aptly described as a “Sodom and Gomorrah.”¹

Foucault famously articulated the difference between sodomy as a category of forbidden acts (the perpetrator of them, for Foucault, was “nothing more than a juridical subject of [sodomy laws]”) and homosexuality as a personage and type emerging within sexological and psychiatric discourses in the late nineteenth century (HoS, 101).² For Foucault this transposition was a technique of bourgeois economies, undergirded by contemporaneous mechanisms of divining truth from sex, sexuality and desire. The most famous line of Foucault’s to this effect is the efficiently summarising sentence (in the original French): “Le sodomite était un relaps, l’homosexuel est maintenant une espèce,” which Robert Hurley translates in the authoritative English language translation as “the sodomite had been a temporary aberration; the homosexual was now a species” (HoS, 43). David

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¹ Molesworth, Report from the Select Committee of the House of Commons on Transportation: Together with a Letter from the Archbishop of Dublin on the Same Subject and Notes by Sir William Molesworth (London: Henry Hooper, 1838), 13n.

² Many scholars, from queer theorists such as Eve Sedgwick to British “new gay historians” such as Harry Cocks, while their conclusions differ sharply, have sought to revise Foucault’s argument about a late nineteenth century paradigm shift. Sedgwick argues against altericist histories such as Foucault’s that construct themselves against a presumably stable category of modern homosexuality; and Cocks argues for greater continuity between nineteenth century sexual regulation and modern sexual regulation. However, as I discuss below, I am interested in the paradigm shift from status and land based aristocratic society to mercantile and mobile bourgeois society and the role the discourse of sodomy plays in this historical change. Sedgwick, Epistemology of the Closet (1990; repr., Berkeley: University of California Press, 2008], 44-48; Harry Cocks, Nameless Offences: Homosexual Desire in the Nineteenth Century (London: I. B. Tauris, 2010), 1-11.
Halperin, however, via his argument that Foucault’s theory on transposition has been misinterpreted by contemporary theorists who interpret Foucault as suggesting that there was no pre-homosexual sodomitical identities, invites us to return to the original text. He translates the same line as follows: “The sodomite was a renegade (or “backslider”); the homosexual is now a species.”\(^3\) What is germane to my argument here is the distinction between these two translations of the French word “relaps.” Literally translating as “to slide back” (and bearing a relation to “relapse” in terms of an addict undergoing a return to substance use), “relaps” connotes a range of meanings including referring to a “relapsed heretic” or “relapsed criminal” (a synonym for recidivist), or to someone who “falls back in error,” a “sinner” or a “renegade.”\(^4\) This multiplicity of reference contains positive and negative ascriptions, if we can admit this base dichotomy. To “sin” or “fall back in error” (that all too human of Christian fallibilities) carries a different value to that of the “renegade” – the conscious “sinner” who rebels against a given moral or juridical law. Hurley’s translation of “temporary aberration” underemphasises connotations of moral infraction in favour of temporal transience as counterpoint to the construction of homosexuality as an inherent typology, effectively emphasizing the main distinction Foucault is making. Something lost, however, is the sense carried in “relaps,” at most base “to slide back,” of criminal and directional backwards moral movement with its apt poetics in relation to sodomy as a sliding towards the “back.” Foucault’s “relaps,” and Halperin’s backsliding renegade, conceptualise a reverse to, and a reversal of, moral forwards movement. Such a representation of sodomy as a backsliding, a type of sin, and a paradigmatic activity of the

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\(^3\) David Halperin, “Forgetting Foucault,” in *How to Do the History of Homosexuality* (Chicago: The University of Chicago Press, 2002), 27.

criminal renegade, I aim to show in this thesis, is consistent with rhetorics and metaphorics of sodomy used by many contemporary commentators that I analyse and that are exemplified in the criminal records I document.

In chapter ten of *Homographesis*, “Seeing Things: Representation, the Scene of Surveillance, and the Spectacle of Gay Male Sex,” Lee Edelman theorises that sodomy is rhetorically constructed according to a trope of reversal through his readings of Sigmund Freud’s so called “Wolf Man” case (which Freud wrote about in *From the History of Infantile Neurosis*). Edelman argues that the temporal logic of psychoanalytic development in relation to the primal scene is itself structured on the disarticulating logic of the scandal of a sodomitical scene.\(^5\) “The scandal of the sodomitical scene,” he writes, “derives from its repudiation of the binary logic implicit in male heterosexualization and from the all to visible dismissal of the threat on which the terroristic empire of male heterosexuality has so effectively been erected.”\(^6\) In an oversimplification of this theory, Edelman theorises that the process of “male heterosexualization” is initiated by the psychoanalytic process of sexual difference initiated through by the primal scene. The staging of the primal scene of viewing the parents having sex for the first time, the act of which, he claims, must be positioned from the rear in order for the infant to observe the genital act, thereby makes visible an anal eroticism the male must phobically disavow in order to assume his sexual difference.

Edelman also argues that similar “disarticulations of positional logic” present themselves in John Cleland’s 1748 novel *Memoirs of a Woman of Pleasure*, specifically in the statement made by the protagonist, Fanny Hill, during the famous scene where she

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\(^6\) Edelman, 185.
observes an act of male-male sodomy. In the line Edelman attends to most, Cleland has Fanny declare that “if he was like his mother behind, he was like his father before.” The logic of this sentence represents, for Edelman, the cultural function of sodomy as a confusion to the binary logic of spatial positionality; whether his “behind” be like his mother’s own behind or his mother’s “front” is unclear in the syntactical construction and thus represents the confusions sodomy presents to the conventional logics of positionality.

What I am interested in in this thesis, however, is not a psychoanalytically oriented analysis, but rather an analysis oriented towards analysing the rhetorics of sodomy in relation to the historical process of cultural shifts to bourgeois norms and its relation to body politics. I do not propose my focus as the “realpolitik” version nor suggest that Edelman was unaware of the body politic in relations to bourgeois norms, indeed his theory on this as put in chapter six of *Homographesis*, “The Sodomites Tongue and the Bourgeois Body,” will be instrumental to analyses in this thesis. Nevertheless, my shift away from philosophic logics to what I would argue is the more macro level field of legislative reform and shifts in cultural and economic social structure (specifically the structuring of social relations that attended the shift from land and status based social structures to mercantile economies and mobile class positionalities), leads this study to analyse the relation of sodomitical positionality to discourses which informed such macro level social shifts in the nineteenth century. Thus my focus is Foucauldian and draws significantly from Thomas King’s attention to the

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7 Edelman, 183.
8 Edelman, 184.
paradigm shift from systems of alliance to systems of sexuality in the British context in the
preceding century.\textsuperscript{11}

Edelman’s description of the sodomite as the figure that “represents and enacts a
troubling resistance to the logic of before and behind,” is, nonetheless, I will show, applicable
to my queer historicist analysis.\textsuperscript{12} For Edelman the sodomite culturally represents a confusion
of spatial surfaces of before and behind, which, like a mobius loop, confusingly contains no
front or back; in the context of this thesis Edelman’s theory proves useful in interpreting
juridical representations of sodomy since, as I argue in this thesis, representations of sodomy
consistently map onto coordinates of “normal” cultural positionality as the flipped, inverted
and reversed version, specifically articulated in relation to the shift from old régime to
bourgeois social organisation. When Edelman reads significant lines in “Jenny Cromwell’s
Complaint against Sodomy”: “Reformation / Turned all things Arsy-versy in the nation” he
reads these lines as suggesting that “the practice of sodomy is construed as exemplifying a
logic of reversal with widespread and uncontrollable implications.”\textsuperscript{13} “Arsy-varsy” in this
poem refers to the reversals of the “Glorious Revolution” and the installation of a protestant
crown following a period of parliamentary rule. (Whether this poem expresses Jacobite or
Roundhead support, the latter of which expressing distaste for Williamite Calvinism in

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\textsuperscript{11} King, \textit{The Gendering of Men: 1600 – 1750,} vol. 1, \textit{The English Phallus} (Madison: The University of
Wisconsin Press, 2005); and King, \textit{The Gendering of Men,} vol. 2, \textit{Queer Articulations} (Madison: The University
of Wisconsin Press, 2008).
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\textsuperscript{12} Edelman, “Seeing Things,” 184. For Edelman’s critique of historicism and the turning of “time into history,”
see “Theorizing Queer Temporalities: A Roundtable Discussion,” \textit{GLQ} 13, no. 2-3 (2007): 177-195. I, however,
do not aim to turn time into a static linear progression, but rather aim for a historicism that considers discourse
as contextually situated and, as I discuss below, spectrally mobile.
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\textsuperscript{13} Edelman, 183.
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opposition to the more austere, revolutionary Puritanism [which is supported by the reference to the other Cromwell], I am not in a position of expertise to say; in either case, nonetheless, the sense of revolutionary inversion is maintained).

Michael Drayton also uses the idiom of arsy-varsy to express the upending effect of social transformation when, as Christopher Hill argues, he was confronted with the epochal shifting implications of scientific discovery for old régime status-based natural order in pre-revolutionary seventeenth century England:

Certainly there’s scarce one found that now

Knows what t’approve, or what to disallow;

All arsey-varsy, nothing is its own,

But to our proverb all turned upside down.”14

“Nothing is its own” suggests the shaking of the “positional logic” of the natural order of old régime status and place in relation to the crown, threatening to shake and turn all things “upside down.” The sodomitical positional logic of the “arsy-varsy” is inextricably tied to the positionalities of political order: sodomy is the leitmotif of revolution. Such portability in Edelman’s concept of a positional logic of reversal to the context of historical shifts proves productive and tracks throughout the analyses in this thesis. In the nineteenth century British politics in the metropole and the imperial colonies was radically changed by bourgeois reform, as aristocratic political dominance was finally ousted in consequence of

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parliamentary and legal reforms, and as reformed political technologies, such as modern penal methods, were put into effect.\textsuperscript{15}

To loop back to the title, the “/” that makes “reverse” and “verse” out of one unit, refers to the “virgule” that is the conventional sign of poetic enjambment and, therefore, “verse” – the line break that makes poetry “verse,” that is, “turn” (“versus,” the Latin origin of the word, refers to a line of poetry named from the enjambment which turns one line to begin the next). The forced caesura of enjambment cuts the usual fluency of speech, forcing pause and silence (and if disjunctive to the syntax of the sentence or speech unit forces the “incomplete” line into a unit of sense - the line asks for new meaning of the speech part apart from the overall sense of the “complete” sentence). Poetic form contains a unique formal ability to represent lack, absence and disjunctive fragment in its structure which suits it to representation of the state’s sodomitical archive. Absences populate the state’s archival record of, as the famous English Jurist, William Blackstone, put it in his influential gloss of English Law, “\textit{peccatum illud horrible, inter Christianos non nominandum},” (the horrible crime not be named among Christians).\textsuperscript{16} “Unnatural crime,” juridically structured as \textit{the} unsayable (and other silencing structural effects of power such as the inability of those accused of sodomitical crime to speak frankly about their lives, or the enforced silences of imprisonment, corporeal

\textsuperscript{15} It should be noted that, as Marx famously put it, “the Whigs [were] the aristocratic representatives of the bourgeoisie, of the industrial and commercial middle class.” Marx, “Whigs and Tories,” \textit{New York Daily Tribune}, August 21, 1852. Also see Peter Mandler, \textit{Aristocratic Government in the Age of Reform: Whigs and Liberals, 1830-52} (Oxford: Clarendon Press, 1990), 1-9, 123-132.

punishment and the death sentence) position silence, as scholars such as Jody Greene have noted, as central to the construction of sodomy.  

Rather than try to fill these gaps, however, I forward in this thesis that poetic form is suited to highlight this as politically productive absence. In Thinking Sex with the Early Moderns, Valerie Traub forwards the idea of thinking with, rather than simply about, sex; that is, to think with sex and its inclination towards non-knowledge, what she terms the “opacity of sex.” As she writes, “historians and literary critics understandably tend to avoid acknowledging in print how the conceptual, methodological, and archival impasses they encounter affect their interpretations and narratives… In part this is because our scholarly instinct is to work toward revelation, to fill in gaps and make lacunae speak. Those of us working outside a strictly philosophical resister… don’t really have a vocabulary for talking about not knowing.” For Traub psychoanalysis is able to contain this relation to not knowing (despite its pursuit by “disqualifying” charges of “ahistoricism”). In this thesis I forward that poetry as a genre of historical writing is also aptly suited to contain not knowing, to “thinking with sex.” In terms of the history of sexual persecution, I mean to take seriously Foucault’s warning in D&P that “visibility is a trap” (200). The will to know the truth about a historical subject’s sexuality by making visible what is “hidden” not only aligns with the will of nineteenth century sexual regulation but, I would like to suggest, leads us away from the significant content that historical actors, such as those documented and interpreted in this

17 Greene, “Public Secrets.”
18 Traub, Thinking Sex with the Early Moderns (Philadelphia: University of Pennsylvania Press, 2016), 14, 34.
19 Traub, 13-4, original emphasis.
20 Traub, 14.
21 For his similar arguments in relation to sexuality see HoS, 36-49.
thesis, did make visible of their lives. I do not aim to abrogate identity but rather to restrict myself to what these historical actors made visible of their lives.

In Hannah Arendt’s preface to her biography of Rahel Varnhagen, a German-Jewish intellectual central to the late eighteenth century assimilation movement, Arendt sets out that her intention was not to penetrate beneath the surface of what Rahel had said about her life or to analyse from a position of superiority. She seeks to distance her writing from such biographies, and identifies such analytic positionalities of superiority with the “pseudoscientific apparatuses of depth-psychology, psychoanalysis, graphology, etc.”  

Instead she aims to represent and engage with what Varnhagen had, in her writings, thought about and disclosed about her life. Liliane Wiessberg, in her introduction to Arendt’s biography, describes this biographic method as “acting as if,” a perspective of mimesis which, Wiessberg claims, seeks to understand from within rather than above.  

A better metaphor than “within” might be beside; or an even better metaphor can be borrowed from Charles Bernstein argument that Charles Reznikoff’s poetics are defined by a tropism towards “nearness” or “adjacency,” a position of being next to but not abutting. An even more accurate metaphor for the methodological move I am attempting here is that I aim to inhabit or cohabit – to sit near and adjacent to, but also within, and to let sit within my writing self – the lives of the people who have been recorded in the archive. I aim to manipulate the archive, via prosopopoeia, to speak the forms of sodomitical life resistant to sexual oppression that it records. The lyric “I,” therefore, in the poems that follow most often

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stands for what the archive records of the individual speaking subjects who, while they never spoke nor wrote for themselves, have had their resistant actions, and in some cases their speech acts as heard speech, recorded. I have attempted to listen to, and re-present, the unheard speech that sits behind the indicted actions.

In this thesis I aim to place my poetics within what Peter Quartermain and Rachel Blau de Plessis terms the “objectivist nexus.” If such a claim appears “dated” or “erroneous,” the concept of backsliding in error may suit this reading to my aim. The term objectivist originated in Louis Zukofsky’s 1931 editing of a special issue of Poetry. Quartermain and de Plessis list Basil Bunting, Lorine Niedecker, George Oppen, Carl Rakosi, Charles Reznikoff, and Louis Zukofsky as their objectivists, though they also note these poets usually resisted being categorised as such. Indeed, they claim, “resistance to nexus [is] part of the construction of nexus,” claiming this resistance is part of the objectivist commitment to resisting conceptual closure. For Charles Altieri objectivist poetics are distinguished as those which resist the poetics emblematic of nineteenth century romanticism and early Imagism, what he calls poetics “that dramatize meanings beyond the event.” Charles Bernstein in his essay on Charles Reznikoff argues that Reznikoff’s sharp differentiation from such dramatic nineteenth century poetics, what he calls “the poetics of metaphysical and symbolic overtone,” originated as an effect of Reznikoff’s legal training. In a similar way, the juridical focus of this thesis may also explain my objectivist aims (not all motivations,

29 Charles Bernstein, “Reznikoff’s Nearness,” 210-239, esp. 211.
however, are wholly transparent). Within such an objectivist vein, nevertheless, I have aimed to restrict meaning and dramatization to the event at hand.

DuPlessis and Quartermain argue that a main objectivist drive for William Carlos Williams (Williams is associated through Zukofsky with the objectivist school, especially in the documentary poetics of Paterson\(^{30}\)) was a quarrel with “loosed and permissive, vatic [prophetic, seer] imagism.”\(^{31}\) “Seeing,” however, is not completely abrogated by objectivists but is rather restricted to a “seeing” situated in the world as it is, to the objects within it. Zukofsky’s writing on this distinction is apt: “thinking with things as they exist…the detail, not mirage, of seeing.”\(^{32}\) George Oppen’s description of “the order of disclosure” as a poetic movement to consciousness situated in the world resonates with the objectivist mode of “seeing.”\(^{33}\) When L.S. Denbo asked Reznikoff to detail his perspective on objectivist poetic method, Reznikoff answered by quoting Wei T’ai, the eleventh century Chinese poet: “Poetry presents the thing in order to convey the feeling. It should be precise about the thing and reticent about the feeling.”\(^{34}\) The “thing” this thesis attempts to be precise about in poems are the documentary details as present in the archive. This precision is, however, not aimed at being faithful to the archive itself, as the poems in this thesis read against the grain of the persecutory law recorded by the archive; at the same time, however, I aim to be faithful to the

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\(^{30}\) William Carlos Williams, Paterson (London: Peter Owen, 1953).


document as evidence of the lives, persons and events that existed “behind” the exercise of the law and its recording functions.

Lorine Niedecker, usually placed with the objectivists, offered a significant resistance to “traditional” objectivism in her poetics, which DuPlessis and Quartermain claim is a revision of objectivism; Niedecker resists, they argue, the absolute restriction in (Poundian) “hard” constraint to the clear, true, objective image. Niedecker wrote in favour of reflection, feeling and “streaming of the mind.” In the sense that DuPlessis and Quartermain designate the “nexus” of the objectivist nexus as a concept that “embraces contradiction, variousness, and dispute,” the objectivist nexus I want to situate the poems in these thesis in embrace, with Niedecker, reflection, feeling and streaming, while remaining faithful to the more “traditional” objectivist method of documentation and restriction to the “thing” rather than symbolist or romantic abstraction out of the world. I also seek to position the poems in this thesis within the nexus of objectivist poetic approach to and concern with historical documentation, and juridical investigation, specifically as done by Reznikoff in Testimony (his documentary long poem composed from juridical research in American court archives from the long nineteenth century) and Holocaust (his volume of documentary poems composed from his research in the Eichmann trial archives); and by Niedecker in her later poems in North Central (which document nineteenth century explorations of the Great Lakes region by explorers who become entangled in indigenous communities), and in her


posthumous collection *Harpsicord and Saltfish* (which includes biographic poems on Thomas Jefferson and Charles Darwin).\(^{37}\)

If, as Quartermain and Charles Altieri suggest, Susan Howe can be placed to be within the “line” of objectivist writing and poetics, what is it that Howe’s particular poetics offer as a criticism of “traditional” objectivist poetics? \(^{38}\) In order to answer this question, I want to consider Howe’s own work (in the context of Quartermain’s and Altieri’s claims), particularly in *Singularities*, and with brief reference to *My Emily Dickinson*.\(^{39}\) *Singularities* is a small volume published by Wesleyan and, like much of Howe’s oeuvre, is concerned with historical documentation and literary manuscript editorial practices in relation to pre-twentieth century American literature and history.\(^{40}\) The first section of *Singularities*, “Articulation of Sound Forms in Time,” previously published as a chapbook, begins its first section, “The Falls Fight,” with a seemingly straightforward prose account of the historical


event of “The Falls Fight,” an early American massacre of First Nations people by an English militia. Consider the opening lines (I have, as far as possible, attempted to replicate the original formatting):

Land! Land! Hath been the idol of many in New England!

Increase Mather

Just after King Philip’s War so-called by the English and shortly before King William’s War or Governor Dudley’s War called the War of Spanish Succession by Europeans, Deerfield was the northernmost colonial settlement in the Connecticut River Valley. In May 1676 several large bands of Indians had camped in the vicinity. The settlers felt threatened by this gathering of tribes. They appealed to Boston for soldiers, and a militia was sent out to drive away Squakeags, Pokomtucks, Mahicans, Nipmunks, and others. The standing forces were led by Captain Turner of Boston. Captain Holyoke brought a contingent from Springfield; Ensign Lyman, a group from Northampton, Sergeants Kellog and Dickinson led the militia from Hadley. Benjamin Wait and Experience Hinsdale were pilots.

‘The Reverend Hope Atherton, minister of the gospel, at Hatfield, a gentleman of publick spirit, accompanied the army.’

Howe repeats “War” four times in the first three lines to establish a chronological frame: “just after” and “just before.”

Naming is important, as Howe’s naming for each war asks the reader to attend to multiple perspectives in this seemingly straightforward prose. Howe’s use of “so-called” instigates a critique through implying the contested or inappropriate terminology of “King Philip’s War.” Howe gives no definition for this war and if we do not know the history in question we might be forgiven for assuming it to be a war named after a British or European monarch and fought in a European theatre. Instead, King Philip, as he was known to the New English colonists, was the sachem (chief) of the Wampanoag who was considered by the

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41 Howe, Singularities, 3.
English to have initiated a militant resistance to their presence. The expansion of the colonial settlers in southern New England had, according to Neal Salisbury, forced First Nations groups to cede land and precipitated the resistance.\(^{42}\) Hostilities led to the what historians usually refer to as the first war in the New England region between settler and indigenous groups since the initial period of colonisation. In “King Philip’s War” 5,000 First Nations people were killed (40 percent of the population) and 2,500 colonists were killed (5 percent of the population).\(^{43}\) According to Salisbury the war led to a radical transformation of indigenous-colonist relations, where previous relations which were characterised by alliances and trade relations came to be replaced with a system of reservations and legislation which classified all First Nations people as “outcast subjects.”\(^{44}\)

War and its radical transformation of relations between “belligerents” prefaces Howe’s poem and her chronological placement of the poem’s historical event as occurring “just after King Philip’s War.” The poem’s event also occurs “shortly before King William’s War or Governor Dudley’s War called the War of Spanish Succession by Europeans.” The placement of “or” here is deceptively straightforward. Not altogether grammatically correct it is unclear in the construction of the sentence whether this “or” signals another case of “called” (an alternative naming) or whether this “or” means an alternative event, or if “or” implies a rough equivalence. King William’s War is not, in the conventional writing of American history, the same conflict as Governor Dudley’s War; the latter of which is usually called “Queen Anne’s War” by Americans. Yet, convention dictates that these two conflicts


\(^{43}\) Salisbury, “King Philip’s War.”

\(^{44}\) Salisbury.
are seen as the first two of the four French and Indian wars (1689-1783). Howe’s poetic intervention in the historiography of imperial warfare (between competing European empires, and in consequence of imperial invasion and colonisation of indigenous North American lands), redraws the bounds between discrete episodic “Wars” as interminable war: “War,” “War,” “War,” “War.” “War” resounds in the first three line as singularities not granted the respite – the pause – to be made plural.

The event that sits just after “War” and just before “War,” “War,” “War” occurred in May 1676 and pivots on the occurrence where the English militia “happened upon an unguarded Nipmunk, Squakeag, Pokomtuck, or Mahican camp.” Again, Howe uses “or”; and “or,” once again, implies an indeterminacy of historical reference. Presumably the documents do not detail the nationality of the First Nations camp. “Or” signals the unattainability of the truth of the event yet maintains the importance of the real event by detailing the omitted names, here of nationality. Howe stresses the irresolvable tension between the demands of truth and the demands of fiction.

During the “fight” the militia, Howe writes, opened fire shooting into the wigwams. In the next line Howe terms the unidentified tribe, “the frightened inhabitants.” How could she know their affective response? Terror as an affective response to guns being fired into one’s house is claimed as a truth. The tribe thought they were being raided by Mohawks and rallied out, Howe tells us by quoting “the chronicler” – the stability of documentary truth is questioned immediately after the truth of the event is emphasised in the preceding line. The English shot the rallying group down, while many others in the “frenzy” rushed into the river and in consequence drowned, or took to canoes which sent them over the falls to their death.

300 First Nations people died, mostly women and children. This is the event, called “The Falls Fight,” that in conventional historiography sits between discrete wars but for Howe is only “just after” and “shortly before” an incessant singularity of “War.” After the “fight” a group from the English militia (which included Hope Atherton) got lost in the nearby wood; Howe tells us that on coming across the tribe the English group offered surrender. In retaliation for the “fight” the “Squakeags, Nipmunks, Pokomtucks, or Mahicans” covered them in thatch and set them alight forcing them to run until the thatch was consumed, whereon they added more until, as Howe tells us the historian she quotes was told by the First Nation group, “death delivered them from their hands.”

In the second section of “Articulations in Sound Forms in Time,” titled “Hope Atherton’s Wanderings,” Howe’s cadence shifts from prose-poem history to a more clearly poetic register. Disjunctive syntax sits with improper words. Consider the following from the fourth stanza:

Medfield Clay Gully hobbling boy

Sixteen trace no wanton footstep rest

The first three words place us in a landscape: “Medfield,” another town in Massachusetts, also rings of the “midfield,” as in the middle of a field, the traditional point of conflict in land-based battleground warfare. “Clay Gully” draws us back to natural formations of the land, the quality of the soil and the nature of topographical formation as a river cuts through the earth creating a gully. “Clay,” is also as a common male name and “Gully” is as a

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46 Howe, *Singularities*, 4

47 Howe, 7.
Scottish word for a knife.48 “Clay Gully” points towards “hobbling boy.” “Hobbling,” most usually implying the sense of irregular gate, as in a clumsiness or imperfection like limping, also refers to rhythm in verse that is halting.49 For this latter meaning the OED gives lines from Mathew Prior’s 1718 poem, Prior Alma, as illustrative: “While You Pindaric Truths rehearse; She hobbles in Alternate Verse.”50 Furthermore, in the sense the OED gives as its first “hobbling” is defined as: “to move unsteadily up and down in riding, floating, etc.; to rise and fall on the surge, as a boat; to rock from side to side, to wobble.”51 To halting gate and verse is added the sense of unsteady floating, returning our awareness to the common form of “mistaken” death and murder of First Nations people at “The Falls Fight.”

Moreover, hobbling is first recorded in fifteenth century English and was cognate with the Dutch “hobbelen,” translating as “to toss, rock from side to side, ride on a hobbyhorse, halt, stammer, stutter.”52 The ethics of hobbling and stuttering are a central question for Howe, questions she also raises in My Emily Dickinson. A central purpose of My Emily Dickinson, a volume of poems on Emily Dickinson – poems which are part scholarship and part biography – was to counter patriarchal editorial practices in publication of Dickinson’s

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manuscripts, and to counter the related common interpretation of Dickinson as simply a savant, a madwoman and shut-in. In a well-known passage, Howe writes:

She built a new poetic form from her fractured sense of being eternally on intellectual borders, where confident masculine voices buzzed an alluring and inaccessible discourse, backward through history into aboriginal anagogy. Pulling pieces of geometry, geology, alchemy, philosophy, politics, biography, biology, mythology, and philology from alien territory, a "sheltered" woman audaciously invented a new grammar grounded in humility and hesitation. HESITATE from the Latin, meaning to stick. Stammer. To hold back in doubt, have difficulty speaking. "He may pause but he must not hesitate"-Ruskin. Hesitation circled back and surrounded everyone in that confident age of aggressive industrial expansion and brutal Empire building. Hesitation and Separation. The Civil War had split American in two. He might pause, She hesitated.

Again, we have “War,” and the impossibility of hesitation, to let a “footstep rest,” within an ethos and era of “aggressive industrial expansion and brutal Empire building.” Howe places the poetic practices of Dickinson, and Howe’s own “wanton,” hesitant metre, as a linguistic counter to incessant “War” march and the militarism that sits at the foundation of English colonialism. She models an ethics of humility, stillness and hesitation – the possibility of respite.

To return to our two lines from “Hope Atherton’s Wanderings”: “sixteen” begins the second line, though it is unclear whether this number refers to the hobbling boy’s age or to a number of people. And then, “trace no wanton footstep rest”: Howe continues the trope of walking gait. “Trace,” as in to follow, implies the stepping of feet in the course taken, to

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54 Howe, My Emily Dickinson, 21.
travel with and behind. Whether the boy or the party of sixteen, the path taken allows “no wanton footstep rest.” Howe repeats the sense in hobbling of irregularity in the use of wanton: the undisciplined, promiscuous (woman’s) will is barred its foot’s rest or placement outside of the “traced” path. “Footstep rest” also draws us to the anatomy of metrical prosody: to the “thesis” that refers to setting down of the foot in marking metrical time in the accentual rhythms of English pronunciation. Howe proposes an ethical commitment to disruptions to the metre of iambic military march, the mark of traditional English poetry – to place the foot differently or allow it to rest down.

This hesitant, disjunctive and wanton approach to poetics is, I would argue, Howe’s critique of clarity in traditional objectivist aesthetics. Louis Zukofsky, in “Sincerity and Objectification: With Special Reference to the Work of Charles Reznikoff,” proposed the objectivist aim of “rested totality” in presenting the object of the thing “in itself”; an aesthetics aimed at creating a direct relation to the situated world. Carl Rakosi similarly described his objectivist poetics as “the opposite… of all forms of personal vagueness” as part of a project intending to present the poem as itself an object, and to cultivate a grounded relation to things in the world rather than revert to metaphysical abstractions. Howe’s poetics challenge these objectivist terms through her commitment to hesitation, opacity (non-knowledge) and disjunctive expression. In approaching the sodomitical archive I have sought to take up this baton in order to recreate the historical stories of the disorder of persecution: to


disrupt the “order” of the state’s juridical archive through poetic reconstruction of historical event with attention to hesitation, question and opacity.

M. NourbeSe Philip’s *Zong!* is a book length poem sequence that draws its words entirely from the juridical record of the Atlantic slave trade. The text Philip makes use of is the report of the Zong case, *Gregson v. Gilbert (1781)*, a legal dispute where the captain of the slave ship murdered slaves by throwing them overboard in an effort to claim an insurance payout for the lost “property.” The underwriter’s legal defence contested the claim on the grounds that it was unnecessary for the captain and crew of the *Zong* to dispose of their “goods.” Proprietary rights over African slaves was not under question. Philip articulates her resistance to clear prose as an ethical commitment to the murdered Africans, whose story she is attempting to extract from this hostile legal document and historical context.\(^{59}\) She writes, “this story must be told by not telling – there is a mystery here – the mystery of evil.”\(^{60}\) The rearrangements of words on Philip’s page resist easy interpretation – this is difficult going. The text resists the readers will to “move on.” The implications of Philip’s text stand as a challenge to blind acceptance of the European Enlightenment as a stalwart of rationality and order: “The disorder, illogic and irrationality of *Zong!* can no more tell the story than the legal report of *Gregson v. Gilbert* masquerading as order, logic, and rationality.”\(^{61}\) Philip makes this argument in poetic form as well; consider the following:


\(^{60}\) Philip, *Zong!*, 190.

\(^{61}\) Philip, 197.
in an age

where

truth is rare

Even if we read these lines from top to bottom, left to right, we are wrenched around the page; Philip “hobbles” the fluency of speech. The space between “where” and “truth” forces “where” to act as an interrogative, rather than merely as a relative conjunction marking the time of “an age.” The challenge to the enlightenment era as the “age of truth” does not simply relativize truth. Philip highlights the truth of Black African people’s humanity, a fact excluded from this enlightenment era legal document. Philip also marks the truth of the event of the Zong captain and crew murdering some 150 African slaves at every wrenching turn of her poetic engagement with the Gregson v. Gilbert text. Philip repeats “dear ruth” throughout the text, an invocation to a muse. One letter shy of “truth” Philip marks “ruth” and “truth” as muse to her text. I read this as marking a truth not of the supremacy of order, but of the event, of humanity and of the will to justice:

for ruth for truth

ius is just us

Like Philip I use the juridical documentary record of persecution to construct poems with the intent of recuperating the lives of those who suffered under European imperial order. I do not propose an equivalence between persecution under sodomy laws and the legal history of the African slave trade – the state executed few people for sodomy, and to be a “sodomite” (if such an identity category was available in the period) did not on its own make a person

62 Philip, 90.

63 Philip, 15.
liable to be the property of another. The history of convict transportation and the use of bonded labour in this system in the period preceding 1840 – which was central, as this thesis will show, to constructions of sodomy in this period – does bear a relation to slavery in historical debate.\(^{64}\) As David Neal evidences, the difference resides in property relations: free settler masters did not own property in the person of the assigned convict, but only in their labour.\(^ {65}\) Furthermore, of course, after the sentence of a convict was served – the maximum of which was fourteen years – freedom was usually granted. The benefits of free labour in establishing an overseas imperial colony links the history of slavery and that of bonded labour as a technique of imperial expansion, without proposing an equivalence of severity or suffering.\(^ {66}\)

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\(^{65}\) For a discussion of the legal similarities and disparities between slavery and convict rights see David Neal, Free Society,” 27-37.

\(^{66}\) For discussions of reformist use of rhetorics from the slavery abolition movement, discourses which were once again used in campaigns against transportation and bonded convict labour, see Kirsten McKenzie, “Discourses of Scandal: Bourgeois Respectability and the End of Slavery and Transportation at the Cape and New South Wales, 1830-1850,” Journal of Colonialism and Colonial History 4, no. 3, (2003). Project MUSE, https://muse.jhu.edu/article/50785; Kirsty Reid, Gender, Crime and Empire: Convicts, Settlers and the State in Early Colonial Australia (Manchester: Manchester University Press, 2007), 229-236; and Hamish Maxwell-Stewart, “‘Like Poor Galley Slaves…’: Slavery and Convict Transportation,” in Legacies of Slavery: Comparative Perspectives, ed. Maria Suzette Fernandes Dias (Newcastle, UK: Cambridge Scholars Publishing, 2007).
In “Queer Spectrality: Haunting the Past,” Carla Freccero forwards a complex theoretical approach to queer historicism that aligns with my poetics and queer literary historicist approach in this thesis to the sodomitical archive. In this essay, Freccero reflects on her prior work with Louise Fradenburg in their field shaking *Premodern Sexualities*, describing this earlier work as arguing for “a queer historiography that would devote itself to a critical re-valorisation of the places and possibilities of pleasure within the serious and ascetic work of history.” In “Queer Spectrality” she adds to this occupation with pleasure a further attention to the pain that resides in the queer past, made present by the work of queer history. “Queer historicism,” she writes, “harbors within itself not only the pleasure, but also the pain, a traumatic pain whose ethical insistence is to ‘live to tell’ through complex and circuitous processes of working through.” The return of ghosts from the past, Freccero argues, inhabit the present in the writing of history and assert their demands for justice and mourning. Historical trauma appears in the form of the unresolved returners, as the troubled past made present by their unresolved demands to be made right, in the spectre’s demands to be mourned and to impel the process to an as yet achieved historical justice. She writes, “the goal of spectral thinking is thus not to immure, but to allow to return, to be visited by a demand, a demand to mourn and a demand to organize. Mourning is, in an important way, the work of history.”

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69 Freccero, 194.

70 Freccero, 196.
however, to avoid a stable demarcation of identity bounds in the process of queer historical remembrance; the victims of the violent exclusions of modernist formations and resistance movements (identity categorisation and nation state formation), I would suggest, loom as fellow travellers in her treating on more friendly, if afflicted, visitors. Freccerro also poses a serious question: “Can we (a ‘we’ not given in advance) live on – survive – beyond categorical imperatives in such a state of dynamic suspension, and is there a certain responsibility, in the name of the ‘queer’ – to do so?”71 “In the name of the ‘queer,’” simultaneously performs a claim (a claim for a figure, albeit a figure in inverted commas) and a distancing (“in the name of”): advocacy pivots on the “dynamic suspension” between figuration and irresolvable indeterminacy.

Throughout my doctoral research I have been haunted: I have been haunted by the minor figures who sound relentlessly the conditions of the injustice they experienced, and who speak in the name of the “queer.” In this way I do not so much, or only, look back to history, but encounter a history that looks back towards my present. If the conditions of state persecution and disciplinary regulation under sodomy laws and in consequence of the rhetorics about sodomitical proliferation made these lives less liveable, it is the force of their sodomitical queerness – as gender transgressors, racial “abominations,” lumpen class rogues, petty offenders, criminal recidivists and the imprisoned poor – that, I will show in this thesis, speak back to the still intolerable and unliveable conditions of present heteronormative hegemonies. Despite the ever repeating living of queer lives, queer lives are not yet liveable –

71 Freccero, 207.
if we take “liveable” to mean an ease to live without targeted state-sponsored or “vigilante” persecutory harassment, violence and murder.\textsuperscript{72}

A significant debate flared, perhaps with a paradigmatic queer rage for infight, in the field of queer history beginning approximately in 1990 and continuing roughly into the first half of the first decade of this millennium. The debate pivoted on the degree to which queer historicism ought to historicise and was initiated by David Halperin’s argument for a rigorous altericist historicism as a counter to sentimental appropriations of historical sexual organisation and types as “homosexual” (specifically that of classical Greek pederasty).\textsuperscript{73} The most significant and field shaking counter to this “altericist” perspective came in Fradenburg and Freccero’s \textit{Premodern Sexualities}, where they argued for desire and pleasure as productive sites to emphasize queer continuities as a retort to what they saw as the fantasy of the absolute alterity of history.\textsuperscript{74} In doing so they also aimed to dislodge the hegemonic ideology that they argued underpins such an analysis, chiefly the view that modernity sits at the end of history: “we are modern insofar as we know that we are incommensurably different from our past and from other cultures.”\textsuperscript{75} My intention here is not to rehash or

\begin{footnotes}
\item[72] For example, in the American context, see Michelle A. Marzullo and Alyn J. Libman \textit{Research Overview: Hate Crimes and Violence Against Lesbian, Gay, Bisexual and Transgender People} (Washington: Human Rights Campaign Foundation, 2009). In the global context, see Human Rights Watch, “LGBT Rights,” 2013, \url{https://www.hrw.org/topic/lgbt-rights}.
\item[73] David Halperin, “Introduction,” and “One Hundred Years of Homosexuality,” in \textit{One Hundred Years of Homosexuality: And Other Essays on Greek Love} (New York: Routledge, 1990), 1-8, 15-40.
\item[75] Fradenburg and Freccero, xv.
\end{footnotes}
resurrect this debate. Immensely productive – in terms of theoretical and historiographical output – the debate has now, more or less, been put to bed (perhaps sternly or voluptuously, depending on the writer). Furthermore, the debate has been ably canvassed, while not without contention, by senior scholars in the field. It seems to me that much of the debate is a war of emphasis, where a more synchronic approach is not only able to contain, but is thickened by the tension between the alterity of the past and the pleasures and pains of continuity.

Such a perspective is even present within many queer historicist texts from either side of the debate. Take two of the leading contenders from either side, first from Halperin in *How to Do the History of Homosexuality*, and then from Fradenburg and Freccero in *Premodern Sexualities*:

It is possible, after all, to recruit the queerness of past historical periods not in order to justify one or another partisan model of gay life in the present but rather to acknowledge, promote, and support a heterogeneity of queer identities, past and present… At the same time, while making allowances for continuities, identifications, and queer correspondences between past and present….the essays in this volume defend what used to be called a constructionist approach to the history of sexuality. They have been written to uphold my historicist commitments.

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the historiography of sexuality could, we believe, go further in its project of dislodging and indeed queering the truth-effects of certain historicist practices. Especially in question are those historicist practices that repudiate the roles of fantasy and pleasure in production of historiography.

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It should be noted that not all scholars claim to be convinced that Halperin’s argument here is more than a platitude, see Goldberg and Menon, “Queering History,” *PMLA* 120, no. 5 (2005): 1613.

78 Fradenburg and Freccero, xvii.
Yet, Fradenburg and Freccero continue,

Let us be clear: we do not urge a return to a transhistoricist nostalgia. We urge instead continuing attention to the role played by desires, residues, and repetitions in the historical construction of sexuality, and in particular to the fantasmatic figure of a modernity symmetrically and absolutely opposed to premodernity.\(^{79}\)

Even in these polemical examples there is an awareness of the possibility of the co-existence of alterity and identification, of difference and sameness.

Kate Lilley expertly balances this tension in a different context that is nonetheless relevant to queer historicism when she writes, in her discussion of Susan Howe’s *The Midnight*, that Howe’s “writing represents neither a simple negation of individuality nor a naïve assertion of it, but a self-conscious negotiation of the problematic of identity and genealogy.”\(^{80}\) Halperin similarly writes that “a sensitivity to [historicist] difference need not rule out identification, attention to continuities, or forms of queer multiplicity and solidarity.”\(^{81}\) Identification in Halperin’s text stands as one option in a list of terms describing proximate relations: “continuities” points to the persistence of historical forms; “queer multiplicity” points towards the never quite singular coalition of sexual minorities and the fluidity of queer cohesion or identity; and “queer… solidarity” implies an act of standing in resistance with, or along-side of, others who “I” identify with yet not necessarily as. It is precisely this type of indeterminate identification – that is, a non-identical as and an open alterity to the other who we identify with –, signalled in Halperin’s defence of queer historicism, that, I would argue, enables open forms of identification rather than closed forms.

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\(^{79}\) Fradenburg and Freccero, xix, emphases added.


\(^{81}\) David Halperin, *How to Do*, 17.
(what could be called with contemporary political resonance “sovereign bordered” or “walled” forms). The arch-example of radical democratic identification is figured by the practice of queer historicism.

An axe I do want to grind in this thesis, however, is against identificatory historiographical practices, both queer and transhistoricist, that insist on claiming premodern and “residual” forms of pederasty as ethically gay and queer historical precursors, or as “homoerotic” sites for “our” pleasurable identification. Throughout this thesis I return to discuss issues of “residual pederasty” since they significantly inform nineteenth century discursive constructions, and juridical prosecutions, of sodomy.\textsuperscript{82} I am here using Thomas King’s concept of “residual pederasty” to describe the axial difference of super- and sub-ordination between sexual partners axiomatic to early modern pederasty. Such pederastic relations, he argues, were a normative patriarchal cultural practice endemic to a status-based society, and were structured on the courtly organisation of favour in relation to the crown. Relations which were, he further argues, structured on the courtly norm of “pederastic” dependency.\textsuperscript{83} Such relations did not endure as a norm in the restructure to modern society where private property and the emergence of universal male gender repudiated pederastic penetrability as an “abuse of men’s property in themselves.”\textsuperscript{84}

As King argues, the emergence of the universal category of male gender introduced a category available across divisions of, principally, age and class, whereas in status-based

\textsuperscript{82} King, \textit{The Gendering of Men, 1600-1750}, vol. 1, \textit{The English Phallus} (Madison: The University of Wisconsin Press, 2005), 4-7, 107-112.

\textsuperscript{83} King, \textit{English Phallus}, 4-7, 107-112.

\textsuperscript{84} King, 5.
societies such mobility was impossible. In the classical system of status-based order many males were available for ownership (such as slaves and servants) and therefore, King further argues, male gender, if by which we mean a set of gendered privileges including ideals of corporeal integrity and autonomy, was not a universally available category. As axial gender differences among males dissolved, “residual pederasty” became increasingly intolerable over the seventeenth and eighteenth centuries and, as will become clear in this thesis, was central to intolerance of sodomy in the nineteenth century. I mean to take seriously and, therefore, take up the revisionist call put by King that “most historical studies have… reinscribed pederastic relations within a continuous history of ‘male-male’ love or eroticism, absorbing the distinct, dependent classes of boy, servants, and other subordinated males into the category of ‘men.’”

A germane example of this reinscription from the field of queer historicism is present in Johnathan Goldberg and Madhavi Menon’s article, “Queering History.”

To engage with this argument requires us to dwell in the early modern (and classical) period for a moment longer. Goldberg and Menon’s paper argues for the pleasures, and analytic value, of registers of “homo” and “sameness” as a counter to what they see as the heteronormative privileging of difference in queer historicism. To make their case they offer a critique and re-reading of Halperin’s reading of Boccaccio’s fourteenth century retelling, in Decameron, of Apuleius’s The Golden Ass (a late second century classical Roman text). The gist of the tale is that a wealthy husband, Peitro, finds that his wife has been having an affair with a young male, whereupon he has sex with (or in Apuleius’s case rapes) the young lover. Goldberg and Menon write that, in contrast to Apuleius’s version, “Boccaccio’s more related tale finds that

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85 King, 22.

it can accommodate a variety of desires in a *ménage a trois* that refuses to privilege gendered difference and that multiplies in a nonpunitive way the possibilities of varieties of sexual acts."\(^87\) The "varieties of sexual acts" the "boy," "dazed youth" or "young man" (these descriptors used interchangeably by Goldberg and Menon) comments on are, however, quite limited. The morning after being bedded by the married couple he is merely unsure of, as Goldberg and Menon note, whether he played the role of the "wife" or "husband" more often (or pleased the wife or husband more, depending on the translation).\(^88\) Surely queer futures can imagine more “variety” than a boy playing either the role of wife or husband to a wealthy married couple.

More significantly, the “refusal to privilege gendered difference” – presumably Baccachio’s or the husband’s “refusal to privilege” is, I would argue, instead foundationally structured on gendered difference. If it is true, as King suggests in his arguments discussed above, that pederasty is structured on the gendered difference of men from boys in periods where modern male gender is not yet a universally available category, we can see that Baccachio’s construction of Pietro’s desire is premised on his gendered difference from the boy. Boccaccio refers to the young lover with the term “garzone,” which Halperin translates as “youth,”\(^89\) but which also translates as “boy” and “apprentice” (Halperin translates Apuleius’s word for the never named youth, “peur” as “boy” and further notes the “shiny smoothness of his beardless cheeks” that the narrator remarks the boy is “still” notable for).\(^90\) Following King, the gendered difference between men and boys, and between wealthy married men (and adult women) and apprentices, structures Pietro’s eroticism (and it is

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\(^87\) Goldberg and Menon, 1615.

\(^88\) Goldberg and Menon, 1613-15.

\(^89\) Halperin, *How to Do*, 40.

\(^90\) Halperin, 39.
Pietro’s eroticism this debate is concerned with) as axiomatically structured on relations of gendered difference, either for his wife or for the youth/boy/apprentice. A pleasure on the part of queer historicists – adults all, tenured faculty most – in pederastic relations hermeneutically assimilates the distinctive differences of age, class and power that structure the relations into registers of “same,” “homo,” or between “us,” thereby erasing axiomatic axial differences. Subjection, if not abuse, is rewritten queer.

I do not here seek to advocate for a simplistic valorisation of equality or sameness as an ethical standard – part of the problematic I am pointing out is an effect of this approach. Nor do I wish to proscribe all relations between adults and adolescents as axiomatically abusive (adolescence is, by definition, a liminal and shifting category). Debates on intergenerational sex inevitably involve essential questions of debate and agency. Foucault’s cavalier statement on the issue is worth noting: “there are children who throw themselves at an adult at the age of ten – so? There are children who consent, who would be delighted, aren’t there?” Naomi Segal’s engagement with this issue is germane, not to mention nuanced and considered in a way Foucault’s is not: “Why a child might throw herself or himself at an adult, what that throwing might mean to the child, and what we should understand by ‘consent’ are all key questions.” The concept of “taking advantage” – a placing over from a vulnerability laid bare, or a particular need asserted in a relation of imbalanced knowledge, or an outwitting of what might be (in a more aware circumstance) a “test” – is structured on the consent and agency of the abused party. Indeed, “grooming”

implies the manipulative summoning of agency and consent, even though the very terms of these concepts are what is under contest in the process.

Segal offers a seemingly straightforward statement in relation to gauging abuse, “the only person who can define whether their integrity has been damaged is the person concerned.” She argues that in the case of underage persons, however, this truism becomes less straightforward considering what she terms the nature of the child “whose very being we tend to consider… labile and unfinished.” “Labile” implies the easily altered, fickle, yet also the easily broken down. In the readings in this thesis I aim to keep in mind the lability of childhood and adolescence and, therefore, orient my analysis toward the youth’s experience and circumstance when questions of sex between adults and adolescents or children arise, and, when available, orient towards the younger person’s perspective. Such an orientation is unavailable in analytics of “homo” or “same” which in their flattening of relations inevitably skew towards the position of privilege.

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In the ninety-page essay, “Demeure: Fiction and Testimony,” Jacques Derrida glosses, or as he puts it, “will attempt to read with you a little later,” Maurice Blanchot’s text The Instant of My Death. The Instant of My Death, itself between “testimony” and “fiction,” tells of a “young man” in France during Nazi occupation who sets himself on side with “comrades

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93 Segal, 25.

94 Segal, 25-6.


from the maquis.” However, when the Nazi firing squad are set to execute him, they turn, and let him go. He, a Signeur (a Lord), was spared due to the Nazi soldiers’ regard for his class status. “There remained, however, at the moment when the shooting was no longer but to come,” Blanchot writes, “the feeling of lightness… neither happiness nor unhappiness… As if the death outside of him could only henceforth collide with the death in him.” 98 Derrida reads Blanchot’s text as autobiographical (or, more accurately, of, or from, his death, rather than of or from his life: “autothanatographical”). 99 Blanchot writes, Derrida argues, the “I” from this place – the story sits at, cannot get over, this instant of “his” imminent death that never comes. The precipice reached, from which he does not return, but to which he remains bound: “this unanalysable feeling changed what there remained for him of existence.” 100 It is death, in a paradigmatically Blanchotian formulation, that ties one to the essence of literature and life. In The Space of Literature, Blanchot’s major theoretical work, it is the allegory of Orpheus who turns back towards Eurydice, to her loss, towards death, that inaugurates the turn towards lyric, poetry and, Blanchot argues, the essence of literature. 101 Death, for Blanchot, is not that which divides us from the world, but that which impels us with its promise towards the merely mortal life at hand. As Derrida puts it, “a passion of literature as passion of death and compassion.” 102


100 Blanchot, “Instant,” 9


Throughout “Demeure: Fiction and Testimony” Derrida lingers on the untenable distinction between fiction and testimony – that is, literature and fact – via ruminating on The Instant of My Death. As a prefatory note to a condensation of his theory expanded over this ninety-page essay, that for our purposes also usefully serves as a simplification of his theorisation, Derrida begins, “but allow me, for lack of time, to say this too quickly”\textsuperscript{103}; wanting us to nonetheless dwell at the inevitable precipice of Blanchot’s death that does not come by cannot but do anything but come, that the work at hand writes of or from, he offers us the reduction: “without the possibility of this fiction, without the spectral virtuality of this simulacrum and as a result of this lie or this fragmentation of the true, no truthful testimony would be possible. Consequently, the possibility of literary fiction haunts so-called truthful, responsible, serious, real testimony as its proper possibility.”\textsuperscript{104} As a recapitulation of the event in language, the testimony relies on what Derrida calls the “miracle” of literature to come to any near approximation of the true statement.\textsuperscript{105} “A virtuality,” he writes, “that can no longer be opposed to actual factuality. It is here that false testimony and literary fiction can in truth still testify”; and, he also writes, “in order to remain testimony, it must therefore allow itself to be haunted. It must allow itself to be parasitized by precisely what it excluded from its inner depth, the possibility, at least, of literature.”\textsuperscript{106} For Derrida this is the miracle of the literary in the formulation of true statement which dogs any stable division between fiction and testimony, or literature and testimony.

On one level, throughout this thesis I take this insight to a more literal end in the composition of poems from juridical testimonies. What might a testimony say that displays

\begin{itemize}
\item \textsuperscript{103} Derrida, 72.
\item \textsuperscript{104} Derrida, 72.
\item \textsuperscript{105} Derrida, 75.
\item \textsuperscript{106} Derrida, 30.
\end{itemize}
its own poetics ("fiction")? And what of the accused who does not speak, but in every testimony surrounding this accused there is a reach towards the truth statement – that is, an attempt to speak the accused’s action, to recreate this act in language? The sodomitical event is always at the horizon, or it is not. More broadly, if I consider the more difficult point in Derrida/Blanchot’s text on the significance of the precipice of death, I find myself positioned as the “Signeur” when reading from the relative comfort of university study spaces in a country where sodomy has been decriminalised and LGBTQI people enjoy relatively stable legal and anti-discrimination protections. If the act of looking back at the record of sodomitical persecution, reading the archive at my leisure, with horror, places “me” at the precipice of my/their death, what is the significance of this as a literary event? Is to claim it as literary, to put it into poetry (again) to undermine its seriousness, its reality? I aim to reconstruct these “heroes or heroines of testimony” whose speech was not recorded, who remain always the object, not the subject, of testimony; yet an occluded subject of the action that lead to each testimony.107

If we take it as true that fiction, literature, writing and so forth are necessarily imbricated with any truthful testimony, the injustice of sodomitical persecution is that the right to death/literature has been denied. As Derrida writes, “The right to literature insinuates itself, at the very origin of truthful testimony, autobiography in good faith, sincere confession, as their essential compassibility.”108 (Recall Derrida’s statement, “a passion of literature as passion of death and compassion.”) Unable to speak – that is, lie/testify to the truth – the sodomitical subject was denied this right. This is to say – that is, I want to say – I am like Blanchot, like a nineteenth century New South Welsh sodomite, “someone the

107 Derrida, 22.

108 Derrida, 42, emphasis added.
Germans wanted to shoot in a situation where he would visibly have been on the side of the Resistance fighters.”  “Any Nazi, whatever his nationality,” writes Derrida, “can speak whatever language from whatever continent.” “Nazi,” Derrida suggests, refers not only to the German party member (the othered limit of authoritarian fascism) but to the all too common presence of modern exterminatory order.

The textual foundation of each poem is composed of quotation of sodomy trial court transcription records and newspaper articles. I have gathered this material from Peter de Waal’s *Unfit for Publication: NSW Supreme Court, Quarter Session and Police Court, Bestiality, Buggery, Sodomy and Other Sex Offences Trials, 1727-1930*, and my own archival research at the State Records of New South Wales (SRNSW), and the Tasmanian Archive and Heritage Office (TAHO), my fieldwork studies at the Kingston and Arthur Vale Historic Area (KAVHA) Historic Site at Norfolk Island, archival research I did at the KAVHA Museum at Norfolk Island, and my archival research in New South Wales newspapers and magazines archived by the National Library of Australia. In each poem I have constrained the content to non-fiction quotation and my own authorial questions and readings of the archive. I have not filled gaps left by archival documentation with my own fantasies or imagination.

During archival research at SRNSW, TAHO and the KAVHA Museum and Historic Site I made new findings in relation to William Williams, Solomon John and Samuel Jones, which in this thesis I document in poems. In terms of William Williams, I present poetic condensation of my transcription of a prior sodomy conviction for William Williams, adding

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109 Derrida, 55.
to existing scholarship on Williams.\textsuperscript{110} I also present an image and poetic translation of Solomon John’s signature, which is in Arabic or Farsi script, most likely in the Urdu language, and which was previously unrecognised by de Waal. Further, I present John’s and Williams’s Van Diemen’s Land convict records which detail their behaviour while imprisoned and the particular penal settlements and probations stations each were sent to after being convicted of sodomy in Sydney, again adding new material to their biographic archives. I here also document in poetic form my fieldwork observations of the ruins of these stations, and various TAHO archival records in relation to these stations at the time of Williams’ and John’s imprisonment.

In the poem “Samuel Jones” I present significant archival work in relation to this significant figure in New South Wales’s sodomitical history. So far, to the best of my knowledge, the only research that exists on Jones is Peter de Waal’s transcription of his sodomy trial, and Robert Nixon Dalkin’s and Susie Zada’s documentation of his gravestone as a significant object at Norfolk Island’s graveyard in their respective studies on the island’s cemetery.\textsuperscript{111} My archival research at SRNSW is the first to document his earlier proximity to an attempted mutiny on the transport brig \textit{John},\textsuperscript{112} his proximity to an escape from the Carters


\textsuperscript{112}Surgeon Superintendent James Lawrence to Colonial Secretary Alexander McLeay, and Attorney General John Kinchella to McLeay, June 9, 1833, SRNSW: Chief Secretary 1826-1882; NRS 905, Main series of letters received, [4/2145], 32/4441 “Investigating Convict Ship John (3),” June 9, 1832.
Boys Barracks in Sydney,\textsuperscript{113} his infractions while performing labour in Sydney,\textsuperscript{114} and his treatment and behaviour on Norfolk Island.\textsuperscript{115} During fieldwork and archival research at the KAVHA Museum and Historic Site, Norfolk Island I also made new research findings in relations to Jones. For example, I located significant and detailed documentation of Jones’s involvement in an attempted mutiny on Norfolk Island: I transcribed communications documented with the Colonial Secretary in regards to the ensuing trial, and I located a private diary belonging to a former soldier, Joshua Gregory, which details his firsthand account of the event itself.\textsuperscript{116}

In terms of the remaining persons I document in poem, I have made more modest archival findings in the National Library of Australia’s digitised newspaper and magazine holdings which, nonetheless, add to the picture of Sydney’s street culture of gender transitive

\textsuperscript{113} Sydney Sheriff Thomas Macquoid to McLeay, May 24, 1833, SRNSW: NRS 905, [4/2212], 33/3581, “Reporting escape of five boys, from Sydney Goal, drawing attention to his former representations of the insecurity of the Building, and requesting a Court of Inquiry.”

