Introduction

On 30 December 1846, the Launceston Examiner informed its readers of “A New Invention.” According to the paper:

An ingenious writer in the London Athenaeum (we suppose a graduate in “prison discipline”) has propounded a series of moveable panopticons, which are to contain only six men, and are to be advanced from place to place, as the labourers on the roads advance. An overseers “berth” composes the centre compartment, supervising by a simple construction of six subdivisions in which the men are to sleep, as completely separated as if they were in distinct dwellings, while not a breath can be uttered that must not be heard by the overseer. It is also part of this plan, that when the whole gang is mustered at night, its superintendent or chief officer, keeping a sort of sleeping rolster [sic] roll sends the men to their respective panopticons, never sending to successive nights the same six men together. Thus supposing that the road gang consisted of fifty men, those acquainted with the common arithmetic doctrine of permutation, well know that in the course of usual sentences on the roads, the same can never, if the rolster is properly regulated, come together again.¹

Throughout 1846 the Launceston Examiner had loudly and repeatedly denounced the existence of ‘unnatural crime’ among the male prisoners in the colony. Today we might marvel at the meticulous ordered detail of the ‘new invention.’ The moving panopticon embodied in microcosm the innovative techniques of contemporary penal discipline: the surveillance of sleeping spaces, the separation of bodies, the imposition of silence. At the heart of this discipline lay an obsessive concern with sexual repression. Beyond the gaze of the overseer’s berth, colonial readers would have perceived the ‘new invention’ as an antidote to a myriad of cultural tensions that had been produced by the transportation of male prisoners. Georgian and Victorian penal discourse was saturated in sexual anxiety. Within the lexicon of colonial morality, these anxieties assumed similar prominence.

¹ Launceston Examiner, 30 December 1846.
Gender Relations in the Penal Colonies

Between 1787 and 1869 approximately 165,000 convicted prisoners were transported to Australia. Women comprised only 25,000 of these involuntary exiles. Before the First Fleet set sail, convict gender relations had featured in the discussions that surrounded the foundation of the penal colony in New South Wales. Lord Sydney was concerned with the need to ‘preserve the settlement from gross irregularities and disorders’. The importation of native women from the South Sea Islands was considered a ‘possible solution.’ With typical English arrogance, the explorer James Matra asserted that procuring island women would present little difficulty because they were ‘more partial to Europeans than to their own countrymen’. Two years of extra food rations for these women accompanied the first transports. There were 756 convicts sent out on the first voyage, yet only 186 were women. It was not intended to introduce a form of sexual slavery into the new colony. Rather, the presence of island women was deemed a moral necessity ‘not only for the preservation of decency and good order, but for attending to domestic concerns’. The first Governor, Arthur Phillip was strictly instructed to ‘exert every means to prevent their living in common with the convicts’ and to ‘promote matrimonial connexion’ [sic]. Marriage was perceived to be ‘a great advantage to the settlement as well as to the interests and happiness of the individuals’. Happy, healthy and sexually fulfilled convicts would make a pliant and disciplined workforce, so necessary to the foundation of a new settlement. This found further expression in the strict measures that were taken ‘to prevent any of the convicts from being sent that have any venereal complaint’. Death at the hands of the cannibalistic natives of New Zealand would be the fate of any man who ‘unnaturally’ transgressed this Christian moral code.

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5 Ibid, p 18.
6 Ibid, p 103.
7 Ibid.
8 Ibid.
9 Ibid, p 55.
‘The dread of this’ reasoned Phillip, ‘will operate much stronger than the fear of death’. This draconian idea was not carried out in practice. As Robert Hughes remarked, ‘there were no spare ships to ferry the “madge culls,” “mollies” and “fluters,” as homosexuals were known in Georgian cant, across the Tasman Sea to enrich the Maori diet’. However it served as an early warning: sex in the colony was to be normal, reproductive and useful.

These early ideas reveal that the foundation of the penal colony of New South Wales was based upon a gendered moral order. Sexual behaviour was firmly located within the institution of marriage and family life. This was the ideal, yet for many transported men it was not a possibility. Plans to procure island women were not fulfilled. For the next sixty years, the gender dynamics of imperial transportation generated acute cultural anxieties. Transportation and colonisation went hand in hand to the eastern Australian colonies. This compounded moral tensions. In the 1830s and 1840s colonial society was in a state of flux and it is these years that form the main focus of this study. It was during these two decades that the numbers of convicts transported to New South Wales and Van Diemen’s Land peaked. Free immigration from Britain also increased dramatically during this time. After 1840, transportation to eastern Australia was exclusively directed to Van Diemen’s Land. The final transport ship arrived in Hobart in 1853. The gender imbalance remained prominent. During the slow transition from penal colony to respectable free society, debates over prison reform and the future of imperial transportation were anxiously played out in the colonies. The moral and cultural concerns of colonial society were both real and imagined. They informed a variety of discourses that linked the colonial periphery with the metropolitan centre in a relationship that was reciprocal but often antagonistic.

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10 Ibid, p 57.
12 This thesis is informed by Dane Kennedy’s observation that ‘Imperialism was a process of mutual interaction, of point and counter-point that inscribed itself on the dominant partner, as well as the dominated one’. See D. Kennedy, ‘Imperial History and Post-Colonial Theory’ in The Journal of Imperial and Commonwealth History, vol 24, no 3, September, 1996, p 358; See also his ‘Review Article: The Boundaries of Oxford’s Empire’ in The International History Review, vol xxiii, no 3, September, 2001, pp 604-22.
Gordon Carmichael has suggested that the gender imbalance made the colonies ‘daunting places for women’. But what was the impact of an uneven gender ratio upon male convicts? Did they truly line up at the quaysides of Sydney and Hobart on hearing rumours that a female transport ship was about to arrive? In what ways have male convicts been included in historical research on colonial gender relations and sexuality? In 1987 Marian Aveling noted that ‘the manipulation of the construction of male sexuality in the interests of class must surely be getting near the top of the research agenda’. Despite her suggestion, male convict sexuality has remained under-researched. It makes a brief appearance in some of the scholarly literature on colonial gender relations. Yet in most convict histories, the historical emphasis on the female convict as a sexual being has attenuated the fact that men too are sexual creatures. Feminist convict historiography has also reiterated the idea that sex and sexuality for men was normative and natural, whereas the behaviour of women has been seen in cultural terms as deviant or immoral. In this respect, the lack of any real analysis of male convict sexuality stems from the idea that there was not much to study. In a related context, Judith Allen has argued that masculinity is ‘ubiquitous so unnoticeable; given hence un-chartable; natural thus inscrutable; dominant and un-submissive to analysis’. Allen suggested that, ‘while phallocentric discourses have obsessively studied and constructed femininity, it is only within feminist frameworks that the failure to analyse masculinity can be noticed, and more, be identified as an intellectual flaw’.

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19 Ibid.
Convict Scholarship

The ‘habitual male criminal’ and his consort in crime, the refractory ‘immoral whore,’ informed nineteenth-century criminal discourse. Historians have grappled with these class constructions ever since. The fear of a subterranean criminal culture and a peculiar criminal ‘type’ emerged from the changing complexities of late Georgian and early nineteenth-century Britain. Immortalised by Dickens, it was a recurring theme of social and penal discourse. In the late nineteenth century it was ‘confirmed’ by positivist concepts of hereditary criminality and Lombroso’s theory of the ‘born criminal.’\(^{20}\) The historiography of early colonial Australia has been deeply informed by these perceptions. Questions such as ‘who were the convicts’ and ‘what were their crimes’ have underscored much academic research. In 1922 George Arnold Wood overturned the traditional view of the hardened and professional criminal. Instead, he suggested that most convicts were the social victims of poverty, a corrupt hierarchical society and a repressive criminal code. They were ordinary men and women whose criminal offences were trifling.\(^{21}\) Studies in the 1950s and 1960s refuted this. Manning Clark, L. L. Robson and A. G. L. Shaw revived the nineteenth century fascination with the existence of a ‘distinct’ criminal who came from the ‘dangerous’ classes.\(^{22}\) These historians largely drew on contemporary fears to ‘confirm’ their facts that most convicts were persistent thieves engaged in a life of crime. Unlike Wood’s earlier analysis, the social causes and the cultural meanings of crime were largely absent from these studies.\(^{23}\) In 1988, Convict Workers ‘offered a new and dramatic reinterpretation of the convict system’. The authors

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23 The idea of a hardened habitual criminal ‘type’ was later reiterated in L. Evans & P. Nicholls, Convicts and Colonial Society 1788-1868, Macmillan, 1984.
revealed that most convicts were ordinary working-class women and men. Following an intense study of convict indents, Stephen Nicholas and his fellow colleagues claimed that convicts were ‘human capital’ who possessed a variety of skills and trades. These skills equipped them to play a vital role in the economic development of the Australian colonies. Convict Workers demonstrated a clear shift away from the notion of a criminal-class. It also moved beyond the idea that convicts were destitute victims of a harsh criminal code. Yet the study drew many criticisms, not least for its reliance on the evidence of convict indents. It also ignored the many other dynamics that made up the project of transportation and colonialism. The foundations of a new society did not entail economic activity alone.

Convict indents and historical records have recently been examined in more revealing ways. New questions are being asked about the convict past. Informed by Foucauldian readings of power/knowledge discourse, many historians have turned their attention to focus on the ‘convict experience.’ David Kent has analysed the indents of sixteen convict ships that arrived in Australia in the early 1830s. His research revealed the striking prevalence of tattoos that were inscribed on convict bodies. They depicted life events such as birth and death and the names of lovers, parents and children. According to Kent’s analysis, crucifixes, anchors, women, hearts and mermaids were the most common inscriptions. Together with numerous other symbols that related to occupations and trade, religion and leisure activities, this research has significantly added ‘to our understanding of the convicts as individual men and women with feelings and desires’. Likewise, James Bradley and Hamish Maxwell-Stewart have also explored the convict body. Their study of 1179 Scottish convicts transported to Van Diemen’s Land between 1840 and 1853 revealed that twenty-six per cent of these convicts had some

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25 The study examined the data of 19,711 convicts transported to New South Wales between 1817 and 1840. This represented one third of all post 1817 convicts sent to the colony.
28 Ibid, p 79.
form of tattoo. The authors suggested that the tattoo descriptions reveal ‘the convict voice as much as any convict narrative, if not more so’. 29 These studies have represented a dramatic shift away from the conventional approach to convict history. They reflected the ‘body craze’ in academia during the 1990s. This was informed by developments in feminist and cultural analysis, and the sophistication of sociological and historical approaches to ‘reading’ the body. 30 The study of convict tattoos uncovered something of the inner lives of convicts, beyond the outraged moralising discourses of the ruling-classes. That their thoughts and feelings might be mapped and explored represented an exciting new arena within the historiography. 31

Yet the idea of the ‘criminal class’ continues to fascinate the popular imagination. The recent revival of ‘Ikey Solomon’ in the popular fiction of Bryce Courtenay attests to the enduring appeal of criminal mythologies. 32 Central to this thesis is the idea that crime and the criminal are ideological and discursive constructs. 33 An examination of colonial and penal discourse reveals that bourgeois perceptions of moral deviancy were integral to this process. Rather than ‘reading’ the body, this study examines how that body was represented and imagined. In the colonial context, the conflation of criminal and sexual deviancy served to define the boundaries between the free and the bond. It also came to inform perceptions of the ‘reformed’ prisoner and the ‘incorrigible’ felon. The discursive identification of marginal members of the community, in turn shaped the wider moral parameters of colonial society.

31 According to R. Evans & B. Thorpe, these ‘small expressions of selfhood’ have opened a new window into the inner private lives and interests of the male (and some female) convicts who were transported to the colonies. See R. Evans & B. Thorpe, ‘Commanding Men: Masculinities and the Convict System’ in Journal of Australian Studies, no 56, 1998, p 26.
Punishment

The first principle of transportation was punishment. It was both an intensely physical and psychological experience. For most transported convicts, the separation from home and family was enduring and permanent. On arrival in Australia, they were prisoners in a penal colony and they belonged to the colonial authorities. Their ultimate fate was uncertain. The ‘convict experience’ involved many different possibilities. Factors of time, place and the nature of the penal labour they were employed in would have been influential. Some men were assigned to private masters as convict servants. Others worked for the government on public works, and some were sent off to remote labour-gangs. Men who quietly worked out their sentences had a different experience from convicts sent to a chain-gang, or others who were sentenced to further punishment at a penal station. Yet all were subject to stringent restrictions. In their daily lives, their behaviour and their freedom of movement were structured around the rules of ‘convict discipline’. The threat of further punishment was ever present.\(^{34}\)

The historical imagination has long been informed by ‘thrilling tales of almost incredible barbarity’.\(^{35}\) The idea that convict society was excessively brutal and exploitative was enshrined in the convict memoirs of Martin Cash and Thomas Cook.\(^{36}\) It later pervaded the literature of Marcus Clarke and Price Warung.\(^{37}\) Individual punishments were indeed harsh, demeaning and degrading.\(^{38}\) It was this reality that...

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\(^{35}\) Hobart Town Gazette, 25 June 1824. This was made in reference to a case of convict cannibalism.


distinguished their status as convicts. Colonial punishment has been integral to historical considerations of the convict past. In most studies, punishment has been analysed to reveal the nature of the convict system and the wider colonial society. For some historians, violence and exploitation underscored all social relations in the colonies, especially in the early years. In 1973 Manning Clark suggested that ‘terror’ formed ‘the nexus between master and servant’ under the assignment system. Likewise, David Neal represented convict society as a harsh and repressive penal system that used ‘legally degraded coerced labour’ and capricious force to maintain order. Other studies have focused on the ‘network of draconian secondary punishment centres’ that threatened convicts with further penal exile. They were established at Port Macquarie (1821), Moreton Bay, Maria Island and Norfolk Island (1825) and at Port Arthur in 1830. In these studies punishment has been analysed as part of the repressive regime of the ruling colonial power.

Other research has downplayed the excesses of the convict system. Tamsin O’Connor has recently warned historians that ‘a new historiographical trend seeks to minimize pain and punishment in the convict experience’. Denholm’s study of Port Arthur suggested that its infamous reputation as the ‘abode of misery’ was the product of ‘myth makers’. Instead, he argued that ‘it was part of the penal system which was a product of the time, created for purposes which it served well and without exceptional brutality’. Rather than engage in a ‘brutal or benign’ analysis, in this thesis, the punishment system is considered as an ideological cultural construct. As Roger Chartier has insisted, cultural practices are not simply reflective of, or dependent on, their material

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42 The authors of Convict Workers suggested that the use of the lash was ‘judicious’. This was criticised by Evans & Thorpe in their review article (1992), op. cit., pp 96-9.
43 However, in her analysis of Moreton Bay, O’Connor argued for a more considered approach to secondary penal stations, one that is placed within the important discourse of domination and resistance. Tamsin O’Connor, in I. Duffield & J. Bradley (eds.), (1997), op. cit., p 135.
determinations, but are themselves constitutive of social reality. The ‘myths’ of convict punishment produced terror upon the colonial imagination. It was through these myths that the penal colonies constructed their reality.

**Imagining Colonial Terror**

Officially, the flogging of convicts was not administered in public after 1820. Yet its reputation and the belief that it was often enforced with ferocity haunted colonial society. Most penal settlements existed in splendid isolation and the colonial population was not permitted to visit them. This too served to exacerbate the unseen terrors of the convict system. The imaginings of the lash and the secondary punishment stations likewise informed perceptions of the Australian colonies in the metropole. In Britain, physical punishment inflicted on the body had been under intense critical scrutiny since the late eighteenth century. The move away from the visible and public punishments of the gallows and the pillory had contributed to the development of the transportation system as an alternative deterrent to crime. Exile to the unknown antipodes was perceived to be an effective restraint. During the 1830s, the rising sentiment of humanitarian and penal reform explicitly highlighted transportation and physical punishment as reflective of a more barbarous age. The spectacle of architecture and the construction of imposing prison buildings were increasingly viewed as a more effective restraint.

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46 Brian Elliot has suggested that the mythical and the imaginary have always been a feature of Australian history. In his analysis of the impact of Marcus Clarke’s novel in the late nineteenth-century he noted, ‘on the entire subject of convictism, imagination not knowledge, determined what people thought … and the authority of His Natural Life was sufficient’. See B. Elliot, ‘The Convict Novel and Australian Literature – The Progress of a Myth’ in *Quadrant*, vol 29, 1988, pp 116-18.

47 In a related context, R. Samuel & P. Thompson have urged historians to ‘relate the myths we find not to reality but rather to other myths and to the imaginative complexes which sustain them’. See R. Samuel & P. Thompson, *The Myths we Live By*, Routledge, London, 1990, p 12.


deterrent to crime.\textsuperscript{50} Prisoners incarcerated within their walls were subjected to more systematic forms of punishment. Rather than physical punishment, the emphasis was on surveillance and discipline and the imposition of a mental and moral regime. Transportation continued alongside the construction of the British prison system. These contradictions were neatly encapsulated in the title of Jeremy Bentham’s argument ‘Panopticon versus New South Wales’.\textsuperscript{51}

Against these developments in the metropole, somatic punishment formed just one of the many tensions of colonial society. In the eyes of the outside world it was an atavistic throwback to a brutal era. To humanitarian reformers, it was antithetical to the spirit of an enlightened age and unworthy of a Christian nation. For the infant colonies in search of respectability on the wider imperial stage and a brighter, whiter future of free and representative government, the brutality of colonial punishment was contrary to this desired image. It informed debates on the merits of free immigration rather than penal labour. It featured in anti-transportation rhetoric. The use of the lash within the punishment system often led to parallels being made with the slave-system.\textsuperscript{52} Historians have continued to debate the convict system in these terms.\textsuperscript{53} Moreover, in an age characterised by penal reform, flogging was regarded as an instrument of further degradation and demoralisation. Recalling his experiences at Moreton Bay, Thomas Brookes noted:

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The “bloody whip” was spoken of with a kind of facetious melancholy, which resembled the merriment of hell … The language was disgusting. Oaths and expletives were broadcast in conversations … An immoral taint
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\textsuperscript{51} Jeremy Bentham, ‘Panopticon versus New South Wales: or the Panopticon penitentiary system and the penal colonisation system compared’, London, 1812.
\textsuperscript{53} See M. Dunn, ‘Early Australia: Wage Labour or Slave Society?’ in E. Wheelwright & K. Buckley (eds.) Essays in the Political Economy of Australian Capitalism, vol 1, Australian & New Zealand Book Company, NSW, 1975; This debate was carried out between J. Hirst and D. O’Neal, in the pages of Historical Studies during 1987. It centered on the definition of New South Wales as a ‘free’ society and the appropriateness of comparing the convict system with the slave system. See David Neal, ‘Free Society, Penal Colony, Slave Society, Prison?’ in Historical Studies, vol 22, no 89, Oct, 1987, pp 497-518. For John Hirst’s reply to this article see J. Hirst, ‘Or None of the Above: A Reply’ in ibid, pp 519-24.
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seemed to be cast upon all, and the place was fast verging into a Pandemonium.  

Opposition to the use of the lash was often conveyed through animalistic metaphors that constructed flogged men as ‘savage’ ‘de-humanised’ and ‘beastly’. In his description of William Westward, the leader of the 1844 mutiny on Norfolk Island, Martin Cash wrote of a man ‘flogged, goaded and tantalized till he was reduced to a lunatic and a savage’. Likewise, Thomas Cook described the prisoners at Norfolk Island as ‘beings in human form, but whose every action excluded their claim to the appellation of “man” … in all their passions and actions [they] were Very Devils’. More recently this image has been explored to its most macabre conclusion in Paul Collins’ study of Alexander Pearce. In the 1820s, Pearce escaped from the brutal regime of Maria Island, only to become known as ‘the cannibal’ of Van Diemen’s Land. Some contemporary observers noted that flogging encouraged men to engage in vice and unnatural crimes because they had nowhere lower to fall. Alexander Maconochie informed one select committee that following the re-introduction of chains and the lash on Norfolk Island, ‘to the men’s infinite loss … the tendency to unnatural offence recurred with that change; the men had lost their self respect’. Thomas Cook similarly noted that flogged men ‘forget themselves as men and as a consequence they indulge in everything that is odious and execrable’.

The physical and psychological degradation produced by flogging has been explored by historians. According to Robert Hughes, men who were flogged were ‘drowned in powerlessness’. Moreover, next to homosexual rape, flogging ‘was the most

57 Alexander Maconochie, 17 March 1847, evidence given to the select committee of the House of Lords appointed to inquire into the execution of the criminal law, especially respecting juvenile offenders and transportation, in British Parliamentary Papers, Juvenile Offenders & Transportation, no 1, session 1847, (hereafter BPP, JO & T, no 1, 1847), p 112.
humiliating invasion of the body that could befall a prisoner’. In 1998, Raymond Evans and Bill Thorpe revised the traditional reputation of the lash as an arbitrary ‘chaotic male assault’. Instead, they suggested that flogging formed part of a ‘general militarisation of penal discipline’. It was a ‘systematic’ and ‘orchestrated’ ritual and a ‘calibrated process of administering pain’. Their study also suggested a more symbolic and somatic analysis of the punishment. Informed by advances in gender history and men’s studies in particular, they located flogging within a hierarchical masculine power dynamic. In this analysis, flogging ‘produced a vulnerable, indeed feminised masculinity in the convict male body’. Correspondingly, the power of the ‘bureaucrats of torture’ inflicting the punishment was enhanced. Resistance to this authority was only occasionally displayed by the ‘iron man’ who did not cry out in agony. Their study concluded that the ‘use of the lash was ubiquitous’ and the ‘screams largely drowned out the silences’.

Punishing the convict body was physical and symbolic. The psychological effects extended to the wider society. The punished male convict was a threatening figure. This was deeply ingrained in the colonial imagination. These anxieties were epitomised by the terror that penal settlement men, and in particular, expirees from Norfolk Island produced upon colonial society. Their return to the mainland was provocative and unsettling. It threatened to transgress moral and physical boundaries and defile the respectable members of the community. In short, they endangered ‘the colonial order of things’. They also threatened the moral reputation of the British Empire. In September 1846 Earl Grey ordered Lieutenant-Governor Sir William Denison to ‘take measures at once to break up the establishment at Norfolk Island’. This order, (later recalled) was issued from

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63 Ibid, p 17.
Downing Street after reports ‘of evils so fearful’ had reached London. During the 1840s the same discourses were applied to men who had been subject to the probation system in Van Diemen’s Land. The moral effects of the brutal and repressive regimes convict men were subjected to were both individual and collective. These anxieties littered colonial despatches and the administration of the convict department. Narratives of criminal sexual danger informed the correspondence columns of the daily newspapers and regularly featured in colonial petitions and convict memoirs. Both the physical and the imagined moral consequences of flogging and severe punishment were expressed through a particular lexicon that was saturated in sexual anxiety.

All male convicts were transported as punishment. They were to reform through working out their sentences in the colonies. Further exile, accompanied by hard labour and physical pain was often brutal and repressive, yet it too was underscored by the ideology of criminal reform. Punishment, work and reform have characterised historical assessments of the male convict experience. The ‘convict worker,’ transported for his first offence often ‘made good’ in Australia. Conversely, the habitual thief became the ‘broken man,’ destroyed by the mental and physical tyranny of secondary exile to a punishment station. This thesis is not about punishment and outcomes. It moves away from the historical holy trinity of punishment, work and reform and situates reform as the central focal point. Rather than pursuing the ‘work as punishment’ theme, this analysis reveals that moral reform lay at the heart of the convict system. By the twilight years of transportation this was ever more apparent. The cultural fears that surrounded the lash were in microcosm, a stark reflection of this.

67 Despatch from Earl Grey to Lieutenant-Governor, Sir William Denison, 30 September 1846, in E. Fitzsymmonds (ed.) Norfolk Island 1846: The Accounts of Robert Pringle Stuart and Thomas Beagley Naylor, Sullivan’s Cove, 1979, p 29. Instructions to delay abandoning the Island were forwarded in a despatch of 7 November 1846, in ibid, p 76.

68 Alexander Maconochie focused on the moral reformation of the prisoner. For him, the essence of penal policy was prevention and reform rather than punishment. He recognized that the treatment of the prisoner directly impacted on the success of reform. He spoke of ‘moral cures’ and the prison as a ‘moral hospital.’ The principles of self-discipline and appropriate outward conduct underscored many of his reformatory ideas. See A. Maconochie, Thoughts on convict management and other subjects connected with the Australian penal colonies, Hobart, 1838; Secondary punishment: The mark system, London, 1848; See also J. V. Barry, Alexander Maconochie of Norfolk Island, Oxford University Press, Melbourne, 1958.
Convict Reform

The idea of criminal reform and rehabilitation was central to the politics of transportation. Removal to a new environment reflected the belief that human nature could improve in different circumstances.\textsuperscript{69} Contemporaries who supported the punishment of transportation to the penal colonies adopted a particular environmental rhetoric. They contrasted the realities of crime and poverty, spawned by an increasingly urban and industrialising Britain against the imagined rural purity of the pastoral landscapes of Australia.\textsuperscript{70} In the colonial context, ideas of reform were implicitly connected with work and labour. This was expressed through the various systems of discipline that were implemented at various times; assignment, probation, the marks system and task work. It was played out in the divisions that emerged between competing penal theories. Some contemporaries remained committed to the use of terror and the lash to accompany the process of reform. Advances in phrenological theory influenced others to advocate a more humane and enlightened approach to convict rehabilitation.\textsuperscript{71} The idea of ‘reformation’ was complex and contemporaries grappled with its meanings. Was it inward and religious, or mental and behavioural, permanent or temporary? Would it be attained in the colonies or behind the walls of the penitentiary in Britain?\textsuperscript{72} These tensions were on-going.\textsuperscript{73} Charles Darwin expressed the ambiguous nature of ‘reform’ when he arrived in Sydney in 1836. He doubted that convicts underwent true moral reform. However, he did acknowledge the social utility of transportation ‘as a means of making men outwardly honest, - of converting vagabonds, most useless in one

hemisphere, into active citizens of another, and thus giving birth to a new and splendid country’. 

Darwin’s observations have characterised many subsequent historical assessments of the ‘reformative’ consequences of transportation. There is a clear historiographical trend that has argued that convicts were better off in the antipodes where, unlike in Britain, the sun always shone, the food was plentiful and legitimate opportunities for economic success were boundless. Enquiries have drawn on social and environmental theories of crime to suggest that many convicts did ‘make good’ in Australia. The assignment system of discipline has been analysed as a positive and benevolent form of discipline because it was ‘natural’. It resembled the traditional master-servant relationship. It permitted men to remain within, and contribute to society, rather than atone for their crimes within the confining walls of the prison. In the spirit of his ‘improving’ thesis of the Enlightenment, John Gascoigne has recently argued that the ‘land of the second chance’ did offer more of an opportunity to begin again, than a spell in the penitentiary which eventually returned convicts to their familiar environment with its familiar temptation. Other studies have analysed the ‘currency’ children to assess the impact that a different environment had on the offspring of Britain’s outcasts. These studies have also tended towards a positive social assessment of convict reform. Jane Elliott continued the ‘better off’ theme in her novel study ‘Was there a Convict Dandy?’ This research revealed high patterns of convict spending in Sydney between 1788 and 1815. Her analysis argued that the wearing of good quality clothing and the consumption of goods deemed ‘luxurious’ was symbolic of a ‘new life’ in the colony. This was starkly contrasted with the old life in Britain where ‘one would never look forward to anything but slop clothing at best, or … second-hand cast offs to be patched and made over to

76 See Joseph Atkinson, Penal settlements and their evils; penitentiaries and their advantages, including an examination of Captain Maconochie’s system, and suggestions for the improvement of prison discipline, London, 1847.
Consumption and the world of goods are major tropes running through both cultural and women’s history. In applying these themes to male convicts, Elliott’s research was refreshing and innovative. It redrew the cultural map and revealed a more complex interaction between gender, image, identity and the material cultural world. It also suggested that an inter-disciplinary approach to convict history was both possible and productive. This thesis adopts Elliot’s eclectic methodology yet it moves away from the ‘lucky country’ theme. Rather than consider the convict experience through the dichotomy of ‘better off’ or ‘fate worse than death,’ it analyses convict reform through the eyes of the colonial authorities. Influenced by feminist convict scholarship and the insights of cultural history, I argue that contemporary perceptions of criminal reform were obsessively filtered through the prism of a moral discourse.

**Feminist scholarship: reforming convict moralities**

Feminist historians’ initial identification of the centrality of sex and gender to the construction and maintenance of the social order has resulted in a broader recognition of the issue within historical scholarship. Australian convict history has been enriched by feminist research since the 1970s. The impact of the colonial gender imbalance informed early attempts to rescue Australia’s founding mothers from the traditional image that most transported women were refractory whores. This perception was inherited from contemporary observations. It began on the First Fleet with Arthur Bowes Smyth’s observation that ‘there never was a more abandoned set of wretches collected in one place’. Convict historians internalised contemporary class and cultural judgments, and the image of the prostitute long pervaded Australian historical writing. In 1963, L.L. Robson spoke for a generation of male academics when he concluded that ‘the picture

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presented of the women convicted and transported … is not an attractive one’. In the 1970s feminist historians went into battle against this traditional portrait. Armed with new theoretical approaches to patriarchy and gender relations, both Anne Summers and Miriam Dixson explained the immoral image of convict women as a reflection of their low status within the wider structures of a repressive male dominated society.

Whoredom or marriage was the fate of women in the antipodes. These interpretations situated female convicts within the context of the oppressive dualism of capitalist patriarchy. Transported women were ‘the victims of victims’ and ‘the slaves of slaves’.

Yet in seeking to explain their low status, they left the conventional ‘immoral’ image largely intact. The title of Sian Rees’ recent popular study *The Floating Brothel* suggests that the issue of female sexuality will continue to capture the historical imagination.

Colonial gender relations, prostitution and questions of sexual morality have long informed historical research on convict women. Revisionist interpretations of female convicts moved away from the prostitute stereotype and the idea that transported women were in an ‘exposed and vulnerable position’. Instead, they adopted the ‘make good’ in the colonies theme. Babette Smith’s insightful examination of the women from the *Princess Royal* concluded that for most of these women, Australia was ‘not the fatal shore at all, but a second chance’. Other studies highlighted the fundamental contribution women made to colonial society through their domestic and familial roles.

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This approach was exemplified in the work of Portia Robinson. In revising the earlier feminist emphasis on female convicts as subjugated sexual chattels, the marriage of women has instead assumed an ‘empowering’ dynamic. Marian Aveling suggested that within marriage ‘women found room to bargain, to assert their own power, and sometimes to dominate’. More recently, David Kent and Norma Townsend have commented that transported women were advantaged by the considerable gender imbalance in the colonies. As wives, women were in demand, ‘and since demand outstripped supply they acquired considerable power and it was a power they used, both to be free of assignment and to advantage themselves. In their roles as wives and mothers they were a positive force in colonial society.’ These revisions suggested that the gender imbalance was enabling for women. It permitted them to exercise a degree of choice, agency and power in their relations with men. This self-determination thesis did not go unchallenged. As Marilyn Lake reminded the champions of emancipation, ‘wife beating and incessant child-bearing were not liberating’.

The victim/agent debate in feminist historiography is a mirror image of the moral dichotomy that surrounded the construction of women in the nineteenth century. Convict women were ‘whores,’ yet in the eyes of respectable colonial society, marriage and motherhood ‘rehabilitated’ them. Perceptions of sexual morality have always surrounded the female convicts and the historiography has perpetuated this. Male convict historiography has likewise been trapped in a dualistic image of the brutalised victim or the successful convict worker. Yet these traditional historical approaches to the ‘female convicts’ and to the ‘male convicts,’ has led to a splintered view of colonial society. We

90 See M. Aveling, ‘She Only Married to be Free; or Cleopatra Vindicated’ in Push from the Bush, no 2, Nov, 1978, p 121.
have separate convict histories and different ‘convict experiences’ that are polarised by gender, but also divided by issues of sex, marriage, reform and morality. The same questions have not been asked of the men. Recent feminist scholarship has drawn attention to the economic contribution that women made to colonial society as workers.  

These advances into research arenas traditionally perceived as ‘male,’ have not been replicated in male convict historiography. Informed by feminist history, this thesis argues that the issue of male convict morality can no longer remain mute and silent. The rehabilitation of convict women was always moral. It similarly lay at the heart of the male reformatory process.

Reforming male convicts: marriage, moral behaviour, repression

In his observations of New South Wales during the 1840s, the new colonist J. C. Byrne noted:

It is no wonder … that in such a state of society, deep seated vice should exist, and abominable offences be practiced to an appalling extent. Religious education can have but little effect on those minds already steeped in and accustomed to vice, where the great disproportion of one sex presents an insuperable obstacle to the gratification of one of the most natural desires bestowed on man – that of taking to himself a helpmate.

Many transported men were ‘doomed to bachelorhood’ in the penal colonies. Raymond Evans and Bill Thorpe have suggested that within the ‘military, penal, colonial and colonising matrix…the patriarchal and masculinist tenor of convict

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93 The long held idea that women were un-skilled and un-productive workers has been re-examined. Deborah Oxley has argued that women possessed a range of skills, and Kirsty Reid’s recent study of Van Diemen’s Land has suggested that women’s work skills were at times, in demand. See D. Oxley, ‘Packing her (Economic) Bags: Convict Women Workers’ in Australian Historical Studies, vol 26, no 102, April, 1994, pp 57-75; K. Reid, ‘Setting Women to Work: The Assignment System and Female Convict Labour in Van Diemen’s Land 1820-1839’ in Australian Historical Studies, no 121, April, 2003, pp 1-25.


95 See R. Ward, (1958, 1965), op. cit., p 88. In practice, marriage was not as important to convicts as it was to the ruling authorities. See Sandra Wilson, ‘Language and Ritual in Marriage’ and also Alan Atkinson, ‘The Moral Basis of Marriage’, both in Push from the Bush, no 2, Nov 1978, pp 92-103; pp 104-15.
society resonated deeply’. 96 These perceptions of colonial society explain the absence of marriage in explorations of the male convict experience. Conversely, convict marriage has been central to convict women’s history. As the rehabilitated ‘whore’ thesis suggested, marriage was fundamental to perceptions of female reform. Few historians have considered marriage in relational terms, or indeed as it applied to men through the idea of a ‘natural right’. 97 More particularly, the idea of marriage as reformative has not been extended to include male convicts. Convict historiography has been mostly silent, yet the issue pervaded colonial and penal discourses.

In the colonies, the twin issues of marriage and the reformation of male convicts were expressed through a particular rhetoric that was often urgent and emphatic. Policies were continually made to encourage convict men to marry. The presence of women in the wider community was a prominent and on-going theme in the questions that surrounded the administration of female convicts. The marriage of men informed the debates that were conducted over the immigration of free female settlers. Colonial requests to ‘send out the wives’ were a consistent feature in the government despatches that were sent to London from Hobart and Sydney. As Sir Richard Bourke commented, ‘convicts with wives, whether brought from home or wedded in the colony, conduct themselves in an orderly manner’. 98

Marriage was reformative yet there was a perennial disjuncture between penal theory and the social condition of the colonies. The reality of the gender imbalance heightened moral anxieties and intensified sexual tensions. It led to an on-going colonial obsession with marriage and morality precisely because the reform and the moral behaviour of men depended on domestic ties and familial relations. Indeed, one of the critical tensions of imperial colonisation lay in the paradox of the masculine

97 As Michael Roper and John Tosh have argued, ‘masculinity (like femininity) is a relational construct, incomprehensible apart from the totality of gender relations’. See their introduction, ‘Historians and the politics of masculinity’ in M. Roper & J. Tosh (eds.) Manful Assertions: Masculinities in Britain since 1800, Routledge, London, 1991, p 2.
98 Sir Richard Bourke to Lord Glenelg, in Appendix C: marriage and convicts, in report from the select committee on transportation together with the minutes of evidence, appendix and index, vol 2, 1838, Q365G, (ML), (hereafter SC 1838), pp 230-35.
nature of the enterprise itself.\textsuperscript{99} Marriage was central to the construction and maintenance of the ‘patriarchal tenor’ of colonial society because ‘colonisation was about making families. But at the same time, the idea of colonisation acteed to exclude marriage and domesticity altogether.’\textsuperscript{100} In the context of penal Australia this was particularly apparent. The reality of a wifeless criminal male population had profound social and cultural consequences. Issues of sex, morality and convict reform were integral to ideas of bourgeois respectability and colonial identity. Moreover, these concerns increasingly came to inform the image of colonial society in the eyes of the outside world. As with the question of brutal physical punishment, perceptions of colonial society were expressed through a particular moral lexicon. These outside imaginings revealed that what was deemed to be a ‘natural’ state of society locked criminal reform, colonial gender relations and the reputation of the wider community into a particularly close and intimate relationship. Recalling his experiences of Van Diemen’s Land in the 1840s, Mr. J. Syme noted: ‘the very separation of the sexes, must at least in a negative sense stand in the way of reformation … as the separation is unnatural, so when persisted in for any length of time, nature itself must deteriorate’.\textsuperscript{101}

Van Diemen’s Land became the crucible for all of these anxieties during the 1840s. They were played out against the changing backdrop of developments in British penal theory and practices of penal discipline. In the colony, the replacement of the assignment system with the probation system in 1840 shifted attention away from the focus of transportation as a punishment. Instead, the moral and reformatory nature of the system itself became the prime concern. Penal observers in both Britain and in the colony agreed that the traditional alliance of prison and religious reform had failed. ‘False prison piety’ was denounced by a number of voices.\textsuperscript{102} Instead the focus shifted from inner

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  \item \textsuperscript{100} See P. Russell, (ed.) \textit{For Richer For Poorer: Early Colonial Marriages}, Melbourne University Press, 1994, introduction, p 2. In a related context Ann McClintock has noted that the dynamics of colonial power are fundamentally the dynamics of gender. See A. McClintock, ‘“No Longer in a Future Heaven”: Gender Race and Nationalism’ in A. McClintock, A. Mufii & E. Shohat (eds.) \textit{Dangerous Liaisons: Gender Nation and Post Colonial Perspectives}, University of Minnesota Press, Minneapolis, 1997, pp 89-111.
  \item \textsuperscript{101} J. Syme, \textit{Nine Years in Van Diemen’s Land}, McCosh Park & Dewars, Dundee, 1848, p 355.
  \item \textsuperscript{102} According to Roger Therry, ‘a plausible address, a well-chanted psalm, may serve to cover the hypocrisy with which the criminal conceals his true character from the religious instructor. The language of
\end{itemize}
spiritual reform towards an ideology of ‘training’ criminals to new standards of ‘outward decency.’ During the 1840s ideas of penal reform formed part of a much wider bourgeois desire to shape and control lower-class criminals into self-disciplined, rational and respectable models of working-class manhood. Under the guidance of the convict department, probation men were to be subjected to a time-tabled routine of regular instruction, useful education and daily labour on public works in the remote areas of the colony. Through this ordered discipline, convicts were to be reformed into ‘industrious, orderly, subordinate and obedient’ men who would later form part of the free labouring population of the colonies.

Assignment had dispersed prisoners to free settlers throughout the colony. The new system concentrated men in working gangs under the penal eye of the convict department. In this microscopic context, perceptions of moral behaviour assumed heightened significance. The discipline of work was important, yet ideas of appropriate masculine conduct were the central focus. The external characteristics of language and demeanour, diligent behaviour and an orderly and clean appearance became signifying sites. The sublimation of sexuality was central to the transformative process. Rational control over all bodily desires formed part of the imaginings of the bourgeois world. Lower-class male criminals were perceived to be ‘enslaved’ and ‘addicted’ to their lusts. It was during the 1830s and 1840s that sexuality became the central

the same person among his companions more accurately indicates his real character.’ R. Therry, Reminiscences of Thirty Years Residence in New South Wales and Victoria, London, 1863, pp 505-6; Mayhew & Binny noted that even ‘reformed’ prisoners in Pentonville were to be viewed with caution. See H. Mayhew & J. Binny, The Criminal Prisons of London and Scenes of Prison Life, Charles Griffen & Co, London, 1862, p 169. These ‘reformed’ prisoners were known in criminal dialect as ‘Joeys.’


As Freud noted, it was quiet simply part of the order of things that ‘civilization’ should be antagonistic to sexuality; progress was bought at the price of ‘great sacrifices’ of sexual gratification. See S. Freud, Civilization and its Discontents, 1929, re-printed, W. W. Norton, New York, 1961, p 28.
battleground for competing notions of what constitute[d] proper behaviour'. In the penal context, sexual repression and the policing of criminal male bodies was fundamental to disciplinary practice. The convict body was read through outward somatic and behavioural signs. It was here that perceptions of criminal and moral reformation converged.

Unnatural Sexualities

There has been a long historical silence around male sexuality. The idea that male sexuality is natural and essential, monolithic and static and therefore ‘outside’ of history, contributed to this silence. This has been recently challenged. It is now recognised that there are in fact many male sexualities with many different histories. Yet many of these histories remain to be written. As Kay Saunders and Raymond Evans have noted ‘by our very familiarity with men as universal social actors, we ironically know them least well as specific sexual identities’. This silent historical hegemony has been mirrored by the silences that have characterised ‘unnatural’ and ‘deviant’ forms of male sexuality. Certainly, this is a different historical silence. Rather than the universal thesis assumed by ‘normal’ male sexuality, what was deemed ‘the unspeakable crime has left,
by definition, little trace of itself’. So here we have a double historical silence; one around the ‘natural’ because it was ‘normal,’ and another around the ‘unnatural’ because it was ‘unspeakable.’

The challenge to the historian is reflected in the ‘silences,’ but also in the assumptions of colonial historiography. In the colonial context, male sexuality has not been afforded much historical significance. This is perhaps reflective of a broader historical reluctance to examine same-sex behaviour. Robert Aldrich has recently noted that many historians of Empire ‘have remained reticent’ on the subject (Ronald Hyam is the exception). Aldrich further suggested that historians of sexuality have also ‘paid surprisingly little attention to colonial homosexuality’. This is not to suggest that convict studies have been completely silent. Some historians have searched for evidence of celebratory ‘gay’ figures in early colonial society. Bob Hay charted the career of the ‘homosexually-inclined’ convict William Williams. Likewise, Garry Wotherspoon examined the issue of whether a gay subculture, akin to the London molly houses, existed in early Sydney or not. The scandalous ‘evidence’ given to William Molesworth’s select committee of 1837 and 1838 has ensured that sex and morality have long been a theme of convict history. According to Robert French, the testimony provided to the committee offers ‘a mine of information on convict life and sexual activity amongst the convicts’. Indeed it does, yet it has often been cited uncritically.

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117 See Bob Hay, ‘“A Charge of Something Unnatural”: A Brief History from the records of Australia’s earliest known ‘homosexual’ convict’ in R. Aldrich (ed.) *Gay Perspectives*, vol 2, University of Sydney, 1994, pp 63-82.
Colonial historians who have considered sexuality in relation to male convicts have tended towards environmental or ‘situational’ interpretations. These interpretations have closely mirrored the observations and the assumptions made by contemporary commentators, albeit without the moral outrage. Because of this, male convict sexuality has been analysed as a practice that centred on three options; prostitution, sodomy and bestiality. Due to the gender imbalance in the colonies, the idea that prostitution flourished in the urban settlements has acquired a certain truth status. Likewise, interpretations have suggested that sodomy was ‘ubiquitous’ in the male barracks and at the penal stations. For the isolated shepherd and the desperate stockman in the outback and the bush, bestiality was ‘common.’ Historians have been remarkably unimaginative in analysing male convict sexuality beyond these paradigms. Robert Hughes is perhaps the exception, yet Hughes painted another familiar portrait, one that focused upon violent rape and sexual cruelty. Terror and brutality were the central themes of The Fatal Shore. Hughes placed convict sexuality within an abusive and humiliating masculine power dynamic, common in penal institutions.

This thesis acknowledges all of these possibilities and practices. Yet it moves beyond what Robert Aldrich has termed ‘the stains on the sheets’ approach to past sexualities. Rather than ‘assume’ or look for the ‘evidence,’ it examines convicts and the convict system through the sexual imaginings that surrounded them. As Thomas Laqueur has noted, ‘discourses of sexuality served to constitute, rather than merely reflect, their object.’ Colonial and penal discourses were saturated in sexual anxieties. In Australia, the uneven proportion of men to women meant that no sex, same-sex and all

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121 Clive Moore has suggested that ‘there were always brothels in Brisbane and the other towns, staffed by European and Asian women, frequented by all classes and races’. See C. Moore, (1998), op. cit., p 45.
123 Evidence given to the select committee on transportation 1837/38 was particularly ‘revealing’ on this topic.
125 Robert Aldrich, 1 August 2003, sexuality seminar at the University of Sydney.
other expressions of ‘unnatural’ behaviour generated acute fears. In the particular circumstances of Van Diemen’s Land in the 1840s, the presence of large bodies of transported men massed in gangs and housed at the margins of settled society exacerbated these fears. These men represented in concentrated microcosm the much wider gender and moral concerns that permeated the outside colonial community. In these circumstances, probation men were imagined through a specific perception of the male criminal as a sexual deviant.

In turning the ‘gaze’ back, onto the techniques of surveillance we can see these imaginings in practice. Fears of the ‘unspeakable’ directly informed the treatment of convicts within the penal system. ‘Preventive’ devices featured in the spaces where men worked and in the ways they were housed. Both bodies and voices were monitored through anxious and obsessive eyes. A Foucauldian reading of power/knowledge discourse has important implications in revealing how convicts themselves manipulated these anxieties. They resisted the repressive discipline of the ‘castrating’ penal environment. Moreover, they used the pervasive fear of the ‘unnatural’ to negotiate their own power dynamics. These expressions from the margins reveal what Jonathan Goldberg has suggested is the ‘immense usefulness’ of the ‘unspeakable’ - precisely because it was so vague and nebulous.

Sexual imaginings went beyond the convicts. The ‘unspeakable crime’ permeated the discursive world of the wider colonial society. It reverberated in courtrooms and drawing rooms. It was heard on street corners and featured in the daily columns of the colonial newspapers. In practice it contributed to the termination of the marks system of

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discipline on Norfolk Island in 1844. Two years later, the probation system in Van Diemen’s Land collapsed amidst very public and scandalous allegations. What was ‘unspeakable’ led to the recall of a Governor. Out on the wider imperial stage its’ ‘usefulness’ provided effective anti-transportation rhetoric. The discursive imaginings of male convict sexuality threw into sharp relief the complex interplay of imperial politics at the centre, the consequences at the periphery and where the ultimate moral responsibility for these colonial interactions rested.

This thesis has examined many different sources. Each have their own limitations, which are explained further when they appear in the text. Official documents such as parliamentary committee reports, colonial government despatches and convict department records are necessary in any study of the colonial past. They represent the ‘official’ voice yet as Frank Mort suggests official discourses ‘are not neatly sealed off from more intimate forms of social relations’. Looking at the ‘official mind’ reveals the social and ideological underpinnings of colonial policy. Moreover, they have been analysed alongside private letters, convict memoirs, colonial petitions and contemporary newspapers. Read together, these sources sometimes reveal consensus. Yet at other times there was a complex interplay between aims and actions. Discrepancies existed between the policies of ‘official knowledge’ and the realities of actual practice. British penal theory was not always implemented ‘by the book’ in the colonies. These moments of disjuncture reveal where colonial tensions lay and how they were produced. The politics of imperial transportation was not one-way traffic. Rather, it was often a process of mutual albeit disjointed interaction. At the same time, colonial agency increasingly came to inform the relationship between the core and the periphery. This thesis reveals that when moral concerns and imperial reputations were at stake, this was especially so. The influence of the colonial newspaper press played a large role in this development. It was through the vehicle of the press that the mood of colonial society was expressed. Moreover, it was through the printed word that readers throughout the imperial Empire

were made aware of antipodean developments, as they were played out on the wider imperial stage.

This thesis does not proceed in linear fashion. It moves synchronically, linking the ‘intersecting rhetorics’ that ran through many contemporary discourses. One major trope found throughout nineteenth-century social discourse is the concept of ‘contamination’ and ‘pollution.’ This is explored in chapter one. The theme of ‘infection’ was the grand metaphor that linked perceptions of social, moral and political disorder in the nineteenth-century British *zeitgeist*. Old Testament style narratives of pestilence and pollution were commonplace. Through these discourses, bourgeois perceptions of lower-class criminal, physical and moral depravity specifically converged - for it was essentially a moral condition which was captured by this lurid imagery. This ideological construction of order and disorder was transferred from the metropole as free settlers took their cultural cargo with them to the colonies. In the Australian context, these metaphors reflected the cultural and social anxieties that surrounded the transportation system and the presence of the prisoner population. They were conceptualised through rhetorical fears of ‘infection’ and ‘defilement.’ The status and reputation of the wider colonial community and its relationship with the centre was often conveyed through these tropes.

Ideas of pollution and contamination express ‘a general view of the social order’. An examination of these ideas and their discursive meanings across the years covered in this thesis reveal a very clear continuity. They were everpresent from the 1780s through to the middle years of the nineteenth century when transportation ceased. Yet they also shifted according to the time and place and related to the social and political concerns of the colonial community. In this chapter I argue that the stability of constructed boundaries that were set up between the free and the bond, the ‘pure’ and the ‘polluted’ were not static. Rather, in looking through these discourses we can see a competing community that was fluid, many layered and subject to change. Moreover,

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perceptions of colonial morality and convict morality were not always mutually exclusive but were, at times, closely entwined according to wider political exigencies. A new reading of convict memoirs also reveals that convicts themselves were concerned with ‘convict pollution’. This has important implications for historical ideas that surround somatic borders, subjective identities and the monolith implied by the term ‘the convicts’. These discourses of pollution and contamination were not purely rhetorical but reveal a colonial society that was far more complex than one characterised by the ‘free’ and the ‘bond’. This dichotomy has characterised the historiography of colonial Australia for far too long and chapter one suggests different avenues we might explore to head in a new direction.

The theme of order and disorder is further developed in chapter two, which highlights the spatial dynamics of the convict system. The organisation of convict bodies and convict spaces informed perceptions of penal discipline and reformation. Bodies were to be classified and separated in ordered and controlled accommodation. This homology was mirrored by the idea that homogeneous bodies in defective convict accommodation would lead to indiscipline, sexual disorder and other ‘revolting immoralities.’ Penal space has not been afforded the analysis it deserves in convict historiography and discussions of the ship, the barracks and the gaol have not been investigated for the moral meanings they produced. This chapter centralizes space and contemporary perceptions of spatial order. It investigates the consequences that were produced by the disjunctures of penal theory and actual practice. I argue that these discrepancies plagued the practical workings of the convict department. They also haunted the imaginings of the wider colonial community and it is here where the importance of a spatial analysis of the penal system reveals its significance. The analysis builds on recent sociological studies and the work of cultural geographers and considers the ways that convict men disrupted the techniques of penal discipline and surveillance. It shows how they resisted the repressive apparatus by transgressing spatial rules and crossing the boundaries of separation. In examining the cultural and moral meanings of spatial resistance, this chapter offers a new reading of convict resistance and its implications for the wider dynamics of penal power relations.
Chapter three builds on the tropes of order, discipline and regulation examined in chapters one and two. Recent studies of male convicts have uncovered new and different ways of reading the ‘convict voice.’ This chapter examines why and how that voice was silenced in the first place. Convict speech is an area that has not been explored by historians. Yet silence and the regulation of speech were fundamental to ideas of penal order and discipline, and this remained a constant over the years examined in this thesis. Moreover, the propriety of language was closely connected to perceptions of moral reform. An analysis of convict speech through the process of its silencing and articulation offers a new arena within the existing historiography. It allows us to consider speech as a cultural process that had important meanings within the dynamics of both penal and masculine power relations. Despite the idealism of penal discourse, the convict voice was not silenced. It was feared by penal administrators and these fears were sometimes shared by the prisoners themselves. This chapter argues that those with little power over their lives used their voices in a variety of different ways. Insult and treachery were a common feature of the convict experience. False accusations and the machinations of whispers and rumour were rampant in the penal environment. Convicts used the threat of sexual defamation as a bargaining tool in their relations with one another, and also with their keepers. In this analysis, sex and its imaginings were manipulated by the prisoners themselves. For some the discourse of sex was power. An examination of the sexual subculture that emerged in the penal settlements reveals that for others, relationships were conceptualised through a gendered discursive paradigm. This served to humanise and normalise their otherwise atomised and unnatural lives. Both chapters two and three refute the Whiggish interpretation of penal reform as the onward and benevolent linear march of progress. They reveal instead that the administration of male convicts was characterised by uneven developments, a lack of central uniformity and continual changes of mind. There was also an ongoing gulf between ‘reform’ and its results. The dialectic of power and resistance is particularly significant in the convict context. Both

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chapters reveal that the silent, submissive and sexually sublimated worker of discourse was often not the real man who emerged out of the penal system.\textsuperscript{136}

Chapter four continues the theme of ‘silencing’ voices. The ‘silences’ of history are often ignored by historians. In this chapter I argue that understanding documentary silence is one of the central keys to unlocking the problematic of how systems of power and discourse operate. It considers how ‘silent’ and ‘unspeakable’ discourses operated within the public domain. I argue that what in contemporary polite society was deemed to be ‘unspeakable’ was in fact often spoken. The chapter considers the nature of unnatural crime reports in the colonial newspaper press. These reports have not been studied by historians and they are presented here as a new window through which contemporary perceptions of the ‘unspeakable’ can be explored. The response of the colonial press to the report of William Molesworth’s select committee of 1837 and 1838 is also analysed. Most historians have tended to consider the political and financial motives that prompted the members and the witnesses of the select committee to decry the state of colonial society. This chapter moves beyond this to examine the ways that the more lurid ‘evidence’ was presented to the colonial reading public. It suggests a new and revealing insight into nineteenth century colonial newspaper ‘censorship.’ Much of the ‘scandalous’ evidence was, in turn, thrown back at the metropole. Similar tactics were used the following decade in Van Diemen’s Land. During the 1840s, both the newspaper press and many of the free colonists adopted a particular moralising discourse to protest against the continuation of the probation system. This public noise led to the recall of Lieutenant-Governor Sir John Eardley-Wilmot. Historians have not considered this critical moment of the colony’s history through the interplay of spoken and ‘unspeakable’ discourses and this chapter reveals precisely how these dynamics played such a dual yet complementary role in this episode. This chapter is linked to chapter one in revealing the overlapping interaction between the cultural and moral construction of male convict sexuality and colonial political discourses.