\textsuperscript{114} Assignment Board to McLeay, March 15, 1833, SRNSW: NRS 905, [4/3899], 34/52, “Stone Blasting a Danger to Public, Withdrawn from Masters Wright and Long.”

\textsuperscript{115} Norfolk Island Commandant Foster Fyans to Colonial Secretary Alexander McLeay, April 1, 1834, SRNSW: NRS 905, [4/2244.1], 34/2641; Superintendent Maconochie to Colonial Secretary Edward Deas Thompson, August 3, 1842, NSRSW: NRS 905, [4/2620], 43/5271, “Return of Prisoners Recommended by Captain Maconochie For Their Exertions in Extinguishing a Fire at the Military Barracks at Norfolk Island.”

\textsuperscript{116} Norfolk Island Ordinance Office to Thompson, June 27, 1842, SRNSW: NRS 905, [4/2583.1], 42/7895, “Attempted seizure of the brig, Governor Philip, and R. v Sam Jones and others,” R693; Joshua Hemlet Gregory, \textit{Soldier Diary}, 1842, digital images and transcription, collection of the Kingston and Arthurs Vale Historic Area Museum, Norfolk Island.
solicitation in the late nineteenth century. This research, nonetheless, adds to de Waal and Wotherspoon’s archival work in the subcultural history of nineteenth century Sydney.

Taken as a whole, these new findings add to scholarship on the history of sexuality and sodomy trial prosecutions, such as Harry Cock’s study of nineteenth century sodomy prosecutions in UK courts. The individuals whose lives that I put to documentary poems were all members of the lumpen, working, military, servant and criminal classes of the nineteenth century – the realities of this class position and their relation to the iniquities of the legal system in the period overwhelmingly excluded these individuals from public comment, writing or any degree of social renown which would have guaranteed contemporaneous attention or later documentation by historians prior to the twenty-first century. Famous criminals of the period, such as notorious highwaymen and bushrangers like Matthey Brady, an infamous leader of such a gang in Van Diemen’s Land (“bushrangers” were outlaws in the Australian colonies, in the tradition of British highwaymen, who mainly lived by robbery, and were mostly escaped convicts living in the bush on the outskirts of developed colonial


territory) could only ever be a minority to their class and were made famous by the gravity of their offenses and the significance of robbery and bushranging to nineteenth century culture. Part of my aim, therefore, is to document such minor sodomitical lives as, somewhat paradoxically, significant actors in the history of queer resistance to oppressive sexual regulation and penal systems.

Little scholarly analysis has hereto been done on the New South Wales trial material. This is surprising, and weakening of historical analysis, since, unlike many trials in the UK, the records in New South Wales were not systematically destroyed and many survive in whole. This study builds on the provisional work done by historians of homosexuality in Australia begun in effect in the early 1990s and pivoting around Robert Aldrich and Garry Wotherspoon’s scholarship and editing of the Gay Perspectives series. While this work is significant for highlighting the presence of homosexuality in the Australian colonial archive, the analysis has been provisional and I, therefore, aim to add to this scholarship a more substantial and theoretically informed analysis. For queer literary scholars of the history of

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121 Bob Hay is the exception: Hay, ‘‘A Charge.’’


sexuality and sexual regulation, the category of sodomy and the juridical regulation of sex has been a central topic. The nineteenth century prior to the 1880s, however, has been largely neglected bar discussions of the Vere Street Coterie prosecution, and a few mentions of the Cleveland Street Scandal. Sodomy trial records from nineteenth century New South Wales, then, are also significant objects of study in the history of sodomy and sexuality in the period immediately preceding, and then traversing, the emergence of the sexological and psychiatric theories of homosexuality in the latter decades of the century.

This study also builds on the significant body of scholarship in the field of gender and sexuality in the history of the convict colonies, such as Kirsty Reid’s and Kirsten McKenzie’s

124 For example, see Karma Lochrie’s study of female sodomy in the Middle-Ages where she argues that a more “heterosyncractic” power form dominated, rather than a heteronormative one, structured on the rarity of “natural” behaviour and where sodomy was not simply homo- but composed of a range of non-procreative acts specifically including female sodomy; Ed Cohen’s study of the Wilde trials and the specification, he argues, of the homosexual type in these late nineteenth century trials; George Haggerty’s essay on Memoirs of a Woman of Pleasure where he argues that sodomy is constructed as a voyeuristically curious yet abhorred act, a centrally desired yet feared object in culture which is mediated through the eroticising keyhole; and Edelman’s discussion of the early eighteenth century pamphlet Satan’s Harvest Home where he argues that the representations of the sodomite’s tongue poses a threat to the construction of middle-class gentleman’s body as impenetrable. Karma Lochrie, Heterosyncracies: Female Sexuality When Normal Wasn’t (Minneapolis, USA: University of Minneapolis Press, 2005); Ed Cohen, Talk on the Wilde Side: Towards a Genealogy of a Discourse on Male Sexualities (New York: Routledge, 1993), 103-125, esp. 117-8; George E. Haggerty, “Keyhole Testimony: Witnessing Sodomy in the Eighteenth Century,” The Eighteenth Century 44, no. 2-3 (2003): 169-70; Lee Edelman, “Seeing Things,” and “Sodomite’s Tongue,” in Homographesis, 121-28, 173-191.

125 Haggerty, Queer Gothic (Urbana: University of Illinois Press, 2006), 45-60


127 See Foucault, HoS, esp. 101.
studies of the use of rhetorics of sodomy by reformers campaigning against the transportation system in relation to Van Diemen’s Land and New South Wales. In this thesis I aim to take the arguments these historians have made in terms of sodomy being rhetorically represented as a problem a disciplinary failure further, in order to emphasize that sodomy was understood as a universally present temptation.

I began this research by reading the 582 extant case files for sodomy and related crimes such as attempt to commit sodomy and indecent exposure which were tried at New South Wales Supreme, Quarter and Police (petty session) courts occurring between 1796 (the first recorded sodomy trial in the colony) and 1899, of which de Waal transcribed in Unfit. de Waal’s transcription of extant records for sodomy trials between 1796-1930 in Unfit represents a mammoth achievement and contribution to the study of the history of sexuality. As I found in my own research at the State Archives of New South Wales, many of these records are difficult to locate due to government’s shifting administrative organisation of courts, and court administrator’s shifting archival and indexing practices for particular courts. What’s more, the formal indictment for sodomy is itself unstable: “bestiality,” “buggery” (at times misspelt as “burglary”), “sodomy” and “unnatural crime” are all used in different court indictments for the same crime making simple retrieval of records difficult. Once retrieved, many judges’ and even some court transcribers’ hands are extremely difficult to read (many judges also wrote in idiosyncratic short hand). De Waal’s activity in deciphering the hundreds of records, and his partner Peter Bonsall-Boone’s work in transcribing de Waal’s audio notes, make this primary material available for easier reading and analysis, and deserves scholarly attention.

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128 de Waal, *Unfit.*
attention which has so far been scant. There are umpteen possibilities for further historical and discursive analysis of this material.

As I read the through these sodomy case records, I was overwhelmed by the sheer volume of cases which depicted sexual acts of rape, assault, abuse of children, abuse of animals and cases which are best described as pederastic (see tables 1 and 2). The small minority of cases which represent consenting relations between “equals” confirms sodomy was not in this juridical context primarily understood to be a problem about same-sex sexuality. A great deal of my commitment to historicist differentiation of sodomy from modern homosexuality is motivated by the fact that the juridical category included many acts I cannot with good conscience, nor logical justification, align with modern homosexuality or gay or queer identities. The inclusion of consensual adult relations within those of violent assault and abuse of children and animals constructs the whole range of sexual activities defined as sodomy, as Haggerty and Cocks have noted, as axiomatically violent. I have, therefore, restricted my study to cases that document resistance to penal authority, transitive cruising and non-violent sexual relations between adults. Cases of sexual assault and other reprehensible behaviours which were prosecuted as sodomy have been excluded from this thesis. Sodomy, taken as a whole, works with and against historical and contemporary hegemonies; and in this thesis I have focused my study to the types of historical sodomy that work against historical and contemporary hegemonies.

I was particularly surprised that the proportional ratio of “types” of sodomy I applied to the record did not shift over the century (tables 1 and 2); this finding adds to Cocks’ conclusion that rates of convictions for sodomy in UK courts did not shift over the nineteenth

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129 Haggerty, “Keyhole Testimony,” 170; Cocks, Nameless Offences, 32-34.
This finding also challenges Jeffrey Weeks’s argument in his authoritative sociological study of sexual regulation in the nineteenth and twentieth centuries and Ed Cohen’s argument in his influential study on the discursive construction of homosexuality in the nineteenth century. Both Cohen and Weeks argue that the homosexual type became increasingly specified in juridical discourses during the nineteenth century, culminating in the Labouchère Amendment, the first law to specifically proscribe against male-male sex occurring in private. That prosecution patterns did not shift in the nineteenth century in New South Wales courts argues against their arguments that this juridical shift occurred, in effect, in the nineteenth century.

Foucault famously described sodomy as the “utterly confused category,” noting its historical use to delimit a range of proscribed nonreproductive sexual acts, from adultery, oral and anal sex (between same-sex and different-sex partners) to bestiality (HoS, 101). In terms of the legal context this study is concerned with, in British law sodomy was a capital crime carrying the death sentence until 1861. In the Australian colonies, sodomy was criminalized under British law in the first two decades of the nineteenth century under 25 Henry VIII, chapter 8 as the “detestable and abominable vice of buggery committed with mankind or beast,” an injunction against general nonprocreative sex acts. (Enacted in 1533, 25 Henry VIII, chapter 8, was the first codification in secular law of prior canon law.) British sodomy law was later recodified under the 1828 Offenses Against the Person Act, in 9 George IV, chapter 31, as “the abominable Crime of Buggery, committed either with Mankind or with any Animal”; the legal requirement for proof changed to “upon the Proof of Penetration only.” Prior to 1828, “emission of seed” was required to convict. Courts convicted

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130 Cocks, Nameless Offences, 22-23.
131 Weeks, Sex, 102; Cohen, Wilde Side, 103-25, esp. 117-19
132 Cohen, Wilde Side, 117.
relatively few people for the capital crime (only 47, by my count, out of 582).\textsuperscript{133} This study, therefore, engages with trail material concerned with: unsuccessful prosecutions; cases where courts gave defendants lesser sentences; and other cases where state prosecution used charges such as vagrancy to prosecute sodomitical offenses.

\textsuperscript{133} de Waal, \textit{Unfit}; see Chapter 2 for further detail.
My methodology here was quite simple. I read each trail and noted the type of act each depicted, the categories of which are for the most part self-evident. In the case of “Adult Rape” this category was reserved for charges prosecuted by the victim, rather than another witnessing party or the police, or when another violent charge was involved such as bodily harm in the case of knife stabbing. This distinguishes this from other forms of sodomy which were often construed as rape in trial. “Adolescent & adult / Pederasty” included youths aged 15-21 with partners over 40.
1830-1840
- Bestiality: 31%
- Adult Rape: 22%
- Homo: 16%
- Adolescent & adult/ Pederasty: 6%
- Pre-pubertal & adult or pre-pubertal & teenager 15+: 16%
- No info: 9%

1840-1850
- Adult Rape: 20%
- Bestiality: 20%
- Homo: 20%
- Adolescent & adult/ Pederasty: 20%
- Pre-pubertal & adult or pre-pubertal & teenager 15+: 20%
Introduction: Sodomy Re/verse

1850-1860

- Bestiality: 30%
- Adolescent & adult/ Pederasty: 30%
- Pre-pubertal & adult or pre-pubertal & teenager 15+: 13%
- Homosexual: 7%
- Adult Rape: 7%
- Assault (with not much info): 3%
- No info: 10%

1860-1870

- Bestiality: 29%
- Adolescent & adult/ Pederasty: 20%
- Pre-pubertal & adult or pre-pubertal & teenager 15+: 14%
- Homosexual: 7%
- Adult Rape: 12%
- Assault (with not much info): 2%
- No info: 16%
Table 2: Comparison of percentage rates over nineteenth century for types of convictions (data source: de Waal, Unfit)

<table>
<thead>
<tr>
<th>Period</th>
<th>Bestiality</th>
<th>Pre-pubertal &amp; adult or pre-pubertal &amp; teenager 15+</th>
<th>Adolescent &amp; adult/ Pederasty</th>
<th>Homo-</th>
<th>Adult Rape</th>
<th>Assault (with not much info)</th>
<th>No info</th>
</tr>
</thead>
<tbody>
<tr>
<td>1790-1800</td>
<td>33%</td>
<td>0%</td>
<td>0%</td>
<td>0%</td>
<td>67%</td>
<td>0%</td>
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<tr>
<td>1800-1810</td>
<td>33%</td>
<td>16%</td>
<td>0%</td>
<td>0%</td>
<td>17%</td>
<td>17%</td>
<td>0%</td>
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<tr>
<td>1810-1820</td>
<td>40%</td>
<td>20%</td>
<td>0%</td>
<td>0%</td>
<td>20%</td>
<td>0%</td>
<td>0%</td>
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<tr>
<td>1820-1830</td>
<td>50%</td>
<td>0%</td>
<td>25%</td>
<td>0%</td>
<td>0%</td>
<td>0%</td>
<td>0%</td>
</tr>
<tr>
<td>1830-1840</td>
<td>31%</td>
<td>16%</td>
<td>6%</td>
<td>16%</td>
<td>22%</td>
<td>0%</td>
<td>9%</td>
</tr>
<tr>
<td>1840-1850</td>
<td>20%</td>
<td>20%</td>
<td>20%</td>
<td>20%</td>
<td>0%</td>
<td>0%</td>
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<tr>
<td>1850-1860</td>
<td>30%</td>
<td>13%</td>
<td>30%</td>
<td>7%</td>
<td>7%</td>
<td>3%</td>
<td>10%</td>
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<tr>
<td>1860-1870</td>
<td>29%</td>
<td>14%</td>
<td>20%</td>
<td>7%</td>
<td>12%</td>
<td>2%</td>
<td>16%</td>
</tr>
<tr>
<td>1870-1880</td>
<td>52%</td>
<td>8%</td>
<td>13%</td>
<td>9%</td>
<td>9%</td>
<td>1%</td>
<td>8%</td>
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<tr>
<td>1880-1890</td>
<td>41%</td>
<td>13%</td>
<td>11%</td>
<td>11%</td>
<td>7%</td>
<td>3%</td>
<td>14%</td>
</tr>
<tr>
<td>1890-1899</td>
<td>31%</td>
<td>23%</td>
<td>21%</td>
<td>7%</td>
<td>6%</td>
<td>7%</td>
<td>5%</td>
</tr>
</tbody>
</table>
New South Wales and Van Diemen’s Land were established as penal colonies in the late eighteenth century following the American Revolution, when Britain lost power and revenue from lost imperial territory, and significantly lost its dominion over foreign territories where it could send criminal convicts sentenced to transportation. The practice of sentencing individuals to transportation who would otherwise have been sentenced to death was increasingly used from the 1810s onward. Where in the first twenty-eight years of the colony (1788-1816) between 6 and 27 ships arrived every five years (carrying an average of 126-217 convicts), from 1816 until the eventual winding down of the system in the 1840s between 79 and 133 arrived in each five-year period carrying roughly the same number of convicts. From the inception of the convict colonies, commentators in the metropole and in the colony spoke out against transportation, claiming a society created by criminals was morally suspect and doomed to failure. The “anti-transportation” movement – a movement that will be significant in this thesis – was a campaign led by bourgeois reformers intent on ending the use of transportation to the convict colonies as a punishment and was closely connected with the broader Reform movement in 1820s and 30s Britain (the movement which led to the 1832 Reform Act and the 1833 Abolition of Slavery Act). The transportation system was wound


136 Shaw, *Convicts*, 116

137 For accounts of the anti-transportation movement, and its gendered political dimensions Kirsten McKenzie, “Discourses of Scandal”; Reid, *Gender*, 204-46; Catie Gilchrist, “Male Convict Sexuality in the Penal Colonies
down, in fits and starts, between 1840 and 1868.\textsuperscript{138} A principle argument of bourgeois campaigners in the metropole, most famously used by Molesworth, was that transportation (and particularly the use of bonded labour and flagellation), was comparable to slavery; it degraded criminals and created a colonial society characterized by immorality and a lack of civilized restraint of the various human passions to vice, particularly sexual excess.\textsuperscript{139} Colonial reformers who were invested in bringing about a respectable and independent nation took up the anti-transportation campaign in the 1840s, establishing anti-transportation leagues in the major colonial cities. Under this pressure, successive governments gradually wound down the system, in fits and starts, between 1840 and 1868 and replaced it with a penitentiary system on domestic soil in Britain.\textsuperscript{140}

The convict system posed a series of conflicting questions for British humanism and enlightenment principles, the cultural ideals of middle-class norms, during the period of the bourgeoisie political ascendance in British legislation and parliamentary organisation (this shift political shift was a belated “catch up” to economic and structural shifts that had occurred in Britain in the preceding two centuries, where the economy and social structure


\textsuperscript{139} McKenzie, “Discourses of Scandal”

\textsuperscript{140} John Ritchie explains in 1840 the Whig government ended regular transportation to New South Wales, yet “all forms of transportation to New South Wales did not end until 1849, to Van Diemen’s Land until 1853, to Norfolk Island until 1856, to Western Australia until 1868.” Ritchie, “Unclean Thing,” 163.
shifted from a land-owning and status based society to a mercantile and mobile society). As I show in this thesis, reform advocates saw old régime technologies of bonded labour and flagellation, and the general “lottery” of the assignment system (where a convict could be assigned to a severe or lenient master irrespective of their crime) as inimical to their ideals of human dignity, equality, calculability and the utilitarian principle that prison should not merely punish but should reform the errant. Jeremy Bentham’s utilitarian philosophy, and his political activity as a Radical critic and publisher, as Philip Schofield shows, was foundational for the early nineteenth century period of liberal bourgeois reforms of the British legal system occurring in the 1830s, often termed the “Age of Reform.” Most significantly this reform agenda underwrote much of The Great Reform Act of 1832, which extended franchise and changed electoral organisation to include the middle classes. This bourgeois ascendance and its attendant norms of humanitarian equality and bourgeois respectability provides a central cultural context for the trials, penal reform documents, and newspaper reportage analysed in this thesis.


Throughout this study I aim to track this cultural and economic shift – what Foucault famously termed the shift from a system of “alliance” to a system of “sexuality” (HoS, 147-50). Foucault tracks this shift in both D&P and HoS, two of his central texts. In D&P he identifies this shift as it occurred in penal systems, where bourgeois discipline, based on individual reform through techniques of training that act upon the “soul,” came to replace older systems of power that exerted power through display of sovereign authority over subjects by techniques of omnipresent representations of power, torture and the right of the sovereign to inflict death on subjects (D&P, esp. 76, 77-91). In HoS, he identifies this shift as a movement away from what he terms a system of alliance (the aristocratic structure of the ancient régime based on blood, status and sovereign power), to system of sexuality (a bourgeois structure based on mobile economies and techniques of normalisation, principally the normalising cultural practices of confession in relation to sex as an interior truth which, he argues, was taken up by sexological and psychiatric discourses in the late nineteenth century) (HoS, passim, esp. 101). The shift from sodomy as a category of proscribed crimes to homosexuality as interior typology is the leading case Foucault uses to demonstrate this shift (HoS, 43). The relation of sodomy to this historical shift in terms of penal technology and body and gender norms is an important aspect of study taken up in this thesis.

In The Gendering of Men Thomas King takes up this interest in the shift from alliance to sexuality and places it as central to his theory, a theory that will be central to many of the discussions that follow in this thesis. In a dramatic condensation of King’s central argument, expanded on over this two-volume text, he shows that male gender, drawing on scholars such as Randolph Trumbach, was not a universally available category in old régime British culture where men could own other men such as slaves, servants, apprentices, and boys. Such “pederastic relations” also structured courtly life, where favour and position from the crown was a means of gaining authority. With the emergence of bourgeois norms, with its tenants of
private property and independence, such pederastic dependencies become intolerable and were ascribed to the queer. King argues that the category of male gender is a part of the emergence of bourgeois order and the system of alliance of sexuality: “I have meant to push as far as possible the suggestion that Foucault’s account of the historical discontinuity between alliance (which had constructed degrees of super- and subordination among men, women and boys) and sexuality (the embodiment of claims to personal and political privacy) records the experience of men.”144 Manliness, as a category of social authority, he argues, only becomes available as a universal category available across divisions of class, age and race within the modern system of sexuality and male gender. In consequence, he states that "sexuality must be linked to the emergence of class."145

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In nineteenth century British culture, in contexts related to the colony of New South Wales, sodomy was represented by reformers and within trial material, as I argue in this thesis, as a problem of reversal which manifested in manifold forms. I have here narrowed my argument to two main political questions which also act as structuring headings to part one part two of this thesis: in Part 1, “Penal Discipline,” I consider texts related to the political order of bourgeois discipline in relation to the convicts and the convict colony itself; and in Part 2, “Bodily/Gender Disorder,” I consider texts related to the maintenance of the political order of “natural” male gender within the emergent politics of bourgeois bodily and gender norms. The structure of this thesis is, in general, chronological. Intertextual references within each section, and the arrangement of poems, and the arrangement of events in the poems, do refer

144 King, English Phallus, 19

145 King, 16.
slightly forwards and backwards in time, but we begin with the convict period in the 1830s and 40s, before moving forwards to medical testimonies given in the 1870s and 80s, and in the final section we land in Sydney’s gender transitive street culture of the 1870s, 80s and 90s. In each of the two parts of this thesis are two chapters, plus biographic poem sequences which coincide with the arguments made in in each chapter as to the discursive meaning of sodomy.

In Part 1, “Penal Discipline,” I focus on sodomy as a trope for inversion of penal discipline in relation to New South Wales as a convict colony. Part 1 is composed of two chapters and two poem sequences. In Chapter 1, “Slade’s Lash, ‘the fancy girls of men’ and ‘twigging’: Reading and reforming convict sodomy,” I read the Molesworth Committee report and evidence. The “Molesworth Committee” was a select committee of the British House of Commons named after its chair, Sir William Molesworth, which met over two sessions in 1837 and 1838 in a bid to further the campaign for the end to the system of convict transportation. A central argument of the Molesworth Committee’s report was that the convict transportation system had negative effects on the constitution of convicts and on the convict society, leading to increased prevalence of sodomy and to a society which Molesworth described as “Sodom and Gomorrah.” This document has been a central document used by historians analysing the anti-transportation movement, historians

146 “Report from the Select Committee on Transportation; Together with The Minutes of Evidence, Appendix, and Index,” *BPP* (Cd. 518) XIX, 1837; and *BPP* (Cd. 669), XXII, 1838.

147 “Report from the Select Committee on Transportation; Together with The Minutes of Evidence, Appendix, and Index,” *BPP* (Cd. 518) XIX, 1837; and *BPP* (Cd. 669), XXII, 1838.


149 Ritchie, “Unclean Thing,” 85.
analysing the sexual rhetorics of this movement, and by historians of the history of sexuality in the Australian colonies. The committee’s claim that the colony was a Sodom and a place where sodomy was replete has been interpreted by historians of gender and sexuality in the colonial context, such as by Gilchrist and Reid, as constructing the inclination to sodomy as an effect of degradation caused by penal technologies, principally that of flagellation. I aim to build on this to argument through close analysis of the Molesworth Committee’s report and its minuted interviews of Earle Augustus Slade and Major Thomas Livingstone Wright to argue that sodomy is represented as a problematic effect of immediacy; that is, the inclination to sodomy and sodomitical social order (the creation of a Sodom) is constructed as an imitative reduplication of the corporeal immediacies of the transportation system’s disciplinary techniques themselves, especially the technique of flagellation.

Chapter 2, “Sodom Island: Pandæmonium and the Botany Bay of Botany Bay,” turns to two documents significant to the anti-transportation movement in relation to Norfolk Island: Thomas Beagley Naylor’s letter and Robert Pringle Stuart’s report. Stuart and Naylor and both wrote accounts in 1846 on the state of the penal settlement at Norfolk Island, McKenzie, “Discourses of Scandal.”


Catie Gilchrist, “‘This Relic of the Cities of the Plain’ Penal Flogging, Convict Morality and the Colonial Imagination,” Journal of Australian Colonial History 9, (2007): 1-28, esp. 9-14; Reid, Gender, 204-46, esp. 229-231.

the ultra-penal prison colony where incorrigibles and the worst offenders in the system were sent.\textsuperscript{154} Naylor was a former Anglican minister to the island, and Stuart was a Van Diemen’s Land magistrate ordered by Lieutenant Governor Eardley Wilmot to compose a report on the island. Naylor and Stuart both claimed that the penal settlement was in a state of indiscipline: they claimed open rebellion and, concomitantly, sodomitical sexual relations were ubiquitous. Naylor’s and Stuart’s reports have similarly been used as significant documents by historians of the anti-transportation movement and the movement’s sexual rhetorics, as well as by historians of the history of sexuality.\textsuperscript{155} Scholarly treatments of Naylor and Stuart’s report have focused on the political motivations for their rhetorics about proliferation of sodomy on the island.\textsuperscript{156} Reid, for example, demonstrates the significance of sodomy to enlightenment norms of male bodily integrity and its relation to reformist campaigns for colonial independence, of which the anti-transportation movement was a part.\textsuperscript{157} Instead, I offer close readings of these texts in order to attend more closely to rhetorical constructions of sodomy. I, therefore, contribute to this scholarship a new interpretation of Sodom. I argue that for these elite men sodomy was as a question of an inversion of penal discipline in terms of architectural organisation of prisoners, economic organisation of the penal settlement and work life at the settlement.

\textsuperscript{154} Naylor, “Norfolk Island,” 11-29; Stuart, “Report,” 34-69.


\textsuperscript{156} Causer, “Only a Place,” 54, 130-34; Reid, \textit{Gender}, esp. 222-29.

\textsuperscript{157} Reid, 204-46.
The first poem sequence, “Solomon John and William Williams,” documents the
sodomy trial against two men arrested together by police while in the act in Druitt’s Paddock,
Sydney.¹⁵⁸ Williams, as Bob Hay argues, was a notorious figure in Sydney known to the
police for his sodomitical recidivism; and the documentary work in this poem adds to his
archive and to this picture.¹⁵⁹ This poetic sequence tracks onto the Molesworth Committee
chapter – Williams, known as an incorrigible in the city of Sydney for his repeated unnatural
offenses, was seemingly the model citizen for the “Sodom and Gomorrah” Molesworth called
Sydney. Incorrigibility, rather than a typology, denotes the sodomitical orientation.

The trial against Williams and John also indexes “racial inversion” as an analogue to
the discursive construction of sodomy as an “abominable” inversion – a significant
documentation of this underexamined aspect of the construction of sodomy in nineteenth
century New South Wales. Additionally, the severity of the shared act between Williams and
John was determined to have been compounded by the inversion of racial hierarchy; James
Dowling, the Chief Justice of New South Wales, for example, wrote to the Executive
Council, in explanation for the severity of his sentence in initially ordering the pair to death,
that “the scene of their abominations (Williams being passive, and Johns active) was in a
Paddock”; thus, as put in this poem, implying the sodomitic register of racial inversion.¹⁶⁰

¹⁵⁸ Chief Justice Dowling, Judges Notebook, R. v William Williams & Solomon John, October 10, 1842,
SRNSW: Supreme Court of New South Wales; Chief Justice Dowling, 1828-1844; NRS5869, Notebooks,
“Proceedings of the Supreme Court of New South Wales,” 248 vols., [2/3379], 112-26; R. v. Solomon John and
William Williams, September 3, 1842, SRNSW: Supreme Court Sydney and on Circuit; NRS880, Papers and
Depositions. [9/6325].
¹⁵⁹ Hay, “A Charge.”
¹⁶⁰ Dowling to New South Wales Executive Council, October 26, 1842, SRNSW: Executive Council, 1825-48,
NRS4234; Appendices to Minutes, [4/1447], 571-2.
Racialized constructions of sodomy are replete in imperial opinion. For example, in recommending a replacement for the free labour of the convict system, the Molesworth Committee floated the option of using coolie labour but rejected it in part due to, they argued, the tendency of male immigrant camps leading to male-male sexual relations.\(^{161}\) Further, Donnithorne, an aristocrat and former civil servant in the East India Company, wrote to recommend leniency in John’s sentencing, claiming that the “the crime of which he has been convicted is not [in Madras or Bengal] looked upon in that detestable light, as in other parts of the Globe; it is a well-known fact that even the Eastern Courts are not free from the abominable vice.”\(^{162}\) This poem sequence explores this construction in verse thereby adding to this thesis another index of sodomitical reversals of position logic.

The second poem sequence in Part 1, “Samuel Jones,” makes use of documentary evidence in relation to Samuel Jones, a former Baker’s Boy from Chatham, England transported to New South Wales when he was between the age of thirteen to sixteen for a fourteen-year sentence on a conviction for stealing rabbits.\(^{163}\) Jones was involved in a series of attempted mutinies and was, in 1834, convicted for sodomy and sentenced to be sent to Norfolk Island for life. His life as documented in this poem sequence thus maps onto a central theme of chapter two: mutinous social reversal at Norfolk Island as a sodomitical

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\(^{162}\) Donnithorne does not appear to know which region John is actually from. See his letter contained in John Dillon to Clerk of the Executive Council Francis Lewis Shaw Merewether, SRNSW: NRS4234, [4/1447], Enclosure A, 7, to Minute No. 24, October 1842, 571-2.

\(^{163}\) Convict Indent, Samuel Jones per \textit{John} (3), June 8, 1832, SRNSW: 32/1288, no. 162; The King v Samuel Jones, February 11, 1834, SRNSW: NRS 880 [SCT27], no. 22; Chief Justice Dowling, Judge’s Notebook, The King v Samuel Jones, SRNSW: Dowling; Supreme Court of New South Wales, 1828-44; NRS5869, [2/3275], 133-8.
cognate. Jones’s record draws together many of the themes of the prior two chapters and enacts many of the feared dispositions expressed by Molesworth, Wright, Slade, Naylor, Stuart and Naylor: that is, the concomitant phenomena of sodomy and penal indiscipline. Naylor in fact, was serving as minister to the island and the time when Jones was imprisoned there, and published a short account, “A Tale of Norfolk Island,” recounting the attempted mutiny on Norfolk Island occurring during his tenure, of which Jones was a fateful party.\footnote{Thomas Beagley Naylor, \textit{A Tale of Norfolk Island} (Edinburgh: William and Robert Chambers, 1845).}

Part 2, “Bodily Disorder,” begins with the third chapter of this thesis, “Smooth and Hairless, a Finger and a Cauliflower,” which analyses the witness statements forwarded by four medical professionals who examined the anuses of the accused in three sodomy trials. Within the existing record of sodomy trials, medical examinations are a consistent evidentiary tool used by state prosecutors. Foucault also famously identified the medical model as central to the construction of the homosexual type (\textit{HoS}, passim, esp. 43, 67-70, 112). I therefore have selected the recorded medical examinations from three sodomy trials – \textit{R. v Henry Ramsay and Robert Johnson (1879)}, \textit{R. v James Teece and Louis Calouze (1882)}, and \textit{R. v Mathew Johnson and Frank Quincey (1879)} – to closely read for their discursive constructions to investigate how they construct sodomy, and may proceed homosexual typologies.\footnote{R. v Henry Ramsay and Robert Johnson, May 12, 1879, SRNSW: NRS880, [9/6637], no. 537; Justice William Montagu Manning, Judge’s Notebook, \textit{R. v Henry Ramsay and Robert Johnston}, May 13, 1879, SRNSW: NRS7332, [2/5900], 90; R. v Louis Calouze and James Teece, May 8, 1882, SRNSW: NRS880, [9/6679], no. 105; Windeyer, Judge’s Notebook, \textit{R. v Matthew Johnson and Frank Quincey, alias Wilson}, August 11, 1879, SRNSW: NRS7851, [2/7384], 8-18.} This is the first scholarly analysis of this material. Scholarship on the medical-forensic theory on which my analysis builds have argued that medical-forensic rhetorics are radically different to modern typologies of categorisation, sexuality or desire – and only, as
Crozier argues, “speak” of the bare fact of anal penetration. In this chapter, however, I show that in the principle medical forensic texts of the era concerned with the crime of sodomy anticipate, or are imbricated within, emergent homosexuality typology; and, I further argue, that the examinations which proceeded from such forensic theories contain distinct rhetorics. In the case of the medical-forensic texts, their rhetorical construction of the material evidence of sodomy anticipates the “interior androgyny of the soul” that Foucault characterises as the leitmotif of homosexual typology (HoS, 43). And in the case of the sodomy trial testimonies analysed, their medical descriptions of the material effects of sodomy on the anus use a set of rhetorics that cohere around tropes similar to those identified by Bakhtin as grotesque tropes of the carnival and the material bodily lower stratum.

The final chapter and poems of this thesis focus on this reported scene of sodomitical street solicitation centred on Hyde Park and the Domain and the nearby streets of College and Boomerang in 1870s, 80s and 90s Sydney. This street culture has not, to the best of my knowledge, been previously documented or analysed at length. In the fourth and final chapter of this thesis, “Sodom’s Public: College-street (between Boomerang and Park), the Cleveland Street Scandal, ‘Carrie Swain’ and the Telegraph Boys,” I aim to ascertain what the rhetorical, and actual, constitution of this sodomitical subculture in Sydney was by focusing on the article, “The Oscar Wilde’s of Sydney,” published in the first, and perhaps only, run of the populist penny paper, the Scorpion: Stinging, Spicy, Sensational. The Scorpion reported that the “horrible vice” from London had “found root” in the colony and that “the leading

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hotels and billiard saloons are haunted by these characters,” whose presence was “advertised by an effeminate style of speech” and “the adoption of names of celebrated actresses” from America. I also here focus on the trials of George Harrison, who on his Darlinghurst Gaol photographic description card is described as a female impersonator who also went by the name of “Carrie Swain”; Carrie Swain herself was a famous American variety actress who had recently toured in Sydney with the San Francisco based Gaiety Company as the lead in “The Tomboy.” Wotherspoon located the Scorpion article and de Waal documented George Harrison’s trial and the connection with Carrie Swain the actress. This chapter adds to this scholarship by drawing the connections between the Scorpion article’s content and George Harrison/Carrie Swain and providing sustained analysis of this material. I further add to this scholarship by positioning this evidence in the context of legislative shifts in the nineteenth century British metropole.

I argue that the Cleveland Street Scandal (referenced in the Scorpion article and, I argue, in Harrison’s street “performance” of Carrie Swain) and the Labouchère Amendment (as the significant legislative shift in this period) are not, as Weeks and Cohen have suggested (as touched on above), simply about specifying a homosexual type but are more primarily about bourgeois resistance to the aristocratic norm of erotic license to access service class

168 “The Oscar Wilde’s of Sydney,” Scorpion (Sydney), April 24, 1895, 2, State Library of New South Wales, Mitchell Library, Q059/S (rare copy).


boys. That is, this reform shift is an example of a bourgeois response to what King terms “residual pederasty.” Sodomitical street cultures, I further argue, represent resistance to the competing but mutually hostile power relations of aristocratic license and emergent bourgeois norms.

The next poem sequence, “Francis Quincey,” documents the trial surrounding one Francis Quincey whose anal exam used in the state prosecution against him. This poem acts as a bridge between the grotesque sodomitical anus and the gender transitive street culture of late nineteenth century Sydney. Quincey’s anus was examined by two doctors, one Dr Way who was apparently novice to the forensics, and one Dr Egan who was more familiar. Way described Quincey’s anus as resembling a “cauliflower,” and I take this grotesque metaphor of a floral foodstuff to dilate on the poetics of anal body politics. During trial the police also noted that Francis Quincey had previously been up on charges for attempting to take a sailor “into the Domain for immoral purposes, saying he was a woman dressed in man’s clothes.” In next poem in this thesis, “Portrait of Hyde Park & The Domain,” I collage various trials and newspaper reports on this subculture into a portrait of this parkland haunt.

The final poetic sequence, “Hyde Park, The Domain, College and Boomerang Streets,” continues to focus on the sodomitical street culture of Sydney, and begins with poems focused on George Harrison/Carrie Swain, through presenting new documentary research I have done on the popular reportage of Carrie Swain’s tour of Sydney and the antipodes. I do this in order to elaborate on the specificity of Harrison’s citation of Swain’s persona, and to highlight the aspects of Swain’s persona that contain their own sodomitical

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172 King, English Phallus, 4-7, 107-112.
174 Windeyer, Notebook, August 11, 1879, SRNSW: NRS7851, [2/7384], 17.
registers. De Waal gave considerable attention to drawing connections between the case of George Harrison and the reported use of the street name of “Carrie Swain” – Carrie Swain herself was a famous American variety actress.\textsuperscript{175} Garry Wotherspoon, furthermore, found the \textit{Scorpion} article, “The Oscar Wilde’s of Sydney.” I contribute to this scholarship by drawing connections between Wotherspoon’s and de Waal’s findings in order to analyse these documents in historical context and place these events in relation to the Albion and Quincey cases. This section concludes with the poem, “William Albion alias Moore alias Ernest Steele,” which documents Albion/Moore/Steele, a youth arrested in Hyde Park dressed in, the arresting police reported, gender-transitive clothing and offering his rear to multiple other young males.\textsuperscript{176} Albion/Moore/Steele’s case thus acts as a living example of the arguments made in chapter four about the sodomitical street culture of gender inversion and reversals of bourgeois norms in relation to the public and private as forums for the performance of male gender. This poetic articulation of Albion/Moore/Steele’s record also adds to arguments about sodomy as a reversal of positionality by articulating sodomy as a \textit{multiple} turning of the rear to the fore.

\textsuperscript{175} de Waal, “1889, George Harrison.”

\textsuperscript{176} R. v William Albion alias Moore, Thomas Buckley and Joseph McKenna, May 13, 1878, SRNSW: NRS880, [9/6620], no. 18.
Part 1. Penal Discipline
Chapter 1. Slade’s Lash, “the fancy girls of men” and “twigging”: Reading and reforming convict sodomy

William Molesworth, the Radical British parliamentarian renowned for his role in campaigning to end the use of transportation as a criminal punishment, often argued that the transportation system was a cause of increased moral degeneracy among the convicts and in the convict colonies in general.¹ Molesworth, in keep with many of his peers, used unnatural crime as a principle metonymic for this moral state. “The whole system of Transportation,” he wrote, “violates the feelings of the adult, barbarizes the habits, and demoralizes the principles of the rising generation, and the result is, to use the expression of a public newspaper, ‘Sodom and Gomorrah.’”² The so-called “Molesworth Committee” was a select committee of the British House of Commons, named after its chair and most vociferous advocate, which met for two sessions in 1837 and 1838; the committee’s remit was to investigate and report on the effects of transportation on the colonial society and on the convicts subject to its measures. Molesworth stacked it with members aligned with his antitransportation stance and interviewed a range of elite administrators and commentators, most of whom were also sympathetic to the cause. The committee’s report forwarded a theory on the cause of crime in general, on the resulting state of the colonial society and on what should be the object of better penal system. The overarching thesis of this theory is summarised in the following quote:

¹ New South Wales and Van Diemen’s Land were also populated with free settlers and, of course, once free many former convicts remained.

² Molesworth, Report from the Select Committee of the House of Commons on Transportation (London: Henry Hooper, 1838), 13n.
the habit of acting under the influence of a desire for gratifications, or a dread of sufferings, which are immediate and physical...it is precisely this habit, and that of disregarding the distant consequences of their actions, which chiefly lead men into the commission of crimes; the great object, therefore, of a good system for the government of convicts should be that of teaching them to look forward to the future and remote effects of their own conduct, and to be guided in their actions by their reason, instead of merely by their animal instincts and desires.³

Molesworth was a follower of Jeremy Bentham’s utilitarian thought and the similarity of the above quote to the famous opening to Bentham’s *An Introduction to the Principles of Morals and Legislation* credits quotation and underpins the argument I want to make in this chapter.

Nature has placed mankind under the governance of two sovereign masters, pain and pleasure. It is for them alone to point out what we ought to do, as well as to determine what we shall do. On the one hand the standard of right and wrong, on the other the chain of causes and effects, are fastened to their throne. They govern us in all we do, in all we say, in all we think: every effort we can make to throw off our subjection, will serve but to demonstrate and confirm it. In words a man may pretend to abjure their empire: but in reality he will remain subject to it all the while. The principle of utility recognises this subjection, and assumed it for the foundation of that system, the object of which is to rear the fabric of felicity by the hand of reason and law⁴

Desire for gratifications (pleasure) and dread of sufferings (pain), map Molesworth’s analysis of criminal disposition onto Bentham’s utilitarianism, a philosophy centrally concerned with legal reform. “Felicity by the hand of reason and law” for the committee would be effected through a system of penal government structured to impart reason and the order of the law

³ Molesworth Committee Report, August 3, 1838, *BPP* (Cd. 669), XXII, 1838, xliv. Hereafter cited parenthetically in the text as “MCR.”

onto the interned. The space between the appeals of passion and action – ideally rational mediation of compulsions in the process of decision making – was central to the committee’s reform project. In this chapter I will argue that the committee’s views on disposition to crime, including “unnatural crime,” coheres around a trope of “immediacy.” The term “immediate” is repeated throughout the Molesworth Committee’s report and interview sessions; and it is significant, I argue, for its conceptualisation of passionate verses rational action as a question of cognitive distance. Importantly to my argument, such a concept is premised not on inner constitution but on rational mediation.

This chapter closely reads the report and minuted evidence of the Molesworth Committee. Two submissions of the sessions were made to the Parliament, the first tabling the minutes and appendix of the 1837 session, and the second containing the minutes and appendix to the 1838 session and the committee’s report. A further circular publication of the report was made by Molesworth in 1838 in cheap pamphlet form, which included Molesworth’s annotating notes on the report section and a letter from the Archbishop of Dublin, Richard Whately. While, as Ritchie shows, by the time the Molesworth Committee met the dye had already been cast in terms of ending the transportation system, many of the principal bourgeois agitators for reform and abolishment of the system were interviewed by the committee. It is, therefore, excellent documentation of anti-transporationist thought, and nineteenth century bourgeois reformist and colonial penal administrative opinions. This chapter specifically reads: the committee’s report, authored primarily by Molesworth; the minuted evidence given by Earle Augustus Slade, former superintendent at Hyde Park Barracks and third police magistrate at Sydney; the minuted evidence given by Major

5 “Report from the Select Committee on Transportation; Together with The Minutes of Evidence, Appendix, and Index,” BPP (Cd. 518) XIX, 1837; and BPP (Cd. 669), XXII, 1838.

6 Molesworth, Report.
Thomas Wright, former commandant at Norfolk Island and police magistrate at Emu Plains Stockade; and the minuted evidence given by Francis Forbes, the liberal aligned chief justice of New South Wales. I argue that the committee’s view and the view of these three prison administrators on the propensity towards crime inclusive of “unnatural crime,” can best be understood as cohering around a trope of immediacy. I am principally interested in three instances (or “examples”) concerned with the transportation system and its effects on the convict population reported in the committee’s proceedings and canvased by the above men: firstly, the grilling of Slade for his reported excessive enthusiasm in whipping convicts and its negative effects; secondly, Slade’s report that “boys” in the convict barracks at Hyde Park were rumoured to be called “the fancy girls of men,” thereby supporting claims that sodomy was rife in the convict sleeping quarters; and thirdly, Wright’s report that the convicts on Norfolk Island were “excessively quick in what they call ‘twigging a man,’” a practice of duping prison authorities through false acquiescence.

Molesworth and many of his allies on the committee were members of the Utilitarian Society in London and subscribed to this influential British enlightenment-era school of thought. Bentham’s utilitarian thought, Schofield shows, was highly influential and significant to many British reforms in the early nineteenth century. Utilitarianism’s emphasis on rationality rather than natural order, and its focus on legislative reform and codification, ensured this philosophy’s influence in the solidification of the bourgeois political ascendency and its dominance in place of aristocratic political power over the nineteenth century. In response to the rise of mercantile and mobile economies in Britain, a bourgeois political ascendency followed in parliament culminating in the 1830s in what is often termed the “Age

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of Reform”, a period which saw the passage of, in 1832, the Great Reform Act and, in 1833, the Abolition of Slavery Act. It is in this climate that the campaign against transportation hit its stride and the Molesworth Committee convened.

Utilitarianism was most influentially established by Bentham, the reformer famous for his Panopticon designs. A fundamental principle of Bentham’s utilitarian worldview is the centrality of pleasure and pain as the two affects which animate all human action, and which are also the foundations of his moral thought. Rational mediation in the process of calculating future consequences of any particular action is, for Bentham and his adherents, central to creating a good society. Revolutionary for its time, utilitarianism proposed that no action in and of itself was good or bad (here we can identify the influence of Thomas Hobbes’s influential restoration period political philosophy as put in Leviathan), but only good or bad in terms of the effects of a particular action in terms of causing pain or pleasure in the actor or in the community. Note that future effects of a possible action are essential to the utilitarian calculations of moral action; the notion of mediate distance is central. (Such a philosophy threw Natural morality, Christian ethics and all pre-given moral values out the window in favour of a system which could, by rational calculation, determine the effects of an action in terms of pleasure or pain caused to people themselves.) The Molesworth Committee, therefore, as we will here see, primarily base their argument for the failures of

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the system in terms of the effects the system of transportation had on individuals and society, and its ability to foster convict capacity for rational decision making.

I should briefly state here my reasons for analysing this text and these particular interviews. Historians such as Robert Aldrich, Robert French and Robert Hughes cite the Molesworth Committee’s report and evidence as a significant documentation of what they argue is evidence for early homosexual subcultures and homosexual behaviour in prisons. Kirsten McKenzie and Kirsty Reid have done significant historical work in interpreting the significance of the Molesworth Committee’s use of sexual and sodomitical rhetorics in relation to the gender norms and the relation of these norms to the ideology of campaigns for colonial independence and self-government. Both Slade and Wright commented on the prevalence of unnatural crime – Slade said it was more prevalent than anywhere else in the British empire while Wright claimed no such acts occurred on Norfolk Island under his administration. Wright and Slade were both superintendents at major convict institutions and were both, later in their careers, police magistrates in the colony – their responsibility for

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15 Wright and Slade were, respectively, superintendents at Norfolk Island and Hyde Park, and magistrates, respectively, at Emu Plains Stockade and at Sydney.
disciplinary order and punishment of convicts, including sexual regulation, gives insights into penal management in the period immediately preceding the emergence of the modern penitentiary system. While Forbes’s comments on unnatural crime are limited, the evidence he gave on convict habit formation as an effect of the penal system is central to the committee’s evidence and, as I will show, intersects with ideas about unnatural crime. Furthermore, Forbes was the chief justice, and as such his evidence is a significant account of juridical power and opinion.

The anti-transportationist arguments under analysis here, as I argue, are best understood through the trope of immediacy which for the committee underscored their ideas about penal reform in terms of developing a more mediated capacity within the convicts through a reformed penal system. The present system, they argued, was based on older systems of penal technology which were immediate in their orientation: that is, applied immediately in time (to ensure discipline rather than being preventative in measure) and applied immediately to the body; an example of which, and the most significant case for the committee, is the use of whipping as an immediate application to the skin. Yet, as I will show, the capacity of the convicts to make calculated strategies in favour of their own interests upsets the program of simple instinctual moderation, and this is evident in the committee’s accounts of convict disobedience, scheming and other calculated plans. The curation of a macro level penal landscape of readable disciplinary certainty, I further argue, therefore, defines the committee’s more complex project of behaviour modification. Here habit is formed through the application of decision-making processes effected by the calculation of consequence based on interpretations of the disciplinary landscape (such as punishment and rewards set out in the probationary steps of the reformed penal system they recommend) – and it is here, I forward, the committee sets its aim in the project of prisoner reform. Reformists’ ideas about
the location and act of Sodom and sodomy are integral to these disciplinary theories and technologies and way of imagining city scapes. Theories of disciplinary reform and penal regulation, as I will show, interact with discursive notions of sodomitical social order and activity, constructing allegoric geographies of sodomitical foreign incursions which are set against notions of domestic, natural and inner moral immaculacy. In short, I argue that these men consistently use sodomitical geographies to define antitypical models of ideal disciplinary town planning.

In D&P Foucault tracks the shift from old régime to bourgeois discipline in the field of penal technology. In theorising on the latter system, he asks “[w]here exactly did the penalty apply its pressure, gain control of the individual?” (D&P, 127) He draws our attention to bourgeois forms of penal discipline that act on the body as a site of training and on the “soul” as the site of inner motivation, rather than older forms that used corporeal punishments that overtly act upon the body and public representations of sovereign power (D&P, 127). Of course, in this new regime of power it is not the case that the body becomes insignificant (in fact the body becomes more important), but it is rather that the punitive technique operates to control the body through techniques of normalisation rather than brute displays of sovereign authority over a body. For Foucault the technique of correction elicits an “obedient subject” who is subject to “habits, rules, order and authority that is exercised continually around him and upon him, and which he must allow to function automatically in him” (D&P, 128-29). In this chapter I argue that Foucault’s theory, in the convict context at least, places an over-emphasis on the “soul,” or that which is “in him,” as the place where bourgeois penal techniques directed their exercise, and overplays behavioural change as a technique directed at that which comes to “function automatically” (D&P, 129).

Foucault, however, was not oblivious to the role played by rational capacity in this project of habit formation. His theory of where the penalty enacts its pressure is
conceptualised as occurring on “the body, time, everyday gestures and activities; the soul, too, but in so far as it is the seat of habits” (D&P, 128). He notes that reformers such as Charles Lucas, the French jurist and prison reformer, also sought to “teach those who lived by dissipation the virtues of thrift and foresights, Lucas suggesting a third of the prisoners’ daily wages was set aside for the day when he left prison” (D&P, 243). Rational calculation is not wholly outside Foucault’s theory on disciplinary technique. However, he still conceptualises modern subjection as a “constitutional modification” brought about through such processes of disciplinary activity and exercise.

For the Molesworth Committee and the men they interview discussed here, however, a much more pragmatic, even cynical, view of regulation and reform emerges. In a typically utilitarian outlook, influenced by Bentham and his panopticon theories which also significantly inform Foucault’s theorisation, it is not the passions themselves which must be modified but rather the rational capacity to resist such passions, passions that reformers saw as universally present. The thought processes of the individual, the mind (as active regulator, as decision maker), is the target the committee seeks to control and modify through disciplinary technique. “Guided in their actions by their reason,” as the Molesworth Committee put it, the reformed convict’s conscious renunciation of passionate indulgence defines the ideal disciplinary temperament. More specifically, it is the gap between compulsion and action created and mediated by the faculty of rational calculation in the registering of future consequence that is the target. Such capacity for calculation, however, I will show, was not lacking in the convicts but rather was oriented to different interests than those of the colonial administration. While Radical reformers advocated for an end to the oppressive system of convict transportation, they based their arguments for reform in claims that crime was caused by lack of rational restraint due to lack of concern for future consequence, and that prison should instead be a more effective restraint and a more effective
tool for reforming individuals’ capacities to make rational decisions in favour of future consequence. The Molesworth Committee’s utilitarian theory is unable to account for the convicts’ ability to rationally calculate in their own favour apart from the happiness or pleasure of the colonial administrators or prison authorities, yet it is their unavowed concern about this sort of behaviour, as I will show, that paradoxically underpins their most significant concerns about convict indiscipline and, equally paradoxically, informs their project of penal reform.

The rhetorics of sodomy track throughout this chapter according to a logic of reversals, and immediacy and its opposite or antitype of mediacy structure such reversals. Specifically, antitypical models of ideal discipline (the undisciplined, sodomitical state of the penal colonies) and inverted doubles of old régime penal technologies (sodomy as a double to whipping) are constructed by commentators analysed in this chapter as effects of the excessively immediate structure of the penal colony’s social organisation and the resultant excessively immediate constitutions of individual actors within the penal system (in both convicts and administrators). Such rhetorics and theories, as put by colonial administrators and penal authorities, I aim to show in this chapter, encounter their most significant problematic as well as the limits of their theories in convict activity that instead of being the effect of the immediately oriented penal social system and their own constitutions, represent activities requiring or structured on mediacies such as the convict’s ability to concoct rational plans requiring restraint over immediate indulgence. Such convict plans, I argue, are not the effect of immediate orientations but are problematic for authorities as they are oriented to the interests of the convicts.
In their report the Molesworth Committee lays out a utilitarian account of the failures of transportation, which are arranged under five headings: firstly, the system’s effectiveness in deterring crime; secondly, its effects on the character of those who have undergone the punishment; thirdly, its influence of the morality of the colonies as societies; fourthly, its economic effects on the colonial economy; and, finally, its cost to the British imperial government. Deterrence of crime is a key principle of the utilitarian view of punishment, and economical effects are similarly “rational” concerns. The remaining two categories (convict and social morality), also utilitarian concerns, are what mostly concern us here. All that matters, according to utilitarian moral philosophy, is the effects of action. This is what can lead Bentham to state that “upon the principle of utility” he could, despite his best endeavours, find no rational reason to legislate against pederasty, leading him, therefore, in an essay never published during his lifetime to advocate for decriminalisation of sodomy.\(^{16}\)

The committee, following this philosophy, were also under pressure throughout its proceedings and in its report to substantiate the negative effects of sodomy. For the committee, sex between the male convicts is not so much the problem but it is rather what they represent as the negative effects of sodomy on the convicts and on the convict colonies. They claimed the convicts were apparently unable to comprehend such effects due to a lack of rational mediation and forethought and acted with only immediate gain of pleasure or avoidance of pain in mind. The effects of such a situation is an increase in, and a normalisation of, crime and other actions which are said to cause pain. It is as if Molesworth

read and took up Bentham’s provocation to moralists that in order to do a real service to society they would be wise to “show them the cases in which sexual desire merits the name of lust; displeasure, that of cruelty; and pecuniary interest, that of avarice.”

The committee outlines their view on the disposition to crime, as quoted in the introduction to this chapter, as follows: “the habit of acting under the influence of a desire for gratifications, or a dread of sufferings, which are immediate and physical…it is precisely this habit, and that of disregarding the distant consequences of their actions, which chiefly lead men into the commission of crimes” (“MCR,” xliv). Disposition, however, is not defined as an innate quality, but rather a failure to mediate (through forethought and consideration of consequences) universally present instincts and desires. The concept of human nature presented by the Molesworth Committee is something of a base libidinous drive, which, in the criminal case, is unrestrained by the precepts of civility. Prison, in their view, should function not just to punish but most importantly to reform the errant. The committee outlines the ideal form of penal government which they are making an apology for in the following way: “the great object, therefore, of a good system for the government of convicts should be that of teaching them to look forward to the future and remote effects of their own conducts, and to be guided in their actions by their reason, instead of merely by their animal instincts and desires” (“MCR,” xliv).

The will to criminality, “animal instincts and desires,” are not that which is judged; what is judged is the improper application of reason to modify such base inclinations. In suggesting an ideal of penal governance, the committee suggests a method of training the mind to “look forward to the future and remote effects of their own conducts.” The future is to be regarded as a horizon of consequence. Conversely, that which can be passionately

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indulged in the *immediately* available moment, without regard for the advice of rational thought or calculation, is that which leads to crime and its reproduction. The captivation of present temptation is unmediated by a regard for the distant effects of the action. In keep with Benthamite utilitarian thought, all humans, even for Bentham the insane, make calculations in terms of the consequences of their actions.\(^{18}\) The criminal acts, according to Molesworth, with a *lack of concern* for future consequence: “disregarding the distant consequences.” The gap between desire and action is unmediated not by a judgement on the moral value of immediately available action but by a disregard for the *consequences* of that act.