Bourgeois observers of all stripes looked at the lower classes through the prism of illicit sex. This was especially apparent in the literature, the debates and the enquiries made into juvenile delinquency in the first half of the nineteenth century. Historians have long argued that female juvenile delinquency was filtered through classed perceptions of moral and sexual deviancy. The historiography of male juvenile delinquency has largely ignored this dynamic and in chapter five, juvenile male convicts are examined through the moral discourses that constructed them to reveal a new and significant reading of ‘delinquency’. More specifically for the Australian context, most historians have not considered the thousands of minors who were transported to the penal colonies. Those that have, have kept them separate from the wider transportation system and have tended to focus on them as an interesting transported minority. This chapter argues that we must include young convicts into the mainstream convict population because their place in the penal system tells us much about the workings of the system. It illuminates the broader issues involved in crime as a social construct, and the dynamics of preventive and repressive treatment within the penal environment. This chapter considers the ‘innovations’ that were introduced in the administration of juvenile convicts. It examines the measures that were taken to separate them from the adult criminal justice system. Conventional interpretations have tended to view these developments as benevolent innovations that aimed to prevent inter-generational criminal and moral corruption. In this chapter I argue that rather than enlightened benevolence, there was a more relational dynamic at play because separate juvenile institutions themselves produced new moral complexities. This chapter reveals that the same moral fears were replicated, if not magnified by these developments. The very construction of the juvenile convict as a moral deviant underscored the ‘failure’ of the separate reformatory process. In this light, the chapter can be read as a microcosm of the wider themes that run through the rest of the thesis.

Chapter six returns to the issue of colonial gender relations. This chapter focuses on the debates and practices that surrounded the transportation of women, the immigration of free women and the recurring colonial efforts that were made to ‘bring out the wives.’ Existing male convict historiography has tended to assume the reasons
why gender concerns permeated antipodean society and in consequence, this has led to an impoverished analysis. Feminist historians have certainly contributed to new understandings of colonial gender relations. Yet they too are guilty of impoverishment in telling one half of the story and concentrating solely on the sexual implications for the women involved. This chapter turns the tables and puts male morality and sexuality at the centre of the analysis. I argue that it was precisely moral concerns over male sexuality that lay at the heart of these colonial endeavours to increase the number of women in the colonies. Moreover, hopes that male criminals would reform were inextricably bound up with perceptions of the civilizing influence of marriage and domesticity. I revisit the mixed convict establishment at Emu Plains during the 1820s. Rather than consider the allegations of sanctioned prostitution that later led to the abandonment of the experiment, (and which dominates the historiography), I highlight instead, the moral concerns that led to its establishment in the first place. This chapter also moves away from traditional interpretations that have viewed free female immigration in the 1830s as a ‘failure’. Again the analysis considers the motivations that lay behind the enterprise in the first place. The issue of the conveyance of convict’s wives and their families has been under researched by historians and it is presented here as a testament to the continual problem of colonial gender relations and the efforts that were made to redress this imbalance.

This chapter also considers the wider implications of gender imbalance to reveal that what was deemed ‘unnatural’ embraced the convict population, the colonial community and metropolitan society in a particularly intimate way. In the eyes of the wider world, the penal colonies were perceived to be ‘unnatural’ communities. This was the antithesis of what the colonies thought of themselves as being and more importantly, what they wanted to become in the future. By the 1840s, the colonial desire for representative government was dependent upon the politics of bourgeois respectability. These ideals were culturally constructed through a moralising discourse of domestic and familial relations. Political respectability went hand in hand with sexual respectability. In this chapter the politics of transportation and the politics of gender and morality converge to reveal a new reading of the power relation between the colonial periphery and the metropolitan centre. In the final analysis, far from being a minor adjunct to the
mainstream of convict history, male morality and sexuality lay at the heart of colonial politics.

Change and Continuity

The thematic approach of the six chapters might suggest that continuity rather than change characterised the period of transportation and colonialism between 1820 and 1850. Certainly the themes of pollution and contamination, concerns over convict space, fears of the convict voice, newspaper reports of unnatural crime, the practice of juvenile transportation and anxieties over colonial gender relations were indeed constants over this period. At the core of this thesis is the argument of continuity; that concerns over male morality and sexuality were indeed ongoing and ever present. Yet there were also many changes and several key developments during these decades; colonial Australia in the late 1840s was an altogether different society from its late eighteenth century origins as a British penal colony. Moreover, these changes cannot be understood in a vacuum and must be placed within the context of the social, cultural and political developments in the metropole itself. A brief consideration of these changes will here be acknowledged.

The years 1820 -1850 witnessed numerous innovations in the management of the convict population. It was during the 1820s that more sophisticated systems of surveillance and stricter rules of discipline were introduced into both colonies. This tightening up was augmented by the creation of secondary punishment places and the establishment of road gangs and chain gangs. By the 1830s Moreton Bay, Macquarie Harbour, Port Arthur and Norfolk Island had emerged as places of reported terror. For secondary offenders who were sent to the punishment gangs, convicts found themselves sent out from the settled areas to repent and reform by taming the wilds of the new country through hard work and deprivation. Most convicts worked out their sentences assigned to a master and this system of discipline operated in New South Wales until transportation ceased to the colony in 1840. In Van Diemen’s Land the cessation of transportation to the sister colony brought changes to the practice of assignment, and after this date, the probation system of discipline was introduced. It was reorganized in the late
1840s with the introduction of task work. This reflected current penal theories that recommended that prisoners should work out their sentences according to a certain amount of work performed. It was similar to the marks system of discipline that had been introduced and experimented with under the leadership of Alexander Maconochie on Norfolk Island between 1840 and 1844. Indeed Norfolk Island itself was a microcosm of shifting penal practices that ranged from the laxity of Captain Childs command in the 1830s, to Maconochie’s enlightened moral reformatory discipline, to the notoriously brutal dictatorship of John Price in the late 1840s. The exile system of discipline intersected the later years of the 1840s and was characterised by a period of imprisonment at home and later involuntary migration to the colonies.

It was also during these years that free immigrants began arriving in the colonies in significant numbers. Their presence (or rather their economic interests) transformed the pastoral, agricultural and urban landscape of the antipodes and, most welcomed the free assignment of convict labour. Together, both ‘free’ and ‘bond’ played integral roles in the economic and political development of Australia. The establishment of a colonial police force, philanthropic societies, schools and churches, Masonic lodges and social societies and the rise of a free newspaper press had all emerged in the late 1820s and by the 1830s and 1840s they wielded significant social and cultural leverage in the colonial community.

During the 1830s as the colonies were emerging as distinct communities, developments in Britain did not go unnoticed. The rise of the ‘middling sort’ as a political class, the growing force of Evangelicalism, anti-slavery movements, law reform societies and chartist agitation had consequences that reverberated around the imperial world. In the private sphere, the changing nature of gender relations and the rise of the cult of domesticity had profound implications that intersected perceptions of class and gender, but also ideals of respectability, morality and politeness. It was also during this decade that allegiance to the system of transportation came to be questioned and moral and religious groups increasingly drew parallels between convictism and slavery and colonial exploitation elsewhere in the Empire. These debates would continue into the 1840s and
they locked opponents and advocates at both core and periphery into concerns that were at the same time local, international and imperial. By the end of the 1840s, convict transportation had (largely) ceased to the Australian colonies. Imprisonment at home had increasingly come to inform the discourses of British penal reformers. Colonial anti-transportation agitation had certainly played its part and increasing demands for greater independence and political representation would, by the middle of the nineteenth century profoundly change the power dynamics of the imperial relationship.

A brief note on methodology and terminology

‘The things to look at’ according to Edward Said, ‘are style, figures of speech, setting, narrative devices, historical and social circumstances, not the correctness of the representation nor its fidelity to some great original’. 137 My approach is informed by this discursive, representational and imaginative method in investigating the convict past. I have been guided by the insights of colonial, cultural, feminist and gay history. This study also incorporates the writings of cultural geographers, sociologists and anthropologists. It is, to quote E. P. Thompson, ‘an exercise in contextualisation’. My attention is focused on class and sexuality, and the ways that they were mutually intertwined within the rhetorics of criminal and moral discourses. I investigate how these dynamics were embedded in the tensions that intersected the political relationship between the penal colonies and the metropole. I analyse the shifts of meaning in these discourses, and locate them within the wider framework of colonial politics, in order to ‘de-code’ the so called ‘content of the form’. 138 Many historians have cast the ‘unspoken’ character of past sexualities, and in particular, male-to-male relations to be a problem for the researcher. This has served to ‘justify’ their silences. Yet a sub-cultural discourse did exist, had long existed and was coded in a particular form of expression. My approach combines literary and historical methods of reading to hear the meanings of the

'absent.' What was ‘absent’ was an ever-present layer in many colonial discourses and it was articulated through a distinct rhetorical style. It is this ‘silent’ discourse and its psychic articulations that informed my reading of the historical evidence and this shapes the main trajectory of this study.

I work for the most part with the terminology of the period. This thesis should be read with the historically contingent, yet constructed meanings of terms such as ‘morality’ and ‘reform,’ ‘pollute’ and ‘contaminate,’ in mind. At times inverted commas are used. At others, it is hoped my meanings are clear without them. ‘Mother country’ was in general use in the colonial context. ‘Class’ too was a common feature in the English language by this time. It was many layered, with each category of class itself fractured according to blood ties, source of income, occupation, religious affiliation and competing definitions of ‘respectability.’ I use ‘lower-orders’ more often than ‘working class’ quite simply because this term dominates my research material. ‘Ruling,’ ‘middle-class’ and ‘bourgeois’ are adopted as generic discursive constructions. In the Australian context they refer to the government elites, the penal authorities and the free population. I acknowledge the potential for ambiguities in the process of labelling. Yet it was over the time-frame covered by this thesis that the creation of classed meanings and categories were in a continual and evolving process of re-fashioning. The struggle to construct more static identity definitions often, in turn, highlighted their vulnerabilities. Nineteenth-century definitions were themselves, then, fluid, porous and prone to rupture. Finally, I employ the admittedly cumbersome terms ‘same-sex’ and ‘male-to-male’ relations. I use these terms despite their awkwardness, in recognition of the fact

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142 Harold Perkin has revealed that the terms ‘middle classes’ and ‘lower classes’ were articulated through their plural form throughout the nineteenth century. According to Perkin, this reflected, ‘the vagueness of the social facts, the existence of numerous layers and sections within the three major classes which only time and the experience of class conflict would hammer into something like compact entities’. See H. Perkin, ‘The Birth of Class’ in R. S. Neale (ed.) History and Class: Essential Readings in Theory and Interpretation, Basil Blackwell, Oxford, 1983, pp 166-7.
that the taxonomy of ‘the homosexual’ did not occur until later in the 1860s. Moreover, it was not until the late nineteenth century that new understandings of sexuality emerged, in which acts became constitutive of identity. Until 1885, the law was directed against a series of sexual practices, not a particular ‘type’ of person. The contemporary rhetoric of ‘unnatural’, ‘unspeakable’ and ‘unmentionable’ are employed. They should be read within their historical location.

Chapter 1

‘A Rapacious and Polluting Population’: The Discourse of Contamination\(^{144}\)

To begin at the end of our story. In 1849, the British House of Commons was the site of a lively debate. A new proposal to revive transportation and to disperse convicted criminals evenly throughout the colonial empire was tabled and debated during the summer months. Against this backdrop, discontent with the metropole was rising within the colonies. The demand for representative government and the threat of disorder were ever present on the colonial horizon. The new proposals for disposing of the mother country’s criminals were unlikely to calm the brewing colonial storm.\(^{145}\) Sir William Molesworth vehemently opposed the motion. In a speech to the House on 25 June he utilised a particular rhetoric to express his objection:

> Under the old system of distribution, the moral filth of Great Britain was accumulated in vast and fermenting masses in the penal colonies, whence moral typhus, plague, pestilence, and all manner of hideous disease; and the British pest houses of Australia stunk in the nostrils of mankind. Under the present system of distribution, that filth is to be spread out evenly over the surface of the colonies, and the colonists are to be told that it will be a fertilising manure, which will increase their material wealth and prosperity. To the old system, it is impossible to return. The new system I believe contains within itself the germs of sure and speedy decay.\(^{146}\)

The motion was defeated and the plan to plague the colonies with ‘moral typhus’ and ‘pestilence’ was not carried out. Van Diemen’s Land was to retain its blighted status as the ‘moral dung heap’ and the main ‘dumping ground’ for the entire empire for a

\(^{144}\) This was Thomas Atkins’ description of British prisoners. Reverend Thomas Atkins, Reminiscences of Twelve Years Residence in Tasmania and New South Wales, Norfolk Island and Moreton Bay, Advertiser, Edithwalk, 1869, p 181.

\(^{145}\) According to John West, accusations of ‘ignorance, negligence and vacillation’ were directed at the Colonial Office and the Colonial Secretary was charged with ‘the tyranny of irresistible despotism’. See John West, The History of Tasmania vol 1, 1852, reprinted Angus & Robertson, 1971, p 248. Kirsten McKenzie has recently outlined the opposition expressed to the transportation of convicts to the Cape of Good Hope. See K. McKenzie, ‘Discourses of Scandal: Bourgeois Respectability and the End of Slavery and Transportation at the Cape and New South Wales, 1830-1850’ in Journal of Colonialism and Colonial History, vol 4, no 3, winter, 2003, internet version.

further three years. William Molesworth had mobilised these tropes of moral pestilence for their political effect. There was more to the metaphoric evocation of ‘infection’ than oppositional political purposes however. It was through these themes that perceptions of political stability, class relations and the moral and social order were both imagined and produced. This chapter explores the cultural significance of these discourses. It first locates them within the social context of Britain and then moves to the wider colonial context. In the penal colonies, the tropes of plague and pollution, contamination and contagion occupied a central signifying place. They were fundamental to the construction of social and moral boundaries that were set up between the free and the bond. They were powerful images that were mobilised at moments of moral panic. Ideas of pollution and contamination often informed the discursive power relationship between the centre and the periphery. They were then, central to colonial imaginings. The moral and social complexities that were produced in a community where transportation and free immigration went hand in hand were imagined through, shaped by and created within these intensely evocative themes.

Mary Douglas has revealed that ideas of pollution and contamination express a general view of the social order. Moreover she suggests that ‘certain moral values are upheld and certain rules defined by beliefs in dangerous contagion’. Values and rules are sites of contest in times of change and at specific moments of panic. In Britain during the 1830s and 1840s both the political order and the social landscape were changing. Political reforms and economic developments had seen the rise of Chartism and the influence of socialism. The steady march of urbanisation and industrialisation and an increasingly visible urban poor made for anxious times. These decades saw the emergence of social reform movements, the revival of Evangelical religion, the

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147 Ibid.
proliferation of ‘expert’ authorities and the steady encroachment of an intervening state.\textsuperscript{151}

The tropes of filth, disease and decay were evocative metaphors that came to inform a variety of Victorian neuroses. They were central to discourses of social discipline. Social reformers spoke in terms of filth and contagion when examining the condition of the lower classes and the labouring poor.\textsuperscript{152} This encapsulated both their physical environment and perceptions of their moral worth. The institutions which contained and controlled the poor – the asylums, hospitals, workhouses and orphanages were depicted in parallel terms.\textsuperscript{153} These themes provided a powerful rhetoric to convey fears of moral and political disorder. Outside the walls of the institution, the prostitute, the homeless and all other outcasts lurking at the margins of the bourgeois public sphere were similarly defined.\textsuperscript{154} In essence, these tropes embraced all who failed to conform to middle-class norms of culture, behaviour and sexual morality. Beyond these cultural perceptions, they reflected a wider fear of the transgression of moral and class boundaries. The cultural habits and depraved behaviour of the poor threatened to contaminate and infect the fabric of respectable society. This fear reveals the vulnerabilities that surrounded the creation of an emerging British bourgeois identity and the profound complexities it produced.\textsuperscript{155} Perceptions of moral contagion ‘served as a reminder that lapses of the will could strike any man’.\textsuperscript{156}

\textsuperscript{153} So too was the ale house. The Chaplain of Reading Gaol, the Reverend John Field informed a select committee in 1847 how they ‘polluted the land’. According to Field, ‘Prisoners ascribe their misconduct to the temptations and contamination of those nests of iniquity’. Written report of Reverend John Field to the Magistrates of the County of Berkshire, in first report from the select committee of the House of Lords, 1847 in BPP, JO & T, no 1, 1847, p 146.
\textsuperscript{156} See C. E. Forth, ‘Moral contagion and the will: The crisis of masculinity in Fin-de-siecle France’ in A. Bashford & C. Hooker (eds.), (2001), op. cit., p 62. Forth’s article is based on a later period in France, yet his observation is germane for the construction of British morality and masculinity in the earlier part of the
respectability were a defense ‘against an internal and external other that was at once essentially different but uncomfortably the same’. Against the contrast of the lower orders as a ‘festering mass,’ a ‘pestilence’ and a ‘cancerous growth,’ the identity status and the moral worth of the ‘respectable’ classes came to be defined. It was in the slum that ‘the bourgeois spectator surveyed and classified his own antithesis’. The medical practitioner James Kay was a key figure in the social reform movement. He observed the poor of Manchester during the 1830s and remarked:

There is a licentiousness capable of corrupting the whole body of society, like an insidious disease which eludes observation, yet is equally fatal in its effects. Criminal acts may be statistically classed … but the number of those affected with the moral leprosy of vice cannot be exhibited with mathematical precision. Sensuality has no record.

The moral anxieties that were generated by the spectre and the fear of the taint of the great unwashed were replicated in discourses of crime. Indeed, the metaphors of moral filth and contagion had long figured in criminal rhetoric. Crime was a ‘hideous disease’ of the social body. Criminal behaviour was a spreading contagion. Both threatened the boundaries of the wider social moral body. These medical metaphors were further and obsessively expressed within the discourses that surrounded the prison system. Prisoners were said to be ‘contaminated’ and ‘infallibly ruined’ by the ‘moral contagion arising from the association’ in prison. Prisons were described as ‘seminaries of vice’ or ‘hotbeds of pollution’, where hardened criminals ‘were often irreclaimable’ and ‘delighted in inoculating their less guilty companions with their vices’. In the State of the Prisons written in 1777, John Howard noted that in prison

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159 Ibid, p 128.
160 See Mary Poovey ‘Curing the ‘Social Body’ in 1832: James Kay and the Irish in Manchester’ in Gender & History, vol 5, no 2, 1993, pp 196-211.
162 John Smith, Governor of Edinburgh Gaol, evidence given to the select committee on juvenile offenders and transportation, 19 April 1847, in BPP, JO & T, no 1, 1847, p 380.
‘the lewd inflame the lewd, the audacious harden the audacious’. This was to be a recurring feature of criminal discourse and it informed perceptions of the prison population throughout the nineteenth century. These discourses were reflected through contemporary ideas that linked crime and behavioural imitation with the environmental assumptions that sustained them. The prison reformer George Holford believed that convicted men ‘who continue always with each other must by degrees assimilate in character’. Likewise, another prison reformer John Burt suggested it was ‘a flagrant outrage against the dictates of prudence and the precepts of Scripture that we should deliberately thrust the convict, who is usually a man of less than average moral strength, into the pollutions of a society of more than average wickedness’. The theme of moral disease and contagion was regularly and obsessively reiterated. By the 1860s, Henry Mayhew and John Binny wrote of the internal reforms that had been made to the British prison system. Yet they utilised the same imagery of pestilence, infection and contagion to convey the shortcomings of these reforms:

We have made rapid advances towards the establishment of a kind of criminal quarantine in order to stay the spread of that vicious infection which is found to accompany the association of the morally disordered with the comparatively uncontaminated, for assuredly there is a criminal epidemic, a very plague, as it were of profligacy – that diffuses itself among the people with as much fatality to society as even the putrid fever or black vomit.

Recent historical work on empire and colonialism has revealed how these themes operated within the colonial context. Beyond the cities and prisons of Britain, colonial discourses were imbued with symmetrical themes of infection and contamination. In many colonial contexts these tropes embraced both class and racial anxieties. Ann Stoler

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166 J. T. Burt, Results of the System of Separate Confinement as Administered at the Pentonville Prison, Longman Brown & Green, 1852, p 84.
has argued that ‘colonialism was not a secure bourgeois project. It was not only about the importation of middle-class sensibilities to the colonies, but about the making of them’.  

Distinctions of class and race were maintained by designating boundaries through the dualistic tropes of moral/immoral, pure/polluted, clean/filthy. Through these oppositional discourses, the issues of class, race, morality and nationalism converged. They informed perceptions of the colonised as ‘Other’ and they dissected the discourses of race and racial classification. They set up ideological defensive boundaries, underscored by an obsessive colonial anxiety that the native population would ‘infect’ the white colonial home with foreign influences. Ideas of white ‘degeneracy’ loomed large. These ideas reflected the ‘precarious vulnerabilities’ of imperial systems of control. Fears of racial imitation and the ‘infection’ of white colonial authority were magnified by the colonial presence of soldiers, sailors and other members of the British lower orders. Their spatial and social proximity to indigenous populations was viewed through anxious colonial eyes, on the look-out for whites ‘going native.’ Miscegenation was the most obvious site where contagion anxieties were played out in the colonial context. Racial ‘pollution’ moreover, involved the crossing of class, race and gender boundaries. The prevention of moral contamination through the obsessive management of European sexuality in the colonies was an ongoing imperial concern.

In the British colonies then, cultural concerns with the social and moral order mirrored those of the metropole. In the colonial context this was magnified by the presence of a non-white indigenous race. There has been considerable debate between scholars over the links between the discourses of class and race. What was the influence of one upon the other, and which came first – the discourse of race or the language of class? Elaine Showalter has argued that ‘metaphors of race were … used to describe class

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relationships’. Conversely, Ann Stoler has suggested that race and empire shaped the language of class. She notes that within the lexicon of bourgeois civility, racialised bodies ‘provided the contrasts for what a “healthy vigorous bourgeois body” was all about’. Tom Holt has suggested that the issue ‘hardly matters’. Historians should instead look for the parallels and the symmetry between the two discourses. This chapter is influenced by this debate, not so much for its insights into the discourses of race and class but rather, how it relates to the particular context of the penal colonies. Unlike the concerns over racial boundaries that occupied colonial society elsewhere, it was the specific fear of white, lower-class criminals that loomed large in the antipodean context. Rather than racial infection and degeneracy, moral and criminal deviancy threatened to infect and disrupt the boundaries of class within colonial Australia. In this context, the tropes of criminal ‘pollution’ and lower-class ‘contamination’ held particular significance for definitions of Australian bourgeois morality. These themes in turn came to inform the emergence of a specific antipodean colonial identity.

Convict historiography has tended to replicate contemporary perceptions of criminal contagion. The treatment of this theme was long informed by negative historical assessments of the nature of the convicts and the wider colonial society. The Reverend John West led the way in his 1852 History of Tasmania. West took the theme as a given when he observed, ‘the law which consigns all to one penal fate, devotes all to one common ruin. Were it possible to escape the contamination of a gaol, what could be hoped, where the male population is contributed chiefly by prisons?’ These perceptions were later assumed and replicated by historians who adhered to the ‘criminal class’ thesis of convict historiography. Writing of Western Australia’s desire for convict labourers in the 1840s, A.G.L. Shaw uncritically noted, ‘Western Australians were willing to risk moral corruption for the economic advantages of transportation’. 

\[176\] John West, (1852, 1971), op cit, p 511. 
broke new ground with *Vice in a Vicious Society*. Sturma took the idea of criminal contamination and illustrated how it functioned as an ideological lever within a variety of colonial discourses. The political, economic and social concerns of New South Wales were played out through an oppositional rhetoric of crime and vice, morality and respectability. He highlighted the concepts of criminality and respectability as ‘set against each other’ but also ‘to some extent mutually dependent’. In some ways then, Sturma reiterated a static binary division of colonial society and the oppositions between free and bond, respectable and criminal, ‘inoculated’ and ‘infected.’ His study remained firmly entrenched within New South Wales. This chapter builds on Sturma’s analysis and extends its parameters to include the sister colony of Van Diemen’s Land. It explores the moral reciprocity of the ‘infection’ theme, and how it was played out within colonial society, and between the core and the periphery. It further delineates the role of colonial imaginings and the moments when boundaries were crossed, and revealed to be porous rather than static. Colonial society, seen through the prism of the infection trope, reveals a complex and many-layered community.

The penal colonies were a crucible for a whole plethora of contemporary bourgeois concerns and anxieties. Popular discourse on the danger of convict ‘contagion’ and its web of signifiers was intimately linked with perceptions of the social, moral and political colonial order. Indeed, the very founding of colonies that were both penal and free was often criticised through such themes. As early as 1802 Jeremy Bentham had noted ‘in that land of universal and continually increasing corruption, the guardian class (as might have been expected) became corrupted by their wards’. Decades later the propriety of the enterprise remained a contested moral issue. In a letter to Sir John Franklin, written in 1836, Thomas Arnold explained his reasons for not emigrating to Van Diemen’s Land. Arnold believed the colony was ‘even more shocking and more monstrous in its very conception’ than colonial slavery in the West Indies. He further noted ‘I am sure that no such evil can be done to mankind as by thus sowing with rotten

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seed, and raising up a nation morally tainted in its very origin. Colonial observers often used the language of imitation and infection in their commentaries on the convict population. Thomas Bunbury believed that the troops who guarded the convict gangs in Sydney ‘insensibly acquire their habits’. Jacob Lackland noted similar effects of convict association when he wrote, ‘the base shall not consort with the base without imparting and acquiring deeper pollution’. This was a powerful and recurring theme. It was constantly evoked and was later enshrined in the idea of the ‘convict stain’.

The ‘convict stain’ reflected on the wider colonial community. The language of infection was often mobilised to describe the state of colonial society at large. Commissioner John Bigge’s inquiry of the 1820s was critical of the practice of retaining skilled convicts in Sydney rather than dispersing them ‘in the remoter districts of the colony’. According to Bigge, such ‘a mass of moral poison’ had ‘consequences to the convicts’ and to the wider ‘morals of the colony’. Twenty years later, the Lord Bishop of Tasmania echoed these concerns. He informed a parliamentary select committee, ‘you cannot devise any system of transportation of convicts to a free society without deteriorating the character of the latter’. James Bonwick reiterated this theme in his written history of the colonies. According to Bonwick, convict ‘contamination’ of the free was inevitable. Moreover, it was as ‘absurd to speak of morals in a convict settlement as of virtue in a gaol’.

183 Jacob Lackland (alias John West) Commonsense: An Enquiry into the Influence of Transportation on the Colony of Van Diemen’s Land, Launceston, 1847, pp 11-12.
186 Lord Bishop of Tasmania, evidence given to select committee on juvenile offenders & transportation, 23 March 1847 in BPP, JO & T, no 1, 1847, p 237.
These perceptions put morality, integrity and respectability at the heart of antipodean colonial society. Free colonists were obsessed with morality and behavioural propriety. Through the prism of a familiar class structure, they defined their status and their respectability against the convict population. Transported men and women provided much of the domestic labour in Australia. The class concerns that were inherent in the traditional master-servant relationship were similar to those articulated in the metropole. Yet the criminal status of assigned convicts added a further dimension to the relationship. Adherence to notions of bourgeois respectability meant safeguarding against both lower-class and criminal pollution. Indeed, the presence of the convict population often intensified efforts to achieve this. Robert Hughes has suggested that within colonial society ‘the question of class was all-pervasive and pathological’. An ideological boundary was discursively constructed around the designated titles of the ‘free’ and the ‘bond.’ These contours also served to demarcate behaviour. In 1835, the *Sydney Herald* warned of the importance of maintaining the clarity of these boundaries. According to the paper:

Any man … who drinks, smokes and eats with his convict servants, will at last also *Rob* with them. Therefore, from all such persons Convict servants should be immediately withdrawn; for it is impossible to preserve discipline, even the distinction between vice and virtue, master and servant, free man and Convict, where such familiarity exists.

The assignment system was based on the moral authority of the master and the deference and obedience of the servant. Maintaining this distance was imperative. Many masters did indeed have assigned convict servants removed when they transgressed the moral and social boundaries of classed behavioural proprieties. William Harrison called his assigned servant Dennis Wolfe an ‘Irish bugger’. This was judged to be

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188 There were of course divisions between the different ‘respectable’ layers of British society in the first half of the nineteenth century. See S. Thorne, (1997), op. cit., p 243.
191 *Sydney Herald*, 3 December 1835.
inappropriate language for a master to use. Moreover, because Harrison permitted his assigned servants to eat at his table he was deemed ‘an improper person to have the controul [sic] of assigned servants’.\textsuperscript{194} As a result, his servants were removed and their services employed elsewhere. There was a further dimension to the maintenance of behavioural boundaries in the context of the penal colonies. A too familiar relation between master and servant also subverted ideas of penal order and moral discipline.

Some contemporaries insisted that the bond and the free were polarised and firm distinctions of class were rigidly observed. ‘Colonial society’, announced William Westgarth, ‘is divided by a well defined line, which marks off the criminal from the unconvicted population, and is particularly adhered to on the part of the upper-classes’.\textsuperscript{195} According to Judge William Burton, the men of polite society were, ‘as a class as respectable a body of gentlemen, as perhaps were ever associated together in any colony’. Conversely, he depicted the convict population and the lower orders in undifferentiated terms, not dissimilar to those of the metropole:

\begin{quote}
The convict vices manifest themselves continually in the lower-orders - that of servants of either sex, and labourers especially, in a total absence of good principle - in language profane, disgusting and unclean, and in suspicions of each other and those around them most odious - the offspring only of minds unpure.\textsuperscript{196}
\end{quote}

Burton’s observations reveal the centrality of class boundaries and perceptions of moral behaviour to the construction of colonial respectability. The colonist David Burn utilised the existence of these boundaries to refute ideas of convict pollution. According to Burn, the idea of moral contamination was ‘absurd’ and the very idea ‘too monstrous to excite more than a smile’. Burn insisted that ‘the line of demarcation – the gulph [sic] between the bond and the free – is too strongly defined not to be carefully avoided’.\textsuperscript{197}

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\textsuperscript{194} Quoted in S. G. Foster, (1983), op. cit., p 67.
\textsuperscript{195} William Westgarth, Australia Felix, 1848, p 282.
\textsuperscript{197} David Burn, Vindication of Van Diemen’s Land in a Cursory Glance at her Colonists as they are and Not as They have been Represented to be, London, 1840, pp 15-16.
\end{flushright}
Despite his assurances and the strict rules that surrounded the assignment system, convicts, ticket-of-leave holders, emancipists and free immigrants made an uneasy social structure. The stable binary demarcating the criminal and the respectable members of society was sometimes difficult to define. Maintaining the boundaries between the criminal and non-criminal, and the lower and upper orders was an ongoing concern. We might make a comparison with the fears of ‘infection’ that the poor presented to respectable metropolitan society. Yet there was a further unsettling feature in the penal colonies. Colonial class structures were flimsy and ‘social boundaries that were at one point clear would not necessarily remain so’. 198

In Britain, the ex-prisoner rarely transformed his social or economic status to the extent that was possible in the colonial context. One of the tensions peculiar to antipodean colonial society lay in a new social phenomenon: the well-to-do ex-convict. 199 The transported felon who became the successful emancipist was a liminal and ambiguous figure. He illuminated the fluid vulnerability of constructed categories and disrupted the ‘free’ and the ‘bond’ as static and polarised dualities. In his observations of the colonies, Godfrey Charles Mundy noted that one feature ‘exclusively peculiar’ to Sydney society was ‘the convict infusion’. Mundy was puzzled by the anomaly of the ‘affluent emancipists’. They held a degree of political and social influence, yet they were ‘nevertheless a class apart from the untainted’. They had political and financial contact with the free colonists, yet any social or personal intimacy between the classes was deemed to be morally inappropriate. According to Mundy ‘the barrier’ against social relations was ‘complete’. 200

The emancipist class occupied a precarious social status. They were active in the public sphere, yet they were largely forbidden to engage with ‘polite society.’

This drew definitions and perceptions of colonial bourgeois identity itself into sharp relief. The label of the ‘exclusives’ sought to delineate further boundaries within colonial society. Yet emancipists contested the notion of respectability and diluted its certainties. Their own semi-respectable status revealed an awkward layer that dissected traditional class definitions and boundaries. Within this fluidity, many free colonists sought certainty. Through obsessive reiteration, the language of ‘infection’ set up boundaries, but the boundaries were often crossed. The ‘otherness’ of convicts was neither inherent nor static. The rigid opposition of bond/free and polluted/not polluted was unstable. In Australia, criminal contagion was an ever-present tension that surrounded the parameters and definitions of colonial respectability.

The Vindication of Colonial Reputations: Contagion as Political Rhetoric in the 1830s

During the 1830s ideas of colonial respectability loomed large in colonial society. They were played out on the wider imperial stage. The issue of transportation and the presence of the convict population informed these dynamics. In 1837 Alexander Maconochie wrote a detailed report on the state of convict discipline in Van Diemen’s Land. It was written privately for the Prison Discipline Society but it was later published as a parliamentary paper. He favored transportation as a punishment, yet his report concluded that ‘the moral gangrene of the existing system is frightful’. Maconochie likened the assignment system to slavery. He condemned the coercive and brutal disciplinary procedures that sustained it. The question of convict morality was cardinal to his report because ‘the physical endurance of convicts’ was ‘trifling compared to the

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moral degradation inflicted on them’. Under these circumstances, prisoners were not reformed but were ‘irrevocably ruined’.\textsuperscript{204} His report revealed that domestic life between master and servant was ‘full of discord’ and ‘furious resentment’. It was without ‘moral influence’ and instead, reflected the nature of the wider colonial community which was ‘harsh, pre-emptory and overbearing’.\textsuperscript{205} Moreover:

\begin{quote}
The evil does not terminate here. Social, like mechanical impulses act reciprocally. The degradation of one class operates injuriously on every other; and it is impossible to view the state of society in the penal colonies without being made most painfully sensible of this fact.\textsuperscript{206}
\end{quote}

Maconochie’s portrait of Van Diemen’s Land was supported by the Director of Public Works, Captain Chayne. He too believed that convict and colonial morality were reciprocal. He insisted that ‘there abounds amongst us a fearful degree of immorality, unparalleled perhaps, in any age or country, and not, I regret to say, confined to the convict population’.\textsuperscript{207} These perceptions of the colony caused a storm in both the British and the local press. The colonists of Van Diemen’s Land never forgave Alexander Maconochie for his portrait of colonial society.\textsuperscript{208} The \textit{Hobart Town Courier} called for a committee of enquiry to refute these ‘gross and libelous untruths’ and ‘not to allow so deep a blot to remain on so fair a soil’. The paper further demanded the enquiry ‘take such measures as may remove the stain which such reports, if not neutralised, are calculated to inflict upon the character of the free inhabitants’.\textsuperscript{209} Maconochie later defended his report in a letter to his friend Sir George Back.\textsuperscript{210} He clearly perceived the impossibility of separating the cultural and moral consequences of the convict system from the wider nature of colonial society. Moreover, it held further imperial significance. He noted:

\begin{footnotes}
\item[204] ibid, p 417 (3).
\item[205] ibid, p 420 (6).
\item[206] ibid, p 420 (6).
\item[207] Printed in the \textit{Hobart Town Courier}, 12 April 1839.
\item[208] Sir John Franklin was obliged to dismiss him as his private secretary in September 1838. See K. Fitzpatrick, \textit{Sir John Franklin in Tasmania 1837-1843}, Melbourne University Press, Melbourne, 1949.
\item[209] \textit{Hobart Town Courier}, 12 April 1839.
\end{footnotes}
I attached the greatest importance to my convict views. I considered, as I now consider, the existing mode of treating them absolutely frightful. It destroys both soul and body - both master and man - both colonial character and, I may almost say national reputation. It is inconceivable how anyone can be blinded by it.\textsuperscript{211}

The timing of this report coincided with the publication of the findings of William Molesworth’s select committee on transportation. The Molesworth committee was convened ‘to inquire into the system of transportation, its efficiency as a punishment, its influence on the moral state of society in the penal colonies, and how far it is susceptible of improvement’.\textsuperscript{212} Hearings commenced in 1837 and the final report was presented to the House of Commons in August 1838. Maconochie’s negative conclusions on the nature of Van Diemen’s Land were reiterated, if not inflated by this committee, and included the sister colony of New South Wales. According to the committee’s chairman, there existed in colonial Australia ‘a state of morality worse than that of any other community in the world’.\textsuperscript{213} Colonists in both communities found their reputation and the nature of antipodean society attacked and traduced on two fronts; by colonial observers at the periphery and from witnesses at the metropolitan centre.

The Molesworth report has occupied a central place in the historiography of colonial Australia. In 1935 the historian W. D. Forsyth noted ‘When one has read the report, he feels as if he had looked on at the annihilation of an enormous loathsome spider with a sledge hammer: the end of Transportation seems an inescapable corollary of the 1838 report, and one wonders how public opinion tolerated ministries which continued to flood Van Diemen’s Land with convicts for a dozen more years. It is a lesson in social inertia.’\textsuperscript{214} Historians have tended to analyse the findings of this enquiry in one of two ways. Forsyth read it at face value yet some (Townsend, 1977; Sturma, 1983) have looked at the statistics of colonial crime to either refute or concur with the

\textsuperscript{211} Ibid.
\textsuperscript{212} Report from the Select Committee, 1838, op. cit., p iii.
Others have stressed the political and economic motives that lay behind the evidence given to the select committee. According to John Ritchie ‘Molesworth had hand picked many of the witnesses and had even attempted to drill some of them as to how they should testify. In addition he so framed and confined his questions as to encourage but one line of answer … Tendentiousness and misrepresentation abounded.’ The vested interests of the committee, many of whom wanted to end transportation and promote free colonisation, and the political expediency of the twenty-three witnesses has been noted by many. Interpretations then, have tended to ‘look for the evidence’ in the colony or have centralised political machinations at the metropole. Beyond the political and economic motives, the decision to modify the system of transportation had in fact already been decided. Yet the committee was not operating in an ideological moral vacuum. An analysis of the report through the ‘infectious’ moral discourse it utilised, reveals a complex interplay between the nexus of crime, morality and the social order. It highlights the reciprocal nature of colonial class relations and further, the tensions between the metropolitan centre and the colonial periphery.

The report mobilised a particular lexicon to discredit colonial society and the system of transportation. According to the select committee, colonial crime was increasing. This illustrated ‘too plainly the progressive demoralisation both of the bond and of the free inhabitants of that colony’. The assignment system of convict discipline was a ‘lottery’ and likened to the slave-system. Antipodean society was depicted in terms not dissimilar to those that described the prisons of the metropole. It was a ‘hotbed of pollution’ where corruption, debauchery and degradation perverted the entire community. According to Molesworth, ‘the heart of the free immigrant is gradually deadened to the

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sufferings of others, and he becomes at last as cruel as the other gaolers of these vast prisons’. Perceptions of moral reciprocity were familiar themes that ran through the report. In the eyes of the outside world, the presence of convicts ensured that the boundaries of class and morality were continually transgressed in the penal colonies. There was little to distinguish the behaviour of the bond and the free, the respectable and the dissolute. Such representations echoed the wider anxieties of the nineteenth century bourgeois zeitgeist over the permeation of boundaries. Beyond the imaginative rhetoric of the report, these findings ‘left a lasting scar on the community’s consciousness’. They also produced a particular colonial reaction.

Australian colonists perceived that their reputation had been blighted in the sight of the world. According to Robert Hughes the report ‘was a stunning parental rejection’ that led to ‘bewildered denials and Oedipal tantrums’. In opposing the findings of the select committee, colonial reputations were vindicated through a moralising lexicon that obsessively stressed the respectability of the community. In a petition sent to Her Majesty in 1839, the colonists of Van Diemens Land asserted they were a ‘moral, religious, intelligent, active and industrious community of Britons’. More revealing was their further claim that ‘the very presence of a convict class … operates as a provocative to highly exemplary conduct’. These discourses refuted ideas of criminal ‘pollution’ and convict ‘contamination.’ Instead, it was asserted that the state of colonial morality was little different to any other society and the colonists were the innocent ‘victims of a conspiracy’. The Sydney Gazette suggested that colonial morality was in fact superior to that of the metropole. In the towns of Sydney, Parramatta and Maitland, ‘life is safer’ and ‘property more secure than in any one of the larger towns of England’. According to

224 Ibid.
225 On 19 September 1840, the Australian reported that religious observation and the crime rate of the colony was similar to those in Britain.
the paper, ‘every stranger on his arrival in the colony must be struck with surprise not at observing that crime abounds, but that it abounds to so limited an extent’.  

Colonists in both New South Wales and Van Diemen’s Land called for official legislative investigations to survey the state of colonial society to counteract ‘the evil impression’ created in Britain. In both, public meetings were held and the findings were denounced. In Van Diemen’s Land the Hobart Town Courier suggested that ‘the evidence was wholly of a condemnatory character, probed and searched by rigorous inquiry, anxious to expose and lay bare the vices supposed so long to have polluted the land. It was an inquisition and not an inquiry.’ Colonial morality was vigorously defended in petitions and in the press. Commentaries upon convict immorality were suitably diluted. The Legislative Council of New South Wales drew up a list of resolutions refuting the committee’s findings. Number ten resolved that ‘...many men who previously to their conviction had been brought up in habits of idleness and vice, have acquired, by means of Assignment, not only habits of industry and labour, but the knowledge of a remunerative employment which, on becoming free, forms a strong inducement to continue in an honest course of life’. The assignment system of penal discipline was defended with vigour. It was not akin to the slave-system. Colonial perceptions of convict morality were largely presented to the outside world through the prism of the moral and reformative nature of the assignment system. According to the Sydney Monitor ‘amongst the lowest orders of New South Wales, there are abundant instances of virtuous and religious conduct. While among the middle and higher ranks, morality and religion may be said to flourish.’ These discourses reveal the porous nature of constructed boundaries. The Molesworth report had stressed the transgression of classed moralities through the tropes of infection and criminal contagion. Conversely,

226 Sydney Gazette, 26 February 1839.
227 Hobart Town Courier, 3 April 1840.
228 Michael Sturma suggests that the press made a volte-face with regards to its attitude towards the convict population. See M. Sturma, (1983), op. cit., pp 27-30.
230 Australian, 12 February 1839.
231 Monitor, 8 February 1839. Much of the Monitor’s reaction to the Molesworth report focused upon the gender disparity of the colony. This is discussed in chapter six.
colonial perceptions of the moral integrity of the free inhabitants and the convict population were here clearly entwined.

At a different level, ‘pollution’ and ‘contamination’ were themes that were mobilised by the colonists to protest against the committee’s recommended changes to the convict system. The proposal to replace the assignment system with the gang-system drew attention to perceptions of criminal reform. Economic motives aside, assignment was defended as the most ‘natural’ and reformatory means of penal discipline. The system of assignment separated and dispersed prisoners. Through it, men reformed and society benefited. In Van Diemen’s Land, the Archdeacon William Hutchins noted that the separation of convicts under assignment ‘checks that progress of moral contamination which is ever found to accompany the intercourse of wicked men’. The moral and reformative consequences for convicts involved in the proposed gang-system were unknown. The new system was therefore feared. Moreover, the wider social and moral effects of changing the convict system produced profound anxieties. Lady Franklin noted her private concerns with the committee’s proposals to her sister, Mary Simpkinson in 1839. In one letter she wrote, ‘I cannot believe the Ministry is yet prepared to adopt anything so vague, impracticable and dangerous as [its] recommendations’. In Hobart, petitioners similarly noted, ‘the consequences of the projected changes are vague, unknown and uncertain and may eventually prove far more vicious and disastrous than the effects of that system they are destined to supersede’.

Many residents expressed their fears of the ‘vague’ and ‘unknown’ gang-system through discourses of convict pollution and contamination. For some it was akin to the massing of prisoners in gaols. In a speech to the Executive Council, John Gregory opposed the new plans to congregate convicts. He asked, ‘why should we add fuel to the

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232 Settlers feared losing their cheap convict workforce. Others perceived a damaged colonial reputation would discourage immigration, and retard the economic growth of the colonies.
234 Lady Franklin, Letter to her sister, Mrs. Simpkinson, 3 February 1839, in G. Mackaness, Some Private Correspondence of Sir John and Lady Jane Franklin, Australian Historical Monographs, 1977, p 56.
235 Ibid.
236 Petition from a meeting held at the Theatre, Hobart, 29 April 1840, Enclosed in Sir John Franklin’s Despatch no. 66, 22 May 1840, in BPP, C & P, T, vol 10, 1851, p 501.
flame, and still further swell the numbers of victims to evil communication? A colonial petition from residents in New South Wales likewise noted that, ‘the massing together of convicts … initiates some into evil practices with which they were previously unacquainted, and matures and confirms others in habits and propensities from which they might otherwise be reclaimed’. In this context, the theme of moral infection informed the colonists’ reaction to the proposed changes to the convict system. This discursive interplay reveals the political and moral dimensions of the infection trope - but also its adoption and utility according to particular circumstance. During the 1830s, colonists used it to defend the state of the colonial community and the system of assignment. They also revealed how it might be turned around to express other anxieties that surrounded uncertain and unknown outcomes. Fear of the unknown was a peculiar feature of the nineteenth century bourgeois imagination and it is a theme to which this thesis will return.

Colonial Reputations Asundered: Contagion as Political Rhetoric in the 1840s

Discourses that defended the moral reputation of the colonies in the 1830s were utilised and contradicted in anti-transportation rhetoric during the following decade. It was the same rhetoric with a different purpose. As Ann Stoler has noted, ‘seemingly shared vocabularies … [that] may sometimes remain the same, at other times diverge and transpose into distinct and oppositional political meanings’. During the 1840s, the language of moral infection and ideas of criminal pollution provided the colonists of Van Diemen’s Land with a particularly evocative weapon. The fears expressed the previous decade over ‘unknown outcomes’ had now come to haunt colonial realities. The colonists conducted their opposition to the continuation of the probation system of convict discipline through this discourse. It provoked a vivid image of colonial society and it informed perceptions of transportation as a ‘great moral question.’ In many ways it reinforced the observations that had been made by Alexander Maconochie on the reciprocity of morality. Yet it operated on a number of levels. For some colonists it was
used to reinforce the reciprocal nature of the imperial relationship. In this instance, the spotlight turned outwards and towards the metropolitan centre. Britain was accused of ‘polluting’ her own colonies. Other discourses focused upon specific moral anxieties that were generated by the presence of the convict population within colonial society.

Locating moral responsibility at the Metropole

In 1846, the respectable colonist and prominent lawyer Mr. R. Ewart arrived in London on a mission. Armed with a colonial petition, he was to persuade the British government to end transportation to Van Diemen’s Land. In London, he wrote an article that appeared in the *Times* in May 1846. The article informed the British reading public that ‘the island is sunk in an abyss of depravity and abandoned wickedness too horrible to be described. It is the treatment of the convicts which has done this … none who are not bound to the soil by ties they cannot loose will delay much longer to free themselves from its polluted atmosphere, and from the horrible contamination of crimes without a name.’

Ewart’s emotive imagery was unlikely to raise the reputation of the colony in the eyes of the British. That was precisely the point of his mission; to open their eyes to the moral consequences that their own criminal justice policies had created. In a speech to the House of Lords, Lord Stanley defended the continuation of transportation to Van Diemen’s Land. ‘What’ he asked the House, ‘if the system be forbidden … are we to do with all the sweepings of our gaols?’ Stanley further ‘justified’ his stance on the transportation issue when he suggested ‘it gives the free population an incentive to excel them [convicts] in moral conduct’.

The colonial press responded with outrage at such insouciance. The *Launceston Examiner* proclaimed, ‘Why, any intelligent sargeant of police can tell Lord Stanley that the presence of the abandoned and profligate does not conduce to general morals by any such refinement in emulation’. We can see here how the discourse of infection and the idea of moral reciprocity produced contradiction and complexity. It was also malleable and manipulated according political motive. The colony had in fact used Stanley’s logic to defend their morality against the reports that

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240 *Times*, 27 May 1846.
241 Speech printed in the *Launceston Examiner*, 15 July 1846.
242 *Launceston Examiner*, 15 July 1846.
had been made by both Alexander Maconochie and the Molesworth committee in the previous decade. In 1846, the British government remained reluctant to terminate transportation once and for all. It would eventually change, yet for the present Mr. Ewart’s mission to London went unaccomplished.

The moral responsibility of the mother country towards her colonies informed the wider project of colonialism. It was a central theme of many colonial discourses. So too was indignant polemic against Britain. ‘Failure’ towards her colonies was often seen in terms of moral failure and the negation of responsibility. Anti-transportation discourse utilised the language of infection to suggest that the moral and social state of Van Diemen’s Land was indeed low. Directing attention towards the mother country and the British criminal justice system, colonists located moral responsibility outside of the colony. This was increasingly apparent during the 1840s. Van Diemens Land was the main depot for transported British prisoners during this decade. The colony struggled with the social and economic burden imposed by the steady arrival of prisoners. Letters from ‘respectable residents’, the petitions of free communities and an increasingly vitriolic newspaper press mobilised the discourse of contamination. They wrote of their adopted land ‘infested’ ‘swamped’ and ‘polluted’ with the ‘refuse of the Empire’. According to one colonist, it was a national disgrace, ‘a foul stigma upon the British nation’ and ‘a violation of the laws of God’.

Edward Hall was a resident in New South Wales. He sympathised with the sister colony. In a letter to Earl Grey he noted the ‘deplorable ignorance’ that ‘was evinced by the Home Government in deluging a loyal and moral colony with malefactors whom they could not employ’.

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243 This turn around did not go unnoticed. William Race Allison noted how the arguments used to defend transportation, the state of the convict department and colonial morality in the 1830s, were, by 1847 being used to call for the cessation of transportation. Moreover, he suggested the morality of the colony was being damaged not by the presence of convicts, but by the colonists themselves through their portraits of the state of society. See W. R. Allison, Remarks on the Transportation Question by a Colonist, printed at the Cornwall Chronicle Office, Launceston, 1847, pp10-11, 365A, (ML.)

244 This was particularly expressed by the anti-slavery movement. See V. Ware, Beyond the Pale: White Women, Racism and History, Verson, 1992; C. Midgeley, Women against Slavery: The British Campaigns 1780-1870, Routledge, London, 1992.

245 Bermuda and Gibraltar also received transported British prisoners.

246 Dr. M. Gaunt, Letter to the Colonial Secretary, 8 August 1848, in BPP, C & P, T, vol 9, 1849, p 90.

editorial, the *Colonial Gazette* asked its readers, ‘what right has the mother country thus to pour upon her colonies the dregs and scum of her people …?’ The paper further noted ‘that the difficulty of dealing with criminals at home can be no excuse for inflicting such a pestilence upon distant lands’. The British had made ‘a moral wilderness’ of ‘some of the fairest and most fertile regions which Providence, in its bounty has given for the habitation of man’. The anti-transportation campaign was the most ‘laudable labour’ in ‘finally stopping the polluted stream, which has unhappily so long contaminated our Australian colonies’.