When designing the disciplinary techniques of the system set to replace convict transportation (as an experimental system in lieu of the costly construction of the more perfect penitentiaries) the committee emphasises, again, the capacity for rational forethought: “it would be advisable to ascertain, by experiment, the effect of establishing a system of reward and punishment not founded merely upon the prospect of immediate pain or immediate gratification, but relying mainly upon the effect to be produced by *the hope of obtaining or the fear of losing future and distant advantages*” (“MCR,” xlv, emphasis added). Not only should such a system *inspire* effects of rational forethought, but the system should base its institutional social organisation upon techniques and principles structured to ensure the certainty of future consequence and, therefore, “present” action. The committee, therefore, envisaged a disciplinary technology which could influence the space between passionate appeal and action. Their report suggests this technology occur at the level of social organization in the penal colony. In place of the costly and time-consuming construction of the panoptic penitentiary system, they suggested urgent structural reform of the convict

transportation system, a reformed version was to be established on the principle of “the hope of obtaining or the fear of losing future and distance advantages” (“MCR,” xlv).

The main system the committee suggested be implemented was a rough version of the probation system, which was indeed implemented in Van Diemen’s Land and Norfolk Island in the 1840s following initial cessation of transportation to New South Wales. It basic principle was rigid classification and distribution into differing penal situations for a prescribed period, where classification was based on: severity of conviction, whether the offender was a recidivist or not, and behaviour while imprisoned. In its ideal formulation a period of imprisonment in the newly constructed penitentiaries in England was followed by transportation, where the convict was assigned to “hard labour” on a government chain gang for a set period and, according to behaviour, would then progress through classes and be assigned to different stations where the severity of labour, general living conditions, and provision of indulgences was, gradually, improved. Penal settlements, such as Norfolk Island, Port Arthur and the Coal Mines Punishment Station on the Tasman Peninsula, were reserved for incorrigibles and the worst offenders. On the other hand, if well behaved, and following penal service for a set period, a ticket-of-leave could be applied for, which would allow the convict to work for wages and live under the auspices of a respectable settle. Finally, given good behaviour, a conditional or absolute pardon could be applied for, the convict then gaining freedom from the penal system. While this is a necessary truncation of a complex penal system, the main principle holds: progression through each probational stage was dependent on the conduct of the convict and the performance of work duties and was

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20 Brand, 13-23; and Reid, *Gender*, 212-13, 222-3.

21 For a detailed outline of the probation system see Brand, *Convict Probation*, esp. 17-21.
administered according to strict classification of prisoners according to severity of initial crimes and subsequent behaviour. Durational distance, created by such a technology, is what is significant here. The probationary stages create a mediated space apart from immediate gratification or suffering, reward or punishment is available as a distant, future consequence to be gained through behaviour oriented towards forced regard for such consequence. This penal system is designed to enable and enforce convicts to apply their rational decision-making process towards betterment, with the intention to effect a habit in the convict towards reformed behaviour. This is where the “penalty” applied its “pressure” in an effort to “gain control of the criminal” (D&P, 127).

In describing the transition from punitive to disciplinary forms of penality, Foucault draws attention to the disciplinary micro-economy of penal mechanisms. For Foucault, the “art of punishing,” which is “aimed neither at expiation, nor even precisely at repression,” is directed at the individual (compelling visibility of the individual and knowledge of the individual) and operates as a technique of normalization acting upon the subject’s body and habits (D&P, 182). While, as Foucault argues, such a system is designed to modify and control the subject through techniques of individual training, what is also clearly within the designs of the reformed system, as put by the Molesworth Committee, is the intent to modify and control subjects through the development of a macro-organizational model of curating available future consequence. The penal system, as a social whole, comes to form a technique of a disciplinary pedagogic exercise. What Foucault might term the “mechanics of a training” (that is, the operation of disciplinary power through application of pedagogic operations such as penal labour connected with the penal goal of reformation) is manifested by reformers of the penal colony in macro-level organisation. As a juridico-geography, and a disciplinary pedagogic, disciplinary consequence must be readable in the landscape of possible action as a distant consequence. Reformers modelled such cognitive distance in the social organization
of the probation system, mirroring the ideal mind of the disciplined individual. The macro-economy of penal mechanisms, as a coercive technique of convict reform, is designed to effect the choices made in the *meditated space* between immediate temptation, calculation of future consequence and action.

Conversely, as a legible landscape of possible evasion of consequence, what might be called the irresponsible landscape of immediate gratification, a dystopic image of Sydney is given as paradigmatic. The committee draw a particular moral-topographical sketch of the town of Sydney,

Of the state of society in the towns of these colonies, a general idea may be formed from a description of Sydney, according to the accounts given of it by its chief police magistrate, and by Mr. Justice Burton… [Convicts] together with their associates amongst the free population, were persons of violent and uncontrollable passions, which most of them possessed no lawful means of gratifying; incorrigibly bad characters, preferring a life of idleness and debauchery by means of plunder, to one of honest industry….No town offered so many facilitates for eluding the vigilance of the police as Sydney did. The unoccupied bush, near and within it, afforded shelter to the offender, and hid him from pursuit. He might steal or hire a boat, and in a few minutes place an arm of the sea between himself and his pursuers. The want of continuity in the buildings afforded great facilities for lying in wait for opportunities of committing crime, for instant concealment on the approach of the police, and for obtaining access to the backs of houses and shops; and the drunkenness, idleness, and carelessness of a great proportion of the inhabitants, afforded innumerable opportunities and temptations, both by day and night, for those who chose to live by plunder (“MCR,” xxx-xxxi).

While the dominion of passions, without “lawful means” of gratification, is accorded as the origins of life “by plunder,” the proximity to the concealing bush, the discontinuity of buildings and the proliferation of back alleys define the city’s macro-organizational failures. Instead of a horizon of disciplinary certainty, consequence is, apparently, readily readable as evadable and thereby actioned.
Consider Chief Justice Francis Forbes’s statement at the Molesworth Committee on his beliefs about the effectiveness the transportation system in reforming convicts: “With certain expectations held out to him during the period of his probation, it has had a tendency to induce good conduct, which afterwards becomes a habit, and enters into his future life, and so far it reforms.” Here “habit” suggests a condition of living which has become routine, while reform for Forbes, so far as this might suggest modification of inner will, is illusive. With this more sceptical view of reform in mind the committee suggest the creation of a system that creates distant advantage to be gained though the corrected behaviour. Gradual progression through varying degrees of penal technology, through the performance of work duties with a mind toward future benefit, defines the convict “reform” project. A horizon of consequence is available, and perceivable, by the convict. This is not a dark dungeon of undefined duration, but an exercisable social organisation. Forbes’s statement aligns with the committee’s position on “reform” as a question not so much of modifying the will as altering the terms of ration calculation to a situation where a criminal’s best interests are forced to align with the orders of the British Empire’s penal administration.

In terms of the transportation system in place at the time the committee met, its probationary steps – as attempt to induce behavioural adjustment – the committee saw them as largely failing to effect any reformation in the convicts. The Molesworth Committee’s report summarised this situation as follows: “On the whole it appears from the Evidence taken before Your Committee, that assigned convicts conduct themselves better than ticket-

22 Minutes of Evidence, Forbes, April 18, 1837, BPP (cd. 518) XIX, 1837, 85. Hereafter cited parenthetically as “MF.”

While Forbes is here disagreeing with the committee in terms of the effectiveness of the transportation system - Forbes believes it can be effective – he shares their view on the reformatory principle. For more on probation as a disciplinary technology of the penitentiary system see Foucault, D&P, esp. 107-8
of-leave men, and ticket-of-leave men than emancipists or expirees” (“MCR,” xxii). Assigned
convicts were those placed in bonded labour and assigned to a free settler (master) or to a
government work gang, a ticket-of-leave was an indulgence which allowed the convict to
restricted paid work and to live in the community though still under regulation, while the
emancipist or expiree was a convict who had attained a conditional or full pardon and lived,
more or less, as a free settler.23 Blame for the degenerating, rather than reforming, effect of
the probationary gradation of the assignment system was attributed not so much to the lack of
successive stages as to its other disciplinary methods, “when Transportation does produce
orderly conduct, it does so by imposing restraint, and by the apprehension it produces of
immediate and severe punishment” (“MCR,” xxii). When this older system of penalty was
effective, it had to rely upon forcible restraint and immediate application of corporeal
punitive techniques such as flagellation (itself immediate to the body of the patient). The
committee’s report described the ineffectiveness of the older system of coercive corporeal
technique and the failure of its probationary steps as follows:

the orderliness of a convict increases, therefore, with the immediateness and severity of the
punishment, and with the general restraint, to which he is subjected, and at the same time decreases
with the increase of temptation. Thus, a convict is best behaved, while at the penal settlements, and
his conduct deteriorates in proportion as he obtains more and more freedom, and is worst, when he
has obtained liberty by the expiration of his sentence (“MCR,” xxii, emphasis added).

Discipline was limited to restraint and the subject was only checked in the immediate. The
committee saw such a disciplinary system as counterproductive to an orientation to rational
mediation, which they so desired for reform of convict disposition.

23 Brand, Convict Probation, 19-20.
Significantly, the Molesworth Committee are disturbed by accounts of convicts reoffending in order to better their future. Here the committee observes but never avows, convict capacity for forethought. Instances of rational mediation of desire in favour of future effect were observed, yet the rational action taken by convicts was antagonistic to discipline and reform. For example, consider the committee’s interview of Forbes on his opinions regarding an attempted mutiny on Norfolk Island and what he thought as to the notoriety of the severe discipline on Norfolk Island acting as a deterrent to crime in the convict colonies at large. (As discussed in detail in chapter two, Norfolk Island was an offshore penal settlement of severest discipline reserve for the worst offenders and recidivist convicts). To begin with, the committee were quite concerned about Forbes’s account of cases of serious crime being committed on Norfolk Island where the intention behind committing crime was to be sent to Sydney for trial or to be executed. Forbes reported that, “in their desperate state any speculation of escape is gladly taken hold of” (“MF,” 17). Such schemes of escape were of serious concern for the committee. Charles Buller, the reformist parliamentarian also closely connected with the Utilitarian Society, was adamant: “I want to know what the chances of escape were” (“MF,” 17). He is intent to know whether such a scheme was “really an act of desperation exposing themselves to the almost certainty of being hanged…or whether they committed the crime with a reasonable chance of escape” (“MF,” 17). Forbes replies, “I do not think that they committed the crime with the expectation of escaping justice for it, because that would be too much; but with the expectation of escaping altogether; that was what I meant to state” (“MF,” 17). Despite this answer being at odds with Forbes’s statements made during his previous interview with the committee the week beforehand (where he stated it would be possible to escape in Sydney), Forbes’s latter answer proposes suicide as a rational means of escape, one he could even understand. “If it were to be put to myself,” he reported, “I should not hesitate a moment in preferring death under any form that
you could present to me, to such a state of endurance as Norfolk Island” (“MF,” 88). Forbes may be exaggerating but what I wish to draw attention to is the emotive loading of the act from Buller’s perspective if oriented to suicide. For him if actual escape were possible the motive appears calculated and rational while if oriented to suicide he thinks it an “act of desperation.” In terms gaining freedom from penal rule the potential for rational decision making which would ensure evasion of servitude (the chance of escape while at Sydney) fundamentally undermines the intended effects of penal reformation. The ability to formulate a criminal plan through disavowals of immediate gratification not only upsets the penal objective of detention and deterrence, but undermines the reformatory objective of behavioural control through augmentation of decision-making capacity directed towards the calculation of future reward. The convicts, in other words, have already made rational calculations in their own interests. (And Sydney is, once again, readable as opportunity and evasion of disciplinary consequence).

Forbes’s characterisation of the situation at Norfolk Island (and the other severe penal settlements) as so dire as to “render death desirable,” distinguishes his perspective from Buller’s characterization of suicide as a passionate indulgence (“MF,” 86). Forbes states, “I have a recollection in my mind of two or three men cutting the heads off their fellow prisoners with a hoe while at work, with a certainty of being detected, and with a certainty of being executed” (“MF,” 87). Molesworth seeks a clarification by asking if Forbes meant the men acted “without malice” (“MF,” 87). According to Forbes they did: “apparently without malice, and with very slight excitement; stating they knew they should be hanged, but it was better than being where they were” (“MF,” 87). Convict capacity for rational forethought is here presented in highly disturbing form – decapitation of a friend with a view to be executed is a normally emotively charged action. The agenda of prisoner reform by basic indenture of
rational mediation of the passions is again problematised within the committee’s own evidence.

A rationale for murder-suicide emerges: where the convict might rationally choose to end their life and that of their friend’s through the commission of more crimes (murder and suicide) over remaining in the prison system at the settlement. Such an economy renders the landscape of consequence such that disciplinary adherence (serving their term) is not simply a less desirable option, but a rationally worse off option to that of more crime. Such a stark claim to the disciplinary ineffectiveness of the transportation system supports Foucault argument that bourgeois disciplinary power acts on right to life, rather than a right to death; discipline must recoup the patient in order to extract more from its life (HoS, passim, esp. 133-45). The committee’s critique is not so much of inhumane conditions, as it is a critique of the conditions being unfavourable to disciplinary exercise.

Buller also asked Forbes about the efficacy of penal settlements where the severest forms of punishment were used on incorrigibles and the worst offenders: “What good do you think is produced by the infliction of so horrible a punishment…and upon whom do you think it produces good” (“MF, 87). Forbes’s answer was, predictably, none. The corpse of a suicide, occasioned by the inescapable severity of the system, is neither available for future reform nor acts as an appropriate deterrent to further crime. The horror of the system is so great that no “good” can be produced. In the curation of a macro-social system of penal discipline, the consequence must not be merely harsh or horrible, but refined enough to coax the convict into compliance. An autonomous form of mediation suited to the ends of the convicts defines the problematic. A suicide keeps life, in its mastered ending, within the control of the convict. It proposes an escape from justice – it prevents the application of the ends of disciplinary mastery via a rational choice. The reform project suggested by the Molesworth Committee of imparting rational capacity, the project of “teaching them to look
forward to the future and remote effects of their own conducts, and to be guided in their actions by their reason,” again encounters its shortcoming within its own proceedings.

Consider the following from the committee’s interview of the Reverend Ullathorne; Molesworth asks him, “have you had any opportunity of ascertaining the apprehension which is produced in this country [Britain] by the punishment of transportation.”24 The committee is concerned about the suspected situation where many from the lower classes of England and Ireland25 would contrive to be convicted in order to be sent to the penal colony with the understanding that conditions were better as a convict than as a pauper in England or Ireland. The condition of being an assigned convict, educated in a working skill, with a government ration (often increased by masters) and stable board, while not ideal, may, in the calculation of an itinerate or poor labourer, measure as a better opportunity than their present conditions. Ullathorne recounts the anecdotal evidence of a “respectable innkeeper” who told the Reverend that he was going to give a lecture on the horrors of transportation but decided against it: “What is the use of it? People had far better be transported than remain here; for there they will have abundance to eat and drink and plenty of clothing, and here they are in a state of starvation.”26 The prospects of prosperity in the developing economic system of the colony are represented as undermining the deterrent effect of the punishment of transportation. The representational crisis where transportation is apparently more readily readable by the lower classes as opportunity, rather than punishment, is a disciplinary, and significantly here a disciplinary-pedagogic, problem for administrators.

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24 Minutes of Evidence, Ullathorne, February 8, 1838, BPP (cd. 669), XXII, 1838, 32.
25 They specifically talk about “England” and “Ireland,” and do not mention Wales or Scotland.
26 Minutes of Evidence, Ullathorne, 33.
As a remedy, Ullathorne and the committee recommended familiarising the English lay population with the “real” horrors of transportation.\(^{27}\) By no coincidence Ullathorne was at the time of his interview publishing his pamphlet, “The Catholic Mission is Australasia,” which recounted, in his characteristically literary style, the horrors of society in the penal colony.\(^{28}\) In the year following Ullathorne’s witness at the committee he, additionally, published the more substantial pamphlet on the same topic, “The Horrors of the Transportation System Briefly Unfolded to the People.”\(^{29}\) Similar accounts of the system proliferated in the metropole in the following decades, closely connected with the anti-transportation movement.\(^{30}\) This publishing history can be seen as an effort to populate the representational field, encouraging reading practices to interpret transportation as “punishment,” and even “horror.” Such representational efforts were mounted in order to prevent crime in the metropole as well as bolstering the campaign for cessation of transportation. In a geography of possible action, such a textual frame of action and disciplinary reaction is aimed to effect behaviour modification, not so much upon the Foucauldian soul, as upon the legible landscape as a means to influence the mediated space of cognitive decision. When read as “punishment” crime becomes not so much a less desirable action but a rationally worse option.

Foucault describes the characteristic civic image of old régime power as the “punitive city,” emphasizing the readily legible landscape of sovereign authority epitomised in the pillory and other forms of public torture; and he shows how the paradigm shift to bourgeois systems of

\(^{27}\) Minutes of Evidence, Ullathorne, 33.

\(^{28}\) Ullathorne, Catholic Mission.

\(^{29}\) Ullathorne, The Horrors of Transportation Briefly Unfolded to the People (Birmingham: R.P. Stone, 1838).

power effected a change to what he calls the “coercive institution”: the bourgeois form of regulatory discipline best encapsulated in the reformatory (D&P, 113-16). However, in the British convict colonies, instead of just the isolated reformatory we have a vision of what I would like to call the “disciplinary city” of bourgeois order. That is, the modern technique of behavioural modification and penal technology is instituted across the macro-level social landscape as an interpretable horizon of consequence. Here the penal colonies (an entire society based on the principle of penal technology) perhaps display their significance as an intensified version of the disciplinary city. The more certain the system is to punish or reward the subject for compliance or deviation the more effective is “reform.” The greater the chance of a rational loop hole, such as the chance of escape from Norfolk Island through the commission of crime, or the view of transportation as criminal opportunity or evasion of consequence, the less certain is the landscape of consequence – the less likely is the *pragmatic* reform of patients. In other words, the less likely it is that the gap of rational decision will be informed by a representational system of disciplinary restraint. Reform of the prisoner is not so much weighted on effecting a change in the soul, nor even in morals of the patient, but in effecting a curation of macro-level disciplinary techniques which is complete and well-tuned enough that if one were to apply their rational mind to the distant consequences of each action, evasion of disadvantage and gain of reward would require adherence to the principles and morality of the governing law. Here the Benthamite position that every person is motivated by the want of pleasure and avoidance of pain, gained through the application of rational decision making, is put into practice.

*Slade’s Lash*
Flagellation, as a disciplinary technique favoured by the transportation system, is strongly critiqued throughout the report for its inhumane methods which were seen to elicit and reduplicate an orientation to corporeal immediacy. Earle Augustus Slade, former Hyde Park Barrack superintendent and third police magistrate at Sydney, had a reputation in the colony for excessively corporeal discipline inspiring, according to his testimony, the hatred of the convict class. In response to a question from Sir George Grey, under secretary of war and the colonies, on the severity of his methods, Slade proudly claimed that “50 lashes under my superintendence was equal to 1000 under any other man’s ever before in the colony” (“MS,”

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31 For a discussion of contemporaneous accounts of Slade’s notoriety see his own testimony where he reviews attacks on him by the press see Minutes of Evidence, Slade, April 25, 1837, BPP (cd. 518) XIX, 1837, 57-8. Hereafter cited parenthetically in text as “MS.”
56). He claimed such efficacy was due to the specifications he implemented in redesigning the cat used to scourge convicts to such a standard that, as he claimed, “I never saw a case where I did not break the skin in four lashes” (“MS,” 56). Slade’s use of the subjective case of the first-person pronoun in the place of the actor who broke the convict’s skin, despite

![Figure 1: Reproduction of Slade’s Lash, Hyde Park Barracks Museum, Sydney. Photo by author](image)

Slade claim that as a superintendent and a magistrate he only every supervised or ordered scourgings and never held the actual whip in the act, anticipates my argument. Let us,
however, first consider Slade’s detail of his design modifications of the lash used in the colony.

The instruments before were exceedingly short, very short handles, and about three lashes, and the knots were so trifling that I should say that the punishment inflicted before was of no avail, as in cases where men have been sentenced to receive 20 lashes, instances have been known where the skin has not been broken. I ordered them to have a handle about two feet long. I had five lashes put to them of whip-cord, and on each of those I had about six or seven knots (“MS,” 56).

Reportedly Slade’s innovation was adopted by the colony and exported from the barracks to all the magistrate benches (“MS,” 56; see fig. 1). The committee, however, were broadly unimpressed by Slade’s innovations; even the conservative Sir Robert Peel labelling Slade’s cat an “instrument of torture” (“MS,” 57). Both radical and conservative reformers saw scourging as an excessively immediate form of punishment unsuitable to the reformist aim of effecting reformation in convict capacity for rational, mediated forethought. In the view of the committee, corporeal punishment should be avoided in total, “except for the purpose of repressing open resistance to authority” (“MCR,” xlv).

Catie Gilchrist has analysed reformist opinion on scourging in nineteenth century New South Wales and Kirsty Reid has done the same in the Van Diemen’s Land case. They both similarly conclude that reformist’s construct the negative effects of flagellation as being defined by a rhetoric of degradation which, in turn, reformists thought undermined self-discipline and, therefore, lead to sodomy. Gilchrist attends to the reformist view that corporeal punishment incited disposition to vice, “animal passions” and unnatural crime.32

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32 Catie Gilchrist, “‘This Relic of the Cities of the Plain’ Penal Flogging, Convict Morality and the Colonial Imagination,” Journal of Australian Colonial History 9, (2007): 1-28, esp. 9-14; and Reid, Gender, 204-46. Also see Penelope Edmonds & Hamish Maxwell-Stewart, “‘The Whip Is a Very Contagious Kind of Thing’: 
For Gilchrist, this is indicative of contemporaneous anxieties about the *degradative* effect of corporeal punishment, and the express causative relation, for reformers such as Maconochie, of flagellation to unnatural crime.\(^{33}\) For Maconochie the resumption of corporeal punishment at Norfolk Island following his dismissal as commandant at the island, effected a situation where “the tendency to unnatural offense recurred with that change” since, he claimed, “the men had lost their self-respect.”\(^{34}\) Reid similarly interprets reformist arguments about the sodomitical effects of the transportation system as being informed by their beliefs about the *degradative effects* of corporeal punishment on manly bodily integrity and rational capacities of the mind. “Critics,” she argues, “were particularly exercised by the impact of flogging, believing that it tended to destroy man, undermine his self-respect, erode his manly sensibilities and deliver him to the sway of the base passions.”\(^{35}\) Such ideas, she continues, “were founded upon the belief that unregulated pain disturbed the mind-body balance and stripped its victim of the capacity for rational self-command.”\(^{36}\) Reid’s analysis ably identifies the trope of degradation that informs reformist rhetoric on the effects of flagellation. By instead focusing on the trope of immediacy, however, we are more able to account for the reformist theories of behavioural modification, and to account for the sodomitical dimensions they saw as inherent in the technology of flagellation itself. Thus, the technique of training Foucault identifies as acting “in him” can here be seen to act on the space between compulsion and action in the capacity for mediated decision making. For the

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34 Gilchrist, “Cities of the Plain,” 17.

35 Reid, *Gender*, 223.

36 Reid, 223-4.
Molesworth Committee, it is not so much a degradative stripping of capacity, as a reorientation to the immediate (immediately available pleasure, or a avoidance of immediate pain) without regard for distant consequence. The techniques of corporeal punishment are themselves represented as immediate in orientation, effecting a memetic-pedagogic – a lesson by rote. Thus, flagellation itself comes to be represented as sodomitical in both content and effect. The disposition to sodomitical indulgence is everywhere present and is not judged in and of itself, it is rather judged on the future consequences of such an indulgence of immediate pleasure.

Reid, for example, analyses John Frost, the Chartist who toured England advocating for the abolition of the transportation system, following serving a period of transportation to Van Diemen’s Land on political charges. Consider Frost’s comments on the horrors of the sodomitical effects of flagellation which Reid quotes: Frost claimed flagellation drove the convicts to “desperation… the very worst passions then become excited.”37 The barbarities of the system, “destroy the reflecting faculties and leave no thought or wish but for the immediate gratification of the sensual. In such cases no moral feelings can restrain men from the commission of the very worst acts.”38 As Reid argues, the trope of degradation informs Frost’s ideas here yet, I argue, we can learn a great deal by shifting focus to the trope of immediate orientation that also informs Frost’s rhetoric. To begin with, the notion of universally present temptation to sodomitical indulgence is emphasised. It is not simply the degraded who have a passion towards the vice, but rather the vice is “excited” and the usual defensive measures of “reflecting faculties” are undermined. In this context also consider the

37 Reid, 230.
38 Reid, 230.
following excerpt from the section of the Molesworth Committee’s report on the committee’s view of behaviour and its relation to penal technology:

A system of punishment, which relies for its efficacy solely upon the infliction of pain, without attempting to encourage and strengthen the moral feelings of a culprit, only hardens and brutalizes him, render him mentally incapable of looking beyond the present moment, and confines his ideas to the feelings of the next instant; by these feelings alone his will is determined, and he indulges his vicious appetites, or refrains from gratifying them, in proportion as he expects their immediate results will be pain or pleasure (MCR,” xxii-xxiii).

The committee explicate the inability to exercise “self-command” through a conceptualisation of flagellation as reduplicating its own immediate orientation. Unable to orient oneself towards future effect, confined to the “feelings of the next instant,” the flagellated errant is encouraged toward “immediate results” – a taste for the pleasures of immediate gratification and avoidance of present suffering.

Sodomy is not so much a sign of the brutality of the system, as Reid argues, but is the sign.39 While the committee is seeking to enumerate the effects of the transportation system, they construe sodomy as the essence of the system itself: everywhere present in the technology and constitution of the system, and in its social consequences. In terms of whipping, the immediately available pleasure of sodomy is represented as the uncanny double to the immediately delivered pain of flagellation. In 1833 the Sydney Gazette ran an article on the “Slade-ian” system of scourging, reporting on the physical excesses of Slade’s punitive technology. While determining the exact accuracy of this report requires further research, the report is indicative of, at least, the rhetorical representation of Slade’s disciplinary excesses regarding use of the cat:

39 Reid, 231-6.
Leaving humanity (Psha!) out of the question, we defy the advocates of the SLADE-ian system to show, that it is in ‘strict accordance with the practice in England.’ We dare them to the proof- we defy them to bring forward one single instance in England wherein a poor devil has had his legs bound to the feet of a narrow table - a pillow placed beneath his stomach, which has the effect of erecting his back, and tight’ning the fibres in the flesh, so that they crack under the lash - while the arms of the suffering wretch are extended to the opposite end of the table, by means of tightly-drawn cords. Is this in accordance with the laws of England? Who says it is? - let him declare himself, and stand forth the thing we dare not name.\(^{40}\)

\(^{40}\)“Scourging at Hyde Park,” *Sydney Gazette and New South Wales Advertiser*, Sept. 28, 1833, 4, original emphasis.
The unusually prostrated and brutally treated patient reduplicates sodomitical positionality—bent over. On all fours rather than the usual image of convict flagellation where the convict is standing tethered to a triangle (fig. 2), sodomy emerges as both effect and content of such a scene of flagellation.

The sodomitical motif is extended in the riff “Slade-ian” makes on the irregular erotics of Sade, Sadian and Sadism, as well in “stand forth the thing we dare not name,” which references Blackstone’s famous gloss on sodomy as “peccatum illud horribile, inter Christianos non nominandum” (the horrible crime not be named among Christians).41 (This formulation also anticipates Lord Alfred Douglas’s now trite line of the “love that dare not

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speak its name"). The scene of scourging, here set in the yard of the Hyde Park Barracks, is marked as a site of sodomitical display and effect. The erected and tightened back “cracks” under the crack of the lash – the back crack of the male body emerges here not merely as trivial word play but, as we will see in more detail in chapter three, references that which embodies emergent bourgeois anxiety about the corporeal integrity of male bodies as a social and political site: the spectre of male sodomy. The metaphors of sexual penetration are made literal as the whip breaks through the skin of the prostrated male. On the extreme end of immediateness barrier is broken.

In addition to Slade’s intensification of immediate corporeal technology, the committee is suspect of Slade’s insistence that he be present as supervisor at the floggings which he ordered as magistrate. Floggings in the colony could only be ordered by a magistrate, as property was held by the master in the labour of the servant (unlike slavery where property was held in a person). Judicial power, therefore, was necessary to inflict corporeal punishment. In addition, jurisdictional boundaries prevented magistrates from superintending floggings which they ordered. Molesworth’s initial question to Slade concerning Slade’s insistence to supervise floggings which he also ordered begins with Molesworth asking why Slade ceased to be one of the police magistrates (“MS,” 56). In response Slade outlines the established and official reason for his forced resignation: that is, as a consequence for the


public scandal surrounding him living in a state of concubinage with Lavinia Winter, a female servant procured from the emigrant ship, *David Scott* (“MS,” 53-55).

Additionally, Slade was reported by the emancipist aligned papers, the *Sydney Gazette* and the *Monitor*, for taking a number of assigned female convicts as concubines and, further, sentencing female convicts convicted at his bench to serve their term of bondage at his residence, and implies their bonded labours involved sexual services. During examination over such intemperate infractions, Slade defended himself by stating that Governor Bourke’s underlying motive for dismissing him was Bourke’s opinion that Slade’s disciplinary techniques were out of step with Bourke’s more reformed penal methodology: what Slade characterises as Bourke’s “leniency towards the convicts” (“MS,” 55). Bourke, in this analysis, opportunistically fired him from the bench on the immorality charge. Slade added that taking a female servant as a concubine was a ubiquitous practice of the “respectable” colonial magistracy (“MS,” 55).

In sum, it is Slade’s contention that the severity of his methods made him obnoxious to the more reformist aligned governor, precipitating his forced resignation based on trumped up charges of immorality, and that such immoral practices were common among the upper echelons of the colony. Under this reading of the charge Slade is able, and attempts to, defend his penal methods: in the case of convict flagellation, as in keep with his duties of stamping out corruption in the convict office and administering discipline at the barracks; and in the

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44 Emancipists were colonials aligned with the political movement for voting, and other civil, rights for former convicts. For accounts of Slade practices while on the bench, see “Our First, Second, and Third Sydney Police Magistrates,” *Sydney Monitor*, June 25, 1836, 2; and “Mr. E. A. Slade and the Colony,” *Sydney Gazette and New South Wales Advertiser*, September 7, 1837, 2.

case of convict concubinage as being in keep with established custom (“MS,” 58). If we are to accept the contemporaneous reform view of flagellation as a sexually suspect practice (as the committee does), however, then interestingly Slade’s old régime corporeal penal methods become intermingled with sexual immorality as both underlying motive and ostensible reason for Slade’s forced resignation. The two layers of censored relations to bonded (convict/servant) bodies intersperse – his immediate, corporeal and improper relations to the servant class – his convicts and his concubines – mingle.

When the committee came to questioning Slade more directly on his practices of flagellation and supervision, Slade admitted that he was an avid voluntary supervisor while superintendent at Hyde Park Barrack, stating that he even viewed scourgings at the Sydney bench (rather than at the Hyde Park Barrack bench), since the sentencing police magistrates would not keep watch themselves. However, following his promotion to third police magistrate (a part-time position newly created to assist the first police magistrate in his expanding work load), supervision of floggings which he was now responsible for ordering came outside the customary and legislated duties and boundaries of magistrature. Slade’s reported breach of this jurisdictional boundary is broached as an additional excess of immediate relations to convict bodies. During examination, Peel interrogated Slade on the particulars of his supervision practices: “Perhaps the governor might honestly and conscientiously believe that you were rather diminishing your authority as a magistrate by making this alteration in the instrument of punishment, and yourself superintending the infliction of it” (“MS,” 57). Slade retorted that he was not yet a magistrate at the time that he supervised and that he only supervised while he was a superintendant, following the law to the letter. In Slade’s testimony he presents his promotion to magistrature as a clear succession from his superintendant role. When Peel asks him directly, in the next question, “As magistrate, did you superintend the infliction of punishment,” Slade denies it, claiming
instead that the role passed to his successor. Slade, however, is lying – in the initial months of his promotion he held both appointments at the same time. In December 1833 Bourke noted that “the appointment of 3rd Police Magistrate, which is now held my Mr. Slade in conjunction with that of Superintendt. of Hyde Park Barracks will require to be augmented in Salary.”46 Furthermore, some months prior to Slade’s dismissal the Sydney Gazette (dubbed the convict press due to emancipist and convict occupation of the editorial board and its advocacy of the emancipist cause) reported on a typical instance of “Slade-ian” flagellation, as quoted above. The article concludes with an ironic slight: “the punishment of Mr. COOPER’s men was superintended by EARNEST AUGUSTUS SLADE Esquire; of whom, however, as a magistrate, we would speak with all reverence!”47 The implication of Slade’s jurisdictional breach is clear.

Peel’s above question about Slade’s diminished authority in the eyes of the Governor further challenges the layer of underlying motive. Peel gives examinatory analysis to the content of Slade’s agenda (redesigning the cat and his insistence to view scourgings which he himself ordered). The clear implication is that Slade’s redesign of the whip and his will to both order and observe is improper, thereby “diminishing [his] authority.” If Peel’s suggested rationale for Governors Bourke’s response is true – that is, Slade was dismissed because Bourke found Slade’s authority compromised due to redesign of the cat and his practice of supervising its use – Bourke’s response is more legitimated than simple objection to harsh, or as Slade terms them “efficient,” penal methods (“MS,” 55). Moreover, and more pressing to my argument, the immediacies of Slade’s methods are rhetorically coded, in keep

46 Bourke to Stanley, December 5, 1833, in Historical Records of Australia, series 1, vol. 17 (Sydney: The Library of the Commonwealth Parliament, 1923), 297. Also see King, “Slade.”

47 “Scourging,” Sydney Gazette, 4, emphases added. See also Victoria Goff, “Convicts and Clerics: Their Roles in the Infancy of the Press in Sydney, 1803-1840,” Media History 4, no. 2 (1998): 101-120; and
with reformist discourse, as corporeally improper, even immoral, further undermining his authority as a magistrate, a judiciary position axiomatically requiring high order rational mediation of passionate partialities. Impropriety, under this analytic, like the case surrounding Slade’s dismissal, saturates both layers of *Slade’s analysis* of Bourke’s motives. Slade, as shrink, is shrunk. In other words, Peel’s response populates Slade’s excuse (his analysis of Bourke) with moral impropriety: Slade’s corporeal severity, like his infractions with the female convict class, is coded as sexually, and sodomitically, suspect.

Slade, nevertheless, defended himself, stating that he acted within the law while not allowing himself to be intimidated by the governor (“S,” 57). Peel, however, persists, “and when [Bourke] removed you, he never led you to think that disapprobation of your proceeding in judicial conduct was the cause of your removal?” (“MS,” 57). The connotations of *moral* disapproval contained in “disapprobation” suggest an apt design to Peel’s slight. Slade rebuts by saying this was not the case and cites an officious, well-wishing letter from Bourke, the overall effect of which is contained in the following excerpt: “I very earnestly hope that the step which I felt myself compelled to take may not be a lasting impediment to your employment in the public service, and that the course of life which you inform me it is your firm intention to pursue for the future may lead to your permanent welfare and happiness” (“MS,” 57). A few months later Bourke wrote to Lord Glenelg, secretary of state for war and the colonies, stating that under the circumstances he could not recommend that Slade, as Slade had requested, be returned to any office in the colony.48 On the professional merits of Slade’s character Bourke is reserved, “I have usually heard him spoken of in the light in which I myself regarded him, as an active and intelligent

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48 Bourke to Glenelg, June 1, 1835, in *Historical Records of Australia*, series 1, vol. 17, 734.
An “active and intelligent” character, however, would seem to fall short of the prerequisites of magistrature.

Bourke adds in the concluding section of his letter, where he defers future employ of Slade as “purely for the consideration of H.M.’s Government,” that Slade would “if cured of his irregular propensities by the misfortune to which they have subjected him… [be] capable of rendering useful service in another Colony.” Politesse characterizes Bourke’s letters, rather than an authenticity Slade would like to claim. Further, the precise nature of Slade’s “irregular propensities,” whether referring to his passion for the whip or his use of female servants, is unclear. In any case, Peel’s provocations at the examination and Bourke’s letters demonstrate their view that Slade’s will to supervise as well as order is improper and irregular – is sodomitically suspect. The committee cast Slade as sodomitically suspect since the character of his misconduct places him in an increasingly immediate relation to the bodies of those who he is punishing. After leaving the colony Slade reapplied, in 1836, to the Colonial Office for another appointment but was, somewhat predictably, unsuccessful.

Slade is once again subject to critique for improper proximity to penal patients when the committee examine Slade for his use of summary jurisdictional powers vested in his position as third police magistrate which he claimed to have used in order to inflict floggings on those

49 Bourke to Glenelg, 734
50 Bourke to Glenelg, 734, emphasis added.
51 King, “Slade.” I feel compelled to here note that the public scandal which led to Slade’s dismissal was largely led by the Sydney Gazette, then edited by O’Shaunnesey (an emancipist) and Watt (a ticket of leave holder). Dubbed the “convict press” the Gazette was firmly advocating for the emancipist cause, and against severe treatment of prisoners, see Minutes of Evidence, Slade, April 25, 1837, BPP (cd. 518) XIX, 1837, 58-9; and Goff, “Convicts and Clerics.”
suspected of sodomitical offense. When questioned on the presence of sodomy at the Hyde Park Barrack, Slade confirmed his belief that “among a certain class of convicts, sodomy is as common as any other crime” (“MS,” 66). Slade bases his belief, according to his testimony, on the frequency of inmate complaints made to him while he was superintendent. His estimate is also based on his claim to finding inmates “with their breeches down in secluded places with other men” (“MS,” 69). Finding men in such positions does not lead Slade to locate a psychic aetiology or “type.” Rather, sodomitical origin is positioned by Slade as self-same to a general criminal orientation. He adds, however, that it “was always impossible to establish” (“MS,” 66). The difficulty of establishing sodomy convictions was a regulatory problem for the British imperial order throughout the nineteenth century leading to successive reforms (both in the metropole and the colony) enabling easier prosecution for sodomy and allowing for a greater number of convictions for lesser degrees of sodomitical offense.52 However, The Offences Against the Person Act 1828 (often called “Peel’s Act,” named so after Sir Robert Peel’s leading role in effecting the legislation) was the only major legislative reform allowing for greater prosecution enacted at the time the committee met. (The act, as I discuss in more detail in chapter three, made conviction for the capital crime of sodomy possible without the need for proof of emission of seed, yet the need for proof of penetration remained). What is significant here is that conviction for unnatural crime remained particularly difficult in the 1830s.

Summary punishment was, therefore, a readily available means of punishing the crime without the need to convict. Slade took great advantage of summary jurisdictional powers vested in him as a magistrate thereby circumventing the difficulties of criminal conviction and its demands of proof. The punishments immediately available enabled him to, at his own discretion, punish suspected sodomitical offenders; and Slade claimed that out of approximately thirty sodomy cases brought before his bench, twenty-nine were punished summarily by “either giving them 50 lashes or sending them to the chain-gang” (“MS,” 56). Slade’s zealotry in so regularly ordering those suspected of sodomy to be flogged, floggings which were guaranteed to pierce the skin, suggests impassioned action and excessive proximity undermining, for the committee, a presumption of rational judgement and, furthermore, reproducing a disposition to immediate (sodomitical) gratification in the flagellated convicts.

Significantly, Slade’s recourse to such punishments for sodomy cases is subject to a line of questioning from Benjamin Hawes, a Whig parliamentarian, Molesworth and Grey. The overall thrust of their questions level distrust in Slade’s motives and rational impartiality. In terms of Slade’s questionable impartiality, take Grey’s question, which he asked following Slade disclosure that most sodomy cases which did not have sufficient evidence to be taken to the Supreme Court were dealt with summarily: “you mean that you had moral evidence of guilt, but not sufficient to produce conviction before a jury?” (“MS,” 67). Slade answers in the affirmative, citing pecuniary savings such a summary decision might save the colony. Nevertheless, “moral evidence of guilt” cites an overly subjective measure for the British legal system of rational evidence. Hawes pursues this argument with vigour: “Is it usual,

53 Many scholars argue that reformist rhetorics were clear exaggerations of the actual prevalence of unnatural crime. See my argument with this interpretation in chapter two.
upon insufficient evidence, but upon moral assurance of the guilt of men, to punish them” (“MS,” 67). Slade rebuts, “the evidence was such as this; a man being punished for being found with his trousers down,” which temporarily silences the line of questioning on the doubtful motives of Slade’s punitive excess. (“MS,” 67). Ridley Colborne, the gradualist anti-transportation reformer, and Grey, however, revisit the matter some twenty questions later. Grey asks, “were these circumstances amounting only to a strong suspicion of an attempt to the commission of crime?” Slade answers in the affirmative; which Colbourne follows with, “yet the punishment of flogging was inflicted.” Grey labours the point in the next question: “The evidence upon which the summary conviction took place would not have availed before any jury?” (“MS,” 69). By citing the low bar of evidence required and the procedural requirements of jury conviction, the committee are highlighting Slade’s partiality to flogging convicts suspected of sodomitical offense and his immediate proximity to delivering the punishment.

The evidentiary bar Slade cites of catching men with their “trousers down” curiously draws attention to the exposed rear of the suspect and, further, doubles the practice of stripping the patient in order the expose the (other) back (side) to the lash – sodomitical display is multiplied within Slade’s witness.54 Consider the Monitor’s account of the “Slade-an” system of flogging (the Monitor is reporting on the same flogging session quoted above from the Gazette article):

The Superintendent of the Barracks (Mr. Slade) was in attendance; and also his assistant, with the warsdmen. Mr. Slade directed a person present, who we suppose was a Barrack clerk, to read the warrant. This being done, the culprit was ordered to strip, which he did very obediently, and advanced to the end of the table. He leaned forward over the table, by which his breast came to rest on the bed

54 “Scourging.” Sydney Gazette.
rolled-up as before-mentioned. He extended his arms and two men made them fast with cords, one to each side of the middle of the table. The same men then tied his legs to the legs of the table but owing to the end of the top of the table projecting beyond the legs of the table as is common with tables of that form or make, the legs of the culprit we observed could not be brought in sufficiently close contact with the legs of the table, so that in the writhing of the culprit during the execution, one of his legs got loose. A table should be made of a pattern precisely adapted to the purpose. The culprit being now completely tied hands and feet so as to give the executioner fair room, and a clear view, the latter commenced his painful duty. 55

The prostration of the stripped patient with his back and rear exposed doubles the evidentiary bar of sodomitical culpability. That is, the Monitor article represents the act of flagellation as effecting a doubling of the orientation to immediate gratification/punishment. Such a reported event is readily readable, in keep with reformist views, as an uncanny inverse and reverse of a shared orientation: sodomy/whipping.

Slade’s fancy girls

Slade locates another origin to sodomitical proliferation among the convicts in “men not being able to have connection with women” (“MS,” 67). Such a theory of origin is consistent across the committee’s report and evidence, and resonates even throughout present historical interpretations.56 For Slade it is the lack of immediate access to women which precipitates supplementary recourse to boys. The sodomy to which Slade is referring to is not relations “between men,” so to speak, but relations enacted upon the convict boys of “16 or 17 years

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56 See, for example, Hughes, Fatal Shore, 264; and Timothy Causer, “‘Only a Place Fit for Angels and Eagles’: The Norfolk Island Penal Settlement, 1825-1855” (PhD diss., University of London, 2010), 271.
old” by “the old stagers.” The “boys,” Slade reports, could not be placed with the older inmates “in consequence of the liberties those men were accustomed to take with them” (“MS,” 67). Here, if we are to accept Slade’s basic premise – that the boys sub-in for the absence of women, and that sodomy is a consequence of the lack – then the problematic of the relation is not the axial power relation, but the unnatural placement of boy in the natural spot of woman. Supplementary mediation for such a lack – authored by the convicts – defines the problematic. Molesworth initiates this line of inquiry by asking Slade to reconfirm testimony given in the committee’s previous sitting: “It was stated in the evidence the other day that boys had been called by the names of girls; have you known that to be the case?” (“MS,” 68). Here Molesworth is referring to evidence given in the previous session of the committee by James Mudie, the former marine commandant who later founded Castle Forbes, an agricultural establishment at which, he boasted, strict discipline was enforced on the thirty odd convict servants assigned to him, and that the homestead was a fortress guarded by Newfoundland dogs.57 We will return the specifics of Mudie’s testimony in more detail below.

Present historical interpretation of Slade’s and Mudie’s remarks are surprisingly scant and underdeveloped and have broadly assimilated their reports into a lineage of homosexual identification. In a formulation that would cause any historicist to recoil, Hughes claims the evidence of girl’s names being used demonstrates the transhistorical inevitability of homosexual activity occurring in prisons: “as in all systems of confinement since prisons began, lads became punks (passive homosexuals) to get the protection of dominant men.”58 Wotherspoon, on the other hand, cites the Molesworth Committee evidence as supporting his


58 Hughes, Fatal Shore, 267.
claim that “homosexual activity flourished” in the convict colony, and claims that Slade’s and Mudie’s reports prove that “men in the convict barracks in Sydney [were] taking on female names.” While Wotherspoon rather cursorily deals with the evidence here, his interpretation of the record assimilates the evidence to a narrow conceptions of modern sexual organisation; that is, the convict barrack boys are read as “men” and, therefore, the activity is read as “between men” (homosexual) and cognisant with a trajectory of (narrowly conceived [i.e. male-male]) homosexual subculturation. In attending to the relational forms indicated by Slade and Mudie, rather than optimistically appropriating the evidence to the wants homosexual history, a less congenial but likely more accurate picture emerges of barrack relations. If the witness records of Slade and Mudie are the evidence from which historical interpretation proceeds, closer attention to the content of these iterations is needed.

Consider Mudie’s testimony on the matter, “if a boy happed to be upon a farm, and to be sent to the prisoners’ barracks in Sydney, the boys will go by the names of Kitty and Nanny; but that is all mere report.” Some etymological investigation (reaching back to the period of use rather than to an originary or classical moment) will help us properly interpret these pet names reportedly given by the older convicts to the younger “boys.” “Kitty,” conspicuously denotes the feline in a similar pet name fashion as “pussy” yet, nonetheless, derives, according to the OED, from its noun form as the name for a loose woman: “kit;” upon which is appended the diminutive suffix: “-ock” (becoming, in the modern English diminutive, “-y”). “Kitty,” then, as a diminutive form – small, lesser – of a loose woman. “Nanny,” as a form of “Nancy,” similarly derives from diminutive forms of a female name,

59 Garry Wotherspoon, “Gay men,” in Dictionary of Sydney (2008),
http://dictionaryofsydney.org/entry/gay_men.

60 Minutes of Evidence, James Mudie, April 21, 1837, BPP (cd. 518) XIX, 44.

here from the pet name of Anne (or Agnes). “Nanny/cy” further carries another noun form as a slang word for “buttocks” – or more specifically the “posterior” (itself carrying the sense of a descendent, the rear, or the latter part of a whole). As diminutive and vulgarized forms of pet names for women (in general) and the buttocks (as specified part), the substitutive placement and functionary role of the junior convicts is made clear. Within a more surface oriented, rather than a more (hopeful) analytic reading, the convicts mediate through the body of the boys as intermediaries for the absent bodies of women. In other words, there is a problematic of bad substitution.

Slade confirms Mudie’s statement of “mere report” with his own report of equally compelling nomenclature, “I have known of boys being called the fancy girls of men” (“MS,” 67). The most straightforward reading of this designation, which is deceptively complex to interpret considering the syntactical placement of “fancy.” Most simply, “fancy” connotes the dual sense of to imagine (to frame in fancy) and to desire (to have a fancy for). The grammatical instability of “fancy” (neither simply noun, verb or adjective) combined with its syntactical placement, however, multiplies the word’s connotations. “Fancy,” as in the capriciousness of will or action, recalls the thematic of intemperance yet additionally recalls the framing of the substitutive transience of these boys/fancy girls of men. Placed in possessive relation, the substitutive role of the barrack teenagers, the “fancy girls,” is again emphasized. While I do not wish to subscribe to a homophobic logic that equates, in line with


the force of heteronormative laws, all sodomitical relations as axiomatically violent, I neither wish to assimilate all evidence of sodomitical relations as easily recoverable to a lineage of positive homosexual identification, nor cavalierly suggest that all sodomy is self-same to the ethics or logics of homo-definition, queer affiliation or feminist positionality.

Nevertheless, a teleological reversal seems to be posed within this unstable syntactic formulation, where “fancy girls [are made] of [what could have been] men.” Here “fancy” connotes the sense of imaginative conversion, as well as play or frivolity, supported by the juvenilized “girls,” which shifts “of” from the possessive to the prepositional. If such a reading appears overreaching, consider the framing of the problematics of “fancy girls” as put by the committee. Thomas Lennard, the Whig parliamentarian, for example, after establishing that when Slade refers to the “young hands” who complain of “liberties taken with them by the men” that Slade is in fact referring to teenage boys rather than newly arrived convicts, seeks further clarification, “am I to understand that you conceive that, after a longer residence, those young persons become generally less averse to them [liberties taken by the men]?” (“MS,” 68). Slade answers in the affirmative, “I conceive after a residence they became contaminated, and acted as the rest” (“MS,” 68). The notion of a teleological acculturation into immorality and crime structures Slade’s, and the committee’s, objections. (Such a reading seems further signalled in the repetition of “conceive,” though this may actually be an over-read). “Fancy girls” in negative prepositional, rather than possessive, relation to “men” definitionally merges with notions of criminal acculturation and regressive teleological development.

Naomi Segal, in *Pederasty and Pedagogy*, forwards the concept of “male chains” as the patriarchal fantasy of male-male reproduction.\(^{65}\) Such a system, she shows, tracks a “genealogy of the masculine principle that a fluid system of reproduction can survive without the necessity of sexual dimorphism… [that is, the] patriarchal fantasy: father to son, mason or priest to disciple, Socrates to Plato, officer to man.”\(^{66}\) With this concept in mind it seems the penal administrators’ and reformers’ problem, for in this they share an interest, is in perverse male chains, where “fancy girls” contain a negative prepositional, a reversed teleological, relation to ideal male reproduction; that is, in this case, moral reform into the lineage of manly pursuits of “honest industry” and law abiding citizenry (“MCR,” xxx). Homosexual history’s will to substitute itself in the role of masculine pedagogue (to read such relations as *homo-* and *same-* sexual) drives its own slap-dash male chain interpretation, thereby assimilating such convict relations into a homo- lineage. Within such a world historical view, the desire for *masculine sameness* (between, paradoxically, the “fancy girls” and the “men”; between “us” and history; and between “us”) emphasizes the lineages of patriarchal reproduction contained in such historical record while obscuring others. Let us move away from such a tired hermeneutic.

Reconsider Slade’s answer, as well as Molesworth’s question, in full: “It was stated in the evidence the other day that boys had been called by the names of girls; have you known that to be the case? I have known of boys being called the fancy girls of men” (“MS,” 67). If we accept some truth behind Slade’s statement and accept that boys were called “the fancy girls of men,” what then of this oriented away from the reproduction of male chains and towards the boys/fancy girls? We, perhaps, must further accept that the supplement for the

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\(^{65}\) Naomi Segal, “Male Chains,” 169-209.

\(^{66}\) Segal, 189.
absence of “natural woman” makes possible, makes fanciable, the girls/boys. Iterated as such, as a performed presence in the absence of women, somehow, however, makes possible the absence presence, even within the prison barrack of the convict colony, of such a transitive iteration. Be, as it may, initiated in substitutive, possessive relation the distributable iteration, iterable athwart relations of male chains, the fancy girls/boys as convicts and residents of the barracks open up the field of convict youth as, almost in-conceivably, historical record of gender transitive teleologies.

Sodomitical origins are found in supplementary recourse: the convicts’ imaginative bridge for the artificial situation of gender disproportion (lack of women). This lack, when filled through the activity of the convicts, rather than governmental activity of importing women, is not simply and wholly recoupable to a non-violent or anti-patriarchal ethics. Such record does, however, contain instances of gender-transitive teleologies resistant to reform in line with bourgeois gender norms. It is the force of convict mediation (by both old stager and boy) for the “lack” of women, that propels such occurrence. To reiterate, the committee’s concern is not with the effects of potential violence or abuse. In reading such record with the grain; that is, interpreting the record besides violence and abuse – which is in no way to discount such historical force – the potentials of sodomitical alignment displays its force athwart masculine reproduction. Sodomitical specificity rather than homo-sameness displays its politically productive potential. Here it is not so much the immediate relations of the convicts but the convicts’ self-authored mediation of their relations towards effects antithetical to disciplinary reform that disturbs the committee.

The capacity to make rational decisions in one’s personal or collective interests in distinction to the interests of penal reformers and administrators looms over the project of pragmatic utilitarian reform of convicts. When interviewing Major Thomas Wright, former commandant at Norfolk Island and police magistrate at Emu Plains stockade, Wright offers an example of threats to reformation of prisoners. To begin his story, he recalls the circumstance where Captain Vance Young Donaldson, the commandant at Norfolk Island preceding Wright’s appointment, and, according to Wright, “a man of rather religious turn,” observed among the convicts a “great spirit of amendment…and a great proneness to religious exercises.”68 The captain, thrilled by the convicts’ interest in religion as a sign of moral awakening and reform, ordered a great volume of religious texts for the prisoners. On the next ship to the island “came a chest full of Bibles, and a chest full of tracts, and a chest full of Prayer books” ("MW," 137). Following the delivery of this voluminous body of religious texts, Wright recalls Donaldson’s satisfaction in observing the inmates gather together on Sunday to read, considering the “Bibles and Prayer-books were a relief to their solitude, and had done them good” ("MW," 138). Wright, however, is keen to point out that while the convicts appeared to be poring over the material in a spirit of making amends for their errs, they were “at this very same time… concocting the mutiny which subsequently took place under him” ("MW," 137).69 In explaining the dissonance between what Donaldson believed he saw, and what was

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68 Minutes of Evidence, Major Thomas Livingston Wright, April 2, 1838, BPP (cd. 669), XXII, 1838, 137. Hereafter cited parenthetically in text as “MW”

69 In 1834 the convicts at Norfolk Island attempted to overpower the authorities and escape via the schooner. See “Norfolk Island, Supreme Court. July 10, 1834,” (Supplement to the Sydney Gazette) Sydney Gazette and New South Wales Advertiser, September 13, 1834.
really occurring, Wright claims, “the convicts are excessively quick in what they call ‘twigging a man’; that is, finding out his propensity, and immediately accommodating themselves to it” (“MW,” 137).

“Twigging” emerges as a convict practice of duping the authorities through pretence and feigned accommodation. “Twig,” as the word that makes most sense in this context, is a now nearly extinct verb, except as a (most usually Australian) colloquialism, which means to watch, to look, to become aware of or to comprehend. The word was in broad circulation in eighteenth and nineteenth century English, and developed during the nineteenth century into part of the underclass cant in both the metropole and the colonies. For this sense the Dictionary of the Underworld gives an illustrative quotation from Alexander Smith’s 1720 history, Highwaymen: “Walk, for the Mort twigs us… that is to walk up and down, because the Woman they suppose has an Eye on them.” The use of twig in relation to highwaymen and the knocking off of irons confirms its circulation in circles connected with the convicts, and goes some way towards explaining its endurance in Australian slang. Another version of the word “twig” that makes sense here contains two senses: the first of which means to pull apart, to pluck or to break off, which the OED defines by citing A New Canting Dictionary, a dictionary of underclass London cant: “To Twig, to disengage, to sunder, to snap, to break off. To twig the Darbies, to knock off the Irons”; and the second of which defines the action


of to pull, to pluck, or to twitch (with thumb, fingers or a plectrum) upon an (often musical) line or string. For this second sense the adjective of “twigging” the OED gives a quotational definition from the 1864 Reader, “The genus stringed-instrument consists of three species, which may be defined, to use the vernacular, as the twigging, the hammering, and the scraping”. The etymology of twig is an eighteenth century imitative form of “twick,” as in to pull, pinch or pluck. Additionally, the Dictionary of the Underworld encourages us to compare “twig” to “apprehend,” in the literal and figurative senses of referring, as “apprehend” does, to notions of physical seizure as well as cognitive and visual grasp: it is possible both to apprehend a subject and to apprehend a suspect.