Through this rhetoric, colonists evoked a frightful picture of colonial society. Beyond the colonial community, the very landscape itself was said to be tainted by the continuation of transportation. We can see through these environmental metaphors an emerging sense of ‘affection for and belonging to Australia’. A particular mood of antipodean colonial identity and nationalism had by this decade emerged. This further contributed to the many tensions that the issue of transportation produced within the colonial relationship. The idea of ‘polluting’ her colonies did not go unnoticed in Britain. Nor was it confined to the penal colonies. It informed a much wider colonial discourse. Debate in Parliament utilised its imagery. It found further expression in an increasingly sympathetic British newspaper press by the close of the 1840s. Many conceded the transportation of criminals and the sending out of paupers to populate the Empire was morally untenable. The British dominions were being ‘converted into pest houses of pauperism’ or ‘sinks of iniquity, polluting the earth with unheard of diseases and unmentionable crimes’. The moral responsibility of Britain towards her colonies was voiced through a discourse of infection which reverberated from colony to metropole and back again. The notion of ‘contagion’ and ‘contamination’ as caught or taught, introduced, imported and spread was tempered by the idea that it might also be prevented, contained, stopped and even ‘cured.’ In the colonial context, only action at the centre could affect this. During one debate in the House of Lords in 1846, the Bishop of Oxford

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248 *Colonial Gazette*, 19 January 1839
spoke of the government’s responsibility for the present state of Van Diemen’s Land. He told the house ‘it was indeed impossible to hear or read of the state of things … without shame and deep sorrow’. He continued:

They found that there, connected with the English name, had sprung up commonly the most deep and horrible moral pollution; that vices which Christianity had almost banished from the earth were there extending … This had been the result of the present system of Transportation.251

Contaminated Colonial Children

The discourses of pollution and contamination were often multi-purpose and many layered. The language of infection reflected perceptions of morality and behaviour as taught, imitated and spread through example. Everyone was at risk from moral contagion, some more so than others. Colonists often played out their ‘contamination’ anxieties through the figure of the innocent colonial child. In the nineteenth century the idea of the ‘contaminated’ child was a central and recurring bourgeois anxiety. It littered many cultural discourses, from the advice of prescriptive child rearing manuals to the rhetoric of juvenile delinquency. As behavioural imitators, children were vulnerable to ‘catching’ bad habits and passing them on to others.252 In the wider colonial context these fears embraced both class and racial anxieties.253 In the antipodean context, it was the specific fear of criminal and moral contagion that was dominant. This is clearly illustrated in the anxieties that surrounded the presence of convicts in colonial society. The effect of their moral influence upon the next generation was a constant colonial concern. The idea of ‘contaminated’ children was also a feature of colonial imaginings in Britain. The select committee of 1837 had hinted at the negative consequences that convict servants had produced upon the colonial children. The final report suggested ‘it

251 Dr Wilberforce, Bishop of Oxford, Debate in the House of Lords, 3 March 1846, reported in the Launceston Examiner, 18 July 1846.
252 A number of colonial observers refuted these ideas however. Moreover, many suggested that the children of convicts were nothing like their parents. John Bigge’s report made such observations. See also Alexander Harris, Settlers and Convicts or Recollections of Sixteen Years Labour in the Australian Backwoods, London, 1847.
253 See A. L. Stoler, (1995), op. cit., pp 137-64. Kirsten McKenzie has recently noted the cultural anxieties that were produced at the Cape of Good Hope. Here, the issue of contaminated children centered upon the use of native women as wet nurses and nannies. See K. McKenzie, (2003), op. cit.
can be easily imagined what a pernicious effect must be produced upon the character of
the rising generation of the Australian colonies, in consequence of the children of settlers
being too frequently, in their tenderest years, under the charge of such persons. Dr. Dickensen, the chaplain of the Archbishop of Dublin made a more forceful claim.
Warning against the ‘dangers’ of emigrating to Australia he noted:

The children of the most respectable settlers in the Penal Colonies displayed at the tender ages of twelve or thirteen, a precocity of vice such as was scarcely to be found in the worst haunts of London: and why? Because they were associated with the convicts and the most despicable characters.

The colonial historian James Fenton argued that this theme cemented the idea that transportation was a moral issue ‘in which the destiny of the rising generation was especially concerned’. Colonists often appealed to British national sentiment through this notion. It was a particularly emotive arena. Beyond the rhetoric however, there were a number of cases of child sexual abuse involving convicts and ex-convicts in Van Diemen’s Land in the late 1840s. These cases were given coverage in the colonial press. Despite the appeal of many colonists, Sir William Denison refused to initiate a wide public enquiry. The Lieutenant-Governor supported the continuation of transportation. He also advocated the promotion of the colony as a place that was suitable for free immigration. Negative publicity on the state of colonial morality would be detrimental to both of these processes. He later justified his decision in a letter to the Lord Bishop of Tasmania. This letter is revealing in a number of ways. Denison believed that any further publicity in the colony would merely serve to increase the incidence of such crimes. This reasoning itself was shot through with ideas of criminal, moral and sexual behavioural contagion. However, he did not locate the convict population per se as responsible. Rather, he saw such cases as inevitable in a colony where the gender

255 Dr. Dickensen quoted in Hobart Town Courier, 3 April 1840.
257 See Launceston Examiner, 5 July 1848; 23 & 30 August 1848. Hobart Town Courier 30 August 1848.
imbalance was so marked and where ‘even the best education does not always impose a sufficient check upon the indulgence of such appetites’.  

For those colonists seeking judicial investigation and an end to the probation system of convict discipline, this ‘inevitability’ could no longer continue. Publicising such crimes was necessary and urgent. In 1848, Earl Grey received a number of letters from parents informing him of the ‘foul and hideous consequences of a faulty system of transportation’. Colonial petitions demanding an end to the probation system reiterated the theme of contaminated children. The ‘humble petition of parents and guardians residing in the island of Van Diemen’s Land’ drew on these anxieties and placed children at the centre of their concerns. Appealing to ‘Her Majesty’ in 1847, the petitioners revealed the ‘melancholy condition and prospects of the youthful population’. Moreover, ‘no vigilance or careful instruction can be expected to counteract the mischievous and contaminating influence of convict example on the rising generation, and from their earliest infancy they are liable to witness scenes of demoralisation and frequent instances of profligacy, profaneness and degradation’. The petition further noted, the colonists ‘feel that their silent acquiescence in the continuation of Transportation would be disgraceful to their character, cruelly unjust to their children and deserve the detestation of the British nation’. The moral responsibility of this state of affairs then lay with the petitioners in revealing it, and the British government in acting upon it. As an article entitled ‘The Dust Hole of the Empire’ noted, ‘the infliction of that odious and fatal burden is indefensible, and utterly disgraceful to the mother country which imposes it’.

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261 Ibid.
262 Launceston Examiner, 15 July 1846.
Convict reform and the discourse of contamination.

Perceptions of criminal contagion and its effects upon free society was one site of colonial concern. The effect upon the convict population itself was another. Historians have tended to dismiss the idea that colonists held any humanitarian or benign sentiments towards the convict population. According to John Vincent Barry, ‘colonial opposition to transportation grew in strength, not for humanitarian or philanthropic reasons, but out of self interest, in which opposition to the ‘squattocracy’, economic motives and fear of moral contamination were curiously intermingled, but from which pity or concern for the convicts was usually absent’. Likewise, Norma Townsend has suggested that ‘there was little public attempt to analyse the system itself according to any principles of justice or humanity’. Yet perceptions of the convict population were sometimes conveyed through a more liberal discourse. The Hobart resident Henry Phibbs Fry suggested that the colonists had been ‘impelled by humanity to denounce the moral and physical pollution of the unhappy convicts’. Humanitarian concerns for the convict population were not entirely absent from the colonial zeitgeist.

One way of negotiating the moral anxieties that were generated by fears of criminal infection, was to cast the convict as a ‘suffering’ social victim, rather than a social menace. This served to regulate the threat of moral, criminal and sexual deviancy and to control and contain the convict as a subject to be reclaimed and reformed. This

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266 Others in the colony saw an unjust and non-reformative penal system, rather than the innate depravity of the convict population to be at fault. In a letter addressed to William Denison, the residents of Hobart Town exhibited concern with the ‘sufferings’ of the convict population. They declared the gang-system ‘a scheme of corruption’ and noted the evil effects on its ‘suffering victims’. Moreover, ‘many 1000s have suffered – 7000 human beings are at this moment suffering in this island from that system. Surely to employ such means of corruption is a greater offence, whether as respects the individual who suffers or society, or the devine law, than many of the offences for which the convicts were transported?’ See Letter from the Residents of Hobart Town to Sir William Denison, 22 Oct 1847, in BPP, C & P, T, vol 9, 1849, pp 83-4.
was later encapsulated in the ‘more sinned against than sinning’ thesis of convict historiography.\(^{267}\) The prominent colonial lawyer Robert Pitcairn drew on religious and reformatory discourses to argue for a more compassionate attitude towards the convict population. Moreover, he urged that the focus of moral outrage be turned away from the convict population, and directed instead against the British legal system. He noted the prisoner:

> is sentenced in England for a crime against English law. He is then put in a gang at Norfolk Island, Port Arthur or Van Diemen’s Land where he is taught vices that he never before heard of. Is there not under the Law of God a heavier crime thus committed against the convict, than he himself has committed?

Pitcairn inverted the idea of the polluting criminal. He highlighted the complicity of the British criminal justice system in contributing to that ‘pollution.’ This had moral consequences for both the prisoner and the legal system. As he further suggested:

> The punishment of death is now rarely inflicted in England. Bodily torture has long been abolished. But the present system is worse than bodily torture, worse than death. The English law now punishes, not by destroying the body, but by polluting and destroying the soul.\(^{268}\)

Robert Pitcairn expressed a Utilitarian view that reflected the concerns of many contemporary prison reformers. Moving beyond colonial political rhetoric, the language of infection informed the ideological construction of the criminal. Because of this, it similarly permeated the ‘curative’ discourses of reformation. During the first half of the nineteenth century, a range of competing penal theories were examined and experimented within a variety of different prison regimes. More benevolent perceptions of the criminal were sometimes revealed in the optimistic and sanguine ideas that surrounded reformatory theories. These discourses were informed by the Enlightenment ideal of moral improvement. Human behaviour and individual character could be re-fashioned in the correct environment and reshaped with appropriate guidance. Yet the social and

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moral deviancy of the criminal and perceptions of moral pollution were an everpresent tension that threatened to disrupt these principles. Moreover, the perennial disjuncture between utopian penal discourse and the realities of practice meant that reformers were continually confronted with the shortcomings of their own ideals.

In Britain, there was little uniformity in the prison system until the second half of the nineteenth century.\(^{269}\) However, most prisons had adopted certain disciplinary practices that aimed to reform and re-educate habits and behaviours. Within the walls of the prison, work, education and religious instruction sought to redirect idle minds towards higher goals of self-improvement. The rigours and regularity of institutional life and a timetabled daily discipline attempted to impose order on unruly bodies. At different times, silence and solitude were perceived to be the best means of ‘curing’ the ‘disease’ of crime. Other prison reformers continued to invest in the idea of involuntary exile to a new environment as the only method of behavioural reform. Transportation was certainly the most drastic measure short of capital punishment. Yet this was no guarantee either.\(^{270}\) Lord John Russell was not particularly hopeful of the promise of a new environment. He noted:

> Is it reasonable that virtuous England should find her vicious population suddenly become [sic] transmuted into patterns of virtue and innocence the moment they breathe the pure atmosphere of Australia? There is no magic in Transportation. Vicious men will remain vicious unless adequate means are provided for their reformation.\(^{271}\)

The difficulty for contemporaries was finding these ‘adequate means.’ For some, criminal reform was not the end product of a disciplinary penal regime of punishment, reform and rehabilitation. Rather, moral reformation was a fragile and vulnerable human attribute. It would require a constant moral crusade against ‘temptation.’ The battle would

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\(^{270}\) As James Bonwick caustically noted of transported convicts, ‘Britain left them to grow up savages, and expatriated them to become more barbarous still’. James Bonwick, *Curious Facts of Old Colonial Days*, Sampson, Low, Son & Marston, London, 1870, p 138.

involve the shunning of criminal friends and associations and the avoidance of morally debilitating influences. John Burt recognised the difficulties of reformation. In particular he highlighted how partial reformation was vulnerable to corruption ‘under the withering blight’ of evil companionship, because ‘the dispossessed habitation, left vacant, welcomes the returning demon’. He further noted, ‘even in those cases in which reformation is effected its stability is critical; and one of the severest of all the trials to which it can be exposed is the revival of vicious companionship’. 272

The instability of ‘moral reform’ reflected the instability of many other constructed bourgeois ideologies. The ‘reformed’ were vulnerable to relapse. Many contemporaries viewed criminals as infantile in their moral reasoning and imitative in their habits, and few were confident that the battle would ever be won. 273 These perceptions reveal the very idea of moral reform to be vague, uncertain and riddled with complexities. Yet beneath the debates over criminal reform, one idea was cardinal. The influence of prisoners upon one another rendered hopes for their reformation nugatory. This reflected the wider anxieties that surrounded environmental theories of behavioural imitation and moral infection. These ideas pervaded penal discourse. They were later put into practice under the separate system of prison discipline. In theory, these perceptions underscored, and were central to, the assignment system of convict discipline in the colonies. Commissioner John Bigge’s report into the state of New South Wales in 1822 revealed a particular link between the separation of convicts and their prospects of reform. According to Bigge, convicts kept together in Sydney were unlikely to reform. Town life in the colony was little different to that of the metropole with all its ‘contaminating’ influences. Moreover:

The evil consequences that might have been expected to arise from exposing convicts to the same temptations, and to the contamination of the same vices that had been their ruin in England, have been realised in

273 According to Jeremy Bentham, criminals ‘may be considered as a sort of grown children [sic] in whose instance the mental weakness attached to non age, continues in some respects beyond the ordinary length of time’. Jeremy Bentham, Letter to Lord Pelham … (1802), op. cit., pp 4 -5.
New South Wales; while the chances of reformation … have been much diminished … 274

The idea of criminal contagion was not merely an evocative metaphor used to promote one system of reform over another. Nor was it restricted to members of the free and privileged classes. Some convicts shared the perception of the penal system as corrupting and the association of prisoners as demoralising. This in turn affected their chances of reformation. 275 These ideas pervaded convict memoirs. The very apparatus of the transportation system itself was often cited as productive of this ‘contagion.’ Benjamin Wait was one of the Canadian political prisoners transported to Van Diemen’s Land, ‘the purgatory of England’ in 1839. 276 Of his experiences in exile he wrote, ‘when human beings, spotted with every shade of crime are herded together in masses, forming schools of vice and infamy in no instance surpassed – they are sunk still deeper and deeper into the vortex of degradation and ruin’. 277 Likewise, Thomas Cook’s Lamentations are peppered with references to ‘this horrid contagion’ and ‘the Devilish Contagion’ of convict association. 278 In his memoirs Edward Lilburne provided a vivid description of the convict ship. He portrayed the indiscriminate association of prisoners as deeply unsettling. He remembered, ‘on the voyage … three, four or more are placed in one wooden crib, the seven years prisoner, couched with the convict for life, the thief

274 John Bigge, (1822, Adelaide, 1966), op. cit., pp 153-4. John Bigge’s report was highly influenced by the self-interests of colonial land-holders. They objected to the ‘useful’ convicts being retained in the towns for the service of the government and the assignment of the ‘least useful’ convicts to the free settlers in the country.

275 According to Governor Arthur ‘such of the convicts as have been reformed, and have for a length of time been leading reputable lives, of whom I am happy to bear testimony, there are many have lamented over and over that their career of crime had not been cut short in their youth by an entire separation from their guilty associations in England’. 275 Arthur to Hay, 25 July 1832, in BPP, C & P, T, vol 6, 1810-41, p 291. John Burt similarly wrote of prisoners revealing to him their anxieties of post prison life and the temptations they would face. ‘Thrown back among such companions, the conscious offender knows, and tells us, that his reformation, if commenced will be endangered; and he finds in the anticipation nothing but discouragement and yet deeper degradation’. J. T. Burt, (1852, 1984) op. cit., p 71.

276 For the most recent study of political prisoners see C. Pybus & H. Maxwell-Stewart, American Citizens, British Slaves: Yankee Political Prisoners in an Australian Penal Colony 1839-1850, Melbourne University Press, 2002.

277 Benjamin Wait, Letters from Van Diemen’s Land, Written During Four Years Imprisoned For Political Offences Committed in Upper Canada, Alfred W Wilgus, New York, 1843, p 48.

Convict memoirs are a problematic source. Political prisoners and the well educated convict often used the written memoir to proselytise the injustice of the British penal system. ‘A system’, noted Linus Miller, ‘which insures not only their entire ruin in this world, but what is of far more importance, in that which is to come’. Memoirs have been accused of being formulaic, repetitive and distorted. A. J. P. Taylor has argued that ‘written memoirs are a form of oral history set down to mislead historians’ and are ‘useless except for atmosphere’. I would disagree with this judgment. They are to be interpreted discerningly, as with any primary source. Read alongside other material, memoirs help to confirm, contrast or contradict the discursive and historical veracity of other sources. Moreover, as Hamish Maxwell-Stewart and Cassandra Pybus have recently argued, ‘they are an invaluable window into the everyday experience of many thousands of mute men and women’.

The language of infection was a common theme of convict memoirs. This reveals that the pollution trope crossed the boundary between the free and the bond. It informed the imaginings of some convicts. Moreover, the mobilisation of this theme in convict memoirs reveals the layers and boundaries that existed between the bond themselves. Convicts were polluted and contaminated, yet some were more so than others. Margaret Pelling has recently noted how perceptions of pollution are intimately linked ‘with the individual’s sense of separateness from his or her environment and how this

279 Edward Lilburne, A Complete Exposure of the Convict System its Horrors, Hardships and Severities including an Account of the Dreadful Sufferings of the Unhappy Convicts, 1841, p 6, cy reel 1590 (ML.)
280 Linus Miller, Notes of an Exile to Van Diemen’s Land, W McKinstry & Co., 1846, p 237.
separateness is to be maintained or regulated’. Benjamin Wait was particularly horrified by the assimilating symbolism of convict apparel. He regarded the regulatory dress as ‘a peculiar badge of disgrace’ because it threatened to ‘assimilate us, as much as possible to the condition, character and appearance of the world’s most degraded wretches’. For Wait, the stripping away of his autonomous outer identity threatened to ‘pollute’ and ‘contaminate’ all into one undifferentiated mass. In a related context, Erving Goffman has noted the common practice of ‘loss of identity’ through the homology of physical differences in the institutional setting. According to his analysis ‘in total institutions these territories of the self are violated; the boundary that the individual places between his being and the environment is invaded and the embodiments of self profaned’. Convict memoirs then, illustrate how some men tried to impose ‘exclusionary practices on their own self-governing terms’. This in turn established ‘internal lines of isolation’ between the individual convicts themselves.

Convict memoirs bear testament to the shortcomings of penal separation and classification. In principle, the techniques of separation and classification were ideologically bound up with ideas of preventing further demoralisation and promoting moral reform. Further, separation was informed by perceptions of a ‘criminal hierarchy’ within the convict body. The indiscriminate massing of prisoners provoked acute anxieties. In what Le Bon later characterised as the ‘herd mentality,’ it was believed that the heterogeneous population of the prison tended to reduce all to the lowest common denominator. The promiscuous mingling of the relatively innocent and the more...

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286 The ‘loss of identity’ and the assimilation of physical differences by ablation, dress and the removal of private possessions, upon entering the institutional setting is examined in Goffman’s discussion of the ‘Total Institution.’ See E. Goffman, Asylums: Essays on the Social Situation of Mental Patients and Other Inmates, Penguin Books, 1961, p 32.
288 Ibid, p 11. The anonymous convict of ‘A Voice from Between the Decks’ explicitly revealed this hierarchy. Of his experiences of the hulk he wrote ‘of men indiscriminately mixed together, whose mental character and moral guilt are so dissimilar … individuals execrably vile, endeavoring to pollute their fellow prisoners while they concealed their inherent turpitude from the eyes of the authorities’. Anon. ‘A Voice from Between the Deck’, written on the Pestonjee Bomanjee, 1852. This extract appears in Daniel Ritchie, The Voice of our Exiles or Stray Leaves from a Convict Ship, John Menzies, Edinburgh, 1854.
‘hardened’ convict threatened the hoped for reformation of those deemed reclaimable. According to one observer, ‘it is the undistinguished diffusion of incorrigible criminals among the whole body of the convicts that renders the problem of convict discipline … almost insuperably difficult’. 290

The separate system of prison discipline epitomised these principles and this system was introduced at Port Arthur in 1848. Yet for most of the convict period, the physical separation of convict prisoners was simply unviable. Instead, the classification of bodies was the main organising, separation mechanism. Attempts were made to segregate the ‘old hands’ from new arrivals and to classify prisoners according to age, length of original sentence and record of colonial conduct. Distinctions of diet, dress and accommodation further sought to classify and categorise bodies. 291 The twin issues of classification and separation are ever-present themes running through many convict sources. The reports of Surgeon-Superintendents on board the transport ships, the rules of convict assignment and internal memos from the convict department repeatedly urged the need for an improved implementation of classificatory principles. They were recurring and obsessive features of penal discourse precisely because of their practical failures. Classification fell short of its ideals at another level. According to one penal reformer, ‘experience has most conclusively proved that each of the classifications’ had merely led to ‘distinct criminal communities’. 292 There was one particular separation mechanism that did succeed in classifying and separating convicts. It marked a boundary that was both physical and ideological. In the penal colonies, the secondary punishment settlements existed outside the margins of the settled community. They also housed those convicts whose existence was deemed beyond the parameters of reform.

Secondary Punishment

A network of places of further exile and exclusion provided the colonial authorities with a means of separating the ‘incorrigible’ convict from others who were potentially reclaimable. ‘Incorrigibles’ who were ‘re-transported,’ signified a particular layer of the convict population. They embraced ‘the worst of men,’ those who stood at the pinnacle of the criminal hierarchy. William Ullathorne revealed that the deviancy of these men was written on their bodies. He also employed a racial metaphor when he wrote, ‘old Australian convicts looked like a long degraded race by the side of the newcomers from England, whilst the old Norfolk Islanders bore a stamp of degradation lower still beyond comparison, than the old hands of the Australian settlements’. The convict Edward Lilburne noted a similar somatic description of the ‘incorrigible.’ According to Lilburne, ‘their countenances are shocking to behold … their deep depravity was proverbial even in New South Wales.’ These somatic symbols of deviancy are important. Terry and Urla have revealed that the somatic territorialising of deviance is part of a larger effort to organise social relations according to categories denoting normality vs. aberration, health vs. pathology and national security vs. social danger. Likewise, Mary Douglas has suggested that ‘no particular set of classifying symbols can be understood in isolation’. But we can make ‘sense of them in relation to the total structure of classifications in the culture in question’. The men who were re-transported to the secondary punishment stations were perceived to be the most ‘polluting’ and ‘contaminating’ of all the prisoners. Their deviancy was criminal yet it was also inscribed in their faces and present on the surface of their bodies. Within the convict hierarchy then, penal settlement men represented the colonies ‘outside other.’

298 R. Therry remembered that men from Norfolk Island ‘looked less like human beings than the shadows of gnomes that had risen from their sepulchral abode’. See R. Therry (1863), op. cit., p 21.
299 As Lynne Segal has noted, ‘internally regulated societies … need its symbolic deviants; actual deviants may be besides the point’. See L. Segal, Slow Motion: Changing Masculinities, Changing Men, Virago Press, London, 1990, p 142.
Raymond Evans and William Thorpe have suggested that places of secondary punishment played an essential role in the transportation system. They ‘served as a potent warning to any convict who transgressed authority’. Likewise Hamish Maxwell-Stewart has argued that penal stations ‘can be located at the heart of the transportation system’. Their status as places of ‘salutary dread’ was informed by the realities of hard labour, the terrors of the triangle and the lash and the reputation of sadistic overseers. These fears were highlighted by the convict Thomas Cook. In The Exile’s Lamentations, he wrote of his voyage ‘for that place of horror Norfolk Island’:

The dreadful picture afforded me of the intensity of sufferings and torture to which every Victim to this Island was subjected was most appalling. So much terror had this produced on my mind that during a faint squall on our passage, I most fervently prayed to the Almighty to suffer the Vessel to sink and mercifully receive the Souls of all from a state of endurance worse than death in its most terrific shape.

We might extend Evans and Thorpe’s analysis to suggest that penal settlements served as a warning to the wider colonial community. According to the Quaker missionaries James Backhouse and George W. Walker, ‘places of this description are held in abhorrence by the vicious and depraved very much according to the degree in which they are odious in public estimation’. In this respect they exercised a broader disciplinary function. They reminded the entire colonial community of the consequences of crime and social non-conformity. As Robert Hughes has noted, ‘mercy on the mainland needed the background of terror elsewhere’. Moreover, their feared reputation extended beyond the colonial context. Norfolk Island, Port Arthur and other

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places of secondary exile served to remind the British public that transportation to Australia was indeed a terrific punishment.\(^{305}\)

The terror and anxieties that penal settlement men both represented and produced in the cultural imagination is the focus of the remainder of this chapter. It moves beyond the conventional historiographical approach of studying the role of the penal settlements in the convict system. The following analysis reveals instead how this exclusionary penal practice came back to haunt the colonial community. Foucault suggested that exclusionary practices linked, and mutually defined, the isolated and the isolators.\(^{306}\) Likewise, Bashford and Strange have recently noted, ‘even the populations banished to the most impermeable and separate places of isolation are still imagined as belonging in one way or another to the community that isolated them’.\(^{307}\) Penal settlement men did not ‘belong’ to the moral community. However, the attempt to protect colonial society from their ‘incorrigible’ example failed at both an imaginative and a physical level. The point of return of the ‘outsider’ represented this tension. The return and re-release of prisoners back into the general body of prisoners and into the wider colonial community was deeply unsettling. Norfolk Island expirees were a particular and profound site of colonial concern during the 1840s. Both New South Wales and Van Diemen’s Land shared these anxieties, although the social and political imperatives of the two colonies differed. These anxieties were again expressed through a familiar discourse of moral infection and criminal pollution. In the 1840s, this moral lexicon was further injected with a particular rhetoric that put ideas of sexual and criminal deviancy at the heart of penal settlement imaginings.

Direct transportation to New South Wales from Britain ceased in 1840. Between 1841 and 1844 nearly 40,000 free immigrants arrived in the colony. From January 1839

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until August 1843, 1200 convicts from Norfolk Island returned. Of these, 530 were free by expiration of their secondary sentences and the remainder were sent back to complete their servitude on the mainland. By 1845 only twenty had been reconvicted. In spite of these statistics, the colony vehemently opposed their return. The press spoke of the ‘deluge’ and the ‘plague’ of expirees from Norfolk Island. According to the Herald, ‘the periodical landing on our shores of forty or fifty expirees from Norfolk Island, thus perpetually inoculating the colony with fresh crimes, is an evil of the most serious magnitude’. In 1844, a select committee on the security of life and property concluded that crime in the colony had increased since the return of the Norfolk Islanders and that their penal experience there had rendered them ‘more hardened in vice and more prone to the commission of every species of crime’. Moreover, their influence was ‘at once demoralising and fatal to the habits and character of the rising generation’. The committee recommended that no more expirees from Norfolk Island be permitted to return to the colony.

There was little empathy or social concern expressed for the prisoners themselves. For most colonists in New South Wales, the sporadic arrival of expirees from Norfolk Island was a reminder of the all too recent convict past. In their struggle for colonial respectability the colony continued to suffer the ‘stain’ of convictism without the benefit of assigned labour. In Sydney, the Hyde Park Barracks was the central architectural reminder, an enduring symbol of this stain. It also became the contested site of a moral panic in 1844. By 1844 it housed expirees from the penal settlements and the ‘refuse’ of the colonial convict system. It was widely perceived to be the source of ‘moral infection’ for the inhabitants of Sydney. The select committee, echoing Bigge twenty years previously, recommended its inmates be removed from the temptations of the town and relocated to rural areas. The Principal Superintendent of Convicts, Captain J.

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309 Sydney Morning Herald, 16 July 1842.
310 The full report of this select committee was published in the Sydney Morning Herald, 30 August 1844.
311 Ibid.
312 Sir George Gipps to Lord John Russell, Despatch 151, 8 October 1840, in Historical Records of Australia, ser 1, vol 21, (hereafter HRA), p 41.
McLean, noted the negative symbolism that the barracks had come to represent. He wrote, ‘everything in fact connected with Hyde Park Barracks seems to be looked on with a jaundiced eye by the community … now that the assignment and other advantages formerly derived from the convict establishments are at an end’. In New South Wales, convict spaces and the bodies they housed were both an immoral blight on the landscape and a barrier to the future aspirations of a free and secure colonial community.

Other colonial observers used the return of expirees to the colony as a pretext to voice their concerns over the marks system of discipline that was being administered on the island under Alexander Maconochie. This system was experimental, innovative and therefore viewed through anxious colonial eyes. Many colonists perceived the system to be an untried and ill founded experiment, its discipline too lenient and its prospects for reformation improbable. Yet it was the moral effects upon the men, and the eventual consequences for colonial society that were the main source of anxiety. In 1842 Governor Gipps expressed the general mood of the colony over Maconochie’s experiment. According to Gipps, ‘in Sydney and indeed throughout New South Wales, with very few exceptions, every man is against him; every man derided his system, and nearly everyone dreaded the effects of the evil example which it was supposed would be presented by it to our own convict population’. Gipps later admitted, ‘I cannot contemplate the possibility of their return without alarm; by the Colonists generally I am certain it would be viewed with terror’. The ‘failure’ and abandonment of the experiment on Norfolk Island in 1844 merely heightened colonial anxieties that surrounded the figure of the returning expiree.

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315 Captain McLean letter to Colonial Secretary Thomson, 30 September 1844, in ibid, p 89. McLean vehemently protested against most of these findings and claimed the committee was merely responding to a moral panic rather than true facts. See his remarks on the select committee in ibid, pp. 90-100.
317 Contemporary perceptions of Maconochie and his penal theories have since been vindicated by most convict and penal historians. According to Robert Hughes he was ‘the one and only inspired penal reformer to work in Australia throughout the whole history of transportation’. See R. Hughes (1987), op. cit., pp 488-9.
318 Gipps to Lord Stanley, Despatch 147, 15 August 1842, in HRA ser 1, vol 22, p 209. Gipps later extended these sentiments to the residents of Van Diemen’s Land who would prove ‘an unfriendly, not to say a hostile population’ to Maconochie’s expirees. See Gipps to Lord Stanley, Despatch 43, 1 April 1843, in ibid, p 623.
319 Gipps to Lord Stanley, Despatch 43, 1 April 1843, op. cit., p 630.
The colonial press led the way in arousing popular fears of the importation of ‘moral pollution’ from the ‘South Sea Abomination.’ The *Australian* insisted that the social system under Maconochie, ‘besides being utterly ineffectual in reforming the prisoners cannot be continued without infusing a deep moral pollution among the lower orders of our society’.\(^{320}\) Concern with the negative effect of Norfolk Island expirees upon the colony’s lower orders was obsessively reiterated. The *Sydney Morning Herald* led a fierce and virulent campaign against Captain Maconochie for the entire period of his administration.\(^{321}\) The desire to cast off all past penal associations and to promote the colony as a free and moral community motivated the *Herald’s* crusade. This would only be assured with the destruction of the Barracks at Hyde Park and the abandonment of Norfolk Island as a place of punishment. The paper noted, ‘at whatever inconvenience, at what ever expense, this fetid dunghill ought to be swept away. We as a community of free and virtuous Britons are exposed to its pestilential effluvia, and have the right to demand deliverance from the nuisance’\(^{322}\). The colonial respectability of New South Wales as a free and virtuous community was given a fillip in September 1844 when Norfolk Island was transferred to the jurisdiction of Van Diemen’s Land. Yet the importation of ‘infection’ and moral pollution would continue to haunt New South Wales. The continuation of transportation to Van Diemen’s Land and expirees arriving from the penal settlements of that colony during the 1840s and 1850s ensured this.

**Van Diemen’s Land**

Port Arthur was the main penal settlement in Van Diemen’s Land. The reputation of the settlement was largely informed by the terrors of the ‘incorrigibles’ housed there. Established by Governor Arthur in 1830, it quickly gained a feared notoriety as the ‘Abode of Misery.’ This imagery was later enshrined in Marcus Clarke’s gothic novel

\(^{320}\) *Australian*, 26 October 1842.

\(^{321}\) See *Sydney Morning Herald*, 26 & 31 July 1841; 5 May 1842; 16 July 1842; 27 August 1842; 7, 17 & 21 October 1842; 20 December 1842.

\(^{322}\) *Sydney Morning Herald*, 8 January 1844.
For the Term of his Natural Life. Few free colonists were permitted to visit Port Arthur. Observations made by those who did oscillated between voyeuristic fascination and horrified fear. The Quaker traveller Frederick Mackie was one of the few visitors. In his journal he noted, ‘I could not help contrasting the beauty of the outward scene with the moral wilderness and mental chaos that we knew existed here’. Both the individual inmates and the imaginings which surrounded the settlement as a whole evoked this response. The colonist and writer David Burn revealed these sentiments. He visited the settlement in 1842. He noted, ‘much as the colony itself is the wonder of strangers, as much is Port Arthur the source of wonder to the comparatively few colonists who have visited its shores’. The release of Port Arthur expirees into the wider community generated profound moral and social fears. The isolation and secrecy of the site merely magnified colonial anxieties. Port Arthur men were the colony’s very own outside ‘other.’

Prisoners who were sent from Port Arthur to Norfolk Island as further punishment exacerbated the terrific image of Norfolk Island for the colonists of Van Diemen’s Land. Their eventual return to the colony as expirees elicited greater anxieties than those voiced by New South Wales. In 1840 Sir John Franklin noted his ‘great anxiety’ that the ‘desperate and irreclaimable’ prisoners sent from Port Arthur to the island should not be permitted to return to the colony. His successor Sir John Eardley-Wilmot reiterated these sentiments in 1845. Expirees from Norfolk Island would ‘lead to a great danger to the discipline of the probation gangs’ and their presence in the colony would be a threat to ‘the security of life and property’. Wilmot further noted that ‘a very general feeling prevails’ in the colony upon the issue. Moreover, that ‘very general feeling’ was

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magnified by a ‘particular offence unfortunately too prevalent at Norfolk Island’. In a letter to Earl Grey, the Bishop of Tasmania wrote in no uncertain terms about this particular offence. According to the Bishop, ‘we look with horror to the hour that shall bring these monsters to our shores, with the prospect of being gradually drafted into the mass of our moral population’. The criminal fears surrounding Norfolk Island ‘incorrigibles’ magnified existing cultural tensions. Moral and sexual terrors were deeply ingrained in the imaginings produced by the threat of their return to the colonial community.

As colonists in New South Wales struggled for respectability, colonists in Van Diemen’s Land struggled to survive the 1840s. In the midst of an economic crisis, social instability and a hated probation system of convict discipline, the arrival of expirees from Norfolk Island was unlikely to be welcomed. The Launceston Examiner declared Norfolk Island graduates as ‘a class sunk in guilt many fathoms deep below the most hardened atrocity that leaves these shores’. The proliferation of rumours and eye witness reports surrounding the sexual subculture on the island added fuel to the fire. The colonial historian John West remembered that the introduction of men from Norfolk Island into the colony had merely made a bad situation worse. In his history he noted, ‘as the men removed from Norfolk Island were added to the gangs, their tendencies became more alarming and apparent; they were of the worst possible description and defied all remedy. No artifices of language will enable the moralist to describe them.’

The arrival of Norfolk Island expirees was an inflated terror in the midst of other colonial difficulties. Yet the issue provided colonists in Van Diemen’s Land with a further weapon with which to vent their sense of outraged injustice. A petition demanding redress to this litany of colonial problems was sent to Britain in August 1845. The petition pointedly remarked on the reciprocal effects of the probation system. It noted the

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327 Sir John Eardley-Wilmot to Lord Stanley, Despatch 128, 2 September 1845, in BPP, Convict Discipline 1843-46, Extracts of Correspondence Between Secretary of State and Governors, (hereafter BPP, CD 1843-46) pp 7-8.
329 Launceston Examiner, 5 July 1848.
‘demoralising principle of herding men together in large gangs by which every attempt at moral and religious training is rendered nugatory, is productive of the worst consequences to the criminal and to the colony’. The petition emphasised the prisoners at Norfolk Island in particular. They had ‘sunk into deeper pollution and depravity’. Their return would ‘seriously aggravate these evils’ already in existence in the colony. Moreover, their eventual release back into the general population ‘dismisses them to contaminate others’ and ‘will exhibit a spectacle of vice and infamy such as the history of the world cannot parallel’.

Was this rhetoric merely clever colonial propaganda? The continuation of a long running discourse of criminal contagion, colonial morality and the idea of transportation as a great moral question? The colonist David Burn suggested the idea of convict contamination was ‘a caricature, not a picture’. Further he recognized its use as a political weapon when he noted, ‘I depreciate the facility it affords for blackening the whole complexion of society, should expediency require such blackening; and if all reports be true, the peculiar description of population has, ere now, been a favorite and successful rhetorical assumption’. In a similar vein, the visitor Godfrey Charles Mundy noted the ‘strenuous language’ used by the colonists in their campaigns to effect colonial change. In his Observations he wrote:

For some weeks after I escaped from the steamer my ears rang with the stale set phrases – ‘social contamination’, ‘the outpourings of British crime’, ‘imported corruption’, ‘the beautiful land of our adoption made a moral cesspool’, ‘moral pollution!’, ‘moral scabies!!’, ‘moral leprosy !!!’ More than once in Van Diemen’s Land I heard very violent language used with respect to the continuance of transportation.

Constant reiteration of the theme suggests that it was a particular rhetorical strategy, but also one that expressed much wider cultural anxieties. Following a thorough

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331 Petition, sent in Despatch 110, Eardley-Wilmot to Lord Stanley, 1 August 1845, in BPP, CD 1843-46, pp 38-40.
332 David Burn, Vindication of Van Diemen’s Land in a Cursorious Glance at her Colonists as they are and Not as They have been Represented to be, London, 1840, p16.
investigation of the probation system in 1846 Charles Joseph La Trobe insisted that ‘unnatural vice’ predominated amongst the doubly convicted men at Port Arthur and Norfolk Island.\textsuperscript{334} Many different reports from Norfolk Island convey the sense that a desperate moral situation existed there during this time. Convict memoirs certainly depicted a degrading and demoralising environment. Martin Cash and Thomas Cook both recalled a culture of terror and the de-humanising effects of brutality upon many of the convicts.\textsuperscript{335} Beyond the convict memoir, other observers revealed similar anxieties. Unlike the free colonists of Van Diemen’s Land, the Commandant of the island, Major Childs had little to gain by demonising those under his charge.\textsuperscript{336} In his report of the island of October 1845 he presented the state of the convict population there through familiar tropes. The men were ‘steeped in crimes of the deepest dye’. They were ‘the concentrated essence of evil of the Australian colonies’ whose example was ‘a moral pestilence and of whose reformation scarcely a hope exists’. Discipline was non-existent because ‘chains have no restraint and the lash no terror’.\textsuperscript{337}

Such discursive representations might have been equally mobilised by colonial opponents, intent on ending the probation system and the continuation of transportation. Yet they were later reiterated by J. S. Hampton, the Comptroller-General of convicts in a report on the Island in 1848. In response to the protests of the colony and accounts from eye-witnesses on Norfolk Island, Lord Stanley had ordered an investigation. Hampton was to ascertain the viability of the island as an ultra-penal settlement. It was to be abandoned and the remaining prisoners transferred to the mainland if he found it unsuitable. His report confirmed the colonists’ anxieties surrounding Norfolk Island.


\textsuperscript{335} Martin Cash, (1870, 1981), op. cit.; Thomas Cook, (1841, 1978), op. cit. At other times, the portrait of the ‘incorrigible’ as sub-human was sometimes linked to the idea of insanity. J. T. Burt linked the incorrigible convict with insanity. He noted, ‘There is an increase of insanity in proportion to the length of sentence; that is, in proportion to the severity of the punishment, which is generally an index to the criminality of the prisoner. There is an excess of insanity also among those previously convicted, in comparison with the amount among those not known to have been previously convicted; and persistence in a criminal career, after the experience of severe or repeated punishment, is certainly one indication of excessive criminal passion, and of an absence of self control.’ J. T. Burt, (1852, 1984), op. cit., p123.

expirees. Hampton concluded it would be unsafe to remove a ‘class of men … so hardened, brutalised and reckless’. Transferral to the colony ‘would only again render them the terror of a community which has already suffered severely’. Moreover, rather than producing any good effect upon the prisoners:

It would only, in the absence of suitable buildings afford facilities which do not now exist for the re-enactment of the nameless horrors so many of these wretched men were allowed the ready means of indulging in during the years of utterly relaxed discipline at Norfolk Island … to provide against the continuance of such disgusting pollution involves a question of no ordinary and everyday character.\textsuperscript{338}

Hampton recommended that Norfolk Island remain as a penal settlement. The Comptroller-General believed the island was necessary to contain and control the ‘worst of men’.\textsuperscript{339} Further, retaining Norfolk Island as the ‘ultra-penal settlement’ was the only means of ‘inoculating’ colonial society and the wider convict population from its ‘contagious vices’. Lieutenant-Governor Denison approved of this assessment, further noting that it was the last punishment left for incorrigibles at Port Arthur. The ‘utterly relaxed discipline’ Hampton referred to was Captain Maconochie’s marks system. The idea that the marks system of convict discipline had been conducive to ‘such disgusting pollution’ was a perception that was upheld by both Governor Gipps and Sir William Denison. Gipps believed the incidence of ‘nameless horrors’ had increased under the marks system. Further, he specifically noted how the ‘New Hands’ had learnt it from ‘the Old Hands or doubly convicted’.\textsuperscript{340} Likewise, Denison insisted that Norfolk Island expirees, ‘when afterwards brought to Van Diemen’s Land, introduced this crime into the gangs’.

The universal opinion is that it was, if I may use the term, imported from Norfolk Island and nothing was more likely to foster and encourage these habits of brutal self-indulgence than the total absence of

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\item \textsuperscript{339} Ibid, p 202.
\item \textsuperscript{340} Governor Gipps visited Norfolk Island in March 1843. He sent a report of his visit to Lord Stanley. See Gipps to Stanley, Despatch 43, 1 April 1843, in HRA ser 1, vol 22, p 623. Alexander Maconochie admitted to the 1847 select committee that the ‘new hands’ had ‘learned it from the doubly convicted’. See his evidence, 17 March 1847, op. cit., p 115.
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supervision and control which formed a part of Captain Maconochie’s system.\textsuperscript{341}

Joy Damousi has discussed the idea of pollution and contamination in relation to the anxieties generated by convict women. She noted how it was ‘not only inextricably linked to deviance and social order, but it also became the focus for sexual anxiety’. Damousi is correct in equating the theme of pollution with deviant sexuality. Yet the wider symbolism is attenuated by her suggestion that ‘the only white males who were described in such terms at this time were homosexual convicts’.\textsuperscript{342} Such conclusions distort the larger audience that these tropes embraced. All convicts - men, women and juveniles were perceived as ‘polluted’ and ‘polluting’ and all free colonists were at ‘risk.’ Further, the ‘homosexual convict’ as a peculiar genus did not as an identifiable monolith exist. Rather, ‘unnatural’ sexuality, like crime itself, was perceived as a behavioural vice. Once ‘taught,’ it was relentlessly contagious, spreading like a disease. During his visit to Norfolk Island in 1843, Gipps noted that the crime had been taught and was now ‘less prevalent among the “old Hands” than the “New”.’\textsuperscript{343} It was not therefore the idiosyncratic characteristic of a particular ‘type.’

The ‘incorrigible’ convict of the penal settlements stood atop the criminal hierarchy. He embodied the most polluted, the most deviant and the most likely to indulge in the ‘unnatural.’ Mary Douglas has revealed that ‘the only way in which pollution ideas make sense is in reference to a total structure of thought whose keystone, boundaries, margins and internal lines are held in relation by rituals of separation’.\textsuperscript{344} Placing the return of incorrigibles from Norfolk Island at the heart of the analysis reveals what happened when ‘the rituals of separation’ were transgressed. Yet this terror represented in concentrated microcosm, many wider colonial tensions and anxieties. The infection fears produced by the convict population were based on perceptions of their

\textsuperscript{341} William Denison to Earl Grey, Despatch 22, 5 February 1849, in BPP, C & P, T, vol 9, 1849, pp 160-1. In her study of Norfolk Island, Margaret Hazzard suggested, ‘The overriding reason for the recall of Maconochie was the reported increase of unnatural crime as sodomy was then called’. See M. Hazzard, (1984), op. cit., p 181.

\textsuperscript{342} Joy Damousi, (1997), op. cit., p 43.

\textsuperscript{343} Gipps to Stanley, Despatch 43, 1 April 1843, in HRA ser 1, vol 22, p 632.

\textsuperscript{344} M. Douglas (1966), op. cit., p 41.
criminal and moral deviancy. This embraced all convicts. Further, the moral and social implications of transportation and the various systems of convict discipline were played out around these constructed moral parameters. The discursive imaginings that discredited Maconochie’s marks system epitomises this.\textsuperscript{345} It was through the tropes of ‘infection’ and ‘pollution’ that ideas of colonial bourgeois respectability were shaped and defined. It was also through and beyond these themes that the wider colonial community looked towards its future.

Conclusion

Ideas surrounding pollution and moral contamination underscored a myriad of discourses in the nineteenth century. Contemporaries used the language of pollution and infection to replicate the binary division of their world view, setting up an opposition between respectable/criminal, bond/free, reformed/incorrigible, pure/polluted. In the wider colonial context these divisions were replicated through the dynamics of class, race and gender. Yet the stability of such constructions was fluid, multi-layered and subject to change. The discourses of colonial morality and respectability were informed by wider economic and political concerns according to time and place. The same rhetoric was utilised for different outcomes and was denied or embraced according to motive. Colonial outrage greeted the claims of Molesworth and Maconochie in the 1830s. These claims were replicated in anti-transportation discourses of the following decade. Overlapping discourses produced many contradictions and complexities. Perceptions of colonial morality and convict morality were, at times closely entwined rather than divided by class. Further, the division between the bond and the free was not static. Emancipists disrupted class and wealth divisions. Convict memoirs reveal similar moral attitudes and perceptions to those shared by their keepers - further diluting the boundaries. The idea of the ‘incorrigible’ criminal divided the bond themselves into a criminal hierarchy, yet even here boundaries were fluid and subject to change as sentences expired and men left the penal settlements. ‘Old Hands’ were the worst of men, yet the ‘New’ might easily

\textsuperscript{345} As the system of assignment had been criticised/defended through a moral and reformative discourse in the previous decade.
succumb to their influences. The language of infection reveals a complex and many
layered society because the structures of contrast were not stable. They might be inverted,
but also permeated and transgressed. The following two chapters build on the discursive
themes that have been outlined here. In the next chapter, convict space is explored to
reveal the spatial interplay of the oppositions of order/disorder, purity/pollution,
reform/corruption. Chapter three continues this theme through an examination of convict
speech and penal silence.
Chapter 2

‘Space is implicated in the construction of deviancy’. 346

Examining Convict Spaces

Introduction

Reading through the plethora of official reports, convict memoirs, government despatches, and colonial observations, I was struck by the regularity, indeed ubiquity, of contemporary descriptions of convict spaces and, in particular the sleeping quarters. Formulaic and repetitive, these observations display a remarkable constancy over time and place. It is a constancy of descriptive detail, but also a near consensus surrounding perceptions of what constituted sufficient (moral) or defective (immoral) accommodation. The specific details of sleeping in hammocks or separated beds, the existence (or not) of burning lamps at night, the numbers housed in each room and the physical amount of space occupied by each individual were noted in contemporary sources in uniform fashion. Night-time surveillance was also central to these accounts. Such details predominate over other aspects of institutionalisation, such as the general rules or the daily routine of prison life. This focus upon moral ‘decency’, the degree of active surveillance and the detailed specifics of nocturnal physical conditions is constant and even voyeuristic. These sources reveal the centrality of space to ideas of penal discipline and moral reform. They are distinctive sexual scripts that illuminate an intimate relationship that weaved perceptions of reform through the techniques of spatial reconnaissance. As the ‘moving panopticon’ suggested, this reflected the enormous moral anxieties invoked by accommodating large bodies of male prisoners. Penal administrators, but also many other contemporaries, were obsessed with the order and details of convict space.

Prison reformers from the eighteenth century onwards were concerned with the spatial dimensions of imprisonment. 347 Transportation sought to remove prisoners from

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347 This was a recurring feature of many parliamentary and select committee enquiries on the police, the prisons and houses of correction and colonial transportation. See my bibliography for full references.
the contaminating spaces of the British prison to a new and reformatory colonial environment. The idea of space as reforming was often utilised in discourses defending transportation as a valuable, if not necessary adjunct to this dimension of punishment. Spatial separation informed the reformatory rhetoric of the assignment system. In other respects, the spatial concerns associated with imprisonment were transported with the prisoners and merely reappeared in the colonies. These fears were reiterated in discourses surrounding the spaces of the hulk and the transport ship. They were replicated in observations made of the convict barracks and in the housing of road parties, chain-gangs and the penal stations. As Lord Russell noted, there was ‘no magic’ in transportation and the convict department found itself facing the same difficulties that preoccupied prison reformers in Britain. Colonists too shared these anxieties. This chapter examines the spaces occupied by transported prisoners. The focus is mainly concerned with the probation system of convict discipline in Van Diemen’s Land during the 1840s. The analysis concentrates on three particular sites in the colony to reveal the different ways that perceptions of ordered space and moral reform interacted. Building upon chapter one, it reveals the perennial tension between the idea of reform and the ambiguities generated by perceptions of ‘criminal contamination.’ Further tensions were produced by the discrepancies of penal theory and the practicable workings of the system in the colony. Space was reformatory but it also had the potential to ‘contaminate’ and ‘pollute’ the very bodies it sought to control. During this decade convict space became a critical site where penal and colonial anxieties crystallised. These concerns were nurtured by moral and sexual fears. This in turn, directly influenced the ways in which convict spaces were organised, constructed and imagined. Looking at the convict system through the dynamics of space further reveals how it shaped and informed a particular expression of convict resistance.

James Semple Kerr, the historian of Australian prison architecture and design, has expertly documented convict space in detail.\textsuperscript{349} In Tasmania, Ian Brand’s work has revealed how convicts were housed and accommodated on the Tasman Peninsula.\textsuperscript{350} Both historians have examined the correspondence between the design of penal accommodation and the systems of discipline that were imposed upon the prison inmates. The moral and reformatory concerns that surrounded the prisoners are documented in these histories, but they are not the central focus of historical investigation. Rather, the architectural design of bricks and mortar, and the spatial dimensions of incarceration remain the main feature. More recently, Frank Mort has directed historical attention towards the inter-related dynamics of space and sexuality. In the introduction to the second edition of Dangerous Sexualities, Mort reveals the importance of including space into the historical writing of sexuality. He notes, ‘Recent cultural histories have amply demonstrated the significance of language in generating sexual meanings [yet] they have continued to underestimate the spatial dimensions of these codes’.\textsuperscript{351}

This ‘underestimation’ is certainly applicable to Australia’s convict era. Convict historians have been remarkably subdued in linking convict space with moral and cultural meanings. More particularly, the ‘imaginary geographies’ of male convict accommodation have not been considered in historical analysis.\textsuperscript{352} Because of this, space has remained largely unexplored and unexamined as a site of sexual analysis. This reflects the historiographical silences and assumptions around male sexuality that were outlined in my introduction. The ‘silent assumptions’ that have been drawn around male convict sexuality, are reflected in the same ‘silent assumptions’ that surround convict space. The paradox is that we have a historical mythology of buggery in the barracks and bestiality in the bush, but little analysis of the wider spatial-sexual meanings of the

\textsuperscript{351} Frank Mort, (2000), op. cit., p xxiii.
convict system beyond these stereotypes.\textsuperscript{353} Johnston and Johnston casually suggested that, ‘given that the first colonies were penal settlements, institutionalised homosexuality should come as no surprise’.\textsuperscript{354} Robert French cited the spatial-sexual ‘evidence’ given to William Molesworth’s select committee and uncritically accepted the findings. His article noted, ‘There is so much smoke given off in the evidence that almost certainly the flames of passion burnt brightly in the convict barracks’.\textsuperscript{355} Kirsty Reid has recently described Robert Hughes’ account of the arrival of female convict ships in Van Diemen’s Land as ‘lurid, sensationalist and racy’.\textsuperscript{356} Yet his analysis of male convict space in comparison is nonchalant and predictable. According to Hughes, ‘homosexuality was the norm in the Hyde Park Barracks in Sydney’.\textsuperscript{357} Such essentialised representations present convict barracks and other penal spaces as passive backdrops where sexual activity was enacted. This has resulted in an impoverished analysis of both space and sexuality. This chapter is informed by the idea that space is not merely ‘a passive, abstract arena on which things happen’.\textsuperscript{358} Moreover, these assumptions also fail to uncover the much richer symbolic meanings that surround space and are embodied within it. Doreen Massey has convincingly argued that space is not static, but is rather ‘a dimension’ and ‘one of the axes along which we experience and conceptualise the world’. Moreover, space ‘is by its very nature full of power and symbolism, a complex web of relations of domination and subordination’.\textsuperscript{359}

Feminist historians have been much more emphatic and illuminating in linking the spatial and sexual anxieties that surrounded female convicts. Kay Daniels’ study of convict women is particularly revealing. Daniels argued that the female factories failed to


\textsuperscript{356} Kirsty Reid, (2003), op. cit., p 15.

\textsuperscript{357} Robert Hughes, (1987), op. cit., p 267.