“Twigging,” then, contains the multiple references of espying the intentions of another as well as plucking something off (such as fetters) combined with the notion of physical and cognitive grasp and the further sense of the literal and figurative action of plucking or twitching, with finger, thumb or pick, upon the strings of the cittern, mandolin or guitar. The convicts, according to a former penal authority, are adroit fingerpickers in their methods of picking and plucking the intentions or movements of penal authorities with designs to pick and pluck off their irons. Considering the evidence of the report, we can add to the OED, Macquarie and Dictionary of the Underworld definitions, in the nineteenth century colonial convict context at least, this latter sense of deceitful twigging, (alongside the notion of espying one’s intentions) in the sense of playing along with such intentions in order to, in reality, twig asunder the fetters placed by the espied authority.

One might ask what all this twigging has to do with sodomy. Wright begins his anecdote on Captain Donaldson’s religious texts and the 1834 mutiny with the introduction


74 Ibid.
that “a circumstance occurred [twigging] relative to the observations I have been now making, which is, perhaps, the best evidence I can give on that subject” (“MW,” 137). Wright is most directly referring to the circumstance of convicts adopting good behaviour in order to avoid the terror of punishment (which he forwards as evidence of scant “reformation” produced by the transportation system). However, in the section of questions immediately preceding this, that is six questions before the twigging anecdote, Wright is being questioned on the prevalence of sodomy on Norfolk Island during his term as commandant. I am not suggesting that Wright conflates the circumstances; rather, I want to argue that the ostensible shift in Wright’s relation to the convicts is not so much of a shift at all. Wright’s position on convict behaviour seems to abruptly shifts to a pessimistic and suspicious, if not paranoid, position in relation to convict religious observance and reform from an earlier denialisat and idealizing position in relation to the prevalence of sodomy among the convicts.

Making use of Melanie Klein’s psychoanalytic theory on paranoid positions, Eve Sedgwick critiques the contemporary orthodox leftist position of the “paranoid reading” in analysing culture for the limits inherent in such a “hermeneutics of suspicious and exposure.”\(^{75}\) I would like to argue that something similar is going on in in Wright’s reading practices; yet, I argue, Wright inhabits a more accurately “schizoid position” in relation to his objects rather than singly paranoid; that is, his objects are split into their either wholly bad (and read from a paranoid position) or wholly good (and read from an idealizing position). Melanie Klein’s work on schizoid defences as effects of childhood development undergird Sedgwick’s theorising on paranoia. However, the other side of object relations in Klein’s theory on the schizoid position – object relations characterised by idealization, which is for

\(^{75}\) Sedgewick, “Paranoid Reading,” 140.
Klein an aggressive act of incorporation – are unexplored by Sedgwick. For Klein, the more developed “working through” of the early childhood phase of splitting, what she terms “reparation,” involves “synthesis between the loved and hated aspects of the complete object [which] gives rise to feelings of mourning and guilt” as essential parts of moving through infantile development.76 Thus, reparation involves as much a working through of paranoid splitting as it does of idealized splitting. I do not seek to psychoanalyse Wright. What I do want to emphasize, however, is that idealization is part and parcel of the “schizoid position”; and I here argue that such a “schizoid position” is more useful in analysing Wright’s evidence.

In a more surface level discursive analysis, rather than a psychoanalytic analysis, of Wright’s readings of convict behaviour the “schizoid position,” nevertheless, characterises his reading. On the effectiveness of punishment in producing reform within the convicts, Wright is conclusive, “I do not think it produces the least redemption or reformation” (“MW,” 137). The horror of Norfolk Island and the punitive techniques used may have acted as a menacing deterrent, but the capacity of the penal settlement, and by extension the system at large, to effect inner reform was, for Wright, non-existent. As we saw above, displays of religious observance merely belie inward diabolical scheming – reform is illusive. Outward display here is approached, by Wright, through a paranoid position; under the outward display of compliance and reform is an inner motive and action of disobedience. Twigging is deceit; and Wright’s position attributes deceit as inherent to convict disposition. In the case of unnatural crime, on the other hand, where the surface representation points to an inward truth of moral disobedience, interestingly Wright’s schizoid reading is maintained, but here as

76 Klein, “Notes on Some Schizoid Mechanisms” [1946], Journal of Psychotherapy Practice and Research 5, no. 2 (1996): 165. I am not seeking to here open the can of worms that is the relation of the paranoid position to homophobia; on this, and for a review of relevant scholarship, see Sedgwick, “Paranoid Reading, 126.
denial and idealization. While no one is pretending to act out instances of sodomy, the outward representation of prisoner relations on the island is sodomitic: as I will show in detail in chapter two, contemporaries represented sodomy as ubiquitous at Norfolk Island. In brief, Wright’s comments occur within the context of the island being commonly known as “Sodom Island.” On the point of sodomitical ubiquity at Norfolk Island Wright does concede that, “there was an opinion among the four or five officers on the island that it was very probable that fellows did that kind of thing” (“MW,” 137). He even goes as far as to suggest its sodomitical legibility, “there was an opinion on the island that unnatural crimes were committed; the same as we have an opinion that they are in Italy, or in other places” (“MW,” 136).

Despite these outward representations, however, Wright claims that “there was no instance of an unnatural crime proved during the whole time I was there” (“MW,” 136). He further adds that there was only one charge of unnatural crime brought before him while he was serving, and that he could not substantiate it (“MW,” 136-37). The difficulty of bringing sodomy to conviction, as we heard from Slade, is unacknowledged by Wright, who like Slade held positions as a superintendent and a magistrate and was responsible, therefore, for upholding the law among convicts. Wright, despite the outward representation of criminal culpability (that is sodomitical culpability), on the level of inward truth he gives an idealized assumption of innocence. After explaining his practice of merely separating parties who he suspected of committing sodomy, he states, “I thought a man had no right to betray an opinion, against a convict, of that description, without some overt act” (“MW,” 137). “Betray” here points the senses of to reveal, to disclose, to be disloyal or to expose to

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77 For example, see “The Grievances of This Colony,” Monitor (Sydney), March 16, 1827, 4.
punishment, often over something which should be secret.78 Whether there was a secret to be outed or not, there is a sense within “betray,” and a sense to Wright’s approach to sodomitical crime, of an underlying layer or pact, a level of truth, that should be kept untarnished. In the case of sodomitical crime Wright honours an inward immaculacy, a presumption of sodomitical impossibility strikingly at odds with the presumption of inward corruption he represents as the archetypal disposition of the twigging convicts. While it may be that that Wright gave no convictions for sodomy while in command, it is compelling the level of integrity he gives in this case – and in this case only – to the inner sanctity of the convicts. Despite the ostensible difference between Wright’s positions (and indeed the difference between Wright’s position that sodomy was nowhere to be found and Slade’s that sodomy was everywhere to be found) the schizoid nature of Wright’s reading shows his position between his two readings of convict morality and inner disposition to be much of a muchness. The schizoid sees threat as either everywhere present or nowhere to be found. The persecutory fear turned outwards on its objects appears as effects of the split relation manifesting as punishment on the corrupt or valorised respect on hollow premises. Both, as Klein argues, are aggressive acts.

In a related formulation, Ullathorne attributes natural immaculacy as antitype to sodomitical incursion. Outbreaks of sodomy, for Ullathorne, predicably emerge from failures to curb universally present passions. It is the crowding together of men and the disproportion between the sexes that effects a situation where “temptation to crime will be very great.”79 “Disproportion” points to a notion of complimentary balance between the genders as not simply a biological reality but a social ideal. Out of balance, dis-proportioned, such a state


79 Minutes of Evidence, Ullathorne, February 8, 1838, BPP (cd. 669), XXII, 1838, 26.
tempts recourse to unnatural relations thereby defining its problematics. When pressed by Molesworth as to the extent of the sodomitic outbreak, and if “any other species of bestiality [were] common,” Ullathorne stated, “I believe that when a bad man is under the dominion of a passion of that kind, he will gratify that passion in any manner that suggests itself to his imagination.”  

Under the dominion of passion – that is, in a situation where passion is the controlling agency – sodomitical vice in all its iterations is the outcome.

In his pamphlet published in the same year the committee first met, *The Catholic Mission in Australasia*, Ullathorne describes the situation at the Hyde Park Barracks, where boys are, he claims, “initiated into the deeper mysteries of the masonry of crime.”  

I do not discount that such relations were potentially violent; what I want to consider, however, is the contemporaneous trope of sodomy as something that incurs from outside onto a previously unspotted interior. Ullathorne recounts a story of a “youth” under his charge, who found himself within the infamies of the barracks, stating “‘such things no one knows in Ireland.”  

Whether this statement reflects a real one made by a young convict is immaterial, what is relevant is the notion of sodomitical tarnish as an import from a foreign place, in this case England. Ullathorne’s pamphlet, a publication aimed at establishing the Catholic hierarchy in the Australian colonies, reported on the unfair treatment of the Irish, overwhelmingly portraying the (majority Catholic) Irish as victimized and innocent. Ullathorne presents sodomy as an introduction into an innocent and noble Irish people. He is explicit on his belief as to its origins: “it is most commonly introduced by persons from the hulks in England.”

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80 Minutes of Evidence, Ullathorne, 26.


82 Ullathorne, 17.

83 Ullathorne, 9.

84 Minutes of Evidence, Ullathorne, February 8, 1838, 25.
Coming from a certain class and a certain social condition, sodomy was, for Ullathorne, nonetheless, a domestic English export. He also believed it was introduced to Aboriginal men via the “dissolute set” of convict stock-men, who Ullathorne believed practiced a “great deal” of the crime.\(^85\)

Throughout the period, and for many witnesses interviewed by the committee, the origins of sodomy are attributed to multiple foreign locations. As we saw earlier, in referring to the notion that sodomy was endemic to Norfolk Island, Wright stated, “there was an opinion on the island that unnatural crimes were committed; the same as we have an opinion that they are in Italy, or in other places” (“MW,” 137). Here Wright is referring to a common English trope of the sodomitic vice originating in Italy and then imported to England, either via Lombard merchants or the Italian opera while on tour.\(^86\) For example, take Defoe’s “The True Born Englishman,” where he writes encyclopaedic verse on various nationalities and what he saw as their national characteristics: “Lust chose the Torrid Zone of Italy/ Where blood ferments in Rape and Sodomy.”\(^87\) Defoe weakly rhymes Italy with Sodomy demonstrating the construction of foreignness as a sodomitical trope in the cannon of English nationalism. Sodomy, as that which comes from without, from Italy or the hulks of England, appears as a temptation to an inner naturalness, paradoxically at odds with, but existing alongside of, notions of universal temptation and sinful, fallen humanity. If Wright’s view is indicative of a general view of sodomitical immaculacy as the innate state of the inner self, the curation of disciplinary mediation between this sanctum and incursions of sodomitical

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\(^85\) Minutes of Evidence, Ullathorne, 25.


temptation appears as the logical target of a reform agenda. The reformed convict could, armed with the program of reformed cognitive control and habit, defend such an inner unspotted purity, in spite of his fallen human desires.

Molesworth authored a series of annotating notes to the original committee report, which was published as a cheaply available pamphlet and dedicated to his constituents at Leeds.\textsuperscript{88} In a note Molesworth appended to the report’s section titled, “Moral State of Society in the Penal Colonies” (a note that stretched over a whole page and a half) Molesworth sketches an image of a colony built upon a convict population, highlighting the negative moral effects of transportation. The convict colonies and the town of Sydney were, to Molesworth, a “Sodom and Gomorrah.”\textsuperscript{89} The image of “Sodom and Gomorrah” Molesworth is drawing begins with his use of “St. Giles’s” as metonymic location for sodomitical Sydney. St. Giles’s is a parish of London, which in the period was defined by impoverishment and, concomitantly, its history as a leper-colony. “To dwell in Sydney,” Molesworth wrote, “would be much the same as inhabiting the lower purlieus of St. Giles’s, where drunkenness and shameless profligacy are not more apparent that in the capital of Australia.”\textsuperscript{90} Molesworth’s alignment of St. Giles’s with Sydney as Sodom here suggests a notion of Sodom as foreign incursion to the general social body, which must be cordoned off from the main body.

\textsuperscript{88} A propaganda project, this version of the report (with annotating notes and letter) was produced as a cheaply available pamphlet, published by Harry Hooper of Pall Mall, with the express purpose of educating a greater portion of the population of the failures and so called “deplorable” moral state of the convict colonies. Molesworth, \textit{Report}.

\textsuperscript{89} Molesworth, 37n.

\textsuperscript{90} Molesworth, 35n.
Slade also compared Sydney to St. Giles’s when discussing the effects of drunkenness on the moral life of the city: “you see drunken people in all directions… particularly in that part of Sydney denominated the Rocks, something similar to St. Giles’s… but rather I should call St. Giles’s a paradise compared with the Rocks in Sydney” (“MS,” 60). Slade uses the trope Sydney’s Rocks district as St. Giles’s (two suburbs defined by poverty) to further underline was he sees as signs of moral degeneracy: that is, poverty. “St. Giles’s” is short for “Saint-Giles’s-in-The-Fields” and was, during the time of Molesworth’s writing, one of the poorest parishes in London. Charles Dickens, the famous novelist and advocate for social reform, in “Life and Death in Saint Giles’s,” published in his monthly magazine *Household Words*, gives a definition of the burg, “Saint Giles’s is a name that stands for a large thought in London, a parish that we are accustomed vaguely to regard as the Inferno.”

Some fifty years earlier, St. Giles’s was the chosen setting for Hogarth’s “Gin Lane” and the “First Stage in The Four Stages of Cruelty,” the latter of which depicts Tom Nero (his protagonist in the series) sodomizing a dog with a stick, further identifying a historical trope of St. Giles’s as sodomitical type and metonymic location (fig. 3).

Between 1842 and 1847, New Oxford Street was run through the worst purlieus of St. Giles’s, clearing the overcrowded homes of London’s poorest residents. As Sodom’s cognate, St. Giles’s was the infecting “sore” or

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92 The “lower purlieus,” Molesworth claims, that were not as bad as Sydney most readily describe the “Rookeries” slums. “The Rookeries,” were the most impoverished quarter of the St. Giles’s during the first decades of the nineteenth century and encompassed Church Lane, Maynard Street, Carrier Street, Ivy Lane and Church Street. Peter Ackroyd, *London: The Biography* (London: Chatto & Windus, 2000), 137.

93 Ackroyd, 137.
“abscess” on London. The fire and brimstone destruction of Sodom and Gomorrah is allegorized in slum clearance and inner-city “improvement.”

Figure 3: William Hogarth, “The First Stage of Cruelty,” Print, 1751.

Saint Giles’s-in-the-Fields began with the construction of a chapel and a hospital for lepers in the thirteenth century that was dedicated to Saint Giles, the patron saint of lepers as

94 Ackroyd; 137.
well as intercessionary saint for “beggars and cripples, for those afflicted by misery or those consigned to loneliness.” The nomenclature of the parish retaining the possessive “‘s” (rather than “St Giles”), emphasizes the notion of the parish as flock or cult to Saint Giles. Set amongst fields, apart from, yet a part of, the city of London, Saint-Giles’s-in-the-Fields was a semi-colony of separation and quarantine. The leper, as the stigmatized, must be separated from the general population. The convict prison island as Sodom, according to Molesworth, becomes a similar social phenomenon; the social disease quarantined from social existence becomes its own anti-society.

If the use of leper colony as sodomitical cognate seems overreach in interpreting Molesworth’s note on the “Sodom and Gomorrah” of Sydney, he confirms it later in the same note. When discussing the “disgusting consequences” of gender disproportion in the convict colonies, he cites the vanity of efforts that had been made to purify “the filth of these abodes of iniquity,” naming these houses in the Rocks district of Sydney as “lazar-houses.” Lazar is an archaic word for a poor and diseased person, especially a leper (“lazar-house” a poor house or a house for lepers). The notion of the lazar-house as archetypical Sydney abode is produced by the moral corruption of gender disproportion. The vain efforts to cleanse such “lazar-houses,” Molesworth claims, involved the project of shipping women to the colony in an effort to improve the sexual morality of the convicts. The Molesworth Committee

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95 Ackroyd, *London*, 131. “It is not too fanciful to suggest that the spirit of St. Giles himself influences the journey of the poor to the parish of St. Giles since, as a direct consequence of its earlier history as a hospital, it was known for the scale of its charitable relief.” Ackroyd, *London*, 134.

96 Molesworth, *Report*, 36


98 This project was organized by the Emigration Committee, officials of which were interviewed by the committee. See Minutes of Evidence, John Marshall, March 19, 1838, *BPP* (cd. 669), XXII, 1838, 88-10.
believed, like most contemporary commentators, that most of these women began plying a trade in prostitution once in the colony and the project was, therefore, seen as a catastrophic failure. If we go along with the committee’s position that these women mostly turned out to be prostitutes rather than wives we can see that such anti-sodomitic designs were not simply homophobic in the sense of prejudice against same-sex relations, but saw loose women, sex trade and states of concubinage as part and parcel of the sodomitic slum.

To mediate Sodom as Sydney as St. Giles’s – as Molesworth does – is to set each apart from the inner, domestic sphere. Such geographies of sexual immorality, where foreign incursion threatens, allegorizes the sodomitical as that which is to be kept out, as antitype to the macro-penal modifications of the legible colonial landscape. Sydney as the sodomitical leper slum of Saint Giles’s is signalled by the Molesworth Committee for reorder and clearance through the introduction of disciplinary penal technologies such as the probation system and the penitentiary. Macro-penal curation is given metaphoric example of anti-disciplinary cities in the town plan of sodomitical Sydney. Sodomitical Italy, English hulks and St. Giles’s are used as sodomitical archetypes defined by their foreignness, impoverishment and as places of quarantined disease and thus, are earmarked for clearance and separation from the moral landscape of disciplinary order.

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The Molesworth Committee broadly understood “habits of profligacy” as defining the criminal propensity to crime, and they saw such habitual orientations as reduplicated by the transportation system itself. Such theories saw the utilitarian ideal of prisons acting as reforming institutions turned upside down. The committee theorised that crime was an effect of an inability to mediate; crime, like sodomitical indulge, was an effect of yielding to the
immediately available. Theories for improving the reforming activity of the penal system discussed in this chapter, as I have shown, aimed their techniques the mediate space between action and decision in the calculation of future effect; and, as I have also aimed to show, were threatened by convict forms of calculation that worked antithetical to the ideals of authorized morality and social order. The committee’s ability to avow such interests, however, is absent form their theories about criminal propensity and reform. Whether through sodomitical mediation for the lack of women (as supplementary “fancy girls”) or the commission of murder-suicide (as a calculated decision), cognitive capacity was available to criminals. Singled out by penal reformers, such capacity, however, was left unacknowledged in their theorisations on the will to crime.

Nevertheless, the curation of a macro-level social landscape of disciplinary consequence made legible through intervention into representations of the convict colony in order to ensure “transportation” would be read as “punishment” defines an aspect of a disciplinary technique forwarded by the Molesworth Committee premised on the rational calculations of the lay population. A curation of signs and actual consequence, itself readable in the landscape, informs this disciplinary technology aimed not at inner constitution but at the mediate space between compulsion and action. Sydney as Sodom – as St. Giles’s, Italy and a general introduction not known in Ireland – define the sodomitical antitype to the disciplinary city, manifest in the sodomitical convict colony. Such antitypes, conceived as incursions on an inner immaculacy, vulnerable to temptation, and to be set apart from the main body highlight the role of ration decision making as a moral life practice aimed at defending the inner sphere by keeping apart the always near presence of sodomy. The immediate must be kept at a properly mediated distance.

Sodomitical reversals, as antitypes, haunt and inform such reform projects as negative models and as ever-present spectres of immediate temptation. Sodomy – as that which incurs
from without upon a previous, though temptable, immaculacy and, relatedly, that which must be separated off from the general body – was represented by the Molesworth Committee and the men they interviewed whose testimonies were discussed in this chapter, as the social manifestation of the disciplinary failure of the transportation system. The space between inner constitution and outer representation within the ambit of disciplinary reform of the mind and the curation of a macro-penalty, I have attempted to show in this chapter, defined the principle targeted “places” that reformists aimed the techniques of disciplinary control. Thus, I have given one answer to Foucault’s question of “where exactly did the penalty apply its pressure, [and] gain control of the individual?” (D&P, 127) The illusions of convicts, such as through their aptitude at twigging, pose confounding dilemmas for the regulatory authorities in their conceptualisation of this mediated space between the pulls of passion, rational thought and action.

As I have also shown, political and moral geographies informed the committee’s and penal administrators’ plans for, and ideas about, convict discipline and the related phenomenon of sodomy. They imagined a macro-level disciplinary city as the ideal manifestation of reformist ethics of general social order and penal discipline in the convict colonies. Such plans are set in contrast to images of the city of Sodom. Sodom, for these elite men, manifests as an effect of failed disciplinary technologies. Sydney as Sodom denotes: the city scape littered with possibilities for evasion of consequence; the archetypical civic moral degeneracy seen to accompany poor living conditions; and the polis of disease and other spotted foreign incursions. The elite bourgeois and aristocrat men who sat on the committee and who the committee interviewed converge in their solution to such iterations of Sodom in advocating for various forms of eradication despite the presence of Sodom as the shadow and inverse to every “decent” penal plan for better order. For such commentators, the sodomitic is that which is earmarked for deracination, through the replacement or refinement of
disciplinary penal technologies by implementing the probation system, penitentiaries and their general principles of behavioural control through control of the horizon of consequence, or in the clearance of suburbs defined by their poverty, disease, foreignness and concomitant moral degeneracy. Sodomitical immediacies are mirrored in ideas about leper colonies, and both are marked as that which is to be kept separate (mediated) from the ideal social body. The intersections of these geographies of social order intersect with ideas about ideal individuals – the ideal subject should mirror the technological structures of reformed prison systems; yet the ideal subject’s shadowy mirror is always the lurking nearness of the sodomitical.
Chapter 2: Sodom Island: Pandæmonium and the Botany Bay of Botany Bay

During its second British settlement between 1825 and 1855, Norfolk Island operated as an ultrapenal prison complex that was variously known as “Hell upon Earth,” one of the “five criminal cities” of the plain, and “Gomorrah Island” or “Sodom Island.” The isolated penal settlement was designed for recidivist and incorrigible convicts from New South Wales and Van Diemen’s Land and for the worst offenders from the British metropole. Lying roughly

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99 “Ultrapenal” describes the severity of disciplinary technology used at various colonial penal settlements where the most severe offenders or incorrigibles were sent as punishment. For example, see “To the Editor,” *Independent* (Launceston), April 28, 1832, 3; and “Conclusion of Letter to Lord Stanley,” *Tasmanian and Austral-Asiatic Review* (Hobart), December 26, 1844, 8. “Hell upon Earth.” (William Westbrook Burton, *The State of Religion and Education in New South Wales* [London: J. Cross, 1840], 258). (“Hell upon Earth” also recalls the title of the anonymously authored 1729 pamphlet *Hell upon Earth; or The Town in an Uproar*, an account of the depravity, including the sodomitical depravity, of eighteenth-century London.) *Hell Upon Earth; or The Town in an Uproar* (London: reprinted for Roberts & Dodd, 1729). “Those five criminal cities, on whom the Lord rained down his fire and his fury, were placed in a very beautiful country, and Norfolk Island is the modern representative of those guilty cities” (William Bernard Ullathorne, *The Catholic Mission in Australasia* [Adelaide: Libraries Board of South Australia, 1963], 40, facsimile of original pamphlet [Liverpool: Rockliff & Duckworth, 1837]). The island is referred to as “Gomorrah Island” in “Domestic Intelligence,” *Monitor* (Sydney), January 17, 1828, 7. For an example of the name “Sodom Island,” see “The Grievances of This Colony,” *Monitor* (Sydney), March 16, 1827, 4.

100 For general histories of Norfolk Island during the period in question, see Eustace Fitzsymonds, introduction to *Norfolk Island, 1846: The Accounts of Robert Pringle Stuart and Thomas Beagley Naylor*, ed. E.F. [John Dally] (Adelaide: Sullivan’s Cove, 1979), 7-10; Timothy Causer, “‘Only a Place Fit for Angels and Eagles’: The Norfolk Island Penal Settlement, 1825-1855” (PhD diss., University of London, 2010); Robert Hughes, *The Fatal Shore: A History of the Transportation of Convicts to Australia, 1787-1868* (London: Collins Harvill,
between New Zealand and New Caledonia, the small volcanic outcrop is some eight hundred kilometres from the nearest landmass, making for an ideal prison. In the wake of the Molesworth Committee’s recommendations for reformed penal systems to replace the assignment system, as I discussed in chapter one, the colonial office implemented the “probation system,” which involved a series of reformed penal experiments at Norfolk Island in the 1840s. Between 1840 and 1844 Alexander Maconochie, the famous penal reformer, was placed in charge; the administration intending him to put his reform theories into practice, which involved, in short, a “Marks” system where convicts were placed in groups and their collective good behaviour would earn them marks and therefore privileges. Many administrators including Lord John Russel, secretary of state for the colonies, regarded Maconochie’s system as overly lenient and ineffectual. Following the dismissal of Maconochie and therefore the end to this experiment, the probation system was put into full operation. The administration placed Major Joseph Childs as commandant at Norfolk Island and the settlement was to resume its operation as a place of severe discipline. Those sentenced in Britain to transportation for periods exceeding fourteen years were to serve two to four years at the island before being sent to a less rigorous “probation station” in Van Diemen’s Land.\(^{101}\) The system under Childs’s administration was also regarded by many commentators as a failure; and they attributed Childs’s incompetence to his excessive brutality and disciplinary laxity.

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In 1845 newspapers and circulars printed increasingly alarmed reports on the objectionable social order at Norfolk Island, which they claimed had reached a crisis point under the administration of Childs. Norfolk Island’s social order, newspapers reported, was in a state of inversion, and an inquiry was called for. John Eardley-Wilmot, lieutenant governor of Van Diemen’s Land, charged Robert Pringle Stuart, a visiting magistrate in the convict department of Van Diemen’s Land, with conducting the investigation. In late May 1846, Stuart spent two weeks at the prison settlement and composed a report on what he observed as the systemic social disorder and widespread sodomitical sexual behaviour that was convincing enough to persuade Eardley-Wilmot to take action to dismiss Childs the day after he had read it. Shortly after, Thomas Beagley Naylor, the former Anglican minister to the island, sent a letter to London, arriving in September 1846, expressing his dismay with what he also saw as the sodomitical order at the settlement. He sent his letter to London with his wife, intending her to publish it as a pamphlet; however, Maconochie, by this time in London, intervened, and the letter was instead sent to Earl Grey, secretary of state for war and the colonies. The Colonial Office submitted both Stuart’s and Naylor’s accounts in a report to both houses of the British Parliament on February 6, 1847. Upon hearing of the

102 Van Diemen’s Land assumed administration of Norfolk Island in 1844 following cessation of transportation to New South Wales.

103 Earl Grey to Sir William Denison, Lieutenant-Governor of Van Diemen’s Land, September 30, 1846, and Eardley-Wilmot to William Gladstone, Secretary of State for the Colonies, July 6, 1846, “Correspondence on Convict Discipline and Transportation,” British Parliamentary Papers (BPP) (Cd. 785), XLVIII, 1847, 66-76, 77-98.
“unnatural” horrors at the settlement, Grey made orders for it to be closed and for the interned to be sent to probation stations in Van Diemen’s Land.104

In this chapter I offer close readings of Naylor’s and Stuart’s accounts in order to provide nuanced analysis of the rhetorics about sodomy from which these accounts proceed. Both of these texts are primarily accounts of social disorder at the prison, and I argue that sodomy emerges as a primary condition of this disorder; it is depicted not simply as an expression of sexual behaviour – though sex between the men was said to be ubiquitous – but as an indication, concomitantly, of general social disorder. Whereas chapter one focused on issues of criminal will and disposition and theories on regulation of rational decision making through orchestrated changes to the representational and material disciplinary topography of future effect, this chapter turns to regulation of social relations in a particular penal settlement, thus turning our attention to the more micro-level architectural topographies of prison buildings themselves and to the economic organisation at a particular penal settlement. Naylor and Stuart, much like Molesworth and other men associated with the committee as discussed in chapter one, use of rhetorics about sodomy to denote ideas about social order, yet Naylor’s and Stuart’s representations of sodomitical social order are not primarily about a moral topography of undisciplined habit and action, though such ideas persist, but are more

104 Admittedly, Grey did view Naylor’s account as melodramatic, claiming that he “may have described it in darker colors than the simple facts would altogether require or admit.” Nonetheless, Grey states his trust in the “name and character” of Naylor and states that “this statement has all the character and appearance of truth; that it is in itself but too probable a result of the existence of a convict establishment of such a kind in such a situation.” (The pragmatics of Grey’s order to “with the least possible delay . . . break up the establishment” proved more complex, effecting a drawn-out closure of the prison.) See “Despatch from Earl Grey to Lieutenant-Governor Sir William Denison,” September 30, 1846, in E.F., Norfolk Island, 29.
centrally about inverted forms of ideal penal separation: a social order defined by collectives of convicts and consequent disorder.

In order to explore Naylor’s and Stuart’s representations of such sodomitical social disorder, I trace how their accounts give Norfolk Island metaphorical appellations of other localities – “Pandæmonium” and “the Botany Bay of Botany Bay” – in order to describe what they saw as the prison settlement’s sodomitical social order. The authors use “Pandæmonium” and “the Botany Bay of Botany Bay” to imagine social disorder and its concomitant sodomitical relations as produced through civic mismanagement as manifested in flawed architectural designs, classificatory systems and in the economic organization of the penal settlement. For Naylor and Stuart, the administrative management of bodies in civic space according to such organizational technologies and structures was central to understanding sodomitical disorder and legislating for its elimination. The philosophy of Jeremy Bentham undergirds Naylor’s and Stuart’s reports, as it did Molesworth’s ideas; Naylor and Stuart, I will show, drew on Bentham’s theory and designs for panoptic prisons. In order to instil moral reformation and exert disciplinary constraint, they both argue for a system that would put into place rigid classification of groups based on severity of sentence and behaviour, architectural principles which would ensure maximum visibility of prisoners to the gaze of authority and the isolation of individual prisoners from the mass or group. Such principles, as I will show in more detail below, were central to Bentham’s ideas and designs for a reformed prison system.105 As Michael Warner has demonstrated for an earlier period, sodomy can stand as a symbol for “an entire society open to discipline.”106 As I will show, Naylor and Stuart use the image of sodomy in a very similar way in order to further their case


for the closure of the settlement and its replacement with a more effective disciplinary system.

Both Naylor’s and Stuart’s reports played an important role during a significant turning point in nineteenth-century British penal reform: the very end of the British system of convict transportation and its supersession with penitentiary imprisonment on domestic soil. The British Parliament censored full publication of both documents, and the sections dealing with what were considered “unnatural crimes” were omitted from publication. Written some twenty years before the word “homosexuality” was coined in any language, the accounts can be viewed as precursors to modern categorization and thus contribute to our understanding of nineteenth-century bourgeois social organization and its sexual coordinates. If, following Foucault, we take penal reform and sexuality as significant sites of bourgeois reform and cultural change during the nineteenth century, then the explicit concern with administrative and moral management expressed by Stuart (a penal colony magistrate) and Naylor (an Anglican minister to a convict settlement) provides useful textual examples of emergent bourgeois disciplinary norms.

As discussed in the introduction to this thesis, sodomy was a proscribed sex act carrying the death penalty in British law until 1861. Significantly to this chapter, the difficulty of securing convictions for the capital crime of sodomy meant very few people were actually executed (only 4 in New South Wales, and in each of these cases for rape or

107 Fitzsymonds, under the name of E.F. (both pseudonyms used by John Dally), published the edited volume Norfolk Island, 1846: The Accounts of Robert Pringle Stuart and Thomas Beagley Naylor with the spine title The Botany Bay of Botany Bay.

108 Foucault proposes 1870, somewhat in jest, as the “date of birth” for the concept of homosexuality. HoS, 43.
sex with subordinate boys). Of the 582 cases of sodomitical crimes occurring between 1796 and 1899 in the jurisdiction of New South Wales (inclusive of Norfolk Island until 1844), only 47 convictions for the capital crime of sodomy are recorded, whereupon a sentence of transportation for a period of imprisonment was usually given. Courts, in New South Wales at least, much more often gave convictions for lesser sentences of “attempt to commit unnatural crime,” “assault with intent to commit unnatural crime,” or, where evidence was insufficient to convict for either of these charges, “indecent assault” or

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109 Peter de Waal, ed., Unfit. The four execution were R v. Alexander Brown and Edward Curtiss (1828), Brown was executed; R v. Michael Carney (1834); R v. William Smith (1834); R v. John Mead (1836); R v. Michael McKevitt (1868), McKevitt was executed for both sodomy and murder.

110 Peter de Waal, ed., Unfit. The forty-seven convictions were R v. James Reece (1799); R v. Richard Moxworthy and John Hopkins (1808); R v. Alexander Brown and Edward Curtiss (1828); R v. John Unwin (1830); R v. Michael Connolly (1832); R v. Michael Carney (1834); R v. William Smith (1834); R v. John Mead (1836); R v. John Warren (1836); R v. William Hazleton (1836); R v. James Sherwood (1837); R v. Richard Norris (1838); R v. Thomas Parry (1839); R v. John Solomon and William Williams (1842); R v. Stephen Waters (1842); R v. William Goodberry (1845); R v. Charles Robinson (1848); R v. John Walters (1853); R v. Lim Law (1853); R v. James Blackland (1855); R v. William Henry McDonald (1858); R v. James Kelly (1859); R v. George White (1864); R v. James Mahoney and Jeremiah Mahoney (1866); R v. Edward Moxham and John Smith (1867); R v. George Moffitt and Thomas Walton (1867); R v. John Sprougham (1867); R v. Michael McKevitt (1868); R v. William Purcell (1868); R v. Yep Zun (1869); R v. Matthew Cahiell (1870); R v. John Lucas (1872); R v. George Bird (1873); R v. Thomas James Oates (1875); R v. William Douglas (1881); R v. Thomas Keane (1884); R v. Justin Claude Hilder (1887); R v. Thomas Hackett (1890); R v. William McCulloch (1890); R v. William Williams (1891); R v. Frederick Llewellyn Evans (1892); R v. William Sutton (1892); R v. George Evans (1894); R v. Richard Collins (1894); R v. John Frank Palmer Couche (1896); R v. John Thompson (1896); R v. Oswald Saunders Pitt (1896); R v. Samuel Price (1896); R v. Thomas Bailey (1896); R v. Guissepe Zummo (1897); R v. James Morris (1897); R v. Joseph Anby (1897); R v. Alfred McGregor (1899); R v. David McCann (1899); R v. Ernest Wilkins (1899); R v. Henry Wilson (1899); R v. James Kelly (1899).
“indecent exposure.” Recall, prosecution under sodomy law in New South Wales included bestiality, rape, abuse of children, pederastic sex between adult men and adolescents and consensual sex between adult males (tables 1 & 2).

The scholarship on the antitransportationist movement’s antisodomy rhetoric in relation to Norfolk Island provides background for a reading of the Naylor and Stuart texts. Eustace Fitzsymonds was the first to undertake analysis of the sexual rhetorics of the antitransportation movement in his introduction and annotations to the 1979 publication, *Norfolk Island, 1846: The Accounts of Robert Pringle Stuart and Thomas Beagley Naylor* (the text from which this chapter proceeds). Produced in a limited run of cloth bound hard covers, this book was the first to publish transcriptions of the complete accounts inclusive of the sections dealing with sodomitical activity which the British Parliament censored from publication.112 Catie Gilchrist analyses the disciplinary technology of architectural designs at Norfolk Island which did not adequately separate prisoners and shows how reformist commentators such as Maconochie represented this failure as damaging convict constitutions and leading to immoral behaviour.113 Through her analysis of the 1846 sodomy case against Richard Kinder and James Proper, recorded in the manuscript journal account of Aaron Price, who served as an overseer on Norfolk Island, Gilchrist demonstrates that charges of sodomy could be as much about spatial discipline as they were about sexual misbehaviour. The court acquitted Kinder and Proper of sodomy but, Price records, still punished them for “exposing their persons to each other in one of the boxes of the barracks” and sentenced each of them to

111 See the introduction and various trials documented in de Waal, *Unfit*.

112 E.F., *Norfolk Island, 1846*. Ian Brand’s similar publication of the censored enclosure to La Trobe’s report on the probation stations in Van Diemen’s Land is of note in opening up the record to analysis, though it was not published until 1990. See Brand, *Convict Probation*.

113 Gilchrist, “Male Convict Sexuality”; Gilchrist, “‘This Relic’”; and Gilchrist, “Space.”
nine months’ hard labour and to be kept separate from each other. As Gilchrist argues, their transgression was “both spatial and sexual” insofar as their transgression had also breached the penal measure of separation put in place by the boxes.\textsuperscript{114} Expanding on her insight about the spatial dimension of charges of sodomy, I will argue that for reformers such as Naylor and Stuart, spatial discipline was understood in specific relation to panoptic principles of separation of convicts from each other and of visibility of the interned to the gaze of authority, and the sexual cognates these principles index.

In her study of the antitransportation movement in the Van Diemen’s Land case, Reid gives a rigorous account of the imbrication of antitransportation campaigners’ rhetoric about sodomy within their arguments about social and political organization, and she includes an account of commentators connected with Norfolk Island such as Naylor and Ullathorne. Reid argues that reformers’ accounts of widespread sodomy were politically motivated hyperbole.\textsuperscript{115} The force of which, she argues, was the usefulness of such rhetorics to a gendered politics within the movement toward self-government in which reformers stressed manly self-control, of which sodomy represented a failure of, as integral to humanist civility and enlightenment principles and, therefore, essential to their bid for independence.\textsuperscript{116} To support her case that antitransportationist rhetoric was a clear exaggeration, she examines Van Diemen’s Land Supreme Court reports on convictions for unnatural crime, comparing conviction rates in the 1840s to the 1830s, and speculates that, “given the increased attempts to police and regulate male convict sexual behaviour and the public hysteria [in Van

\textsuperscript{114} Gilchrist, “Space.”

\textsuperscript{115} Reid, \textit{Gender}, 204-46.

\textsuperscript{116} Reid, 204-46.
Diemen’s Land in the late 1830s through the 1840s], we might . . . have expected a peak in prosecution and conviction patterns for offences such as sodomy and bestiality.”

Reid notes that measures were taken by penal authorities in Van Diemen’s Land to enable more efficient prevention and policing of sex between male convicts (such as the installation of lights in sleeping quarters and the erection of partitions between hammocks or beds). Significantly, no legislation was passed during the 1830s or 1840s that would have enabled easier indictment or conviction. While beyond our main focus here, missing from Reid’s account is an analysis of summary jurisdictional punishments, overseer police reports, and conduct records. Reid’s analysis only reflects high court convictions, leaving policing unexamined. We can here think of Earl Augustus Slade’s testimony to the Molesworth Committee that his ability to prosecute sodomy cases as the police magistrate in Sydney was limited by the difficulties of conviction; he had therefore dealt with such cases through summary jurisdictional punishment (without the need to even indict the offender) in twenty-nine out of thirty cases. In other words, approximately 95 percent of unnatural crime cases brought before Slade would not have shown up in court reports on convictions and indictments. (Such court reports, of course, only reflect those cases of sodomy that were at initial hearings committed to further trial or were successfully prosecuted to conviction.) Assuming that Slade was not exaggerating, we can see that sodomy *indictments and convictions* grossly underestimate policing, not to mention occurrence of the behaviour.

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117 Reid, *Gender*, 249n51.

118 The *Offenses Against the Person Act 1828*, which removed the legal requirement for emission of seed, was the only major reform in British law in the early nineteenth century. See Cohen, *Talk*, 117-18.

119 Minutes of Evidence, Slade, April 25, 1837, in “Report from the Select Committee on Transportation; Together with the Minutes of Evidence, Appendix, and Index,” *BPP* (Cd. 518), XIX, 1837, 67-69.
Investigating the Naylor and Stuart reports from another angle, Robert Aldrich and Garry Wotherspoon have separately interpreted these reports and other descriptions of sodomy in the convict colonies as evidence for early homosexual subcultures. Aldrich includes the reports on Norfolk Island in a survey of convict homosexuality in which he collapses the concepts of homosexuality and sodomy. Similarly, Wotherspoon analyses Stuart’s report on marriages occurring between convicts on Norfolk Island as evidence that “homosexual subcultures were emerging.” The limit to this approach is that both authors apply a modern category, “homosexuality,” to an earlier period. Thus, this approach, I would argue, reifies modern categorisation; in other words, we look for evidence of same-sex object choices and thereby engage in a stabilising hermeneutic causing blindness to further meanings layered in the history of sodomy. Nonetheless, these scholars accept that sex between convicts was likely widespread; Aldrich notes, for instance, that gender segregation self-evidently leads to same-sex sexual activity in military and prison populations.

From another perspective, Tim Causer and Babette Smith both argue against the enduring image of convict society as being populated by a depraved criminal class and characterized by brutal disciplinary treatment (an image first cultivated by

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121 Aldrich, *Colonialism and Homosexuality*, 218.

122 Wotherspoon, “Gay Men.”

123 Aldrich, *Colonialism and Homosexuality*, 218.
antitransportationists and accepted by later historians). While Smith influentially but controversially argued that the convict period was socially egalitarian, Causer uses quantitative analysis to demonstrate that Norfolk Island convicts were mostly convicted for nonviolent property offenses rather than for murder, rape, or the like. Smith and Causer have interpreted antitransportationists’ specific claim that sodomy was prevalent among the convicts – such as the claims made by Ullathorne and the Crown solicitor for Van Diemen’s Land, Alban Charles Stoner – as part and parcel of their representations of the convict population as a depraved criminal class. Smith claims that antitransportationist rhetoric demonstrates that “the real impetus for the anti-transportation movement was surely homophobia,” while Causer describes contemporaneous commentary about the ubiquity of sodomy on Norfolk Island as exaggerated rhetoric meant to damage the reputation of the convicts.

Smith relies on the report on the probation station system submitted by Charles Joseph La Trobe, acting lieutenant governor of Van Diemen’s Land, on May 31, 1847. Smith analyses a report from police courts (petty courts responsible for committal hearings and minor offenses) that La Trobe included in his report. She also analyses the opinions of surgeons who worked at convict settlements and the opinions of clergymen who were stationed with convicts that La Trobe also reported on. Similarly to Reid, Smith comes to the

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125 Smith, *Australia’s Birthstain*, 333-37; Causer, “‘Only a Place,’” 72-99, esp. 98.

126 Smith, *Australia’s Birthstain*, 236-45, esp. 238-39; and Causer, “‘Only a Place,’” 270-79.

127 Smith, *Australia’s Birthstain*, 236; Causer, “‘Only a Place,’” 289.
conclusion that while sodomy surely existed among the convicts, its prevalence was likely far less than antitransportationists claimed.\textsuperscript{128} Relying on court reports, as discussed above, can only get us so far, since they only document committals for the capital crime, which (as La Trobe also noted in his report) were notoriously difficult to bring to trial. (La Trobe further claimed that the Van Diemen’s Land attorney general, Thomas Horne, considered attempts to gain conviction for sodomy as predictably fruitless exercises and therefore concluded that to air “a tissue of [the] disgusting evidence” in open court “was unjustifiable.”)\textsuperscript{129} The surgeons and ministers Smith cites likewise gave their opinions on the prevalence of sodomy in relation to investigation and confession of the capital crime.\textsuperscript{130} Smith’s interpretation is also damaged by her equation of “unnatural crime” with homosexuality, leading her to underplay the social and disciplinary dimensions of sodomy allegations. Relying on court reports on the capital crime of sodomy as evidence inevitably creates the impression that sodomy was less prevalent than reformers claimed.

Despite claiming that quantification is in the end “a meaningless debate over figures,” Causer’s analysis of quantitative data leads him to similarly conclude that contemporary reports about the ubiquity of sodomy on Norfolk Island were exaggerations.\textsuperscript{131} He argues that concerns about sodomy were first raised by the Molesworth Committee and then became entrenched in discourse about Norfolk Island.\textsuperscript{132} In order to expose this and similar

\begin{itemize}
  \item \textsuperscript{128} Smith, \textit{Australia’s Birthstain}, 238-40.
  \item \textsuperscript{130} Smith, \textit{Australia’s Birthstain}, 238-39.
  \item \textsuperscript{131} Causer, “‘Only a Place,’” 273.
  \item \textsuperscript{132} For a discussion of the actual influence of the 1837-38 Molesworth Committee in effecting the end of the transportation system, see Ritchie, “Towards Ending an Unclean Thing,” 144-64. (The Molesworth Committee, nevertheless, interviewed many of the key figures Ritchie describes as actually influential, such as Ullathorne,
antitransportationist arguments as politically motivated exaggerations, Causer relies on the evidence of convictions for unnatural crimes, primarily in the eighty-nine convictions for unnatural crime he identifies as occurring on Norfolk Island and in his analysis of the *Seppings* case. (*Sir John Seppings* was a transport ship that took convicts from Norfolk Island to Van Diemen’s Land at the closure of the settlement and was reported by commentators to be full of “depraved” criminals. Commentators also claimed that a quarter of the men were branded S.T. for “separate treatment” [meaning separate cells rather than incidental use of solitary confinement\textsuperscript{133}], and “buggered” each other while onboard.)\textsuperscript{134} Eighty-nine convictions, however, is actually a very high number considering that of the recorded cases that occurred in New South Wales in the same period (1825-55), by my count, there were only thirty-two successful convictions for sodomy or attempt to commit sodomy (the population of New South Wales during the period grew from approximately 38,000 in 1825 to 266,000 in 1855, compared to Norfolk’s population in the same period which, as Causer

\textsuperscript{133} For detail on the distinction between the separate system and solitary confinement see Brand, *Convict Probation*, 14n

\textsuperscript{134} Causer, “‘Only a Place,’” 279, 284-89. Causer does claim to have analyzed conduct records for cases of convicts being punished for “sexual relations with other Norfolk Islanders”; unfortunately, he does not explain his findings, making engagement with the detail of this argument impossible. Of the few conduct records Causer does note that contain punishment for sexual relations, each references “unnatural crime,” “sodomy,” or a variation of the capital crime, suggesting that Causer is referring to convictions as recorded in conduct records for sodomy or the attempt to commit sodomy.
shows, never exceeded 2,000). Like Smith, Causer problematically claims that conviction rates can be taken as evidence for the prevalence of the behaviour and underplays the difficulties of securing convictions for sodomy.

In contrast, Fitzsymonds claimed that “enough evidence exists to put beyond doubt” Stuart’s claim that “these parties [convicts on Norfolk Island] manifest as much eager earnestness for the society of each other as members of the opposite sex.” Fitzsymonds references a series of infractions occurring in the 1840s, only one of which is a conviction for the capital crime of sodomy, against Henry Hooley and William Duncan. Fitzsymonds also mentions James Ainsworth, whose conduct record lists a misconduct charge for intent to commit unnatural crime, punished summarily. Significantly, however, all the other


137 Conduct Record, William Duncan, July 25, 1846, CON33/1/86 19844, and Conduct Record, Henry Dooley, July 25, 1846, CON33/1/80 18522. All Conduct Records are in Convict Department, Conduct Registers of Male Convicts Arriving in the Period of the Probation System, TAHO. Duncan and Dooley were sentenced to death, and both later had their sentences commuted to transportation for life (to be kept for life at Norfolk Island) and to be kept separate from each other and from other prisoners.

138 Conduct Record, James Ainsworth, June 22, 1847, CON33/1/86 19797. Ainsworth was also one of the men transported to Van Diemen’s Land on the *Sepping* (cf. Causer’s argument in “‘Only a Place,’” 286-87).
infractions Fitzsymonds lists are summary infractions that do not mention the crime of sodomy, including against John Lee for “Misconduct in being together in the Hammock [with another prisoner],” against Charles Bruce for “Misconduct in being in the same sleeping berth with another man,” and against Edward Picken for “Disobedience of orders in being in the same sleeping berth with another man and making use of obscene language.”

If there is doubt about the sexual nature of such charges, the punishment used of separating the parties from one another and the use of separate cells (rather than solitary confinement) in each of these cases strongly supports it. As we will see below, there was a ward in the barracks made up of separate cells that Stuart reports gaolers used for those “addicted to unnatural crime.” Causer’s statistical count does not account for such minor charges, limiting the picture as to the extent of sodomy at Norfolk Island. The prevalence of such infractions surely bolsters commentators’ claims for the wide prevalence of sodomitical activity, despite the charges not being convictions for either sodomy or an attempt to commit sodomy.

I would argue the bias towards concluding that sodomitical relations were not widespread at Norfolk Island is due to interpretive frames which adhere to modern categories when approaching a period prior to this ‘development’. It is much harder to believe that the convicts at Norfolk Island turned to “homosexuality” than it is to believe that a vice was being indulged in by a single sex society. Hughes displays no shyness on the prospect of widespread sodomitical relations, “buggery, it has been said, is to prisons what money is to middle-class society. It was as utterly pervasive in the world of hulks and penal settlements as it is in modern penitentiaries,”

His cavalier analytic, while perhaps offering some desirable “common sense” interpretation, glosses over the difference between the Norfolk Island

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139 Conduct Record, John Lee, June 30, 1846, CON33/1/86 19920; Conduct Record, Charles Bruce, February 1, 1848, CON33/1/83 19197; and Conduct Record, Edward Picken, December 3, 1847, , CON33/1/83 19327.

system and that of modern penitentiaries in terms of, at least, the arrangements of interned bodies within these institutions. However, if separation and invisibility from the gaze of authority do limit sexual relationships, it follows that sodomy would have been more prevalent in such older style arrangements than in modern penitentiaries. In an all-male prison settlement where men live and work in close confines for periods up to life, relations surely adapt and transform, particularly in an historical period where “sexuality” was not yet, as Foucault argues, mobilised as a hegemonic structure of subjection defining a truth to a subject (HoS, 43). An historicised approach to the Naylor and Stuart texts is significant to understanding what the histories of sodomy might tell us about modern and contemporary sexual organisation in the assimilating and dissimilating ways in which we look back to history, and how such history may or may not inform our political present. In this chapter I aim to contribute work that goes some way toward unsticking the categorical imperatives that limit our understandings of “sexuality.”

In this chapter, therefore, I offer a detailed investigation of Naylor’s and Stuart’s reports; and I argue that their arguments about the prevalence of sodomy refer as much to disciplinary concerns about proximity between prisoners, about convicts gathering in masses, and about improper classification systems as they do to individual behaviour. Like the Molesworth Committee and the men they interviewed, as discussed in chapter one, Naylor and Stuart also describe sodomy as a larger concern of social disorder and discipline rather than as simply an indication of sexual relations. Naylor and Stuart focus on penal architecture and economic organization: separation of incarcerated bodies through panoptic architecture, rigid classification based on severity of crimes and behaviour while incarcerated, and maintenance of hierarchical order and maintenance of proper of penal authority were central to their ideas about moral discipline at the settlement. Sodomy was a sign of the failure of the system to implement these principles and thereby effect a disciplined social body: sodomy
looms as the inverse version of ideal penal order. Like Molesworth’s use of “Sodom and Gomorrah” to describe what he saw as the undisciplined state of Sydney, Naylor and Stuart also use the image of the biblical city of Sodom, which, in their historical context, referred as much to the sexual behaviour of the citizens of Sodom as it did to the polity of the ancient city.\textsuperscript{141} While beyond the scope of our discussion here, it should be noted that Naylor’s and Stuart’s accounts of sodomy include acts of sexual violence, abuse of power, and violent activity alongside those of mutinous resistance to penal conditions on Norfolk Island and same-sex sexual relations. Despite constructing sodomy as axiomatically violent, however, their concerns were not about abuse of power, as they are clearly advocating for increased disciplinary constraint over mostly lower-class criminals who had been convicted for relatively minor property offenses and for whom neither expressed much sympathy.\textsuperscript{142}

\textit{Pandæmonium; Lateral Visibility}

After leaving his post as Anglican minister to the convicts on Norfolk Island, Naylor wrote a letter to Lord Stanley, secretary of state for the colonies, recommending closure of the institution and describing the prison barracks as akin to the “High Capitals / Of Satan and his peers.”\textsuperscript{143} He is quoting, slightly incorrectly, Milton’s infamous couplet in \textit{Paradise Lost} on

\textsuperscript{141} For a discussion of biblical Sodom, see Warner, “New English Sodom,” 20-21.

\textsuperscript{142} Causer, “‘Only a Place,’” 72-99, esp. 98.

\textsuperscript{143} Thomas Beagley Naylor, “Norfolk Island, the Botany Bay of Botany Bay,” in E.F., \textit{Norfolk Island, 1846}, 24. Hereafter cited parenthetically in the text as “NI.”
Pandæmonium, the capital city of Hell.\footnote{The correct citation is “High Capital / Of Satan and his peers.” John Milton, \textit{Paradise Lost}, in \textit{John Milton: A Critical Edition of the Major Works}, ed. Stephen Orgel and Johnathan Goldberg, the Oxford Authors series (Oxford: Oxford University Press, 1991), lines 756-57.} Many of Milton’s neologisms are compounds of classical words, and Pandæmonium is no exception: it is constructed from the Greek word “pan,” meaning “all, wholly, entirely, altogether, by all, of all,” and the Latin word “dæmonium,” meaning “evil spirits,” “demons,” or “devils.”\footnote{\textit{OED Online}, s.v. “pandemonium, (n.),” accessed November 25, 2018, www.oed.com/view/Entry/136751.} Pandæmonium imagines the polis of hellish social order, similarly to the Norfolk Island prison settlement, as an admixture of corrupted spirits, or bodies, all together in one place.\footnote{Sodom and Hell bear a close relation in the history of Christian thought. According to Warner, “the phrase ‘fire and brimstone,’ commonly thought to refer to hell but actually deriv[es] from the destruction of Sodom in Genesis 19:24.” Furthermore, as Warner shows us, early American Puritans often made the connection between the two, Samuel Mather referring to Sodom and Hell as “type and antitype” (“New English Sodom,” 41n10). (As we are seeing here, the connection persists with nineteenth-century antitransportation penal reformers.)} In Milton’s Pandæmonium, Satan and his peers freely mix. Take his vision of Satan’s followers for example: the “hasty multitude,” gather for the Pandæmonic council, “Thick swarmed / . . . / With hundreds and with thousands trooping came / . . . / Pour forth their populous youth about the hive.”\footnote{Milton, \textit{Paradise Lost}, bk. 1, lines 730, 759-70, emphasis added.} “Swarmed” in a unified mass, the fallen are “trooping” or rallying as a “hive” to the inverted polis. Naylor uses a similar characterization of inverted social order on Norfolk Island, extending Milton’s Protestant vision of the inverted congregation, in ways that emphasize the moral failures of the convict system. Antitransportationist analyses of convict classification systems consistently identified the origin of sodomy within amassed gatherings of prisoners, particularly when the convicts were lodged together in barracks and penal settlements. Ullathorne, for instance, when testifying at the Molesworth Committee a decade earlier,
commented that it would be impossible to stop what he claimed was widespread sodomy on Norfolk Island so long as convicts were “crowded together” and noted that he had made suggestions to stem the activity such as erecting partitions between the prisoners.¹⁴⁸

Adhering to Bentham’s utilitarian ideas, Molesworth and many of the reformers interviewed by the Molesworth Committee suggested building panoptic prisons in the colonies as part of the probation system in order to stamp out “immoral” behaviour.¹⁴⁹ Many panopticons were designed for and built in the convict colonies, including the New Gaol on Norfolk Island (fig. 4). Bentham’s panoptic penitentiary was conceptualised on the specific principle of separation. “Cells,” Bentham writes, ensured “a multitude, though not a crowd”¹⁵⁰; that is, a multitude of individuated inmates rather than an amassed crowd, as had characterised old-style prisons. Reformers such as Ullathorne and Naylor contrasted this view of a reformed prison to the old régime penal architecture of the transportation system, and

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¹⁴⁸ Minutes of Evidence, Ullathorne, February 8, 1838, 26.

¹⁴⁹ See, for example, Molesworth Committee Report, August 3, 1838, BPP (Cd. 669) XXII, 1838, xli-xlvi.

¹⁵⁰ Bentham, “Panopticon,” 47, his emphases.
they viewed Norfolk Island as illustrating the failures of such old style gaols, and thus as the apotheosis of disciplinary disorder.

Penal reformers, as Reid argues, saw the technologies of the convict system as archaic and likened the system to the iniquities of aristocratic power, despotism and slavery.\textsuperscript{151} As discussed in chapter one, Reid gives considerable attention to the technology of whipping.

\textsuperscript{151} Reid, Gender, 223, 227.
She also attends to work gangs and their poor classification of groups and separation of individuals as used in the Van Diemen’s Land probation stations. “Use of gangs,” she writes, were “condemned as archaic and reactionary and as marking the return to an unenlightened system of penal discipline”; and she argues that the “ostensibly contaminating and polluting effects of congregating large numbers of criminals” was central to reformed penal thought as established by Enlightenment era thinkers.\(^\text{152}\) In discussing reformers’ theories and designs for the panopticon formulated in the late eighteenth century, Foucault highlights the type of old style gaols reformers sought to resist in their designs as characterized by: “The crowd, a compact mass, a locus of multiple exchanges, individualities merging together, a collective effect” \((D&P, 201)\). In the bourgeois style prison such collectivizing characteristics are “abolished and replaced by a collection of separated individualities” \((D&P, 201)\). John Howard, the influential British penal reformer, for instance, in the introduction to his account of various gaols in Britain recommended that, in addition to keeping animals and bootleggers out of prisons, “as perfect a separation as possible be made of the different classes of prisoners,” and that “cells be provided for the refractory, and night-rooms for solitary-confinement, but that no prisoner be kept in any dungeon, or room underground.”\(^\text{153}\) The reformed technologies of the new gaol were set in contrast to old régime technology and disorder. Drawing on this tradition of thought, Naylor and Stuart align the Norfolk Island penal system with the old system and its supposed deleterious moral effects.

In his theorization on the history of penal thought, Foucault shows that the theory of the panopticon was based on a concept of “lateral invisibility” (between prisoners),

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\(^\text{152}\) Reid, 223.

\(^\text{153}\) John Howard, \textit{An Account of the Present State of the Prisons and Houses of Correction in the Northern Circuit} (London: The Society Lately Instituted for Giving Effect to his Majesty’s Proclamation Against Vice and Immorality, 1789), vii, x.
separation rather than lateral “proximity,” and “axial visibility” (visibility of prisoners to the
gaze of authority) (D&P, esp. 200, 216, 295). Using his language in our analysis of Naylor
and Stuart, we find a reversed situation predominating in the architectural arrangement of the
penal settlement, which was characterized by lateral visibility and proximity and by a lack of
axial visibility. Pandæmonium, a sodomitically coded polis where men are gathered in close
confines and are hidden from the gaze of authority, I argue, indexes a social order where, as
Stuart claimed, “unnatural crime is indulged in to excess”;154 and, concomitantly, as Eardley-
Wilmot warned his Executive Council in response to Stuart’s report, “the settlement is on the
very verge of an open mutiny.”155

In a critical section of Naylor’s account, he describes the conditions of the main civic
institutions on Norfolk Island: the hospital, the gaol, and the barracks. Naylor describes the
hospital (fig. 5) as “literally ‘a whited sepulchre,’” likely alluding to the colonial practice of
whitewashing convict buildings with lime and to the fact that convicts were more likely to die
there than to recover. The phrase “whited sepulchre” or “painted sepulchre” directly refers to
the biblical term for a hypocrite or someone whose purity of outward appearance belies a
corrupted interior.156 The OED quotes Viceimes Knox, the Anglican essayist writing at the
end of the eighteenth century, as exemplary: “those varnished qualities, which, like whited
sepulchres, are but a disguise for internal deformity.” Naylor emphasizes the corrupted
interiors of convicts, particularly their constitutional immorality and depraved habits.

154 Robert Pringle Stuart, “Copy of a Report from Mr. Stuart to the Comptroller-General. Hobart Town, June 20,
1846,” in E.F., Norfolk Island, 1846, 45. Hereafter cited parenthetically in the text as “R.”
155 Minutes of the Van Diemen's Land Executive Council, Eardley-Wilmot, July 1, 1846, BPP (Cd. 785),
XLVIII, 1847, 174.
156 OED Online, s.v. “sepulchre, (n.),” especially s.v. “white (painted) sepulchre (n.1.b.),” accessed November
Portrayals of convicts as corrupted by the system of transportation are consistent with antitransportation rhetoric. La Trobe, for instance, argued that the “spread of convict vice” was undermining the moral and spiritual life of the lower classes in Van Diemen’s Land. Similarly, as discussed above, when asked during examination at the Molesworth Committee if the system of punishment at Norfolk Island had any impact on reformation, Major Thomas Wright, former commandant at Norfolk Island, reported that while the convicts under his supervision appeared to be poring over religious material in a spirit of making amends for their errs, they were “at this very same time . . . concocting the mutiny which subsequently took place under him” (“MW,” 137). In these descriptions, as I argued in chapter one, false outward representation as cover for inner moral corruption appears as a common trope of convict morality.

Naylor represents criminal behaviour such as murder and sodomy as the norm on Norfolk Island; he complains that “the work of contamination has infected, far and wide, the whole body”; and he sarcastically criticizes the transportation system for having the convicts’ “restoration to society at heart.” This outward falsity is all “rank hypocrisy” (“NI,” 21,

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157 Gilchrist, “‘This Relic,’” 13-20.
158 La Trobe, “Despatch,” 119.
Naylor codes moral corruption, as the claimed structural effect of the transportation system, sodomitical. Naylor uses “whited sepulchre” to refer to the building’s insufficient institutional purpose and to colour such failures with the sodomitical referents of internal corruption; the hospital is represented as an inadequate site for the rehabilitation of sick prisoners and as a failed part of a penal colony aimed toward reformation of convicts. Naylor continues the religious motif in his description of the gaol: “Nor is the gaol a whit better” (“NI,” 24; see fig. 6). This echoes the synonymous negation “devil the whit” (meaning “not a bit”), as well as referring to the days of the Whitsun (the Christian festival of the Pentecost). The term also frequently appears in English translations of the Bible, such as in the Geedes translation of Deuteronomy, where Moses, warning of the sins of idolatry and the consequent fate of the cities of the plain, proclaims: “Burn with fire the city, and all the spoil thereof every whit.”

Biblical references saturate Naylor’s letter; Pandæmonium, sodomy, whited sepulchres, and words like “whit” disclose his Anglican vocation and training, revealing his religious motivations for demanding legislative fire-and-brimstone solutions to the modern Sodom of Norfolk Island. Naylor further claims that the gaol’s structure was shoddy, since it was “originally a badly-built public-house” that was “converted into a Gaol” in 1825 (“NI,” 24). The English, however, had burned all the buildings of the first settlement (to prevent French occupation) and rebuilt the gaol on the foundations of the previous settlement’s gaol. Naylor’s use of “badly-built” as a hyphenated compound draws attention to the multiple registers of the word “badly”: both in terms of architectural and

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individual constitution. He elaborates on moral badness in his use of “public-house,” connoting public inns, brothels and other houses of irregularity. While testifying before the Molesworth Committee, Ullathorne similarly reported that he believed that the Norfolk Island gaol “had originally been an Inn,” which he followed with a claim that the extent of unnatural crime on the island was infamous to the point that he described it as “proverbial.” Such myth making about the gaol being built on an old inn outlines a trope of the gaol as a licentious building.

Naylor also described the gaol as “far too small for its present purposes, very damp, wretchedly ventilated and altogether the most wretched place I ever visited” (“NI,” 24). The repetition of forms of wretched might simply reflect imperfect writing, but also highlights its multiple word forms, connoting the vileness and bad character of a wretch as well as poverty.

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161 Minutes of Evidence, Ullathorne, February 8, 1838, 27.
and degradation; and this latter connotation highlights reformist concerns about the mean and degradative effects of old system goal design in contrast to the orderliness of panoptic new gaol designs. Furthermore, the wretchedly picture is overwhelmingly one of close confines, where the spaces between the bodies of the men are not occupied by physical barriers but by heavy, humid air. In this letter Naylor adds a footnote to the above sentence, the content of which Naylor claims is an extract from another letter addressed to an unnamed civil commandant (a conspicuous concentration of deferral of address): “Sir – . . . The ward No. 7 was so suffocatingly hot and offensive, that I could not remain in it many minutes and although many of the men are in a state of entire nakedness, the perspiration ran in streams from their bodies” (“NI,” 24). Naylor argued that the lack of adequate ventilation, the inability of air to flow freely from outside through the inside of the structure, created an atmosphere of intensely muggy heat, something like a bathhouse steam room; the atmosphere exacerbated by sweat running from the naked bodies of the interned men, proving, for Naylor at least, “offensive.”

Ullathorne made a similar comment on the Norfolk Island gaol, claiming that “even at night, when I came there, [the convicts’] upper garments were flung off for the sake of coolness.”

Lieutenant Henry Williamson Lugard, superintendent to the initial construction of the panoptic New Gaol on Norfolk Island in 1839, also drew up surveys of the existing buildings at the settlement. His survey of the old gaol details no window structures such as those indicated in his survey of the barracks (see figs. 6 and 7), meaning that ventilation was limited to what little breeze may have entered from the enclosed inner yard. Outside interference, a cooling breeze, is stunted in favor of the nearness of humidity. The gaol had

162 Minutes of Evidence, Ullathorne, February 8, 1838, 27.

failed, Naylor argued, to institutionally and architecturally regulate the interned men’s closely proximate bodies; outside authority had failed to penetrate the spaces between the men. Naylor continues his criticism of the gaol structure in failing to keep convict bodies separate from each other: “It is dangerously insecure, and so contracted as to afford ready facilities for communication between the prisoners” (“NI,” 24). Proximity and exchange between the convicts that occurred without the intervention of penal authority was a principle concern for reformers seeking to maintaining order in convict settlements.164 Antithetical to modern prison modelling a sodomitically coded social order is, for Naylor and Ullathorne, a product of the failure of old system architectural designs to adequately separate the convict bodies.

Naylor next describes the barracks (fig. 7), the convict sleeping quarters, which are “by day in keeping with the hospital and gaol” (“NI,” 24). In the clear light of day, sunlight maximizes visibility. Similar to the other two subpar buildings the barracks, even during the day, were “so constructed as to afford the fullest facilities for the ruffianism, gambling and villainy, of which they are the chosen scene” (“NI,” 24). Naylor is arguing that the structure allows for lateral association between the inmates, thus facilitating peer influence, which he claims, as we will see below, was the main cause of disorder. Furthermore, under the cover of night, with greater room for axial invisibility, the structure facilitates not just gambling, villainy, and the like but also sodomy; what is for Naylor, “the greatest of these evils, my Lord.” (“NI,” 24) When the prisoners are locked up “in the dark, in sleeping wards holding from 40 to 100 men the worst of evils runs riot” (“NI,” 24). Outside the gaze of penal

164 Take, for example, La Trobe on the subject: “All communication with the other convicts has been carefully prevented, and the results most beneficial to the men have been the consequence of this separation” (“Despatch,” 72). The Molesworth Committee expressed similar sentiments: “Little diminution, however, has taken place in those moral evils, which seem to be the necessary consequences of the close contact and communication between so many criminals” (Molesworth Committee Report, August 3, 1838, v).
authorities or even the policing gaze of other members of the ward, the lateral proximity of the prisoners, Naylor warns, collapses into corporeal communion, much like the swarming hive of Milton’s hellish horde.

To further describe the barracks building, Naylor directly cites Milton’s Pandæmonium to emphasize the interpersonal relations of the barracks during the night represent the ultimate inversion of social authority: the “High capitals / Of Satan and his peers” (“NI,” 24). Unlike later theories of homosexuality, sodomitical origin is not identified in the existence of a case history, a childhood, a genetic typology, or the bodily morphologies such as Foucault attribute to modern sexological theories (HoS, 43). Nor was it even said to be the result of the influence of a certain individual. Instead it originates in the proximity between bodies and their invisibility from authority’s gaze. Such an assessment of the origin of sodomy, as we have been observing, is consistent across antitransportation documents and inherent in theories of modern disciplinary architecture.
Stuart also detailed the structure of the Norfolk Island barracks in his report: “The barracks… contain 22 wards, calculated to accommodate 790 men, as follows, viz., centre, 9 wards, 430 men; right wing, 9 wards, 192 men; left wing, 4 wards, 168 men. The largest wards contain 100 men; the smallest 15, with the exception of one fitted with 7 separate divisions under lock, in which are placed certain men addicted to unnatural offences” (“R,” 37; see figs. 7 and 8). While it may be tempting to see “unnatural offences” as confined to the seven addicted individuals housed in the separate locked divisions, it is the 1,580 men in the other twenty-one wards who were the principal objects of regulatory concern. Describing these larger wards, Stuart writes, “I entertain no doubt, that atrocities of the most shocking, odious character are there perpetuated, and that unnatural crime is indulged in to excess” (“R,” 45). Lugard’s survey of the convict barrack provides evidence that convicts were housed in groups of 24 to 124 to a room (fig. 8). Stuart identifies the origins of sodomitic outbreak in
architectural allowances for invisibility from the penal gaze and proximity between convict bodies.

He further reports that when he conducted a surprise inspection of the barracks, which, he reports, were usually unsupervised, that “on the doors being opened, men were scrambling into their own bed from others, in a hurried manner concealment being their object.” It is at the point that the gaze of authority intervenes in the sodomitical relations that “concealment” becomes the “object,” yet, at the same time, concealed places are the mise-en-scène of sodomitical activity; that is, the (eroticized) arrangement of objects for the (sodomitical) scene. That such action would unfold is, for Stuart, predictable: “How can anything else be expected? Here are 800 men immured from 6 o’clock in the evening until sunrise on the following morning, variously by hundreds, sixties, forties, thirties, &c., without lights, without visitation by the officers, or the check that even liability to these would produce” (“R,” 45). Proximity and invisibility enable the predicted scene.

In the next paragraph of the report, Stuart singles out the prisoners’ access to various types of unauthorized sources of lighting: “To some wards called the scholar’s wards, oil for lights was allowed, but in others, lamps, how obtained I could not learn, were burning, and in others candles – no such articles being issued” (“R,” 45). He reports that wardsmen (convicts charged with supervision) were meant to but had failed to properly position the oil lamps in each of the wards and keep them burning through the night (“R,” 44). Instead, oil lights are reserved the scholar’s wards, presumably under Childs’s administration reserved for the better-behaved convicts who would receive lighting as an indulgence. In the wards where convicts had gained unauthorized access to lamps and candles, it follows that their curation of
these softer sources of lighting was in the hands of the prisoners and had enabled axial
invisibility within the barracks. Stuart also observes that in many of the other wards there
were no lights at all. “Without lights,” as Stuart notes in the above quotation, axial invisibility
and its sodomitical consequences are said to predominate.

Penal reformers consistently recommended proper lighting as a deterrent to sexual
relations. For example, when Lord Grey asked Ullathorne at a session of the Molesworth
Committee whether unnatural crime could ever be prevented in gaols and barracks so long as
convicts were crowded together, Ullathorne replied that he thought it could not, though in
order to limit what he termed the “proverbial” ubiquity of the “depravity,” however, he
suggested erecting partitions between the men and installing “two lamps, one suspended at
each end of the apartment.”166 Bentham similarly suggested a complex system of lighting in
plans for panoptic institutions: “through light,” blinds, and lamps backed by reflectors outside

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166 Minutes of Evidence, Ullathorne, February 8, 1838, 26.
each cell in order to “extend to the night the security of the day,” were to be constructed so as to enable axial visibility. The use of lighting as a disciplinary measure to curtail sexual relations is, of course, a rational way to prevent concealed lateral communication. One need look no further than the installation of lighting in contemporary male cruising sites to verify the use and effectiveness of the general principle. In Stuart’s concluding recommendations, he suggests that “arrangements be made, as early as possible, to introduce the separation system, at least in the sleeping wards, instead of as at the present at Longridge congregating 300 men in one barrack-room in hammocks actually in contact with each other, to the end that at least an attempt should be made to check an indulgence in practices, which has attached to every station on the island an odious reproach” (“R,” 68). As architectural antithesis to Pandæmonic proximity and invisibility, reformist penal order is imagined on the principle of separation, with the intent to extinguish sodomy and other disciplinary misbehaviours.

The Botany Bay of Botany Bay; Social Inversion

Norfolk Island is again represented as a doubled locality (alike the island as Pandæmonium) when Naylor, in the title of his letter to Lord Stanley, terms the island “the Botany Bay of Botany Bay.” Sydney (often called Botany Bay, the original site for the colony) was the largest and first city of the convict colonies and was viewed by reformers throughout the first half of the nineteenth century as a society of moral ruin and, by now familiarly, a Sodom. Formulaic convict “journals” and religious pamphlets, the literary canon of the penal reform


movement’s antitransportation case, repeatedly represented the convict colony through the
trope of ultimate depravity. At its most literal level, “the Botany Bay of Botany Bay”
describes Norfolk Island as the prison colony of the prison colony. Articles and poems
published in newspapers also used the phrase “the Botany Bay of Botany Bay” to describe
either the penal colony of Van Diemen’s Land or the Port Arthur penal settlement at different
moments in history when they were each used as the ultimate secondary and disciplinarily
severe places where convicts already in the colonies were sent if found guilty of serious
further offenses or if they proved incorrigible. The epithet, however, is used in these
accounts to represent the depravity of the convicts and the transportation system rather than
simply representing a secondary penal colony; instead of a disciplined penal order an inverted
social order is cited. In Naylor’s account he primarily represents the depravity of “the Botany
Bay of Botany Bay” in the redoubled failure of transportation to reform convicts and the
more specific failure of improper classification. Both Naylor and Stuart see lack of
classification and separation as redoubling the immorality of the transportation system in
general at the island settlement. Both these men construct sodomy as a product and a
characteristic of such failed penal order; sodomy, they argue, arose from the settlement’s
failed classificatory and economic order, which precipitated not only undisciplined individual
sexual behaviour but also an undisciplined society in whole.

Naylor viewed the colonial convict on Norfolk Island as doubly corrupted – corrupted
by the repetition of crime (Norfolk Island was mostly reserved for colonial recidivists) and
corrupted by a system that operated in ways antithetical to its intent. As we saw in chapter

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169 See Sturma, *Vice*, 6; McKenzie, “Discourses of Scandal”; and Anne Conlon, “‘Mine Is a Sad Yet True

170 “Coolie Lyrics,” *Australian*, November 6, 1838, 3; and “Advance Australia,” *Sydney Gazette and New South
Wales Advertiser*, November 5, 1835, 2.
one, reformist discourse on the horrors of the transportation system represented the excesses of brutality, unbalanced sex ratios, and slavery-like labour as moral evils which they identified with old régime technologies and social structures that redoubled orientation to sodomitical indulgence. The proliferation of sodomy became a key rhetorical argument for the antitransportation movement, a movement keen to promote “bourgeois respectability” and the social role of reformed penal discipline as a central means of supporting the development of a respectable middle-class colonial society. Naylor worried that the colonial convicts who were currently on Norfolk Island had “passed through every grade of crime and punishment, in hulks, chain-gangs, and penal stations,” and it was those whom one “can scarcely call men” that were the moral bad influence on the morality of first-time convicts from England (“NI,” 17).

He saw inadequate classification as corrupting, and believed this process was initiated from the moment convicts stepped onboard transportation ships: “From the time the convict leaves England, there is absolutely no classification whatever. After six months confinement in Millbank Prison, in a solitary cell, he is conveyed to the transport ship, where he is at once restored to the society of others in like condemnation” (“NI,” 21). The society of others “in like condemnation” initiates moral corruption. The mass of men on the hulks, according to Naylor, were “delighted to find their tongues no longer under restraint” (“NI,” 21). The

171 For discussions of gender, excesses of brutality, and sex ratio, see Reid, Gender, 214-49. For discussions of brutality leading to unnatural indulgences, see Molesworth Committee Report, August 3, 1838, xlv. For a discussion of bourgeois morality and unfree labor effecting immorality, see McKenzie, “Discourses of Scandal.”

172 For discussion of the production of middle-class respectability in particular, see McKenzie, “Discourses of Scandal”; and Ian Brand, “Cruel, Uncertain and Prodigal,” in Brand and Sprod, The Convict Probation System, 7-8. For sodomy as a sign of convict social disorder, see McKenzie, “Discourses of Scandal”; Gilchrist, “Male Convict Sexuality,” 13-20; and Reid, Gender, 204-46.
slippery slope from the liberated tongue (via jousts between the men in the “use of profane and obscene language”) quickly leads to more active infractions, namely, “the indulgence of depraved habits” (“NI,” 21). The negative effect of society with “absolutely no classification whatever,” he continues, initiates moral decay, as opposed to the solitary treatment and rigorous discipline at the panoptic Millbank (“NI,” 21). For nineteenth century penal reformers, classification of prisoners was integral to the disciplinary arrangement of bodies in carceral space, informing, for example, contemporaneous reforms of the transportation system.  

On arrival of the transport ships at Norfolk Island the regulatory “defect [of classification on the ships],” for Naylor, “works still greater evils” (“NI,” 21). The men, according to Naylor, had been primed in a bad society of no classificatory separation while onboard the ships. Each English “new hand,” when arriving at Norfolk Island, Naylor claimed, was absorbed into the “heterogeneous mass,” which included, most notably, the Botany Bay recidivist. In consequence, a “moral pollution painful to contemplate” predominated, and before long “the work of contamination had infected, far and wide, the whole body” (“NI,” 21). “Thrust among the veriest monsters of crime,” Naylor continues, the English offender, whom he constructs as innocent, was forced into association with the “cold-blooded murderer trebly convicted” and the “wretch whose enormity Blackstone characterizes as ‘inter Christianos non nominandum’ (not be named among Christians)” (“NI,” 21).  

Naylor insists that the moral impropriety of Botany Bay was amplified through the promiscuous mixing. He constructs Botany Bay, like Sodom itself, as the geographical

173 See La Trobe, “Despatch,” 121-22; and McKenzie, “Discourses of Scandal.”

174 Naylor is quoting Sir William Blackstone, the famous English jurist, who, as mentioned above, famously glossed sodomy as, “peccatum illud horribile, inter Christianos non nominandum” (the crime not be named among Christians). See Blackstone Commentaries on the Laws of England (London, T. Cadell, 1787), 4:215.
origin of sodomy. Norfolk Island represents the apotheosis of the transportation system; improper classification has enabled, according to Naylor, the corrupting proliferation of the sodomitical colonial.

Consequences of such indiscriminate mixing, for Naylor, included the state of near open mutiny on the island. He notes that English “youths are seized upon, and become the victims of hoary and unnatural villains” (“NI,” 17). He follows this with a description of a case of mass rebellion: “Bodies of men, from 70 to 100 in number, have recently been in mutiny, openly refusing to work, and submitting only when terms had been arranged to their satisfaction” (“NI,” 17). Brought into the mass, the individual becomes part of the numerous collective body of “70 to 100 in number.” In Naylor’s account convict bodies gathered together in a mass, fomenting both criminalized interpersonal relations and seditious social activity, are coded as sodomitical.

Both Naylor and Stuart describe the settlement’s system of regulating labour and trade as a key indicator of an inverted social order on Norfolk Island, particularly in terms of creating an inverted social authority. Stuart reports that two dairies, one at the Government House and one at Longridge, were being managed by convict suboverseers (“R,” 65). (Employing convicts in suboverseer positions was a common means of granting privileges and authority to certain convicts over others.) With the convict suboverseers in charge, there was, to quote Stuart, an “inequitable manner in which the dairy produce, butter more particularly, was distributed” (“R,” 65). Overseers were reportedly receiving butter free of charge from the Longridge dairy “in contravention of regulation” (“R,” 65). Stuart depicts this buttering up of overseers as an excess in convict control of the products of their labour, upsetting the legitimacy of authorized power. (The implication is that the bought-off overseer is no longer a figure of or collaborator in penal authority.) Stuart further notes that the “convict overseer
of the dairies has been known to offer butter for sale in the settlement,” suggesting the existence of a micro mercantile economy where convicts could exchange the products of their prison work for liquid assets (“R,” 65). Lack of adherence to regulations by the prison administration had undermined penal authority. Stuart notes that the “superintendent of agriculture appears to regard too little the regulations for the discipline of the convicts,” leading to a situation that “excite[s] criticism in the convicts, and produce[s] a bad effect” (“R,” 65). Convict control of agricultural products, he implies, had undermined penal authority and produced a convict population incited to express criticism.

Other commentators, such as James Macarthur, the wealthy politician and heir to John Macarthur, the conservative pastoralist who was renowned for establishing Australia’s wool industry, also depicted Botany Bay as an untenable colony of convicts where convicts were foolishly employed in positions of authority in order to make up for a shortage of appropriately skilled free settlers. Macarthur warned that convicts held positions as “landholders, – householders in the towns, – traders, – employers of convict servants, – clerks in the government offices… [and as] writers for, and virtual Editors of public journals commenting freely upon the conduct of the council, of the highest public functionaries and of the magistracy… Many disorders, gross corruption, and shameless profligacy, were the inevitable consequences.” Commentators feared that such light sentencing and license in the community would lead to a convict “ascendancy” (a term used for mass rebellion of the convicts) and would be an even greater threat at Norfolk Island; recall the Legislative Council’s anxiety about imminent revolt at the island mentioned above. Stuart similarly noted that the diminished authority of the gaolers at Norfolk Island had unintended effects:

“Instances of the most gross insubordination and resistance to authority are also permitted to

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pass altogether unpunished; for instance on the 20th, 22nd, 23rd and 27th of January last the whole of the convicts at the settlement refused to go out to work on the plea of the objectionable quality of the meal and housing, and on two of these occasions they remained in the lumber yard all day” (“R,” 54). This rolling general strike of the convict workforce is representative of the reported order of upset authority on the island and provides an example of the types of challenges to authority that Naylor and Stuart feared; and, they feared, that left unchecked such insubordination would lead to full inversion.

Stuart additionally reports that within the prisoner barracks other inverted work lives were common. In the section of his report censored from publication by Britain’s parliament, Stuart claimed that “upwards of 100 – I have heard that as many as 150” of the men lived as couples and were “said to be ‘married,’ ‘man & wife’ &c.” (“R,” 46). Such bonds were initiated, he claimed, through gifts of bread mixed with fat, tea, and “the almost unresistable tobacco” (“R,” 46). In the paragraph following this, he states that there were also “those known to be, and called, common prostitutes, who for a trifling consideration surrender themselves for the odious purpose” (“R,” 46). This latter group were degraded, he claimed, not only for the content of their labour but for the cheap cost of their barter. It is the odious nature of sodomitic sex trade which would, under more respectable conditions, for Stuart at least, demand more costly compensation. Yet Stuart reported that these sexual acts were less transactional than one might expect. He sought to prove how ubiquitous prostitution was with the argument that the men involved typically developed close relationships with each other: “If A be confined for any offence today, B is confidently expected to make his appearance tomorrow, nor is this expectation disappointed. He had committed some offence that they may not be separated. Go to the hospital! If C is admitted or exempted today, D is sure to stand in need of treatment or exemption, as the case may be, the day following, and he is expected to present himself, nor does he disappoint the anticipation” (“R,” 46). Bonding
between such couples, apparently for but a “trifling consideration,” suggests that the convicts had a relation to the sodomitical sex trade sharply distinct from that which would regard the labour as an abhorrent task. The possibility of cheap trade leading to close bonds between convicts is evidenced in the dependence of “B” upon “A” and “D” upon “C” and in the fact that they are willing to commit crimes just to avoid being separated. In Stuart’s analysis, sodomy is thus the catalyst for more crime, an argument that supports Foucault’s proposition that what most disturbs the heteronormative order about nonnormative sexual relations is not so much sex acts but the tying together of “unforeseen lines of force.”

Like Stuart, Naylor links proper disciplinary social order and the organization of convict labour, and he warned the imperial administration about the inverted order of punishment on the island:

I would instance the case of — —, who came on the island direct from England, a fine manly fellow, but who, after successive steps in crime, had recently been convicted and condemned to death for the second time within two years, of unnatural offences. From the last conviction, however, he has derived a positive advantage. His previous sentence to death has been commuted to one of transportation for life in chains. The next sentence, which takes effect first, is simply transportation for life, so that by a repetition of the offence he loses his chains. (“NI,” 17)

The sodomitical recidivist, Naylor claims, releases himself from iron fetters through repetition of unnatural crime. That such a situation would occur as a direct consequence of repeated convictions, however pleasing the thought may be, is unlikely. However, successive reforms of British laws against sodomy enacted in the nineteenth century were created to allow for easier prosecution and conviction for the crime of sodomy, and to create more laws

against sodomy with lesser degrees of severity. The 1828 Offenses Against the Person Act, for example, allowed for conviction without proof of emission of semen. Ed Cohen argues that this reform represents a disciplinary system in transition from religious norms, with an emphasis on biblical edicts against non-procreative sex, to a secular normative discipline which instead emphasized moral standards of individual behaviour. Naylor’s concerns may therefore reflect his religious commitments as an Anglican minister to oppose secular normative disciplinary reforms which were reducing sentences for sodomy.

In his testimony to the Molesworth Committee, Sir Francis Forbes, the chief justice of New South Wales, had expressed a similar concern about convicts on Norfolk Island reoffending in order to mitigate their sentence. Forbes claimed that many men committed capital crimes such as murder in order to travel to Sydney for trial (and to, once there, escape, or to effect “escape” through suicide). While he is not referring to sodomy, the focus for both Forbes and Naylor is clearly on the tendency of the transportation system to incite future crime instead of deterring it. Crime is doubled by the system itself. As Foucault put it, the ideal of nineteenth-century penal reform was not only to deter but to alter the “economy of interests and the dynamic of passions” (D&P, 107). It was not only that the subject should fear punishment; the system was meant to teach the soul respect for the broken law (D&P, 107). According to Naylor, however, at the “the Botany Bay of Botany Bay,” on the inverted Sodom Isle, the repetition of sodomitical crime could lessen the penal force of the law, thereby altering their “dynamic of passions” towards the commission of further offenses. All proper discipline is arse-end-up. The repeat sodomitical offender, encouraged by a form of

177 Minutes of Evidence, Forbes, April 18, 1837, BPP (Cd. 518) XIX, 1837, 17.
antidiscipline, is thereby unshackled and becomes the perfect agent of mutiny and the model (anti)citizen of the consequent social order.

It is in such an inverted state, Naylor is adamant to show, that the well behaved are punished while the disobedient are rewarded: “The reckless and daring prisoners have succeeded in obtaining indulgences while the inoffensive ones have been but too happy if they only escaped notice” (“NI,” 27). Such a negative effect, as we have been observing, was commonly cited in reformers’ critiques of Botany Bay and the transportation system as a whole.\textsuperscript{180} Naylor thought that Norfolk Island represented an even more extreme instance: “I have under my eye at this moment a case where a doubly convicted forger, of dangerous character, is employed in the most important office in the island, while from personal fear or private pique the most respectable prisoner on the island has been brutally refused any such indulgence and kept unremittingly at the most revolting labour” (“NI,” 16). Naylor’s “most respectable” prisoner was William Henry Barber, a former solicitor convicted in a series of forgery charges including defrauding the Bank of England.\textsuperscript{181} Likely swayed by Barber’s bourgeois status, Naylor vigorously defended Barber, claiming he merely acted as an oblivious launderer of embezzled state funds. “So painfully do I feel the misery of such a man’s condition,” writes Naylor, that in the case of an appeal he claimed would travel to London to defend Barber, “for the thought perpetually haunts me that Barber is undeservedly

\textsuperscript{180} For example, see Macarthur, \textit{New South Wales}, esp. 61, 24-25, 41, 119.

\textsuperscript{181} Barber petitioned the House of Commons after his release, compiling a published account of his treatment while a convict alongside a thorough account of the trial proceedings and a formal petition. Among Barber’s arguments for his innocence was that while treated, in his words, “unequally” at the island, he maintained unfailingly good (compliant) behaviour. Barber was vindicated and awarded £5,000 as compensation. See William Henry Barber, \textit{The Case of Mr. W. H. Barber, Containing Copies of the Documents Submitted to the Government, Resulting in Her Majesty’s Royal Pardon} (London: Effingham Wilson, 1853).
undergoing the fate of a convict in Norfolk Island, and I cannot shake off the distress it occasions me ("NI," 26).

Naylor contrasts his most respectable Barber to the “doubly convicted . . . and dangerous character” of John Swainston, a one-time clerk and surveyor transported to New South Wales in 1829 for wagon robbery and subsequently sent to Norfolk Island in 1832 for forging a ship order. Swainston spent six years on the island, only to be found guilty of forging a check shortly after his release; he was given a life sentence and sent back to Norfolk Island in August 1838. Swainston's prisoner record lists an impressive tally of twenty-four minor infractions such as “illicitly distilling spirits,” “building a boat in the bush,” “having a quantity of Mustard in possession,” and “going beyond the bounds of the Settlement by means of a forged pass.” Such disobedience, while rather petty, suggests an insubordinate attitude to penal rule. Despite having committed similar offenses (illegal procurement of funds), Barber and Swainston differed in class and in their behaviour while incarcerated. To use McKenzie’s term, we can see that a system meant to produce “bourgeois respectability” had reportedly been inverted to the point where the most incorrigible, like Swainston, were rewarded with positions of power (Naylor tells us that he was appointed the commandant’s clerk), while the most respectable, like Barber, were subjected to the “most revolting labour” ("NI," 16). The lowliest character is placed on top, while the most respectable takes the bottom rung in the settlement hierarchy.

182 Fitzsymonds, Norfolk Island, 1846, 15n8; and Conduct Record, John Swainston, August 1838, CON37/1/4, 1359.

183 Fitzsymonds, Norfolk Island, 1846, 15n8; and Conduct Record, John Swainston, January 5, 1844, January 7, 1845, August 20, 1847, and March 30, 1847, CON37/1/4 1359.

184 As Hamish Maxwell-Stuart has shown in a study of Port Arthur in the 1830s, many better positions in the penal settlement were given on the basis of skill rather than behavior, as penal theory would dictate. It does
Naylor hints at the character of the labour Barber had to perform: “When exempted by the medical officer from field-work, he was by a refinement of cruelty employed in labour of the most revolting kind. I am astonished that he has survived a tenth part of the wretchedness he has undergone. Nothing but a consciousness of innocence could have supported him under the monstrous tyranny of which he has been the victim” (“NI,” 27). Clearly Naylor is morally offended by the conditions Barber must endure. While religious morality is at the forefront of Naylor’s account, it is not so much, or not only, immoral sexual relations that disturb Naylor but the morally inverted social order. Naylor’s use of the word “tyranny” to characterize Barber’s treatment alludes to the excesses of old régime power hierarchies in contrast to the more rational and equitable penal sensibility he was advocating (D&P, esp. 92). The “monstrous tyranny” and “wretchedness” of the labour deforms rather than reforms his character. While Naylor leaves the precise nature of this labour vague, we can glean more detail from the account of Barber’s period of transportation, “Transported for Life,” which was published in two parts in the July 31 and August 7, 1852, editions of Household Words, the weekly magazine edited by Charles Dickens, the famous novelist and advocate for social reform:

I had the misfortune to be appointed “Wardsman”; this was by far the most loathsome, perilous and unhealthy occupation on the Island. Its duties were to preserve order in a dormitory of two hundred criminals, many of whom, as subsequent events showed, would not scruple to take the life of an individual who, like myself, was at once their drudge and their overseer. Locked in with these ruffians, from seven in the evening until six o’clock on the following morning, my task was then to seem likely that Swainston would have been granted clerk duties at least in part due to his clerical skills and the pressing needs of the isolated penal settlement. It is curious, however, that despite Barber’s legal background he had seemingly been precluded from any such white-collar role. See Hamish Maxwell-Stuart, “The Rise and Fall of John Longworth: Work and Punishment in Early Port Arthur,” Tasmanian Historical Studies 6, no. 2 (1999): 96-114.
cleanse and purify their dormitory for their reception and accommodation the next night. The disgusting details of the labour thus selected for me, I will not go into.  

Within the barracks, where Naylor earlier noted “the greatest of these evils, my Lord, arises from the mode in which prisoners are herded together at night,” Barber’s role as the night, and early next morning, Wardsman is a liminal or contradictory occupation of “both drudge and overseer.” “Drudge” carries the meaning of to do hard or menial work, yet is here more suited to its noun form: “One employed in mean, servile, or distasteful work; a slave, a hack; a hard toiler.” The wardsman’s role as Barber describes it was to serve as both the night barrack slave as well as its overseer, a precarious and deeply unpopular position. The prisoners apparently “would not scruple” to take the life of such a convict. The details too disgusting to mention imply the tasks of interfering in the flow of passions between the convicts and cleaning up after spent passions in the morning. Such hierarchies of labour value based on a proximity to manual labour and cleaning tasks classify the wardsman’s duties of purification as subordinate and tainted labour, at least according to Naylor and Barber, and, as Barber tells us, among the “ruffians” too. In Naylor’s account the inverted, sodomitic order of Norfolk Island is represented in Barber’s lowest status in spite of – or more accurately because of – his “respectability.” In reflecting on the social order at

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185 “Transported for Life. In Two Parts--Part II,” ed. Charles Dickens, *Household Words*, August 7, 1852, 482-49. Dickens notes in the preface to part 1 that “the following narrative is not fictitious. It has been taken down from the lips of the narrator, whose sufferings are described; the object of shewing what Transportation, and the present time, really is” (“Transported for Life. In Two Parts--Part I,” *Household Words*, July 31, 1852, 455). Also see Minutes of Evidence, Barber, June 29, 1858, in “Report from the Select Committee on the Petition of William Henry Barber,” *BPP* (Cd. 397), XXII, 1857-58, 630.
Botany Bay, Macarthur described it as a place where “bad preponderated over the good.” What Naylor described as “the Botany Bay of Botany Bay” represents a social order where bad not only predominates but is doubly worse, representing an inverted economic and disciplinary social order created by the transportation system and coded as sodomitical.

On July 1, 1846, the Executive Council of Van Diemen’s Land met to discuss the implications of Stuart’s and Naylor’s reports and deliberated on sacking the settlement’s commandant, Joseph Childs. Lieutenant Governor Eardley-Wilmot noted that the reports “certainly threw doubt on the order and discipline of the settlement” and had definitely

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188 Macarthur, New South Wales, 23.
convinced him that “the settlement is on the very verge of an open mutiny.”\footnote{Minute of Meeting of [the Van Diemen’s Land] Executive Council, July 1, 1846,” 72-73.} That very same day the Cooking Pot Riot or Jacky-Jacky Riot broke out at the settlement.\footnote{Fitzsymonds, \textit{Norfolk Island, 1846}, 73n49.} The riot broke out in response to authorities taking cooking utensils out of the lumber yard building and therefore out of the convicts’ possession, at which point a mass of convicts stormed the barrack stores and took back their utensils. Witnesses reported that the men then cooked their breakfast before launching a more serious attempt to overthrow the penal order. Fifty men left the lumber yard intent on killing Childs and as many prison authorities as they could; in the end, four ex-convict policemen were killed (fig. 9). In the aftermath, La Trobe wrote to Lord Grey claiming that the convicts instigated the mutiny in protest against the recently imposed penal measures aimed at limiting “the gratification of the degraded passions of the convicts.”\footnote{La Trobe to Earl Grey, January 8, 1847, “Convict Discipline and Transportation: Further Correspondence on the Subject of Convict Discipline and Transportation, in Continuation of the Papers Presented 16th February, 1847,” \textit{BPP} (Cd. 800-811), XLVIII, 1847, 355.} Similarly, Aaron Price, the principal overseer of public works, asserted in the parliamentary report on the case that “in my opinion the cause [of the riot] was the prisoners having been latterly prevented from having their fling.”\footnote{Aaron Price, evidence at Norfolk Island Commission, July 1, 1846, “Convict Discipline and Transportation: Correspondence on the Subject of Convict Discipline and Transportation,” \textit{BPP} (Cd. 785), XLVIII, 1847, 276.} A military court tried the ringleaders. Twelve were found guilty, and they were hanged and buried in a mass grave on October 13 later that year.

Samuel Barrow, the Norfolk Island police court magistrate, recommended that the (by his count) twenty-five to thirty remaining convicts found to be involved but punished summarily for lesser offenses be “submit[ted]… as soon as there is sufficient gaol
accommodation, to a rigid system of separate treatment.” On July 6, 1846, Eardley-Wilmot reported to William Gladstone, secretary of state for the colonies, that he had instructed Stuart to “above all, to attend to that separation at night” in order to determine whether the rumours that sodomy was rife in the Norfolk Island barracks were true or not. The comptroller-general of convicts, William Champ (to whom Stuart was directly reporting), in recommending closure of Norfolk Island in direct response to Stuart’s report, argued, similarly to Barrow, that with regard to the fearless vices which have been already contracted, the only palliative which I can suggest is, that no man now at Norfolk Island, who is not clear from the commission of that crime, stated to be so rife there, should be allowed to return to society, until, by having been subjected to at least one year’s separate treatment, some guarantee has been afforded that the habit has at all events been interrupted, it may be hoped, by judicious treatment, for ever broken off.”

Barrow and Champ thus described panoptic isolation cells as the ideal treatment for sodomitical social disorder.

As we have seen, Naylor and Stuart believed that mass assemblies of convicts created conditions for sodomy and related close bonds – both affectionate and mutinous – between the men, and they suggested panoptic remedies. The two reformers viewed Norfolk Island, with its “promiscuous assemblage” of interned men and its inverted labour order, as a dystopic polis, and they invoked symbols of this disorder – “Pandæmonium” and “the Botany Bay of Botany Bay” – to emphasize the dangers of convicts gathering outside the gaze of authority (“R,” 41). Naylor and Stuart also insisted that modern penal order could only be

193 Samuel Barrow to the Comptroller-General, July 27, 1847, BPP (Cd. 785), XLVIII, 1847, 280.

194 Eardley-Wilmot to William Gladstone, Secretary of State for the Colonies, July 6, 1846, BPP (Cd. 785), XLVIII, 1847, 173.

195 “Minute of Meeting of [the Van Diemen’s Land] Executive Council, July 1, 1846,” 72.
maintained through clear classification and physical separation of offenders. Similarly, they reported that the system of organizing work and labour at the settlement had created the inverted social order, in which the respectable were subject to the most demeaning labour, while the most incorrigible were promoted. They paint an image of a city laterally gathered, massed and bonded: a Pandæmonic order where convicts gather in sodomitical mass, and where such social and sexual bonds between the interned incited further criminal depravity, creating a doubly worse version of Botany Bay.
William Williams & Solomon John

Transported from Wales in 1818, Williams was, in the 1840s, in his sixties and had reputation with the local constabulary as a notorious unnatural offende. He had gained the attention of the Sydney police and had previously been convicted on a series of at least four sodomitical offenses while in the convict colonies, including accosting soldiers stationed in the Domain.

جان ال-دين (Jaan al-Din, aka Solomon John) had come to the colony in 1837 on the Elizabeth via China. A Muslim most likely from Kolkata, it seems he worked a servant to the East India Company civil servant and aristocrat James Donnithorne, who had a few years earlier also emigrated to the colony from India.

Spotted at a Sydney hotel in August 1842 Williams and Jon were then followed by the police chief and a constable out into a nearby paddock.
William Williams

He has been town’s talk

I have known him for last 15 yrs. – I never s’d I have being looking for him

[John Price, Chief Constable of Sydney] I did not say to anyone I had my eye on him for 15 years. I have known him for last 15 years – I never said I have been looking for him, whenever I saw him in company I should have suspicion

there are several houses there inside the paddock at back of brewery – Williams told me he lived there

knowing Williams to have been tied up some years back for on a charge of something unnatural

You were talk of the town, read at the turns

verse, bugger
Figure 10: Public buildings on George Street marked in red and yellow squares, and Hyde Park and The Domain Shaded Green, detail from Francis Shields, Map of the City of Sydney, February 1, 1845, City of Sydney Archives, http://atlas.cityofsydney.nsw.gov.au/maps/city-of-sydney-shields-1845/
Woolpack

9 or 10 Oclock pm, 31 August 1842,
The Woolpack Inn, Brickfield Hill,
740 George Street, Sydney

saw the prisoner in company with a coloured man
Williams and Solomon at the bar

the Woolpack Inn bottom
of brickfield slope

Brickfield Hill: George-street sharp slope
down to Haymarket creek

one million cubic feet
of less tamed steep

From the cove quay
this road to all roads
to the interior

A slant of town’s disrepute
descending inns

Kings Arms, The Fleece, The Crown, The Plough Inn,
Emu Inn, New Inn, Dog & Duck, Black Swan, Jews Harp, Spread Eagle
Hotel

Those two on the flat:
Gold Arms, The Angel.
Below the road:
The Peacock, earlier known as “The Beehive”, The Woolpack

The latter two were close together... The Woolpack roof was almost on a level with the footpath. It was of the cottage type and thirsty souls had to descend several steps to reach their goal. As a “thirsty soul” the writer had been in the house half a century ago, when Morgan D’Arcy kept it. A fine old colonist was Morgan D’Arcy.

Durrands Alley (Sealey Lane)
bends out
around the corner:
dirty rookery – prostitutes and layabouts

roughest alley
shack, bed pan slosh
and solicitations

Descending steps,
roof below the road:

Woolpack,
I’m with William Williams
by the bar
Druitts

Went out, down past old toll bar (x Parramatta Road to a paddock, in line with Botany Road)
It was a darkish night but with lamps & gas on the road
Light from Tooth’s brewery

[Higgins] I went on my hand & knees & walked in that manner, till I came within 5 yards of them.

the lights were behind us - & they before us – their faces were turned from the light

I caught them actually in the fact – I said I put my hand down & took black man’s penis out of Williams

in going into the house

Higgins bound Williams & I the coloured man.
We let them button up

– his shirt and coat tails thrown on his back

I caught hold of Williams & held him. Price had hold of the coloured man.

They were standing there very close

together.

Price called my attention to the coloured man’s penis – I caught hold of him. It was quite stiff at the time - & I took him in custody
“As this poem suggests, the practice of sodomy is construed as exemplifying a logic of reversal with widespread and uncontrollable implications”

[Justice Dowling] the prisoner Johns was a Coloured Native of Calcutta. The scene of their abominations (Williams being passive, and Johns active)
Reporting Solomon John under sentence of death having attempted to cut his throat

I’ll cut my own throat
with an iron urinal hoop

he wrenched one of the iron hoops from the urinal in his cell
with part of which he endeavoured

piss trough hoop
seen most apt to split
run blood
end it
fortunately without success
the wound being but very slight

[Joseph Long Innes, visiting magistrate HM Goal Darlinghurst] I would respectfully suggest that the cells in which men under sentence of death are confined should in future be supplied with pewter urinal … The Expenditure would be but small and it might contribute materially to prevent the ends of justice being defeated

pewter replacements
smelt alloy,
politest execution
wills bandy
unambiguously
Death commuted to life hard labour
to Van Diemen’s Land per “Waterlily”

Inspections of received convicts:
deep scar on left cheek black mole on back of neck large scar on throat

Transported for Sodomy.
Stated this offense

Mussulman – Can Read & Write Guzeratt

Figure 11: Conduct Record, Solomon John per Waterlily (detail), November 13, 1842 – December 19, 1854, TAHO: CON 37/1/1, 140
Still bay,
shell shelved shore
smashed mollusc

limpet, banded
a cleft
cockle

days spent lugging water
and clearing trees –
to grow potatoes

twelve men were required
to haul water
each day

c clam spit airs mud dark sand salt
no witness survives
but in things

This station is much in want of water, no less than 12 Men carrying it daily

25 men to clear as much land for potatoes as is practicable this Season

water to be brought from Impression Bay—by men with the next party, water can be brought here in the course of a month by means of a watercourse
Letter to the Inspector of Colonial Discipline, 18 October 1842

The probation station’s
doctor on Friday
was blot drunk

stayed so till Saturday afternoon
I am reporting him –
unattended duties

Flinders Bay {}

Saturday morning floggings
three men due –
unattended duties
Tasman Peninsula

blue gum smoke trunk
felled,
failed corral

Arthur’s Black Line
– broke
on known

Now a prison of ideal
shape –
a strict neck
Figure 12: Tasman’s and Forestier’s peninsulas, Van Diemen’s Land. Map, 1840-50, Libraries Tasmania Online Collection.
With one consent let all the earth, 
To god their cheerful voices raise; 
Glad homage pay with awful mirth; 
And sing before him songs of praise.

brick works and a 
road to Hobart, 
labour reforms

an overseer, superintendent 
and a gang of men

Eucalypt smell

Hot sun, 
But colder than Sydney

Bugs
Sodomy on his record

Reverend Jarbo:
In unpractised verse,

one cheerful aw. ful him him cheerful one aw. ful aw. ful cheerful one him one aw. ful him cheerful aw. ful one him aw. ful cheerful aw. ful aw. ful aw. ful aw. ful aw. ful aw. ful aw. ful aw. ful aw. ful aw. ful aw. ful
How was it?

I’m here in the yard, and blow flies

and swallows and a blackbird and scraggy red-capped robins nest

in the guttering of the flogging yard

“Floggings at 9am”

they do not get along

the blackbird returns to the nest, frenzied

split worms hanging from its beak

the river is moving

the blackbird must be flying

You were sent here for six months

looking at blackbirds?
Hobart

Ticket of Leave,

52 Melville Street
with John Shipley

biggest house on the block

the Mechanics Hall
next door, Chartists

once: drunk in town
and then
you lose the record
James Donnithorne, a Regency aristocrat who following a Regency scandal became a Civil Servant in the East India Company, and later a Sydney colonist, wrote to the executive to recommend against execution of Solomon John. He was known in Sydney as Judge Donnithone, though he was never

he was an excellent servant
and the vice is acceptable where he is native,

either Madras or Bengal

even his Princely Courts practice the abominable vice
what’s in a name

[Justice Windeyer] satisfied – that it is his name - & strictly proved – existence – strictly proved & laid – by which usually proven – a usual ____ not proved by one instance.

The name admitted. What is his name – who knows a man better than himself –

[George Pownall, Clerk of the Supreme Court] That is the man. That’s the name he gave in – who nam knows a man better than himself

[James Dollimore] The wretched man John Solomon (should be Solomon Johns) I found an excellent Servant

[Windeyer] Name must be proved as laid – as that only know – coloured man

[Pownall] a coloured man – This information – His name announced & held up his hand – by the name of Solomon John

[Windeyer] satisfied – that it is his name - & strictly proved & laid

The name admitted. What is his name – who knows a man better than himself

[John O’Dean interpreter for Solomon John] that on four o’clock in the evening he was drinking, and did not know what he had been doing. Says he has no questions to ask the witness.

O’Dean, O’Din, O god, din o light god din o god light din

John O’din
x

Signed:

perhaps Urdu: John Jan Aladdin A din Alan light of god o’
I

I Servant
I Princely
I Mussleman
I Guzzerat
I Sodomite
I come here by boat
I cut my own throat
I haul water
I ticket-of-leave man
I Sussex Street
I the Black man stand in the rear of Williams
I in the light of Tooth’s Brewery
I haul water
I came here by boat
Sodomy Re/verse 205


6 Conduct Record, Solomon John per Waterlily, November 13, 1842 – December 19, 1854, TAHO: CON 37/1/1, 140


8 Flinders Bay Probation Station Superintendent to Inspector of Colonial Discipline, October 10, 1842, TAHO: CSO22/1/39, 1260.

9 Superintendent James Skene to Comptroller General William Thomas Napier Champ; and Schoolmaster Peter John Jarbo to Assistant Comptroller General William Nairn, March 31, 1844, TAHO: CON 1/1/10, 959.1-959.3. Advice on convict psalmody was generously given by Dr Graeme Skinner.


11 John Dillon to Clerk of the Executive Council Francis Lewis Shaw Merewether, October 1842, SRNSW: NRS4234, [4/1447], Enclosure A, 7, to Minute No. 24, 571-2; R. v. Solomon John and William Williams, September 3, 1842, SRNSW: NRS880, [9/6325]. John’s signature was generously translated by Dr Adil Hasan Khan.

And he looked toward Sodom and Gomorrah, and toward all the land of the plain, and beheld, and, lo, the smoke of the country went up as the smoke of a furnace.

- Genesis 19:28, KJB

Strange lusts bring strange punishment; strange fire kindled upon earth, brings strange fire from heaven... they have fire for fire, and not onely so, but strange fire, for strange fiery lusts.


Sodom today Gomorrah the world

– Alan Bray

Transported to New South Wales in 1832 for stealing rabbits, Samuel Jones was somewhere between thirteen and sixteen at the beginning of his fourteen-year sentence. Something of an incorrigible, Samuel came to the attention of the penal administration on multiple occasions for matters such as his proximity to an attempted mutiny on the transport ship, absconding from the boy’s barracks in Sydney and reckless performance of his penal labour task of blasting stone. In 1834 Samuel was arrested in the Domain on the charge of sodomy, found guilty and sentenced to death. The New South Wales Executive commuted the charge to life hard labour in irons at Norfolk Island, and for Samuel to be kept separate from the other prisoners at night. Barrack hammocks, some said touch.

Samuel Roney accompanied Jones on the transport ship to the colony and the pair reappear in close proximity in a series of disturbances to penal order
you young dog you have set the stack on fire

the boy said if he were he would have more with him in it – he would not suffer alone

he slept all day, the three days he

bond – a boy about 13

A ladder on the stack 20 feet high

the stack was the property of my two masters

[George Shofield] I live in Bathurst – Queen Charlotte’s Ponds

The prisoner came assigned to me for the harvest

Old Parker the father of my partner who was crying - & he told me all the particulars
– he told me that the wheat was burnt

Rooney smoked

I said you young dog you
Saturday Morning the 14\textsuperscript{th} of May last, Norfolk Island

the roof of the old military barracks caught Fire

occasioned by a Flue not being swept at the usual time

that the great exertions of the prisoners (particularly those named in the Margin)

The Flames were speedily got under

saw men act with more vigour than they did in their endeavours to check the progress of the Flames

not been for their exertions the whole of the buildings within the square would in a short time have been a shapeless heap of Ruins

\text{procuring and furnishing water, removing ammunition, Arms, Accoutrements and military baggage from the barrack room}
[H. Harvey, for the Assignment Board] inconsequence of the latter being employed there in Blasting Stone, in a situation rendered dangerous to the public by such proceeding, may be assigned out of Sydney

Internal disrupt by public consortium of

John Campbell, per Bussorah Merchant
Edward Sydney, per Parmelia
Samuel Jones, per John

Blasting stone to the danger of the Public quicker than digging explosives placed in the rock

Forced measure: asundry

a annex to settle r

--

during the 1820s Sydney newspapers engaged a public debate on how best to reform convict youths

The Monitor:
Remove the boys from bad society: each other, Sydney.
Assign to free settlers in the bush
association together
makes them ten-fold more the children of Hell

The Sydney Gazette:
Keep them in the institution, wholesome restraint
maybe in some respects
evil but, like schools,
best for discipline, education, religion.

despite orders
Samuel Jones seems to have never left Sydney

--

Three days after this incident, Governor Bourke, probably not directly related, proclaimed all boys under 16 will not be allowed
to remain in Sydney, nor will they be assigned to any person residing within twenty miles thereof
Recently withdrawn from Messrs Wright and Long

Work detail
of bonded labour
Assigned to

Messrs Wright and Long
Messieurs
Monsieurs
Mon sieurs

William Long, a spirit merchant,
and James Wright, a brewer

– former convicts – were business partners. By 1831 they owned
most of northern Dawes Point, financing extensive construction of a sandstone wharf and
warehousing

In 1837 their business went arse up
Moore & Co
bought it up

“Moore’s Stores” still sit on Sydney Harbour

The building has been moved twice – once following bubonic plague quarantine
redevelopment
And, the second time, in the 1978 urban renewal of Darling Harbour
sandstone heritage
remains
21 June, 1842
Cascade Bay, Norfolk Island
Transport Brig, “Governor Philip”

their whispers I did not at all like,
Joshua Gregory

half past seven the morning –
an iron belaying pin

the pacific pulls over large basalt
stone shore –
Cascade Bay

Horizon fade ocean to sky
monochromate four hundred
fifty miles till another land

an iron belaying pin –
Bartly grasps for take
strike
Nicholas also
knocked Lachlan of the 26th
got his Pistol, and Cutlass

Night watch
coxswain Harley
baling the swamped sideboat,
the *Coquette*

Jack the Lagger
boiled water in the galley

John to the Coxswain,
“I have been very ill used, I will let you know it before we part”

Second Mate and Sentry
thrown down aft
through the Cabin Hatchway

to Winter, “jump overboard Ye”
July cool south pacific
dropping degrees
as weight sinks

Lewis, “throw the bugger
Overboard”

McLean ordered
the Corporeal into the lesser
boat

Woolf helped the Corporeal bale
the swamping
boat

“get the ships head off
the land,” Heriot

McLean fired his musquet
a flash in the pan
Gregory, “move one step further
and I’ll blow out your brains”
this rather cooled their mettle

attempting to gain the deck
Gregory was struck down –
cutlass butt

blood spread down his face
a piece of skull struck off
from above his right ear

a handkerchief
to somewhat staunch
the blood

made themselves masters
of the upper deck,

    two of our fellows

    were thrown overboard
we were in a nice mess,

while Old tar Captain Boyle
calmly, and seriously, trying to discover
the plunderers of his Brandy Bottle

McLean and Moss
in charge of the Quarter Deck
giving orders as such

Heriot and Harper, sailors took new orders:
work the Brig,
one to the wheel
another to trim the sails

John Jones asked Harper if he could navigate,
“partly”
Sears said to Harper,

“don’t be afraid

Billy, we won’t harm one of you.