‘reform’ women according to middle-class values precisely because incarceration encouraged and sustained a sexual subculture. She noted that this had a wider ideological influence that came to shape and inform later perceptions of managing and reforming female prisoners. According to Daniels, it ‘reinforced the view that integration into the community rather than incarceration was the best way to manage convict women’.\textsuperscript{360}

Likewise, Joy Damousi has uncovered the sexual-spatial dynamic within the public-private domains on board the female transport ship. Her analysis suggests that sexual anxieties were both formed within, and heightened by, the spatial conditions of the ship. Like Daniels, she reveals how these anxieties intimately linked the management and control of female bodies with the spaces that housed them.\textsuperscript{361}

**Imagining the spatial idyll**

The following analysis draws on work in cultural geography, the insights of feminist history and studies of sexuality.\textsuperscript{362} Before examining the spatial-sexual dimension of the male convict system, this chapter will briefly consider the contemporary ideal of reformatory space. Viewing space in its ‘ideal’ context, we can better perceive how the spatial dynamic interacted within the wider discourses of penal discipline, systems of management and moral reformation. The ideal of reformatory space often found expression in the rural idyll. This harked back to an imagined benevolent golden age where the values of the moral economy ruled village communities and domestic family life ensured responsible social behaviour. The rural environment in all its natural, simple purity was often invoked by nineteenth-century social reformers and in the discourses of utopian socialist movements. Poets, painters and political philosophers often drew upon rural imaginings.\textsuperscript{363} For some, it was an escapist longing in the midst of a changing urban landscape, marked by increasing urbanisation, industrial mechanisation

\textsuperscript{360} Kay Daniels, (1998), op. cit., p 183.
\textsuperscript{363} J. J. Rousseau extolled the virtues of the rural idyll in *Emile* (B. Foxley, trans.), Everyman’s Library, reprint, 1974.
and the fracturing of traditional family ties and community responsibilities.\textsuperscript{364} For others, particularly moral and hygiene reformers, it was the imagined antithesis of all that the corrupting city represented, such as slum dwellings, filth, poverty, crime, vice and chaos.\textsuperscript{365} Most criminals were perceived to live amidst this contaminating wretchedness. The rural idyll then, found further and particular expression within the discourses of penal reformation.

Transportation by its very nature embraced a binary view of space. Space might corrupt and pollute, yet it could also purify and reform. The removal of criminals from the ‘contaminations’ of the metropole or the British jail, to a new and virgin colonial environment was a harsh punishment. Yet it also aimed to reform men. The rural romance thus cut across metropole and colony. Environmental ideas loomed large in many contemporary observations. The colonist and writer George Groley noted that New South Wales afforded an incentive to reform for it was a ‘country abounding with every advantage for mankind, singularly healthy, unlimited in its extent, offering the hope of competence and even of wealth’.\textsuperscript{366} The 1812 parliamentary select committee, set up to enquire into transportation, concluded that rural dispersal in the colonies was superior to imprisonment at home. It was also considered to be paramount in reforming male convicts.\textsuperscript{367} This idea of rural space as reformatory informed the management of prisoners under the assignment system. It underlay their punishment too. In 1822, clearing gangs were sent out from Sydney to clear and prepare uncultivated lands for free immigrants to farm and settle. A sentence to these gangs was further punishment for colonial crimes, but perceptions surrounding the reformatory rural idea were apparent.\textsuperscript{368}

Throughout the 1820s and 1830s, the governors of New South Wales regularly issued

\textsuperscript{368} A. G. L. Shaw notes that by 1824 there were 1150 men in 50 clearing gangs in New South Wales. Shaw, (1966), op. cit., p 190.
orders for the removal of prisoners from the ‘temptations’ of Sydney. Men were to earn their tickets-of-leave out in the bush, where hard work and simple, clean living would reform them into useful pastoral settlers. According to the Reverend Samuel Marsden, convict congregation in the towns led to vice ‘spreading itself like a Leaven’. Conversely:

The more the convicts can be divided into small numbers, and distributed through the settlements as agricultural labour, herdsmen and Shepherds etc, the better members of Society they will be and at the same time they will be more likely to return to the regular habits of Industry and Honesty.  

Certainly there were wider economic motives for these policies. Cheap convict labour was welcomed by rural colonial settlers and assigned convicts often had no choice but to adopt to living in the bush. Evidence given to Commissioner John Bigge’s enquiry in the early 1820s must be read in this light. Fiscal considerations aside, many colonists confirmed the wholesome, reformatory nature of the natural environment. John Macarthur informed Bigge:

When men are engaged in rural occupations their days are chiefly spent in solitude – they have much time for reflection and self examination, and they are less tempted to the perpetration of crimes than when herded together, in Towns, amidst a mass of disorders and vices.

Macarthur’s views were reiterated by many landowning colonists, including a Mr. J. Harris, who perceived agricultural employment as having ‘a tendency to reform their morals more than any other method I know of’. These ideas were shared by the Lieutenant-Governor of Van Diemen’s Land, George Arthur. Arthur always defended the
assignment system operating in the rural arcadia of the southern colony. He related the physical dispersion of prisoners to the reformatory influences of hard outdoor labour under individual masters.\textsuperscript{374} The \textit{Hobart Town Almanack} upheld these sentiments. In 1833 it asked its readers to consider the following question:

Can any occupation within the walls of a prison – can the walking on a treadmill, even in solitary compartments, have that moral effect on the minds and habits of the culprit which agricultural labour in a new country – which converting the waste into fruitful soil amidst the wilds of nature, must produce?\textsuperscript{375}

‘Converting the waste into fruitful soil’ was a particularly embodied metaphor that intimately linked the rejuvenation of the criminal with the land. This rural romance provided a reformatory utopian vision in the midst of the much bleaker, practical reality of colonial jails, convict barracks and the penal stations. Yet in some ways, both epitomised the contemporary environmental idea of space as reflecting the people inhabiting its parameters. If the English rural idyll harked back to an imagined golden age, the colonial landscape provided this natural, undeveloped space. The positive influence of a pure and new environment would enable the individual prisoner to work towards a better future for himself and contribute to the creation of a new colonial society. Likewise, the institution of the prison, properly managed, disciplined and observed might also rejuvenate and reform. Bentham fiercely opposed the idea that outdoor work in the colonies would reform men.\textsuperscript{376} He perceived transportation as a ‘system of unexampled and altogether remediless abominations’.\textsuperscript{377} Yet his faith that all of society’s problems might be solved in the panopticon, his ‘simple idea in architecture’,

\textsuperscript{375} \textit{Hobart Town Almanack}, ‘An Essay on Prison Discipline in which is Detailed the System, Pursued in Van Diemen’s Land’, 1833, p 93. The \textit{Colonist} and the \textit{Hobart Town Courier} defended the system of transportation and assignment in similar terms throughout the 1830s.
\textsuperscript{376} According to Bentham this was chiefly because they were ‘out of the habitual reach of every inspecting eye’. See J. Bentham, Letter to Lord Pelham (1802), op. cit. See also, Panopticon versus New South Wales: or the Panopticon penitentiary system, and the penal colonisation system, compared, London, 1812.
\textsuperscript{377} Quoted in J. Gascoigne, (2002), op. cit., p 126.
was less a Manichean binary than he imagined.378 Both perceptions of the rural arcadia and the panopticon embraced the Enlightenment vision of space as reformatory.379 This in turn, reflected the conflation in contemporary thinking of the physical environment and moral behaviour.

The apparatus of the transportation system, from the jail to the hulk, the transport ship to the colonial barracks, strove to impose order and discipline upon convict bodies. Spaces were ordered and organised accordingly.380 Discipline was enforced through the imposition of a daily routine and the observation of institutional rules and regulations.381 Internal discipline was closely allied with ideas of moral discipline. This was reflected in the reformatory ideal, but it also involved conditions of physical decency.382 Ordered and well ventilated spaces, together with the governance of prisoner deportment, attire and cleanliness, reflected the moral dimension of controlling space and the bodies it housed.383

Separation and classification were further spatial-somatic ordering mechanisms. This was the theory. In practice unsuitable architecture, overcrowding, under-funding and the shortcomings of classification was a recurring complaint of penal reformers from the middle of the eighteenth century. It continued to be a tension in both British and Australian penal discourse throughout the nineteenth century. The introduction of the probation system into Van Diemen’s Land brought these discrepancies into sharp relief.

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380 According to Foucault penal incarceration was based on ‘an architecture that would operate to transform individuals: to act on those it shelters, to provide a hold on their conduct … to make it possible to know them, to alter them.’ M. Foucault, (trans. A. Sheridan), Discipline and Punish: The Birth of the Prison, Penguin Books, 1977, (hereafter A. Sheridan trans., 1977), op. cit., p 172.
381 Erving Goffman explored this idea through the concept of the ‘total institution’. See E. Goffman, (1961), op. cit.
382 The Quaker missionaries James Backhouse and George Washington Walker highlighted the spatial dimension of moral discipline. Their visit to the Australian colonies from 1832 to 1836 produced many eye-witness accounts of the various places of colonial punishment. Their reports reveal a particular obsessive concern with convict accommodation. In 1833 they noted the expediency of Port Arthur adapting the accommodation of prisoners to enable the men to sleep separately, without which, ‘all attempts at moral reformation must be greatly counteracted’. They were particularly critical of the state of bedding provided for the road parties and chain-gangs. It was ‘by no means calculated to preserve a sense of decency’. See J. Backhouse & G. W. Walker, (1832-40), op. cit., Report on Port Arthur, 1833, p 28; ‘Report on the state of the chain-gangs and road parties’, addressed to George Arthur, in ibid, p 104.
The outdoor, rural idyll did not entirely disappear when the assignment system ceased to operate in 1840. It remained a feature of cultural imaginings.\textsuperscript{384} For British (and European) penal reformers in the 1840s, it became particularly central to new ideas surrounding children of the ‘perishing classes’ and perceptions of juvenile delinquency.\textsuperscript{385} The replacement of the assignment system with the probation system in Van Diemen’s Land reflected wider changes and developments in British penal theory. The move towards the systematic and uniform implementation of penal discipline rendered the ‘lottery’ of assignment anathema to the spirit of the era. Hard outdoor work remained central to the punishment and reformation of adult convicts. They were no longer to be dispersed and individually assigned as servants to settlers. Rather, they were to be massed in work-gangs and housed and victualed by the convict department. Under this new system, the strict management of bodies and spaces assumed particular and heightened significance. The classification and separation of prisoners was considered to be cardinal. It was to be augmented by new techniques of observation and surveillance procedures. The architecture, the design and the spatial dimensions of convict accommodation were imperative requisites to the success of the new system.

**Imposing Order and Classifying Spaces: Maria Island**

The separation and classification of prisoners pervaded penal discourse. According to George Arthur, ‘classification is the soul of convict discipline’.\textsuperscript{386} Beyond the rhetoric, the ‘art of distributions’ informed the practical ways in which both prisoners and penal space were organised.\textsuperscript{387} In theory, penal discipline and moral order was imposed through the classification of the individual prisoner within a classified,

\begin{itemize}
  \item \textsuperscript{384} See R. Williams (1973), op. cit., esp. pp 120–41.
  \item \textsuperscript{385} The rural retreat was seen to be a particularly suitable space conducive to the retraining of youth. Removing children from the contaminating spaces of the city and the corrupting environment of wicked step-parents and the adult world, formed part of a much broader social reform movement. This in turn was closely tied up with the discourses of penal reformers in their endeavours to remove children from the prison environment. See J. Ramsland, ‘The Agricultural Colony at Mettray: A Nineteenth-Century approach to the institutionalisation of delinquent boys’ in D. Stockley (ed.) Melbourne Studies in Education 1987-88, La Trobe University Press, 1989, pp 64-80. For transported juveniles see chapter 5.
  \item \textsuperscript{386} G. Arthur, Observations upon Secondary Punishments, Hobart, 1833, p 25.
  \item \textsuperscript{387} M. Foucault, (A. Sheridan, trans., 1977), op. cit., pp 141-49.
\end{itemize}
According to Heather Tomlinson, ‘the basic idea behind classification was to preserve morals and prevent corruption’. Yet the ineluctable discrepancy between theory and practice often thwarted such ideals. Foucault has drawn attention to the disjuncture of discourse and practice. He suggests that we need to look at ‘the manner in which they fail to correspond’ and to look for ‘the positive significance’ that can be attached to such discrepancies. A consideration of the failure of the spatial classification of prisoners at Maria Island in 1845 reveals the shortcomings of the principles of theory and its practical working. Maria Island was just one probation station amongst many that were established under this system of convict discipline. It is presented here as a microcosm of that system as a whole. The particular shortcomings and the anxieties they produced at this site, were reiterated at many other stations across the colony.

Maria Island operated as a punishment station between 1825 and 1832. In 1842 it re-opened as a probation station, and continued in this capacity until 1850. In April 1845 James Boyd became the Senior Assistant Superintendent of Darlington probation station on Maria Island. He had been a prison warder at Millbank prison in London and later became the senior warder at Pentonville. Boyd arrived in the colony in 1845, informed by his own experiences of prison discipline and influenced by recent developments in British penal science. According to Boyd, ‘Separation, watchfulness and restraint are, or ought to be, the grand cardinal objects to be sought for in all good systems of prison discipline’. In December 1845 he wrote a detailed report on the probation station at Maria Island. This report reveals in microcosm the spatial

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388 This was set down in the Regulations of the Probation System, 1 July 1841, in BPP, CD, 1843-46, pp 38-41.
392 James Boyd quoted in J. Syme, Nine Years in Van Diemen’s Land, McCosh, Park & Dewars, Dundee, 1848, p 361.
393 This report is printed in BPP, CD, 1843-46, pp 73-9. It is also printed in full in Ian Brand, (1990), op. cit., pp 210-23. All quotes are taken from Brand’s source unless otherwise stated.
dimensions of separation and classification and the organisational dynamics of convict accommodation. Boyd noted how the prisoners were classed:

The gang, which usually musters about 600 men, is divided into four classes, the first being composed of the best behaved prisoners; the second, of the tolerably good; the third, of the indifferent; and the fourth is the chain-gang and crime-class. 394

The prisoners were located in accommodation according to class. 395 The ‘best’ men of the first-class were housed in twenty out-huts, holding from three to twenty four men each. The remainder of the first, and the whole of the second and third were accommodated in six large rooms in the convict barracks. These rooms each housed 66 men where the berths were ‘arranged in three tiers’ and were ‘divided by separation boards, about 13 inches deep’. They were constantly illuminated during the night. There were 102 separate apartments for the chain-gang and crime-class and ‘men specially ordered to be kept separate on account of unnatural propensities’. 396 The classification of prisoners according to behaviour and the ordering of the spaces which they occupied were thus, closely connected. First-class prisoners were trusted to be spatially located away from the main site of the station. Conversely, those deemed ‘incorrigible’ or worse were atomised and restrained by the individual spaces which housed them.

Notwithstanding these ‘extremely meticulous orderings of space’, James Boyd was vehemently critical of the probation station at Darlington. 397 As an apostle of the separate system, this is perhaps not surprising. His criticisms clearly reveal the moral meanings that were inscribed in spatial order. Boyd perceived the accommodation to be insufficient and defective. In particular, he noted the inadequacy of surveillance exercised over the sleeping quarters. During the night there was no person of authority in the dormitories ‘and in consequence the prisoners are left to themselves’. 398 In the large

394 Boyd Report, ibid, p 211.
395 In his discussion of ‘the art of distributions’ Foucault noted, ‘In the first instance, discipline proceeds from the distribution of individuals in space’. M. Foucault (A. Sheridan, trans., 1977), op. cit., p 141.
396 Boyd Report, op. cit., p 211.
rooms he concluded ‘immorality and crime must reign triumphant’ and reformation was nothing but ‘a hopeless expectation’. Convict watchman patrolled the yards, but even if they ‘were disposed to prevent irregularity’, their ‘means of doing so are very limited’. As the Senior Assistant Superintendent, one of Boyd’s own duties involved visiting ‘the sleeping rooms every night at uncertain hours’. ‘But’, he confirmed ‘I cannot be answerable for misconduct when not present’. He described the use of night-tubs as an ‘indecent practice’ both ‘ruinous to morality’ and ‘decidedly injurious to health’.

These ‘moral’ concerns extended even to the first-class prisoners. These men were lodged in out-huts, in fewer numbers than those housed at the barracks. According to Boyd, the huts were ‘in many respects more objectionable (if possible) than the large wards’ because ‘many of the wholesome restraints imposed upon the men at the station’ were ‘dispensed with’ at this site. The separate system was also criticised. Men housed in the separate apartments at night were not isolated from the main body of prisoners during the hours of labour in the daytime. Boyd adhered to a strict definition of separation which ‘to be effectual must, in my opinion, be strict and uncompromising’.

Defective accommodation aside, the classification imposed upon the convict body was ‘fatally flawed’. New arrivals from Britain were ‘thrown’ into the third-class which was ‘the cesspool of the gang’. According to Boyd, because the third-class was ‘freshly liberated’ from the chain-gangs they had the most demoralising effect upon other prisoners, and this, was ‘an evil fraught with the worst consequences’. Moreover, ‘present conduct alone’ was taken into consideration so that ‘the perpetrators of capital crimes and the hoary habit and repute [sic] thieves are found placed indiscriminately with the military deserters and other novices in crime, together with lads scarcely more than mere boys’. Provision had been made at the station for religious and scholastic instruction. According to the Superintendent it was ‘dull’, ‘monotonous’ and ‘decidedly

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399 ibid, p 213.
400 ibid, p 212.
401 ibid.
402 ibid, p 214.
403 ibid, p 215.
404 ibid.
405 ibid, p 214.
The general tone of his report concluded with the gloomy observation, ‘I cannot conceive a better school for the propagation of criminal knowledge and habits than a probation gang’.  

James Boyd’s report of Darlington probation station was damning in its conclusions. The report reflected the perceptions of one penal reformer at one probation station. Yet it expressed much wider concerns. Boyd’s anxieties surrounding the failure of ordered classification echoed many voices in both Britain and Australia. From the prison reformer John Howard in the 1770s to the end of transportation and beyond, classification and separation were neither successful in principle, nor ever entirely achieved in practice. Maria Island was no exception. The spatial organisation of convicts according to ‘class’ failed its intended objective. Moreover, the accommodation itself was deemed ‘defective’ because a ‘scrupulous concern with surveillance’ could not be constantly maintained over the bodies housed there. Boyd’s report was saturated with moral anxieties. Many of the ‘details’ he gave concerning unnatural crimes on Maria Island emanated from these perceptions of inadequate classification and the inappropriate organisation of accommodation. The defects of surveillance compounded the problem. His report was sent to the Colonial Office. Gladstone urged upon Colonial Secretary James Stephen, ‘Pray read this paper. I cannot any longer state that I do not know the interior condition of a probation party’. The ‘interior condition’ and the ordering of spaces were of great significance to perceptions of penal discipline and to the reform of the convict population. In May 1846, Gladstone ordered a further enquiry. Charles Joseph La Trobe was appointed to conduct a thorough investigation into the probation system of convict discipline. He visited every convict probation station in the colony. According to La Trobe, ‘vice of every description is to be met with on every hand, not as isolated

406 ibid, pp 216-17.
407 ibid, p 215.
409 Ian Brand noted that much of the ‘detail’ Boyd gave concerning unnatural crimes on Maria Island was omitted in the report published by the British House of Commons. See I. Brand, (1990), op. cit., p 273.
410 Gladstone to Stephen, 11 May 1846, quoted in I. Brand (1990), op. cit., p 223. This comment appeared on the Colonial Office copy of this report.
411 See Letter from W. E. Gladstone to Charles Joseph La Trobe re his appointment to investigate the Probation System of Van Diemen’s Land, 7 May 1846, cy reel 1956, pp 43-5, (ML.)
spots, but as a pervading stain.'

Reading his report reveals clearly that it was the shortcomings of classification and the spatial deficiencies of convict accommodation that led to his conclusion: the probation system had been ‘a fatal experiment’.

The economic difficulties of Van Diemen’s Land during the 1840s were often cited as one cause of this failure. The blue-books for the years between 1843 and 1846 repeatedly noted the state of the gaols as ‘ill-constructed and deficient in accommodation’. In 1844, Sir John Eardley-Wilmot admitted, ‘It is utterly impossible in the present state of our revenue to remedy this evil, and I am at loss to determine what measures to adopt to render the gaols available places of confinement, much less to carry out the system of classification and separate confinements.’

Financial considerations and a de-regulated system of prison discipline similarly hampered efforts in implementing uniformity within British prisons. In Van Diemen’s Land, the impossibility of imposing an adequate system of classification upon penal spaces was viewed with anxious colonial eyes throughout this decade. Colonial perceptions surrounding the probation system as a whole were informed by these spatially related concerns. The colonist Henry Phibbs Fry later reflected that defective accommodation had led to the termination of the probation system of convict discipline. As he noted, ‘the more direct causes of the failure of the probation system, were the sudden deluge of convicts poured in upon the colony without previous preparation of buildings for their reception … In the year 1848, there was not a single station with proper dormitories for 100 men, and in most of them the mode of lodging was inconceivably shocking. It is plain that during this long period, the most dreadful vices and disorders had grown familiar to the men.’

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413 Ibid, p 129.
414 Sir Eardley-Wilmot, 25 June 1844, in Letter-book of Despatches to the Secretary of State, 14 September 1843 – 28 November 1845, GO 25/11, Archives Office of Tasmania, (hereafter AOT). Forwarding the blue-books a year later on 16 August 1845 these comments were reiterated.
416 H. P. Fry, (1850), op. cit., pp 154-5. In a similar vein, the Comptroller-General J. S. Hampton cited the inadequate accommodation on Norfolk Island as ‘inevitable’ in promoting unnatural crime. Reflecting on a
This is not to suggest that separation and classification completely failed in the colonial context. Separate apartments and solitary cells were a feature of the penal system in New South Wales. They were built (and planned to be built) at most of the main penal and probation stations in Van Diemen’s Land and at Norfolk Island to house the ‘incorrigible’ and the worst of men from the ‘crime-class’. The use of solitary confinement as a disciplinary mechanism gradually replaced the use of the lash. This reflected the move away from punishment ‘borrowed from a barbarous age’. More specifically, atomisation increasingly came to inform the ‘quarantining’ of men ‘addicted to unnatural vice’. According to William Champ, complete spatial and physical separation was the only ‘palliative’ to this ‘disease’. Champ was the Commandant at Port Arthur from 1844 until 1848. In 1846 he was temporarily appointed as Acting Comptroller-General of the convict department. Champ suggested that no man who was ‘not clear from the commission of that crime’ be permitted to return to society until ‘at least one years [sic] separate treatment’. According to Champ a year of solitary confinement would lead to the habit being ‘forever broken off’. Maria Island, Norfolk Island, Port Arthur and the Hobart Town Barracks had separate sleeping spaces for those ‘tried or suspected of such offences’. In Sydney, the new Darlinghurst gaol also housed

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417 Appendix A illustrates the different probation stations and the accommodation that existed at them in May 1848. It also reveals the projected plans for further developments.

418 J. Backhouse and G. W. Walker, (1832-40), op. cit., p 179. The Quaker traveler, Frederick Mackie visited the Hobart Town Penitentiary on 1 January 1853. James Boyd was the governor at this time, and he showed Mackie the solitary cells. In his diary Mackie recorded, ‘these cells are now had recourse to instead of flogging which is entirely abolished’. F. Mackie, (1852-55, 1973), op. cit., p 63. See also R. Evans & B. Thorpe, (1998), op. cit., pp 17-34.

419 Matthew Forster was the Comptroller-General of the convict department from September 1843 until his death in January 1846. William Champ occupied the position between January and October 1846 until John Stephen Hampton took over in October 1846. Hampton remained in this position until November 1855. See I. Brand, (1978), op. cit., p 226.


421 For Maria Island see Boyd Report, op. cit.; For Norfolk Island see R. P. Stuart, Report to Comptroller-General Champ, 20 June 1846, in E. Fitzsymmonds (ed.) (1979), op. cit.; William Gunn, superintendent of...
‘miscreants’ in separate cells. Yet moral and sexual fears embraced the entire convict population. These concerns were not confined solely to those ‘tried or suspected’. It was this that made the separation of male convicts so imperative.

The apotheosis of separate treatment was the separate system. This institutionalised the separation of bodies through cellular isolation, enforced silence and the visual screening of prisoners. Port Arthur implemented it as a system. It was inscribed in the architecture of the model prison built there in 1848. The majority of male convicts did not experience the separate system, yet many officials in the convict department were influenced by its ideals. John Stephen Hampton was the Comptroller-General of convicts from October 1846 until 1855. Hampton arrived in Van Diemen’s Land on the same ship as James Boyd. Like Boyd, he too advocated the separate system as the most effective and reformatory penal system. Hampton was restricted by the financial state of the convict department, and instead, adopted a pragmatic approach to the management of prisoners. Informed by the principles of classification and the theoretical ideals of the separate system, innovations that were peculiar to the administration of convicts in Van Diemen’s Land were introduced into the probation system. By the twilight years of transportation, the earlier obsession with classifying and separating bodies and spaces remained evident. Yet it was augmented by an intense concern with surveillance. Individual surveillance rather than isolated separation informed the experiences of most prisoners arriving in the colony by the late 1840s.

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422 This gaol opened in July 1841. The original plan to house all inmates separately was not carried out, and an associated system of prison discipline was introduced. See J. S. Kerr, (1984), op. cit., pp 96-100.
424 Both men arrived on the Sir George Seymour. This was the first ship to transport ‘exiles’ to Van Diemen’s Land and New South Wales in 1844-45. See I. Brand, (1978), op. cit., p 109.
425 The separate system was admired by many. In 1835 Backhouse and Walker recommended that Norfolk Island build a penitentiary and adopt the separate system then in practice at the American jail at Auburn. They noted, ‘it is of great moment that the character of the settlement, as the extreme or ultra penal station should be studiously maintained’. They further suggested the need for solitary sleeping because, ‘if made to sleep in solitary cells, many gross immoralsities which now prevail to a lamentable extent would be prevented’. J. Backhouse & G. W. Walker, (1832-40), op. cit., pp 313; Appendix B, p 294.
Techniques of Surveillance

The reality of colonial conditions rendered the universal applicability of the separate system impractical.\(^{426}\) Colonel Victor, Commander of the Royal Engineers, captured the disparity between the theory of the system as conceived in England and the reality which came into being in the colony. The impossibility of convicts constructing the necessary elaborate and sophisticated prison buildings was central to his observations:

The gangs of prisoners in an unsettled country may, as indeed they have done, house themselves in dwellings of ordinary description. But to expect that they will in any reasonable time be able to construct a number of miniature Pentonvilles with all the appliances which modern ingenuity has invented or imagined as necessary to carry out a refined system of Prison discipline, is to expect what cannot be done…\(^{427}\)

Under Hampton’s management, a number of changes were introduced into the probation system.\(^{428}\) These changes were characterised by a renewed effort to separate bodies through physical restraints. The supervision and reconnaissance of convict space was increased and heightened. In May 1847 eleven ‘defective’ probation stations closed.\(^{429}\) More men at fewer stations necessitated new methods of managing prisoner accommodation. At the remaining stations, interior architectural changes were introduced.\(^{430}\) Dispersed sleeping sites, a feature that had earlier been criticised by James

\(^{427}\) Convict Department, correspondence, 7370/5, 27 May 1847, microfilm 62/17, AOT.
\(^{428}\) In his 1847 report of the convict department Hampton noted, ‘During the 6 months ending 31 October 1847, the various convict buildings have been much improved, the number of officers at stations, and the means of separating convicts at night increased, greater uniformity of discipline and management introduced, new regulations issued for the first and second stages of probation, and the proposed arrangements, sanctioned by your Excellency with reference to the victualling, clothing, working and classification of the convicts may reasonably be expected to produce improvement throughout the convict department’. In BPP, C & P, T, vol 9, 1849, p 126.
\(^{430}\) By the end of April 1848, Hampton’s report on the state of the convict department noted that the opening up of dormitories, the general use of bed battens and adequate supervision had been implemented at most of the accommodation sites. See Report on the state of the convict department, 30 May 1848, in BPP, C & P, T, vol 9, 1849, pp 251-3.
Surveillance was deemed better managed by accommodating more prisoners in fewer rooms. At the Darlington station on Maria Island, the dividing walls between the penitentiary rooms were knocked down to make one large room. The sleeping berths were separated by a double row of battened side walls, or cages. These changes had been recommended ‘to prevent the continuance of such abominable vices’ said to have been so prevalent at all the convict stations. By May 1848, the Comptroller-General reported there were 279 berths separated by fixed battens. These separation apertures also prevented the prisoners from seeing one another. The room was illuminated by six lamps with double burners. These were constantly lit and they enabled officers to clearly survey the whole length of the room. Indeed, the sleeping spaces were specifically arranged so that the ‘patrolling officer on duty’ could ‘from any one point, see all the bed places’. This Benthamite principle of surveillance was of central importance. Further, it was augmented by increasing the size of inspection holes in the doors of the wards. At some stations, warders patrolled the outside corridors in slippers, to render approaching footsteps mute. In his report on the state of the convict department in 1849, Hampton admitted the open dormitory as the ‘preferable’ means of spacing prisoners. This was due to the ‘supervision being more

431 The Comptroller-General’s report of 31 October 1847 no longer mentioned the out-huts at Darlington. See Hampton’s Report in BPP, C & P, T, vol 9, 1849, pp 121-9. During the 1830s when the system of classification was in operation, Backhouse and Walker noted that the dispersed nature of convict accommodation, rendered the system more thorough and ‘advantageous’. They opposed the amalgamation of prisoners in large accommodation spaces. See their report, (1832-40) op cit., pp 232-3.
432 Foucault referred to this technique as the ‘collection of separated individualities’. See M. Foucault (A. Sheridan, trans.,1977), op. cit., pp 200-01.
434 See Appendix A.
436 As Foucault noted, ‘Disciplinary power … is exercised through its invisibility; at the same time it imposes on those whom it subjects a principle of compulsory visibility. In discipline, it is the subjects who have to be seen. Their visibility assures the hold of the power that is exercised over them. It is the fact of being constantly seen, of being able always to be seen, that maintains the disciplined individual in his subjection’. M. Foucault, (A. Sheridan, trans.,1977), op. cit., p 187.
437 Hampton visited Norfolk Island in January 1848. In his report on the state of the prisoner barracks he noted, ‘The wards now occupied are well lighted at night, but the inspection-apertures in the doors were defectively small. I therefore directed large holes to be immediately cut, which, with the present arrangement of the hammocks, will admit of complete inspection without opening the doors’. J. S. Hampton, report on Norfolk Island, January, 1848, in BPP, C & P, T, vol 9, 1849, pp 196-203, p 197.
complete than in separate apartments’. His report praised these ‘mechanical means’ that had proved so efficient ‘as a preventative of unnatural crimes’. It was also during these later years that privies were built to replace the ‘disgusting’ night tubs which Boyd had found so morally abhorrent.

Darlington probation station ceased to operate in 1850. Colonel G. C. Mundy visited Maria Island that same year. He wrote with regret that the extensive buildings of the settlement had been left to ruin. His account of the numbers once housed in the dormitory is exaggerated. Yet his description reveals the ‘innumerable petty mechanisms’ and the considerable imaginative effort that had been exerted in constructing ‘decent’ accommodation. A curious fascination with the sleeping spaces is particularly evident:

There was one feature of this defunct convict station that I viewed with disgust – a single dormitory for 400 men! The bed places were built of wood in three tiers, the upper cribs being reached by two or three brackets fastened to the stanchions. Each pigeon hole is six feet and a half long by two feet in width, and separated from its neighbours by double open battens. The prisoner lies with his feet to the wall and his head towards the centre of the apartment – like a bottle in its bin. This nocturnal aggregation of brutalised males is a feature of penal discipline that I was astonished to find had been so lately in operation.

Mundy was ‘astonished’ by the ‘nocturnal aggregation’ of male prisoners. As an interested tourist visitor, he was perhaps unfamiliar with the inside of a communal prison dormitory. It is difficult to ascertain the level of prurience in Mundy’s observations. Did he acknowledge the moral reasons why men slept ‘like a bottle in its bin’? Certainly,
many officials in the convict department seemed to invest heavily in the preventive effects of restraining devices and the surveillance of convict sleeping spaces. This investment, upheld by contemporaries, accorded with Bentham’s ‘simple architecture’ thesis. Likewise, it confirms Foucault’s observation that ‘control over sexuality becomes inscribed in architecture’. In 1837, Colonel George Arthur informed the select committee on transportation of the nocturnal, ‘preventive’ measures taken at Port Arthur during the 1830s. Because of these measures, Arthur was convinced that ‘that crime did not prevail’ at the penal settlement. Other commentators articulated similar beliefs. William Gunn was the superintendent at Hobart Barracks. In a letter written to Sir John Eardley-Wilmot in 1846, he described the separation and surveillance techniques exercised there. He assured the Governor that the separation boards, the burning lamps, the ‘square holes in the doors’, the watchmen and the irregular hours of their patrols ensured that ‘any irregularity may be detected’. Likewise, the Bishop Robert Willson acknowledged the ‘deterrent’ effect of mechanical separation and night-time surveillance. In 1846 he had been so appalled by the sleeping conditions at Norfolk Island that he left the colony and sailed to England to protest to the House of Lords. On his second visit to the island in 1849 he noted ‘a marvelous change’ had occurred. The ‘revolting immoralities and crimes which in earlier days had debased the prisoners were now totally unknown’. What precisely had facilitated this change in the prisoner’s moral behaviour? According to the Bishop:

446 In his evidence Arthur insisted that the burning of lamps in the dormitories at night, together with the foot-patrols made by watchmen ‘ensured’ the crime was prevented. Colonel George Arthur, evidence given to the select committee on transportation, 30 June 1837, in Report of the Select Committee session 1837, in BPP, C & P, T; vol 3, 1837-61, p 310.
I found in certain wards partitions of wood, similar to those in general use in all our stations and prisons, between the berths and so constructed that it was impossible for men to come into contact with each other. In other wards furnished with hammocks, the hammocks were so arranged as to prevent effectually, at least with ordinary watchfulness, any irregularities. I found good, efficient lights in each ward, and that watchmen, under the direction of superior officers patrolled the wards during the whole night …

The Bishop’s moral conscience was reassured by the restraining devices that had recently been introduced into the sleeping spaces at Norfolk Island. The techniques and extent of surveillance had also been thoroughly augmented. This recurring emphasis upon ‘prevention’ and the faith invested in the surveillance of convict space was, however, sometimes put to the test. As Doreen Massey reminds us, ‘The spatial has both an element of order and an element of chaos’.

**A Scandal in Launceston**

Lack of direct evidence for sexual involvement is often irrelevant … rumour thrives best when facts are uncertain, where the imagination is left to run wild.

In August 1848 a scandal emerged in the town of Launceston. The incident reveals the ways that convict spaces aroused moral anxieties for the wider colonial community. These anxieties concerned questions of decency and the proper ordering of accommodation spaces. Repeated rumours and allegations of overcrowding at the prisoners’ hiring depot led three local JP’s to investigate conditions there. The depot

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450 Ibid.
451 ‘Chaos,’ according to Massey, refers to the ‘unintended consequences which are not directly socially caused’. See D. Massey, (1993), op. cit., p 156.
453 The *Launceston Examiner* demanded that an investigation be carried out by the independent, unpaid magistracy of the colony, rather than the convict department. The *Examiner* did not trust an internal review by the convict department itself. The paper noted ‘the unpaid magistracy have a duty to perform from which they should not shrink. Let them visit every depot and house of correction at NIGHT and forward an account of what they witness to the Home Government’. *Launceston Examiner*, 23 August 1848.
provided shelter for men who had completed their sentences of probation within the gang system. As pass holders, these men were permitted to hire out their labour services to free colonists, in return for a wage. The depot had recently been re-organised according to J. S. Hampton’s renewed emphasis upon the separation and surveillance of inmates.\footnote{These principles had only recently been introduced at Launceston. In his inquiry of 1846, Charles La Trobe had concluded that the whole establishment required remodeling. He was critical of the sleeping arrangements. At the time of his enquiry there were no partitions between the berths and lights had only recently been introduced. La Trobe also noted that the depot was overcrowded in 1846 which led to men sleeping on the floor. See La Trobe’s Report, Enclosure no. 5, in I. Brand, (1990), op. cit., pp 151-2; p 200.} There were three dormitories at the depot and they accommodated up to 250 men. Each ward provided separated sleeping berths. The accommodation was constantly illuminated and a permanent inspection was provided by a number of paid watchmen.\footnote{Comptroller-General Hampton’s report of October 1847 had praised the hiring depot at Launceston. He noted, ‘very considerable improvement has been made in the interior arrangements of this establishment, the number of convicts greatly reduced, all the bed places properly separated by battens and the necessary provision made for lighting and inspection at night’. In BPP, C & P, T, vol 9, 1849, p 128.} According to the investigating JPs, the depot was ‘admirably calculated to promote [Hampton’s] important object’.\footnote{Letter from Theodore Bartley JP, Richard Dry JP & W. R. Pugh JP to Lieutenant-Governor Denison, 21 August 1848, in BPP, C & P, T, vol 9, 1849, pp 78-9.} The scandal of August 1848 emerged when it became known to the residents of Launceston that their model depot was not quite so perfect after all. In addition to 250 men sleeping in the separate berths, there were a further 208 men sleeping between them in the spaces on the floor.\footnote{In the ‘art of distributions’, Foucault noted that spatial discipline aimed to ‘eliminate the effects of imprecise distributions, the uncontrolled disappearance of individuals … Its aim was to establish presences and absences, to know where and how to locate individuals … to be able at each moment to supervise the conduct of each individual, to assess it …Discipline organises an analytical space’. M. Foucault, (A. Sheridan, trans., 1977), op. cit., p 143.}

In a letter to Lieutenant-Governor Denison, the three JP’s recalled their visit. Compelled by the local rumours and ‘in our capacity as magistrates’ they visited the establishment ‘on the night of Saturday the 19\textsuperscript{th} instant, about nine o’clock’. Having inspected the wards they noted that all the good intentions of the ‘imperatively necessary’ internal restraints were ‘completely frustrated’ and ‘more than neutralised’ by the overcrowding. Furthermore, the men sleeping on the floor were ‘much more screened from observation than they otherwise would be’. The inmates of the Launceston hiring depot then were ‘in no better situation than those of others, wherein such a state of things has prevailed to call forth universal exclamation’. It was a situation ‘unjustifiable both
towards the men themselves and towards the community amongst whom they will ultimately be dispersed’.

In Britain during the 1830s and 1840s, there were constant references to the effects of overcrowding on the sexual behaviour of the poor. This reflected the moral anxieties invoked by the spaces inhabited by the lower classes. Moreover, the invisible nature of these spaces was a further source of fear to middle-class moralists and social reformers. Spaces that were overcrowded and invisible were the antithesis of middle-class perceptions of domestic order. They threatened to ‘contaminate’ and ‘pollute’ this domestic order. The scandal in Launceston both reflected and drew upon these anxieties. It further highlights the way that notions of ‘indecency’ and ‘improper’ spatial order was perceived to have moral consequences for the wider colonial community. Conditions at the hiring depot were observed by another colonist, who deemed the issue of ‘fearful importance’. In a letter to the Colonial Secretary, Dr. M. Gaunt protested against the overcrowding that exposed the men ‘to contamination and confirmed them in habits of incurable depravity’. Gaunt expressed his concern that the convict department was defying ‘public opinion’ and ‘public morals’ in the town of Launceston. The ‘reprehensible nightly association’, in which the men ‘acquire the filthiest habits’ was a threat to the residents of the town because the men were eventually to be turned ‘loose on our community’. Gaunt cited two recent cases of ‘miscreantism’ to further highlight his concerns to the Colonial Secretary and to call attention to an immediate remedy.

Colonial anxieties were magnified by the fact that convict spaces were largely hidden. The majority of free colonists were not permitted to visit the probation stations, the prison barracks or the sleeping quarters of the hiring depots from where they hired men for their labour. The colonial press often played on these anxieties. It regularly...

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462 Tamsin O’Connor has revealed that free colonists were not permitted within a fifty mile radius of the penal settlement at Moreton Bay. See T. O’Connor in I. Duffield & J. Bradley (eds.), (1997), op. cit., p 124.
called for the opening up of convict spaces to colonists.\textsuperscript{463} Invisible prisoners and unverifiable reports of vice made a potent mixture. In this context, rumour and gossip and sensational press reports surrounding these exclusive sites were ubiquitous.\textsuperscript{464} This heightened existing prejudices and moral anxieties further.\textsuperscript{465} It was in this ‘secretive’ context, that the issue of men sleeping on the floor assumed wider ideological significance. It rendered them doubly invisible, to both the surveillance of internal watchmen and to the outside colonial eye. The preventive measures that had recently been introduced at the hiring depot at Launceston, were diluted by too many bodies and too little surveillance exercised over them. The \textit{Examiner} thundered that such ‘precautions’ ordered by Lord Grey ‘in the simplicity of his soul’ were nothing more than a ‘delusion’.\textsuperscript{466} According to the paper, ‘however imposing may be the amount of brick and wood work, and the reports of the extension of accommodation’ the colony still had ‘festering masses of corruption on every hand’.\textsuperscript{467} At issue was a fear of wider colonial moral defilement. Echoing Dr. Gaunt’s fears, Robert Crooke, a Catholic catechist in the convict department, put it rather more bluntly when he wrote, ‘the blood runs cold at the thought of a sodomite being the servant in a respectable household’.\textsuperscript{468}

The scandal at the Launceston hiring depot reveals that internal spatial order and the exercise of effective somatic surveillance were central to both penal and colonial perceptions of convict moral behaviour. Defective reconnaissance in the dormitories at

\textsuperscript{463} The \textit{Colonist} was particularly vitriolic in the secrecy and silences surrounding the treatment of prisoners at Port Arthur during the 1830s. See 22 April 1834; 6 May 1834.


\textsuperscript{465} J. S. Hampton remarked on the rumours that pervaded the colony over the state of convict accommodation. In his report of 30 May 1848 he noted, ‘The continuance of these rumours may in some measure be attributed to the fact, that the convict stations are not generally visited by private persons, and especially by those who have made the strongest and most frequent statements on this subject and therefore that they are not aware of the numerous preventative precautions so unceasingly used to guard against the commission of these abominations … every possible effort has been made by separation and otherwise, to prevent the continuance of such horrors’. J.S. Hampton, report, 30 May 1848, in BPP, C & P, T, vol 9, 1849, pp 249-50.

\textsuperscript{466} \textit{Launceston Examiner}, 23 August 1848.

\textsuperscript{467} Ibid.

\textsuperscript{468} Robert Crooke, \textit{The Convict: A Fragment of History}, Hobart, 1958, p 104. Crooke was the Roman Catholic catechist at the Salt Water Probation station between 1843 and 1850.
night was closely linked to indiscipline, sexual disorder and other ‘revolting immoralities’. Yet these moral anxieties were not always confined to the sleeping quarters. There was another site in the colony where the surveillance of prisoners assumed a particular spatial-sexual significance. The punishment station at the coal mines generated a number of inter-related concerns. The ‘worst’ of men at Port Arthur were the class of prisoners most often sent to the mines. The very nature of the coal mines heightened the fears that already surrounded these men. It was a space where surveillance was rendered problematic. Regardless of the ‘preventive’ measures taken, the site failed to reassure those in charge of the mines. It certainly failed to assuage colonial fears. The coal mines then, symbolised a particularly potent place where the imaginings of space and sex converged.

The Coal Mines of Van Diemen’s Land

In 1833, the Hobart Town Courier informed its readers of a new idea in British penal science. A proposal to punish men convicted of crime with a sentence to hard labour in coal mines had been suggested. The Courier declared the idea ‘completely abortive’ and ‘of all the places in the world, none can be more unfit’. The paper doubted that any reformation would be achieved. It further noted, ‘the caverns and long dark recesses would always afford the most inviting opportunities for evasion, and when the one or two years of sojourn had expired, what sort of gaol birds do you let loose upon society? The very harpies of confirmed vice and depredation.’

A month after this report appeared in the colonial press, coal was discovered at Norfolk Bay on the Tasman Peninsula. The discovery was welcomed by Lieutenant-Governor Arthur. He supported the extraction of this natural resource and immediately ordered the convict department to commence work there. Economics aside, Arthur’s enthusiasm was sustained by his belief that mining would provide a particularly harsh form of disciplinary work. As he noted, ‘I think that it is not possible that better employment could be found for some of the most refractory convicts than employing

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469 Hobart Town Courier, 5 April 1833.
them in working coal mines. During the 1830s, assigned convicts in Van Diemen’s Land lived under the threat of a further sentence to hard labour at one of the penal stations. Exile to the coal mines soon became ‘classified as the most severe punishment in the colony’. The nature of the work was indeed hard, and conditions were primitive. By 1837, 10,000 tons of coal had been manually extracted. The following year, there were 203 convicts at the coal mines producing fifty tons of coal per day. Thomas James Lempriere, the Deputy Commissary-General at Port Arthur recorded the daily routine of the coal mines in his journal. He noted, ‘the miners work by task which must be completed whether day or night in the 24 hours. There are only 11 miners who actually get the coal, their task is 30 wagon loads within 24 hours or 5880 lbs each. Discipline at the mines was enforced by the regular visits of Captain Booth, the Commandant at Port Arthur. He tried offences on the spot. Further discipline was imposed by the threat of solitary confinement in one of the underground cells. At the coal mines then, the very nature of the work and the discipline imposed were severe. For convicts, a sentence to the coal mines was indeed a harsh penalty. Lempriere noted that the very ‘term ‘coal mines’ appears to inspire them with dread’. By the 1840s, the site of the coal mines was still inspiring dread. It was a ‘dread’ especially felt by the wider colonial community.

Anne McMahon is one of the few historians to have written about the coal mines punishment station on the Tasman Peninsula. She has suggested that its working as a probation station during the 1840s revealed in microcosm the defects of the wider probation system. According to her account, the site ‘revealed circumstances which had

470 CSO 1/680/15052, AOT.
471 During the 1830s the main penal settlements in Van Diemen’s Land were Macquarie Harbour, Maria Island and Port Arthur. Macquarie Harbour was the colony’s first penal settlement established in 1821 and it operated until 1833. Maria Island opened as a penal station in 1825. It operated between 1825-32, and again 1842-50. Port Arthur was established in 1830.
475 Ian Brand, (1978), op. cit., p 44.
a wider application and which were important contributory factors in bringing about the end of the probation system.\textsuperscript{477} McMahon notes the administrative and financial difficulties of the station and the problems of finding suitable officers to oversee the overcrowded and under-funded site. She also considers the moral problems at the station. These difficulties plagued most of the probation stations in the colony. Yet if we consider the mines as a particular space, and as a site where wider contemporary anxieties converged, further related themes are revealed.

In July 1842, Sir John Franklin ordered convicts of every description be sent to the coal mines. This order was to be an expedient means of housing some of the 5500 prisoners who had arrived in the colony during that year alone. In February 1844, Henry Smith was appointed Superintendent of the coal mines. He found the consequences of Franklin’s measures of expediency. The gangs were ‘in a disorderly state’, ‘the wards anything but cleanly and regular’ and the ‘classes are not separated as required’.\textsuperscript{478} By 1845 the situation had not improved. There were 576 prisoners guarded only by twenty-seven officers. It was during this year that complaints were first made concerning the incidence of ‘unnatural vice’ at the coal mines. Captain Hill, the visiting magistrate noted, ‘there can of course, be no doubt of the prevalence of this crime here … the underground works at the old shaft are so extensive that Mr. Stuart … informed me that he did not think ten or twenty constables could altogether prevent its commission’.\textsuperscript{479} Following this report, two further constables were appointed, lights were increased in the sleeping quarters, holes were made in the doors of the wards and irregular patrols were increased underground.\textsuperscript{480}

Social and moral fears that surrounded coal mines had recently been revealed in Britain. In 1842 a report on the condition of the mining population exposed the ‘social evil’ of women and children working in the mines. The commissioners’ report was

\textsuperscript{477} Anne McMahon, (1966), op. cit., p 57.
\textsuperscript{478} Convict Department, correspondence, 1053/1, microfilm 62/1, AOT.
\textsuperscript{479} Convict Department, correspondence, 4323/1, microfilm 62/10, AOT.
\textsuperscript{480} Anne McMahon, (1966), op. cit., p 59.
Both the report and the newspapers disclosed a moral condition which according to Lord Ashley was ‘disgusting and intolerable’. Allegations of work-place cruelty, dangerous working conditions and the dire consequences of mining upon physical health were all revealed. Yet it was the spatial-moral question of ‘decency’, rather than the physical dangers disclosed by the report which contemporaries seized upon. Men, women and children working in near naked conditions offended middle-class ideals of the domestic family. The moral, cultural and sexual habits of these mining communities were particularly highlighted. This focus on the moral dimension of mining was manipulated to ensure public agitation, parliamentary debate and ultimately legislative reform.

The ‘moral’ dimension of mining was invoked in similar ways in Van Diemen’s Land. It was enhanced by the all-male penal workforce. In the rhetoric surrounding the ‘evils’ of convict association, the coal mines were often singled out ‘in particular’. The colonist Henry Phibbs Fry suggested ‘it was a fact confessed by all, that the coal mines was [sic] the very centre of this pollution and iniquity’. As the scandal at Launceston highlighted, what was unseen and invisible was the source of cultural and moral fears for contemporaries. Indeed it remained so throughout the nineteenth century. These fears were magnified by the coal mines. As the Courier had pointed out in 1833, it was

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481 See for example, Quarterly Review, June 1842; Morning Chronicle, 10 May 1842; Times, 29 April 1842. In a related context the contemporary reformer Peter Gaskell explored the working conditions of women in factories through the prism of morality. See Artisans and Machinery, London, 1836, Cass Reprint, 1968, p 100.
484 ‘Reform’ that excluded women from working underground. See Alan Heesom, (1981), op. cit., p 72.
485 When in 1846 Gladstone appointed Charles Joseph La Trobe to investigate the state of the men at the probation stations, he singled out the coal mines as a particular site where ‘habits of life so revolting and depraved had developed’. See Gladstone to La Trobe, 7 May 1846, op. cit.
488 In a related context, the idea that those unsupervised were liable to engage in sodomy, informed attitudes towards the freedoms of space, out in the wilds of the colonies. This chapter has examined the idea of the rural reformatory idyll. Yet many contemporaries believed that the rural environment afforded
precisely the unseen and secretive nature of the spatial dynamic of the mines that made proposals for their use within the penal system so objectionable. The mines were dark, hot, subterranean spaces where convicts worked in intimate proximity. Often with little clothing and largely immune from the gaze of overseers, the underground mine represented the antithesis of the principles of ordered penal surveillance. Benthamite notions of the inspector’s omnipresence and the power derived from the ‘invisible gaze’ was impossible to achieve in the darkness of the coal mine.\textsuperscript{489} Moreover, the very nature of the work involved the spectre of dirt and filth that was so symbolically central to bourgeois ‘pollution’ anxieties. Physical filth and moral depravity were often conflated within the discursive construction of the ‘moral other’ and they converged at the site of the mines. As a penal station, few colonists were permitted to visit the site. Contemporaries then could only conjure up imagined scenes from a diabolical underworld. G. C. Mundy characterised the coal mines as ‘Pandemon’s Land’.\textsuperscript{490} The \textit{Launceston Examiner} often represented the coal mines as ‘worse than Milton’s Hell’.\textsuperscript{491} Official reports from the convict department in the 1840s increasingly confirmed these fears.

In 1846, rumours and reports surrounding the moral state of the convict population led to an official investigation by the convict department. In March 1846 the acting Comptroller-General William Champ sent an order to every medical officer at the probation stations. Almost ten thousand male prisoners were medically inspected for signs of sexual disease. The results showed seventy men were ‘labouring under disease from unnatural crime’. Twenty cases were from the coal mines.\textsuperscript{492} Henry Phibbs Fry visited the coal mines at this time. In a letter to the Secretary of State, he suggested ‘the

\textsuperscript{489} See Jeremy Bentham, in M. Bozovic (ed.), 1995, op. cit.
\textsuperscript{490} G. C. Mundy, (1852, Adelaide, 1986), op. cit., p 71.
\textsuperscript{491} \textit{Launceston Examiner}, 3 October 1846.
\textsuperscript{492} These medical reports were included in Despatch 54, Sir Eardley-Wilmot to Lord Stanley, 17 March 1846, in BPP, C & P, T, vol 7, 1843-47, pp 502-12.
aspect of the men indicated the dreadful habit to which they were addicted’.\textsuperscript{493} Dr. Motherwell, the medical officer at the mines downplayed the results. His report noted that many of the men had informed him they had contracted ‘the disease’ elsewhere ‘in Hobart, at Maria Island or Broadmarsh’. He concluded that ‘wherever men are thus congregated together, there has been crime of this nature committed’.\textsuperscript{494} The Comptroller-General was unconvinced. His report to Lieutenant-Governor Eardley-Wilmot is revealing. He specifically connected the space of the mine with the incidence of sexual disease. He confirmed that, ‘the nature of the employment at the mines, it is obvious, affords facilities for the commission of this crime, which do not exist at any other station. The preventatives which immediately suggest themselves are separation and increased supervision’. Champ ordered one hundred separate apartments to be built and ‘the number of the lights in the mines to be trebled’. He further proposed reducing the numbers of prisoners at the mines and suggested the need for two additional constables, ‘expressly for the purpose of inspecting the working gangs’.\textsuperscript{495}

In September 1846, the new Superintendent at the mines, Mr. E. Hill reported the changes that had been made. Overseeing one hundred and ten men in the mines ‘and with a view of preventing *** are two Constables, two Overseers, and a third Overseer, whose duty it is to visit the works at uncertain times. The Constables are for the sole purpose of preventing irregularities … There are upwards of one hundred lamps burning below, and these increase in number, according to the increased extent of the works’.\textsuperscript{496}

‘Constables for the sole purpose of preventing irregularities’ clearly illuminate the convergence of labour discipline and sexual discipline at this particular penal station. Despite assurances that conditions underground and the accommodation above ground were well regulated, well lit and under constant surveillance, the association of the site with ‘moral pollution’ remained. In 1846, both the medical officer and the Chaplain

\textsuperscript{493} H. P. Fry, letter to the Secretary of State for the Colonies, 17 August 1846, in BPP, C & P, T, vol 7 1843-47, p 644.
\textsuperscript{494} Dr. Motherwell to Mr. Forster, 13 December 1845, Inclosure 4 in no. 9, in Despatch 54, op. cit., p 504.
\textsuperscript{495} Mr. Champ to Lieutenant-Governor Eardley-Wilmot, 14 March 1846, Inclosure 2 in no. 9, ibid, p 503.
\textsuperscript{496} Letter from Mr. E. Hill to Comptroller-General Champ, 3 September 1846, in BPP, C & P, T, vol 7 1843-47, p 648.
resigned in disgust and returned to Britain. On his arrival, the Chaplain wrote to the London Times. He condemned the coal mines for converting ‘the convicts into demons’ and planting ‘in the southern hemisphere the germ of a race, to which, in moral turpitude, the annals of past history will furnish no parallel’. The colonial press sensationalised the medical returns of 1846. The ‘evidence’ of sexual disease confirmed long-held suspicions of the probation system as perpetuating ‘unnatural vice’ by massing male prisoners together. The press took the medical evidence further, reporting cases of ‘diseases previously unknown to medical science’. Allegations of gang-rape, committed in the recesses of the mine were written in lurid detail. The Chartist convict John Frost utilised the imagery of the mine to shock his audiences on his return from the colony. In a series of lectures on The Horrors of Convict Life, an outraged British public heard of disease, immorality and the forced violation of youths at the coal mines. As with the colonial press, Frost clearly had political reasons in relating such incidents, yet the subject was noted elsewhere.

In one case a youth told the medical officer, ‘that he could not say who had diseased him because the act had occurred on his being lowered one day into the mines to work, when five or six of the men seized and dragged him into one of the dark passages and there forced him to submit to their will’. Sir Eardley-Wilmot wrote to Lord Stanley concerning this particular case. Six men were later charged. Two were executed in Hobart and the other four were sentenced to Norfolk Island. The Governor’s letter

497 Reported in the Hobart Town Courier, 30 September 1846.
498 Ibid.
499 Conversely, Sir Eardley-Wilmot played down the medical results. Forwarding the medical reports to Lord Stanley he noted that 70 cases of disease out of approximately 10,000 convicts was not cause for alarm. He wrote, ‘I am told by military and naval men, and by persons who have lived in India, that the perpetration of the crime here is not so great as in those professions generally, and in that country in particular. Of this your Lordship may be assured, that every precaution and prevention, by separation, single cells, and constant superintendence, will never be wanting to prevent an increase or continuance of these horrible practices’. Despatch no 54, Sir Eardley-Wilmot to Lord Stanley, 17 March 1846, in BPP, C & P, T, vol 7, 1843-1847, p 502.
500 Launceston Examiner, 11 November 1846.
503 Dr. Motherwell to Comptroller-General Hampton, 10 June 1846, quoted in I. Brand, (1990), op. cit., p 102.
revealed that, ‘it was in the day time, and not at night, in the depths of these mines, where
the crime took place, in spite of every precaution of lights and constables: and it being
here where the crime was most suspected and prevalent, additional surveillance and
additional cells were immediately and largely provided.’

James Purslowe had been in charge of the mines between 1843 and 1844. In 1846
he wrote a number of letters in which he expressed his concerns with the probation
system. In one, he described his experiences at the coal mines and confirmed the
opportunities for the ‘commission of crimes’ at the subterranean site. He noted the
necessity at the mines for the medical officer there to perform regular ‘surgical
operations’. He further admitted, ‘it is true, but horrible to relate, that in the mines places
can be pointed out which were known amongst the gang as being a common resort for the
bestial purpose’. Purslowe had been dismissed by the convict department in 1845. His
‘motives’ for painting such a sensational portrait have to be considered. But what of the
observations made by a churchman? Robert Willson, the Bishop of Hobart, was one of
the few colonists permitted to visit the coal mines. As a man of the church, his concerns
for the convicts were of a moral, religious and humanitarian nature. He related his visit of
1846 in a letter to Earl Grey. It is clear that the Bishop’s moral anxieties were combined
with a degree of voyeuristic fascination:

During my stay at this station, I went down the shaft into the mines, in order to
ascertain what were the facilities for the commission of such atrocious crimes. It
was within a few weeks of the execution of two prisoners belonging to the station,
who had been convicted of an offence hitherto, I believe, unheard of in a Christian
country, the rape of a boy. In scarcely any part of the mines could a man of
ordinary stature stand upright; and imperfectly lighted as a mine must ever be, it
would be impossible for the two constables (who after this horrible event, were
stationed to guard the prisoners whilst at work) effectively to watch over or to
prevent such crimes from taking place amongst from seventy to ninety men,
scattered in different directions, even supposing these constables would have the
courage to interpose, when surrounded by such an ungodly and desperate crew.

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506 Bishop of Tasmania, ‘Notes on Transportation and Prison Discipline,’ Letter to Earl Grey, 15 February
The coal mines at Norfolk Bay ceased to operate as a probation station in 1848. Sir William Denison noted both ‘moral’ and ‘financial’ reasons for its abandonment as a penal station. The mines were contracted to a private individual, Alexander Clarke, and the labour was transferred to hired convicts working for wages. Convicts under penal sentence were removed on 1 August. The final report on the mines as a penal site, dated 30 May 1848, was written by the Comptroller-General J. S. Hampton. He concluded that the coal mines had always been ‘the least satisfactory’ of all the probation stations. This was due to ‘the extreme difficulty of maintaining complete surveillance over the men while at work’. Furthermore, ‘the nature of the labour also interfered with strict and systematic discipline’. In London, the Colonial Office agreed. In response to Hampton’s report, Earl Grey noted, ‘I am glad that means have been found to abandon the station at the coal mines … it is evident that mines must from their nature be very unfavorable to proper superintendence’.

The coal mines of Van Diemen’s Land clearly reveal the symbolic significance of space and the ways that it generated particular moral meanings and sexual anxieties. Michael Keith and Steve Pile have recently asked historians to consider ‘is the space invoked real, imaginary or symbolic?’ Their analysis suggests that ‘the metaphoric and the real do not belong in separate worlds … the symbolic and the literal are in part constitutive of one another…Meaning is never immanent, it is instead not just marked, but also in part constituted by the spaces of representation in which it is articulated.’ The association of the mines with dirt and filth and the invisible nature of the work itself represented a nightmare space. For the convict department, the site of the coal mines represented the antithesis of penal surveillance and discipline. To the ‘unseeing’ outside world, it embraced many of the moral anxieties characteristic of other bourgeois

507 Denison believed the mines would be much more productive if contracted out as a private enterprise. Mechanisation and free labour would ensure this. See A. McMahon, (1966), op. cit., pp 60-1.
508 In January 1849, the Comptroller-General noted the benefits of waged labour to the mines. See Comptroller-General Report for 1848, in Despatch 22, Denison to Grey, 5 Feb 1849, in BPP, C & P, T, vol 9, 1849, p169.
510 Earl Grey to William Denison, 31 January 1849, in ibid, p 281.
discourses. In microcosm it inverted every social value of polite and decent society, and in turn revealed the spatial dimensions of these values.\textsuperscript{512}

Beyond the symbolism of the space of the coal mines, the long association of the mines as a punishment station magnified these anxieties. Arthur’s original intention that the coal mines punish ‘incorrigible’ convicts left a legacy that remained at the site. However, in what seems like a remarkable turnaround, all of these ‘immoral’ perceptions disappeared when the mines ceased to be a probation station. In the first report on the site, written six months after probationary convicts had been replaced by waged pass-holders, Comptroller-General Hampton reported, ‘the change has hitherto proved satisfactory not only as regards expense, but, what is of much more importance, it has removed all previously existing apprehension respecting the perpetration of unnatural crimes by the convicts employed in the mines’.\textsuperscript{513} Was this indeed a remarkable turnaround? Or the disassociation of the site with a particular class of prisoner? The difficulties of surveillance, combined with the moral perceptions of the prisoners sent there, clearly generated acute tensions. When in 1842, the coal mines were incorporated into the wider probation system, the imagined legacy of the ‘incorrigible’ remained. Arriving in 1844, the new Superintendent Henry Smith noted that the men at the mines were ‘the outcasts of all other stations’.\textsuperscript{514} Charles La Trobe’s inquiry in 1846 similarly highlighted that the ‘prevailing impression’ of the coal mines was influenced by ‘the particular occupation of the men’ and ‘the degraded character of the particular class of prisoners’ at the mines.\textsuperscript{515} Some spaces thus, could not be ‘purified’ with lights, nor adequately surveyed by watchmen. ‘Preventive’ measures that have been analysed as assuaging the moral concerns of many observers, were considered nugatory at this

\textsuperscript{512} Stallybrass and White have noted, ‘The bourgeois subject continuously defined and re-defined itself through the exclusion of what it marked out as ‘low’ – as dirty, repulsive, noisy, contaminating. Yet that very act of exclusion was constitutive of its identity. The low was internalized under the sign of negation and disgust’. See P. Stallybrass & A. White, (1986), op. cit., p 191.


\textsuperscript{514} Convict Department, correspondence, 1053/1, microfilm 62/1, AOT. Henry Smith was dismissed in 1847. Comptroller-General Hampton described him as ‘lamentably deficient in that energy which is requisite for the efficient control of any station’. Convict Department, correspondence, 4 September 1847, microfilm 62/18, AOT.

\textsuperscript{515} See report of C. J. La Trobe, in Ian Brand, (1990), op. cit., pp 153-4.
particular probation station. ‘The prevalence of the offence was notorious’, remembered James Purslowe, and ‘was always prevalent at this station’. The removal of all probation prisoners from the coal mines was the final and extreme ‘preventive’ measure taken by the convict department. Fifteen years had passed since the original anxieties surrounding the coal mines had first been expressed in the Hobart Town Courier.

Innovative suggestions and dissenting voices

In the first volume of his History of Sexuality Foucault explored the sexual dynamics of institutionalised spaces. He suggested that authorities were in ‘a state of perpetual alert, which the fixtures, the precautions taken, the interplay of punishments and responsibilities, never ceased to reiterate’. As we have seen, these concerns occupied a central place within the administration of the convict system. Many officials in the convict department were indeed in a ‘state of perpetual alert’. They invested heavily in the ‘preventive’ measures that were introduced into the sleeping quarters. The separation of bodies and the active surveillance exercised over them were deemed to be imperative. Correctly managed spaces offered sufficient and viable precautions ‘for the prevention of such odious crimes’. At times, officials in the convict department made innovative suggestions over the issue. These were not generally implemented yet they further reveal the extent to which moral and sexual anxieties informed the spatial management of convict bodies. Amidst the anxious hyperbole, there was little dissent to be heard. A consideration of the few voices that did dispute the majority view reveals a further dimension to the spatial-sexual meanings of convict space.

When, in 1846 William Champ gave orders that every convict was to be inspected for signs of sexual disease, he also asked the medical officers to send to him their ideas for the best means of ‘prevention’. The returned medical reports of 1846 reveal a general

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consensus and the replies are largely repetitive.\textsuperscript{519} The majority of medical officers endorsed the view that ‘burning lamps’, ‘separation’ and ‘increased supervision’ would ensure moral order. James Macnamara suggested that ‘a watchman pacing back and forward in each ward during the night’ was the best ‘means of prevention’.\textsuperscript{520} Other officers revealed the shortcomings of the techniques of separation and surveillance. The Colonial Assistant Surgeon F. J. Park insisted that the use of separation boards was inadequate.\textsuperscript{521} According to Park, ‘not the slightest impediment is offered by them to the perpetration of the crime’. Increasing their size would be of little benefit. The remedy he suggested was ‘iron bars perpendicularly placed at intervals between each berth, and of strength to resist destruction’. Only this measure ‘would completely prevent any intercourse’.\textsuperscript{522} Surgeon E. S. Hall agreed that separation boards were of little use. The best preventive measure according to Hall was a ‘monthly inspection’. This would involve a close examination of the bedding and the berths in the presence of a visiting magistrate, and the regular naked inspection of the men. Hall believed that inspection was ‘a great check upon the men’ and had ‘a great tendency to restrain this crime’. Moreover, Hall considered it essential in ‘preserving the men’s person’s cleanly [sic], and detecting cutaneous or other diseases’.\textsuperscript{523}

Mr. Hall was an enthusiastic supporter of the naked inspection. He was particularly critical of those stations that did not perform regular examinations. In his report, Hall insisted that he regularly made ‘a rigid examination of every man’. Some medical officers seemed to find it distasteful. Mr. Macdowell, the medical officer at Broadmarsh reported that he had made the ordered medical inspection ‘with as much

\textsuperscript{519} See Medical Reports, sent in Despatch 54, Sir John Eardley-Wilmot to Stanley, 17 March 1846, in BPP, C & P, T vol 7, 1843-1847, pp 502-12.
\textsuperscript{520} James Macnamara to Dr. Robertson, Cleveland, 24 February 1846, Inclosure 14 in no. 9, in Despatch 54, op. cit, p 508.
\textsuperscript{521} J. S. Kerr has noted that bed boards were not as high as they had been recommended. Often, they were from six to fourteen inches, rather than the five foot specified by the Inspectors of Prisons. Further, they were easily demountable to provide more room when large numbers of men required accommodation. During the 1840s when the colony of Van Diemen’s Land was overwhelmed by transported prisoners, Kerr suggests the ‘separation boards must have been as much out as in’. See J. S. Kerr (1984), op. cit., p146.
\textsuperscript{522} Mr. Park to Dr. Robertson, Oatlands, 4 March 1846, Inclosure 21 in no. 9, in Despatch 54, op. cit, p 510.
\textsuperscript{523} E. S. Hall to Dr. Robertson, Hospital Probation Station, Deloraine, 25 February 1846, Inclosure 13 in no. 9 and ibid, H. M. Colonial Hospital, Westbury, 23 February 1846, Inclosure 12 in no. 9, in Despatch 54, op. cit, p 507; p 506.
delicacy as circumstances would allow’. Other medical officers were unsure as to what exactly they were supposed to be looking for.\(^\text{524}\) The medical inspection of the convict body for signs of sexual activity or disease was crude and elementary. Historians have revealed the role of the medical authorities in the convict system.\(^\text{525}\) Trained professionals acted as Surgeon-Superintendents on board convict ships.\(^\text{526}\) They were also active in observing and treating bodies after the administration of flogging.\(^\text{527}\) Less researched is the point where medical and penal authority converged to police the sexual behaviour of male convicts. The idea that medical ‘evidence’ of sexual deviance might be found on the body, reveals a further disciplinary mechanism in the ‘castrating’ penal environment.\(^\text{528}\) This in turn informed the spatial location of men within the system. Many of the 1846 medical reports noted that ‘diseased’ men and those ‘suspected of the crime’ were always confined to sleep in separate cells.\(^\text{529}\) ‘Diseased’ prisoners conflated perceptions of sex, deviancy and disease in a particularly intimate way. Their spatial isolation involved both ‘the arrangement of bodies-in space and the regulation of contact between them’.\(^\text{530}\)

This obsessive preoccupation with ‘prevention’ was reiterated in other ways. Enormous efforts were expended in investigating the results of locating sleeping prisoners in hammocks rather than in separate batten bed places. Contemporaries wondered which method was superior in ensuring bodies remained separated. How might sleeping in a hammock be morally beneficial? The observations made by the Quaker visitors James Backhouse and George Washington Walker in the 1830s reveal that these spatial and moral concerns had informed their ideas on the sleeping arrangements of prisoners. They especially favoured the use of hammocks rather than separation boards. In their report on Port Arthur in 1834 they noted:

\(^{524}\) Patrick Black was the assistant surgeon at Wedge Bay probation station. He noted that ‘this crime may be committed, to a certain extent, without any disease resulting therefrom’. Patrick Black to Mr. Stuart, Wedge Bay, 13 December 1845, Inclosure 10 in no. 9, in ibid, p 506.

\(^{525}\) In a related context see S. Sen, (2000), op. cit., pp 131-65.


\(^{529}\) See Despatch 54, (17 March 1846), op. cit., pp 502-12.

\(^{530}\) A. Bashford & C. Strange, (2003), op. cit. p 12.
If separate cells could not be provided for each prisoner we should have been glad to have found that they were to be furnished with hammocks, this would have a much more decided tendency than partitions of boards, nine inches high upon platforms, to prevent those immoralities which are acknowledged to exist to a grievous extent among this class of men, but of which they can seldom be so convicted as to be restrained from by punishment. Hammocks may also be rolled up and put out of the way in the daytime and are much more easily kept clean and free from vermin.\textsuperscript{531}

Hammocks were used in many convict dormitories and in some prisons in Britain.\textsuperscript{532} Observations made on Norfolk Island during the 1840s were critical of their use. The overcrowded conditions on the island meant that the hammocks were ‘slung in actual contact with each other’.\textsuperscript{533} In 1847, the Civil-Commandant John Price questioned the instruction to reconstruct the interior design of the dormitories, according to Hampton’s recommendations. The expense and the labour involved in reconstruction were central to his doubts. Yet the proposals that he suggested instead, further reveal the inter-relation of spatial order and moral discipline. John Price believed that the building of battened bed places was unnecessary. Instead, he suggested simply redesigning the way in which hammocks were hung. This, together with ‘proper inspection’ would ensure ‘no immoral conduct can take place in the wards’. To illustrate his idea, Price drew a crude and simple hand-drawn ‘solution’ (see appendix B, p 3). These drawings in the margin appear at first glance to be petty, almost risible. How were they received by officials in the convict department? Would they have convinced Hampton who admired the isolated cells and the magnificent walls of Pentonville? Beyond the rudimentary hand drawings, however, we can see the remarkable extent and the considerable imaginative energy that went into ‘the architectural contrivances’ introduced into convict spaces.\textsuperscript{534}

Perceptions of preventing indecency and impropriety were heavily invested in the ways in which hammocks were arranged. The moral control of space and the ordering of

\textsuperscript{531} J. Backhouse & G. W. Walker, Report on Port Arthur, 1834, in (1832-1840), op. cit., p 233. The moral expediency of hammocks rather than separation boards informed all of the observations that they made in the colonies of New South Wales and Van Diemen’s Land.
\textsuperscript{532} See H. Mayhew & J. Binny (1862), op. cit.
\textsuperscript{534} See J. T. Burt, (1852, 1984), op. cit., p 51.
prisoners’ bodies informed Prices’ unpolished drawings, just as they influenced the elaborate and grand designs of contemporary prison architects.535

Moving beyond the idea of ‘preventive measures,’ some contemporaries conceded that same-sex practice, regardless of the imposition of physical and mechanical constraints, was unavoidable.536 Sir Eardley-Wilmot noted that ‘in all large assemblies of the male sex, whether in the army, navy or among prisoners, I believe it is acknowledged that * * * does more or less prevail; and that though its recurrence may be lessened, yet it is impossible wholly to prevent it.’537 John Price, the Civil-Commandant on Norfolk Island agreed. In July 1847, he reported on the new arrangements that had been introduced into the convict barracks on the island.538 ‘I sincerely trust’, he wrote to Hampton, ‘that the precautionary measures adopted will prove sufficient.’ However, he went on to state, ‘No efforts can eradicate the brutal desire of such of the prisoners as make penal stations their home, and have made up their minds to drag out their existence in slavery and bondage.’539 These observations reveal an attitude of ‘inevitability’ and a vague notion of what historians since have referred to as ‘situational’ same-sex relations.540 Price’s observations further suggest that brutality and degradation in the penal context were perceived to be contributory factors.

These perceptions were, in turn, taken up, analysed and then utilised by the few enlightened observers who opposed the introduction of ‘preventive’ measures into convict sleeping spaces. Alexander Maconochie was one such observer. As his contemporaries were busy building sexual barricades within the barracks, he perceived such restraints as deeply defective. He regarded the imposition of mechanical restraints as

535 John Price, letter to Comptroller-General Hampton, 17 March 1847 in Tasmanian Papers 94/95 (ML.)
536 These interestingly included among them Lord Stanley, Sir John Franklin, Sir William Denison, and Sir George Gipps.
538 Price wrote to Comptroller-General Hampton, ‘I have taken steps to have the alterations directed by you in the hanging up of the hammocks forthwith effected, and have adopted every means to prevent unnatural crimes. A police force is nightly, and all night on duty, perambulating the barracks and visiting the dormitories … and the utmost care is taken to have lights constantly burning’. John Price, letter to Comptroller-General Hampton, 8 July 1847, in BPP, C & P, T, vol 9, 1849, p 170.
539 John Price, letter to Comptroller-General Hampton, 8 July 1847, in ibid.
contributing to the further degradation of the prisoners. A contemporary admirer of his marks system of discipline remarked that the efficiency of this system ‘in no degree depends on bricks and mortar … it is essentially a mental as opposed to an architectural system’. Maconochie was acutely aware that repression was part of a double process when he asserted that, ‘mere physical restrictions will always be found to provoke rather than check’. He articulated the view that it was not defective accommodation which led to unnatural crimes, but rather the defective treatment and management of prisoners. According to Maconochie, ‘the past abuses arising from congregated labour are … not inseparable from it. They have arisen mainly, I repeat, from defective organisation, from consequent idleness, and in some degree, though much less than is usually imagined, from deficient accommodation. Soldiers and sailors are generally as ill-accommodated without the same result. If we will actively employ our prisoners, and by suitable means cultivate in them the daily practice of manly and social virtue, they will protect themselves from degrading vices much better than we can protect them by walls and bolts.’

Opposition to ‘preventive measures’ was also voiced by the Reverend Thomas Rodgers. He was the Chaplain at Norfolk Island until 1846. Rodgers was both audacious and abrupt in dismissing a report made on the island by the Comptroller-General Hampton in January 1848. It seems that John Price’s rearranged hammocks had not convinced the convict department. Following a visit to the island, Hampton recommended the immediate construction of separate apartments, the use of ‘stout

541 According to Maconochie, ‘The direct application of force to the human mind always deteriorates it … it degrades, emasculates and too often crushes altogether’. He further noted, ‘the results of moral influence will be most evident and unquestionable where physical restraints are the fewest and weakest … being calculated to produce voluntary effects, little comparative superintendence will be required to make it effective’. See A. Maconochie, The Marks System, London, 1847, p 7; J. C. Symons, Tactics for the Times as Regards the Condition and Treatment of the Dangerous Classes, London, 1849, p 239.
542 J. C. Symons, (1849), op. cit., p 166. Governor Gipps was less admiring when he noted, ‘As Captain Maconochie has developed his own views of what a prison ought to be I shall content myself with remarking that in many essential points he is at issue with the home inspectors; and that whilst they consider it necessary to ensure absolute separation by strength of masonry, bolts, locks and bars, Captain Maconochie proposes in great measure to dispense with such securities’. Gipps to Russell, 28 February 1840, in BPP, C & P, T, vol 6, 1810-1841, p 41 (809).
543 In a letter to J. C. Symons he noted the expediency of placing ‘prisoners comparatively in a natural state, instead of, as at present in a highly unnatural and artificial one’. A. Maconochie, letter to Symons, 14 April 1849, in J. C. Symons (1849), op. cit., p 241.
planking’, fixed battens around the bed places and the augmentation of surveillance. Rodgers responded to this report by accusing the convict department of constructing an artificial environment, sustained only by ‘anti-social and unnatural means’. He noted:

Hence the safeguards and preventatives of stout planking – strong open barricades – watchmen – lights - loopholes in doors – to keep men in the prime of manhood from the perpetration of unnatural practices; hence too the periodical medical examinations, when the gangs are mustered in the lumberyard, stripped naked and then inspected in the most obscene disgusting manner to ascertain whether they present any symptoms of habitual indulgence in unnatural crime.  

Rodgers viewed convict bodies and sleeping spaces as the site of prurient colonial hysteria. He denounced the voyeuristic paranoia and the covetous surveillance pervading the settlement that ‘sought for, and saw vice in what was most virtuous’. Friendships between men were discouraged, because convict discipline regarded all such relations ‘as overt intentions of committing unnatural crime’. Echoing Maconochie, he remonstrated that building ‘open barricades of stout planking forcibly to prevent sodomitical practices’ would merely throw ‘its subjects back on more secret vice’. If unnatural crime existed, it did so because through the imposition of ‘preventive’ measures, it was in fact promoted. The argument that ‘power is productive’ suggests that ‘repression and denial’ will ultimately produce ‘intensification and incitement’. This in turn, produces resistance.


546 Reverend T. Rogers, (1849), op. cit., p 12. The idea of ‘secret vice’ was often expressed by those who were opposed to the separate or solitary systems of prison discipline. However, it was also an anxiety occasionally expressed by those who did advocate the separate system. William Champ supported the idea of ‘quarantine’ for prisoners suspected or found guilty of ‘unnatural crime’. Yet he also recognized that ‘separate and solitary confinement’ was not ‘unfrequently productive of vices perhaps equally revolting, and attended with serious injury to the health, both mental and bodily of the prisoners’. See W. Champ, Report on the state of the convict department, 30 June 1846, in BPP, C & P, T, vol 7 1843-47, p 132.


548 Foucault wrote of ‘the polymorphous techniques of power’ to reveal this idea. In ‘Body/Power’, he noted that sexuality, in ‘becoming an object of analysis and concern, surveillance and control, engenders at the same time, an intensification of each individuals desire, for, in and over his body’. In C. Gordon, (ed.), (1980), op. cit., pp 56-7.
Resisting Space and Surveillance

On 4 January 1847, every prisoner on Norfolk Island was subject to a medical examination. Aaron Price recorded the incident in his diary:

…the reason that this inspection took place, it was supposed that a great many men were bad with the venereal from that horrible practice that is carried on amongst the prisoners. But through the whole of the inspection – both old and new hands, not one single case transpired, to justify the suspicion that was entertained by the authorities, though some four prisoners, old hands sent to gaol refused to submit to what they considered a degradation, by exposing these prisoners the Commandant told them they should go to gaol first and be punished, and then they should undergo the same inspection as the others had done. The whaleboat went out this morning fishing …

Prisoners resisted the ‘preventive measures’ and the surveillance techniques exercised over them. The four men who refused to submit to this particular examination were harshly punished. James Wolfe received six days solitary confinement. Thomas Walin [sic] and Martin Ryan were sentenced to four months in the gaol gang. George Byford, a blind man was awarded six months solitary confinement. It appears that his reaction to the group inspection had been to bite the fingers of an overseer. Studies of convict women have explored the connection between resistance, space and sexuality. Male convict historiography has not considered the spatial-sexual dynamics of convict resistance. Ideas of convict resistance have largely been examined in relation to the master-servant relationship of the assignment system. This has resulted in a focus upon work-related resistance such as ‘malingering’ and the destruction of tools. Other historians have considered convict resistance in terms of an individual or a collective struggle against colonial authority. This political analysis of resistance attempted to explain the slow and weak development of class-consciousness in nineteenth-century

\[^{549}\text{A. Price, } \text{History of Norfolk Island 1774-1852, cy reel 880, p 175, (ML.) See Appendix D.}\]
\[^{550}\text{Ibid, p 176.}\]
Australia.\(^{552}\) More recent studies have revealed the cultural dimension of male convict resistance. Bruce Hindmarsh has examined the social life of assigned convicts in rural Van Diemen’s Land.\(^{553}\) This study suggested that the social and cultural activities of male convicts formed an important element in resisting the behavioural constraints that master’s sought to impose. Moreover, convicts asserted their autonomy over their right to non-work time.\(^{554}\) Other research has uncovered further cultural aspects of convict resistance to colonial power. Hamish Maxwell-Stewart revealed the symbolic importance of the black economy at Macquarie Harbour as a challenge to the concept of labour unfreedom. He noted that the exchange of illicit goods enabled convicts to redefine themselves, beyond their official and objectified bonded status.\(^{555}\)

Moving beyond these ideas, this chapter examines convict resistance through the dynamics of space. Resistance can be seen in the many ways that prisoners rejected the rules and the constraints of the spaces that housed them. The concept of spatial resistance has been explored by the sociologists Steve Pile and Michael Keith. In *Geographies of Resistance*, they note:

> Power relations involve particular notions of space-as-territory, to be conquered, administered and regulated. In one sense, power is the power to have control over space, to occupy it and guarantee that hegemonic ideas about that space coincide with those which maintain power’s authority...\(^{556}\)

Disrupting ‘hegemonic ideas about that space’ was certainly an important site of convict resistance. The penal system was not merely an apparatus of prohibition and repression of one class by another. Male convicts broke the rules of ‘moral’ discipline.


\(^{554}\) Convicts spent their leisure time drinking alcohol, singing songs and telling stories. They played cards, indulged in blood sports and organised bouts of fist-fighting and wrestling.


They crossed the spatial boundaries set up to individualise their bodies.\textsuperscript{557} Prisoners damaged the techniques of surveillance and they sometimes refused to submit to invasive medical examinations.\textsuperscript{558} We do not know if the ‘preventive measures’ did lead to the ‘promotion’ of sexual activity. The existence of a sexual subculture is explored in the following chapter. Yet we can claim that resistance to the spatial rules and the separation measures imposed by the convict department was one means of rejecting the power inscribed in these techniques of surveillance. In breaking these spatial rules, prisoners claimed autonomy. Moreover, they identified precisely where penal anxieties were at their most hysterical and therefore most vulnerable. Joy Damousi has suggested that ‘sexualised disruptions to established boundaries did not characterise male forms of resistance’. \textsuperscript{559} Including these acts of defiance contributes to a new reading of male convict resistance. It reveals a further dimension to the interactions of space and the sexual meanings inscribed within it.

Henry Phibbs Fry recalled one act of resistance. In 1850 he related a visit he had made to the sleeping dormitories at Port Arthur in 1848. The visit to the site at night reveals a certain degree of voyeurism in the reverend’s ‘concern’ with the convicts.\textsuperscript{560} He noted that ‘the doors have holes for inspection through which, when the lamp is burning well, a portion of the interior may be viewed’. However, ‘inspection is dangerous, a stick having lately been poked through from the inside into the eye of the officer on watch’.\textsuperscript{561} In another incident, R. P. Stuart noted that the inspection grates in the doors of the dormitories on Norfolk Island were ‘fitted with a moveable shutter inside, which can easily be kept closed’. These shutters were indeed kept closed and, according to Stuart, prices.

\textsuperscript{557} The issue of men sharing hammocks is constantly found in the punishment records. See Appendix C for an example from Norfolk Island, recorded by A. Price,\textit{ History of Norfolk Island 1774-1852}, 11 February 1847, cy reel 880, p 183, (ML.)
\textsuperscript{558} In his medical report from the Hospital probation station at Deloraine, E. S. Hall noted that the medical inspection was not a regular practice at most of the probation stations. The consequence of this had resulted in prisoners refusing to submit or the men had ‘endeavoured to evade it, and have been punished for doing so’. E. S. Hall, 25 February 1846, Inclosure 13 in no. 9, Despatch 54, op. cit, p 507.
\textsuperscript{559} J. Damousi (1997), op. cit., p 66.
\textsuperscript{560} As P. Stallybrass and A. White have convincingly argued, ‘disgust always bears the imprint of desire’. See P. Stallybrass & A. White, (1986), op. cit., p 191.
\textsuperscript{561} H. P. Fry, (1850), op. cit., p 173.
‘could only be opened with much difficulty from disuse’. External inspection was interrupted by the prisoners in other ways. The repeated anxieties expressed over the importance of illumination meant that the burning lamps were an obvious target to sabotage. At the Colonial Hospital at Westbury, Mr. E. S. Hall insisted that lamps were placed in all the sleeping wards at night. But, ‘they are very seldom alight in the morning, which they ought to be if no tricks were played with them’. Oil was often ‘stolen’ and ‘flames extinguished with very little chance of detection’. These incidents seem trivial, akin to naughty boyish pranks. Yet, obstructing the surveillance of space was one way to both disrupt and diminish the power exercised by the authorities over the prisoners.

Steve Pile has revealed that spatial resistance ‘cannot simply address itself to changing external physical space, but must also engage the colonised spaces of people’s inner worlds’. It is impossible to imagine how separation boards, or the cages so graphically described by G. C. Mundy, were perceived by the prisoners. Some might have welcomed them. For others, they may have represented a wider symbolic restraint. By their very nature, these devices served as a constant reminder to the un-free, bonded status and the restricted physical condition of the individual. Separation boards were often damaged, removed or destroyed altogether. At the Oatlands Probation Station, Mr. Park noted the ‘deficiency’ of the separation boards in the sleeping wards. This ‘deficiency’ was ‘accounted for by their being removed and destroyed by the men in whom a general spirit of destructiveness exists, and which it would be impossible to prevent’. The destruction of these tools of separation was a further means of individual resistance. The removal or damaging of bed boards was a wilful act of defiance directed against penal hegemony. This expression of resistance was perhaps a stronger and more serious form of opposition than thwarting the surveillance of the dormitory. It was an individual act and a claim for autonomy, amidst a dormitory of imposed collective degradation.

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563 Hall suggested that the lamps be locked within fine wire cages to prevent this. Mr. E. S. Hall to Dr. Robertson, Westbury, 23 February 1846, Inclosure 12 in no. 9, Despatch 54, op. cit, p 507.
565 Mr. Park to Dr. Robertson, Oatlands, 4 March 1846, Inclosure 21 in no. 9, Despatch 54, op. cit, pp 510-11.
Resisting the boundaries imposed by separation apertures also found expression in transgressing spatial rules. The punishment records reveal that men were punished for being out of the dormitory at night. They were also penalised for being out of bed during the stated sleeping hours.\textsuperscript{566} Some prisoners broke spatial rules \textit{and} crossed the boundaries of separation. These men were found in another bed or caught sharing a hammock.\textsuperscript{567} A number of eye witness reports testify to the hurried commotion of prisoners trying to get back into their own sleeping spaces when the dormitory doors opened.\textsuperscript{568} Robert Pringle Stewart visited the prisoners’ barracks on Norfolk Island in 1846. According to his account, lamps did not burn during the night and ‘on the doors being opened, men were scrambling into their own beds from others, in a hurried manner, concealment being evidently their object’. Moreover, the convict wards-men ‘did not exercise any authority and were mere passive spectators of irregularity’.\textsuperscript{569} It is difficult to ascertain the extent to which a ‘blind eye’ was indeed turned by convict men who acted as dormitory watchmen. Many complaints of this nature were made at the time. Were they helpless ‘passive spectators’ in the midst of collective debauchery? Or, in their passivity were they too resisting by (to use a common phrase) ‘malingering’ on the duties of their job?

The use of convict overseers was a recurring theme in the observations and the criticisms that were made of the convict system. Convict overseers acted as teachers, wards-men and gang-masters and they provided a vital layer in the over-all power structure of the penal system.\textsuperscript{570} Further, the creation of a hierarchy within the convict body itself was a mechanism through which the authorities divided the prisoners, and incorporated some within the hegemonic structure of convict discipline. Yet as a class

\textsuperscript{566} K. Daniels notes that being out of bed at ‘an unreasonable hour’ was considered ‘a most serious crime’ with respect to female convicts incarcerated in Van Diemen’s Land. See K. Daniels, (1993), op. cit., p 139.  
\textsuperscript{567} Resistance aside, the desire for warmth and companionship probably motivated some men to share sleeping spaces.  
\textsuperscript{569} R. P. Stuart, (1846, 1979), op. cit., p 45.  
\textsuperscript{570} R. Evans and B. Thorpe have noted that convictism ‘embraced a range of competing masculinities, often in dramatic interaction with each other and each with its own sense of place within its milieu’. See R. Evans & B. Thorpe, (1998), op. cit, p 22.
they generated profound anxieties. Many observers suggested that they were ‘the worst of men’ who were corrupted by the power they held. At another level, the inclusion of convict men within the system, risked the possibility of internal subversion. Convict overseers embodied the very point where disciplinary rhetoric and disciplinary practice might be breached. Rather than collusion and collaboration with the authorities, the overseer also represented the antitype of that figure. When the probation system of convict discipline commenced, Sir John Franklin noted ‘the necessity of having respectable persons to conduct the probationary gangs’. Fiscal considerations thwarted this ideal and by the late 1840s efforts were still being made to phase out the use of convict overseers. In 1849, Thomas Rodgers recalled his experiences as the Chaplain at Norfolk Island. He revealed that the use of convicts as dormitory overseers subverted the internal moral order. According to the reverend ‘of the night watch-men appointed to keep order, some were punished by Mr. Price himself for unnatural practices.

Spatial resistance was many-layered. Stuart’s report of Norfolk Island revealed another way that men resisted the imposition of spatial boundaries. During the evening muster, prisoners refused to submit to the ordering of their bodies in regular sleeping places. They persisted in ‘going into wards to which they do not properly belong’ and they ‘change from ward to ward with impunity’. Why did prisoners refuse to adhere to the dormitory rules? According to Stuart, it was because they were ‘attracted to a vile all pervading motive, hereafter referred to’. Whether their ‘motive’ was of a sexual nature or not, such actions disrupted the order and regularity of space. David Sibley has written of the re-territorialisation and the re-symbolisation of space that seeks to undermine the power structures inherent in spatial order.

571 In his memoirs, Thomas Cook noted ‘it may appear … very mysterious how such monsters could have been nominated to act as Overseers’. Thomas Cook, (1841, 1978), op. cit., p 29.
573 In a letter to the assistant Comptroller-General, William Nairn, John Price revealed that the use of convict overseers was being phased out on Norfolk Island. See Price to Nairn, 13 October 1847, in BPP, C & P, T, vol 9, 1849, p 172.
574 Thomas Rodgers, Correspondence relating to the dismissal of the Reverend T. Rodgers from his Chaplaincy at Norfolk Island, Henry Dowling, Launceston, 1849, cy reel 499, pp 91-2, ( ML)
positioning within the dormitory, convicts defied the rules of penal discipline. In this, they found a further means of resisting the impositions of penal and spatial constraint.

The idea that repression led to resistance has been noted. In the penal context, resistance often led to punishment. The frequency of cases tried for the transgression of dormitory rules and the crossing of spatial boundaries suggests that moral discipline was difficult to enforce. The ‘preventive measures’ that had been introduced were indeed resisted. The seriousness with which the convict department deemed the infraction of these rules is revealed in the harshness of the punishments awarded. The punishment records from Maria Island and the coal mines, two sites that have been considered in this chapter, confirm this. At the coal mines in February 1838, John Ashwood was charged with ‘being out of his berth at an improper hour on the night of the 14 February’. He was sentenced to forty-eight hours of solitary confinement on bread and water. He was further ordered to sleep in a single cell for a fortnight.\(^577\) In September 1838, George Jackson and John Spencer were charged with ‘gross disobedience of the settlement orders in sleeping together under one coverlid’. Captain Booth judged this particular case. He ordered each man to receive fifty lashes.\(^578\)

Spatial offences at Maria Island were similar. Offences that were considered ‘grave’ included ‘murder’, ‘absconding with violence’ and ‘sleeping together under suspicious circumstances’. Offences listed as common and every-day included ‘disobedience of, abusing and obstructing watchmen’, ‘indecent exposure of person’, ‘holding intercommunication in solitary and separate confinement’ and ‘absence from huts at night under suspicious circumstances’. According to James Boyd these offences, ‘with the addition of riotous and irregular conduct in the wards and mess-room, and neglect of duty by watchmen and sub-overseers’, were the Island’s ‘catalogue of

\(^{577}\) Extracts from record book of convicts, charges and sentences, January-September 1838, Tasmanian Papers 129, (ML.)

\(^{578}\) Ibid. Other recorded ‘offences’ included the possession of tobacco, refusal to work, pilfering food, fishing and feigning illness.
offences, or nearly so.\textsuperscript{579} In his 1845 report, Boyd revealed a recent incident that had occurred on the Island. He noted:

In one night I found that eight men had removed the separation boards, and were sleeping together under most suspicious circumstances. They were tried and sentenced to nine months’ hard labour in chains... a fellow prisoner stated that such practices had been going on for some length of time. Two of the eight had the bold and disgusting affrontery [sic] to tell the visiting magistrate that they had never heard sleeping together prohibited at other stations where they had been.\textsuperscript{580}

Feigning ignorance of the rules of the sleeping quarters was unlikely to convince the judiciary. Yet it reveals a further act of defiance. What Boyd considered ‘disgusting affrontery’, we might consider bold and audacious intransigence. These prisoners had already asserted their resistance to authority in their dormitory antics. In claiming they did not know the rules, they used the moral anxieties generated by space to further mock those in positions of authority. Foucault noted the ‘pleasure’ of the observed in evading power and the desire to ‘flee from it, fool it or travesty it’. Moreover, by ‘showing off, scandalising or resisting’, these prisoners further asserted their own sense of power. One can only wonder how the visiting magistrate reacted to their claims.\textsuperscript{581}

Sexual meanings were inscribed in space. They weaved their way through the techniques of repression and surveillance, the actions of resistance and the impositions of solitary and physically confining punishments. A final illustration of convict resistance involves an incident that occurred at Norfolk Island. This case reveals these interactions. In 1846 Richard Kinder and James Proper were charged with an ‘unnatural crime’. The case could not be proved. They were charged instead with the ‘lesser crime’ of ‘exposing their persons to each other in one of the boxes of the barracks’. This charge was proved and they were sentenced to nine months hard labour in irons. Kinder was sent to the station at Longridge, and James Proper was ordered to the Cascade station on the

\textsuperscript{580} Ibid, p 213.
In ‘resisting’ the separation apertures in the barracks, their ‘crime’ was both spatial and sexual. They had transgressed the spatial rules of separation. They had resisted (and defeated) the ‘preventive’ measures of the ‘boxes’ in the barracks. They had crossed two moral boundaries by their actions. Their punishment was in microcosm, a symbolic re-assertion of the hegemonic penal principles of restraining the body and separating bodies. Individual irons and chains replaced the boxes in the barracks. The prisoners were isolated from one another physically and visually through geographical separation. Spatial-sexual meanings shaped their ‘resistance,’ but also informed their subsequent punishment.

Conclusion

Enlightenment ideas of environmental reform and the intricate homology of ‘moral’ space and ‘moral’ behaviour often remained in the realms of philosophical imaginings. Through the prism of morality, perceptions of reform, space and behaviour were intimately connected. Yet penal space had the potential to pollute the very bodies it sought to control and reclaim. A spatial analysis of the probation system through three specific sites revealed this tension. Maria Island failed to classify and separate men effectively. The scandal at the hiring depot at Launceston highlighted the ways that overcrowded spaces and the invisibility of bodies had moral consequences that reverberated out into the wider colonial community. At the coal mines, dirt and darkness were symbolic of a whole plethora of inter-related cultural fears that surrounded the ordering of bodies in spaces. In different ways these three sites reveal the disjunctures between penal theory and working practice. Each in turn impacted upon perceptions of penal discipline and convict morality. Turning the gaze back, observers looked at the probation system through a spatial lens and saw a penal system riddled with moral complexities. Many existing cultural and social tensions were magnified by the geographical concentration of criminal bodies in a small colonial community. Fiscal shortcomings exacerbated these tensions. Between Boyd’s report of December 1845 and the abandonment of Maria Island in 1850, new techniques of surveillance and physical

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582 A. Price, 4 September 1846, op. cit., p 158.
restraint were introduced at many probation stations, hiring depots and gaols. These mechanisms sought to remedy the failures of classification and separation. Yet they often enhanced anxieties as their own shortcomings became apparent, and different forms of convict resistance emerged. The convict department and the colonial population could try, but they could not escape the moral and sexual fears that the transportation of criminal men had produced. Space was both the source of moral anxiety and the site upon which these concerns were projected. In the following chapter, these fears are considered through colonial perceptions of the convict voice. This was a further signifying site where cultural meanings of penal discipline and moral behaviour converged.
Chapter 3

‘A Life of Noisy Riot, of Filth, Indecency and Profaneness’:
The Convict Voice and the Colonial Imagination

In February 1846 a lecture was held at the Philosophical Hall in Huddersfield. The middle-aged speaker, dressed in yellow and grey was a returned convict. The title of his lecture, ‘Transportation and its consequent Horrors’ was ‘calculated to be of good effect on the mind of his hearers’. Yet of ‘his own experience whilst undergoing the period of his banishment, the lecturer said nothing, merely intimating that human nature revolted at the idea of relating its own criminality’. And although the speech was ‘evidently the production of a superior and cultivated mind’, the manner of its delivery ‘was much in the schoolboy style of oratory’.\(^{583}\)

We do not have a name for this returned convict, nor the substance of his speech. Perhaps he did not even write the lecture. Nonetheless, we might place this character within the wider project of uncovering the convict voice. We might infer that his tale of exile was generic and formulaic. Stock phrases were familiar cultural signifiers that formed part of a well established pattern of confessional criminal literature in Britain.\(^{584}\) Likewise, convict memoirs followed this pattern. His own experiences of exile were perhaps omitted to fit these ‘hackneyed tropes’\(^ {585}\). That the audience was large and interested enough to attend an evening of such ‘macabre entertainment’ on a cold February night in Yorkshire, suggests that the convict voice, however bastardised and standardised, spoke to an intrigued English imagination.\(^ {586}\)

\(^ {583}\) Originally reported in the *Leeds Mercury*, 21 February 1846, later reported in the *Launceston Examiner*, 29 July 1846.

\(^ {584}\) Criminal histories appeared as *The Newgate Calendar* and were published for over two hundred years as weekly or monthly magazines. See A. Knapp & W. Baldwin, *The Newgate Calendar: Comprising Interesting Memoirs of the Most Notorious Characters who have been Convicted of Outrages on the Laws of England since the Commencement of the Eighteenth Century*, 4 vols., J. Robins & Co., London, 1828.


Recent convict historiography has revealed the subjective experiences of the women, men and children transported to Australia. They are no longer characterised as merely lists of names and numbers with brief physical and criminal descriptions. Rather, the convict experience has been given new cultural and embodied meanings. Amanda Laugesen’s recent book Convict Words has brought the convict voice alive through the documentation of the terms and phrases particular to the men and women who were transported to the colonies.\(^{587}\) In another recent collection of convict studies, Chain Letters: Narrating Convict Lives, the contributors have wonderfully revealed the flesh and blood aspects of lives above and beyond the faceless, voiceless official documents. Tattoos have been uncovered, the importance of family ties and hopes of reunion have been exposed, and convict letters sent home have been published. The authors have re-read trial and transportation documents, colonial reports, memoirs and newspapers to re-imagine and re-present the fragments of the lives found therein.\(^{588}\) Above all, these new studies emphasize the importance of hearing new voices from old sources, and engaging the imagination within historical research and scholarship.\(^{589}\)

While recent studies have revealed the ‘convict voice’, I seek in this chapter to explain why and how that voice was subjected to a ‘silencing’ in the first place. I argue that the convict voice generated, in both symbolic and concrete ways, acute anxieties that were both penal and moral in nature. An integral part of penal punishment and discipline involved the silencing of prisoners’ voices. Within the rhetoric of reformation, it was constantly and obsessively evoked. If returned convicts back in England were delivering lectures to large audiences, publishing memoirs and contributing to a well established popular culture of criminal biography, colonial prison administrators were struggling to silence those very same voices. As we saw with space, meanings of order and disorder, chaos and control, pollution and purity were central to perceptions of penal discipline and moral reform. Linguistic propriety was invested with similar meanings. As Amanda Laugesen has noted, ‘Language reveals the attempt to create an ordered society, but also


reveals a society where disorder always threatened’. In the wider social context, convict speech generated many concerns which reveal broad insights into the nineteenth century colonial zeitgeist. Rather than reading the convict voice for an insight into interior subjectivities, this chapter examines the interplay of convict speech; its role within penal discourse, its relation to the cultural context of colonial society and the ways it shaped the convict experience.

Silence as Discipline

Silence has long been a controlling, regulatory feature of the internal dynamics of institutions. It assumed particular pertinence within nineteenth-century prison discourses. The imposition of silence was central to perceptions of strict penal discipline. It belonged to a broader desire to restrain and control prison inmates by subduing their minds and curbing their behavioural freedoms. Permitting prisoners to speak only at certain times of the day formed an integral part of the daily rules and timetabled regularity of institutions. Central in disciplining bodies, the regulation of speech further sought to impose order upon penal space.

British prison reformers and the numerous official enquiries set up to examine the prison system were obsessed with the ways that institutions enforced discipline and order through the silencing of voices and the monitoring of conversations. From Howard’s report on the state of the prisons in 1777 and throughout the nineteenth century, the issue of prison talk was of paramount concern. Yet institutional silence was difficult to enforce. It required constant vigilance and observance. This difficulty explains why the issue was so prominently repeated within penal discourses. Heather Tomlinson has suggested:

It might well have been a myth that in the existing prisons inmates whiled away the hours chatting round the open day room fires, retelling stories of

592 See bibliography.
daring exploits, initiating novices in the more sophisticated methods of crime and planning together future depredations to be committed on their release; but if this was the case, it was a myth that was given wide credence by all the inspectors.593

We need to uncover why this ‘myth’ prevailed to explore the wider cultural meanings of speech. For many contemporaries the regulation of speech was one measure of an institution’s internal moral order. In his report on the state of the hulks at Portsea in 1835, the Chaplain William Tate noted the strict surveillance and inspection imposed upon the prisoners. According to the Chaplain this had placed ‘a complete check upon improper language and disorderly conduct’. Tate insisted that through the imposition of silence, ‘even the most depraved are soon led to appreciate the advantages of order and obedience’.594 The following decade, prison reformers were intent on introducing uniformity within the disparate prison regimes then in operation.595 They were polarised in their opinions over which penal system should be introduced.596 Yet all reformers agreed that silence was cardinal.597 ‘I think it is indispensable’ noted Thomas D’Oyly, ‘in every well managed Prison, that there should be no Means of Communication from one Prisoner to another; and in several good Prisons it is the Case’.598 Indeed, condemnation of prison talk ‘was so widespread as to constitute an almost unanimous expression of enlightened opinion’ during the first half of the nineteenth century’.599

594 William Tate, written evidence to the select committee on gaols and houses of correction, 8 January 1835, second report, in British Parliamentary Papers, Crime & Punishment, Prisons, (hereafter BPP, C & P, P) vol 3, p 270.
595 Until the British prison system was nationalized in 1877 a variety of disciplinary systems prevailed. See M. J. Wiener, Reconstructing the Criminal: Culture Law and Policy in England 1830-1914, Cambridge University Press, 1990, esp. pp 92-156.
596 By the 1840s and 1850s, later select committees were hearing varied and various reports on the different penal systems of discipline adopted within the jails of the metropolis and the county districts, and also within the separate jurisdictions of Scotland and Ireland. Outside the British Isles, European and American systems were increasingly analyzed and assessed as potential role models.
598 Thomas D’Oyly, evidence given to the select committee of the House of Lords, 30 April 1847, in BPP, JO & T, no 1, 1847, second report, p 459.
Reading the Convict Voice

Convict historians have long written of the brutal, mechanical implements of penal restraint. The disciplinary mechanisms of the penal colonies have been characterised by reference to the physical tortures of the leg iron and the lash, to the silencing of voices with the tube gag, the iron collar, the dark solitary cell and the gallows. Yet in the slow shift from brutal somatic punishment to moral and spiritual reform, more benign experiments often characterised discipline. The mechanical restraints that were introduced into the sleeping spaces of convict dormitories in Van Diemen’s Land in the late 1840s were accompanied by other innovations. Communal reading at night was intimately linked to these disciplinary developments. It was perceived as an additional means of imposing internal moral order upon space. It aimed to silence voices and exercise outward order and discipline over unruly bodies. Both formed part of a carefully managed repression.

In the 1848 ‘Regulations for the Conduct of Prisoners in Prison Wards during the Evening’, Comptroller-General Hampton advised nightly reading sessions where suitable literature ‘of the most instructive and entertaining character’ would be ‘selected by the Religious Instructor’. This reading material was to be provided in every ward. During these readings, men were ‘strictly prohibited from carrying on conversation, walking about the wards, or in any other way interrupting the Reader’. A ‘silence bell’ would signal the close of the reading session upon which ‘the prisoners throughout the Station will sit up in their berths in an orderly manner, and upon a signal being given, the whole of them will join in singing the first and last verses of the Evening hymn…’

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600 Amanda Laugesen notes that by the late 1830s, ‘the emphasis was on surveillance, and discipline aimed at moral reformation (the ‘soul’) rather than physical punishment’. A. Laugesen (2002), op. cit., p xv.
602 ‘Regulations for the Conduct of Prisoners in Prison Wards during the Evening’ 1848, in Tasmanian Papers 94/95, (ML.)
One might wonder at the thought of prisoners being read bedtime stories, and the communal singing of mawkish Christian hosannas, afterwards to be lulled to silent sleep. Upon witnessing such a scene one contemporary observer confessed ‘I really hardly knew whether to burst into a fit of laughter, or to view with admiration and approval, the scene which was enacting in each sleeping room’. Yet if we consider such practices within the related context of discipline and reform, the imposition of silence and the ‘diverting’ of prisoner’s minds towards ‘higher and instructive’ purposes formed an integral component within this dynamic. This was particularly pertinent within the communal sleeping space, ‘still’ according to many observers ‘not sufficiently subdivided’. Hampton inserted a hand written comment into the margin of the 1848 Regulations. It noted that, ‘public reading in the dormitories’ could ‘be carried on with much advantage, more especially as regards the prevention of idle, improper conversation during the evenings’. He further asserted that such practices ‘should be enforced at every station and establishment throughout the department’.