Go aft and take the Helm

and steer us off the Land.”

John Jones bade him the same

putting a pistol to his head
McLean departed

Harper at the wheel:

“come up, come up, they are gone”
Samuel Jones looked through the skylight
down at the officers
interned

Captain Boyle,
moving on from his stolen brandy
shot Samuel in the head

step where we would
we could not avoid treading in blood

Samuel lay under the foremast
half his head shot off

his blown brains stuck
to the mast, just above
the foreyard

remaining there three months
till a pig

a  t  e  i  t  o  f  f
At the Norfolk Island cemetery the most ornate and mason-worked headstone in the yard is Samuel Jones’s.

Of the large steles it is the sole stele with turreted scotia shoulders and a doubled oval peak arch.

The flourid cursive is common to other inscriptions from these few years.

The main body of text is inscribed on a raised oval.

Eight motifs in relief:

HERE LIES
THE contains the angel BODY
who holds a wreath in one hand and a trumpet to mouth.
At the last judgement: the sheep from the goats
those who hungered, those who fed them
those who did not
those imprisoned, those who visited them
those who did not
flock, or fodder, for fire.

Seven leaves on two shoots,
Florals in the corners

A skull and two thigh bones crossed:
memento mori: here lies the body, remember;
or piracy: always at sea

Beating out of the stone

Samuel Jones’s Tombstone, Author photo, 2016, Norfolk Island.
I saw billet of wood
I saw billet of wood
I ran on deck marked with blood
I fire one pistol among them
I rush the billet of wood
I recalled the cutlass
I strike the boat
I ran handspike
I blow buggers
I came down below
I dispersing forward saffrail

Lewis called out “take care of that man”
shot through the left arm which was shattered
   ball passing from there through the chest
(Bartley Kelly)

shot in the chest
   ball passing completely through
(James Say)

shot though the upper part of the thighs
   ball dividing both femoral arteries
(Hugh McLean)

shot through the roof of the mouth
   Ball entering the Brain
(George Moss)

shot through the head
   the upper part of the skull blown completely off
(Samuel Jones)
Broken piece    strike below
Come down below covered in blood

I saw none, I present similar vessel marked with blood but it is sure it was the same. I think
material, namely that he saw this proves he not be mistaken

I looked up through the grating fell immediately, knocked down the    then

tried to fire the    in his hand, but it flashed in the pan

go below Macauly or it will be worse for you

he saw nothing more. Collared, he cried

        for God sake don’t

, since killed

Jack the Lagger was not that one, he did not assist at all

Had you any parley, yes since dead proposed to the Captain - of course the offer was refused
And throwing him off, saying

“Fling him overboard
he will tell no tales”
you remember that old town we went to, and we sat in the ruined window, and we tried to imagine that we belonged to those times – it is dead and it is not dead
Dowling concurred with the jury. He put on the black square passed the formal sentence.
Death passed death passes -es passing death pass-th deapth so passed -ed death –s passing
‘Death passed’. Author photo, R. v Samuel Jones, February 11, 1834, SRNSW: NRS 880 [SCT27], no. 22.
2 January 1834, The Government Domain, Sydney:

*I saw the connexion with man, other & to make myself sure I got off the rock, & stood sideways, between 11 and 12 I examined his yard red human seed on his linen*
My master sent me with ill – went to lay down – called me a liar & that I belonged to Carter’s. Went to lay, liar I call you lie belonging -ly liar told Crain, take him away rabbits grey laid down domain rock sidew-
I said, I had only gone to have a bathe. C. Crain testified that there was no place to bathe. The Governor’s Bath House, 1829 in fashionable gothic, partially or fully, unenclosed
It consists of three very small dressing rooms, also a room for a watchman, and corresponding space, which is a privy.
Life, permeable, relying on matter. Disclosure of state power: iron pressed a body
death passeth, Norfolk for life
for life passeth death, I said life
passeth death, passeth death
kindle a fire

in the prison, for the purpose it is supposed

of setting fire to the Ship,

put two bezzles

connected with a chain

the legs of each

yoke them

together in pairs

plot to get

possession of the Ship

murder those placed in authority over them

be concerned in the plot

their diabolical intentions

particularly, bad
11 or 12 o’clock at night, May 23, 1833

Carter’s Barracks, Sydney (Brickfield Hill)

Boys lately belonging
Boys chattel belong
Boyly longing late
Late boy eke long
Eke long boy
so long chattle
be boy long night

At the Carter’s Barrack boys were schooled in religion,
taught a trade

22 May, sometime before 6 oClock inspection
Six Boys were put in the Black Hole

[John Walker, Principle Gaoler]
To make some classification amongst

by making a hole
in the outer back wall,
from an apartment which has been used as a Black Hole
for refractory prisoners

A small piece of flat iron
and a wooden bed leg

less stubborn than their will were
these materials:
mortar, brick
John Hanlon
26

Indoor servant,

groom

Robbing master

Dublin City

At Carter’s barracks convicted of breaking into and robbing
the house of Captain Walker
Henry Wilmott
Exmouth
stealing
Samuel Rooney
per John

County Longford, chimney sweep

Robbing father
of coat

S R
J R C
R W
R

on lower left arm
William Pickett

London,
Stable boy

Stealing watch

eyebrow
Large circular upwards over right
scar extending from top of nose

Anchor
on left shoulder

Man, moon
stars
on right arm,

Mermaid,
Sun

W B
W L

on left forearm

to be worked in Irons for repeatedly absconding
Samuel Jones

per York
Manchester errand boy

Large scar
across an eyebrow

Sun, moon
Man, woman
and birds
and stars
on left shoulder
on right shoulder

...

left forearm
per John
Chatham Baker’s Boy

Samuel Jones
Fair

hazel, hazel,

ruddy,

broad featured

2 Superintendent Maconochie to Colonial Secretary Edward Deas Thompson, August 3, 1842, NSRSW: NRS 905, [4/2620], 43/5271, “Return of Prisoners Recommended by Captain Maconochie For Their Exertions in Extinguishing a Fire at the Military Barracks at Norfolk Island.”


4 Joshua Hemlet Gregory, Soldier Diary. 1842, Manuscript, Kingston and Arthurs Vale Historic Area Museum, Norfolk Island; Documents and Depositions connected with the seizure of the “Governor Phillip,” October, 1842, SRNSW: NRS 905, [4/2583] 42/9460, R693; Norfolk Island Ordinance Office to Thompson, June 27, 1842, SRNSW: NRS 905, [4/2583.1], 42/7895, “Attempted seizure of the brig, Governor Philip, and R. v Sam Jones and others,” R693.

5 Documents and Depositions connected with the seizure of the “Governor Phillip,” October, 1842, SRNSW: NRS 905, [4/2583] 42/9460, R693

6 Ibid.

7 Ibid.; and Gregory, Diary.

8 George Oppen, Of Being Numerous, 1.

9 Depositions, The King v Samuel Jones, February 11, 1834, SRNSW: NRS 880 [SCT27], no. 22.

10 Ibid.


12 State Records NSW: Colonial Secretary; NRS 905, Main series of letters received. [4/2145] 32/4441 “Investigating Convict Ship John (3), 9th June 1832”.


14 Convict Indent, Jones per York, SRNSW: MF 682 033 905, 4/4017; Convict Indent, Hanlon, SRNSW: MF 696 037 907 x633; Convict Indent, Picket, SRNSW, MF 696 025 907 x633 (Pickett).
Gandevia, in a study of convict tattoo on boys arriving in three convict ships found 70% of unilateral letter and dot tattoos were found on the left hand or arm, suggesting self-inscription. See B. Gandevia, "Some Physical Characteristics, Including Pock Marks, Tattoos and Disabilities, of Convict Boys Transported to Australia from Britian c.1840," *Journal of Paediatrics and Child Health* 12, no. 1 (1976): 10-1.
Part 2. Bodily/Gender Disorder
In 1879 Police Senior Sergeant John Healey arrested Henry Ramsay and Robert Johnson in the coastal New South Wales town of Gerrigong on the charge of sodomy and, subsequently, brought the pair to the lockup in the larger neighbouring town of Kiama. After the officer of the law turned Robert Johnson over on his face, Dr John Caird, as the registered medical practitioner, examined Johnson’s anus. He reported

On separating his thighs behind I was struck with the peculiar smoothness of the part surrounding the anus and the complete absence of any hair. The contracting muscle of the anal opening (sphincter ani) was greatly wasted, and the usual corrugations in that neighbourhood had entirely disappeared. The trumpet-like depression often observed in cases of sodomy was fairly well marked. ¹

Caird’s report conforms to the forensic proofs of habituation to sodomy as set out by the principle European medical-forensic manuals of the era: A.S. Taylor’s Principles and Practice of Medical-Jurisprudence; Johann Lugwig Casper’s Handbook for the Practice of Forensic Medicine; and T.R. Beck & J.B. Beck’s Elements of Medical Jurisprudence.²

Consider its similarity to the formulation in Taylor’s Principles and Practice:

Unless an examination is made soon after the perpetration of the crime, the signs of it in the passive agent will disappear. In the case of one long habituated to these unnatural practices, certain changes have ben pointed out as medical proofs, among them a funnel-shaped state of parts between the nates,

¹ R. v Henry Ramsay and Robert Johnson, May 12, 1879, SRNSW: NRS880; [9/6637], no. 537.
with the appearance of dilation, stretching, or even a patulous state of the anus, and a destruction of
the folded or puckered state of the skin in this part.³

Three prime forensic proofs of sodomitical habituation in the case of the “pathic” set out here
are also identified as a forensic set by Casper and Beck & Beck: firstly (and the most broadly
accepted and most convincing proof), the smoothing of the wrinkles of the anal ring;
secondly, the smoothing of the general anal area; and, thirdly, the dilation of the sphincter
muscles. A contentious fourth proof (embraced by Casper and Taylor yet absent in Beck &
Beck and rejected in twentieth century edits of Taylor’s Principles and Practice) was the
presence of a “trumpet” or “funnel” shaped opening extending from the anal opening out
between the “wasted” nates (deterioration of the cheeks apparently caused by a degeneration
of buttock fat).⁴

Kenneth Borris, in the introduction to his important study of the early modern
sciences of what he terms “same-sexual” constitutions, argues that scholars have usually
relied on juridical and ecclesiastical discourses in their accounts of the history of sodomy,
thereby skewing their accounts towards analyses that conclude that sodomy was constructed
as simply a category of forbidden acts. Scholars, he argues, “focus on legal and theological
evidence, or cite prior such studies, and conclude that the only same-sexual acts or sins were
conceivable prior to some historical moment. But legal and theological standpoints were
necessarily acts-based anyway, for they were concerned to hold the sexual sinner or offended
responsible for a specific sex act, so that his or her attendant interiorities and personal traits

³ Taylor, Principles and Practice, 2:473.
were irrelevant and even dangerous distractions from the purposes of conviction.”\(^5\) While he, surprisingly, does not account for the vast body of scholarship in gender and sexuality in the early modern period and the eighteenth century that draw on literary representations of sodomy and sodomites, the main point in terms of the focus of juridical and ecclesiastical discourses is taken. Indeed, Foucault famously distinguished between the sodomite as merely a juridical subject and the homosexual as a personage (HoS, 43). Queer literary scholars such as Cameron McFarlane have significantly revised the idea that sodomites prior to the late nineteenth century did not occupy identity categories;\(^6\) and David Halperin has rejected interpretations of Foucault that suggest he is arguing there were no pre-homosexual identities of sexual difference.\(^7\) Nevertheless, queer studies of pre-modern types in relation to sodomy have overwhelmingly focused on literary texts (given most scholars on this subject come from this background this is unsurprising and reflects not a failing but rather a limit).\(^8\)

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Furthermore, when juridical texts have been studied their juridical evidence has been brief, or scholars come to the conclusion that juridical accounts of sodomy are purely oriented towards accounting for the act. In this chapter, therefore, I offer a new contribution to scholarship by closely reading the juridical (specifically the medical-forensic) record, which was submitted as evidence in support of three sodomy trials for the discursive tropes each contain. As I will demonstrate, these medical-forensic reports are dense with various grotesque tropes rather than simply objective description. Such tropes do not go as far as to delineate a species as such but do delineate the effect of sodomy according to a set of grotesque themes specifically in relation to the reported effects the act of sodomy had on the male body. Furthermore, I will position this tropic proto-typology in relation to emergent nineteenth century bourgeois male body politics.

As Mikael Bakhtin has it in his famous study of Rabelais and the carnivalesque, grotesque tropes signal an inversion of official culture; the rule of the early modern carnival


11 Ivan Crozier, “All Appearance Were Perfectly Natural: The Anus of the Sodomite in Nineteenth-Century Medical Discourse,” in *Body Parts*, ed. Christopher E. Forth and Ivan Crozier (Lanham, MD: Lexington Books, 2005);
inverts social rules and codes such as hierarchical social order, etiquette around interpersonal relations, eating and genres of speech (comedy as opposed to seriousness). Within this epochal shifting spirit of inversion the “material lower bodily statum” is by perverse cartwheel turned upside down (and downside up) and is transformed into a celebrated bodily region of high regard. For Bakhtin the anus is not insignificant. For example, Bakhtin reads Rabelais’s account of Gargantua using various objects as swabs, and argues that Rabelais’s depiction of Gargantua’s delight in his use of a neck of a “plump downy goose” as a “paragon arse-cloth” centres the anus in this act as the origin of pleasure; and, he further argues, conceptualises the movement of pleasure in this act as coursing *upwards* through the body from the bottom. As he puts it, “the physiological path of this delight [Gartangua’s use of the goose] is also shown: it is born in the anal region from the softness and warmth of the goose, makes its way up the rectum and the intestines, reaching the heart and then the brain.”

In this chapter I argue that the official culture of medical-forensic examination similarly conceptualises the act of sodomy as an inverted eroticism, though in such exams Rabelaisian comedy is excluded, yet the grotesque theme remains active and instead becomes a “carnivalesque” infliction on the sodomitical object. Instead of disinterested or distanced observations (as genuine medical professionalism would demand), the medical exams are informed by and produce their own grotesque tropes in order to describe the material effects

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of the act of sodomy on the male body. In this chapter I aim to show that sodomitical
reversals are present in nineteenth century medical knowledge.

British gay liberation historians Charles Upchurch and Sean Brady have, drawing on
different evidence, each demonstrated that Britain’s censorious hostility to European
sexology meant distribution of sexological theories and ideas were restricted in Britain,
leading to a much later dating for the introduction of sexological discourse into British
mainstream culture.15 Thus, they call for a revision to Foucault’s theory that in the late
nineteenth century the homosexual came to represent a typological formation with a case
history, a personage, a morphology and so forth. Upchurch calls for a “move beyond his
impressionistic and generalized narrative to better understand how ideas and discourses
influence individuals’ understandings of their own sexuality.”16 While this is an extremely
worthwhile project, it should be noted that Foucault is not so much describing a program by
which individuals came to understand themselves so much as a regime and technique of
power concomitant with the shift to bourgeois economic and cultural dominance.17 The terms
of resistance, from within and athwart discursive productions such as “sexuality” is central to
Foucault’s theory.

15 Charles Upchurch, Before Wilde: Sex between Men in Britain’s Age of Reform (Berkley: University of
California Press, 2009), 186-205; Sean Brady, Masculinity and Male Homosexuality in Britain, 1861-1913
(New York: Palgrave McMillian, 20056), 5-17, 127-30.

16 Upchurch, 187.

17 See Foucault’s point on “Rule of Tactical Polyvalence of Discourse.” HoS, 100-102. Foucault’s resistance to
identity, as Halperin notes, is palpable in interviews and, arguably, in the tone of much of his writing. Though, I
would argue, to focus on this is to engage a quibble rather than to take stock of and appreciate the more central
While Upchurch and Brady have shown that the censoriously phobic British culture prevented the publication of sexological discourse in Britain in the nineteenth century, the publication of Taylor’s codification of medical forensics in *Principles and Practice* evidences the emergence of bourgeois medicine as a rational, classificatory discourse, and its rhetorical construction of the effects of sodomy on the male body appear to align if not interface with contemporaneous sexological accounts. Thus, the dating for the emergence of public discourse in British culture can be observed at an earlier date that which Upchurch and Brady argue for. The “paradigm shift” of economic and cultural shifts to the bourgeois economic and political organisation, however unevenly this shift played out, remain fundamental to the emergence of sexual typologies. Rhetorical proto-typologies in nineteenth century medical-forensic manuals and within medical forensic trial reports and testimony support the case for the centrality of the “medical model” to the emergent regime of sexuality. Thus, it is possible to revise Foucault’s claim that the act of sodomy was unimportant to the technique of bourgeois “sexuality,” while maintaining his more central insight that the development of sexual typologies was a technique of bourgeois order. Sexology is but one of these discourses. In turn, by attending to the rhetorics that play out in medical-forensic examinations in the nineteenth century it is possible to track this shift within this particular discourse. In this chapter, therefore, I turn away from penal theories towards medical theories which in turn, as I will show, shifts my focus from disciplinary norms to bodily norms.

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(though the imbrication of penal theories and disciplinary norms with those under discussion will clearly remain present in the background).

Foucault famously demonstrated the centrality of typological discourse to the emergence of the homosexual type, as mentioned in the introduction to this thesis. As he has it, “homosexuality appears as one of the forms of sexuality when it was transposed from the practice of sodomy onto a kind of interior androgyne, a hermaphrodisism of the soul. The sodomite had been a temporary aberration; the homosexual was now a species” (HoS, 43). Here Foucault cites Westphal’s 1870 article on contrary sexual feeling as, somewhat in rough, the birthdate of the homosexual type. In order to frame my discussion in this chapter, it is compelling to note that within the European medical-juridical discourse of medical-forensics the act of sodomy is said to cause material effects upon the body which are represented according to a rhetorics very similar to that cited by Foucault as the leitmotif of early homosexual typology: “a kind of interior androgyne, a hermaphrodisism of the soul.” Johann Ludwig Casper, in his *Handbook for the Practice of Forensic Medicine*, translated into English in 1864, but published in German in 1860, explicates a typology of sorts under the heading of “Paederastia” (which he claims to be a “misnomer for this method of gratifying the sexual appetite between male individuals” as cases of reciprocal relations between adults are included). He gives a detailed series of “paederatic” types within his handbook ostensibly composed to identify the medical-forensic signs of the act. It is worth quoting Casper’s typology in full.

In most of those addicted to it, *this vice is hereditary*, and appears to be *a kind of mental hermaphroditism*. These parties have an actual disgust at any sexual connection with women, and their fancy delights in beautiful young men, and in their statues and pictures, with which they delight

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to surround themselves, and to decorate their apartments. In the case of others, on the contrary, this vice is an acquired one, the result of satiety of the natural sexual pleasures. And it is nothing unusual to find these, in their gross sensuality, alternating the two sexes!\textsuperscript{20}

Casper’s typeology is not quite that of a species as there are two types, one hereditary and the other an \textit{acquired} rake-like type. Furthermore, even in the case of the habituated, he describes them as addicted to the practice, which is a “vice,” and could read much like an orientation to alcoholism. Nevertheless, the “hereditary” nature of the “mental hermaphroditism” (not to mention the distaste for sex with women displaced onto a cultivated taste for representations and art works, which apparently decorate metropolitan apartments) maps \textit{almost} identically onto Foucault’s identification of the tropes of early homosexual typology, yet here occurs in a handbook dedicated to medical-forensic identification of the act. It could be argued, with good enough reason, that such discourse within Casper’s \textit{Handbook} may more accurately represent bleeding or cross-pollination from contemporaneous psychiatric or sexological discourses, especially considering Casper’s German context and, therefore, his proximity to Westphal. Instead, I here argue that Casper’s ideas drew on contemporaneous bourgeois ideas about classification and shifts to a system of alliance based on sexuality.

To begin with, compare Casper to the more disciplined, objective forensics in the authoritative British text on the subject, Taylor’s \textit{Principles and Practice}. Taylor, after a brief survey of British law surrounding the crime, begins his forensic description by making a distinction between “acute” cases and those “long habituated to these unnatural practices.”\textsuperscript{21} In the former acute case, if occurring recently, “fissure and laceration… bruising and effusion of blood” were the forensic signs.\textsuperscript{22} He gives no case examples for such “acute” cases. In

\textsuperscript{20} Casper, 333, emphasis added.


\textsuperscript{22} Taylor, 2:473.
terms of the habituation in the “patient or succubus,” however, the forensic signs are more complexly developed, and he cites the 1833 case of Eliza or Lavinia Edwards as a case example. On the purely forensic signs – that is, material rather than constitutional or typological – Taylor is, as we saw above, comprehensive. I quote them here again, certain changes have been pointed out as medical proofs, among them a funnel-shaped state of parts between the nates, with the appearance of dilation, stretching, or even a patulous state of the anus and a destruction of the folded or puckered state of the skin in this part.  

Taylor claims such appearances were said to be found, apparently exemplary in form, in the medical case of Eliza or Lavina Edwards, a gender transitive sex worker who was after death taken from a “low brothel” as an “unclaimed body,” and was found, while in the dissection room at Guy’s Hospital in London to be anatomically male rather than, as expected, female. 

An inquest was ordered at which Taylor was brought in as one of the medical professionals. 

Taylor’s discussion of this case as the sole case example he gives in order to substantiate cases of what he terms habituated “succubus[ses],” is worth quoting at length:

This person was found after death to be a man, although he had passed himself off in dress and habits during life as a woman. On an examination of the body there was strong evidence that he had been for many years addicted to unnatural habits. It was noticed by all present that the aperture of the anus was much wider and larger than natural. There was a slight protrusion and thickening of the mucous membrane at the margin. The rugae or folds of the skin which give the puckered appearance to the anal aperture had quite disappeared, so that this part resembled the labia of the female organs.

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23 Taylor, 2:473.
lining membrane was thickened at the verge of the anus and was in an ulcerated condition. The male organs had been drawn up and secured by a bandage bound round the lower part of the abdomen.  

This case history is more rhetorically loaded than being simply a case history that most adequately demonstrates the forensics. Here the medical proofs of sodomy, the changes said to occur in habituation to the act (notably revised out of twentieth century edits of Taylor’s text), are assimilated, through case example, into a rhetorics of material gender transitivity – apparently Edwards’s anal “part” comes to “resemble the labia.” It is as if, to use Foucault’s language, "a kind of interior androgyny, a hermaphroditism of the soul,” is discursively anticipated or imbricated with the discursive history of physical hermaphroditism, as the claimed effect upon the body of habituation to the act of sodomy.

The act of sodomy (specifically the medical-legal discursive relation to the act as a crime), for Foucault unimportant to the species forming typology of homosexuality, appears within Casper and Taylor as more tied up with emergent homosexual categorisation than Foucault might lead us to believe. The rhetorical tropes contained within medical-forensic testimonies in relation to the act are then an important source for understanding the intricacies of rhetorics informing emergent homosexual typology; the sodomitical sex act proves more interesting and rhetorically productive than the bare fact of anal penetration may seem. In light of this observation, in what follows I aim to show that the medical-forensic tropes of sodomy as evident in the medical-forensic evidence given in three significant nineteenth century sodomy trials cohere around grotesque tropes in relation to bourgeois male body politics (and clearly surpasses that of medical-juridical objective observation).

26 Taylor, Principles, 2:473.
In this chapter I will analyse the rhetorics contained in the medical-forensic evidence supporting state prosecution in three sodomy trials occurring in the late nineteenth century in the British imperial colony of New South Wales: *R. v Henry Ramsay and Robert Johnson* (1879); *R. v James Teece and Louis Calouze* (1882); & *R. v Mathew Johnson and Frank Quincey* (1879). I focus on these three cases as the medical examination and testimony are quite detailed in the record and survive in full. This evidence is significant as many nineteenth sodomy trial records in other jurisdictions such as in the UK were destroyed.27 Furthermore, each of these medical-forensic reports and testimonies were given in support of and used successfully in the prosecution of the crime of sodomy (that is, their evidence substantiated the juridical truth of the criminal act of sodomy). Further, in two of the reports, *R. v Henry Ramsay and Robert Johnson* (1879) and *R. v Mathew Johnson and Frank Quincey* (1879), the signs of habituation to sodomy observed conform to contemporaneous European forensic diagnostics. By my count twenty-five medical testimonies were given by registered physicians in the extant record of nineteenth century sodomy cases in New South Wales, representing a small percentage of total cases yet nonetheless a significant body of work and demonstrative of emergent medical-juridical knowledge (and further knowledge production) in the colony about the supposed effects of the crime on the body.28 Without totally


28 In “Pathologising White Male Sexuality in Late Nineteenth-Century Australia through the Medical Prism of Excess and Constraint,” Lisa Featherstone finds that few studies of sodomy or homosexuality in the vein of European sexology existed in the colonies and, therefore, concludes that such public silence indicates a situation of general lack of knowledge about sodomy in the colony. Surprisingly, notions of the “open secret,” notably theorised in relation to the history of sexuality, or greater strictness in regards to public mention of “the crime not to be mentioned amongst Christians” are absent from Featherstone’s analysis. If only the doctors analysed here had been silent. See Featherstone, “Pathologising,” *Australian Historical Studies* 41, no. 3 (2010): 337–351.
neglecting examination of penises, I pay particular attention to the examination of anuses as this was the site which had the most developed diagnostic forensics, and, where these forensic signs were said to be present, was cited as the most reliable proof and, therefore, the most routinely examined site in the course of seeking to prove the commission of sodomy.\(^{29}\)

In order to further proceed with our analysis of the discursive and political significance of these documents we must first engage in a theoretical discussion of emergent bourgeois body politics which were developing and rising to political dominance during the late nineteenth century; in other words, the politics that informed the culmination of the shift from a system of alliance to one of sexuality (this culmination was evident in the late nineteenth century rise of bourgeois political dominance in Britain\(^{30}\)).

Thomas King theorises that the transition from the system of alliance to one of sexuality traces what he terms the “gendering of men.”\(^{31}\) That is, the development, over the historical course of this paradigm shift (begun in the early modern period), of male gender as a universally available category. In the prior courtly social organisation of the system of

\(^{29}\) Examination for signs of sodomitical use of the anus were also carried out on convicts by surgeons in the convict colonies, such as the inspection of probationary prisoners at Wedge Bay by Dr Black, or the incident on 2 Jan 1847 where at Norfolk Island the convicts were apparently mustered and sent to the police office where each man was stripped and instructed to bend over so Dr Everett could make his examination. This history, while compelling, is beyond our scope here as the practice is one of screening rather than forensic investigation. See Timothy Causer, “‘Only a Place Fit for Angels and Eagles’: The Norfolk Island Penal Settlement, 1825-1855” (PhD diss., University of London, 2010), 275.


\(^{31}\) King, *English Phallus*; and *Queer Articulations*. 
alliance, King shows, male gender was not a category of privileges available across divisions of (principally) age and class. That is, male bodies were placed within a patriarchal system of super- and sub-ordination were males of differing ranks were available for ownership, and status was structured according to networks of aristocratic favour in relation to the crown. King terms this a structure of “pederastic subjection.” Such (eroticised) dependencies were represented by emergent bourgeois norms as an abuse of the emergent “natural” category of manliness (a newly universally available category), and came to be seen as an abuse of men’s privacy and of their “property in themselves.” Thus, for King, such shifts saw representational practices transform so that “erotic vulnerability and dependency [was placed at] at an increasing distance from adult male bodies.” Furthermore, King convincingly demonstrates that such gendering maps onto the expansion of the private domestic sphere in so far as male body politics also came to embody “anxiety about the invasion of its borders and the loss of its always tentatively held privacy.” Lee Edelman, in his discussion of the eighteenth century text, Satan’s Harvest Home, similarly theorises about emergent bourgeois norms in relation to the development of what he terms the body of the “middle class gentlemen.” These body politics are, for Edelman, representative of a phobically charged power structure oriented towards, in its close proximity to ideals of autonomy, interiority and “inalienable economic property in himself,” a powerful, unspeakable, injunction against the penetrability of the bourgeois male body. Significantly for our discussion here ideals of

32 King, English Phallus, 50.
33 King, 5.
34 King, Queer Articulations, 155.
35 King, 155.
male impenetrability map across both King’s and Edelman’s theories as important to emergent bourgeois male body politics.

Additionally, as is also significant to our discussion here, the gendered bourgeois male body as King and Edelman have it, roughly maps onto what Mikhail Bakhtin terms the body of the “new canon,” a body oriented towards closure (impenetrability), self-sufficiency and proper (right way up) order, a singular body of the individuated bourgeois ego. As he phrases it, the bourgeois male body was emblematised as being “severed from the other spheres of life.” Ann Jefferson articulates Bakhtin’s concept of the bourgeois male body as “a completed entity sealed off both from the world which is its context and from other bodies.” The notion of a separated and sealed off ideal body points towards notions of male impenetrability that are important to understanding the cultural politics around male sodomy in the nineteenth century. Of further importance to our discussion here, Bakhtin reads Rabelais as articulating what he terms the grotesque image of the body, or the material bodily lower stratum, as a central element of a comically energetic and epochal shifting ethics of the folk carnival. The grotesque tropes of the lower bodily stratum – defecation, copulation and ingurgitation (pleasures that that occur at the verges of the body) – connect the body with that which is outside of its individuated “bourgeois ego.” In such a tradition, a tradition for Bakhtin of the people rather than of official power, “the bodily hierarchy [is] turned upside down” making a travesty of political power by upending its social solidification. In Bakhtin’s words, “the grotesque conception of the body is interwoven not only with the

37 Bakhtin, Rabelais, 303-436, esp. 322.
38 Bakhtin, 19.
40 Bakhtin, Rabelais, 309.
cosmic but also with the social, utopian, and historic theme, and above all with the theme of the change of epochs and the renewal of culture."\textsuperscript{41} Bakhtin’s analysis of body politics and bodily order and its relation to emergent bourgeois body politics as put by King and Edelman provides a cultural and rhetorical frame through which I will, in turn, read and interpret the political significance of tropes within nineteenth century sodomy trial medical testimonies.

In this chapter I aim to demonstrate that the rhetorics of the recorded signs of the act of sodomy upon the male body (politic), as evident in such testimonies cohere (though they also specify in compelling ways that we will get to below) around tropes of the grotesque image of the body. If such grotesque tropes map onto – as antithesis – emergent bourgeois male body politics, the effect of the act as represented within juridical discourse may be more important to understanding the relation of the act of sodomy to emergent bourgeois politics than Foucault suggests. By showing the intricacies of the tropes of juridical-medical discourse in relation to the act of sodomy I aim to offer analysis of the substance of these tropes in the context of bourgeois male body politics.

\textit{Smooth and Hairless}

I would now like to return to the medical examination mentioned in the opening to this chapter which was performed at the Kiama lockup on Robert Johnson’s backside. I will consider the central rhetorics of this report, which, I aim to show, cohere around a grotesque trope of “smoothness.” Dr Caird reported that after he separated Johnson’s thighs he was

\textsuperscript{41} Bakhtin, 325.
“struck” by the “peculiar smoothness of the part surrounding the anus.”\textsuperscript{42} Here Caird is not (yet) referring to hairlessness, but rather to the principle proof established in nineteenth century medical-forensic texts as seen above: the smoothing of the naturally wrinkled ring. Caird does report that alongside this sphincteral wrinkle smoothing there was a “complete absence of hair.”\textsuperscript{43} Here depilatory agent and muscular wastage share their source in sodomitical habituation. In terms of muscular wasteage, consider Caird’s detailed description of the condition of Johnson’s anus: “the contracting muscle of the anal opening (sphincter ani) was greatly wasted, and the usual corrugations in that neighbourhood has entirely disappeared.” “Waste,” as not the product of the anus, but the effect of improper use of the anus, appears to connote muscular deterioration within the ambit of “misuse” or “misspent,” as in a misused afternoon or misspent wages. Muscular deterioration is the obvious primary signified of “waste,” said to have caused a smoothing of the “usual corrugations.”

In terms of hairlessness as a cause of sodomitical activity, hair removal is not said to be the effect of aesthetic maintenance but, rather, caused by the deteriorating and teleological effeminising effects of the sodomitical act. Segal, in her discussion of the classical Greek form of pederastic subjection, cites the marker of facial hair as a principle distinction which

\textsuperscript{42} R. v Ramsay and Johnson, May 12, 1879. Compellingly, as George Rousseau notes, the forensic proof of a smoothing of the ring is cited by Zacchia in his 1620 forensic text, \textit{Questiones Medicale Legale}, a significant source, according to Rousseau, for mid-nineteenth century French sexologists, such as Tardiue. The persistence of Zacchia’s forensics in nineteenth century text would require a more diachronic and comparative approach, which is beyond my scope and present knowledge. On the surface of things, however, the congruence is startling. Consider the syntax of the following: “the condition of the anus will be able to indicate the much more frequent practice of such very abominable coitus, which is made smooth and flat from such a union, although it is wrinkled naturally” (cited in Rousseau, “Policing,” 80, emphasis added).

would ensure the proper pederastic hierarchy between a boy and a man (rather than between 
men). She states that, “the importance of the beard which is stressed in other cultural contexts 
too, marks in some views the point where the quasi-feminine body of a young boy becomes 
too masculine to be attractive.” If such understandings of classical pederastic precepts track 
to our context, it follows that hairlessness on the rear acts to cite this pederastic tradition 
(which had become unacceptable to bourgeois cultural norms), as well as, relatedly, citing 
sodomy’s effeminizing, teleologically reversing effects on the body. That is, as King argues, 
the unacceptable subordinate status of one male body under another – whether same or 
differently aged – within the emergent bourgeois male body politic.

Bakhtin’s grotesque, in its transformative and epochal shifting spirit, contains both 
life and death in its representations, paradigmatically present in what he terms the “image of 
pregnant death.” Typical motifs of pregnant death, he argues, include images of the gaping 
jaws of hell mouths or hell holes. A similar operation, I argue, is at play here in nineteenth 
century medical-forensic descriptions of the sodomitical anus. As effects of sodomitical 
activity, youth and decay coexist in Caird’s report in the supposed appearance of 
“smoothness” as signs of both youthful hairlessness and the decay of muscular waste. 
Alignment with death is emphasised in cross examination of Caird, where the doctor appears 
to be questioned on the validity of the dilated anus as signifying habituation to sodomy. Here 
Caird claims that the anus had not been “eaten away” – citing notions of the other gaping jaw 
and anilingual ingestion – “as by cancer or tumour” (cancerous “eating” metaphors also cite 
the grotesquity of hellish jaws of death). Caird, nonetheless, continues to affirm that

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45 King, English Phallus, esp. 22.
46 Bakhtin, Rabelais, 352.
47 Manning, Judge’s Notebook, May 13, 1879, 90.
“general debility,” “senile decay” and “Time,” which may well be the cause of similar effects were not, in this case, the cause. The pseudo-science of sodomitical wastage rhetorically aligns decay and debility as self-same effects on the sphincter and buttock region to that of sodomitical use. Yet, in the case of sodomy (rather than death rot) waste is the effect of increased use, ability and, if you will, life.

As numerous scholars have noted, sodomy has throughout its history as a proscribed crime in secular English law been marked by edicts of censorship due to the supposed contaminating effects of even simple linguistic mention; what Edelman terms the cultural fear of the “infectious indecency” of sodomitical relations. The reproductive or life giving potentiality of sodomy’s apparently seductive presence is negatively emphasised by such a cultural bar on public discussion. On the side of death, of course, the crime is marked not only by censorship but, throughout most of the nineteenth century, by the death penalty – a legal injunction that, even if rarely applied, ties the act to the state’s right to inflict death on its citizens. The life, the birth, of sodomy is resolved in the death of state sanction. If anal penetration stands as the archetypical sodomitical act (according to English law anal penetration is the fundamental proof needed) the effects of such an act on the male body appear to, interestingly, rhetorically contain life and death in the medical-forensic proof of smoothness of the naturally wrinkled ring. Moreover, the smooth sphincter rhetorically places the male body within the grotesque paradoxes of “pregnant death”; that is, within the paradoxes of old age and youth, of wastage and activity, rather than the austere and lifeless ideal of a tightly wrinkled ring. Such a grotesque image, while surely not a species in a constitutional sense, extends well beyond an idea of a purely legal-medical discourse. A proto-typological trope is found in the cohabitation of life and death in the sodomitical anus

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marked by “smoothness” – both in the absence of rectal hair as signs of manly maturity and the absence of sphincteric winkles as signs of youthful muscular clench.

Doctor Marsden’s Finger

Now let us turn to the medical examination provided in support of *R. v James Teece and Louis Calouze (1882)*. In 1882 at about 11 o’clock at night James Teece and Louis Calouze were arrested near a “small plantation” in Hyde Park “in the act of moving while lying down.”49 The arresting constables charged the pair with the capital crime of sodomy. At Sydney’s Central Police Station, some minutes later, Charles George Wilson Marsden, a “legally qualified Medical Practitioner” examined the pair. Consider the following extract from Marsden’s testimony:

On examining Teece’s anus I found it considerably red and irritated and on inserting my forefinger up his rectum I found that my finger passed up pretty easily, on withdrawing my finger I found it covered with a fluid resembling semen50

Significantly, this sentence from Marsden’s witness statement follows a somewhat formulaic syntactical structure in that it is formed around three instances of “I found,” discursively conforming to a medical-forensic lexicon of scientific and legal proof. That is, Marsden is reporting his medical findings to the court. Interestingly, however, the object of Marsden’s investigative self, the object of his medical “I,” shifts.

At first, after establishing that he is relating his examination of Teece’s anus, Marsden states that “I found it considerably red and irritated.” The object – “it” – is, appropriately


50 *R. v Calouze and Teece, May 8, 1882, 6.*
within the context, Teece’s anus. After the use of “and,” which here seems to be used in the sense of introducing a consequence, the direct object of Marsden’s investigative “I” becomes (albeit somewhat incompletely) himself, or rather more specifically a part of himself which he reflects upon: “I found that my finger.” Significantly, this occurs after (in the construction of the sentence and his relation of his past activities in a sequential timeline) Marsden inserted his forefinger inside of Teece’s rectum. While mediated through the requirements of medical investigation, Marsden, by inserting his finger into Teece’s rectal cavity, appears to metonymically (forefinger for phallus) repeat sodomitical commission. What’s more, after this anal insertion Marsden no longer reports on the characteristics of Teece’s anus but rather on the quality of his forefinger’s experience, which he reports as requiring less exertion than might have been expected: “passed up pretty easily.” The (superfluous) use of “pretty” as an adverb qualifies, rather than adjectivally describes, the “ease” Marsden experienced. “Ease” is, similarly, and curiously, expressed adverbially creating an abundance of descriptive activity to describe the act of Marsden’s finger’s insertion into Teece’s anus. If it is true, as Edelman theorises, that sodomy, for bourgeois culture, represents an “assault upon the logic of social discourse,” then it is unsurprising that Marsden’s relation of his encounter struggles to maintain the logic of its medical-forensic discourse, that is, a relating of facts from a position of “objective” distance. Marsden’s proper relation to his object – to Teece’s anus and the forensics signs of sodomitical commission – begins to undo.

Furthermore, after withdrawing, Marsden again repeats the initial medical-juridical formulation of “I found it,” this time (by now), however, the object, the “it” of his medical reportage (findings) has completely shifted (if before an imperfect or stuttered shift) from Teece’s anus to Marsden’s own finger/phallus, which is now covered with what he presumes

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to be semen. It is as if Marsden here encounters his imbrication in the sodomitical act despite the conflicting professional requirements of objectivity in the practice of forensic medicine. Taken aback, he can no longer look at the anus in question but becomes focused on his (finger’s) experience. The seduction of sodomitical involvement, and its destabilising influence on discursive stability, here the stability of juridical proof, appears to have encompassed Marsden, who fails to maintain objective distance and discursive stability. That is, he fails to maintain the requirements of medical-scientific record and fact finding. (We must now make inferences from his evidence in order to come to any conclusion about Teece’s anus and the commission of the crime of sodomy). Criminal testimony, of course, relies heavily on the linguistic proof of the word and its syntactical construction, especially in the case of the sworn in expert.

Haggerty analyses the famous sodomitical scene in John Cleland’s 1748 Memoirs of a Woman of Pleasure and argues that its narrative constructs the sodomitical scene as threatening to the structure of the symbolic order itself which was, therefore, in Cleland’s narrative, mediated by the (albeit eroticising) distance of the scopic device of the keyhole. In the context of medical-forensic testimony in unpublished court record some one hundred years later all distance (and ostensible distancing protection) is undermined by the demands of the juridical system in its orientation towards extracting objective proof. It is in this context that Marsden is drawn into the bodily signs of the sodomitical act as investigator (and, ironically, again, during investigation, as sodomitical investigator), that he encounters the logical disruptions of sodomy.

On the other hand, as a legal proof Marsden’s testimony is nothing if but to the point: redness and irritation, as the initial, visual, markers suggest improper use; tactile proof is

52 Haggerty, “Keyhole Testimony,” 167-82.
established through verification of a dilated sphincter; and conclusive proof, as far as medical examination can go, is established through the both tactile and visual proof of Marsden’s analysis of the fluid which covered his finger after withdrawing it from Teece’s rectum. For conviction of the capital crime of sodomy proof of penetration was needed, a legal requirement that throughout the nineteenth century made conviction for sodomy notoriously difficult. Prior to the 1828 Offenses Against the Person Act (9 George IV, c. 31), as discussed in chapters one and two, the law required proof of emission of seed in addition to that of penetration, making prosecution even more difficult. Ed Cohen analyses this legal shift as a move away from religious and moral dictates to more secularised normative standards of individual behaviour. In other words, seminal placement, which was important to religious injunctions on nonprocreative behaviour, became unimportant to secularised nineteenth century normativity. In Marsden’s medical testimony in support of prosecution of Teece, semen acts as an additional corroborating proof of sodomitical commission, rather than an essential element in the juridical proof. However, the fact that both parties were found guilty of the capital crime (a very rare occurrence, especially considering neither party acted as a prosecutor in the case nor was it a case of abuse of minors, violent assault or rape), demonstrates seminal presence was an enduring matter of importance to nineteenth century

54 Cohen, 117-8.
55 In the jurisdiction of New South Wales (inclusive of Norfolk Island until 1844) of the 582 cases of sodomitical crimes occurring between 1800 and 1899 which Peter de Waal documents in his compendium of transcriptions of the recorded unnatural crimes and related offenses tried in supreme, quarter session and police courts (courts of petty sessions), only forty-seven convictions for the capital crime of sodomy are recorded. See de Waal, Unfit.
medical jurisprudence and the norms which undergird such law. Marsden, furthermore, also examined Calouze at the lock up,

I examined the prisoner Calouze and I found on the lower and front portion of his shirt a large moist patch. On examining his penis I found the glans penis considerably congested and covered with semen and semen was oozing out of the urethra.\textsuperscript{56}

Again, we seem to have a doubling. The tip (glans) of Colouze’s penis, like Marsden’s fingertip, is reported to have been “covered with semen” echoing Marsden’s report on his forefinger tip as being “covered in fluid.” While perhaps coincidental, the syntactic repetition of “covered in/with” is curious. In any case, it is worth considering for a moment Marsden’s use of the forefinger as, indeed, the most dextrous finger and therefore the most usual choice for inspection, but also as the most sensate of that most tactically sensate part of the body: the fingertip. The part that, conventionally, touches. That other most sensate tip, of course, the glans/clit, in Calouze’s case the glans, is said to appear in three ways connected with semen: firstly, “congested,” suggesting an excess of internal seminal presence; secondly, “covered with semen,” suggesting an excess of external seminal presence; and, thirdly, “semen was oozing out of the urethra,” suggesting an excess of seminal flow. Furthermore, within Marden’s testimony, considered in full, we have, by my count, two orifices: Teece’s anus and Calouze’s urethra, presumably recently in contact with each other and each displaying the bodily effects of this contact.

Thus, Marsden’s report contains a paradigmatic image of the grotesque body: the orifice that oozes and the anus that doubles as urethra in its excretion of semen. That is, the open, leaky and doubly penetrated (once by Calouze and repeated by Marsden) body. If we take Bakhtin’s proposition on the grotesque carnival seriously, that “confines between the

\textsuperscript{56} R. v Calouze and Teece, May 8, 1882, 7.
body and world and between separated bodies are drawn in the grotesque genre quite
differently than in the classic and naturalist images” and that “outward and inward features
are often merged into one,” what we appear to have is an open and double body, if not plural
bodies. 57 Within Marsden’s testimony linguistic subject-object divisions dissolve both in his
rhetorical construction of the signs of sodomy and within his own authorial self: divisions
between bodies, and taxonomical divisions of organic parts into their proper function and
organics dissolve.

Rather than a singular and impenetrable body of the ideal bourgeois male body
politic, here in the nineteenth century New South Wales medical testimony the plural and
ambivalently penetrable (loose and oozing) potentiality of the male body is represented.
Thus, semen remains important to bourgeois normativity – not so much due to residual
religious edicts on reproduction but due to ideal notions of an autonomous and sealed off
male body. Such excesses of semen produced through the penetrating act of sodomy appear
to cite both the conjoining act of sodomy and male penetrability made real (both materially
and discursively) by the act of sodomy. Male semen has not simply emanated onto, over or
into the subordinate object (edifying impenetrability through outwards movement and
incursion), but is seen to circulate between (into and, backwards, out of) sodomitically
culpable male bodies.

Grotesque tropes, in their antithesis to bourgeois male bodily ideals, on the most
elemental level elaborate the legibility of the supposed signs of commission of unnatural
crime. That is, they rhetorically support and even embellish upon the case in support of the
application of sodomy law. On another level it seems that nineteenth century juridical
examinations sadistically participate in the grotesque carnival through its deathly serious and

57 Bakhtin, Rabelais, 315, 318.
Sodomy Re/verse 269

ostensibly objectively distancing genre. Rather than the comic literature of Rabelais, we have the wholly explicit but deathly serious medical testimony; and rather than the participatory folk festival we have the medical exam and the juridical force of hetero-dominant law (the presiding justice, Joseph George Long Innes, found both Teece and Calouze guilty of “buggery” and sentenced them both to have death recorded against their names and to be imprisoned with hard labour; Teece was to serve three years hard labour at Parramatta Goal while Calouze was to serve eight on road gangs while imprisoned at Berrima Goal). 58

Quincey’s Ring; A Cauliflower

Now let us turn to the third case, the examinations submitted in R. v Fran[ cis] 59 Quincey and Mathe w Johnson (1879). In the case two doctors were brought in to examine: Dr Way who claimed in his testimony that his experience was “very limited,” and Dr Egan, who was brought in four days later seemingly for his expertise (Egan’s experience appears to be specialised as the physician was brought in, according to the extant record, on at least seven separate sodomy cases). 60 Both Way and Egan performed inspections solely on Quincey’s anus, the alleged receptive party in the act. Let us begin by considering, in turn, Dr Way’s and Dr Egan’s material observations before discussing the conclusions they came to:


59 Francis was abbreviated to “Frank” in many of the court and prison documentations; I, however, remain faithful to the longer, more gender ambiguous (less frank), version.

60 Justice William Charles Windeyer, Judge’s Notebook, R. v Matthew Johnson and Frank Quincey, alias Wilson, August 11, 1879, SRNSW: NRS7851, [2/7384], 8-18.
movement of its body (rather than just its foreign contents) as well as relaxation as a sign of allowed inwards foreign movement.

Such depictions again align with Bakhtin’s identification of grotesque tropes, here of the characteristic logic of the grotesque which he describes as the “peculiar logic of the ‘inside out’ (a la envers), of the ‘turnabout,’ of a continual shifting from top to bottom, from front to rear, of numerous parodies and travesties.”

63 Let us consider the syntactical organisation of Dr Egan’s testimony in more detail, which, I argue, further elaborates on a rhetorics of improper directional movement in and out of the anal passage. Egan described the condition of Quincey’s anus, firstly, by using the descriptor of “distension,” followed by, in the same sentence, “flaccidity.” The outward moving activity of distention – as discussed above, an active hyperbolic rhetoric – is followed by the widening maw of lax condition, a rhetoric of passive minimisation (it is only the space of the hole that becomes bigger through flaccid relaxation). All proper muscular use and relaxation of the anal organ is “turnabout,” only serving to signify the “turnabout” directional passage through the anal canal. That is, relaxation is the sign of inwards penetration, rather than content expulsions; and muscular activation signifies an outwards, and increasingly visible, movement of the part, rather than a retraction and tightening of the part to ensure contents be kept in.

Edelman, through reading a scene of Cleland’s in Memoirs of a Woman of Pleasure, where a young man caught in the act of sodomy and is described as being like “his mother behind,” theorises that sodomites, in this context, pose a confusion to the “binary logic of before and behind.”

64 For Edelman whether his rear is like his mother’s behind, or like his mother’s front, (neither of which is clear in the phrasing of like “his mother behind”) undoes

63 Bakhtin, Rabelais, 317-8.

64 Edelman, “Sodomite’s Tongue,” 184.
the conventional logic. Egan’s repetitive descriptions of Quincey’s anus appear to cite a similarly inverted rhetoric – here directional rather than positional, though clearly interfacing with Quincey’s alleged positionality. If such a paradox begins to crystallise through Egan’s use of “distension” and “flaccidity,” Egan then proceeds to redescribe the situation as being in a state of “no contractibility.” Egan, it seems, must requalify the paradox of the “turnabout” in terms of a negative ability to contract (how he establishes such inability is not contained within his testimony). The sodomitically indicative register of gape – outwards muscular expansion paired with inwards moving relaxation – is resolved by a return to the “proper” function of the ring: to contract and hold its contents in. The prior directional registers of distension and flaccidity, and muscular control in the valences of the anal opening, are lost to the narrative closure of the inability to effect proper anal closure (the grotesque paradoxes of the anal abilities of reversed strain and relaxation are erased).

Once the anal ring is defined according to rhetorics of first, expansion, then falling, and then its inability to suck back up, the bumpy ring around the anal ring is represented, I argue, according to a rhetoric of doubled outwards movement. To begin with, a “warty excrescence,” itself something of tautology since warts are excrecent growths, is said to surround the anus. Moreover, there is an “inside this,” which presumably refers to inside the warty ring but not quite of the anal ring itself yet, nevertheless, “inside.” For Bakhtin a central trope of the grotesque body hinges on the image of the gaping jaws, as representative of the open rather than impenetrable body and the ambivalent coexistence of sexual intercourse, childbirth and the throes of death. Bakhtin identifies the open body with conventional tropes of, significantly for us here, hell mouths, hell holes and Satan (that which eats and lets forth Hellish residents up onto the earth; that is, entrance and exit).65 The

65 Bakhtin, Rabelais, 337, 339, 348.
recurrence of hell as a sodomitical trope aligns with what Bakhtin describes as the inside out and upside down order of Hell (where, as Bakhtin has it, “men are paid not for working but for sleeping”\textsuperscript{66}). In the case of the medical forensic testimony relating to examination of Quincey we have a gaping jaw ringed with its own monstrous double, an inside to the warty ring that surrounds the anal ring. Disease (death) is born of sodomitical activity, yet also, as we saw above, such activity threatens with further reproduction of sodomitical activity.

Within this ring exists further outward movement in the inflamed spot, papule, pustules or some such perturbance that “erupts” from within, doubling the pussy threat (or release) every pimple poses. If, as Dante Alighieri would have it, the bodily sins of the circles of hell ring the hell mouth, it is as if here we find a microcosmic allegory in the concentric circles of the anal ring and its outer rings (appearing to again multiply its circles via pulse – swallow, expel – in the valences of, as mentioned above, distention and flaccidity).\textsuperscript{67} If it may, on the surface of things, be easy to interpret juridical views on sodomy as purely victimising – defining, as theorists such as Haggerty note, sodomy as an axiomatic assault – it is worth taking stock of the more complex “assaulting” rhetorics contained here.\textsuperscript{68}

Way’s medical description of Quincey’s anus occurs in a passage that is itself extremely difficult to decipher from Justice Windeyer’s notebook record of the court proceedings due to the graphic disarray that characterises this particular moment of note taking. I quote the passage here in full, including indications of the words that remain indecipherable:

\textsuperscript{66} Bakhtin, \textit{Rabelais}, 338.


\textsuperscript{68} Haggerty, “Keyhole Testimony,” 169-70.
I then examined his fundament & found the anus very dilatable, surrounding parts ___ tumulus ___ __ of a cauliflower ____ anus flaccid, these appearances indicative of disease. The result of irritation, perhaps of syphilis. My experience is very limited, but I should say if you wish for an opinion of an anus that had been abused that was that anus.69

What I want to pay particular attention to is Way’s representation of the appearance of the surrounding parts as “of a cauliflower.” What Bakhtin identifies as the grotesque trope of the “combination of human and animal forms” is here found in the combination of human and floral forms.70 While the cauliflower appearance is said to be a disease, the diagnostic origin of the appearance is attributed as much to contagious infection as to misuse. Dr Way gives a diagnosis of the disease as being a “result of irritation, perhaps of syphilis.” He represents the condition of Quincey’s anus as an effect of anal irritation or (and), concomitantly, bacterial infection. As Bersani’s argues, “the realities of syphilis in the nineteenth century and of AIDS today [1987] ‘legitimate’ a fantasy of female sexuality as intrinsically diseased; and promiscuity in this fantasy, far from merely increasing the risk of infection, is the sign of infection.”71 Such a fantasy appears to inform Way’s diagnosis of the disease as a product of irritation. Way elaborates on this idea in his concluding diagnostic statement on Quincey, “I should say if you wish for an opinion of an anus that had been abused that was that anus.”72

The totality of Way’s observations seems to suggest a paradigmatic diagnosis for “an anus that had been abused.”

While it may be tempting to read humanitarian concern for violent or un-consensual treatment of Quincey and his anus by another as the topic of Way’s conclusion, the sentence

69 Windeyer’s Notebook, August 11, 1879, 15.

70 Bakhtin, Rabelais, 316


72 Windeyer’s Notebook, August 11, 1879, 15.
just as easily reads as if Quincey has been abusing his own anus, especially considering the linguistic objectivity given to the anus, which seems to float as a near amputated object. Abuse here seems to refer more accurately to improper use rather than non-consensual use. As the OED defines “abuse” in the sense listed as first, “Improper usage; a corrupt practice or custom; esp. one that has become chronic.” The sense of abusing alcohol or drugs, that is the destructive and compulsive use of psychologically altering and otherwise pleasurable substances, may also be more a more accurate interpretation of Way’s description of “an anus that had been abused.” Contemporaneous descriptions of sodomitical activity as an addiction, such as discussed in chapter one, support such a reading. Here the male anus, as a site of erotic pleasure, has been abused, not so much by a habitual sodomite as by habitual sodomisation. Pathologized as such, markers of disease are read as effects of pathological misuse as much as a sign of common bacterial infection.