Communal night-time reading had in fact formed part of Alexander Maconochie’s much derided marks system of discipline on Norfolk Island between 1840 and 1844. Few contemporaries were aware of this. Maconochie explicitly linked the practice of nightly readings with the imposition of moral order. He later recalled that ‘regard to decency was impossible in [the overcrowded barracks] and the worst offences became even common. I otherwise sought to combat these by lights, and readings aloud each night for a time in the dormitories, in which last I was zealously assisted by the respective clergymen…’ Colonel Godfrey Charles Mundy visited the Australian colonies in 1850 and 1851. During his travels in Van Diemen’s Land he viewed many penal stations and places of convict confinement. He wrote a lively eye-witness account of these nightly reading

603 Godfrey Charles Mundy, (1852, Adelaide, 1986), op. cit., p 74. In 1853, Frederick Mackie noted the practice of night time reading in the dormitories at Hobart Penitentiary, Cascades and at the invalid station at Salt Water River. His observations were more sober than Mundy’s. He merely noted, ‘After they are in bed one of their number is employed for a time in reading aloud in each ward.’ Diary entry, 22 December 1853, in Mary Nicholls (ed.) (1973), op. cit., p 159.
605 J. S. Hampton, handwritten comment, dated 28 December 1848, in ‘Regulations for the Conduct of Prisoners in Prison Wards during the Evening’ 1848, in Tasmanian Papers 94/95, (ML.)
sessions at the Hobart Male Penitentiary. In his account, he particularly remarked on the silences of the prison. He noted, ‘such was the perfect order and silence observed that I did not hear a word spoken except by the officers and attendants. It may fairly be styled a model prison’. Of the dormitories he informed his readers:

The wretched gaol birds had all gone to roost in their respective nests when I looked into some of the rooms. Under former and more lax systems, as I was informed, the short period between turning in and falling asleep was employed, and perhaps lengthened by the most villainous, disgusting and blasphemous conversation. No dormitory of nuns – placid votaries of celibacy and religion – could have been more silent and tranquil than the night cells of these branded outcasts.607

Silencing voices was closely allied to ideas surrounding the internal order of the penal institution and the outward reform of the individual prisoner.608 Earlier observers of ‘former and more lax systems’ had indeed noted the pernicious language of prisoners within communal sleeping spaces. In addition, the length of time that men spent shut up together in such ‘polluting’ circumstances was a further source of moral anxiety.609 In his memoirs, Leon Ducharme recalled being locked in the sleeping dormitories at Longbottom in New South Wales from 5pm until 6am, where ‘strict silence had to be observed during the evening as well as the whole night long’.610 Yet as the Quaker missionaries Backhouse and Walker observed, ‘It is impossible that the prisoners can sleep the whole of the time they are locked up viz 10 to 12 hours’. Consequently, ‘it is no wonder that they should indulge in improper conversation while they lie awake … nor that many of them should fall into vicious conduct, while time hangs thus heavily upon

608 The separate system was adopted at the new prison built at Port Arthur in 1848 and at the Cascades Female Factory. Commenting upon the strict observation of silence and separation at the prison at Port Arthur in 1853, Frederick Mackie noted the solitary cells and ‘the yards, so arranged that the prisoners cannot see each other, and on no occasion is it permitted them. The strictest silence is maintained, both prisoners and offices walk in slippers, and the officers do not speak to a prisoner’. Frederick Mackie, diary entry 26 December 1853, in Mary Nicholls (ed.), (1973), op. cit., pp 162-3.
609 This was a common criticism made by contemporaries and it featured in the many reports on convict sleeping places. It was also prominent in general writings on penal discipline. In 1846, both T. B. Naylor and R. P. Stuart expressed concern over the length of time that prisoners were confined at night in the barracks on Norfolk Island. See their reports in E. Fitzsymmonds (ed.), (1979), op. cit.
their hands.\textsuperscript{611} These two missionaries were early advocates of the separate system. They suggested that the introduction of solitary sleeping cells would prevent ‘many gross immoralities’, ‘the increase of demoralisation’ and the ending of ‘nocturnal conversation’.\textsuperscript{612}

Silence was a disciplining mechanism, yet it was closely allied with moral concerns. Most contemporaries commented upon the language and speech of prisoners in horrified and outraged terms. ‘The language of Transports’ noted John Davis ‘is beyond all description both disgusting and debasing’.\textsuperscript{613} At Maria Island in the 1840s, James Boyd reported, ‘as to language, I must say that the most disgusting is commonly used, especially in the wards before the hour of retiring to rest’.\textsuperscript{614} Mention of ‘impious obscenities’, ‘abominable discourses’ and ‘horrible talk’ resound in the historical record. We can no longer hear the convict voice. Yet what precisely was deemed ‘impious’, ‘abominable’ and ‘disgusting’? Kay Daniels has revealed these reactions to be ‘derived from social distance, unaccustomed as many observers were to looking so closely at intimate and convivial aspects of working-class life’.\textsuperscript{615} Certainly the disjunctures of class were marked at this time. Most prisoners inhabited a traditional and uncouth verbal culture of ballad, song and story-telling.\textsuperscript{616} Moreover, regional variation and occupational cant produced pronounced and distinctive dialects. Convicts themselves were likely to encounter the strange and the unfamiliar amidst the apparatus of the penal system. On the First Fleet, Watkin Tench noted ‘the many dialects’ of prisoners and ‘what is termed the flash or kiddy language’.\textsuperscript{617}

\begin{itemize}
\item \textsuperscript{611} J. Backhouse & G. W. Walker, (1832-1840), op. cit., Appendix D, p 316.
\item \textsuperscript{612} Ibid, Appendix B, p 294.
\item \textsuperscript{613} Reverend John Davis, Ordinary of Newgate, written evidence to the select committee of the House of Lords 1847, in BPP, JO & T, no 1, 1847, p 47. Arriving on Norfolk Island in 1835, James Backhouse noted ‘no person can be long on Norfolk Island without discovering, that he is indeed amongst a people extremely depraved. His ears are assailed by dreadfully profane language especially if the prisoners are not aware of his presence.’ See James Backhouse, \textit{A Narrative of a Visit to the Australian Colonies}, London, 1863, reprinted Johnson Reprint Corporation, USA, 1967, p 260.
\item \textsuperscript{614} James Boyd, Report of Maria Island, 1845, in BPP, CD 1843-46, p 213.
\item \textsuperscript{616} See B. Hindmarsh, (2000), op. cit.
\end{itemize}
Tench’s early observations remained germane throughout the period of transportation. Linguistic misunderstandings and incomprehension aside, speech was a primary signifier of morality. It was a measure of behavioural propriety and informed perceptions of the moral character of an individual. The ideal of ‘respectability’ was played out through conventions of delicate discourse, mild manners and appropriate topics of conversation. These conventions shaped and defined the identity of genteel masculinity. Such ideals were class-bound and a world away from the rowdy verbal culture of the lower orders. Yet they informed and determined contemporary assessments and judgments surrounding the condition of the poor. From social and philanthropic observations, to the internal dynamics of the century’s social institutions, the lower orders were both characterised and caricatured by their spoken voices. Speech and language was a mark of social deviancy or moral conformity to the respectable ideal. The Reverend John Field explicitly connected the ‘immoral’ speech of the poor with their ‘criminality.’ He told one select committee, ‘I have learned and witnessed enough to convince me that if no other source of moral corruption existed, the polluting converse allowed in our Workhouses is alone sufficient to fill the Cells of our Prison’. Within the penal context, the language of prisoners was analysed, assessed and recorded. The convict voice was a specific site where moral reformation or further criminal degeneration came to be measured. The transport ship was one space where this was closely monitored.

Silencing the Ship

In England’s Exiles the Surgeon-Superintendent Colin Arrott Browning recalled the men transported on board the Elphinstone in 1836. According to Browning, these men had ‘generally speaking, conducted themselves in a manner that would have done credit to any portion of the labouring community of England’. Further:

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619 Reverend John Field, Chaplain of Reading Gaol, written evidence to the select committee 1847, in BPP, JO & T, no 1, 1847, p 146.
With scarcely an exception, their conversation was remarkably correct and manly; and only on one or two occasions, during the whole of the period they were on board, did I hear an improper expression proceed from their lips; and I hesitate not to say that I should rejoice to observe every little community of men whether at sea or on shore, characterised by a corresponding manliness of decorum.

Browning’s text was certainly self-congratulatory. He wrote it as a ‘plan of management’ to advise future Surgeon-Superintendents on the best means of convict discipline aboard the transport ship. However, it is one of the very few positive descriptions of the behaviour and the speech of male convicts penned by a contemporary. Further, his comments intimately reveal the interactions of appropriate speech and decorous behaviour with wider perceptions of order, discipline and ‘manliness.’ For Browning at least, such ideals were attainable.

Silence and subordination were central to the rules and regulations of the transport ship. In an age where piracy and mutiny were common on the open seas, the silencing of convict voices assumed heightened significance. Preparing for the departure of the First Fleet in 1787, Watkin Tench noted the need ‘to establish necessary regulations among the convicts, and to adopt such a system of defence as left us little to apprehend for our own security in case a spirit of madness and desperation had hurried them on to attempt our destruction.’ The power of speech to incite piracy on the seas and mutiny in the barracks was a fear which was little assuaged throughout the following years of transportation. In his 1845 Journal of a Political Exile in Australia Leon Ducharme

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620 The Elphinstone left Britain in January 1836. See C. A. Browning, England’s Exiles: or a View of a System of Instruction and Discipline as Carried into Effect during the Voyage to the Penal Colonies of Australia, Darnton & Clark, London, 1842, p 189.
622 Commenting on the outbreak of mutiny on Norfolk Island in July 1844, Martin Cash identified the power of speech. According to Cash, ‘a prisoner named Henry Edmunds was the sole originator of the outbreak, for by his speeches he excited the minds of the men, and then left them to perform the work of death, being too cunning to take part in it himself’. Martin Cash, (1870, 1981), op. cit., p 153. In their report of Norfolk Island, Backhouse and Walker noted how conversations between prisoners might lead to plots, mutiny and rebellion. Such ideas surrounding the power of speech had obvious implications for hopes that prisoners might reform. They observed, ‘Among the prisoners on Norfolk Island, a number are to be found who are continually formenting [sic] plots and disturbances amongst the rest … If men of this description could be separated from the others and their communication, one with another, cut off, by placing them in a Penitentiary constructed upon the Aubern system and regulated by its discipline, the settlement would be greatly relieved from apprehensions of mutiny; and greater reformation might
wrote of his experiences aboard the transport ship *HMS Buffalo*. According to Ducharme, ‘We were compelled to be silent, even while being treated like dogs … So strictly was conversation forbidden amongst us that the sentinel had orders to shoot anyone who uttered a single word’.\(^{623}\) Ducharme was transported for his participation in the Rebellion of Lower Canada during 1837/8, together with fifty seven other prisoners. They represented a significantly subversive cargo. As political prisoners, they were readily associated with treason, treachery and plot. Below the decks of the convict ship, their silencing was thus particularly pertinent. Such disciplining was rendered more severe than was usual.\(^{624}\)

Threats of mutiny aside, the transport ship was the last stage where prisoners’ characters were assessed. Good behaviour and conformity to the rules and regulations during the voyage would ensure a favorable report from the Surgeon-Superintendent. Upon reaching Australia it was his report that determined the individual fate of the prisoner in the penal colonies. Prisoners were aware of the central part that their speech and demeanour would play within this assessment of moral character. They had been forewarned.

In April 1848, the convict ship, the *Bangalore* sat in the harbour of Hamilton off the island of Bermuda. On board were 203 men. They were English prisoners who had been working on the hulks and harbour of the island. They were to be transported to Van Diemen’s Land to work out their remaining sentences. Many were ‘very skillful tradesmen’ and all had ‘been trained to habits of regular and laborious industry’.\(^{625}\) The Governor Charles Elliot addressed the prisoners before they set sail. He warned the men that ‘your lot on arriving in Van Diemen’s Land will depend entirely upon the report made of your conduct during the voyage by the Surgeon-Superintendent; all those who

\(^{623}\) Leon Ducharme, (1845, 1944), op. cit., p 18.

\(^{624}\) Such severity dissipated upon arrival in Sydney in 1840. During their exile in the colony, these political prisoners were neither singled out, nor harshly treated. All were freely assigned and by 1844 many were receiving pardons. Ducharme’s pardon arrived on 24 June 1844, and he left the colony soon after.

\(^{625}\) Governor Charles Elliot to Earl Grey, Bermuda, 15 April 1848, in *HRA*, ser 1, vol 26, October 1847 – December 1848, p 592.
behave steadily will land on the ticket-of-leave, and all those who have misconducted themselves on the voyage … will return to the condition of Prisoners of the Crown’. Elliot’s rules were simple enough. The men were to display ‘cheerful obedience to orders’, spend their time ‘reading good and instructive books’ and maintaining ‘those habits of strict cleanliness which you have been taught in this establishment’. Yet he saved his most strenuous and stern advice for the following:

To refrain from quarrels or oaths or bad language, remembering that they are disgraceful to you as reasonable beings and serious offences; and I now in all your presence charge the Surgeon-Superintendent to punish the first offender in this or any other respect in the most exemplary manner, severity at first is mercy at last, and habits of good language and good conduct once acquired are as easily followed as bad habits. 626

Elliot’s admonitions might certainly be viewed as paternal moralising that infantilised and patronised its subjects. In many respects, the reformation of male prisoners was predicated on the view that criminals were child-like, in need of guidance, instruction and socialisation. In detailing the centrality of supervision and inspection to penal discipline, Jeremy Bentham wrote that criminals ‘may be considered as a sort of grown children [sic] in whose instance the mental weakness attached to non-age, continues in some respects beyond the ordinary length of time’. 627 The later Victorian notion that children ‘should be seen and not heard’ was pertinent in this context. 628 Yet Elliot’s advice epitomised contemporary perceptions that connected ‘good language’ and moral character. Producing ‘desirable subjectivities’ then, involved subduing improper

626 Governor Charles Elliot, Address to the Prisoners proceeding to Van Diemen’s Land on the Ticket of Leave in the Bangalore, 9 April 1848, in ibid, p 594.
625 Jeremy Bentham, Letter to Lord Pelham (1802), op. cit., pp 4-5. John Burt similarly noted the ‘inferior’ reasoning faculties of prisoners. He united this with ‘passions, excessive and uncontrolled’ thus closely linking criminality, sexuality and mental inferiority. J. Burt, (1852, 1984), op. cit., pp 89-90. Other contemporaries made similar observations. ‘Jacob Lackland’ alias John West reported in 1847, ‘Those who look closely into the mental constitution of offenders, are well aware that to a large extent they are intellectually feeble; the creatures of imitation as well as the victims of passion’. J. Lackland, Common Sense: An Enquiry into the Influence of Transportation on the Colony of Van Diemen’s Land, Launceston, 1847, p 20. Historians have tended to date the genesis of these ideas to the professionalisation of medicine and the development of scientific approaches towards deviancy circa 1860-70. Yet they were clearly circulating earlier than this.
628 Indeed, similar rules and regulations surrounded the transportation of juveniles. See chapter five.
speech and conduct and promoting visible signs of behavioural propriety. These signs were both somatic and verbal.  

This was the theory. Many contemporaries were scathing of the discipline enforced on transport ships. The common perception was that they were generally ‘schools of depravity’. According to William Ullathorne convicts on board the transport ship conversed ‘much on their crimes and mix their conversation with a good deal of obscenity’. Henry Phibbs Fry agreed – although what personal experiences he had of convict transportation is difficult to assess. He wrote, ‘little that was impious, unnatural and corrupt in act or word was left untaught and unpracticed among them. Their passage to the colony was a school of depravity in which by compulsion and example they were all reduced to some excess of vice and deprived of the last remains of shame and compunction’. Kim Humphery has suggested that these ship-board fears, whether based on reality or not ‘had a crucial effect in practice’. Humphery argues that the convict culture on the ship was, in part, ‘the basis for a growing disbelief in the possibility of reform’.  

Beyond the disjunctions of penal theory and reformatory practice, perceptions of speech and linguistic propriety had wider cultural meanings. As Charles Elliot demonstrated, ‘good habits’ were easy to follow once ‘taught’. Yet so too were ‘bad habits’. Ideas of behavioural imitation and degeneration loomed large in contemporary thinking. The fear that the punishment of prison and transportation merely made ‘bad men worse’ was a recurring theme of social and penal discourse. It was constantly articulated through the contamination trope. The horror expressed at the language used by prisoners reflected the related fear that immoral speech was contaminating and contagious. The profaning voice of one had the power to pollute all. The 1836 Report of the Committee of the House of Lords observed that ‘the greatest mischief’ followed

630 William Ullathorne, 8 February 1838, in report from the select committee on transportation: together with the minutes of evidence, appendix and index, vol 2, SC 1838, p 14; H. P. Fry, (1850), op. cit., p 151.
‘from the intercourse which is still permitted in many prisons…the comparatively innocent are seduced, the unwary are entrapped and the tendency to crime in offenders not entirely hardened is confirmed by the language, the suggestions and the example of more depraved and systematic criminals’. A close examination of one of the many penal experiments in transportation tried out in the 1840s illuminates just how profound these fears were.

In February 1845, the Sir George Seymour arrived in Van Diemen’s Land. On board were the pioneers of the Pentonville system. This was one of the new reformatory penal experiments being tried and tested during this time. It was characterised by a period of separate, cellular imprisonment deemed necessary for punishment. Prisoners were isolated from all physical and verbal contact with other inmates. This reflected the idea that ‘persons confined in a Prison, should, if possible, be reduced to a quiet and submissive state, whereby they may at leisure reflect on the evil course they have pursued and some chance be afforded of their reformation’. Human contact was confined to the benevolent influences of the prison warden and the religious instructor. The second stage of this system reintroduced the prisoner into social contact, working in association with other prisoners, closely guarded and strictly observed. Finally, those prisoners deemed suitably reformed and worthy of the ‘indulgence’ were to be transported. ‘Probation’ men included those who still had time left to serve. They were sent to Van Diemen’s Land to find employment and to work out the remainder of their sentences under the colonial penal eye. ‘Exiles’ were men who had either completed their full sentences, or had been granted freedom because they had ‘reformed.’ These men were to continue on to the non-penal colony of Port Philip as freemen with clean slates.

It was with a cargo of such men that the Sir George Seymour docked at Hobart Town. Great expectations were held by all involved in the experiment that it would prove

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632 Quoted in Earl Grey to Governor Fitz Roy, Circular Despatch, 13 March 1848 in HRA ser 1, vol 26, October 1847 - December 1848, p 265.
633 Earl Grey to Governor Fitz Roy, 13 March 1848, in ibid, p 266.
634 Despite fears that the Exile System was merely transportation in disguise, New South Wales agreed to accept a number of Exiles during 1847 and 1848. See Fitz Roy to Grey, 10 April 1848, in HRA ser 1, vol 26, October 1847 – December 1848, pp 367-8.
a benevolent, fruitful exercise. It was hoped that institutional reformation was not merely utopian theory and that new habits and behaviours had been taught to the men through correct penal discipline. Dr. Hampton, the Surgeon-Superintendent certainly thought so. On the first day of March, 1845 he wrote a letter to the Commissioners for the Government of Pentonville Prison reporting the safe arrival of the ship:

With the prisoners throughout in excellent health and spirits; in fact their quiet, orderly and exemplary conduct on board this ship merits the greatest praise, and their appearance and manner, as well as the truly beautiful state of the prison, has excited the astonishment and admiration of all the official people who have visited the ship, including his Excellency the Governor.  

We might wonder at the ‘truly beautiful state of the prison’ on board a nineteenth-century transport ship. Yet it is the report of the prisoners’ behaviour, demeanour and quietness which is relevant here. Outward appearance, mild manner, cleanliness and order were the very qualities sought by penal reformers. It was the antithesis of ‘a life of noisy riot, of filth, indecency and Profaneness’ which usually characterised their charges. Hampton’s hopes were further highlighted by his recommending three of the men for conditional pardons. Yet within weeks of such triumphant hurrahs, Hampton was ‘most earnestly imploring’ the governors of Pentonville to never again let a Pentonville prisoner arrive on the ‘destructively disheartening and demoralising’ shores of Van Diemen’s Land.

In a subsequent letter written on 30 April, Hampton lamented that his model prisoners on arrival had been ‘surrounded in all parts of the island by contaminating influences of the worst description; taunted and jeered by the other part of the convict population as “pets, psalm singers and Pentonvillians”, invited and tempted in Hobart

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635 Dr. Hampton, Letter to the Commissioners for the Government of Pentonville Prison, Hobart Town, 1 March 1845, in BPP, CD 1843-46, p 62.
636 This was the description given to the probation system by the Times (London) 27 May 1846, printed in the Launceston Examiner, 24 October 1846.
637 In a Despatch (93) to Eardley-Wilmot dated 25 April 1846, Gladstone laid out clear and precise instructions that the Pentonville Prisoners were to be kept strictly apart from the other convicts from the moment of their arrival. A depot was to be established specifically for these prisoners. Their ‘moral training’ was to continue, and a superintendent was to be appointed to help them find employment. Written a year after the arrival of the Sir George Seymour, one wonders why such instructions had not been sent out earlier. In BPP, CD 1843-46, p 39.
Town particularly to the public houses … Hearing the triumphant reign of vice and infamy through the whole convict population described in language the most disgusting’.638 Despite their training, their ‘reformation’ and their newly acquired habits, ‘moral ruin’ was ‘certain’, with even the best men unable to ‘resist the deteriorating contamination’ of the position which they now found themselves exposed to.639 His Assistant Superintendent James Boyd agreed. The Pentonville prisoners would almost certainly ‘fall, when thus exposed to the deteriorating influence of such abominations as they daily see and hear of’.640

Hampton and Boyd expressed profound anxieties over the language they heard spoken by the lower-orders in Hobart. They feared for the effects upon their reformed cargo of prisoners. This reveals the fragility of perceptions of moral reform. Moreover, that ‘taunts’ and ‘jeers’ generated such concern is suggestive of the power of speech. Merely hearing ‘language the most disgusting’ would ‘inevitably’ corrupt the ‘reformed’ prisoner.641 The Sir George Seymour with its cargo of ‘reformed’ prisoners and the benevolent hopes of a new penal system also transported the fallibilities of mortal beings and their theories. The quiet order of the isolated ship had arrived on loud and troubled shores. The moral pollution and contamination of the colony’s unreformed convict population would ensure there were to be inevitable casualties.

Cultural meanings of speech

Prisoners’ conversations are overwhelmingly represented in the records as the recounting of criminal escapades, the reciting of ‘tricks of the trade’ and the discursive

638 Dr. Hampton, Letter to the Commissioners for the Government of Pentonville Prison, Hobart Town, 30 April 1845, in ibid, pp 62-4.
639 Hampton’s initial hopes for these men had not been shared by Lord Stanley. Stanley was not sure how far the ‘very deep apparent impression, partly religious and partly prudential, of the evils of their former course of life … induced by much instruction and long solitude, would survive a free intercourse with the convict society in Van Diemen’s Land’. Quoted in A. G. L. Shaw, (1966), op. cit., p 314.
641 The records of punishments inflicted on men in the Probation Gangs fail to corroborate such perceptions. For example, between May and December 1848, 16 men were found guilty of ‘indecent/abusive’ language, 2 men were acquitted, and only 2 were charged with ‘profane swearing’. See BPP, C & P, T, vol 9, 1849, p 207.
planning of future crimes. These themes are of constant recurrence. They reflect the related fear that discourse signified moral deviancy, yet also produced criminality and immoral behaviour. The perception that crime was ‘taught’ and might be the product of discourse alone underscores the anxieties revolving around the convict voice. Speech was perceived to be subversive of the reformatory ideal because it had the power to influence and increase criminal propensities in others.642 In a letter to Colonial Secretary Hay, Governor Arthur outlined these concerns. He noted that the criminal ‘diligently seeks to make converts and becomes an active propagator of his own criminal practices among the different classes of associates with whom he is thrown’.643 In a similar manner, the penal reformer John Burt believed that prison conversations ‘though apparently trivial, are frequently most vicious and contaminating; and even when harmless in themselves, their effects are indirectly injurious’. Moreover, he further asserted how ‘these communications exert their most potent influence for evil, by the revival of demoralising and criminal ideas … they play upon the soul like a galvanic battery of vice’.644

These perceptions were sometimes articulated by the bond themselves. The idea that the boundaries of bond/free and polluted/not polluted were fluid and unstable was explored in chapter one. It is further revealed in the disgust expressed by convicts at the language of their fellow inmates. Many confirmed the demoralising effects of prison talk. ‘Nothing but oaths, imprecations and obscenity meet the ear’ recalled Joseph Platt in his memoirs of Norfolk Island and the hour of schooling was spent ‘listening to atrocious recitals of crimes of every enormity’.645 Writing of his penal experiences, the convict James Hardy Vaux detailed the schooling he had received in ‘the various modes of fraud and robbery’ from prison discourse. He declared himself ‘astonished’ at the ‘more

642 Writing of the effects of prisoner association within the hulks, George Holford noted, ‘The most opposite cannot constantly associate without a considerable approximation towards each other in sentiments and language. Either the serious and well disposed will bring over the others to think as they do, or the profane and dissolute will extinguish the right feeling and destroy the good resolutions, of those who, if left to themselves would fain retrace their steps and regain their lost station in society.’ George Holford, Statements and Observations Concerning the Hulks, London, 1826, p 116.
extensive knowledge’ he gained in prison than he would have done had he remained a
free man. Vaux confirmed the related fear, shared by many penal reformers ‘that instead
of expressing contrition for their offences, their only consideration was how to proceed
with more safety, but increased vigour in their future deprivations’.646 Platt was a
political prisoner and Vaux was an educated convict. Their memoirs need to be read in
this light. Yet other prisoners, who did not write formulaic memoirs sometimes appealed
to the prison authorities. The Governor of Lancaster Jail, James Hansbrow informed the
1847 select committee that some of the prisoners had requested to be kept separate from
the ‘contamination of the general mass’. Moreover, many ‘have told me that Association
with the Persons they have been thrown with has been the greater Part of the
Punishment’.647 Prison speech and fears of criminal ‘contamination’ thus generated
cultural anxieties that crossed boundaries and were shared by bond and free alike.648

Speech and language were signifiers of individual character. Such perceptions
extended outwards and informed the morality and respectability of the wider social
community. Michael Sturma has noted that ‘the use of obscene language was commonly
mentioned as being one of the most palpable signs of widespread moral depravity in New

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646 J. H. Vaux, The Memoirs of James Hardy Vaux including his Vocabulary of the Flash Language, N.
McLachlan (ed.), Heinemann, London, 1964, p 75. In the original publication (1812) Vaux dedicated his
memoirs to Thomas Skottowe, the Commandant of the penal settlement at Newcastle. In his dedication he
‘apologised’ for including a compilation of the ‘flash language’. However, he noted, ‘I feel confident you
possess too much liberality of sentiment to reject its writer as utterly depraved, because he has acquired an
extensive knowledge on a subject so obviously disgraceful’. In ibid, p 223. I am grateful for Raymond
Evans’ point that Vaux’s document was very much interfered with by Barron Field. It might very well be
Field’s ‘disgust’ that we are reading here.

647 James Hansbrow, evidence to the 1847 select committee, 30 March 1847, in BPP, JO & T, no 1, 1847, p
321.

648 According to the prison visitor Thomas Wright, ‘there are many who are put into prison who are brought
up in a very respectable way and when they are obliged to congregate with the lowest of the low in the
Prison, they grieve much because they cannot shut their Ears to the Language that is going on’.648 The
Bishop of Tasmania agreed with this assessment. He lamented the uselessness of religious instruction in
reforming the prisoners of Van Diemen’s Land. He informed the 1847 select committee that ‘Immediately
after Devine Service these Men have gone back to their Huts, or to the Mess Room, as the Case maybe;
there, they have been compelled to listen to the Conversation of the most depraved and profligate
Character; and if by God’s Grace, a Man’s Heart is a little touched by the Delivery of Gospel Truth’s, there
is not one out of a Thousand or out of Five Thousand who dares exhibit any Traces of Penitence before his
profligate Companions’. Thomas Wright, evidence to the 1847 select committee, 23 March 1847; Bishop
of Tasmania, evidence to the 1847 select committee, 23 March 1847, both in BPP, JO & T, no 1, 1847, p
250; pp 234-5.
Certainly the language of convicts, ex-convicts and lower-class immigrants generated cultural anxieties for many bourgeois colonial settlers. Similar concerns occupied the ‘respectable’ residents in the sister colony of Van Diemen’s Land. They were played out through familiar tropes and were expressed within the rhetoric of ‘contamination’ and fears for the effects upon colonial children. In this context, the control and policing of speech became an obsession, shared by the penal authorities and the colonists alike. Under the assignment system convicts were regularly charged with verbal ‘offences’ such as swearing, singing lewd songs, insolence and threatening speech. The contemporary press is full of court cases, reports of ‘immoral’ incidents and moralising editorials regarding the linguistic habits of convicts and the lower orders. In 1826, the Sydney Gazette reported the court case of Robert Rockwell, Daniel Bissick and Thomas Evans. They were equally charged with ‘drunken, riotous and disorderly conduct’. Yet they were also charged with ‘having made use of the most gross, blasphemous and obscene language’. During the trial, Rockwell further ‘conducted himself in so violent, outrageous and contaminous a manner’ that he received 30 days in the house of correction. Evans was ordered ‘to find sureties to keep the peace for twelve months’ and Bissick was discharged due to ‘some extenuating circumstances’ in his conduct.650

This case reveals how infractions of behavioural and verbal propriety were perceived and indeed adjudicated as ‘criminal’ acts in Sydney at this time. Moreover, Rockwell’s dramatic behaviour in court merely further added to his original offence. The following decade the Gazette asked its readers to consider which was the greater evil, ‘the vice of drunkenness’ or ‘the custom of vile swearing in the streets’. The paper concluded that intemperance was ‘in some respects less objectionable than the horrid oaths and obscene language which is current in our streets among the lower orders, and so disgusting to all respectable persons, but more particularly so to those newly arrived in the colony’.651

650 Sydney Gazette, 5 January 1826.
651 Sydney Gazette, 29 August 1839.
It is clear that this concern with propriety and decency extended beyond the immediate community. The language of the lower orders threatened the wider reputation of colonial society. Many visitors remarked on the moral tone of colonial society through the cultural significance of language. In 1836 Charles Darwin visited New South Wales. He wrote of the demoralising impact of convict speech upon free society where, ‘children learn the vilest expressions, and it is fortunate if not equally vile ideas’. Likewise, in his 1848 Recollections of Bush Life in Australasia, H. W. Haygarth noted that ‘one of the most pernicious legacies of the old Botany Bay convicts’ was the fact that their linguistic habits remained apparent within the wider society. Moreover, ‘a stranger might not unreasonably suppose that he was listening to a race of people who had forgotten their mother tongue, and adopted that of the devil in its stead’.

In analysing the discourses that surrounded convict women, Kay Daniels argued that ‘the emphasis on respectability made greater demands on women than on men. Higher standards of public behaviour, cleanliness, modesty, polite speech and sobriety were expected of them’. It is difficult to agree with this generalised gender demarcation. Contemporary observers of both penal and colonial society were frequently outraged and appalled by the outward irreverence that male convicts and ex-convicts displayed in their moral deportment, their inappropriate language and their impious social behavior. This disregard for the conventions of masculine ‘respectability’ was a general and pervasive colonial grievance. The behaviour and language of male convicts regularly offended both the proprieties of class and the dictates of Christian morality. For many contemporaries, convict speech was neither manly nor masculine, and sometimes not even human.

The Inversion of Moral Order

655 Joy Damousi made a similar claim when she noted, ‘In terms of daily contact, sexual behaviour and in the use of language, theirs [women’s] was a more restricted world than that of male convicts.’ J. Damousi, (1997), op. cit., p 62.
656 The secular and the religious were close allies in the nineteenth century and shared similar discourses and ideas surrounding social issues such as crime, poverty and morality.
Haygarth was not the first to portray convicts as a different ‘race’ and their language as unchristian and subversive of the moral order. In London, Mayhew and Binney wrote of ‘thieves morals’ and ‘savages amongst civilized men’. On Norfolk Island, Comptroller-General Hampton similarly witnessed ‘men, many of whom are more ignorant and debased than savages’. These judgments reflected the disparities of class yet they were informed by the dynamics of language and speech. Many commentators noted the existence of an inverted criminal hierarchy that was played out through speech; the ‘worse’ the language, the greater esteem in which the speaker was held. According to the Irish prison chaplain Charles Gibson ‘the established etiquette’ amongst prisoners was ‘to cram as much brutal obscenity and stupid blasphemy into their common speech’. And why? Because ‘a man is respected and influential among his messmates in proportion to the atrocity of his language and behaviour’. Linus Miller was one of the Patriot Exiles transported to Van Diemen’s Land. In his memoirs he remembered, ‘he whose life had been most iniquitous was esteemed the best man’. This world turned upside down scenario served to locate the convict as ‘other’. It further policed the behavioural and linguistic boundaries between the free and the bond, and the reformed and the unrepentant.

660 Reflecting on his observations of Norfolk Island in the 1830s William Ullathorne lamented, ‘So corrupt was their most ordinary language … so perverse, that, in their dialect, evil was literally called good, and good evil - the well disposed man was branded wicked, whilst the leader in monstrous vice was styled virtuous. The human heart seemed inverted and the very conscience reversed …’ William Ullathorne, *The Catholic Mission in Australia*, Rockliff & Duckworth, Liverpool, 2nd Edition, 1837, p 40. A similar picture of the inversion of morality was drawn by the Reverend H. T. Styles. See Appendix E: ‘State of the Penal Settlement of Norfolk Island and Moreton Bay’, in H. T. Styles, Enclosure B – Observations on the State of Norfolk Island, in Report from the SC 1838, op., cit., p 267.
661 The depiction of the ‘worst of men’ in convict memoirs reveals another level however. The convict John Knatchbull refuted the idea that ‘the worse the criminal’ the ‘greater the esteem he was held’. In his memoirs he noted the nature and characters of the men who led the Norfolk Island Mutiny of 1834. There was little esteem to be heard in his voice. According to Knatchbull, ‘These men … were considered by the men on the island to be the best men on it, or what is termed by prisoners, flashmen; and all men down there considered good men must be flash. But from the experience I have had of the generality of prisoners for 20 years, I never knew a flashman worth a farthing. They were neither sound in mind, principle or in their actions; speaking fair to your face and would sell you the next moment. To sum them up in a few words, they would live at the expense of others; did not care who sunk if they could swim’. William
The convict voice was invested with the power to invert morality. In a related context, careful listeners noted that the convicts had a ‘language all of their own.’ These perceptions served to further isolate the convict population from polite society. Yet the idea of an exclusive language also exacerbated the existing concerns that surrounded the convict voice. We have seen that what was hidden and unknown generated profound cultural anxieties. The same was true with speech. Contemporaries were half-fascinated, half-horrified by the idea of an idiosyncratic, peculiar speech common to the convict population.662 It was variously referred to as a ‘thieves cant’, the ‘rogues’ lexicon’ or the ‘flash language.’ These dialects were viewed as a hindrance to, and a perversion of, the reformatory ideal. According to Watkin Tench:

I have ever been of the opinion that an abolition of this unnatural jargon would open the path to reformation … indulgence in this infatuating cant is more deeply associated with depravity and continuance in vice than is generally observed. I recollect hardly one instance of a return to honest pursuits and habits of industry, where this miserable perversion of our noblest and peculiar faculty was not previously conquered.663

Tench’s observations explicitly reveal the interconnection between ideas of linguistic propriety and perceptions of moral reform. It was of course a ‘reform’ and a ‘propriety’ that accorded with ruling-class definitions. For the uninitiated colonial authorities, ‘this infatuating cant’ epitomised a particularly subversive subculture.664

Derrincourt similarly refuted the idea that ‘the worse man’ was considered the ‘best.’ Recalling the convict Swan, who was the ‘leader’ of the ‘flashmen’ on Cockatoo Island, he wrote of ‘a powerful man of the most desperate character’ and that ‘he was a black hearted villain’. John Knatchbull, From Quarterdeck to Gallows, Including the Narrative Written by Himself in Darlington Gaol, January 23-February 13, 1844, Reprinted Angus & Robertson, 1963, Colin Roderick (ed.), p 90; William Derrincourt, Old Convict Days, First Published by T. Fisher Unwin, 1899, Reprinted Penguin, 1975, p 251.

662 In his evidence to the 1835 select committee, William Augustus Miles commented on the lower orders of the metropolis. He spoke of ‘a race sui generis, different from the rest of society, not only in Thoughts, Habits and Manners, but even in Appearance, possessing moreover a language exclusively their own’. William Augustus Miles, evidence to the select committee on gaols and houses of correction, June 29, 1835, in BPP, C & P, P, vol 3, p 395.

663 Watkin Tench, (1788, 1996), op. cit., p 270. Tench went on to warn ‘those persons to whom the inspection and management’ of prisons are committed, to ‘perform a service to society by attending to the foregoing observation’. Ibid, pp 270-1.

664 According to the naval surgeon T. B. Wilson his maxim was ‘never to permit the slightest slang expression to be used, nor flash songs to be sung, nor swearing’. T. B. Wilson, quoted in Russell Ward, (1958, 1965), op. cit., p 23.
Uncontrolled and secretive, it existed independently and outside the comprehension of the authorities. It disrupted the penal objective that sought to render prisoners ‘knowable.’ For those ‘in the know’, these discourses were a privileged skill and a coded form of communication exchange. As such, they represented an exclusive and autonomous site of knowledge. Silencing this ‘miserable perversion’ was central in producing desirable penal subjectivities.

In this context it is useful to consider why the silent system of prison discipline was never fully embraced in either Britain or Australia. One would think that the imposition of total silence would assuage all the fears generated by prison voices. Yet the silent system which involved silent prisoner association during the day and complete separation at night proved highly contentious ‘leading to polemical battles’ between its passionate defenders and fierce opponents. As a system of prison discipline, it was caught in a fluctuating rhetoric, at one moment recommended, and in the next condemned. These oscillating fortunes were played out between the metropole and the colonies. In 1840, Lord John Russell wrote to Governor Gipps detailing new instructions for the management of convicts. He advised that silence was an effective disciplinary mechanism during the hours of work, yet the enforcement of perpetual silence was ‘never entirely successful’ and often merely ‘provoke[d] and irritate[d] the criminal’. Six years later the new Colonial Secretary Earl Grey wrote to Sir William Denison with the recommendation that ‘the silent system ought to be adopted’ throughout the penal institutions in the colony of Van Diemen’s Land. By 1848 however, ‘official’ penal opinion in Britain had again changed. In a circular despatch sent to all the British colonies

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666 Noel McLachlan notes that ‘the “flash tongue” was not a dialect. Rather it was a private language used by thieves and others to foil eavesdroppers’. N. McLachlan, (ed.), (1964), op. cit., p xviii.
667 According to Amanda Laugesen, ‘the flash language, brought from the British criminal underworld, was another form of subversion of authority’. A. Laugesen, (2002), op. cit., p viii.
669 Lord John Russell to Sir George Gipps, Despatch 96, 6 July 1840 in HRA ser 1, vol 20, February 1839 – September 1840, p 701.
671 This change was heavily influenced by the findings of a select committee of the House of Lords in 1847. That Committee heard from a range of witnesses involved in the penal system, as to the effects of the silent system upon the mental, moral and physical health of prisoners. The barrister and magistrate Peter Laurie
colonies, Earl Grey informed the colonial governors’ that although the silent system prevented many evils, its enforcement involved too many officers and the multiplication of ‘punishments for infraction’. Further, it produced ‘continual irritation’ and ‘a perpetual battle with authority’. Silence therefore provoked, rather than subdued prisoners and ‘while noise and uproar are repressed, contamination is not prevented’.  

How exactly would silent prisoners ‘contaminate’ one another? Again, fears of an unknowable subculture loomed large. A number of penal reformers perceived that the silent association of prisoners would merely encourage the development of a new prison subculture. This would consist of ‘the resource of looks and expressions and encouraging glances … winks, hand signs and tapping’. The imposition of silence might lead to ‘the invention of devices for defeating … overseers or for carrying on a clandestine communication with … fellow prisoners’. Thus the ‘peculiar language of prisoners’ would be replaced with a ‘silence that actually hummed with a secret language’. The silent system then, was not the answer to the anxieties aroused by prison voices. Repressing what was perceived to be the ‘natural’ urge to speak would result in further ‘unnatural’ and secretive habits of communication. It was precisely such secretive habits and subcultures that penal discipline sought to prevent.

professed the silent system ‘the best System of Imprisonment we can possibly have, provided Separation is effected at night’. Conversely, John Hope, the Lord Justice Clerk of Scotland noted, ‘I regard the Silent System as radically bad’. He perceived that association during the hours of work, religious instruction and exercise, ‘under any Restraints or Prohibitions’ was ‘utterly repugnant to the Ends either of Reformation or the deterring of Others’. Peter Laurie, evidence given to the select committee, 19 April, 1847, p 368; John Hope, written evidence to the select committee, in BPP, J O & T, no 1, 1847, second report, appendix, p 648.

Earl Grey to Sir Charles Fitz Roy, Circular Despatch, 13 March 1848 in HRA ser 1, vol 26, October 1847-December 1848, p 266. What Grey identified as negative defects, defenders of the silent system viewed as promoting self-struggle and moral healing. Resisting the temptation to speak to their fellow inmates would be a good measure of self-restraint. The prison inspector W. J. Williams noted the ‘superior quality’ of the system to lie in ‘the placing of men under trying circumstances where they are compelled to exercise, and may acquire the valuable habits of self-control’. In Third Report of the Inspectors of Prisons, 1837-38, vol 31, p 6, quoted in M. J. Wiener, (1990), op. cit, p 113.

Lord Justice Clerk of Scotland, John Hope, written evidence to the select committee 1847, in BPP, JO & T, no 1, 1847, second report, appendix, p 648.


By the twilight years of transportation, the ‘rigorous isolation’ of the separate system had become the favoured system. In 1848 the Male House of Correction in Hobart Town adopted the separate system. Male prisoners under sentence of imprisonment with hard labour were to be subject to its rigors for the first half of their sentence. Despite the separation of prisoners, silencing individual voices was central to the
A ‘New’ Language?

In the colonies, perceptions of an ‘exclusive prisoner language’ were utilised in particular ways. Though confined to the convict population, its surreptitious nature constantly threatened to infectiously subvert the discourses of polite society. Of wider significance, these fears reinforced perceptions of the need to guard and uphold appropriate cultural and social conventions. And indeed sexual conventions. The idea of a discursive subculture amongst the bond found particular expression in colonial newspaper reports of ‘unnatural’ vice. In an article commenting on the state of the men in the probation gangs in September 1846, the Launceston Examiner wrote of ‘practices the most debasing and offences at which humanity shudders, [have] become so common that a new language, known only to the initiated, is invented to describe the degrading atrocities’. The Sydney Morning Herald utilised the same idea of a ‘new language.’ In 1844 it informed its readers that the ‘unspeakable crime’ had become the ‘normal’ state of affairs on Norfolk Island. It further reported:

In practice it is reduced to method. It has even its assigned nomenclature; so that within the wretched circle of its votaries, it is the current topic of conversation. No language of civilised man being provided with fit terms and phrases, a vocabulary has been invented by the demons of the place; and the foulest passions that can force an entrance into the human breast, the foulest images with which guilt can pollute the imagination, are embodied in technicalities of speech peculiar to themselves!

Had the prisoners created a ‘new’ language? William Ullathorne suggested that convicts had ‘invented’ a particular form of speech ‘to adapt themselves to the complete separate system. According to the regulations, prisoners were ‘strictly prohibited from holding any communication, either by words or signs’. They were also ‘positively forbidden to sing, whistle, read aloud or make any other noise in their apartments’. Prisoners who were in the ‘associated stage’ of their sentence were subject to the threat of solitary confinement for the infraction of the rules of silence. The Superintendent James Boyd noted that the separate apartments enabled him ‘to immediately remove from association all men who give evidence of their unfitness to have intercourse with the other inmates of the prison, owing to their general disorderly or improper behaviour’. James Boyd, Report 1850, in Comptroller-General Report on the State of the Convict Department, 31 December 1850, in BPP, C & P, T, vol 10, 1851, p 20.

677 Launceston Examiner, 30 September 1846.
subversion of the human heart’. Or were they in fact merely talking about what, in polite society, was deemed ‘unspeakable’? In his study of the ‘molly’ subculture in late eighteenth and early nineteenth-century London, Rictor Norton suggested that ‘the dialect of the molly subculture may have had much in common with the Rogues’ lexicon or canting dialect used by thieves, highway robbers, vagabonds and female prostitutes’. In this analysis, the dynamics of criminal speech and the discourses of same-sex practice intertwine. We cannot hear the voices of Norfolk Island or Van Diemen’s Land. We can read the newspapers and perceive how the idea of a ‘new language’ operated in the cultural context of colonial society. If the power of convict speech was already feared, a ‘new’ discourse referring to the ‘unspeakable’ crime was arguably a terror.

The ‘exclusive’ prison cant noted by Tench generated anxieties because it was ‘secretive’ and indecipherable to the penal authorities. Yet this ‘new’ dialect was a greater horror precisely because what was secretive and ‘unspeakable’ in polite discourse was indeed being spoken about. In this analysis then, convict speech was both exclusive and exposing. The antithesis of strict penal discipline, it also violated the conventions of polite society. Foucault characterised this as ‘the speakers benefit’. He noted, ‘if sex is repressed, that is, condemned to prohibition, non-existence and silence then the mere fact that one is speaking about it, has the appearance of a deliberate transgression’. We might view sex-talk as a means of convict resistance. Yet there were further reasons why perceptions of this ‘new language’ generated moral concerns. Just as criminal discourse was believed to lead to criminal behaviour, similar ideas circulated around same-sex practice. Sodomy and ‘unnatural vice’ were ‘unspeakable’ precisely because speech was accorded so much moral and behavioural power. When Blackstone referred to ‘the crime not fit to be named amongst Christians’ he reflected the assumption that ‘knowing led to

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679 William Ullathorne, evidence to the 1838 select committee, 8 February 1838, in SC 1838, pp 27-8.
681 As J. V. Barry notes, ‘Language is man’s distinguishing characteristic; it is the medium by which the values of the social group are communicated and standardised...The use of argots and ‘flash’ and ‘cant’ language is a protective device whereby those who know it are able to communicate to the exclusion of those who are not members of their particular group, and their language embodies the groups’ attitudes’. J. V. Barry, (1958), op. cit., pp 96-7.
doing.\textsuperscript{683} The corollary of this was that immoral or unnatural language led to immoral and unnatural behaviour. The prison chaplain John Burt made this connection explicit. In 1852 he commented on the recent reports of ‘unutterable abominations’ that were being perpetrated on the Hulks. According to Burt, this was due to the conversations allowed between prisoners that were ‘ever surcharged with their incontinent ideas’. Furthermore:

By the very laws of our nature, a perpetual recurrence of such ideas cannot fail to provoke the passion to which they address themselves; and when this passion is thus stimulated among men placed in an unnatural position, as these men are placed, it will have a tendency to degenerate into an unnatural form. This has been the result of congregating convicts; and it is the direct consequence of associating such men under such conditions. It cannot need evidence or argument to prove that such intercourse must be demoralising!\textsuperscript{684}

Burt dismissed the need for ‘evidence’ or ‘argument’ to prove the connection between unnatural speech and unnatural behaviour.\textsuperscript{685} Convict speech surrounding matters deemed ‘unspeakable’ came to inform a particularly sexualised portrait of colonial prisoners.\textsuperscript{686} James Backhouse and George Washington were ‘rendered aware of the commission of a crime most revolting to nature’ through ‘the dreadfully profane language’ of the convict population.\textsuperscript{687} A decade later, Robert Pringle Stuart was convinced ‘that a most shocking state of affairs’ prevailed on Norfolk Island. He came to this conclusion ‘from the detestable language the convicts habitually use to each other’, ‘the subject of their conversation frequently overheard’ and ‘the form of abuse in which they frequently indulge’.\textsuperscript{688} For the convict Thomas Cook, the ‘horrible propensities’ of his fellow ‘gang mates in calamity’ was made known to him through their ‘coarse and brutish’ language, ‘coupled with their assignations one towards the other’.\textsuperscript{689} These observations reveal that the convict voice and ‘the manner in which such things were

\textsuperscript{685} According to the Irish Chaplain Charles Gibson, ‘there are designations in the mouth of prisoners which show its enormity’. C. Gibson, (1863), op. cit., p 231.
\textsuperscript{686} Convict ‘confessions’ to religious men convinced many clergymen in the colonies of the prevalence of same-sex activity among the convicts. See the Petition to William Gladstone from the Clergy of Van Diemen’s Land, 2 September 1846, in BPP, C & P, T, vol 10, 1851, pp 18-19 (502-3).
\textsuperscript{687} J. Backhouse and G. W. Walker, (1832-40), op. cit., pp 292-3.
\textsuperscript{689} Thomas Cook, (1841, 1978), op. cit., p 19.
mentioned’, suggested for some, that prisoners did indeed inhabit a different moral world.690

Other observers were more discerning in their judgments. They acknowledged the disparities of class and the linguistic and cultural gulf between the various layers of colonial society. In polite society such talk had the power to destroy a man’s reputation. Yet amongst the prison population, ‘it only formed a kind of joke in conversation’, ‘a sort of cant phrase’ with which they ‘jeer one another, such as calling one another sods’. 691

Some convict officials noted that the sexual elements of convict language were derogatory insults, used between the convicts themselves. Insult and verbal abuse is historically situated, with different meanings at different times. Yet sodomy and sexual disparagement have long featured as a means of slander and defamation between men. Convicts certainly used it. 692 In 1846, the medical officer on Norfolk Island Dr. George Everett insisted that rumours surrounding the prevalence of unnatural crime on the island were magnified by the nature of the insults and epithets exchanged between the prisoners. He doubted the pervasiveness of the crime. In a letter to Robert Pringle Stuart he wrote, ‘when I remember the disposition of this class of men to vilify and traduce one another, to magnify evil for its own sake … I am disposed to put but little confidence in opinions based upon this foundation’. 693

690 Alexander Maconochie, evidence given to the select committee, 17 March 1847, in BPP, JO & T, no 1, 1847, p 114.
692 Thomas Cook provides us with an insight into the horror he felt when slandered through association with the ‘unspeakable’ crime. Interfering in a quarrel, he recalled how one of his fellow prisoners ‘gave utterance to language most infamous and applied epithets to me altogether unmerited by my principles and demeanour’. As a result he ‘assaulted and beat him, I will say rather unmercifully’. Cook expressed some regret at his actions, however even ‘the most patient man, possessing his natural feelings, could not have controlled his temper anymore than myself upon the occasion’. For this act of violence, Cook was sentenced to a year in irons on the road. Here the Overseers were ‘without exception, the most overbearing and depraved Villains’. Moreover, ‘the only regard they had to classification, was evidently that which to all natural beings bespoke their own abominations – or, in other words, the most execrable portion of their men found no difficulty in ingratiating themselves into favour, by the coarseness of their language, and the open demonstration of Pleasure with which they give effect to their horrible propensities, in their Overseers’ hearing’. Thomas Cook, (1841, 1978), op. cit., pp 27-8.
Henry Elliot was the Chaplain on Norfolk Island. In a letter written in 1848 he reiterated Everett’s earlier observations. He wrote of ‘a great deal of misconception’ upon the subject and the ‘absurd and extravagant statements of prisoners’. Moreover, he suggested that much of the evidence ‘has originated in the circumstance that the prisoners have been observed frequently in their quarrels to accuse one another of abominable crimes, and to apply filthy epithets to each other’. According to Elliot, such insults were not a reflection of ‘reality’, but were merely the most ‘offensive’ accusation that could be made between men. Indeed, the enormity of the insult was ‘of itself sufficient to show that the practice even in the worst times of mismanagement must have been very far from universal’. Elliot closed his observations by reassuring the colonial government in Van Diemen’s Land:

I am quite satisfied, that to the great majority of the prisoners at Norfolk Island, unquestionably bad as they are as a class, nothing could be so thoroughly nauseous, disgusting and abominable, as the imputation of such crimes.  

The Treacherous Voice

Insult was one dynamic of convict power relations. Treachery and false charges were another. Historians have tended to emphasise convict power relations in dualistic terms that oscillate between perfidy and ‘mateship.’ Robert Hughes addressed convict treachery in ways to reveal the more brutalising consequences of transportation and the convict system as a gulag. Conversely, in The Australian Legend, Russell Ward stressed the ‘egalitarian class solidarity’ of convicts, as a form of ‘honour among thieves’. Ward suggested the ‘freemasonry of felony’ that existed between men ‘may have been, to a certain extent, institutionalised’. The following analysis moves away from this dialectic. It considers instead, how convict power relations were negotiated

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695 This is especially apparent in his depiction of Norfolk Island. See R. Hughes, (1987), op. cit., pp 460-84.
696 Wards work is somewhat outdated. In assessing the formation of the Australian character, he noted the contribution made by the more ‘positive’ attributes of the convict population. Yet for the time it was written, Ward generally displayed an insightful moral assessment of Australia’s convicts. See R. Ward, (1958, 1965), op. cit., pp 28-9.
through the dynamics of the spoken word. Convict treachery is viewed through the prism of sexual slander and the different ways that this was mobilised at particular moments. A brief analysis of contemporary perceptions of convict duplicity will put these dynamics into the wider cultural context.