Egan also concluded that the appearance of Quincey’s anus indicated that “the anus has been used for unnatural purposes – that he was addicted to unnatural practices.” In cross examination, Egan is recorded as stating “not caused by piles” suggesting the appearance was inferred by the defence lawyer to have been caused by haemorrhoids rather than a venereal disease. The exact appearance and cause of Quincey’s cauliflower is elusive. Nonetheless, like the contemporary act of “rosebuding” (the sexual act of distending the rectal walls), the metaphor of “cauliflower” suggests a floral approximation of an “unnatural” appearance caused by improper application of the organ. Here we have, following Bakhtin, the


75 Windeyer’s Notebook, August 11, 1879, 14.
A similar confusion and medicalisation persists in contemporary accounts of sodomitical rosebudding (the act of making an anal rosebud). A simple google search for “anal rosebud,” for example, will yield the “corrected” search result of “rectal prolapse,” and list the entries on rectal prolapse from the medical advice website, mayoclinic.org and Wikipedia. Furthermore, populist youth journal *Vice Magazine* published an article by Michelle Lhooq, “Extreme Anal Porn's Shitty Consequences: What it takes to make a rosebud—the sex act that involves your rectum falling out of your butthole.”

76 The content of the article fails to venture beyond anecdotal interview and generalised conclusion but, 

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similarly to the medical exams under analysis here, conflates registers of “falling” and muscular distension. That is, Lhooq, like medical examiners, conflates purposeful pornographic muscular activation and display of the rectal wall with the muscular atrophy of prolapse. Consequently, Lhooq reads the sex act of rosebudding as, in her words, “in fact” caused by anal prolapse which is according to her analysis “a medical condition.”77 Sex act is read as a directional travesty which is further pathologized as being, in truth, a medical condition. “Self-inflicted anal prolapses,” Lhooq writes, “are extremely risky… bowel problems are a common side effect of repeated rosebud scenes…. Rectal surgery, typically reserved for the elderly, is the only medical solution for plugging up a leaking ass.”78 The language of medical diagnoses predominates her article. Active registers of “reversed” muscular activation and relaxation are erased in favour of passive, pathologizing effects. In both nineteenth century medical forensics and in such contemporary popular discourse the sodomitically used anus and its improper directional movement is pathologized as medical condition.

As Edelman has it the bourgeois male body held a fiercely defended anxiety about penetrability and the “alienability of selfhood.”79 Quincey’s anus serves as sign of an abused anus; that is, a sodomitically used anus. Thus figured as a directional travesty in contrast to “natural” directionality, the sodomitical anus threatens the seemingly untenable (and perhaps, therefore, so fiercely defended) unalienable bourgeois male bodily self. The signs of sodomitical activity are read, therefore, as disease; and if disease is what is witnessed its presence is seen as an effect of sodomitical activity. If it is true, as Bakhtin argues, that the grotesque genre is marked by a representation of a body that surpasses its own limits and its

77 Lhooq.
78 Lhooq.
division from the world, it follows that the metaphoric representation of Quincey’s anus as an efflorescent cluster surpasses the limits between the male body and the plant kingdom. If the autonomy and self-sufficiency of the male body were so important to the solidification and political dominance of bourgeois norms, such a rhetorics of open connectivity and imbrication with others – with the low life forms of plants – appears to structurally demand severance from the social body, here made real by state imprisonment. In other words, the penetrated male anus represents not only the fact of male penetrability but the effect of this transgression as a catalyst, at least rhetorically, to further transgressions of organic division, proving in turn untenable to the rigidly defended cultivation of bourgeois manliness structured by a requisite autonomy from all things “outside” its “self.” Sodomy trials, in their very nature, work to highlight the possibilities of male penetrability, and must contend with the possibility that some men willingly “submit” to penetration and even derive pleasure from the act. The rhetorics of grotesque bodies situated between floral and human form are mobilised within the genre of juridical forensics with deathly serious consequences; all Bakhtinian comedy and joyful participation is abrogated and instead transferred into punitive participation played out in examination, interpretation and sentencing.

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The medical model as an emergent technique of bourgeois social order appears to be imbricated within additional discursive fields to that of sexology. In the medical-forensic field this proto-typological discourse, surprisingly, comes from within the historical field of sodomy, a discursive field usually associated with the old régime system of alliance. This chapter has gone some way towards studying the significance of such rhetorics. If outside of a context where sodomy is a crime, medical-forensic examinations were to participate in the
carnivalesque all protections of medical professionalism would be undermined to serious consequences. Medical-forensics under analysis here, however, appear to engage the tropes of the grotesque through sadistic infliction, rather than joyful participation. The medical professionals analysed in this chapter did not so much put aside their self-interest, as erected themselves over and against the grotesque other of the sodomitical body. Thus, bourgeois norms appear fundamentally threatened by the sodomitical sphincter as that which shows the open and doubling potentiality of the male body – a world of horizontal pleasure and less tenable divisions between self, and other, and the world. The material effects of the act of sodomy threaten to stain the horizon of an anxiously and violently regulated future of the bourgeois male body politic. In examination, these medical professionals saw proper directionality, gender norms and human order as reversed and inverted by the act of sodomy and its effects on the material male body. The rigidly policed ideals of bourgeois autonomy and its relation to privacy and impenetrability play out in such forensic testimony as evident in the construction of the effects of sodomy according to a rhetorics of improperly taxonomic division between orders of life.
Chapter 4: Sodom’s Public: College-street (between Boomerang and Park),
the Cleveland Street Scandal, “Carrie Swain” and Telegraph Boys

On April 24, 1895 the Sydney paper, the Scorpion: Stinging, Spicy, Sensational, ran an article, “The Oscar Wilde’s of Sydney,” bemoaning an influx of the “horrible vice” from London which had, the article claimed, “found root” in the colony (fig. x). The Scorpion reported that in Sydney, “the leading hotels and billiard saloons are haunted by these characters” whose presence was “advertised by an effeminate style of speech” and “the adoption of names of celebrated actresses” from America. The sodomitical subculture of Sydney, as represented by the Scorpion, was apparently a hybrid mix of international imports from London (in the form of exiles from the legal scandals mentioned above taking residence in Sydney) and from America (in the form of female variety actresses who are apparently inspired emulation in the Sydney scene). Furthermore, the Scorpion reported that their “haunt” was located around Bourke-street, Surry Hills and College-street between Boomerang-street and Park-street, which abut Sydney’s inner-city parklands of Hyde Park and the Domain (fig. 14). As New South Wales court records and attendant newspaper reports detail, George Harrison (alias Carrie Swain) was arrested during the 1880s on multiple counts of vagrancy for gender transitive solicitation on and around College-street while adopting the name of “Carrie Swain,” a famous American variety actress, who had then

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1 “The Oscar Wilde’s of Sydney,” Scorpion: Stinging, Spicy, Sensational, April 24, 1895, 3. It should be noted that the syntactical placement of possessive apostrophe in “Wilde’s,” while perhaps easily readable as a typographical error in what would rightly be the plural, instead, considering the content of the article, seems more likely to be a, albeit oddly constructed phrase, designation for those who belong to Wilde, such as the “boys,” “sycophants” who the article reports had been sent to Sydney.

2 “Oscar Wilde’s,” 3
recently toured in Sydney (fig. 15). Such documentation supports the *Scorpion*’s report as more than mere sensationalism, as sensational as the report may be.

Figure 14: Nameplate, Masthead & “The Oscar Wilde’s of Sydney” article, Scorpion, April 24, 1895, 2, Mitchell Library, State Library of New South Wales, Q059/S, author photograph.
Furthermore, as I have documented in the poems in this section, while outside of the scope of the present chapter, the 1878 and 1879 sodomy trials against William Albion (alias Moore, alias Ernest Steel) and Francis Quincey (alias Wilson) document instances of public gender transitive sexual solicitation and the adoption of aliases in and around Hyde Park and the Domain further confirming the location, longevity and distinctive character of this subculture. Harrison’s adoption of the name of “Carrie Swain,” apparently while promenading College-street is, furthermore, significant as Carrie Swain the actress began her tour in the antipodes as the lead in the play, “The Tomboy.” The play was a variety act where Swain played in the lead role of “Carrie,” a “trouser role” where the character finds herself embroiled in a plot resisting her uncle’s plot to fleece Carrie, her mother and her cousin of that family inheritance. As various newspapers and her portrait in *Pets of the Public* document, Carrie’s role in “The Tomboy” involved playing a telegraph boy (see fig. 23 [at page 354]).

The horrible “state of things” in London, apparently “opened up” by the Wilde-Queensbury cases as well as the Cleveland Street Scandal, the *Scorpion* continued, had also become the state in Sydney. 3 While the Wilde-Queensbury cases should be broadly familiar (and is tangential to our discussion here), 4 the “Cleveland Street Scandal,” as will become important here, was a series of London trials in 1889 revolving around the situation where boys and teenagers working in the Royal Telegraph Service were found to be trading sex for

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3 “Oscar Wilde’s.”

extra pay with aristocratic male clients. The nexus of citation and intertextual reference between the *Scorpion* article, Harrison/Swain the street worker, Carrie Swain the actress and the Cleveland Street Scandal has hereto been unexplored in a scholarly forum and underpins the argument of this chapter.

In this chapter I offer historicised readings and analysis of the *Scorpion* article, Harrison/Swain’s trial record and general newspaper documentation of the cases; and I argue

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that sodomitical subcultures in late nineteenth century Sydney, and its interface with the same in London, can best be understood as hinging on connected registers of gender transitivity, public solicitation and pederastic relations, rather than what might appear to us, at first reading, as homosexual subcultures organised around (same-)sex object choices. In order to frame discussion of the Scorpion article and the Harrison/Swain case, I first engage with an analysis of the Cleveland Street Scandal and analysis of section 11 of the 1885 Criminal Law Amendment Act (commonly referred to as the Labouchère Amendment, named after Henry Labouchère the politician that moved the amendment in parliament). While scholars such as Jeffrey Weeks and Ed Cohen have interpreted the Cleveland Street Scandal and the Labouchère Amendment as representing early specification of the homosexual type in juridical discourse, I argue that both more accurately represent journalistic and legislative moves by politically active bourgeois campaigners against the cultural norm of aristocratic sexual license to eroticised relations of super- and sub-ordination with working and lumpen class adults, youths and children. In doing so I also aim to revise queer interpretations of bourgeois moral purity campaigns, such as made by Weeks and Kate Thomas, which interpret these campaigns as merely regulatory and normative.

Sydney’s sodomitical subculture discussed in this chapter, I argue, is significant for resisting aristocratic power relations and emergent bourgeois norms by citing pederastic subjection as a theatrical performance rather than a reality of subordination.

The above arguments lead to the central contention of this chapter: that representations and the materiality of the public performance of sexual solicitation and gender transitivity, such as made by Harrison/Swain (which, I also suggest, drew on these

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6 Weeks, Sex, 102-3; Cohen, Wilde Side, 117.

7 Weeks, Sex; and Thomas, Postal Pleasures, esp. 43-6.
theatre performances), resist the exact terms of the solidifying norms of bourgeois male gender, namely privacy and naturality as means of accessing male power in bourgeois culture. Instead, by a reversal of bourgeois norms, the privacy and naturality of sexuality and gender are made public and affected. In this chapter I turn from medical-forensics to media scandals, and from grotesque tropes and proto-typologies to the particularities of the bodily order of male gender in relation to bourgeois norms and legislative reform in relation to aristocratic norms, particularly the old régime norm of pederasty. Thus, this chapter heavily relies on Thomas King’s concept developed in *The Gendering of Men* of “residual pederasty,” as an old regime social relation of erotic availability of “boys” and “servants”; that is, a patriarchal norm structured on asymmetries of power.8

For King, pederastic subjection as a power relation of patriarchal old régime order became increasingly intolerable to bourgeois norms of equality and the emergent category of “men” as a category universally available to all male bodies. The idea of the natural right of “men’s property within themselves,” as discussed in the previous chapter, increasingly saw pederasty and sodomy as inimical conventions to such a private and natural category of manliness. In courtly social organisation, as King argues, subjectivity and power is gained through public displays of pederastic subjection in reference to the crown, whereas in modern bourgeois social organisation masculine subjectivity and power are gained through cultivations of interiority and privacy in relation to state, civic/occupational, and domestic spheres.9 Thus, the sodomitical subculture of Sydney, I argue, is represented as, and trial and prison records confirm that it operated as, a social world that is singled out for its inversions

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of proper gender organisation according to bourgeois norms of gender in relation to the public and private. If, as King argues, this process emerged in the early modern period, it is unsurprising that the political project persists in the nineteenth century where bourgeois class interests and cultural norms were finally solidifying their cultural dominance in British imperial society.\(^{10}\) If in such a bourgeois culture masculine privilege is to be gained through private and natural means, the sodomitical subculture makes travesty through its sexual public (and increasingly publicised public) and through its affection of gender (manners, dress, speech and performance), undoing, by inversion, the anxiously defended norms of bourgeois gender order.

As I additionally argue, newspaper reports and trial documents on this sodomitical subculture define the subculture according to rhetorics less of biological determination than of publication, publicity and a public; what Berlant and Warner have termed in another context a “counterpublicly accessible culture.”\(^ {11}\) In their influential article “Sex in Public,” Berlant and Warner’s theorise that a “queer counter public” or “world making” involves uncontained affiliations and joinable social organisations of support and belonging in alternative to heteronormative sexual culture.\(^ {12}\) In a similar vein, as I will show in this chapter, reports and trial proceedings on the sodomitical culture of late nineteenth century Sydney map uncontained locations in the streetscape of Sydney, threatening to spill out and expand. In other words, the whereabouts of these sodomitical intensities are precisely mapped yet also map the spillage such sites of concentration pose. With King’s and Berlant and Warner’s theories in mind on the nature of the public and the private, this chapter will also show how

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\(^{12}\) Berlant and Warner, “Sex,” 558-64.
sodomitical publicity is consistently aligned with and propagated by, despite open hostility from, the practices of sensational bourgeois journalism; beginning, in our discussion, with the Scorpion article and recurring, as we shall see, throughout reportage on the Cleveland Street Scandal and the Harrison/Swain trials. That is, both share rhetorical strategies of publicising “rumour” and popular (rather than juridical) knowledge and truth. The tropic principles of dissemination and publication tie sodomitical cultures and bourgeois sensational journalism together, despite ostensible hostility.

The Scorpion article is significant for being one of the earliest documents in the colony which explicitly references a sodomitical subculture, besides those that, as we saw in chapters one and two, claimed sodomitical subcultures existed in prison settlements within the convict colonies. Despite this, this document has not yet received substantial scholarly attention, bar Wotherspoon’s significant discovery of the document and his inclusion of it as evidence on the history of “Drag and cross dressing” in the Dictionary of Sydney.13 There have been significant studies done on late nineteenth century sodomitical subcultures in London, and while Jeffrey Weeks and Morris Kaplan argue that these subcultures were defined by prostitution and gender transitivity, Charles Upchurch argues that while populist accounts represented the subculture in this way most newspaper accounts of sodomy document a prevalence of prosecution of sex between men, leading him to therefore conclude that the culture was predominantly homosexual rather than gender transitive.14 Studies of


such cultures in the antipodean colonial cities in the nineteenth century, however, are underdeveloped. The Scorpion article’s report alignment with what newspaper reports and court records document in relation to Harrison/Swain and the general sodomitical street culture in Sydney gives us evidence for the distinctive cultural practices of this subculture. While Wotherspoon and de Waal have made indispensable archival discoveries of the Scorpion article and the Harrison/Swain cases, the relation between the two as documentation of a sodomitical subculture has not previously been made; nor has the significant intertextual connections been made between these reports and trials and the sodomitical subcultures in London (the Cleveland Street Scandal) and American variety theatre (Carrie Swain).

Analysis of the Labouchère Amendment and the Cleveland Street Scandal is important to frame our discussion of the representations and materialities documented in juridical archives and news reports. The Scorpion article’s reference of the Wilde and the Cleveland Street cases cites the two of the most famous and influential British sodomy trials of the nineteenth century, each of which were early uses of law legislated in the Labouchère Amendment. The Labouchère Amendment has been established by scholars of the history of sexuality, most notably Weeks and Cohen, as a pivotal moment in the shift to modern homosexual categorisation within juridical discourse since it was the first British law to specify proscriptions against “male-male” relations, as opposed to its precursor of the “utterly confused” category of sodomy. Here I want to revise this analysis to argue that this legislation is much more concerned with the utterly confused category of sodomy – and

Also see Matt Cook, London and The Culture of Homosexuality, 1888-1914 (Cambridge: Cambridge University Press, 2003), esp. 13-26; Cocks, Nameless Offences, 144-54; Thomas, Postal Pleasures, 77-114.

15 Wotherspoon, Gay Sydney: A History (Sydney: New South, 2016), i.

16 Weeks, Sex, 102-3; Cohen, Wilde Side, 117.
specifically concerned with the category of residual pederasty – than Weeks and Cohen have suggested. This analysis will allow for a more complex account of bourgeois resistance to aristocratic power, here in terms of resistance to subjection of pubescent working class males and females, thus enabling a more complex account of bourgeois reform and sexual regulation. I hope this will also, in turn, influence historical analyses to shift away from interpretations which repeatedly sympathise with aristocratic hierarchical erotics.

Cleveland Street and the Labouchère Amendment

The Scorpion references the “awful exposé” of the Wilde-Queensbury case as well as the Cleveland Street case and, further, claimed “the men who escaped the Cleveland-street prosecution found shelter in Australia, and there are many of them at present in Sydney.”17 As I will show, the Cleveland Street Scandal is significant not only for its rhetorics of dissemination of sodomitical publics but, as I will also show, for informing the rhetorical strategies of the actual people whose visibility the Scorpion claimed was “advertised by an effeminate style of speech and the adoption of the names of celebrated actresses.”18 The Cleveland Street Scandal erupted in London’s radical newspapers in 1889 following a police investigation in the Royal Telegraph Service office, where a telegraph boy, Charles Thomas Swinscow, was found by a General Post Office police constable to have more shillings than he ought to considering the low wages the boys were paid.

The boy confessed he had earnt the extra shillings through trade for sexual services with “gentlemen” (which is more an accurate signification of the aristocratic class status of

17 “Oscar Wilde’s,” 3.

18 “Oscar Wilde’s,” 3.
the clients than a playful euphemism) at 19 Cleveland Street, and that his involvement had been solicited by another boy in the telegraph service, Henry Horace Newlove. Members of the aristocracy and English peerage were named as clients: Lord Arthur Somerset, son of the Duke of Beaufort; Henry James Fitzroy, Earl of Euston; and Prince Albert Victor Christian Edward, Prince “Eddy,” the heir presumptive. As one of the most public scandals surrounding sodomy prosecutions in the British empire in the nineteenth century (alongside the Vere Street Coterie case, the Park and Boulton case and the Oscar Wilde cases) the Cleveland Street Scandal has been central to scholars interpreting the history of sexual regulation and categorisation. I argue here, however, that in existing scholarship there has been broad conflation of nineteenth century sodomy with homosexuality, at the expense of a more accurate target of the Cleveland Street case and nineteenth century sodomy laws more generally: “residual pederasty.” I will also show that the Cleveland Street Scandal and

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19 Sworn Information, Charles Thomas Swinscow, Marlborough Street Police Court, July 6, 1889, TNA: DPP1/95/3, file 5, R. v. Veck and Newlove, 105-113

20 Here I am relying on the DPP case files held at TNA and on secondary scholarship. TNA: DPP1/95/1-7, “The Cleveland Street Case”; Hyde, Cleveland; Cocks, Nameless Offences, 144-54; Thomas, Postal Pleasures, 43-6; and Katie Hindmarch-Watson, “Male Prostitution and the London GPO,” Journal of British Studies 51, no. 3 (2012): 594–617.


22 Hyde, Cleveland Street; Weeks, Sex, Politics and Society, 84-89; Cocks, Nameless Offences, 61-67, 90-93; Thomas, Postal Pleasures, 39-69.
associated legislative and cultural shifts in the metropole were significant to the mentioned sodomitical subculture in Sydney.

The media sensation which initiated and perpetuated the scandal of the Cleveland Street case began in the Radical liberal London press, principally within Ernest Parke’s *North London Press*, Labouchère’s *Truth* and, to less of an extent, William Thomas Stead’s *Pall Mall Gazette*.23 The scandal revolved principally around the immorality of the implicated aristocrats and various measures the government was rumoured to have taken to protect the brothel owner, Hammond, and the clients Lord Arthur Somerset, the Earl of Euston and Prince Eddy. Another trial as part of the scandal was a libel case brought against the editor of the *North London Press*, Ernest Parke, for naming the Earl of Euston as an involved party in an article he published on the scandal. A further trial was held when a public prosecution was brought against Arthur Newtown, Lord Somerset’s solicitor who was commissioned to defend Newlove and Veck, for attempting to obstruct justice by trying to convince the telegraph boys who had given evidence, and were set to give further evidence against the brothel owner, Hammond, and presumably against Lord Somerset, to go abroad, reportedly to Australia.24

Domestic and international media reports flourished on the conditions of the cases, the scandal erupting over three elements: firstly, the multiple forms of cover-up and escape (that is, the attempt of the Home Office to hush the increasingly public case); secondly, the injustice of the “panders” receiving punishment while the old nobility went free; and, finally, the actions of Labouchère in pursuing the case in his newspaper, *Truth*, as well as bringing

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23 Cleveland Street Case Newspaper Extracts, September 12, 1889-March 20, 1890, TNA: DPP1/95/2.

24 For details of Newton’s connection with Somerset and the trial in general, see Hyde, *Cleveland*, 37-8.
the case to debate in the House of Commons. Scholars have noted that the case hinged on conditions of publicity. As Cocks notes, administrative and aristocratic elites aimed to keep the public scandal quiet; and, as Thomas argues, the new technology of the telegraph service was itself a publicly available and circulating technology, and the service was a public (that is, Royal) state enterprise.  

However, scholars have most often read the public media scandal in the Radical press as an instance of leftist homophobia. Thomas, for example, reads the New Journalists’ treatment of the scandal as a homophobically motivated attack, and concludes that, similarly to Cocks (and with a citation of Foucault), “this yoking of antiaristocratic rhetoric with attacks on homosexuality is a reminder that spectres of sexual and racial degeneracy were called up by the Left, albeit the bourgeois Left.” Leaving aside the question of what the new journalist scandal was attacking (as I will discuss in detail below), I want to now argue that the discursive strategies of sodomitical boy sex workers and other lumpen sodomitical sex workers were commensurate with New Journalist publication tactics. Cocks argues for the role of the scandal in paving way for increasingly public speech about the previously heavily censored “nameless offense.” He further claims that “For [New Journalists’] allegation and insinuation were [seen as] in the public interest and private rather than police investigation was the best way round corrupt public officials and a politically dominant aristocracy.” He also draws attention to critiques of the new journalistic tactics of scandal which, as used in cases such as Cleveland Street Scandal and other public sodomy cases, aligned the papers

26 Thomas, Postal Pleasures, 51.
27 Cocks, Nameless Offences, 153-54.
28 Cocks, 136
with blackmail, since such forms of speech were based on the word of unauthorised actors, private investigation and rumour rather than accepted (juridically proven) authority.  

For the Home Office and the lord chancellor, Hardinge Stanley Giffard, baron of Halsbury, the public reputation of the elite, and the consequent maintenance of public order, was central to the debate over whether to prosecute Lord Somerset in the Cleveland Street case. The telegraph boy witness testimonies – despite becoming indispensable to the case as they corroborated the charge and each other’s statements, and despite the fact that they were able to positively identify Somerset and Hammond – were initially dismissed by the DPP on advice of the Home Office and the Lord Chancellor. In the end, prosecution of Somerset was recommended to avoid the bigger scandal of such a person maintaining public office if the case should leak. The boys, predictably, were then brought back in to testify. Additionally, in the libel case against Euston, John Saul, a notorious “professional Mary-Ann” who usually worked Piccadilly Circus, was a principle witness. Saul gave a number of testimonies naming the Earl, even claiming he was known around town to other street hustlers as “The Duke,” suggesting his wrist might not have been twisted too tight in order to extract damning evidence against a client of upper levels of the Peerage of England. Anyone who has worked as a service person to a higher classed customer would understand.

29 Cocks, 121-34, 144-54.
30 Opinions [of Treasury Counsel Horace Avory, Attorney General Richard Webster, Solicitor General Edward Clark, and Lord Chancellor Giffard], August 3-October 7, 1889, TNA: DPP1/95/3, file 1; and Opinion of Lord Chancellor [Giffard], October 7, 1889, TNA: DPP1/95/3, file 2.
31 Opinions, TNA: DPP1/95/3, file 1; and Opinion of Lord Chancellor, TNA: DPP1/95/3, file 2.
32 Opinions, TNA: DPP1/95/3, file 1; and Opinion of Lord Chancellor, TNA: DPP1/95/3, file 2.
33 See John Saul, Original Statement and Correspondence, August 10, 1889-February 5, 1890, TNA: DPP 1/95/4, file 2; and Hyde, Cleveland, 144.
The word of a such a “self-confessed prostitute,” however, was deemed unworthy of public credit by the Home Office, the police and the presiding Justice. Their opinions on this, furthermore, came in the context of the Earl’s admission that he had been to 19 Cleveland Street (he claimed only to see a female pose plastique), and in the context of six working and lumpen class residents of the area giving corroborating testimonies that they had each seen Euston enter the premises on multiple occasions. For the authorities the moral blight of sodomitical prostitution placed Saul’s speech and testimony beyond the frame of juridical legitimacy. For example, the attorney general, Richard Everard Webster, claimed Saul’s evidence “utterly unworthy of credit,” and the presiding justice, Sir Henry Hawkins, formerly Baron Brampton, stated it would be hard to conceive “a more melancholy spectacle or a more loathsome object.”

The sensationalist new journalists, with their Radical bourgeois politics, on the other hand, gave such word credit, or at saw it as usefully aligned with their cause of exposing aristocratic exploitation and Tory complicity. Take the North London Press report on the initial police investigation of the Cleveland Street venue for example: “Enquiries followed; the house was closely watched, and the boys’ statements were more than verified.” The statements the boys made, and those given by other lumpen and working class witnesses, are given credit by the North London Press, where for government and court authorities such speech, despite being corroborating evidence, was placed outside of juridical credibility due to the class position and sodomitical culpability of the boys and the witnesses. Given such credit by the radial bourgeois press, however, the lumpen-proletariat, the class of unproductive labourers most usually conflated with counterrevolutionary force through a

34 Hyde, 113-5.
35 Quoted in Cocks, Nameless Offences, 148-9
36 “Old Nobility.”
materially distinct relation to economic exploitation to that of the proletariat, here display a
tactical efficacy, like New Journalistic technique itself, in challenging class power through
their imbrication with the politically dominant elite in speakable relations of criminal
culpability. Like the word of the new journalist press, the word of the lumpen sodomite can
publicise through “common speech” the contradictions of a power structure which uses the
inequalities it creates for its own pleasure. “Antiartistocratic” rhetorics of nineteenth century
bourgeois Radicals and Liberals require more careful consideration.

Much of the media scandal surrounding the case was outraged much less at the sexual
relations than the ability of the aristocracy to avoid culpability while the young workers were
prosecuted.37 Easily read, as Thomas does, as a homophobic media campaign motivated by
the prejudices of bourgeois radicals and reformists, such a reading fails to acknowledge the
broader climate of aristocratic power. Consider, for example, the framing of the case by a
newspaper report published prior to the media scandal: “it surprises me that it has escaped the
vigilant attention of the evening newspaper, that makes a special point of bringing the
immoralities of the upper classes to light.” Indeed, much of bourgeois liberal reform of the
nineteenth century sought to address natural exploitation of subordinates and to advocate for
relations of equality and moral purity.38 Take Labouchère himself in a Truth article on the
scandal: “Very possibly the Government of the classes is of opinion that the revelations
which would ensue, were the criminals put on their trial, would deal a blow to the reign of the

37 See, for example, all published between September and November, 1889 (NB page numbers refer to page
numbers in DPP case file): “Our Old Nobility” North London Press, September 28, 1889, 10-1; “One Law for
Rich – One Law for Poor,” St. Stephen’s Review, November 9, 1889, 12; “The Painful Society Scandal,” Echo,
November 1, 1889, 13; “Comments on Attempt to Hush up Scandal,” Pall Mall Gazette, November 15, 1889,
17; “Comment on inaction against nobility” Truth, November 14, 1889, 22, in TNA: DPP1/95/2.

38 See Weeks, Sex, 84-93; and Hyde, Cleveland, 13-4.
classes, and to the social influence of the aristocracy… It would be really too monstrous if crimes, which, when committed by poor ignorant men, lead to sentences of penal servitude, were to be done with impunity by those whom the Tory Government delights to honour.”

Labouchère’s target here is not private relations between adults but the “monstrous” criminality of the aristocratic class getting away with pederastic prostitution while others are punished. Indeed, the first *North London Press* article on the scandal begins with a description of the case which reads as follows (capitalisation used in original and maintained here): “The other case to which we direct attention is a scandal of so horrible and repulsive a character that it would be better unmentioned if it were not necessary to expose the shameless audacity with which officials have contrived to SHILED THE PRINCIPAL CRIMINALS.”

It may be that Parke is merely paying lip service to the convention of naming all forms of unnatural crime as “horrible” and “repulsive.” In any case, were the Cleveland Street case to have involved private consenting relations between adult males, Parke suggests it would be “better left unmentioned.” The topic of the scandal, and the topic of Parke’s news report, is much less about homosexual relations than it is about class inequality and aristocratic pederasty. This is not to argue for the sanctity of Radical bourgeois politics nor for the breadth of Labouchère’s and Parkes’s arguments or opinions, but rather to argue for a better account of their politics and campaigns in relation to sodomy and “offences against decency” and for a better account of the content of the Cleveland Street Scandal.

Furthermore, my argument does not necessitate a victimisation of young people, who were clearly working to better their economic situations in a context of gross inequality, and if their court testimonies are at all reliable had quite an ambivalent relation to their

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40 “Our Old Nobility,” *North London Press*, September 28, 1889, 10-1, original emphasis.
aristocratic clients and the labour. Consider George Alma Wright’s “sworn informations” given at the Marlborough Street Police Court. He stated that he knew the other telegraph boy, Newlove, from the lobbies at the secretaries’ office, where they had gone into the water closet and a few occasions and “behaved indecently.”41 Newlove, Wright states, then offered to take him to the Cleveland Street house where he could meet a “gentleman.”42 Wright recounted the act, stating they went into a bedroom at the house and, to repeat the quote, “we both undressed and got into the bed quite naked. He told me to suck him. I did so. He then had a go between my legs and that was all.”43 A tone of perfunctory recitation, if not ambivalence, dominates the account of the sex act. If we might like to consider the boys’ testimonies forcefully extracted by the police, which they might well have been, the level of force of such an extraction does not suggest the police encouraged the boys to present themselves as traumatised or victimised by the transactions. Nonetheless, authorial instruction and the pleasure of the inserting phallus is, in this account, the sole purview of the gentleman client. Whether Wright derived pleasure, trauma or banality from such an exchange (or indeed a conflux of aspects of such disparate feelings) he only hinted at in his evidence – the ability to interpretively listen is confined by the mode of police court testimony.

While scholars agree on the centrality of the Cleveland Street Scandal to sexual regulation in the period, there is debate over whether a shift in sexual categorisation and regulation took

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41 Newlove, Witness Testimony, Marlborough Street Police Court, July 6, 1889, DPP1/95/3, file 5, 96.
42 Newlove, Witness Testimony, July 6, 1889, 98.
43 Newlove, Witness Testimony, July 6, 1889, 98.
place in the nineteenth century. On both sides of the debate scholars attend to the Labouchère Amendment as a significant reform in the history of regulation of sexuality. Usual scholarly consensus, established by Cohen and Weeks, has it that the Labouchère Amendment represents a definitive shift to specification of homosexuality in juridical discourse, in line with Foucault’s analysis of homosexual specification in psychiatric and sexological discourse in the same period. British gay liberation historians such as Harry Cocks and Sean Brady have argued for a revision to this analysis by instead arguing that this shift was not in fact much of a shift at all since earlier prosecution patterns suggest homosexuals were the target of sodomy laws throughout the nineteenth century; and, therefore, they further argue, the Labouchère Amendment was not responsible for a specification but instead represents an effective codification of pre-existing sodomy law and its prosecution patterns.

Despite debate, a scholarly consensus exists in interpreting sodomy law in the nineteenth century as being, either, increasingly specified as homosexual over the century (as Cohen and Weeks argue), or as being roughly equivalent to homosexual offenses throughout the century (as Cocks and Brady argue). I want to, however, build on Morris Kaplan’s argument that the Cleveland Street Scandal was centrally concerned with aristocratic privilege and sexual rights, and Matt Cook’s arguments that the 1885 Criminal Law

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44 For scholarship that argues that Labouchère Amendment represents a shift see Weeks, Sex, Politics and Society, 102-03; & Cohen, Wilde Side, 118-19. For arguments for a lack of shift see Cocks, Nameless Offenses, esp. 15-22; & 22-32; Cook, London, 42-45; and Sean Brady, Masculinity and Male Homosexuality in Britain, 1861-1913 (Basingstoke, UK: Palgrave Macmillan, 2009), esp. 85-89. For an approach which attempts to combine both perspectives see Thomas, Postal Pleasures, 46-52.

45 Weeks, Sex, 102-03; Cohen, Wilde Side, 118-19.

46 Cocks, Nameless Offences; Brady, Masculinity, 86-100.
Amendment Act (CLA) as a whole was centrally concerned with “under-age sex and prostitution,” to make a wider claim that that sodomy law during the nineteenth century as referenced by the Labouchère Amendment is more concerned with residual pederasty. The Labouchère Amendment can, therefore, be best understood through analysis of emergent bourgeois norms and power in their resistance to residual aristocratic norms and power, specifically the aristocratic norm of pederastic subjection.

Accounts of nineteenth century sexual regulation, I suggest, have been negligent of attention to the forms of “residual pederasty” that inform conceptions of sodomitic crime and its prosecution in the period. Weeks, in his authoritative account of sexual regulation, as discussed above, argues that there was an increasing specification of the homosexual in the late nineteenth century cultural discourse, particularly evident in the Labouchère Amendment. For Weeks the Cleveland Street Scandal acted as a significant bolster to moral reform and the solidification of bourgeois norms. Importantly, Weeks does place the Cleveland Street Scandal and the Labouchère Amendment within contemporaneous cultural shifts, particularly within late nineteenth century reformist and feminist moral purity campaigns against the white slave trade, child and juvenile prostitution, adult prostitution, and low age of consent laws for girls (prior to the reform, age of consent for girls was twelve). Cook similarly notes that child sex and prostitution were central to the CLA in general. Weeks and Cohen, however do not fully account for the fact that that legislation against “gross indecency” is itself imbricated within late nineteenth century resistance to aristocratic

48 Weeks, Sex, 102, 114.
49 Weeks, Sex, 84-93.
exploitation of minors and youths (both male and female) and prostitution (both male and female)

The full title of the 1885 Criminal Law Amendment Act is “An Act to make further provision for the Protection of Women and Girls, the Suppression of Brothels, and other purposes.” The specification of the Labouchère Amendment in legislating against sex between males, and its clarification of acts of gross indecency qualifying as misdemeanours regardless of whether occurring in public or private (the section is quoted in full below), has broadly been taken as the pivotal legislative reform in the specification of the homosexual type. While it may appear true, based on a cursory reading, that the Labouchère Amendment in concerned with homosexual activity, consideration of the full content of its legislative wording, and consideration of its legislative intent and practical use in the nineteenth century requires more careful attention. The full version the Labouchère Amendment (with the words that are often omitted, and rarely discussed, emphasized) reads as follows:

11. [Outrages on decency] Any male person who, in public or private, commits, or is a part to the commission of or procures (a) or attempts to procure (b) the commission by any male person of, any act of gross indecency (c) with another male person, shall be guilty of a misdemeanour, and being convicted thereof shall be liable at the discretion of the court to be imprisoned for any term not exceeding two years, with or without hard labour.51

The CLA, as a whole, deals primarily with procuration, defilement, abduction and unlawful detention of girls under the age of eighteen, with specific legislation in relation to

51 The Criminal Law Amendment Act, ed. Fredrick Mead and A.H. Bodkin (London: Shaw & Sons, 1885), 68-70. The parenthetical “a,” “b,” and “c,” have been added in the edited version of the legislation to delineate the crimes legislated in this amendment and their relationship to other amendments within the act. While Thomas does, for example, quote the full legislative wording, her analysis does not account for the commonly omitted specifications against procuring. Thomas, Postal Pleasures, 47.
offenses against girls under sixteen, under thirteen and girls who were “imbeciles.” The CLA also provided for greater levels of indictment for misdemeanours in rape cases where felony charge indictments were not possible, legislated against unlawful detention with intent to “have Carnal knowledge,” legislated against young female prostitution and prostitution in general, and further provided for summary jurisdictional power to prosecute brothel keepers. Within this legislative set of amendments to criminal law, the Labouchère Amendment, which legislated against “outrages against decency,” contains the law against procuration, attempts to procure and gross indecency. Much scholarship is based on a truncated reading of the Labouchère Amendment based, I can only guess, on an earlier bill form. Without the wording around procuration we could be forgiven for assuming the amendment bears little relation to youth exploitation or prostitution, or to the rest of the act. Indeed, further consideration of the legislative and customary legal context, such as that detailed in the edited legal notes in the authoritative edited publication of the act (where the editors detail meaning, customary law and, significantly, the legal relationship of the amendment to other sections within the act), demonstrates the relation of this piece of legislation to prostitution and sexual exploitation of youths and minors.

For example, as the Labouchère Amendment clearly details, “procures” refers back to section two of the act, providing law in an accessory before the fact form against anyone who by means of aiding and abetting with some form “persuasion and influence,” rather than merely “tacit acquiescence” or “bare permission,” procures a girl or woman under the age of twenty-one to have unmarried or adulterous sex, to become a “common prostitute” or to leave

52 Criminal Law Amendment Act, ed. Mead and Bodkin, 38-52
54 For the initial truncated use of the amendment see Hyde, Cleveland Street, 17.
55 Criminal Law Amendment Act, ed. Mead and Bodkin, 68-70.
their residence to become a prostitute in the UK or in a foreign country. For Weeks the history of regulation of homosexuality is tied to that of regulating prostitution, yet he does not account for the specific role child protection plays in bourgeois reform and resistance to aristocratic norms, particularly in how this informs the Labouchère Amendment. Significantly, the form of the law that was used against Newlove and Veck in the initial trial in the Cleveland Street Scandal was procurement (not strictly an erotic act between males) – not “gross indecency.” This is not to vouch for the ethics of this law without qualification, but rather to take stock of the fact that the Labouchère Amendment was imbricated within the CLA and its intention to legislate against youth exploitation, the white slave trade, child prostitution, young female prostitution and female prostitution in general. Hyde, moreover, suggests that Labouchère modelled his amendment on the French penal code suggesting Labouchère had primarily in mind to legislate against corruption of youth, as the French code did.

Brady, however, argues that the Labouchère Amendment was incidentally attached to the CLA; and he bases his argument on Labouchère passing the amendment at the last minute and, in Brady’s words, his “clearly preposterous” prior suggestion that the age of consent be raised to twenty-one. Such an argument in unconvincing on two accounts: firstly, in terms of claiming the Labouchère Amendment was a hasty and unrelated attachment to the act, William Thomas Stead, the editor of the *Pall Mall Gazette* whose journalistic campaign on female child and youth prostitution provoked parliamentary action leading to the Criminal Law Amendment Act, sent a report to Labouchère, as Hyde outlines, on the prevalence of

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57 Weeks, *Sex*, 102, 114.

58 Hyde, *Cleveland*, 17.

“gross indecency” and the difficulties of prosecution of unnatural crime where the evidence of
the act did not amount to sodomy and, therefore, recommended to Labouchère that he draft an
amendment which would provide for easier prosecution at a misdemeanour level and which
specifically legislate against act of “gross indecency” which occurred in private where only
acts occurring in public beforehand were illegal\(^{60}\); and, secondly, in terms of Brady’s
argument that Labouchère’s suggestion that the age of consent to be raised to twenty-one was
preposterous is unconvincing since the act specifically legislates against prostitution of
women under the age of twenty-one.\(^{61}\) If we can admit that the Labouchère Amendment was
allied with the act as a whole, we can observe that “gross indecency” as a subcategory of
sodomy was specifically tied to concerns about child exploitation and equitable relations as
reflected in the act in total. This is not to preclude that the Labouchère Amendment included
“homosexual offenses” within its ambit, but rather to understand that equitable sexual
relations between adult men was not the primary target nor primary content the Labouchère
Amendment legislated against.

In considering the implications of the Labouchère Amendment, Weeks, in a typically
insightful formulation, forwards that the problematic we face is “trying to understand the
significance of the events [in] the contradiction between the ostensibly humanitarian instincts
of those who campaigned for legal change, and the controlling impact they had on people’s
lives, particularly working-class girls and homosexuals.”\(^{62}\) Week’s analysis, at the same time,
relies on an analytic frame of restrictive forms of sexual regulation, at odds with a
Foucauldian perspective on power relations as being as much productive as restrictive.
Week’s analysis of what he interprets as the restrictive forces of sexual regulation,

\(^{60}\) Hyde, Cleveland, 16

\(^{61}\) Criminal Law Amendment Act, ed Mead and Bodkin, 21.

\(^{62}\) Weeks, Sex, 87
particularly moralistic controls of late nineteenth century reform movements, leads him to argue that the Cleveland Street case is significant to the stereotypical construction of homosexuals as “corrupter[s] of youth”; in turn causing him to underplay the essential need for regulatory force against abuse and assault of children and youths.\textsuperscript{63} He claims that “it is striking that the social-purity campaigners of the 1880s saw both prostitution and male homosexuality as products of undifferentiated male desire.”\textsuperscript{64} However, by instead analysing the CLA and the Labouchère Amendment as part of bourgeois campaigns against the aristocratic norms of “residual pederasty,” as I here seek to do, such representations of “undifferentiated male desire” can be understood as hostile to libertine aristocratic norms of, indeed, “undifferentiated male desire” rather than simply hostile to homosexuals and working class women. That is, if aristocratic norms licence superordinate men to sexual rights over women, boys and servants, the form of sexual regulation forwarded by the social purity campaigns appears to be less a matter of oppressive regulation. That homosexuals in the twentieth century became the target of these laws, however, is convincing when considering the uses of the law in the twentieth century.

Weeks also argues that, “in the scandals around the Cleveland Street brothel in 1889/90 and in the Oscar Wilde scandal, the corruption of youth was… a central issue,” thereby establishing an origin for “the mythology of the twentieth century homosexual, as the archetypal sexed being, a person whose sexuality pervaded him in his very existence, threatened to corrupt all around him and particularly the young.”\textsuperscript{65} That such a paedophile stereotype proliferated to harmful consequence in the twentieth century is beyond question, and its origins may indeed be found in these moments, yet the anachronistic application of this  

\textsuperscript{63} Weeks, 107.

\textsuperscript{64} Weeks, 106.

\textsuperscript{65} Weeks, 106.
Sodomy Re/verse 305

stereotype to analyses of late nineteenth century law and reform campaigns is unwieldy when considering, for example, the specific sexual relations which were prosecuted in the Cleveland Street case, or the centrality of aristocratic sexual access to subordinate youths as a contemporaneously culturally dominant norm. That the homosexual movement could be beyond reproach in the construction of this stereotype, however, is a difficult defence to maintain when considering the romanisation and enactment of “Greek love” used in the construction of “same-sex” erotic ideals; that is, the inclusion of pederastic erotics in the self-definition of homosexuality. In the age of #metoo including the cases against, for instance, Kevin Spacey, it is surely high time to account for this remiss history. For examples of romanticisation in homosexual self-definition take, to various degrees and ends: Oscar Wilde’s procuration of boys from Algeria for André Gide; the Uranian “boy love” poets; John Symonds account of classical pederasty; and, in a more contemporary moment, Allen Ginsberg’s support for the pederastic and paedophilic North American Man/Boy Love Association.66

In interpreting the cultural significance of the Cleveland Street Scandal, Cocks comes to a similar conclusion to Weeks regarding the construction of homophobic types:

The sodomite who emerged from Cleveland Street was either a corrupted working-class youth who had been perverted by “gold laid down” or an aristocratic seducer. Anti-aristocratic abuse of this kind

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borrowed extensively from a language of social purity that not only attacked the alleged aristocratic involvement in seduction and White Slavery, but also defined sexual depravity of all kinds as a form of dissipation, excess and cruelty.67

Here an apology for aristocratic libertinage, and an analysis of bourgeois resistance to aristocratic norms as attitudinal “abuse,” betrays an anti-homophobic analysis mounted at the expense of critiques of class or age inequality within aristocratic social organisation that informed the Cleveland Street case prosecution and the culturally sanctioned norms of aristocratic access to service class boys and other “inferiors.”

Thomas gives a similar interpretation in her approach to journalistic accounts of the Cleveland Street Scandal. Thomas, for example, analyses the North London Press article, “Our Old Nobility,” which reports on Lord Galloway molesting a ten-year-old girl and his subsequent protection by government officials alongside a report on the Cleveland Street Scandal.68 (The main and secondary subtitle for the double article is “Charges of Infamous Conduct Against Peers: The Earl of Galloway examined before the Sheriff – Noblemen Concerned in an Unspeakably Gross Case in the West End Are Allowed to Escape While Their Panders Are Mildly Punished.”)69 Thomas concludes that absent from the reportage is the fact that “one of these cases concerned homosexual sex”; and, she further argues that “the paper portrays homosexual sex as a symptom of the broader crime of aristocratic degeneracy.”70 However, the North London Press, a radical “new journalism” style paper, was a central voice in critiquing the sexual rights of aristocratic privilege in the period, which actually aligns with the article’s inclusion of the Cleveland Street case with an aristocrat

67 Cocks, Nameless Offences, 92


69 “Our Old Nobility.”

70 Thomas, Postal Pleasures, 51
molesting a child. Both the Galloway case and the Cleveland Street Scandal comfortably sit within a history of aristocratic relations of super- and sub-ordination and the protection the political order was giving the English Peerage. The *North London Press* was not concerned about equitable private relations between men. The “unspeakably gross case” was about youth prostitution and aristocratic erotic economies of inequality, not same-sex sexuality. Thomas’s analysis awkwardly veers towards apology for aristocratic moors. Considering the queer theoretical frame Thomas skilfully uses, her reification of the relations between the clients and the boys as homosexual is surprising.

Axiomatically relying on differences of age and class and their attendant power relations, and the particular erotics of paid sex, the Cleveland Street case adheres rather overwhelmingly to the norms of old régime pederastic relations rather than to modern forms of same-sexual, equitable sexuality and relations. The will to construe aristocratic sexual norms as homosexual, and emergent bourgeois norms and legislative power, in its challenge of aristocratic norms, as anti-homosexual, is to construct blindness to the status and power based order of the old régime. Here we might be tempted to romanticise, as Thomas does, all subversive forms of sodomitical relations as queer to the expense of an intersectional analysis of class and age. The more serious errors of Thomas’s lead her to describe the Post Office boy’s uniforms as having “currency... within a homosexual economy of desire,” which is followed by a quote from the “Uranian” poet and school teacher, John Gambril Nicholson (the Uranian poets were a school of late nineteenth poets who cultivated themselves as self-proclaimed pederasts and underage boy lovers). Nicholson’s lines which Thomas quotes are worth repeating here:

Smart-looking lads are in my line;

The lad that gives my boots a shine,

The lad that works the lifts below,
The lad that’s lettered G.P.O.\textsuperscript{71}

Nicholson wrote many poems dedicated to boys usually aged between ten and fourteen who he courted, including \textit{Love in Earnest} dedicated to a student of his who was ten to twelve years old while his pupil. The quote Thomas gives us is from Nicholson book length poem \textit{A Garland of Ladslove}, which was dedicated to Frank Victor Rushforth, a boy who Nicholson begun a relationship with when Rushforth was twelve. The courtship, Timothy d'Arch Smith explains in his study of the Uranians, was “not altogether a happy relationship for it laboured under the usual difficulty that the boy was not able to respond to the ardour of Nicholson’s passion.”\textsuperscript{72} In a deeply remiss twist, by transhistorically analysing all “same-sex” sexual activity as occurring between equals, serious interpretive blindness emerges under the banners of homosexual and queer history where power imbalance, abuse and exploitation are unregistered and even lauded.

Thomas does analyse, with a sense of injustice, the work conditions of Post Office youth employment:

Post-boys “never grew up” because for the most part they were shunted out of the Post Office, unskilled at the age of sixteen. A constant stream of youngsters filled the job and thus the Boy Messenger was bound to a standardized pre-pubertal and early adolescent existence.\textsuperscript{73}

A similar relation to the working conditions of these youths in servicing the sexual needs of the landed gentry, however, is absent. Rather, she maintains a tone of revelatory “queering” in reading the arrangements of Telegraph Boy prostitution. Conveniently, for the aristocracy at least, the never grown up and unskilled near lumpen class worker (that is, the telegraph

\textsuperscript{71} Quoted in Thomas, \textit{Postal Pleasures}, 56.

\textsuperscript{72} Smith, \textit{Love in Earnest}, 128.

\textsuperscript{73} Thomas, \textit{Postal Pleasures}, 53.
boy) suits the conventions of pederastic super- and sub-ordination within classical patriarchal sexual norms. Consider once again the sworn information given in the initial trial against Newlove and Veck by Wright, the former Telegraph Boy who lived with his parents at 33 Broomhead Street, Stepney:

we [Wright and a “gentleman”] both undressed and got into the bed quite naked. He told me to suck him. I did so. He then had a go between my legs and that was all… Newlove once asked me afterwards if I knew of another nice little boy, younger [Wright was seventeen] and shorter than myself whom I could get to go.74

While Wright’s height is not recorded an economy of adolescent youth and petite size appears favourable to the economics of the Cleveland Street venue and desirable to the aristocratic clientele. The alignment of Wright’s description of the job he performed with pederastic and patriarchal norms is significant. As Segal describes classical pederastic norms:

the centrality of this model of older/younger is absolute, because it sanctifies the difference between the senior and junior on which the whole structure depends… In the loves of adult men, the “other” could belong to any of a variety of inferior groups: women, slaves, foreigners and children… [According to this model] one penetrates, the other is penetrated. The one who penetrates is phallic in both the physiological and politico-fantasmatic sense: he is expected to be richer, nobler, wiser, to do the chasing, the teaching, and the paying; the other lets himself be wooed, pursued, talked to or at, taught, paid for, and finally (maybe) penetrated. Penetration may be per anum or it may be the more acceptable, less demeaning form of intercrural intercourse [between the legs].75

While such classical forms of sanctioned pederasty generally precluded prostitution, the formal structure of difference and modes of sexual relations, particularly the intercrural act,

74 Wright, Witness Testimony, July 6, 1889, TNA: DPP1/95/3, file 5, R. v Veck and Newlove, 99.

75 Segal, Andre Gide, 14-5.
suggest continuity with nineteenth century aristocratic practices, at least as practiced at the Cleveland Street venue in this case.

That aristocrats, such as the one Wright testified that he serviced, could access sexual services from low paid youth workers in addition to the privileges of the costly modern convenience of telegraph communication and home delivery skews the power relations of pleasure and benefit in favour of the already privileged. While the repudiation of all sex between males remains a deeply consequential injustice of Reform and Radical movements’ rhetorics and legislative reforms in the construction of new and more equitable forms of sexual morality, their rhetorics and reforms must be situated within the context of overarching intents of bourgeois sexual norms, and the challenge they posed to status based, hierarchical sexual permissiveness. By reading such a history as homosexual and queer, Weeks, Cocks and Thomas become complicit in the stereotyping they repudiate; that is, by reading aristocratic use of low skilled working-class youth for paid sexual services as homosexual and queer Weeks, Cocks and Thomas collapse pederastic subjection, if not sexual exploitation of children and youths, as homosexual and queer.

_Harrison/Swain_

With the above context in mind, let us turn to consider the subculture in Sydney the Scorpion reported on. Its characterisation of the vice that had “found root” and was reduplicating “exactly similar crime,” like the repeated tautologies in the article, lacks a rhetorics of biological contagion and rather uses a rhetoric of advertisement and memetic repetition as defining the “fast increasing acquisition.”

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76 “Oscar Wilde’s,” 3.
said to be an import from England and America, is defined by the problem of a parade existing between College-street and Boomerang, the haunting of the colonial publics of hotels and billiard saloons, and the “advertised” presence of such occupations in “effeminate style of speech and the adoption of the names of celebrated actresses.” The characteristics of the people who constituted the sodomitical subculture are, furthermore, described by detailing ways in which such types may be read or identified: “whose presence is advertised by an effeminate style of speech, and the adoption of the names of celebrated actresses.” Identification is enabled not through invasive forms of decoding or juridical investigation, but rather through reading the signs apparently broadcast by the characters themselves. Effeminate speech and the adoption of famous female’s names is “advertised,” in the sense of something being made known, published and sold for wider consumption. The notion of commerce conjured by use of “advertisement” is not insignificant, profitable sexual activity is replete in the article’s citation of the Cleveland Street case, and in the article’s report that “fallen women” worked in the same area.

The sodomitical counterpublic the Scorpion author reports on, much like the conception of advertisement itself, is represented as being replete with notions of artifice and announcement rather than an innate constitution. “Effeminate style of speech,” as the first form of advertisement, denotes a doubling of artifice in the memetic femininity of effeminate (if we can take modern femininity to contain artifice over the naturality of manliness); which is again doubled in its near tautological repetition in “style.” Style, in the most usual and appropriate forms of the noun, connotes craft and forms of pretence as well as the fancy or expensive and, additionally, connotes manner of expression, initially referring to manners of

77 “Oscar Wilde’s,” 3.

78 “Oscar Wilde’s,” 3.
Here we can also think of the notion of a repeatable, citable and joinable formation of a school, such as in the style of a particular aesthetic group (whether that be the Lake School of Poets or sharpies subculture of 70s Australia). Artificial rather than innate, such a culture was presumably open to any who might have been convinced to learn its moors.

“...The adoption of the names of celebrated actresses,” as the second form of sodomitical advert, once again cites notions of artifice repeated by the choice of actresses’ names (itself a false repetition), citing an occupation (acting) defined by the adoption of false personalities and roles. Additionally, the names of “celebrated actresses” denotes the known publicity of the actresses whose names were imitated, amplified by the indiscretion of the characters parading the streets. The combination of the imitative and publication, in contradistinction to a natural form of private presence, defines the article’s representation of sodomitic threat. A sodomitical public with an effective advertising campaign – both in the variety actresses’ celebrity and the street publicities of the College-street promenaders – is said to threaten society due to such uncontainable disseminations, rather than for being a naturally preordained and fixed subset. Such a public of sexual activity and gender-transitivity that is oriented towards artifice sits in direct opposition to the privacy and naturality King identifies as the principle of emergent bourgeois male gender order. The Scorpion singles out the sodomitical culture for its inversion of proper order; and the article figures bourgeois ideals of naturality and privacy in relation to sexuality and gender as reversed in such a culture where sexuality is made public via parade and gender is made unnatural by artificial transgression.

If the sensationalist tone and intent of the article could lead to an easy dismissal of the veracity of an actual sodomitical subculture existing on the streets of Sydney, consider the case of George Harrison, tried on multiple occasions for vagrancy (according to his goal record, in July 1887, November 1887, April 1888 and Feb 1889; and in March 1889 for attempting to break gaol). The *Evening News* reported on the November 1887 case:

In the Central Police Court, George Harrison, alias “Carrie Swain,” an effeminate youth, was charged with vagrancy. From the evidence… it appeared that the prisoner was in the habit of frequenting Hyde Park and College-street, painted, powdered, and bedecked so as to represent a female. In this state he perambulated the street and parks after dark. When arrested it was found that he was wearing stays.

That Harrison cross-dressed while walking the streets and parks, including College-street, as reported by the *Evening News* and in numerous other reports of his arrests and imprisonments, supports the factuality of the *Scorpion* article’s documentation of College-street as a gender transitive promenade. The *Daily Telegraph* also reported that Harrison had been arrested multiple times in the area and that “he was with five others and had his face painted, powdered and bedecked. The police said he was one of a filthy gang who frequented College-street”

If we might hold doubts that such activity extended beyond the actions of a few people, or doubt if the subculture existed for longer than a few years in the late 1880s,

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80 Darlinghurst Gaol Photographic Description Card, George Harrison, February 26, 1889, NRNSW: NRS2138, [3/3060], 4408.