For many contemporaries, the idea of convict ‘treachery’ was firmly embedded in perceptions of the cunning criminal and his ‘artful dodges.’ Prisoners were regarded with distrust. They were generally perceived as infamous charlatans who lied and ‘turned Kings Evidence’. In this analysis, the convict voice was feared simply because it was mistrusted. This characterisation of dishonesty and deception reverberates in many contemporary accounts of colonial society. They are consistent in noting the prevalence of perjury amongst the convict population. Roger Therry recalled, in his reminiscences, that during his time as a judge in New South Wales he had sometimes ‘guessed at the side on which truth and justice lay’. According to the convict Linus Miller, the swearing of false oaths in Van Diemen’s Land was a daily occurrence and ‘at half a

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697 As Raymond Evans and Bill Thorpe have argued, ‘we insist that the convict system as a whole, and in all its permutations, rested on official and unofficial presumptions that convicts were always ready to do wrong, to rebel, and then to deceive’. R. Evans & B. Thorpe, (1998), op. cit., p 17.
698 Perceptions of the dishonesty and ‘incapacity’ of prisoners to speak the truth often worked against them. Under the Assignment system, masters with grievances towards their assigned servants were more likely to be believed by magistrates than the transported felon. Convict complaints against cruel and harsh Overseers of punishment-gangs faced similar prejudices. Thomas Cook recollected the miserable time he spent in a road-gang in the Blue Mountains. It is difficult to gauge the veracity of his memoirs, yet he tapped into the contemporary zeitgeist, recalling how, any complaints made by the prisoners were easily counteracted by accusations of lying or other ‘verbal crimes.’ As he noted, ‘the certainty of a complaint of our grievances to the higher authorities … being proceeded by a lying charge on the part of the Overseer against the complainant, of neglect of work, insolence, threatening language or the like, so as to draw down corporal punishment upon him, and destroy the effect which his complaint ought in Justice to have produced’. Thomas Cook, (1841, 1978), op. cit., p18.
699 Joseph Anderson was appointed Commandant of Norfolk Island in 1834. Writing of the 1834 Mutiny in his memoirs, he confirmed that ‘as is usually the case on such occasions, many of the convicts concerned turned King’s evidence’ and they ‘willingly came forward to save themselves’. At the subsequent trial eighty-seven witnesses gave evidence against the conspirators to the visiting judge, William Burton. He was shocked at both their treachery and their openness, for they ‘revealed to the court a picture of depravity which it may be asserted, no human judge ever had revealed to him before’. Many witnesses ‘had been concerned in the affair as deeply as themselves’ and ‘they were intimately acquainted with each others thoughts and words and works’. See Joseph Anderson, Recollections of a Peninsular Veteran, Edward Arnold, London, 1913, pp 151-2; W. W. Burton, The State of Religion and Education in New South Wales, London, 1840, p 257-8.
crown were as plentiful as blackberries’.  

These perceptions problematised the administration of criminal and civil justice in the colonies. Yet they also revealed the shortcomings of the surveillance regime. As Satadru Sen has noted in a related context, ‘if one of the primary objectives of the observation of incarcerated offenders was to learn the ‘true nature’ or the ‘character’ of the … criminal, the knowledge acquired could not always be trusted.’ This tension was registered by the colonist John West. He wrote of the deception of ‘reformed’ prisoners and claimed that ‘prison piety is generally false and designing in proportion as it is loud and ostentatious’. Rendering prisoner’s ‘knowable’ was then problematised and prejudiced by these cultural perceptions that surrounded their integral characters. Yet if the penal authorities were unsettled by the false and the perjuring voice, convicts themselves feared the treacherous voice of their fellows. Barry Argyle has noted that the theme of convict treachery was enshrined in the canon of nineteenth-century convict literature. A similar trope pervaded most convict memoirs. Martin Cash recalled the ‘culture’ of treachery in the Jerusalem chain gang on Tasman’s Peninsula in the 1830s. In his memoirs he remembered, ‘no matter how well a man conducted himself he was not safe, being at any time liable to be denounced by his fellow prisoner … in short it was a reign of terror’.

False Charges

‘Maconochie told the convict Reynall to “drop that sneering manner of speech”.
Reynall replied “And what weapon ha’ we to fight the System with, if you wont allow us to use our tongues? Even at our peril we must use em!”

701 Linus Miller, (1846), op. cit., p 362.
704 James Backhouse noted a culture of treachery existing in the penal colonies. ‘They form schemes of mischief and betray one another’ he noted of the ‘moral wilderness’ of Norfolk Island in the 1830s. James Backhouse, (1863, 1967), op. cit., pp 266-7.
706 See Anne Conlon, ‘Mine is a Sad yet True Story: Convict Narratives 1818 - 1850’ in JRAHS, vol 55, pt 1, 1969, pp 43 -73. Writing of his experiences aboard the hulks, James Hardy Vaux noted, ‘All former friendships or connexions [sic] are dissolved and a man here will rob his best benefactor or even messmate of an article worth one half penny’. J. H. Vaux, (1821, 1964), op. cit., p 262.
Treachery informed the politics of convict power struggles. As Reynall suggested, the convict voice assumed particular pertinence within the context of the power relations of the penal environment. For many convicts it was indeed a ‘weapon’. More specifically, convicts often played out the dynamics of their own power struggles through charges and accusations that were sexual in nature. The ‘terror’ and the power of treachery was particularly evident in cases where prisoners accused one another of ‘gross indecency’ or ‘attempts to commit’ sodomy. Cases were difficult to prove. Charges rested ‘on the assertions and admissions of prisoners themselves’ and many contemporaries were doubtful of their veracity. Yet existing moral concerns were often elevated in such circumstances of uncertainty and ambiguity. Moreover, accusations and charges of unnatural crime tended to stick. For the falsely accused, ridicule and insult from fellow convicts would often result. From the penal authorities, increased individual surveillance and an ever-present suspicion would continue to haunt the prisoner, ‘guilty’ or not.

In theory, this policing of suspects served to restrain the moral behaviour of all prisoners. It sought to silence the convict voice from speaking false accusations and to control bodies through preventing sexual activity. In practice however, both the frequency of false cases and the reasons behind them suggests there were other significant factors at play.

Why were false accusations so prevalent among the prisoners? Has history been left a distorted portrait, painted to horrify contemporaries and further distance the bond.

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710 W. Foster Rogers, Man’s Inhumanity: Being a Chaplain’s Chronicle of Norfolk Island in the 40s, cy reel 214, p 36, (ML.)
713 As Alexander Maconochie informed the 1847 select committee, ‘the proof of them is seldom complete; the very investigation into them is degrading to the men subjected to it; if innocent, they are deeply injured by it, and if acquitted, though guilty, they are known to be so by their companions, who are thus injured by their impurity, while the wretches themselves become only the more impudent and abandoned through their escape …’ Evidence to the select committee, 17 March 1847, in BPP, JO & T, no 1, 1847, p 112.
and the free? Certainly for the genteel classes accusations of unnatural vice were ‘the worst’ that could be said of a man. As Jeremy Bentham observed, ‘whether a man was thought to have actually been guilty of this practice, or only to be disposed to it his reputation suffers equal ruin’.\(^{714}\) Such slander threatened reputations, fortunes and families alike.\(^{715}\) In January 1828 a false charge against Henry Something [sic] reduced the defendant to public weeping in the courtroom at Windsor.\(^{716}\) In 1832 Henry Hellyer, architect and surveyor for the Van Diemen’s Land Company committed suicide upon hearing the rumour that he was a ‘dirty sodomite’.\(^{717}\) The ‘unspeakable’ crime evoked terror in those falsely accused. Conversely it enhanced the power of the accuser. For convicts who had little power over their lives, speech was power and many were determined to use it.

In September 1846, the probation party stationed at Impression Bay on the Tasman Peninsula was asleep in the barracks. They awoke to noise and confusion. ‘From something which excited suspicion’ two of the prisoners, Hadden and Kennedy had ‘suddenly leapt out of their berths, and called to the watchman outside, desiring he would fetch Mr. Campbell, the superintendent’. Arriving at the dormitory, Mr. Campbell was informed by Hadden and Kennedy that their fellow prisoners, William Hammersley and John Leonard had been engaged in the act ‘of an abominable offence against the order of nature’. At the trial held in Hobart during October, the accused defended themselves ‘with considerable talent’. They stated that ‘Hadden and Kennedy had trumped up this charge in the hope of obtaining indulgence’. This defence was buoyed by the evidence of some of their fellow wards-men who ‘deposed to declarations, by Hadden, of his intention to get up a charge of this nature’. It seems that Hadden had hoped by his accusations to ‘obtain’ some sort of ‘indulgence’ from the authorities. Yet by making his


\(^{716}\) Reported in the *Monitor*, 28 January 1828.

intentions public beforehand, his voice ultimately let him down. The jury found the accused not guilty.\footnote{This case was originally reported in the *Hobart Town Courier* and appeared in the *Launceston Examiner* on 28 October 1846.}

Were Hadden and Kennedy merely manipulating the spatial-sexual anxieties that were generated by communal sleeping dormitories? This is impossible to delineate, although they must have believed their accusation would be at least plausible to the penal authorities. What this case does reveal is that false charges were brought with an expectation of indulgence or reward. In his report on the state of the prison population in Van Diemen’s Land in 1846, Charles Joseph La Trobe noted this was an ‘incentive’ that lay behind many false sexual accusations. He reported ‘that in more than one instance, accusations of this character have been trumped up by convicts against their fellows, either from feelings of private malice or from the expectation of bettering their own condition’.\footnote{Charles Joseph La Trobe, Report in I. Brand, (1990), op. cit., p 149.} In this analysis, the penal authorities themselves are implicated in encouraging convict treachery. The promise of a ‘reward’ or a favour was one means of incorporating convicts into the power structure of the system. In this particular context, it was a way of handing the surveillance gaze over to the prisoners themselves. In so doing, the authorities risked the possibility of encouraging false charges. For men who had little other material or cultural comforts, collaboration might have been at least considered as an option in ameliorating the depravations of penal life.

The desire for gain or reward was closely allied with blackmail.\footnote{See L. Crompton, *Byron and Greek Love: Homophobia in Nineteenth-Century England*, University of California Press, 1985; Netta Murray Goldsmith, *The Worst of Crimes: Homosexuality and the Law in Eighteenth-Century London*, Ashgate Publishing, Aldershot, 1998.} This was a prominent theme in Jeremy Bentham’s arguments for the decriminalisation of male-to-male relations; it would disarm blackmailers of one of their most potent weapons.\footnote{See L. Crompton ‘Jeremy Bentham’s Essay On Paederasty’ part one in *Journal of Homosexuality*, vol 3, no 4, summer 1978; part two in ibid, vol 4, no 1, autumn, 1978. Bentham was concerned that the laws against male sexual relations led to false charges and malicious blackmail. He wrote, ‘A very serious objection, however, to the punishment of this offence is the opening it makes for false and malicious prosecutions. The danger in every case weighs something against the reasons for applying punishment, but in this case, it weighs much more considerably than perhaps in any other’. Part one, in ibid, p 99.} Some convicts were transported for the offence of blackmail. At Lewes in 1828 a man...
who had extorted money from another by threatening to denounce him as a sodomite was transported for life. According to the *Times*, people in the courtroom gasped in horror at the disgusting narration ‘of a man driven on by greed to such a deed of darkness’. In Van Diemen’s Land, the notion of ‘bettering’ one’s condition found expression in the offence ‘obtaining property by threats to accuse of unnatural crimes’. The Police Magistrate record for 1849, reveals that four male pass-holders, four men with ticket-of-leave, three men with conditional pardons and two freed by servitude were charged with this offence. The ‘threat to accuse’ that year, was more frequent than sodomy (five cases) and ‘assault with intent to sodomise’ (two cases). This reveals the power of the blackmailing voice. Merely threatening to speak what was ‘unspeakable’ posed an ever-present threat to men and their reputations, and it threatened both bond and free alike.

Other cases were motivated by revenge. Major Thomas Wright was the Commandant of Norfolk Island between 1827 and 1828. One charge of ‘unnatural crime’ was brought before him which he ascertained had been ‘trumped up against a man entirely’. The accused man was an overseer who had punished one of his convict charges. Retaliation and revenge for this punishment came in a later accusation that the overseer had ‘done something with a boy’. After careful investigation the charge was dismissed. Other observers also cited the motivation of ‘revenge.’ Ernest Augustus Slade was a police magistrate in New South Wales during the 1830s. He later recalled that such cases were ‘seldom brought forward except out of revenge’ and ‘unless on the pique of some party’. False accusations and the desire to avenge grievances was a common feature in the hierarchical relationship between convicts and between convicts and their keepers. Those without power used their voices in an attempt to assert some degree of agency over their lives. Sexual slander was a particularly powerful means of manipulating the masculine power structure of antipodean society.

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722 *Times*, 16 April 1828.
723 Return (no. 70) of Number of Offences at Police Magistrates for the Year Ending 31 December 1849, in J. Montagu, *Statistical Account of Van Diemens Land*, Q3196T, (ML.)
724 Major Thomas Wright, evidence given to the select committee on transportation, 2 April 1838, in SC 1838, pp 136-7.
It could turn out to be a vulnerable agency however. False accusations surrounding this particular crime were a double-edged weapon. They might have very severe penal consequences for both the accused and the accuser. A means of profit or a sense of power could be achieved through the false accusation, yet ultimately, it was a power that was both fragile and potentially deadly. In another case, a false accusation of ‘attempt to commit’ was utilised to defend an act of violence. In November 1843, George Brownsall and Edward Mooney stood before a Court Commission on Norfolk Island. They were charged with stabbing a fellow prisoner, John Brown who was aged in his late 70s. At the trial, Brownsall defended himself by claiming ‘that he had not seen Brown at all on that day’ in question. He was ‘entirely innocent of the charge brought against him’. Conversely, Mooney stated that ‘John Brown had on different occasions solicited him to commit an unnatural offence’ which he [Mooney] had ‘always rejected with indignation’. He told the court that Brown, ‘was determined to be revenged on him’ for this rejection, and had first attempted to stab Mooney. In the ensuing struggle, Brown ‘had received the wound in question’. On this occasion however, the witnesses called ‘utterly failed’ to confirm Mooney’s allegations of ‘unwanted advances’ against Brown. His plea of self defence was dismissed.726 Sentencing both men, Justice Burton told Mooney and Brownsall that the false accusation ‘aggravates your offence’ and ‘can only be atoned for by the forfeiture of your lives’. This case reveals both the dangers involved, and the severity with which false accusations were treated. Faced with the charge of intent to murder, Mooney’s accusing voice was perhaps the only weapon left to him.727

It is difficult to delineate prisoners’ perceptions of same-sex activity.728 Unwanted advances, sexual assault and rape were possibilities in the penal context. Private attitudes held before transportation might be subject to change over time and through the

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726 To what extent Brown’s advanced age influenced this verdict is difficult to assess.
727 Sentencing of Mooney and Brownsall, Norfolk Island, 24 November 1843, Reported in the Sydney Morning Herald, 12 December 1843.
728 As Bashford and Strange note, ‘documenting the interior lives of people forced into exclusion is challenging as the historical record privileges authority and expertise’. In A. Bashford & C. Strange, (eds.), (2003), op. cit., p 13. With respect to lower-class sexual attitudes this is even more apparent. See J. Weeks, ‘Sexuality and History Revisited’ in K. Phillips & B. Reay (eds.), Sexualities in History: A Reader, Routledge, 2002, pp 27-41.
experience of penal life. We might consider individual cases of ‘treachery’ against known sodomites as suggestive of one attitude towards it. Some male prisoners shared a similar horror towards the ‘unspeakable’ as their keepers did. In his memoirs, Thomas Cook recalled that many convicts at Mount Victoria in New South Wales ‘persisted in publicly deprecating’ the ‘horrid propensities’ of their fellows. However, these men who vocalised their disgust would often be ‘struck, kicked and otherwise abused’. Other convicts were too scared to use their voices. The forger and well educated convict, Beaumont Smith had his request to be separated from the men in his dormitory refused. According to one contemporary, ‘had he dared to state openly what took place, his life, he well knew, would have been the forfeit’. Physical violence and retaliation against men who did use their voices to protest against same-sex practice often resulted in them being placed in solitary confinement for their own protection. In his report on Norfolk Island in 1846, Robert Pringle Stuart noted the practice of confining in solitary cells men who informed ‘on the subject of unnatural crime’. The threat of violence from those accused made such isolation necessary. The following case illuminates how the dynamics of speech, ‘treachery’ and antipathy towards unwanted sexual advances were negotiated in another way.

In 1837 James Mackay was charged with gross misconduct in attempting to commit an unnatural crime on John Allen. Yet it is Allen’s role in the incident, and his testimony which is particularly revealing. According to his sworn oath, he was approached by the accused in the water closet. He told the trial that Mackay ‘came in and said I want your trousers down – he tried to pull them down – I said oh no – I’ll come tomorrow’. Later that day, Allen gave information to the police. He told them the time that had been arranged for the following day and, with their assistance, set up an ambush. According to Constable John Rogers, on the following day when the signal was given, ‘I jumped over the wall and said “You wretch come out of there”. He turned round. I saw his privates exposed and his penis erect. Mackay said, “we are only easing ourselves you

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730 R. Crooke (1958), op. cit. p 56.
cannot hurt us”’. His fellow constable Kent confirmed the incident and Mackay was found guilty. He was sentenced to six months in the back cells, ‘placed in separate treatment’ and recommended to be worked in irons for three years.\textsuperscript{732}

John Allen refused to engage in sexual practice with his fellow prisoner. Rather than defend himself with violence or insult he sought protection from his superiors. Was this a classic case of convict treachery? Or might we consider his actions as indicative of abhorrence? Either way, he used his voice to reveal to the authorities that a ‘crime’ was going to be attempted. It reveals to us perhaps, that convicts too shared the anxieties of same-sex practice so frequently expressed by the colonial voice alone. In this case at least, the ‘treacherous’ voice was utilised apparently neither for revenge nor for gain. Rather it was used to protect against unwanted sexual attention.

‘Gone to flirt with Matilda’: the discourse and meaning of a sexual subculture

Convicts used their voices to negotiate the power dynamics of penal life in particular ways. Speech informed their relations with their fellow bondsmen, but these relations were sometimes negotiated through verbal interaction with the authorities. For many outside listeners, their daily conversations, and their banter, insults and cant, informed a particularly depraved perception of the convict population. According to the \textit{Launceston Examiner} their ‘perverted language corresponds with their perverted nature’.\textsuperscript{733} The convict voice was invested with the power to invert morality. Language explicitly connected immorality, criminality and sexuality with the juxtaposition of word and deed, and the ‘contaminations’ of both. Robert Hughes has illuminated how Norfolk Island came to be perceived as ‘the epitome of all inversions’ and ‘within its unspeakable microcosm language itself was reversed’.\textsuperscript{734} Indeed, almost every written record left by

\begin{itemize}
\item \textsuperscript{732} In Tasmanian Papers, no 110, A11139, (ML.) Kent’s testimony reveals what was deemed ‘sufficient proof’ that such an attempt was tried. He told the court recorder how ‘Mackay was fast buttoning up his trousers. Mackay’s person was erect, it was sticking up his trousers. I caught hold of it and said it’s stiff enough’. In ibid.
\item \textsuperscript{733} \textit{Launceston Examiner}, 5 July 1848.
\item \textsuperscript{734} Robert Hughes, (1987), op. cit., p 483.
\end{itemize}
contemporaries who visited the island throughout its existence as a penal colony made these same judgments. To the outside world, the quintessence of these perceptions lay in the existence of a particular convict ‘sexual subculture.’\footnote{735}{The sociological definition of a sexual subculture has been examined by L. Humphreys & B. Miller. They suggest that a subculture involves the following elements; face-to-face communication, distinct values and norms that are behaviourally expressed, teaching and learning survival skills, and an argot that includes, ‘not only a discernable vocabulary but a manner of expression’. See L. Humphreys & B. Miller, ‘Identites in the emerging gay culture’ in J. Marmor (ed.) Homosexual Behaviour: A Modern Re-appraisal, Basic Books, New York, 1980, p 146.}

Convict historians who have written about this sexual subculture have tended to analyse it in terms of convict power relations and the dichotomy between sexual coercion and consent. According to Hughes, sexual relations between prisoners ‘represented an abusive control over the will of others, often involving rape … acts of sadistic humiliation, in which sexuality was merely the instrument of a deeper violence – the strong breaking the weak down into a punk, a molly, a gobbling queen’\footnote{736}{Robert Hughes, (1987), op. cit., p 269.} It is difficult to dismiss Hughes’ analysis entirely. Many contemporaries noted that sexual coercion and abuse informed convict power relations, with many ‘compelled to be participants’\footnote{737}{See J. H. Cullen, ‘Bishop Willson and Norfolk Island’ in THRA, P&P vol 1, no 2, 1952, p 6. In Ralph Rashleigh James Tucker took up this theme in his account of a homosexual rape and in his general depiction of convict cruelty. Tucker himself was transported to New South Wales in 1827 for blackmail and threatening to charge his cousin with an unnatural crime. See J. Tucker, Ralph Rashleigh, Colin Roderick (ed.) Angus & Robertson, Sydney, 1952.} Concomitantly, we might argue that other relationships were founded upon a more loving and consensual dynamic. Such speculations are however, difficult to both uncover and verify.\footnote{738}{As Evans and Thorpe note of same-sex practices, ‘Patterns of domination and convenience … confound any sense of detecting a consensual gay subculture within male convict society; and the same could probably be claimed for any lesbian subculture among confined convict women’. R. Evans and B. Thorpe, (1998), op. cit., p 30.}

The remainder of this chapter explores the sexual subculture. It shifts the focus away from the duality of consent and coercion, and instead considers the subculture through the discourses and practices that constructed it. It is informed by Gregory Sprague’s insight that ‘historians need to pay attention to the social interactions and institutions of homosexual subcultures and to the meanings their inhabitants assigned to
sexual behaviour’. An examination of the distinctive features of the subculture reveals that existing cultural practices and gendered categories of behaviour informed the ways that convicts understood their participation in this subculture. As the sociologists Fine and Kleinman have noted, ‘subculture and identification should be understood as dialectical processes, each of which is implicated in the construction and reconstruction of the other’.

Rictor Norton’s study of the ‘molly’ subculture of late eighteenth and early nineteenth century London reveals a striking parallel with the subculture that emerged in the colonial context. Norton examined the practices and themes of their meetings. ‘Mollies’ used a variety of female names and they paid great attention to dress and deportment. Participants re-enacted the rituals of ‘courtship’ and seduction. Marriage and birthing ceremonies featured in their gatherings. The subculture was both theatrical and subversive. It enabled men to mock, parody and protest prevailing gender roles. On another level, it also replicated the gendered order of society. It is impossible to speculate just how familiar London’s criminals were with this particular subculture. Norton suggests that, ‘criminals knew about the habits of mollies, their cruising grounds and use of pick up names’. For some, this ‘criminal’ knowledge was acquired to blackmail identified mollies. Other men who were eventually transported may have actively participated in the subculture itself. It is a difficult link to make, yet the rules and the rituals of the London molly house were mirrored and found similar expression in the barracks and at the penal stations in the Australian colonies.

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742 Gregory Sprague suggests that rather than look for the similarities and continuities, historians should analyse ‘the complexity of each subculture in its historical context’. Conversely, Elise Chenier has recently revealed the link between prison and urban sexual subcultures. In her study of male sexual practices in American and Canadian prisons during the twentieth century, she notes how the ‘wolf-punk-fairy system of sexual organisation’ had its origins in ‘fin-de-siecle hobo and urban street culture’. See G. Sprague, (1984), op. cit., p 40; E. Chenier, ‘Segregating Sexualities: The Prison Sex Problem in Twentieth-Century Canada and the United States’ in A. Bashford & C. Strange (eds.) (2003), op. cit., p 72.
The existence of a sexual subculture featured in many eye witness reports and official enquiries during the 1830s and 1840s. These reports utilised the language of seduction and prostitution. The idea of established ‘couples’ and ‘marriage’ similarly featured in the drama. According to observers, convicts used girls’ names and they paid attention to dress and appearance. Gifts were exchanged and feelings of jealousy were often demonstrated. In the 1820s Macquarie Harbor was a penal station, where ‘many of the convicts went by the names of Polly, Sally, Bet to designate the individuals upon whom those crimes were supposed to be committed’. A similar practice was observed at Hyde Park Barracks in Sydney. During the 1830s, the superintendent admitted, ‘I have known of boys being called the fancy girls of men’. Another observer noted that ‘boys will go by the names of Kitty and Nanny’. Alban Charles Stoner enlightened a later select committee on the ‘courting’ practices of Norfolk Island. He revealed that unequal power relations often characterised relationships between boys and male prisoners, or between prisoners and overseers. In one particular ‘couple’ was a boy and an Overseer and, ‘it was a common saying with respect to this Overseer among those men, “Oh so and so has gone to flirt with Matilda”’. The same committee heard from Alexander Maconochie. He arrived at Norfolk Island in 1840 and almost immediately observed that some individuals were better dressed than others. Upon enquiring who these dapper young men were, he was told ‘they were some of the Colonial Woman. These were wretches who obtained extra indulgences by lending themselves to their vicious companions’. In a letter written to Sir George Gipps from the island, Arch-Deacon McEnroe informed the Governor, ‘those miscreants are as well known among the prisoners by their dress, carriage and conversation, as the most notorious prostitutes on the streets of Sydney’.

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744 John Barnes, evidence to the select committee on transportation, 12 February 1838, in SC, 1838, p 42.
745 Ernest Augustus Slade, evidence to the select committee on transportation, 25 April 1837; James Mudie, evidence to the same, 21 April 1837, in BPP, C & P, T, vol 3 1837-61, p 67; p 44.
746 A. C. Stoner, evidence to the select committee, 20 May 1847, in BPP, J O & T, no 1, 1847, second report, p 522.
747 Alexander Maconochie, evidence to the select committee, 17 March 1847, in, BPP, JO & T, no 1, 1847, first report, p 112.
Robert Pringle Stuart’s 1846 report of Norfolk Island provides the most detailed account of the cultural practices of the subculture. Stuart documented the ‘seduction’ of some convicts through gifts of sugar and tea and ‘the irresistible’ tobacco. In the workshops, clothes were altered and boots re-made so ‘that these articles may fit well’ to serve as ‘modes of enticement’. Moreover, he revealed that some prisoners were ‘known to be, and called common prostitutes, who for a trifling consideration surrender themselves for the odious purpose’. It is clear that sex was a bargaining tool. As we saw with the desire for ‘reward’ and material gain from false charges and blackmail, the exchange of material goods and sexual favours, clearly formed a part of the convict experience. Rather than a power dynamic, we might consider this exchange as part of a much wider cultural practice, familiar to both men and women of the lower orders of British society. Stuart’s outrage over ‘gifts’ of sugar and tobacco masks the fact that these items had very different meanings to prisoners than they did for the colonial authorities. Likewise, the exchange of brief sexual encounters did not hold the same moral or cultural meanings. It was a discrepancy of classed moralities but also a disjuncture between free and bonded civil status. The black market of sugar, sex and tobacco challenged the concept of un-freedom. It also subverted the sexual discipline that the penal authorities attempted to impose. When in July 1846, there was a mutiny on the Island, the Commandant John Price believed it had been precipitated by the removal of the materials used to bargain these dynamics. A year later, tobacco ceased to be a contraband luxury and it was legitimately permitted in the convict ration. J. S. Hampton

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749 According to Fitzsymmonds, many of the details ‘which he gave of sexual activity on the island were rigidly suppressed’ from the parliamentary printings. E. Fitzsymmonds (ed.), (1979), op. cit., p 10.
752 John Price to Sir William Denison, 7 December 1846, in Further Correspondence on Convict Discipline and Transportation, PP, House of Lords, (hereafter CDT, PP, HoL), 14 May, 1847.
noted the measure had greatly reduced the prevalence of ‘illegal trafficking’ and ‘unnatural crimes’.753

Material comforts aside, Stuart’s account also documented the ways that some relationships were negotiated through gendered paradigms. He further observed there were certain ‘couples’ who ‘habitually associate’ and were said to be ‘married, man and wife’. According to Stuart these associations were ‘not unusually viewed by the convicts as that between the sexes is ordinarily regarded’ and ‘is equally respected by some of them’. Moreover, these couples when separated ‘manifest as much eager earnestness for the society of each other as members of the opposite sex’.754 It is difficult to assess what was more shocking to colonial sensibilities. Was it the fact that some men displayed a very ‘natural’ adaptation to gendered roles? Or was it the intensity of feelings expressed between those said ‘to be married’? The adoption of customary names and behaviour deemed ‘feminine’ certainly generated moral anxieties.755 Yet it was the depth of sentiment, and the expression of genuine feelings, that fuelled the horror behind this report. The fact that convicts viewed these sentiments as ‘normal’ served in Stuart’s eyes to intensify perceptions of their moral depravity. As Foucault noted, ‘to imagine a sexual act that does not conform to law or nature is not what disturbs people. But that individuals begin to love one another – there’s the problem.’756 The Bishop of Tasmania expressed similar horror at the strength of feelings that existed between some male prisoners. He told the 1847 select committee that a letter had recently been found upon an executed criminal at Norfolk Island. This letter contained ‘expressions such as a Man could only use to a profligate and abandoned Mistress’. Moreover, within the wider subculture generally ‘such is the nature of their connexion [sic] and of their feeling towards each other’.757

753 According to Hampton, tobacco had often been given ‘by one convict to another to procure the consent of the passive agent in the vilest of practices’. See J. S. Hampton, Comptroller-General Report, November 1847, in BPP, C & P, T, vol 9, 1849, pp 122-3.
757 Bishop of Tasmania, evidence given to the select committee, 11 May 1847, in BPP, JO & T, no 1, 1847, second report, p 510.
These reports sought to paint a picture of the world turned upside down and the inversion of the natural gendered order of nature. As this chapter has noted, the colonial press reported a ‘new language, known only to the initiated’ which had been ‘invented to describe the degrading atrocities’.  

Alban Charles Stoner took this idea one stage further. Questioned by one select committee, he told them, ‘new forms of Bestiality have been invented’ in Van Diemen’s Land.  

Yet though contemporaries spoke of ‘a new language’ and ‘invented crimes’ and even ‘new forms’ of sexual crime, this analysis reveals instead, a sexual subculture conceptualised through ‘very normal’ and traditional practices.  

In adopting particular roles and labels, prisoners created and played out a very traditional pattern of gendered behaviour. Further, their culture of bargaining followed a pattern of sexual exchange familiar to the British lower orders. Evans and Thorpe have referred to the adoption of gendered identities as the demonstration of a ‘normative masculinity’.  

Likewise, Elise Chenier has recently revealed that this is a central and historically recurring feature of sexual relations between incarcerated men. She argues that the adoption of the feminine role by some, serves to confirm the masculinity of others. Moreover, those who adopted the feminine role reaffirmed ‘the conventions of gender even as they violated them; they behaved as no man should, but as any man might wish a woman would’. In this instance then, both the behaviour and the discourses that constructed the convict subculture exposed what was in fact a tendency to normalise in an otherwise unnatural state of society. As Bentham noted of all-male

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758 Launceston Examiner, 30 September 1846.  
759 Alban Charles Stoner, evidence given to the select committee, 20 May 1847, in BPP, JO & T, no 1, 1847, second report, p 519.  
760 As J. W. Scott has noted, ‘historians need … to examine the ways in which gendered identities are substantively constructed, and relate their findings to a range of activities, social organizations and historically specific cultural representations’. J. W. Scott, ‘Gender: A Useful Category of Historical Analysis’ in J. W. Scott (ed.) Feminism and History, Oxford University Press, 1996, p 169.  
761 Jeremy Bentham recognized the significance of ‘gender roles’ in his discussion of the ‘passive’ and the ‘active.’ He noted, ‘According to the notions of the antients [sic] there was something degrading in the passive part which was not in the active. It was ministering to the pleasure, for so we are obliged to call it, of another without participation, it was making one’s self the property of another man, it was playing the woman’s part: it was therefore unmanly. On the other hand, to take the active part was to make use of another for one’s pleasure, it was making another man one’s property, it was preserving the manly, the commanding character.’ See J. Bentham, in L. Crompton, (1978), part one, op. cit., p 395.  
763 Elise Chenier, in A. Bashford & C. Strange, (eds.) (2003), op. cit., p 75.
societies, same-sex practice was ‘the consequence of the want of opportunity with the proper object, and the abundance of opportunity with such as are improper …’.

This analysis of the sexual subculture in the penal colonies reveals that it was constructed through and dependent upon, the language and cultural meanings available. For prisoners, the practices and discourses of the subculture served to ‘normalise’ their world through traditional gender paradigms and cultural exchanges. Conversely, for the colonial observer, this ‘normalising’ of sexual ‘deviancy’ was the epitome of criminal depravity. It was the antithesis of masculine propriety. It inverted the moral, social and gendered order of society and in turn, transgressed the idea of nature. The adoption of female names and roles and especially the demonstrative displays of affection (behaviour also perceived as feminine) unsettled perceptions surrounding the natural order of gender and sex. Convicts then, crossed many boundaries in their participation in this subculture. Yet in revealing the ‘unnatural’ results of transporting criminal men to a new colonial society, the subculture further illustrated just how unstable the categories of ‘natural’ and ‘unnatural’ were within an all-male environment. Convict voices and cultural practices turned the idea of the ‘natural’ on its head. In so doing, they exposed how the penal and colonial nature of antipodean society was itself an ‘unnatural’ creation. These ideas were played out within the wider politics of colonial society through the mobilisation of ‘unspeakable’ discourses. This is the focus of the next chapter.

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Chapter 4

The ‘Silences’ of Sodomy: Exploring ‘Unspeakable’ Discourses

‘Imagination is seeing what’s absent, hearing the silence as well as the noise’.  

Academic historians often lament the opaque nature of their sources. For historians of past sexualities the elusive archive is often characterised by gaps and omissions, blanks and asterisks. Apologies for the ‘necessity’ of censorship are occasionally found in historical records. Historians in search of past male-to-male relations have long noted the paucity of tangible facts and evidence. Many records have been destroyed or shed little light and, as A. N. Gilbert noted, ‘beyond this, there is silence, for what was called in English law ‘the crime not fit to be named’ was not likely to leave many traces’. More recently, the colonial historian Ann Laura Stoler apologized for her quietness on the subject of colonialism and homosexuality. She justified her silence and the ‘prominent place’ she gave to heterosexuality as reflective of her ‘long term and failed efforts to identify any sources that do more than assume or obliquely allude to this ‘evil’.’

Following Nicholas Radel’s recent call to historians that ‘we cannot let their silence become our own’, this chapter confronts these silences head on. Chapter three examined the failure of the penal system to silence the convict voice. This chapter moves the theme of ‘silence’ into the public domain. Firstly, it examines how ‘unspeakable’ crimes were reported in the colonial press. I argue that such reports were not silent.

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Rather, they adopted a particular signifying lexicon. Beyond this rhetoric, these reports were multi-purpose and functioned to inform, to control and to warn the colonial population. Similar ‘unspeakable’ discourses were frequently mobilised in political ways. How these discourses functioned within the politics of transportation and the cultural imaginings of colonial reputations will further be examined. This chapter argues that rather than silence, what was ‘unspeakable’ was rendered loud and clear. Moreover, it stood at the very centre of the anxious and ambivalent world of colonial Australia.

A Culture of Censorship?

The idea not to name and not to render visible male-to-male sexual relations had long informed both British and European cultural thought. In Britain, after Blackstone’s famous comments ‘upon a subject the very mention of which is a disgrace to human nature’, there was ‘a national bias towards silence’. In 1816 Jeremy Bentham encapsulated the existing custom of conversational propriety, when he privately noted that ‘decency, according to the prevailing notions generally attached to this word will in general keep it [sodomy] excluded out of the field of conversation’. Beyond the discourses of polite conversation, ‘silence’ informed perceptions surrounding punishments for the ‘unspeakable crime’. In 1785 Voltaire expressed his opposition to the spectacle of public execution in cases of sodomy. He reasoned that such crimes ought to be ‘shrouded in the shadows of oblivion, rather than illuminated by flaming brands in the eyes of the crowd’. In 1815 and again in 1816 the House of Commons debated a proposal to abolish the pillory as a public punishment for sexual crimes. The protagonist

772 In a letter to the Morning Advertiser an anonymous letter writer called for the abolition of the public pillory. The writer did not feel the pillory was sufficient punishment for ‘such monsters’ and argued that any man who even attempted the crime should be greeted with ‘instant death, without benefit of clergy’. Yet it was the effect of the public spectacle that was most deplored. The letter writer asked readers to consider, ‘is it not dreadful to have female delicacy and manly feeling shocked, and the infant mind perhaps polluted by such disgusting spectacles, and the conversation to which they unavoidably give rise?’ Morning Advertiser, 28 September 1810.
of the motion, Michael Taylor, argued that such public exhibitions merely tended ‘to increase the vice it was meant to suppress’. 774

Historians have generally identified the second half of the eighteenth century as witnessing a gradual imposition of public censorship around sex, sodomy and sexual crimes. These interpretations suggest that silence and the attempt to render such crimes invisible and taboo were in place long before later Victorian prudery came to characterise the nineteenth century cultural zeitgeist. Netta Murray Goldsmith has studied the trials for sodomy at the Old Bailey between 1730 and 1751. She argued that censorship increasingly came to obstruct the long established popular English custom of printing obscene and scandalous trial reports. 775 Randolph Trumbach similarly noted the steady advance of censorship. He suggested that by the close of the eighteenth century ‘sodomitical behaviour came to be most effectively controlled by denying its existence and by severely limiting all public description or discussion of the behaviour’. 776

Rather than highlighting how newspaper ‘censorship’ waxed and waned across specific time frames, my analysis suggests a different approach. In Britain, the press, the pillory and the gallows regularly and routinely publicised what was deemed

774 Parliamentary Debates, 22 February 1816, quoted in ibid, pp 251-2. Both Louis Crompton and Lee Edelman note how the Vere Street Scandal of 1810 led to unprecedented levels of publicly expressed ferocity against what was assumed to be ‘unspeakable.’ This ferocity was seen in the actions of the crowds at the pillory and in the reports of the newspaper press. Moreover, both authors note the reactions of the French visitor Louis Simond who was in London at the time. He wrote in his journal, ‘We have just read in all the newspapers a full and disgusting account of the public and cruel punishment on the pillory of certain wretches convicted of vile indecencies. I can conceive of nothing more dangerous, offensive and unwise, than the brutality and unrestrained publicity of such infliction. The imagination itself is sullied by the exposition of enormities that ought never to be supposed to exist …’ 15 October, 1810, Journal of a Tour and Residence in Great Britain During the Years 1810 and 1811, 2nd edition, Edinburgh, 1817, p 470. See L. Crompton, (1985), op. cit., pp 168-9; L. Edelman, ‘Seeing Things: Representation, the Scene of Surveillance and the Spectacle of Gay Male Sex’ in J. Goldberg (ed.) Reclaiming Sodom, Routledge, New York, 1994, p 265.


‘unspeakable.’ Despite the injunction ‘not to name’, the pillorying of ‘workhouse miscreants’, the advertising of future trials for ‘nameless horrors’ and reports of trials and executions often featured in the newspaper press.\textsuperscript{777} Aristocratic and public figures who were embroiled in cases of blackmail, and those who took flight to a more sympathetic Continent, made scandalous copy.\textsuperscript{778} Lord Byron fled London in 1816 amidst much publicity in the press. Most contemporary opinion suggested that he make his exile permanent. The case of Percy Jocelyn, the Bishop of Clogher caught with his pants down, was loudly reported in the \textit{Times}, in July 1822. Prominent suicides were only ever thinly disguised in the shrouds of journalistic suspense and intrigue.\textsuperscript{779} In the colonies, the absence of an aristocracy aside, the press continued to report cases in a very similar manner.\textsuperscript{780} Punishments continued to be both public and publicised. This chapter argues that rather than encroaching censorship there was instead, a continuity of the ‘unspeakable’ in both discourse and within the public domain.\textsuperscript{781}

\textsuperscript{777} In contrast to Goldsmith and Trumbach, R. J. Corber notes that late eighteenth and early nineteenth century Britain was ‘virulently homophobic’ and the ‘popular press gloated over the appallingly brutal treatment of sodomites sentenced to the pillory’. See R. J. Corber, ‘Representing the Unspeakable: William Godwin and the Politics of Homophobia’ in \textit{Journal of the History of Sexuality}, vol 1, no 1, 1990, p 85.

\textsuperscript{778} The \textit{Times}, 25 July 1822.

\textsuperscript{779} In 1822, Lord Castlereagh, the British foreign minister committed suicide, the victim of homosexual blackmail.


\textsuperscript{781} The propriety of publicising criminal convictions for sodomy through the press and the spectacle of public execution was a recurring theme of the nineteenth century. This suggests that the ‘unspeakable’ was not in fact silenced. It was central concern of the 1847 Select Committee of the House of Lords. The committee asked Alexander Maconochie if he was ‘of the opinion that punishment for that offence before the public has a tendency to make people think of it, who otherwise would not think of it at all?’ Alexander Maconochie, evidence to the select committee of the House of Lords, 17 March 1847, in BPP, JO & T, no 1, 1847, first report, p 114. In 1870, the colonial historian James Bonwick reversed this idea. He claimed ‘it would not be honest in the historian to be silent about one evil that pre-eminently cursed the penal settlements of Australia and Van Diemen’s Land …’ See \textit{Curious Facts of Old Colonial Days}, Samson Low Son & Marston, London, 1870, p 272; According to Jeffrey Weeks concerns with the propriety of publicity were still being voiced at the end of the nineteenth-century, even after the crime had ceased to be a capital offence. Weeks notes, ‘In 1889 the Director of Public Prosecutions noted ‘the expediency of not giving unnecessary publicity’ to cases of gross indecency’. See J. Weeks, ‘Inverts, Perverts and Mary Anne’s: Male Prostitution and the Regulation of Homosexuality in England in the Nineteenth and Early Twentieth Century’ in M. B. Duberman, M. Vicinus & G. Chauncey (eds.) \textit{Hidden from History: Reclaiming the Gay and Lesbian Past}, Nal Books, 1989, pp 200-01.
Reporting the ‘Unspeakable’: Unnatural Crime and the Colonial Press

Australian newspapers offer the reader an illuminating and valuable insight into contemporary perceptions of what was deemed ‘unspeakable.’ The colonial press reported male sexual crimes and ‘unnatural’ acts in a number of different ways. Many reports of sexual crimes brought before the colonial courts contain merely the bare bones of the case. They feature as one-line statements, sandwiched between reports of accidents, fires, robberies and marriage banns. In February 1834 the Sydney Monitor noted, ‘Samuel Jones was indicted for an unnatural offence – Guilty – Reprimanded.’ In a similar manner the Sydney Morning Herald reported in July that same year that ‘four men confined in the Sydney Gaol, have been committed to take their trial for an abominable offence’. These reports (and they are numerous) were written as plain simple facts, everyday occurrences in the daily affairs of the colony. The cases were not embellished or elaborated upon. There was no expression of moral judgment or a sense of outrage. In these reports there was no drama, no undue publicity and thus no need to ‘apologise’ for mentioning. Other trial reports observed the sentences imposed by the courts. In February 1832, the Herald noted ‘Michael Connolly, convicted of an unnatural crime. Death recorded; Thomas Edwards convicted of attempting to commit an unnatural crime. To be worked in irons on the public roads for twelve months.’ In these reports the specific details of the ‘unnatural crime’ were not spelled out. Instead, the severity and satisfaction of their punishments were.

Other cases were censored and were reported as such. Colonial newspapers regularly acknowledged their reports had been qualified and the ‘delicate details’ had been withheld. In November 1809 the Sydney Gazette reported the case of John Boulton who had been ‘charged with acts of indecency’, acts ‘which delicacy restrains the

782 Monitor, 14 February 1834. On the 15 February the paper informed the reading public that Jones had received the death sentence from the court. The paper was ‘silent’ in mentioning any facts or passing any further comments on the case.
783 Sydney Morning Herald, 31 July 1834.
784 On 20 February 1834, the Sydney Gazette quietly noted, ‘William Willson was convicted of bestiality. The prisoner was sentenced to be worked in irons on the public roads of the Colony for two years.’
785 Sydney Morning Herald, 27 February 1832.
mention of in a public print’. This tactic continued to be employed. In January 1846 the *Herald* noted the case and trial of two convicts from Cockatoo Island. Frederick Blackwell and Frederick Weston had been ‘indicted for an unnatural offence’. Yet the details of their crimes were ‘wholly unfit for publication’. Indeed expressions such as ‘the details must not sully our pages’, ‘of too groce [sic] a nature to meet the public eye’ and ‘conduct which aught [sic] not to be named in a Christian country’ were familiar tropes utilised by the colonial press.

Explicit detail then was not a prominent feature in many newspaper reports of colonial sexual crimes. Yet this does not amount to ‘silence.’ The fact that cases were documented in the first place, regardless of their vague content, suggests they served a wider disciplinary purpose. This discipline sometimes embraced both sexes. In March 1830, the *Sydney Gazette* noted, ‘the Domain is becoming a resort for very improper characters of both sexes. It is not necessary to say any more on the subject.’ There was clearly a thin line between ‘discipline’ and ‘advertisement’ however. Some historians have suggested that the hardening of gender roles into more polar definitions of male and female increased the opprobrium attached to ‘deviant’ sexual behaviour. It also served to locate sexual activity into distinctly ‘heteronormative’ and reproductive channels. In the context of the penal colonies where men outnumbered women, publicising what was

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786 *Sydney Gazette*, 26 November 1809. This report went on to state Boulton’s guilt and punishment however.

787 *Sydney Morning Herald*, 9 January 1846. They were both found guilty of ‘a common assault’ and sentenced to twelve months hard labour in Darlington gaol.

788 Such terms were also utilized in reports of rape and child abuse. See *Monitor*, 28 January 1828, 7 May 1828, 14 January 1839; *Sydney Morning Herald*, 2 May 1831, 12 August 1833, 19 August 1833; *Hobart Town Courier* 27 April 1838, 14 June 1844.

789 *Sydney Gazette*, 30 March 1830.

790 Foucault’s observation that sex was not so much silenced but rather exploited ‘as the secret’ is pertinent in this context. M. Foucault, (R. Hurley, trans., 1978), op. cit., p 35.


792 Michael Warner uses this term ‘heteronormativity’. Warner, a historian of colonial America has argued that sodomy was (and still is) fundamental to the American national imaginary. See ‘New English Sodom’ in *American Literature*, 64, 1992, pp 19-47; ‘Homo-Narcissism; or Heterosexuality’ in J. Boone & M. Cadden (eds.) *Engendering Men*, Routledge, New York, 1990.
“unspeakable” was particularly pertinent. It served to remind the colonial population of the potential legal consequences attached to deviant behaviour. This analysis is extended if we consider the regular appearance in the colonial press of charges of sexual impropriety that were dismissed. In August 1809 the Sydney Gazette noted, “John Wilson was indicted for an abominable attempt, and acquitted for want of sufficient evidence.” Printing cases that were dismissed remained a constant feature of the colonial press. In January 1846 the Sydney Morning Herald informed readers that, “Thomas Macfarlane who was under committal for assault with intent to commit an unnatural offence was discharged by proclamation, the Attorney General declining to prosecute.” Cases of “unnatural crime” were indeed difficult to prove. Yet if the crime was truly “unspeakable” then why did the press bother to report those cases that were thrown out of the colonial courts?

Michael Sturma has suggested that, “colonial newspapers not only provide the most available source for gauging community perceptions of crime, but they were intimately involved in shaping those perceptions.” Cases of “unnatural” and “unutterable” crimes were reported in other ways. Compared with the minimal reports already analysed, the terms and concepts utilized in these reports suggest a deeper insight into contemporary perceptions surrounding the unspeakable crime. Colonists were regularly informed about “an offence of a most heinous and disgraceful nature”, “a horrible offence”, a crime “of the most disgusting and abominable kind” or “an assault disgraceful to his species.” In 1812 the Sydney Gazette noted the ferocious treatment of

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794 Michael Sturma suggests that “the attempt to impose respectable standards of behaviour, whether through the overt coercion of the penal system or by more subtle means such as the press, tended to dramatise crime and make it more visible”. See M. Sturma, (1983), op. cit., p 187.

795 Sydney Gazette, 27 August 1809; Sydney Morning Herald, 16 January 1846.

796 In 1828, conviction in sodomy cases was made easier by a legal amendment. In the debates in the House of Commons, Peel informed the members that the “two kinds of proof” (penetration and emission) required to convict were to be reduced to one so that “penetration” alone was enough “evidence.”

797 Sturma also noted the need for historians to be aware of the “prejudices and questionable preconceptions of contemporaries” and the views expressed in colonial newspapers that “reflected various local prejudices while evincing predominantly middle-class views”. See M. Sturma, (1983), op. cit., p 4.

three men at the public pillory in Sydney. Michael Simpson, Thomas Brown and William Bailey had been convicted ‘for an offence of an abominable description’. According to the paper, ‘the indignation of the populace was such as frequently to require the interference of the police to the prevention of stones and other hard substances being thrown at the criminals’. The Gazette concluded their report with the observation that the actions of the crowd in Sydney suggested they were ‘the objects of universal detestation and contempt’.799

Was the Gazette correct in its assessment of popular attitudes? Certainly the actions of the public crowd gathered in Sydney cannot be ignored.800 Yet the discursive terms used by the paper were familiar epithets, ‘mere formulas added almost dutifully’.801 They had long characterised and continued to characterise the discourses and reports of same-sex relations. Such terms are found throughout the signifying conventions of western tradition and range across many periods from Renaissance England to the discoveries of the New World.802 The newspapers of colonial Australia did not deviate from this customary rhetoric. The use of these well defined narrative patterns, a familiar style of phrase and what Rudi Bleys has identified as ‘particular signifying images, names and terms’ were indeed commonly deployed in colonial newspaper reports.803 Stock phrases, biblical allegory and a constant repetition of revulsion and horror are not

799 Sydney Gazette, 8 February 1812.
801 Alan Bray, Homosexuality in Renaissance England, Gay Men’s Press, 1982, p 62. Bray’s observations are from a different historical period, yet their relevance to the nineteenth century further illuminate the ‘continuity’ argument of my analysis. In a similar manner, Rudi Bleys has noted that ‘frequently, texts are made up of … well defined narrative patterns that, when closely read, clearly suggest preconceived theories. Such descriptions of non-conformist practices are not merely expressions of amazement or contempt; their vocabulary, syntax and pragmatics reveal much about the authors’ cognitive assessment of information.’ Rudi Bleys, The Geography of Perversion: Male-to-Male Sexual Behaviour outside the West and the Ethnographic Imagination 1750 – 1918, New York University Press, 1995, p 97.
then indicative of attitudes surrounding same-sex crimes. Rather, they equipped contemporaries with a particular language and a set of cultural meanings that invited a particular response.

Lee Edelman has suggested that ‘horror’ is ‘indissociable from the discursive representation of homosexuality itself’.804 This is illustrated by the regularity of court cases presented to the reading public through the ‘fire and brimstone’ discourses of the court proceedings. The full and often thunderous ruminations of a judge summing up a trial, conviction and sentence made frequent appearances in the colonial press. These reports often stretched across many pages of the paper. They were occasionally highlighted by the use of capital letters announcing an UNNATURAL CRIME CASE.805 The extent of the coverage they gave to the ‘crime not fit to be named’ is remarkable.806 At other times witness testimonies and verbal evidence were printed in full. These reports were bold, voluminous and began appearing in the press from 1808.807

In October 1842, William Williams and Solomon John were found guilty ‘upon the clearest evidence as voluntary participators in the same abomination’. The Chief Justice sentenced them both to death by hanging. The Sydney Morning Herald printed a full version of the speech made by the judge on pronouncing their sentence. The publicity given to this speech by the newspaper is less remarkable if we consider the words of the judge himself:

William Williams and Solomon John, the diabolical act of which you two unnatural monsters have been convicted, is one of the very few offences for which the ameliorated state of the criminal law still awards the

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805 Sydney Morning Herald, 24 October 1842.
806 Quoted in the Sydney Morning Herald, 12 December 1843. On this day, the paper dedicated four pages to the proceedings of a court commission that had been sent to Norfolk Island to try five capital cases. Four of these cases involved ‘that detestable and abominable offence’. The paper printed the week long proceedings in full, documenting the charges, the address made to the jury on the nature of ‘evidence’, witness testimonies, the sentences received and Justice Burton’s closing speeches.
807 See Sydney Gazette, 31 July 1808. This case involved two men, Richard Moxworthy and John Hopkins. They were found guilty ‘with the commission of an offense of the most disgusting and abominable kind’. The prisoners were sentenced to death. The damning verdict of the case and the moral outrage expressed by the judge advocate were printed in full.
dreadful sentence of death. Not even to be ‘named amongst Christians’ it is not to be wondered that the enlightened spirit of the age in which we live should forbear to modify the denunciations of the law, for a crime which we know from Sacred History, had involved the Dread Vengeance of Heaven upon whole cities, whose infamous practices have given the very appellation by which it is known amongst nations, savage and civilized.\textsuperscript{808}

Historians such as Alan Bray and Louis Crompton have noted both the fluidity and familiarity of the discourses that surrounded the ‘unspeakable’ crime.\textsuperscript{809} Legal rhetoric and religious allegory had long informed popular ballads, social satire, scholarly writing and newspaper reports. The ‘very appellation’ that was ‘known amongst nations, both savage and civilized’ referred to here by the judge would have been commonly acknowledged by the colonial reading public. These speeches delivered at the close of court cases were often printed in the newspapers of the day. They were didactic, moralising and cautionary. They served to warn the population of the legal consequences of unnatural behaviour and the moral standards expected of the colonial community. Two weeks later, when the Herald reported ‘Williams and John, for an unnatural crime have been respited’, the effect on the reader can only be wondered at.\textsuperscript{810}

Newspapers rarely deviated from the ‘stereotyped lexicon of abuse’.\textsuperscript{811} Jeremy Bentham noted the obligatory employment of pejorative, formulaic epithets that were considered ‘acceptable’ discursive means of mentioning the unmentionable. Bentham regarded this as restrictive, as limiting the freedom of the press and indeed all rational intellectual discussion on the topic.\textsuperscript{812} Beyond the standard rubric however, colonial

\textsuperscript{808} Sydney Morning Herald, 24 October 1842. The reference to the ‘ameliorated state of the criminal law’ referred to Peel’s law reforms of 1837/8. These reforms had reduced the number of Capital crimes to just nine offences. The ninth offence was written in the statute book as ‘a nameless offence of an abominable kind’. These reforms were printed in the colonial press – see the Monitor, 14 May 1838.