81 “A Detestable Character,” *Evening News* (Sydney), November 17, 1887, 5.


83 “Police” *Daily Telegraph* (Sydney), November 16, 1887, 7.
consider the following letter to the editor, sent to the journalistically respectable (and middle class) *Sydney Morning Herald* in July 1867:

Hyde Park has of late become a resort for the lowcat and most degraded prostitutes, who congregate in considerable numbers on the paths which are destitute of gas lamps, where they may be captured in the commission of acts of gross indecency by any person vested with the requisite power. I particularly allude to the path leading from Park and Elizabeth streets to St. Mary’s Cathedral.84

The author’s reticence to assign a particular gender to the “lowcat and most degraded,” combined with the mention of “gross indecency” as a criminal act (not yet specified as “male-male” but having a long history as a misdemeanour for *public* sodomitical offenses85) suggests the path was an intensified area of mixed gender sex trade. The path within Hyde Park leading directly to the Boomerang and College-street intersection is also, once again, cited as an *uncontained* location for the subculture, spilling out into the many unlit paths of the park and beyond.

Of the sodomitic indictments in New South Wales that occurred between 1860 and 1899 (excluding rape charges [rather than sodomy charges that appear construed as rape], bestiality charges and sex involving minors under thirteen; and including charges of gross indecency, indecent assault and other variants) thirty-one occur in the immediate vicinity of

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85 Mead and Bodkin, in their legal notes to the section 11 of the *CLA*, interestingly cited case histories where certain places have been held to be in public including “the inside of a urinal open to the public, and by the side of a footpath in Hyde Park [London]” and “An open place where the public were in the habit of trespassing.” *Criminal Law Amendment Act*, ed. Mead and Bodkin, 68-9.
Hyde Park and the Domain. In other words thirty-five per cent of all cases against consensual sex in the colony in this period occurred in and around these parks. Of these, nine involved prosecution for unnatural crime or attempt to commit unnatural crime; and two of these involved, as documented in poetic sequences below, gender transitive iterations (the 1878 case against William Albion, alias Moore, alias Ernest Steel, and the 1879 case against Francis Quincey, alias Wilson). This evidence supports the case that a gender transitive cruising ground existed in Hyde Park, the Domain and their surrounds, and this subcultural location can be dated to at least the 1860s, if not the 1830s. If we take these newspaper reports alongside the trial record we can get a sense of the various commercial and

86 R. v Samuel Jones (1834); R. v. Henry Bird (1863); R v. Michael Furey (1865); R v. Lewis Fernandez(1866); (1869), R v. John Connor; R v. Charles Adams (1872); R v. Henry Fitzpatrick (1874); R v Nicholas Brennan (1875); R v James Moon (1876); John Dobson (1878); R v. Thomas Tweedie (1878); R. v Edward Porter (1879) ; R. v Henry Bennett (1879); R v Michael Sullivan (1879); R. v John Gillies (1880); R v Patrick Brown (1880); R v Phillip Walker (1880); R v William Douglas (1881); R v Rose Waters (1883); R v. George Foster (1871); R v William Burdett (1872); R v Thomas Woods (1875); R v William Albion, Thomas Buckley and Joseph McKenna (1878); R. v Matthew Johnson and Frank Quincey (1879); R v Louis Calouze and James Teece (1882); R v John Flynn (1885); R v John O’Connor Kelly (1885); R. v Walter James Barnes (1889); R. v John Murphy and Henry Jones (1891); R v William Gosmer and James Walters (1892); R v Timothy Field (1897); R v. George Harrison (1887); R v George Harrison (1888); R v George Harrison (1889). See de Waal, Unfit.

87 R. v Thomas Tweedie (1878); R v. William Albion, Thomas Buckley and Joseph McKenna (1878); R v Matthew Johnson and Frank Quincey (1879); R v Louis Calouze and James Teece (1882); R v John O’Connor Kelly (1885); R v John Flynn (1885); R v Walter James Barnes (1889); R v John Murphy and Henry Jones (1891); & R v William Gosmer and James Walsh (1892). See de Waal, Unfit.

88 To support the 1830s dating in addition to R. v Samuel Jones (1834), see “Government Domain,” Sydney Gazette and New South Wales Advertiser, December 9, 1834, 2; and “To the Editor of the Sydney Herald,” Sydney Herald December 14, 1838, 2.
recreational uses of the College-street parade and its immediate public surrounds. Such documentation places the sodomitical counter public in the centre of the colony’s capital, remarkable for the publicity it is both producing and attracting.

Harrison’s alias, “Carrie Swain,” as cited in numerous newspaper reports and recorded on his Darlinghurst Goal photographic description card, is remarkable since, as de Waal has drawn our attention to, Carrie Swain was a famous American variety artist.\(^89\) Swain had begun touring the antipodes, with remarkable success, in the years leading up to Harrison’s criminal forays. The Scorpion’s sensational claim that promenade regulars adopted the names of celebrated actresses, at least in this seemingly well-known case, is confirmed. Carrie Swain the “original” was a variety artist, noted for her talents in singing, dancing and acrobatics. Her reputation was established in San Francisco with the then famous John McCollough of the California Theatre.\(^90\) She began touring the antipodes with the Gaiety Company in 1887, premiering in Sydney February 5, 1887 at the Theatre Royal, as the lead in “The Tomboy.”\(^91\) Her tour of the antipodes, beginning in Melbourne and Adelaide, had garnered significant review attention in major newspapers, and her Sydney premier, if newspaper advertisements and reviews are anything to go on, was much anticipated and well

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\(^{89}\) Significantly, as de Waal has also discovered, Harrison/Swain’s photographic description card contains the first known recording of the Australian pejorative “pooftah,” suggesting gender-transitivity may define the origins of this, albeit now dated, Australian colloquial insult. See Harrison/Swain Photographic Description, Feb 26, 1889, SRNSW: NRS2138, [3/6050], 160; and de Waal, “1889, George Harrison,” in Unfit.

\(^{90}\) Edward Ellis, Pets of the Public (Sydney: Edward Ellis, 1888), 60-62. Also, for example, see “Miss Carrie Swain,” Sydney Morning Herald, June 25, 1887, 13.

\(^{91}\) See, for example, “New Music,” Daily Telegraph (Sydney), January 24, 1887, 6.
received. Swain’s tour won her fame in the colonies as she gained a spot on the front cover of the *Illustrated Sydney News* and a spot in *Pets of the Public: A Book of Beauty Containing Twenty five Portraits of the Favourite Actresses of the Australian Stage* (see figs. 17 and 23 [at pages 323 and 354]). Further, her notoriety was confirmed when she filed for £40,000 in damages for believing she were married to Frank Gardener, her theatre manager who had become wealthy through speculation in gold mining in the Australian colonies when he was in fact already married to another women. According to Swain’s legal counsel, the *Sunday Times* reported, Gardener had built his fortune on the profits Carrie had earnt during early tours. Such a case recalls the legal proceedings of a contemporary American “Carey” against an Australian of the financial elite: Mariah Carey’s case against ex-fiancé James Packer for “wasting her time” following the failure of their engagement. Packer apparently settled for an undisclosed “inconvenience fee,” rumoured to be in the millions.

Carrie Swain’s premier in “The Tomboy,” all the same, remains important to our discussion here. To my knowledge no script of “The Tomboy” still exists yet fortunately media publications describing the play do and from these we can piece together a sketch of the plot. According to the *Sydney Morning Herald* the plot centred on a telegraph boy and street waif, “The Tomboy,” also named “Carrie,” and her involvement in a family drama in

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92 For advertising examples see “Advertising,” *Sydney Morning Herald*, October 20, 1888, 2; “Advertising,” *Sydney Morning Herald* June 15, 1887, 2. For reviews, see “Amusements,” *Daily Telegraph* (Sydney), January 29, 1887, 5; and “Amusements: Theatre Royal,” *Sydney Morning Herald*, March 5, 1887, 9.

93 “Miss Carrie Swain,” *Illustrated Sydney News*, May 17, 1887; Ellis, *Pets*, 60-62


which Robert Cobb, a “polished” yet unprincipled uncle had designs to get rid of his blind
sister-in-law, her daughter, “Carrie,” and Cobb’s cousin in order to take possession of the
family’s fortune. A “wideawake” gasfitter, Thomas Burns, who is in love with Carrie, assists
her in frustrating uncle Cobb’s plot. In the end Carrie and her crew prevail. Burns is
presumably “wideawake” to the designs of Cobb, yet the phrasing suggests awareness to
further concealments. Carrie’s play of the “trousers roll,” and the romantic alignment of the
two panted characters against a patriarchal figure who is causing family discord, lends itself
to queer readings not only in the insinuation of same-sex love bonding but also in the role of
a masculine female playing the hero of the play. Further, naming the eponymous tomboy
character “Carrie” plays on the gender ambiguity of Carrie Swain’s first name and,
considering that the role was written for Swain, suggests a gender transitive identity
associated with her star persona. Further, confirming her notoriety, and public desirability, as
a gender transitive figure, both existing photographs of Swain taken in the colonies that I
have been able to locate show Swain dressed in the trouser role as “The Tomboy” (see fig.
23, [at page 354]).

The fact that the character “Carrie” was a telegraph delivery boy, and a tomboy,
furthermore, recalls the sodomitical indexes of the telegraph delivery boys and the Cleveland
Street Scandal. What is already established in the gender transitive casting of Carrie in the
trouser role is given added sodomitical dimension in the specificity of the telegraph boy as a
legible sign of the sodomitic. If, as Thomas suggests, there is an analogous relationship
between the modern disseminating technology of the telegraph service and queer sexual
relations recognisable for anonymity of communication, and in disturbing the tension
between public and private in the network of messengers entering homes, is true, or was
believed in the period, we can read Swain’s telegraph boy role as sodomitically legible.96 We can also read “The Tomboy” as a late nineteenth century citation of sodomitically legible subcultures. As Hindmarsh-Watson demonstrates, sodomitical prostitution had long been a problem for the London telegraph service leading to a series of communications and reports on the situation throughout the 1870s.97 The Cleveland Street Scandal was but one case, one which was brought to prosecution by the Home Office and scandal by the Radical press.

Within the journalistic and legislative context of the Cleveland Street case, which, as discussed above, the problematics of old régime class and aged based hierarchies, exploitation and abuse, as well as the inequitable juridical punishment of telegraph boy workers, proved to be central and sodomitically legible issues which made up the content of the scandal, what can we say of the situation of Carrie Swain’s “trouser roll” of a telegraph boy, and Harrison/Swain subsequently adopting her name in his own gender transitive publicities on the streets of Sydney? If we can say the figure of the telegraph boy was circulating as a sign of precarious youth employment, pederastic prostitution, aristocratic norms, and the class based injustices of criminal prosecution, particularly of “unnatural crime,” then the female transvestic performance of such a “street waif” upon the popular stage, considering the basic plot and lauding of the actress, here enacts the Telegraph Boy as hero rather than the persistently harried – the character who overcomes the odds and prevails. Pets of the Public features “Miss Carrie Swain,” and a photograph of her in Telegraph Boy uniform, with her foot tiered in a triumphant, masculine pose on a rock (fig. 23, [at page 354]). Further, she holds her telegraph delivery in suggestive location, extending from her groin out along her thigh, held in both hands. The enveloped phallus centres the photograph.

96 Thomas, Postal Pleasures, 39-43.

97 Hindmarch-Watson, “Male Prostitution,” 596.
our eye is then drawn up to Swain’s face, which looks out straight faced and serious, gazing out to the side and beyond the vantage of the viewer/photographer’s gaze.

Additionally, Swain’s textual biographic portrait in *Pets of the Public* opens with a poetic epigraph, “she sings like one immortal, and she dances / As goddess-like to her admired lays.”98 “Lays” here refers to that which belongs to the lay people, denoting a fan base, “a people,” allied to Swain’s “goddess-like” personality.99 However, the use of “admired” offers an ambiguity; that is, the lays may be admiring Swain or Swain may be admiring the lays. Considering the cultural circulation of the telegraph boy as cultural sign for pederastic prostitution, the play suggests veneration of pederastic boys not merely as objects of aristocratic desire but as heroes resisting patriarchal designs. Admiration of Swain is continued in the *Pets of the Public* biographic sketch, “Thus in the Tomboy when it is a case of a mere street waif against the world, you back the waif for all you are worth.”100 A stage fantasy was enacted where the disenfranchised social lot of telegraph boys received a triumphant treatment on the theatre stage. By playing the lumpen boy as heroic subject rather than service object such a theatrical world inverts residual aristocratic status-based hierarchies and asymmetries of erotic power relations, and inverts emergent bourgeois male gender as a natural and private category.

Harrison’s adoption of Carrie Swain’s name mirrors such a representational positionality (as lumpen youth prostitute and hero) for the telegraph boy in “The Tomboy.” The sodomitic and prostitutional layering signified in the stage name “Carrie Swian” is resignified in the street name “Carrie Swain.” The tour of “The Tomboy” and Swain’s

98 Ellis, *Pets*, 61


100 Ellis, *Pets*, 61
appearance on the front cover the *Illustrated Sydney News* both occurred in the months immediately preceding Harrison’s first arrest, suggesting Harrison may have seen the “Tomboy,” and most likely did see Swain on the cover of the *Illustrated* (fig. 16). Theatre houses, especially the Theatre Royal, were known as places of sodomitical cruising and prostitional promenades suggesting that Harrison may have even worked the promenade at a showing of “The Tomboy.”101 I want to suggest that Harrison drew inspiration for his own sodomitical publicity, in at least his name but more significantly in the audacity of his actions which placed him in the way of disciplinary regulation, from Carrie Swain as “The Tomboy.” Take the Jul 1887 *Evening News* report, “George Harrison, otherwise known as ‘Carrie Swain,’ and James Baker, otherwise known as ‘Mary Ann,’ were charged with having no lawful mean of support… it appears the prisoners were in the habit of patrolling the streets together after dark, painted, powdered, and bedecked with jewellery, impersonating females…the constable watched them in Pitt, Gipps and George streets jostling and accosting men.”102 In the street the reappropriated force of sodomitical publicity is disseminated. Harrison’s imitation of Swain’s imitation centres women (Swain), gender transitive


102 “Horrible Accusation.”
femininity (Harrison’s) and gender transitive masculinity (Swain’s) as central to early sodomitical publicity, subculture and resistance to both nineteenth century aristocratic and bourgeois norms and power.

Harrisons use of Swain’s name brought such a topsy-turvy world – where the theatre acts as (sodomitical) carnival – into the streets. Where the power structures of nineteenth century social organisation placed working boys in the position of sex trade with aristocrats for minor cut, low wage youth employment by the state as telegraph boys and exposure to the disciplinary force of state imprisonment and labour, Swain appears as the brassy heroine of “The Tomboy.” 103 This fantasy world, displayed in the theatre, was not simply confined to the stage but was reiterated, as parade – in a once-again re-appropriated playing – on the streets of the colony’s capital. Harrison, as Swain, as “mere street waif against the world,” enacts forms of aggressive sodomitical parading. Thus, one newspaper reported:

George Harrison, otherwise known as ‘Carrie Swain,’ and James Baker, otherwise known as ‘Mary Ann’ were charged with having no lawful visible means of support… the prisoners were in the habit of patrolling the street together after dark, painted, powdered, and bedecked with jewellery, impersonating females. …the constables watched them in Pitt, Gipps, and George streets jostling and accosting men. 104

Harrison’s advertisements of the “fast increasing acquisition to our criminal class,” “by the adoption of names of celebrated actresses” received further press attention over 1887 to ‘89. On November 16, 1887 the Daily Telegraph reported on Harrison’s arrest for vagrancy, reporting that he was parading the streets “with five others and had his face painted

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103 Each boy testified that the gentlemen paid half a sovereign for each “go,” which the boys gave to Hammond who, in turn, paid each four shillings, therefore, indicating a 60/40 commission fee in favour of the landlord. Wright, Witness Testimony, July 6, 1889, 99.

104 “Miscellaneous Items,” Burrowa News, July 8, 1887, 3.
and powdered and his eyelashes darkened, besides wearing a pair of stay. The police said he was one of a filthy gang who frequented College-street.”  

The news of Harrison/Swain’s publicity was, moreover, unconfined to the city, appearing in the *Burrowa News*, the local paper for a small country town 300 kilometres from Sydney. An uncontainable sodomitical publicity appears to have spread from the street through the colony’s media networks.

Harrison/Swain’s public sodomitical actions work athwart residual pederasty by citing heroic telegraph boy narrative, and work against bourgeois notions of private and natural sexuality and manliness in the forcefully public advertisement of a joinable counterpublic of gender transitive promenade. The spheres of public and private life are inverted in the representations and the materiality of the sodomitical subculture of College-street in the late nineteenth century, singled out for its threat to emergent and residual hegemonic social norms.

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105 "Police" *Daily Telegraph* (Sydney), November 16, 1887, 7.

106 “Miscellaneous Items,” *Burrowa News*, July 8, 1887, 3.
Figure 16: Cover Page, “Miss Carrie Swain.” Illustrated Sydney News, 17 May 1887, 1.
In early 1889, after serving a six month hard labour sentence, Harrison was arrested again for a similar charge, as the *Australian Star* reported, for “Domain vagrancy.” After being locked up at the Erskine-street goal house, Harrison (by now using the alias of George Tremain; see fig. 17) attempted to escape the prison. The *Star* headline read “The Female Impersonator. Attempt to Break Gaol”; while the *Evening News* ran a wittier headline: “A Thorough Goal Bird.” Harrison’s publicity as transvestic Swain gathered the press attention. The street “Carrie Swain,” I have argued in this chapter, was in conversation with the stage “Carrie Swain,” thus giving historical insights into the performances each played. The materiality of the street attracted a greater disciplinary force than the theatre in this period. This queer history documents the significance of theatrical and pedestrian, rather than sexological and elite literary, nineteenth century genealogies of subcultural formation and resistance to hetero-hegemonies. The parades and haunts of inner east Sydney of the twentieth and twenty-first centuries, in direct proximity to College-street, despite the increasing pricing out of possible street publicities and people, are today world renowned for


108 Compellingly, the *Sydney Morning Herald* January 1887 report on “The Tomboy” playing at the Theatre Royal in Sydney is directly followed by a review of “Little Jack Sheppard,” a burlesque comedy on Jack Sheppard – the thief famous for escaping Newgate – where Jack Sheppard is played by a woman.


*Australian Star,* further reported that “while in the semi-decayed lock-up in Erskine-street, he made a bold attempt to Jack Shepherdism.” “The Female Impersonator: Attempt to Break Gaol,” *Australian Star* (Sydney), February, 23, 1889, 5. I would suggest that Harrison/Swain attended The Royal Theatre to cruise the promenade, where “The Tomboy” and “Little Jack Sheppard” were playing back to back, and thereby he gained inspiration for his sodomitical parading and, later his escape from goal following his imprisonment.
their “sodomitical” intensities; and Hyde Park is, furthermore, the site from which the original 1978, and all subsequent, Gay Mardi Gras marches began.\footnote{See Wotherspoon, \textit{Gay Sydney}.} The street based culture of the nineteenth century documented in this chapter, and expanded on in poems below, thus, anticipates, as proto-political public parade, collective demands for queer political futures. The confluence of “The Tomboy” as play, Carrie Swain as celebrity and the Cleveland Street Scandal appears as a densely layered intertextuality in Harrison’s publicities as “Carrie Swain” on the streets of Sydney. The \textit{Scorpion} both reported on and publicised the publicities

\footnotesize
109\ See Wotherspoon, \textit{Gay Sydney}.

\normalsize

\begin{figure}[h]
\centering
\includegraphics[width=\textwidth]{figure17.png}
\caption{George Tremain, alias Carrie Swain Photographic Description, Goulburn Gaol, July 1, 1891, SRNSW: NRS2232, [7/13804], 67.}
\end{figure}
of Sydney’s lumpen sodomitical place, which was cited for its excesses which threatened to spill in the form of the subculture’s (delegitimised) textualities of sensational advertisement, and was cited for the uncontained placement of pedestrian sodomitical concentration in the heart of the colony’s capital.

In order to understand the complexities of nineteenth century bourgeois views on pederasty and sodomy, bourgeois resistance to aristocratic sexual power as an element of sexual regulation and legislation over the nineteenth century requires more complex analysis, as I have aimed to offer in this chapter. Queer and gay liberation history, I hope to influence, must shift away from apologies for aristocratic forms of sexual licence and the erotics of patriarchal structured power inequality. The rhetorical strategies of bourgeois Radical journalism in publishing rumour and popular knowledge instead of juridically authorised knowledge, however, compellingly aligns with the rhetorical strategies of lumpen sodomites; thus, challenging us to think more critically about alignments, rather than pure hostilities, between bourgeois norms and subcultural resistance to hetero-dominant culture. Sodomitical subcultural genealogies, as reported in the Scorpion article and in other newspapers, and documented in the archival record in relation to Harrison/Swain and Carrie Swain (and, as we will see in the poems below, in relation to Francis Quincey and Ernest Steele), index the complex ways people resisted hegemonic cultural forces, not so much in terms of accessing an internal, private essence previously repressed, but in terms of expanding and making known a counterpublicly accessible culture. Such cultures are targeted for upending the prescriptions of bourgeois gender norms, thus highlighting the integral nature sex and gender norms, and their relationships to concepts of public and private life and decorum, bear in relation to the foundations of such a bourgeois society.
Francis Quincey

said,

if you wish for an opinion of an anus that had been abused

that was that anus
soi dissant Wilson, petty thief and “Suspicious Character,” according Sydney’s *Evening News*. Trade or occupation listed as Labourer. Caught stealing pieces of new calico, each branded “SD.” Reported by a man of sail with representing himself to be a woman, and wanting to take him into the domain for immoral purposes, saying he was a woman in man’s clothes.

![Figure 18: Francis Quincey Photographic Description, Darlinghurst Gaol, July 21, 1879, NRS2138, [3/6043], 46.](image)

siss kw see

watched it on a clear moonlight night

Johnson said he met Quincey at a public house, that they had a drink together & that Quincey proposed to take him where his mother lived
where did you go?

a woman dressed in man’s clothes

if we are to take

    your word for it

I said I worked to support my mother

stole linen and was generally suspected

Kate says you look like Peter Lorre

and She’s not wrong.

It’s in the eyes, I think

sad and bagged, more tired of it

than tired

“Yeh, this is Peter Lorre talking”

my dad changed his name back to Peter Lowe

(adopted at 4)

he was a bastard

pronounced it near the same but spelt L-O-W-E

a family myth – we were related to Peter Lalor,

leader of the Eureka Stockade.

(Mention of Lambing Flat, restricted).
You were stark mad again

or mouthing a sleek cane, that scene in Maltese Falcon.

Lorre – Peters – Francis how about that

Maybe you drew it all up a bit like that and dragged it down King Street, ha! How about that!
“Easy”, muffled out of the passage.

Early a.m., July 6, 1879.

In the alley between

The Forbes and the boarding house – the Hotel is still there

From York, King Street leaps do’n the raw to

the Darling there, gulls strain and hack for dross.

White tipped

bollards peg a new foreshore

Barques tie off, tonnage pounds

the port decks

Men of sail

step up the leap, such nights

At the end of the passage, dark

Moon above, good light

Clear winter night
Hayes and Buchanan on duty, trolin do’n a beat.

“Take me easy”, muffled out of the passage.

A body’s curves resist easy reading
its felt puss’, thumb bent like rough?

Finn Sailor, sharp blue eyes,

Mathew Johnson, wide jaw

– had two inches on Quincey

“Take it easy”, muffled out of the passage. And take it.

Bobby truncheons pelt the scene
pulled asunder, now two

men
I did not strike Quincey on head

I struck him on his hand

Johnson took baton,
not by my hand

Quincey rushed by

Now two men,
boatswain

botsway’n

botswain

bo’swain

boatsonne

bo’sun

bo’s’n

boteson

Figure 19: Mathew Johnson Photographic Description, Darlinghurst Gaol, July 17, 1879. SRNSW: NRS2138, [3/6043], 45.
___ of ____ by a man of sail with representing
himself to be a woman & wanting to take him into the domain

saying he was a woman in a man’s clothes

Johnson said he met Quincey at a public
house, that they had a drink together & that

when they got down the passage Quincey put his hands
on his private parts and he told him
not to come so near

at the end of a passage between Forbes Hotel and Boarding House,
watched it on a clear moonlight night
Figure 20: The Forbes Hotel, York Street, 1875-77, photograph, State Library of New South Wales, SPF/604
Erection whispering public
whistled public gate
evidence heads stooped
dilatable say distension
supporting thought bound

temperance challenges
slipped behind
half way down against
his back a woman in man’s

hunting?
hurting?

I did not say you must come along with me

A man of sail watched his heels
and hung his head

Erection violent landlord
resist button up
half way down against
his back moonlight night
I had not much time


Windeyer’s Notebook, August 11, 1879, 8-11.

Windeyer’s Notebook, August 11, 1879, 8-11.
In the passage between
the Forbes Hotel and Johnson’s boarding house – on the corner
of York and King
– the hotel is still there –
whispered out of a passage, “take me easy”
wanting to take him into the Domain
they had their faces turned
away the moon light was bright
walking in the domain
& off the rock, & stood sideways
seeing the prisoner having connexion with
the other man the park bench
beneath St James, posterior
turned towards each. Groups of these
lewd women might be blocking the way
Hyde Park and the streets surrounding it
and the adoption of names
Quincey Steele Carrie Ann
leading hotels and billiard saloons
are haunted by these characters
the gathering place of the vicious of both sexes
at night I particularly allude to the path
leading from Park and Elizabeth streets to St. Mary’s
no sooner does night step in upon day
a handkerchief, silk turban
and some face powder
their faces turned, though visibly turned
Moonlight night both together
in his presence representing himself to be a woman in man’s clothing, saying,
a woman in man’s clothes
if a female or girl?
so as to represent in this state he is perambulating the streets and parks after dark
gas lit promenade between treed parks and city streets
all fashion
The Domain is becoming a resort
for very improper characters of both sexes. It is not necessary to say more on the subject
a dazzling glitter hangs
in the humid air above the harbour
entirely surface, and shimmering, for a moment
picketed trees on the avenue bent towards College-street intersect this
hint, a mirage of ponceaus promenading that part of Collage-street from Boomerang to Park
is a parade painted, powdered and bedecked so as to represent
frequenting Hyde Park and College-street
repeating across the streets and parks after dark
Harrison, als. Carrie Swain

Likenesses of Carry Swain

I’ll do as you, flatter
tomboy the role playing carry a street waif
and sweet song they say alongside swimming
a singing telegraph boy at the theatre royal

for trifles, little shilling, admittance to the promenade
pennies for variety and seatless so walking
unassigned women

an attenuated thread of improbable story
the watch was pawned at the Mont de Piete
the prosecutor, a professor of music, identified the watch he missed
he had been asleep on a seat
in Hyde Park near Market-street

he was with five others and had his face painted and powdered
and his eyelashes darkened, besides wearing a pair of stays

George Harrison alias “Carrie Swain,” an effeminate-looking
“Carrie Swain” with “Mary Ann” otherwise known as no lawful visible
and yet getting away
feminine whirlwind gyrates

a maze of disconnected incidents, pieced together like reverence

a vision of two heels eclipsing

unkempt which slopes at a ceaseless angle

A Sun-Shady Customer – was that a girl had given it to him to mind, but that he had forgotten her name and address

the following persons for having made use of disgusting language on public roadways

Miss Vivienne, as Fanny, a domestic thoroughly convinced everybody that she understood the rights of labour

Mr. Hoytes, as Henry Dinsow, the somewhat subservient husband, made the most of the part

the Tomboy Carrie

assisted by Thomas Burns, a wideawake

in love with Carrie

Miss Swain in her clever impersonation of Carrie

binds together the fragments of a world

that is fast being kicked to pieces by Carrie Swain’s flying feet

I pulled you for a fleet

apace the best of modern ease

they can gaol the cunning burglar
but powerless to stamp out this fast increasing acquisition

the only circumstances actually essential to the drama sufficiently portable

two youths of very effeminate appearance a Rose sounds sweeter is Rose so sweet a portable bunch in Pitt, Gipps and George jostling and accosting men the story repeated in Burrowa News, over the month of November Cootamundra Spring Meeting, A Detestable Character George Harrison, alias “Carrie Swain,” an effeminate youth vagrancy in the habit of frequenting Hyde Park and College-street

a maisterless lusty, yet listless, oi! wild wood rover mildly wasting staring at a scene provokes a meditant on this
a mass of miscellaneous tatters
which form her attire
as a harassed American slavey
a drifting cloud of golden hair, a tank,
a magnificent voice
misbehaving in the streets

see the gold flecked hereafter?
these details have been left to the imagination

to see Carrie Swain bathe in a tank in the presence of
a crowded house, at Sydney Royal the other night. The fat woman had a front seat
and wore black with a large red feather fan nice toilette of heliotrope satin embroidered
in silver

personating a female for Domain vagrancy
described as a waiter
everyone has a frequent
mostly in twos
when frequent and full a haunt will
hum and ha with sundry and all
cheap lines pedalled a million times

many operatic artistes would faint beneath the strain she endures
semi-decayed lock-up Erskine-street
attempt at Jack Sheppardism
pinned him, covered with perspiration and whitewash
in connection with this charge

George Cooper Thomas Ryan and George Harrison alias Carry Swain
each months idle and disorderly persons three
Vagabonds Home Once More

another half-year’s oakum sorting
the inner workings of the drama are conducted somewhere else

A Thorough Goal Bird
alias Carry Swain, an unpleasant-looking youth of twenty
one of the most rascally lads in the city
a long list of convictions simpered, pouted and fashioned
and it was whilst lying there that he attempted to escape
found in an excited condition tied together with a piece of linen
his clothes covered with whitewash
some stone-work removed

Miss Swain’s voice and her recklessness
with regard to the tank make the public forget this and other like omissions
and affairs look promising

a frozen outcast in a park in the third act
commences the fourth as a young lady with much property and appetite

just as he was in the act of creeping through to liberty

until the last act,

when she appears in a black velvet polonaise over a skirt of moire,

black velvet hat with mauve and black plumes

one of a filthy gang who frequented College-street

dancing is graceful, or amusing, as the occasion demands

Swain’s impersonation of the Tomboy

equally at home in

operatic music, ballads, and comic songs

may fairly be

described as Outside this blemish, clever, excellent, wonderful compass

obstacles to his ambition to possess their fortune the tattered pocket

which the “Tomboy” carries in the hinder part of her dilapidated skirt threatens to break

beneath the burden of public pennys and halfpennies

between laughter and tears

Mrs. Malaprop is understood to adore the city,

“you see so many different phrases of life in it”
CARRIE SWAIN SEASON.

The Management beg to announce the first appearance in Sydney of the favourite American Comedienne,

Miss CARRIE SWAIN,

In the Comedy-drama, in Five Acts, written expressly for her, entitled

THE TOMBOY.
Figure 21: The Tomboy / Leonard Grover, 1886-7, Theatre Royal, Sydney, Starring Carrie Swain. National Library of Australia, J.C. Williams’s collection of theatre programs in the Australian Performing Arts Programs and Ephemera (PROMPT) collection.
To the Royal, the citizens flocked—

plainly gaudily Girls

matrons and men of promiscuous rank

“The Tomboy,” 'forsooth, they had sampled before

(It hasn’t a plot you would care to encore)

Attracted by rumours

to be honest and frank,

Once more Carrie flung herself into the breach,

she had played every possible prank,

from her head to her tootsicums dripping

Oh! Never a mermaid who lives in the sea,

Flush with the stage,

so whetted on

this side

in the third act eight feet deep
Her natural talents have been further

the eye of anticipation can reach

gorgeous lies

Miss Swain’s reappearance
Figure 22: Holm & Co., “Carrie Swain, in a trouser role.” Cabinet Photoprint, 1887-8, Mitchell Library, State Library of New South Wales.
Figure 23: “Miss Carrie Swain,” in Ellis, *Pets*, (Sydney: Edward Ellis, 1888), 60.
Hyde Park, The Domain and College & Boomerang Streets

Figure 24: “Tracing shewing by a green tint the land at Hyde Park to be dedicated to the Public,” Map, 1854-57, SRNSW: NRS13886, [Sketch book 7, folio 85].

moon bright there were dozens on the main avenue
William Albion, alias Moore, alias Ernest Steele

William Albion, alias William Moore, alias Ernest Steele was a Sydney lowlife of minor notoriety during the 1870s and 80s. Albion, alias Moore, alias Ernest Steele was convicted on a series of minor charges such as ‘insufficient lawful means of support’ and ‘inflict grievous bodily harm’. He was also convicted on the more serious charges of ‘stealing from the person’ and, in 1878, on two charges of ‘attempt to commit sodomy’.

Observed in the act by two policemen, Albion knelt on a park bench in the northern portion of Hyde Park offering his rear to two other teenage boys, who came to him in turns. He wore face whitening, pencilled in eyebrows and a silk turban. His trousers were torn from the fly to six inches from the waist, under and up the back, the seam between split.

Figure 25: William Albion alias Moore alias Ernest Steele Photographic Description, Darlinghurst Goal, April, 20, 1878, SRNSW: NRS2138, [3/6042], 144b.
who were you

who were you, you did not write

this record

breaking, you writ this charge

crime: you turned you rear towards them as they came to you in turns turban a wrap

around a face powdered prettied

I observed

soreness

here is a gaze

and here is an arrangement

come, take a look

you complained of a soreness

bruised about the edge

appearing to want it

twenty nights moonlight trees rasp fingers rap

wandering

Hyde, Domain

one part pathed one part wild

The Domain stretches out

wooded
a thousand trees
night after night

Hyde Park bench
moonlit, again
around the park

Grease and horse shit pulled down Elizabeth. Metal pegged to wooden wheels. City stink.

Troughs for draught teams, collared,
to tongue and slob.

on his person a handkerchief, silk turban and some face powder

Half-ten, April 16, 1879
Did you see that, crossing
college street glints garnet,
ponceau, sultan, that known as red

Chaste blendings or
those known by contrast:
dark fawn

navy blue or black

repeated

from previous seasons
Ernest, a silk turban

a handkerchief powdered face

and pencilled on eyebrows

Hyde Park, and the street surrounding it, are haunted

with prostitutes

street between

Boomerang and Park turns

promenade – a haunt

I had a hunch, one day on the haunch

open, shameless, unmolested

turn this day, back again
had hold of the back of the seat with both hands turned

his posterior turned

posterior was turned towards each man

as they came to you in turns

indiscriminate,

as in treating each

as the one

we felt bodies

Figure 26: Detail from “Tracing shewing by a green tint the land at Hyde Park to be dedicated to the Public.” Map, 1854-57, SRNSW: NRS13886, [Sketch book 7, folio 85].
Figure 27: “Hyde Park [Sydney],” 1870, photograph, State Library of New South Wales, SPF/218.
trousers split from the fly to about six inches at the back

they came up to me and made use of indecent remarks

and asked me if I was a female

made use of

matter bends

the skills of occupation

If substitutes

enable an original
blood and powder

Tissue clot to stone
oxidising blood browns

still wet, at half clot
would sheen by moon or gas

of blood and the stone
in front of the seat,
which is paved for the feet

Blood was flowing
in a state of erection
it was quite erect

bleeding
and all wet and soapy
I touched your shoulder and said

I want you. Dunlop was in the station
Your face was powdered
and Anderson rubbed it off.

You could not shake it off –
some black marks –
some powder in your pocket –
blood on seat in clots
(an extraction)\textsuperscript{ix}

posterior handkerchief
purse shillings scarf
waist blood moonlit trowsers
seat paved blood
both hands round
swelling margin pocket
knelt caught
button arm close avenue
quantities violent vessell
swear
one spot on the edge
wipe tight ten yards off
tree consecutive


R. v William Albion alias Moore, Thomas Buckley and Joseph McKenna, May 13, 1878, SRNSW: NRS880, [9/6620], no. 18.

“Fashions for November,” *Evening News (Sydney)*, November 24, 1876, 3.

“Hyde Park by Night,” *Protestant Standard (Sydney)*, April 9, 1870, 7; “Oscar Wilde’s,” 3.

R. v Albion alias Moore, Buckley and McKenna, May 13, 1878.

R. v Albion alias Moore, Buckley and McKenna, May 13, 1878.

R. v Albion alias Moore, Buckley and McKenna, May 13, 1878.

R. v Albion alias Moore, Buckley and McKenna, May 13, 1878.
Conclusion

In “New English Sodom” Michael Warner argued that seventeenth century American Puritan rhetoric about the ancient city of “Sodom” was “a language about polity and discipline.”¹ Puritan ideas about Sodom as a marker of social disorder, he argues, undergirded their mandate to depart from what they saw as a socially degenerate old England, and undergirded their proselytising mission to spread their reformed Christian morality and polity in New England. In “The Sodomites Tongue and the Bourgeois Body,” Lee Edelman analysed the discursive function of “sodomy” within a poem from the same period: “Jenny Cromwell’s Complaint Against Sodomy.”² He applies his theory, drawn primarily from his analysis of Freud’s writing on the famous Wolfman case, that for hetero-dominant society sodomy is constructed as a disarticulation of positional logic, arguing that in the poem “sodomy is construed as exemplifying a logic of reversal with widespread and uncontrollable implications – implications that reenact a ‘sodomitical’ disturbance of temporal (and therefore narrative) positionality.”³ Reading Warner and Edelman at face value – that is, to read the value of a whole based on what is printed on the face of a coin when there might be more behind –, Warner focuses on the historical-political use of the image and rhetoric of Sodom while Edelman focuses on the linguistic and psychoanalytic logics of sodomitical rhetorics. However, if we excavate the “behind” in each of these texts, I would like to suggest, their ideas overlap; that is, we find the reverse to Warner and Edelman’s “head” and

³ Edelman, 183.
“tail,” or their leading and trailing theoretical concerns, within each other’s text. This is to say more than they have a similar argument; rather, their divergent concerns (for Warner discipline and social publics, and for Edelman theoretical logics) in relation to sodomy represent the “recto” and “verso” to an intellectual project.

Consider Warner’s analysis of a Puritan writer’s rhetorical constructions of Sodom: the writer claimed Sodom was a then present social reality in New England, yet nonetheless urged his followers to “hasten out of” this New English Sodom. For Warner these rhetorics confuse the situation, as “the figurative spatialization of sodomy and its knowledge only protects the local community if Sodom is somewhere else. To speak of sodomy in New England is to create a confusion of inside and outside.” This insight, in turn, leads into Warner’s discussion of the “sodomitical” dimensions of male bonding models put forward in Puritan theory itself. Such confusions of inside and outside, as put in by Puritans in the figuration of a society in which they at once found themselves within and from which they must flee without departing, and in Warner’s reading of the “behind” to the face value of homophobic Puritan theology, maps onto Edelman’s proposal that sodomy is rhetorically structured as a logical disturbance with “widespread and uncontrollable implications.” The “confusion” between inside and outside that Warner identifies in the rhetorical construction of the historical-political of colonial Puritan ideology interfaces with Edelman’s theorisation of sodomitical rhetoric as a confusion to the cultural logics of positionality.

Let us also consider the end to Edelman’s above sentence: “implications that reenact a ‘sodomitical’ disturbance of temporal (and therefore narrative) positionality that threatens to

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5 Warner, 24.
reduce the play of history to the finality of an endgame.” Excavation behind this text, ostensibly concerned with theoretical logics evident in poetry and Freudian theory, leads to an overlapping with Warner’s concerns with the historical-political. Jenny Cromwell’s “complaint” is with the deleterious social effects of the (foreign, Calvinist) Willemite crown; and the poem draws on contemporaneous tropes of foreign rule (and the aristocracy) as sodomitical. Edelman’s term “play of history” obliquely indexes the machinations of the British revolutionary period as (sodomitical) disruptions to the temporal and narrative positionalities of old régime order (and indexes the ensuing back and forth between political orders). It should be noted that Edelman argues that such disruptions are construed in the poem not as a political gain or loss but according to a nostalgic longing for the “face to face” and “homely joys” of political stability; the “back stroke” of political contest and movement (the sodomitical disarticulations of revolution) are construed as reducing “history to the finality of an endgame.” The disarticulations of the logic of sodomy are, paradoxically, rewritten as effecting a narrative closure by a discourse of nostalgic longing for the stable order of the past. Thus, the intricacies of reference behind this short theoretical paragraph from Edelman’s abuts against Warner’s field of the historical-political.

What this thesis contributes to the field of queer studies of sodomy interfaces with the face and the tail of the theoretical and queer historical work of Warner and Edelman; that is, the sodomitical as an articulation of a language about polity and discipline and the sodomitical disarticulations of positional logic have been central to this thesis. As I have shown, theories put by British penal reformists in relation to New South Wales and Norfolk

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7 Edelman, 183, emphasis added.
Island used rhetorics about Sodom and about the prevalence of sodomy to conceptualize penal disorder as a question of a reversed version of the ideal institution and the ideal (reformed) criminal. The reversals of disordered individuals and societies—of backsliders and Sodoms—were, as I have shown, central to bourgeois fears in relation to sodomitical nineteenth century New South Wales. Samuel Jones and William Williams, as notorious sodomitical recidivists, evidence the lived realities of such rhetorical constructions of disciplinary disorder, as their “unnatural” sexual acts and disobedience while in the convict system meant both spent significant time imprisoned in the colonial convict system and both died as convicts.

Similarly, the ideas of medical-forensic theorists and practitioners about the habitually and sodomitically (ab)used anus, and populist commentators’ ideas about gender disorder as defining the problematics of Sydney’s emergent sodomitical subculture, conceptualised each according to a tropism of reversal. In the case of medical-forensic views on the materiality of the habitually sodomised anus, they articulated forensics signs of habitual sodomisation according to grotesque tropes of social and bodily inversion; and, in the case of populist commentators their views on the problematics of Sydney’s sodomitical subculture articulated a problematic of reversal of emergent norms of manly naturality and privacy. The bodily backsliders whose anus were examined, and whose feet populated the walkways of Sydney’s gender-transitive subculture, as I have shown, put to life resistance to such emergent norms.

Building on work by scholars such as Foucault and Davidoff and Hall, I have contextualised my study within broad nineteenth century shifts as bourgeois norms and ideas came to
cultural and political prominence in Britain. The specifically relevant contexts of this shift for this thesis were the anti-transportationist penal reform movement and the imbrication of this movement with Bentham’s utilitarian philosophy, medical-forensic theories on the signs of habitually sodomised anuses, and the norms of bourgeois manly gender as King theorised in relation to the public and the private as forums for the articulation of bourgeois gender norms. Foucault’s insight that this historical shift represents a transition from a system of alliance based on status and blood, and therefore static and rigid prohibitions, to a system of sexuality based on increasingly mobile relations and, therefore, techniques of specifying individuals, has, furthermore, been a central navigating point throughout this thesis (HoS, 106-7).

The limits of historicised close readings and documentary poems, however, have limited in-depth contextualisation of contemporaneous ideology and politics in relation to the texts under consideration and the general culture surrounding sodomy in relation to nineteenth century New South Wales. While such scholarship is limited, many studies go towards meeting this limit, and they have informed my analyses in this thesis. These include: firstly, significant feminist studies of sodomy, gender and sexuality in relation convict colonies, particularly on the sexual rhetorics of anti-transportation movements as bourgeois rhetorical strategies, such as the work of Reid and McKenzie; secondly, studies, such as Cook’s, of what he terms the “homosexual” subcultures of nineteenth century London, particularly the material publishing culture surrounding nineteenth century sodomy scandals (the publication of Saul’s account of prostitution and sexual exploit in The Cities of the Plain, the scandal surrounding the Park and Boulton Case, and the popular pamphlet account of the Vere Street Cotterie); and thirdly, provisional studies by Adrich and Wotherspoon that

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10 D&P; HoS; Davidoff and Hall, Family Fortunes.
contextualise nineteenth century New South Wales documents within emergent homosexual subcultures yet provide little broader discursive or contextual analysis.\textsuperscript{11} This scholarship would provide a significant foundation towards addressing the weak point of a sustained contextual study of sodomitical subcultures, rhetorics about sodomy and juridical prosecution under sodomitical laws in New South Wales over the course of the nineteenth century.

However, close readings of primary historical texts – the primary discursive methodology of this thesis – has enabled me to contribute to the above scholarship, and to contribute somewhat towards addressing the abovementioned gap in scholarship. I have added to the historiography of the convict period and its sexual dimensions principally in the revision I offer to Gilchrist and Reid’s arguments that reformers conceptualised the will towards sodomy as a result of “degradation”; I, instead, argued that the concept of “immediacy” is more accurate and allows for better understanding of reformist ideas about reform as a question of influencing rational decision making.\textsuperscript{12} I have also added to discussions about rhetorics of sodomy in relation to Norfolk Island to suggest that Naylor and Stuart were specifically using a language about social disorder in relation to the penal technologies of panoptic separation, classification and economic organisation. In relation to medical forensics, this thesis adds to important discussions about the specification of the homosexual type in juridical and medical discourses in the nineteenth century; specifically, I offered a revision to Crozier’s argument that medical-forensics merely articulated a body subject to acts. This scholarship on medical-forensics also adds to accounts of the sodomite


\textsuperscript{12} Reid, Gender, 204-46; Gilchrist, “This Relic,” 1-28, esp. 9-14; and Gilchrist, “Convict Sexuality.”
as a type in periods predating the emergence of the sexological account of the homosexual.\textsuperscript{13} I was also able to add to important discussions on the character of nineteenth century sexual subcultures. Week’s influentially argued that cultures in London were defined by gender transitivity, which has received a recent revision from Upchurch who argues that prosecution patterns suggest these places were most often peopled by men who sought sex with men.\textsuperscript{14} My analysis of the Sydney subculture, which appears to have drawn heavily on London’s subculture, adds to this scholarship by arguing that the Sydney scene was defined by a leitmotif of gender transitivity and prostitution due to the reversals such activity exerted on bourgeois norms of manly privacy and naturality.

The close readings in this thesis were significantly informed by Foucault’s theories, primarily as put in HoS and D&P. At the same time, readings in this thesis contribute important revisions to, and contribute detailed elaborations on, primary insights Foucault gave in each of these texts. In chapter one I offer a revision to Foucault’s thesis that penal reform theory conceptualised reform of individuals as effecting a constitutional modification “within” the prisoner by suggesting that utilitarian reformists conceptualised reform as a modification of rational decision-making process rather than modification of internal will. That is, I offer a revision to his theory that modern penal theory conceptualised reform of offenders as effecting a constitutional modification of the “soul,” or that which, as Foucault puts it, the prisoner “must allow to function automatically in him” (D&P, 128-29). Foucault’s insight that reformed bourgeois penal technologies turned away from displays of brute force, to turn towards techniques that sought to train the individual through penal techniques of

\textsuperscript{13} See, for example, McFarlane, Sodomite; and various essays in Goldberg, ed., Queering the Renaissance.

\textsuperscript{14} Weeks, “Inverts,” 113-134; Upchurch, Before Wilde, 164.
training, however, was central to my work here; as was his argument that techniques of reform of internal constitution were directed at the habits of this individual.

In analysing the rhetorics of the Molesworth Committee’s report and interviews, it become clear that the key British reformers involved were drawing on Bentham’s utilitarian theories to conceptualise penal reform as a technique of, as they usefully summarised it, “teaching them to look forward to the future and remote effects of their own conducts, and to be guided in their actions by their reason, instead of merely by their animal instincts and desires.”\(^{15}\) This chapter offers an important insight into the intersections between sodomitical regulation and the regulation of crime in general and the utilitarian philosophical underpinnings of such theories and modes of governing. Further research on habit formation as a philosophic and legislative reform project and its imbrication with theories and rhetorics about sodomy and social regulation in other contexts would be a valuable topic for further study.\(^{16}\)

In chapter two I offer an elaboration on Foucault’s theory of the panopticon and demonstrate the relation of this theory to sexual regulation. Central to Foucault’s theorisation on the bourgeois penal technique of the panopticon is the individuating technologies of panoptic organisation that ensured convicts were kept separate from each other and ensured convicts were at all times visible (or liable to be visible) to the gaze of penal authority (\(D&P\), esp. 200, 216, 295). In analysing the texts of Naylor and Stuart on the disciplinary disorder at Norfolk Island it was clear that such panoptic principles of separation undergirded their

\(^{15}\) Molesworth Committee Report, August 3, 1838, \(BPP\) (Cd. 669), XXII, 1838, xliv.

\(^{16}\) For example, Henry Fielding, \textit{An Enquiry into the Causes of the Late Increase of Robbers} [London, 1751] in Malvin R. Zirker, ed., \textit{An Enquiry into the Causes of the Late Increase of Robbers and Related Writings} (Middleton, CT: Wesleyan University Press, 1988).
critiques of order at the settlement and their suggestions for reform. Thus, in closely reading these texts, I was able to elaborate on the specificities of such panoptic penal ideas as they manifested in fears, both real and imagined, about the sodomitical dimensions of unauthorised economic organisation and organising among the convicts to resist conditions through collective action. Importantly, I also added to Foucault’s theory that the effects of inadequate panoptic separation as they manifest in accounts of penal disorder as a consequence of convicts gathering together outside the gaze of authority also index sexual disorder and gatherings. Recall Naylor’s characteristic melodramatic prose on the sodomitic consequences of penal disorder at Norfolk Island: “there is a heterogenous mass of moral pollution painful to contemplate… offenders for the first time, suffering often for offences of a comparatively venial character, – nay, sometimes undeservedly suffering, are… thrust among the veriest monsters of crime, from the cold blooded murderer trebly convicted, to the wretch whose Blackstone characterises as ‘inter Christianos non nominandum.’”

Such understandings are what can lead principle commentators to claim, in the wake of a riot that broke out at Norfolk not long after Naylor and Stuart’s reports, and in response to their reports on the prevalence of sodomy, that those involved in the riot be “submit[ted]… as soon as there is sufficient gaol accommodation, to a rigid system of separate treatment,” and that anyone who had “contracted” the “fearless vice” and committed an unnatural crime should be a “subjected to at least one year’s separate treatment” before they could be released into society. The readings in this thesis, therefore, make important contributions to


18 Samuel Barrow to the Comptroller-General, July 27, 1847, BPP (Cd. 785), XLVIII, 1847, 280.

19 Champ to Eardley-Wilmot, June 30, 1846, BPP, (Cd. 785), XLVIII, 1847, 176.
Foucault’s theorisation on the significance of panopticon theory by demonstrating the significance of sexual relations and related affective bonds between prisoners to the principles of modern panoptic organisation. A site for further research would be to investigate the applicability of such sexual dimensions to panoptic theories as manifest in different contexts such as in designs and politics around the introduction of panoptic penitentiaries in other locations.

Chapter three contributed to scholarly revisions to Foucault’s thesis that sodomy was understood as merely a category of proscribed acts. In this chapter I argued that nineteenth century medical-forensic theory anticipates homosexual typologies and that medical forensic testimonies from New South Wales use proto-typological rhetorics to describe sodomitical habituation. Queer studies of sodomitic types have predominately focused on the early modern and eighteenth century.20 In cases where the nineteenth century has been analysed queer scholars such as Weeks and Cohen have focused on juridical specification of homosexuality; and when the specific juridical field of sodomy has been analysed scholars such as Haggerty and Greene have focused on the early nineteenth century Vere Street Cotterie case, or, as in the case of William Cohen, scholars have focused on the late nineteenth century.21 These readings therefore contribute to queer revisions of the central Foucauldian concept of the difference of sodomy from homosexuality, and they focus on the discursive field of juridical medical-forensics in the mid- late nineteenth century. Recall the significance of Johann Casper’s statement in his *Handbook of the Practice of Forensic Medicine* on the forensic signs of sodomy, that “of those addicted to it, this vice is hereditary,

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and appears to be a kind of mental hermaphroditism.”22 Such theories underpin, as I further argued, the rhetorical construction of the signs of sodomy according to Bakhtinian grotesque tropes, most vividly in Dr Way’s paradoxical descriptions of Francis Quincey’s anus as defined by muscular activation and atrophy and plant metaphors: “the anus very dilatable, surrounding parts ____ tumulus ____ ____ of a cauliflower ____ anus flaccid.”23 To the best of my knowledge close readings of medical forensic testimonies are another new contribution to scholarship, as current studies on medical-forensics are restricted to historical analysis, political analysis and philological analyses.24

Chapter four contributes to Foucauldian scholarship on legislative shifts in the nineteenth century, as most influentially put by Weeks and Cohen that the homosexual was specified in juridical discourse in the nineteenth century, similarly to the specification of homosexuality that Foucault identifies as occurring in sexological and psychiatric discourses.25 Cocks, furthermore, offered recent revision to these Foucauldian interpretations by arguing that legislative specification allowed for increased persecution of homosexuals but not a shift in prosecution patterns.26 This thesis, therefore, contributes to these important discussions, and offers the perspective that in the nineteenth century questions of pederastic subjection as a residual norm from old regime social structures, informed by King’s scholarship on this shift in the preceding centuries, endured as fundamental to nineteenth bourgeois legislative reforms. Chapter four also offered the important perspective that Sydney’s sodomitical subculture indexed resistance to competing but mutually hostile

23 Windeyer’s Notebook, R. v Johnson and Quincey, August 11, 1879, 15.
25 Weeks, Sex, 102; Cohen, Wilde Side, 103-25, esp. 117-19
26 See Cocks, Nameless Offenses, esp. 20.
bourgeois and aristocratic norms, as evidenced in George Harrison’s citation of the Cleveland Street Scandal and the American variety actress, Carrie Swain in his sodomitical street publicities.

The poems in this thesis add significant documentary and biographic material to the scholarship, begun by de Waal, Hay and Wotherspoon, on sodomitical individuals in nineteenth century New South Wales. Furthermore, these poems have enabled the performance of history through poetic verse, and, if I have been successful, enabled emphatic embodied reading of the historical sodomitical document made present: a spectral invocation that has, for me at least, haunted and embodied this thesis. The poems in this thesis contribute to the field of archival and objectivist poetics as historical scholarship. Charles Altieri described Susan Howe’s poetics as containing a “documentary attention to historical settings” which, he argues, offers readers the opportunity to “at least begin to understand the forces shaping us” and, in turn, they promise, as he writes, “alternative fields of imaginative energy.” The poems in this thesis offer a contribution to this revisionary poetic historicism from the record of sodomitical persecution and the juridical archive that, nonetheless, records the lives of those who, in the face of such social hostility, lived queerly. In this thesis I engaged with such queer lives not as ideal models of the moral good life (in the sense Friedrich Nietzsche identified as being considered in the Socratic and utilitarian traditions as “identical with ‘useful and pleasant’”), but as idealizable (anti)heroes of queer history.

What is new in my methodological approach in these poems, to the best of my knowledge, is

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the archival historical work that supports and is the content of these poems. That is, these research poems do not only engage with current known historical documents, but part of their work is the labour of sourcing, searching and interpreting historical archives. Thus, the poems in this thesis, as indeed part of the body of this thesis, offer poetic archival historical research as a scholarly methodology.

Charles Reznikoff, when asked to speak about Testimony, stated:

the speakers whose words I use are all giving testimony about what they actually lived through. The testimony is that of a witness in court—not a statement of what he felt, but of what he saw or heard. What I wanted to do was to create by selection, arrangement, and the rhythm of the words used was a mood or feeling. I could have picked any period because the same thing is happening today that was happening in 1885. For example, in the volume I'm working on now there's a description of a Negro riot in St. Louis around 1900. A reviewer wrote that when he read Testimony a second time he saw a world of horror and violence. I didn't invent the world, but I felt it.30

The “speakers” whose testimonies I use in the poems in this thesis were excluded from speaking, but each testimony speaks to “what they actually lived through,” both in the fact of state prosecution, and in the live events that led in their arrest and trial. I have aimed to communicate the feelings, and the truth of the events, that sit behind these testimonies. In other words, I have attempted in this thesis to bring these lives forth, not as a biographic reveal, but to put to literature, to put again to life, the queerly lived lives that sit behind yet animate with their force the nineteenth century New South Welsh sodomitical record.

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