\textsuperscript{809} Alan Bray noted that the Sodom story is ‘to be seen adapted with equal ease for the purpose of religious controversy as in a popular ballad, the writings of a humanist scholar or a piece of social satire’. Crompton similarly notes a style ‘endemic in the learned as well as the popular literature of the age’. See Alan Bray, (1982), op. cit., p 28; L. Crompton, (1985), op. cit., p 22.

\textsuperscript{810} Sydney Morning Herald, 4 November 1842. They were sentenced to transportation for life instead.

\textsuperscript{811} L. Crompton, (1985), op. cit., p 22.

\textsuperscript{812} As he noted, ‘A battery of grapeshot composed of all the expressions of abhorrence that language has given or can give birth to is by each newspaper and every other periodical kept continually playing upon this ground. No wonder that down to this instant no man with the torch of reason in his hand should have found nerve to set foot on it. Miscreant! You are one of them! Such are the thanks he would receive, such
editors did on occasion provide independent comments and opinions on court cases. In 1834 James Kelly was charged with ‘an act of gross indecency’. The court in Sydney sentenced him to fourteen days imprisonment ‘in default of paying a fine of five pounds’. Editorial comment in the Sydney Gazette responded to the sentence in terms of moral outrage. It noted, ‘the disgusting crime of which this man was found guilty, has become of late seriously prevalent and we do think called for a severer punishment than fourteen days idleness in our Sydney gaol.’ Complaints that sentences had not been sufficiently harsh were frequently expressed in the Monitor. In February 1834 William Wilson was ‘indicted for an unnatural offence’ and was sentenced to two years to an iron-gang. According to the editor, ‘unless there were doubts of the prisoner’s guilt, this sentence does not seem adequate to such an offence.’ The Monitor was particularly vocal on the subject of punishments surrounding ‘moral crimes’. In December 1836, James McFarlane was sentenced to the stocks for one hour for wearing female apparel. The paper reported the case and condemned the sentence. It informed its readers, ‘We consider an hour’s stocks too mild a punishment for this offence against public decorum.’

Colonial newspapers regularly publicised the colony’s sexual and moral crimes. Court cases were noted and were usually followed up with later reports on the sentences passed. The punishment of the public pillory was advertised by place, date and time. In 1809, John Boulton was found guilty of ‘acts of indecency’. The Sydney Gazette informed its readers that he would be ‘set in the public stocks on the Green Hills, at the Hawkesbury, on the following Saturday in the forenoon, there to remain for the space of two hours.’ Editorial opinion was freely expressed and letters to the press were published daily. There was, then, little silence and official attempts to censor particular topics often served to further publicise what was deemed ‘indelicate.’ In December 1836

the bad thanks which any man who should attempt to carry upon this part of the field of morality those lights to which all other parts are open.’ J Bentham, Code Penal, 24 March, 1816, box 74a, folio 168, quoted in L. Crompton, (1985), op. cit., pp 44-5. Presumably this was the reason why Bentham never published his views on same-sex relations during his life time.

813 Sydney Gazette, 17 April 1834.
814 Monitor, 25 February 1834.
815 Monitor, 26 December 1836. The Sydney Gazette reported a similar incident on 2 March 1839. However the capitalized title of the article ‘INNOCENT AMUSEMENT’ suggests a different attitude than that held by the Monitor.
816 The case of John Boulton was noted in the Sydney Gazette on 26 November 1809.
the *Monitor* launched a scathing attack on the decision of Bourke’s administration to suspend the provision of information to the press, regarding the colony’s prisons. The government alleged that the press had made ‘improper use’ of such information. The *Monitor* conceded that this might be so, yet it ‘would not justify a future silence and mystery’. According to the paper, ‘a deal more good than harm must ever arise from the publication of what passes inside the gaols of the colony.’

The colonial press defended its democratic right to report news and express opinions. It was this attitude that informed the reports and the editorials on cases of ‘unspeakable’ offences. Sentences were often condemned as inadequate. On other occasions editorials presented surprisingly unorthodox comments. In December 1828 the *Sydney Gazette* informed its readers that George Browne and William Lyster had been found guilty of ‘an unnatural crime called sodomy’. The accused were mariners from the ship the *Royal Sovereign* and Lyster was described as ‘a lad’. The paper reported the court case, the verdict and the foreboding words of the Chief Justice. ‘Sodomy’ according to the judge was ‘a crime which our laws hold in particular abhorrence … it is one at which nature shudders; and it therefore only remains for me to pass upon you that sentence which is affixed to the crime of which you were convicted …’ The accused were sentenced to death and Browne was ‘launched into eternity’ on 22 December 1828. William Lyster was reprieved. The *Sydney Gazette* welcomed Browne’s death but also Lyster’s reprieve. The paper suggested to its readers that:

> Repugnant as such crimes are to human nature, still every offence possesses its gradations of guilt; and we have always been of opinion that the criminality of this lad has considerably merged in that of the great offender who has paid the forfeit of his life. There can be little doubt that the youth fell victim to the artifices of Browne.

The idea that ‘such crimes’ were ‘taught’ is perceptible here. In 1836, the *Monitor* reported a similar case. In a leading article entitled ‘Public Justice’ the paper expressed

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817 *Monitor*, 12 December 1836.
818 His execution was reported in the *Sydney Gazette*, 24 December 1828. In this report the paper noted his name as Alexander Browne.
819 *Sydney Gazette*, 15 December 1828; 24 December 1828.
its views on crime and punishment in no uncertain terms. It loudly proclaimed, ‘Murder, almost all men agree to punish with death. Rape and unnatural crimes many hesitate upon. We do not … Murderers, ravishers and bestial men are not fit to live among moral men and should be herded together somewhere, imprisoned for life or hanged.’ The article continued to expand its theories on criminal justice yet it softened its tone when it came to consider the mitigating circumstances of youth. It noted:

The crime which we think a boy may not have been fully conscious of, as to its heinousness, is the one for which a lad is now under sentence of death. We have heard of most impure practices in public schools. We think therefore, the boy under sentence ought not to lose his life. He may have done that for which he is sentenced to die, in partial ignorance of its gross immorality and its dreadful tendency. 820

These two cases and the ways in which they were reported and analysed provide a rare insight into what was supposed to be unknown and unspeakable. The cases are discussed calmly in plain open language. They are free of the well versed traditional discourses of opprobrium and horror. Discourse aside, the opinions expressed reveal contemporary voices loudly betraying the accepted standard view of same-sex relations as an ‘abomination’. They illuminate the dynamics of age, youth and criminal culpability as mitigating circumstances and reveal the disjuncture between the theory and practice of a harsh legal code. 821 Many contemporaries feared the tangible effects of speaking the


821 In British law, boys under fourteen years of age, if sodomised had not committed a felony. If they were over fourteen years, they were guilty of committing a criminal offence. Changing attitudes towards childhood in the nineteenth-century often confused social attitudes towards young people and ideas of criminal culpability. Writing of an earlier period, Goldsmith noted, ‘teenage boys who claimed to be victims of a homosexual attack earned little sympathy at the Old Bailey if it was shown that they had accepted so much as a penny custard from the would be seducer’. See Netta Murray Goldsmith, (1998), op. cit., p 92. See chapter 5 for a further analysis of youth.
unspeakable and publicising the very idea of sodomy by the pillory and the gallows. Yet voices in the colonial press sometimes found themselves inquiring into the effects of the laws surrounding moral crimes. At times, they judged punishments too harsh, at others too lenient. What was deemed ‘unspeakable,’ then, often found itself on a public platform.

This analysis of editorials in the colonial press reveals an alternative picture to the familiar portrait. Beyond the silences and beneath the ‘wearisomely familiar’ terms of outrage then, attitudes were sometimes more nuanced and less concrete than historians have usually allowed.822 Small moments of enlightenment however must not lead to large generalisations. Judges and newspaper columnists did not always regard age and circumstances to be mitigating factors. In 1834 Michael Carney was ‘convicted of an abominable offence’ committed on Michael Minton, a ten year old boy. The only other witness was Owen Davis who was twelve years of age. Carney was sentenced to death and the judge ordered that the two boys should be present. The Sydney Gazette reported the execution. The paper noted the reaction of the two boys in terms that are problematic today. According to the Gazette, they ‘were nothing moved by the terrific end of their companion. The elder of the boys evinced more shame than his little companion who seemed quite unconscious of the horrid offence for which Carey forfeited his existence.’823 There is an undertone here that the boys were somehow seen as ‘complicit’ in the sex crime. This case is also suggestive of a penal attitude towards public spectacle as deterrent example. Rather than silence and ignorance then, this judge ordered that the boys should be present at the execution, presumably to warn them against repeating in the future the ‘crime’ they had experienced. There is little that is sympathetic or delicate in this case. In a related context, the Launceston Examiner was no more sympathetic to young lads than they were to other ‘miscreants’ and ‘monsters’ found guilty of sex crimes. In October 1846 Michael Lyons was charged and found guilty of a ‘nameless offence.’ The paper informed its readers:

823 Sydney Gazette, 13 May 1834; 20 May 1834. This case reveals the confused perceptions surrounding boys and minors as ‘culpable’ in such cases.
We can make no further allusion to this revolting case except to observe that the crime was fully proved, and the prisoner – a mere lad belonging to the Port Cygnet Probation Station – immediately sentenced at the bar to be hanged. The learned judge … begged of the unhappy wretch not to indulge in any hopes of mercy.  

Michael Lyons suffered ‘the last penalty of the law’ in front of Hobart’s city gaol in November 1847. The Launceston Examiner reported his execution without drama and with as little publicity as possible.  

The Foreign Vice?  
Lust chose the torrid zone of Italy  
Where blood ferments in rapes and sodomy  

The title of Daniel Defoe’s 1701 poem ‘The True-Born Englishman’ encapsulated a prevailing assumption in the British cultural imagination. Sodomy and unnatural crime had long been referred to as the ‘foreign vice.’ This was a commonly used discursive device. Juxtaposed with the familiar epithets and biblical references, the ‘foreign vice’ was a further enabling discourse that permitted mentioning what was unmentionable. The expression regularly featured in poems, plays, newspaper accounts and even in polite conversation. It was also an early manifestation of xenophobia. According to Louis Crompton, ‘the passion for ascribing it to a Continental source can be traced back at least as far as the fourteenth century.’ In Protestant Britain, both Catholic Italy and the traditional enemy France were identified in the popular imagination with the sin of Sodom. England’s long involvement in war with France during the late eighteenth and early nineteenth centuries saw attitudes towards sodomy harden. In the context of war,
an intensified patriotism exacerbated the link. The representation of sodomy as ‘un-English’ informed the discourses of genteel masculinity and served to define the values and morals of the wider population. It located sodomy outside the nation. It was an external foreign source that was un-English and un-manly. Through the tropes of ‘moral infection’ and ‘contamination’ however, fears were often expressed that the ‘foreign vice’ might be ‘imported.’ Sodomy posed an ever-present danger lurking at national boundaries.

The notion of sodomy as the ‘foreign vice’ was not a prominent feature of colonial discourse in Australia. Britain transported more than the 165 000 men women and children who arrived in the Australian colonies as convicts. It also transported its political structure, religious institutions and a legal code. Cultural and social values, codes of morality and community ideals were similarly shipped across the world. Yet old enemies remained on the Continent and the idea of the ‘foreign vice’ was not transported to the penal colonies. British colonists at other colonial centres concerned themselves with ‘native vice.’ White degeneration, racial contamination and fears of ‘going native’ were often conflated in sexualised discourses on the colonised native ‘other.’ Yet in the penal colonies of Australia, moral fears of ‘native vice’ also failed to materialise.

As a symbolic discursive device the ‘foreign vice’ did not appear in colonial newspapers. Nor was it especially highlighted in crime cases that actually did involve sodomy.

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831 Crompton suggests that ‘to be a sodomite in England was to be a double anomaly, violating both the natural and the national order’. Louis Crompton (1985), op. cit., p 63.
834 It was occasionally utilised in evidence given to select committees on transportation however. Major Thomas Wright informed the 1838 committee that ‘there was an opinion on the island [Norfolk] that unnatural crimes were committed; the same as we have an opinion that they are in Italy, or in other places.’ Evidence given to the select committee on transportation, 2 April 1838, in SC 1838, op. cit., pp 136-7; At a select committee of the House of Lords in 1847 Alexander Maconochie spoke of ‘a vice the most revolting
‘foreigners.’ In 1813 the *Sydney Gazette* reported the case of Francisco O’Bragh. He was ‘a foreigner’ and was convicted ‘of an assault of a horrible nature’. The prisoner was treated harshly. He was sentenced to one hundred lashes at Parramatta, an hour in the public pillory, solitary confinement for one month ‘on bread and water only’ and ‘to be afterwards sent for three years to Newcastle, there to labour in the coal mines’. The sentence O’Bragh received was severe in comparison to similar cases of the same period. Was this because he was a foreigner? This is the only such case that I have discovered, so it is a difficult question to answer. It is impossible to determine exactly what his crime involved but it was (presumably) proved and of a seriously ‘horrible nature’. Few ‘foreigners’ would have been resident in New South Wales in 1813. However, the press made no further comments on the case, the sentence, or the prisoner’s nationality.

Yet the related idea - that sodomy and ‘unnatural vice’ were ‘imported’ into the moral community from an outside source certainly did exist in colonial Australia. We have seen that the ‘abject’ convict sentenced to the penal settlements represented the colonies’ ‘outside other.’ This ‘othering’ explicitly located penal settlements and their inhabitants as an ever present threat to the colonial community. Represented in terms of ‘infection,’ the ‘incorrigible’ convict was constructed through a discourse of deviancy that was both criminal and sexual. The *Monitor* referred to Norfolk Island as ‘Gomorrah Island’ throughout the 1820s. By the 1840s the *Sydney Morning Herald* was leading the way in representing the island as the ‘modern Gomorrah’ with frequent reports of ‘unmentionable crimes’ that were ‘prevalent to a degree that is horrible to contemplate’. Despite the opprobrium, the colonial press was relentless in reporting ‘unmentionable atrocities’. There was little in the way of ‘silence’ and in Britain, even to Englishmen’. Evidence to the select committee of the House of Lords, 17 March 1847, in BPP, JO & T, no 1, 1847, first report, p 113. In a related context, Peter Fraser spoke of the warm climate of Australia. He noted, ‘it is hot and I think that has some effect’ in contributing to ‘the commission of that crime’. Evidence to the same, 31 May 1847, in second report, in ibid, p 547. In response to allegations of unnatural crimes in the colonies Mr. Berry told the New South Wales Legislative Council ‘he did not believe it is so prevalent as in many countries of Europe’. Reported in the *Sydney Morning Herald*, 11 July 1838.

835 *Sydney Gazette*, 25 September 1813.
836 See *Sydney Gazette*, 26 November 1809; 8 February 1812; 15 February 1812.
837 See the *Monitor*, 6 April 1827; 14 February 1828; 7 May 1828.
838 *Sydney Morning Herald*, 26 July 1841.
the *Times* indulged in such representations of the penal island.\(^{839}\) In the Australian context then, there was no need for the press to utilise the idea of the ‘foreign vice.’ Unnatural men and their unnatural habits were regularly ‘imported’ into the community from a much closer source.\(^{840}\)

The colonial press was anything but silent in relating incidents of ‘unspeakable crimes’ to the colonial reading public. From the earliest days of the colonial press and through to the 1840s, this was a constant feature. These reports were published as news and they featured comfortably alongside other court cases noted in the crime columns of daily newspapers. Occasionally more enlightened attitudes towards repressive laws were expressed. Yet there was an obsessive concern with the state of crime and morality in colonial society. More often, these reports served to warn the reading public of the consequences of deviant behaviour. In this analysis, speaking the unspeakable served a useful moral sermon and a means of controlling the sexual lives of the colonists. Rather than silence and censorship then, the colonial press utilised traditional enabling discourses to inform, influence and direct popular attitudes. Moving away from colonial court cases and crime reports, this chapter considers how the press continued to mobilise this rhetorical strategy when it responded to the ‘unspeakable’ findings of William Molesworth’s select committee.

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\(^{839}\) See the *Times*, 16 December 1846. In response to Earl Grey’s orders that Sir William Denison immediately abandon Norfolk Island in 1846, the *Times* noted, ‘nothing, we fear, can improve the present generation. Though the crying wickedness of Norfolk Island be swept away like the Cities of the Plain, the thousands that have been there educated will still be left to poison the length and breadth of the unhappy country which has been forced to receive them. Time alone and that far distant, is powerful to heal the long festering disease.’

\(^{840}\) Jonathon Goldberg has noted the ways that ‘sodomy’ has been historically mobilised in the face of threats to the social order, and ‘whatever a culture wishes to see as dangerously other – were the most likely sodomites. That is, the accusation of sexual misbehaviour is seen to follow from the violation of the social order.’ The ‘incorrigible’ convict from the penal settlements provided this role in colonial Australia. See Jonathon Goldberg (ed.), (1994), op. cit., p 5.
‘Talk They of “Morals” and Point to Us?: The Press Responds to the Molesworth Committee’

When the findings of Molesworth’s select committee were made public, the colonial press was quick to react. The *Australian* informed its readers, ‘you have been traduced and belied beyond example’. As we have seen, central to the report was the idea of reciprocal demoralisation. This perception sought to both discredit colonial society and the system of transportation. Chapter one examined the ways that colonists in turn, defended the reputation of antipodean society through a moralising discourse. They upheld the idea of reciprocity, yet employed it as a defensive rhetoric. Through this technique, they insisted that colonial society was a moral community. This embraced both bond and free alike. Historians have considered the moral discourses of the Molesworth report. Yet most have restricted the ‘moral’ framework to the imagery and language of slavery that littered the report. John Hirst suggested that the committee used “‘slaves’ and “slavery” as magic words’ that left colonial society ‘without a shred of decency’. In her recent book, Amanda Laugesen examined the rhetoric of the report for an insight into colonial politics. Laugesen too suggested that the language of slavery was a central theme and a particularly evocative metaphor that ‘was to long condemn the convict system in the popular and historical imagination’. It is worth extending her analysis because the language of slavery also condemned the colonists. The following discussion moves away from the slave theme to reveal another prominent trope of the report, and the reaction it produced. What was ‘unspeakable’ had informed much of the ‘evidence’ provided by witnesses. The colonial response involved an engagement with these more colourful and scandalous claims of the Molesworth report. Beyond the assertion of moral respectability and the rejection of slavery, the reputation of antipodean

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841 See the *Australian*, 11 May 1838.
842 *Australian*, 18 May 1838.
843 Slavery was abolished the same year the report was published. That such discourses were utilised by the opponents of transportation held a particularly pertinent significance in the rhetoric of anti-transportation propaganda.
846 Kirsten McKenzie has recently examined the Abolitionist argument that slavery degraded the slave and the entire society. See K. McKenzie, (2003), op. cit.
society was further and fiercely defended through mobilising ‘unspeakable’ discourses in no uncertain terms. In this analysis, the fragile semblances of delicacy were removed and silence was but little heard.

In a speech delivered in 1839, Dr. Dickensen, Chaplain to the Archbishop of Dublin, warned against the dangers of free immigration to the Australian colonies. To his audience of potential Irish settlers he thundered:

For two sessions a Committee of the House of Commons were engaged in considering the condition of these colonies; but no full report ever emanated from the Committee, because the details of the evidence were so indecent that it was declared unadvisable to circulate them … and though the chief objectionable portions of the evidence were expunged, some facts were preserved in it which proved the horrible depravity of the colonies.  

Dr. Dickensen’s assertion that ‘some facts were preserved’ that ‘proved the horrible depravity of the colonies’ were seized upon by the colonial press in 1838 and 1839. The findings of the select committee produced a ‘very considerable sensation’ within colonial society. Reactions were swift, loud and belligerent. In the midst of colonial outrage there was little room for hushed moral silences in the newspapers. Trading scandal and sexual tit-for-tat was a common rhetorical strategy. In 1838 the Hobart Town Courier informed its readers about one witness. The paper noted, ‘Mr. E. A. Slade was a Police Magistrate at Sydney, dismissed for a gross breach of prison discipline, in assigning a female convict servant to his own service, living with her in open adultery, after she had been brought before him for misconduct. This gentleman must possess great effrontery to have appeared before a Select Committee, and exclaim against a laxity of morals in New South Wales, where he himself as a magistrate had set so bad an example.’

847 Quoted in the Hobart Town Courier, 3 April 1840.
849 Hobart Town Courier, 1 June 1838.
Many of the more prurient and lewd details of the ‘evidence’ were reported in the colonial press. There were however, some tactical differences in the manner in which this ‘evidence’ was discursively conveyed. This was especially evident when it came to printing the ‘unmentionable’ evidence. In January 1839, the Monitor published an extract from the British journal the Spectator. This highly regarded, respectable journal had commented upon Molesworth’s report. The extract, reprinted in the Monitor, represented the Australian colonies as Sodom and Gomorrah and had asked its British audience ‘where except in the Bible has such universal and horrible depravity existed?’ Conversely, the Hobart Town Courier refused to publish this particular extract and its ‘foulest calumnies’. It did however have plenty to say about it and tantalised its readers by noting ‘we would quote’ [the Spectator] ‘were it not that we would wound the delicacy of our readers, as well as rouse their indignation at the revolting representation which is made of the state of society in this colony.’ ‘Silence’ and censorship then, worked in similar ways. An analysis of the press coverage given to the evidence of William Ullathorne reveals this dialectic.

Bishop Ullathorne was already a noted colonial figure. The recent publication of his pamphlet The Catholic Mission in Australasia was considered by many as a scathing attack on the morality of colonial society. In July 1838 the Sydney Morning Herald announced the publication of his book ‘in which a most deplorable picture is given of the moral state of the Colony’. The following month the paper claimed the work was obviously ‘the product of a creed that prostrates the mental faculties’. According to the colonial lawyer Nathaniel Kentish, Ullathorne was ‘the disgrace of the Roman Catholic

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850 Monitor, 14 January 1839.
851 Hobart Town Courier, 1 March 1839. The Spectator also had a wide reading audience. The Hobart Town Courier expressed concerns that this journal could depict the state of colonial society in this way. It called for colonial action and petitions to dismiss such perceptions of the colony. The paper also feared the detrimental effects upon the continuance of free immigration to the colony.
854 Sydney Morning Herald, 9 July 1838.
855 Sydney Morning Herald, 6 August 1838. The paper further denounced his pamphlet as ‘the effusion of a designing man’ noting ‘much of this pamphlet is beneath notice’.
priesthood’. The Bishop then had already provided many colonists with cause for offended moral outrage. It was his testimony to the select committee that was especially seized upon. According to the *Australian* his evidence was ‘the grossest of all slanders’. Gross slander aside, in January 1839 the *Australian* announced to its readers that it would be printing extracts from Ullathorne’s evidence. The paper noted ‘it is our duty – a painful one it is’. Colonists read that Molesworth had told his star witness, ‘you will perform your duty as a priest and render an important service to the community by unfolding the horrors …’ Unfold them Ullathorne did, but not before ‘justifying’ his speaking the ‘unspeakable.’ According to the Bishop, ‘it is only a hope that something will be devised for preventing such horrible crimes which will induce me to say anything at all upon the subject’. In publishing his evidence, the ‘horrified’ reader was deluged with a titillating taste of convict sexual practice referred to by the Bishop as ‘crimes which are notorious – crimes that dare I describe them, would make your blood to freeze, and your hair to rise erect in horror upon the pale flesh.’

The *Australian* documented in detail the questions that had been asked of the Bishop and the answers that he provided. They appeared in the newspaper in a fashion akin to the printed parliamentary papers. Yet after printing the questions and answers numbered 237 to 252, the *Australian* chose to omit questions 253 and 254. The paper informed its readers that the ‘testimony of Dr. U [sic] which immediately follows is of too revolting a nature to be inserted, under any disguise in our columns’. The paper happily continued, with ‘no disguise’ to publish questions 255 to 262. These two questions cut by the censor had concerned the sleeping arrangements on Norfolk Island. They were no more ‘revolting’ than the evidence that was printed. The Bishop had revealed a familiar picture of convict depravity, the existence of a sexual subculture and the ubiquitous use of boys and beasts. Ullathorne had clearly manipulated contemporary notions that surrounded same-sex practice through ‘the whole emphatic vocabulary of

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856 See the Memorial of Mr. Nathaniel Kentish, printed in the *Australian*, 20 December 1838.
857 *Australian*, 15 January 1839.
858 Ibid.
859 Ibid.
abomination’ against it; that it was taught to youths (and even the natives), that it was ‘contagious’, that it was inherent in same-sex institutions. This was all printed in the *Australian*. How the colonists interpreted the ‘censorship’ of two questions and answers, in the midst of the ‘unspeakable’ evidence that was already boldly printed before their eyes, one can only wonder. Was this a strategic ‘silence’ that sought to imply something much more awful? If so, colonial ‘censorship’ worked through a sensational and spine-tingling ‘silence.’ This was perhaps more effective in rousing colonial outrage than the power of printed rhetoric could ever hope to incite.

Two days later, on 17 January 1839 the *Australian* published a public apology to its readers. The publication of Ullathorne’s evidence had been a ‘very painful duty’. It had been ‘a task from which we especially shrank’ but also one that the paper had been ‘obliged to discharge’. With respect to select committees in general the paper had earlier noted the ‘rotten materials’ and ‘corrupt agency’ with which they were convened. Molesworth’s committee merely epitomised the most ‘flagrant specimen of these deceptions and mischief’. Why then had the paper rendered the committee’s findings, and Ullathorne’s ‘evidence’ in particular, public? According to the *Australian* they had been ‘compelled to make deliberate reference to that part of Dr. Ullathorne’s testimony’ because ‘it was impossible to notice it at all without making the extract we did’.

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861 Ullathorne provided an interesting variant on the idea of the white colonist ‘going native.’ The Bishop alleged that white convicts taught ‘those crimes’ to the original inhabitants of the Australian colonies. This inverted the idea of the ‘foreign vice’, and like other examples of moral inversion in the penal colonies, was colourful and scandalous propaganda for those who favoured changing the system of transportation.
862 In 1833 the *Hobart Town Almanack* had noted the problematic nature of select committees convened in London to discuss the penal colonies. The disjuncture between penal theories devised in the metropole and their actual and practical working in the colonies was especially noted. According to the Almanack, ‘Although much valuable information has been collected by the committees of the House of Commons and of the societies for the improvement of prison discipline, there has much also been laid before them of an ambiguous nature, and from which it was not to say difficult but impossible for them to draw true conclusions.’ *Hobart Town Almanack*, 1833, p 12.
863 *Australian*, 9 October 1838.
864 The *Australian* made a particular point of also publishing the positive evidence given to the committee. In the final parliamentary report it appears that this had not been taken into consideration. The positive testimonies of Sir George Arthur and Sir Francis Forbes concerning transportation and the success of the assignment system were published and commented upon in a report published by the paper on 29 May 1838. The ‘triumph’ of transportation to Bermuda, where reformation was successful and ‘unnatural crimes’ were non-existent was later reported in the *Australian* on 22 January 1839.
Moreover, it was precisely these unspeakable and scandalous claims that provided ‘such glorious triumph to those who would cast us out from the pale of British colonies’.  

The Australian might have simply ignored his evidence and ‘the fictions of his fantasy’ altogether. Yet they printed his testimony with little bowdlerisation, much noise and a degree of censorship that served merely to half-horrify, half-titillate the colonial imagination further. Ullathorne saw it as his ‘duty’ to speak the unspeakable and to discredit transportation. The Australian in turn saw it as their duty to utilise the ‘unspeakable’ evidence to question the validity of the select committee and their ‘mock inquiries’. For both, it was the worst that could be said. Real or imagined what was deemed ‘unspeakable’ was potently voiced in both anti-transportation rhetoric and by the sonorous voices in defence of colonial reputations in the 1830s. The enabling discourses of the ‘unspeakable’ crime were here clearly mobilised for political purposes that cut across the wider imperial framework.

The Sydney Morning Herald similarly focused upon the figure of the ‘English Papist’ to refute the more outlandish charges made against the colony as ‘a place which must not be named to ears polite’. Yet rather than print the evidence given to the select committee, the paper largely concentrated on the reactions of the New South Wales Legislative Council. Injured by Molesworth’s findings, for some weeks in the middle of 1838 the Council debated the propriety of a colonial enquiry into the ‘real’ state of the colony. In May a petition was signed by over five hundred citizens of ‘great respectability’ calling upon the Council to counteract ‘the evil impression’ created in Britain by the committee. In July, the Herald reported a speech made by Mr. Berry, one

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865 Australian, 17 January 1839.
866 Sydney Morning Herald, 17 May 1838. The Herald agreed with many of the select committees findings. The paper noted that much of the evidence ‘was not a mass of falsehood’ and agreed ‘that the statements respecting the treatment and behaviour of the convict population are substantially correct’. See Sydney Morning Herald, 7 June 1838. The Herald condemned the more outrageous charges of colonial immorality however.
867 After much debate, the Legislative Council decided against setting up a colonial enquiry. The Council figured by the time the evidence had been gathered, a report written and dispatched to the metropole, the British Government and the Colonial Office would have already resolved upon the question of transportation and the future of the colony. See Monitor, 9 July 1838.
of the Council’s members. This speech condemned Bishop Ullathorne and his recent ‘infamous publication’ in which, Berry informed the Council:

Crimes unmentionable were declared to be frequent, so much so, that this Colony is worse than the ancient city of Sodom. If it was, he hoped that if this dapper little gentleman looked back upon the Colony, he might meet with the same fate of Lot’s wife.

Mr. Berry supported a colonial enquiry ‘to do away with the false impressions that had been made’. False impressions aside, he conceded ‘that the crimes alluded to’ did ‘exist’ in the colony. Yet he shrewdly noted that ‘they have existed in all countries of the world’. In terms of morality then, colonial society was little different to anywhere else. This was a common strategy utilised in defending colonial reputations. At other times colonial society was depicted as superior in matters of morality to the metropole. Yet it is the enlightened and very realistic assessment made by this member of the Legislative Council that is particularly noteworthy. It reveals a contemporary voice publicly and rationally speaking the ‘unspeakable.’ It illuminates an opinion and an attitude that is rarely to be heard amidst the formulaic and standard discourses of the day. It almost suggests a degree of nonchalant humour. Jeremy Bentham would have been surprised at such ingenuous public speaking. How the Herald’s readers responded to this candour can only be imagined.

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868 In Van Diemen’s Land, the Hobart Town Courier applauded the efforts of the colonists in New South Wales to redress their grievances. See 10 August 1838; 7 September 1838. Conversely, the Sydney Gazette derided the meetings, the petitions and the calls for a colonial enquiry. The Gazette figured it would all be in vain. The British had already determined the future of transportation and their perceptions of colonial morality. See Sydney Gazette, 24 May 1838; 31 May 1838.

869 Sydney Morning Herald, 13 July 1838.

870 Ibid.

871 See Australian 19 September 1840.

872 See Sydney Gazette, 26 February 1839. The idea of the colony as ‘more moral’ than Britain might certainly be read as a defensive mechanism. However, in his maiden speech to the Legislative Council, the newly arrived Governor, Sir George Gipps noted, ‘…a residence of three months among you has caused me to form a far more favorable estimate of the Colony than that which I had entertained when I left England … in respect to Sydney and its immediate vicinity, I feel happy to be able to avow that, I have found a far greater degree of decorum and propriety of conduct to prevail than, from some accounts of the Colony published in England I had been led to expect.’ Speech to the Legislative Council, 29 May 1838, printed in the Sydney Gazette, 31 May 1838.
In her study of colonial identities, Ann Laura Stoler has convincingly noted, ‘If Foucault has led us to the power of discourse, it is Freud that has, albeit indirectly, turned us toward the power of fantasy, to imagined terror, to perceived assaults on the European self that made up the anxious and ambivalent world in which European colonials lived’. In the context of the penal colonies, the presence of convicts certainly exacerbated the fantasy and terror of antipodean society. The obsessive concern with reputation and respectability reveals this dynamic. Yet an examination of reactions to the Molesworth report expressed in the Monitor suggests a further layer. Fantasy and terror were not solely confined to the colonial context. They were clearly central to colonial imaginings back in the metropole itself.

The Monitor greeted the Molesworth report with contemptuous rebuke. As with the other newspapers, sex and morality occupied a very prominent place in editorials. Yet the Monitor’s reaction to the report was also unique. They took the ‘evidence’ of colonial immorality and sought to explain it. In effect, the paper threw the scandalous evidence back at the metropole itself. Throughout the middle months of 1838 the paper centrally focused upon the sex life of the colony. The ‘unnatural state of celibacy’ and the gender imbalance of the colony were particularly highlighted. The paper wrote of the ‘venality’ and the ‘profane neglect and carelessness’ in condemning convicts to ‘live and die in celibacy’. British penal policy subjected them to ‘vices which disgrace manhood’ because they were ‘mad with self denial’. For the select committee to place ‘the odium of their own wanton policy’ and to blame the colonists for ‘the effects of their unnatural system’ was quite simply absurd. The responsibility for the state of colonial morality was clearly and cleverly located back in Britain. The Monitor scoffed at the portrait of Australia as a depraved Gothic horror story that had been created by the inhabitants of the southern hemisphere. The penal colonies had after all been invented by Britain herself. The product of a careless, gender-blind penal policy had now come to haunt the British

875 These themes are discussed in further detail in chapter 6.
876 Monitor, 15 June 1838.
imagination. The *Monitor* derided their imagined terror.\textsuperscript{877} Paraphrasing Bishop Ullathorne they asked their readers, ‘Why then make such a to-do, and open their eyes so wide and why stands their hair erect on their heads?’\textsuperscript{878}

‘Dare No Longer be Silent’: Exposing the Probation System in Van Diemen’s Land

Transportation to New South Wales was suspended in 1840. William Molesworth’s report was timely yet its significance to the decision to end transportation to the original penal colony has been questioned by many historians. Most agree that the decision had been taken before the committee commenced proceedings.\textsuperscript{879} Transportation continued to Van Diemen’s Land. The assignment system by now discredited as ‘a lottery’ and likened to slavery was replaced with the probation system. The newspapers in this colony had certainly reacted to the Molesworth report.\textsuperscript{880} Yet Van Diemen’s Land had not been a major feature of the select committee’s enquiry. Moreover, in the late 1830s, colonial interests had obsessively focused on Alexander Maconochie’s recent report on the state of their colony. In Van Diemen’s Land, the outrage generated by this report far exceeded that directed towards the findings of the Molesworth Committee. It was not until the following decade that the colonists began to see the damage that both reports had in fact bequeathed to them.

We have seen the integral role that moral and ‘respectable’ discourses played in colonial society. These discourses were ambiguous yet they were also malleable. They intersected the relationship between the metropolitan core and the colonial periphery in

\textsuperscript{877} The *Hobart Town Courier* adopted a similar tactic. In May 1840 it noted that after 50 years of transporting prisoners, the British government now seemed surprised to find the low state of colonial morality and the existence of ‘much moral evil’. As the *Courier* dryly noted, ‘It appears to break upon the members of the government as a new and important discovery – a novelty – an unexpected condition!’ See *Hobart Town Courier*, 8 May 1840.

\textsuperscript{878} *Monitor*, 30 May 1838.


\textsuperscript{880} As indeed had Sir John Franklin. In 1839 he informed the Colonial Office that since receiving a copy of the select committee’s report, ‘I have instituted an inquiry as to the assumed existence of a nameless offence at the prisoner’s barracks. The result has been almost to convince me, it is difficult at all times to prove the negative, that no such crime prevails there, and that were any man guilty of so horrid an attempt, the probability is that an early intimation would be made known to the superintendent.’ Sir John Franklin to Lord Glenelg, 11 March 1839, in BPP, C & P, T, 1810-41, vol 6, p 88 (856).
profound and important ways. Perceptions of morality were mobilised at certain moments for particular outcomes. Colonial moralising discourse of the 1830s was largely defensive. In the 1840s, the same lexicon was employed in colonial propaganda and protest against the probation system and the continuation of transportation. Yet it was also further saturated with particular signifiers and ‘unutterable’ tropes. In Van Diemen’s Land, the transformed assigned convicts of the 1830s, had, by this decade, degenerated into ‘perfect monsters of iniquity’. The political and social concerns of the colony mingled with the ‘fantasy’ and the ‘imagined terror’ of convict depravity. The newspaper press led the way in opposing the system. It loudly exposed a colonial society verging on the brink of heavenly wrath and moral disaster. The political landscape had changed, yet colonial discourses were once again infused with ‘unspeakable’ rhetoric.

In a letter to the British Member of Parliament, Joseph Hume Esq., one colonist under the pseudonym ‘Cato’ revealed the moral state of the convicts under the probation system. His letter noted ‘it is impossible to describe in language sufficiently plain not to be revolting, the degradation that exists at penal stations’. Notwithstanding this impossibility, his letter went onto to reveal that ‘when the subjects of this discipline are let loose on society, their guilty connection is not confined to their own species and sex, but extends even to domestic animals’. The author suggested that only ‘indistinct allusion’ could be permitted because ‘the detail is too disgusting to appear in the columns of a newspaper’. Yet there was little that was ‘indistinct’ in his meaning. The letter was printed in the *Launceston Examiner* in January 1846.

This was more than scandalous propaganda against the current system of convict discipline. The plethora of official enquiries ordered, and the numerous reports written during the 1840s reveal a real and obsessive concern with the prevalence of ‘unnatural vice’ amongst the convict population. The language used in official documents was what might be termed a ‘silent’ discourse. Many colonial reports are acknowledged to be censored and blank spaces and asterisks abound. Robert Pringle Stuart’s official report

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881 *Times*, (London), 16 December 1846.
882 *Launceston Examiner*, 31 January 1846.
on Norfolk Island (1846) was presented to both Houses of Parliament in February 1847. Details surrounding the prisoner’s sexual antics were ‘rigidly suppressed’ and the parliamentary papers remain censored today.\textsuperscript{883} The Comptroller-General’s report on the state of the convict department in 1847 was also rigorously censored. Enclosures one, fifteen and twenty eight were omitted from publication. In their place it states they ‘were of a nature which rendered them unsuitable for publication’.\textsuperscript{884} In private letters ‘dashes’ and ‘stars’ often littered hand-written pages and it was a characteristic feature of many official records kept by the convict department.\textsuperscript{885} James Boyd’s 1845 report on Maria Island and Charles Joseph La Trobe’s extensive official enquiry into the probation system in 1846 were both masked by the hand of the censor and were ‘considered too disgusting for public consumption’.\textsuperscript{886} In 1846, Thomas Beagley Naylor’s wife arrived in Britain with her husband’s report on the moral state of the convicts on Norfolk Island. The chaplain’s wife had intended to publish the report yet Alexander Maconochie intervened, citing ‘the extreme impropriety’ of rendering such information public. It was silently handed to Earl Grey instead.\textsuperscript{887}

In official documents then, the convict department, the colonial government and the colonial office in Britain regularly silenced the ‘nauseous details.’ Such details were considered so unspeakable that sometimes they could not even be written down. These attempts at censorship were often criticised by a noisy colonial press. Alexander Maconochie’s 1837 report caused a storm of moral indignation when it was published in the colony. The \textit{Hobart Town Courier} railed against its ‘gross and libelous untruths’. Yet the paper was more outraged by what was not said. It could only wonder how colonial

\textsuperscript{885} See letter from Mr. Everett to R. P. Stuart, 22 May 1846; Robert Pitcairn, letter to Lord Stanley, 4 February 1846; letter from Mr. E. Hill to William Champ, 3 September 1846; letter from William Gunn to Sir John Eardley-Wilmot, 3 September 1846; William Champ, Report on the state of the convict department, 30 June 1846, all in BPP, C & P, T, vol 7, 1843-47, pp 86-7; pp 38-9; p 192; p192; pp 117-74.
\textsuperscript{886} See I. Brand, (1990), op. cit., p 2.
\textsuperscript{887} Letter from Alexander Maconochie to B. Hawes, 22 September 1846, in E. Fitzsymmonds (ed.), (1979), op. cit., p 11. Maconochie had earlier censored \textit{The Exiles Lamentations} written by the convict Thomas Cook.
fury ‘would be raised, were we made acquainted fully with those passages which are filled up with asterisks, and which were deemed at home too gross for publication…’

When T. B. Naylor’s report was eventually published it had clearly been expurgated. The public version with its ‘expressive language and yet more expressive silence’ was noted by the *Sydney Morning Herald*. The paper suggested to its readers:

> The letter is printed amongst the Parliamentary Papers … and the blanks left in the printed document are but too easily filled by those who have already become but too familiar with the inhuman details of crime and guilt in the Australasian penal settlements to leave any doubt respecting the relation of horrors which is thus set forth.

If the blanks were, as the *Herald* claimed, ‘too easily filled’ and the reading public ‘too familiar’ already ‘to leave any doubt’ why then did the press exhibit so much concern with official ‘censorship’? Were newspapers more concerned with how the issue of censorship related to their own profession? It is a difficult question to answer and it must be noted that the censorship employed in official convict documents was in fact little different to the censorship utilised by the press in reports of unnatural crime cases. Yet in Van Diemen’s Land these criticisms were further connected to allegations of official cover-ups and ‘blind-eyes’ being turned by the convict department.

During the 1840s many colonists voiced concerns that officials in the convict department were incompetent, corrupt and complicit in convict depravity. Moreover, there was a pervasive fear that a culture of silence and secrecy was masking the true state

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888 *Hobart Town Courier*, 12 April 1839. Maconochie’s report had also severely criticised the colonial press. It noted, ‘In the penal settlements at present it [the press] is in a most unhealthy condition, violent, personal and occupied with the details of petty scandal rather than with the facts and principles of social improvement’. Alexander Maconochie, Report on Convict Discipline, 1837, in BPP, C & P, T, vol 6, 1810-41, p 442.


891 There was a clear distrust of the convict authorities and it was regularly voiced in the colonial press. They made frequent calls for outside, independent enquiries to be made into the convict department. See the *Launceston Examiner*, 12 September 1846; 7 November 1846; 25 November 1846; 28 November 1846.
of the prisoners.\textsuperscript{892} These concerns were regularly published in the colonial press.\textsuperscript{893} The \textit{Courier} accused the convict department of ‘denying with the most unblushing effrontery’ the moral consequences of ‘that monstrous scheme’. The paper further alleged that ‘systematic attempts to delude the English authorities into the belief that the unfortunate men are advancing in intelligence and morality are regularly made’.\textsuperscript{894} In December 1846 the \textit{Launceston Examiner} claimed that the Comptroller-General had dismissed Mr. Lafarelle because he had written ‘a truthful representation of horrible facts’ on the state of the convicts at his probation station.\textsuperscript{895} The \textit{Launceston Advertiser} made an unusual suggestion to ‘let even the prisoners be permitted to disclose the secrets of the prison house …a mass of mischief beyond the dreams of imagination’.\textsuperscript{896}

Were the convict authorities involved in a cover-up? The copious official reports already analysed suggest not. Moreover, internal records from the convict department with all their ‘silences,’ allusions and veiled references illustrate that the convict authorities were neither blind nor particularly silent on the matter. This is not to suggest the colonists were merely engaged in a senseless moral panic. They had limited access to the probation gangs, the hiring depots and the penal stations. They were certainly not permitted to view the punishment records held by the penal authorities.\textsuperscript{897} They were then


\textsuperscript{893} In a report on Charles Joseph La Trobe and his enquiry into the probation system, the \textit{Hobart Town Advertiser} suggested ‘blind eyes’ were being turned even in the middle of an official enquiry. In December 1846 the paper noted that three men from the convict department had been dismissed for ‘gross immorality and intoxication’. Yet ‘as they had not been guilty of the unforgiven [sic]crime of disclosing the secrets of the prison house, or unveiling the horrors of the system – we were not at all surprised at hearing of their almost immediate restoration’. See \textit{Hobart Town Advertiser}, 4 December 1846.

\textsuperscript{894} \textit{Hobart Town Courier}, 26 August 1846. The paper had earlier noted, ‘this most heinous crime is … winked at in these depots of infamy’. See \textit{Hobart Town Courier}, 8 July 1846.

\textsuperscript{895} \textit{Launceston Examiner}, 12 December 1846. Comptroller-General Hampton later claimed the dismissal was due to Mr. Lafarelle employing a convict to act as his clerk. This was against the regulations of the probation system.

\textsuperscript{896} \textit{Launceston Advertiser}, 15 October 1846.

\textsuperscript{897} Nor were colonists permitted to read the six monthly reports made by the Comptroller-General on the state of the convict department. As the \textit{Examiner} noted, ‘We have no means of ascertaining the contents of the official reports transmitted by the Comptroller-General – whether he has cloaked the crimes common in the gangs or exposed the hideous features of the system in all their deformity to the gaze of his superiors, we cannot now determine.’ \textit{Launceston Examiner}, 26 August 1846.
little informed. In this climate rumour and scandal thrived. 898 Secrecy heightened their fears and magnified the imagined terror of the moral crimes and sexual practices rumoured to be common in the probation gangs. Furthermore, there is evidence to suggest that an overstretched and under-funded convict department did at times pass over ‘unspeakable’ incidents.899

In 1846 the Launceston Examiner published a series of letters. James Purslowe had been employed by the convict department. His letters written to Lord Stanley revealed a culture of silence and secrecy surrounding ‘a certain crime of abomination’. According to Purslowe, his superiors had regularly instructed him to punish men summarily for ‘misconduct’ rather than refer cases to the courts in Hobart ‘as it did no good bringing them before the public’.900 Alban Charles Stoner made similar claims.901 He was a crown solicitor and between 1842 and 1847 he acted as an official advisor to magistrates in Van Diemen’s Land. In 1847 he gave evidence to a House of Lords select committee. He informed the committee that ‘a great number of depositions have passed through my office which the Attorney-General has ignored’. The committee requested that Stoner explain the reasons for this. He noted, ‘the details of the cases that passed through my hands were of such a description that I think he must have considered that the publication of them would do a great deal more harm than even their punishment could do good’.902

898 Charles Joseph La Trobe noted in his report that there was a widespread belief amongst the colonists ‘that the government was unwilling to take cognizance of it [unnatural crime] or to adopt proper measures for its reression’. See his report in I. Brand, (1990), op. cit., pp 147-8.
899 In his study of sodomy in the British navy, A. N. Gilbert suggested that in some cases the navy might have looked the other way. He notes, ‘some officers simply looked the other way when evidence of sodomy was presented to them and it is certain that the rank and file … knowing that conviction might mean death for the offenders, never reported known cases’. See A. N. Gilbert, (1976), op. cit., p 72.
900 Letter from James Purslowe to Lord Stanley printed in Launceston Examiner, 11 November 1846. Purslowe disagreed with this culture of secrecy. In another letter he justified his openness and noted, ‘the publicity of evils connected with the administration of the system may tend to their reformation, and thereby do good’. Letter to Lord Stanley, published in the Launceston Examiner, 29 July 1846.
901 So too did Robert Crooke who was a catechist in the convict department. In his memoirs Crooke claimed, ‘…one hundred lashes or a month’s solitary confinement was the usual punishment for such offences …’ R. Crooke, The Convict: A Fragment of History, Hobart, 1958, p 102. See also H. P. Fry, letter to the Secretary of State for the Colonies, 17 August 1846, in BPP, C & P, T, vol 7, 1843-47, p 188 (644).
902 Alban Charles Stoner, evidence to the select committee of the House of Lords, 20 May 1847, in BPP, JO & T, no 1, 1847, second report, p 519.
The link between convict and colonial morality has been noted. The convict department justified its ‘silences’ by claiming moral concerns for the wider colonial community. Was this merely to mask the turning of the blind-eye? Or did it reflect the long held idea of public silence and taboo? Whatever the reasons of the convict department, regular press reports of convict debauchery certainly negated any moral concerns for public ‘propriety.’ These reports were loud in exposing ‘habits of life so revolting and depraved’ and ‘the most appalling vices’. Such reports also reflected negatively on the wider state of colonial society. Morality aside, the colony was experiencing severe financial difficulties. Throughout the 1840s, both free residents and ex-convicts left in regular droves for brighter economic fortunes elsewhere. Public reports of convict depravity were unlikely to encourage the much needed immigration of free settlers to the colony. Indeed such exposure was threatening to bankrupt the colony and annihilate the moral reputation of the entire community. Why then did the press and the colonists of Van Diemen’s Land continually proclaim ‘we will not be silent!’? 

For some colonists, remaining silent meant that the status quo would continue. Yet the existing system of convict discipline was not benevolent, reformatory or economically viable. In practice it had not worked and it could not remain. According to the Courier the probation system ‘has become a useless abortion’. Moreover, ‘the evils of which the people complain are inseparable from the system of penal discipline now in operation and that the continuance of one, in its existing form, necessarily perpetuates the other’. The Examiner acknowledged that the reputation of the colony was in peril yet concluded ‘partial evil is better than total ruin. If the present system be persisted in, the

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903 See also N. Townsend, ‘‘The clamour of … inconsistent Persons:’ Attitudes to Transportation within New South Wales in the 1830s’ in Australian Journal of Politics and History, vol 25, no 3, 1979, pp 345-57.
904 The Cornwall Chronicle was vehemently opposed to this link between convict and colonial morality. According to the journal, ‘we see no reason why the Colony at large should be identified with the penal stations and chain-gangs, and the free colonists with the crimes of the felons associated at them’. Cornwall Chronicle, 21 November 1846.
905 Hobart Town Courier, 4 March 1846; 31 May 1845.
complete destruction of every interest is inevitable … timely exposure of evils … is the only resource left to colonists.\textsuperscript{906}

By the middle years of the 1840s, many respectable colonists were indeed done with the niceties of propriety, decency and silence. Petitions, public meetings and press editorials increasingly demanded the ‘truth’ be out. According to one colonist the present convict system was ‘a monster that could only exist in darkness and must perish when light is let in upon it’.\textsuperscript{907} In November 1846, the Presbyterian congregation of the colony met to discuss the problems of the probation system of convict discipline. Mr. Lillie, a leading colonial figure addressed the meeting. He had made personal enquiries to the convict department yet he was dissatisfied with the information that he had been given. He told the meeting there were too many officials in the department ‘too fond of half-admitting, half-denying statements’. Lillie stated he had been left with an impression ‘of something being concealed and it was impossible to say what the truth really was. This would not do. That was not the evidence they wanted.’ But what evidence exactly did the colonists want? According to the speaker, ‘it must be plain, straightforward and above suspicion. Any representation to be effective should be definite and distinct.’\textsuperscript{908}

The colonial press agreed with these bold sentiments. The \textit{Launceston Examiner} applauded the efforts of ‘ministers of religion, professional men, merchants and settlers’ who had ‘branded the enormities that exist by epithets not to be misunderstood by the meanest capacity’.\textsuperscript{909} In July 1846 the paper urged the convict department to follow suit and openly reveal the real state of convict morality. The paper demanded, ‘Let restraint be removed, let the penalty of disclosure be abrogated, let the pecuniary interest of those employed cease to operate, and revelations the most revolting will voluntarily flow forth

\textsuperscript{906} \textit{Launceston Examiner}, 14 March 1846.
\textsuperscript{907} The probation system according to ‘No Partizan’, Letter addressed to C. J. La Trobe, printed in \textit{Launceston Examiner} 14 October 1846.
\textsuperscript{908} Report on the meeting of the Presbytery of Van Diemen’s Land, 4 November 1846, printed in the \textit{Launceston Examiner}, 7 November 1846.
\textsuperscript{909} The paper also acknowledged that ‘a plain and distinct enunciation of the evil – and that only – would arouse attention in England, and save the island from irretrievable ruin.’ \textit{Launceston Examiner}, 5 December 1846.
in a volume so copious as to pale humanity. These calls for disclosure were loud and regular throughout 1846. In November, the Comptroller-General Hampton announced the convict department would be making an investigation ‘into some of the abominations of the probation gangs’. This was applauded by the press and it urged witnesses ‘to conceal nothing from fear, favor or affection. Plain speaking has already accomplished much.’

These calls for ‘plain speaking’ were closely connected to the idea that ‘connivance at secrecy’ had in fact ‘nourished its growth’. According to the press, it was precisely the silences and the turning of a blind-eye by the convict department that had perpetuated ‘the evils’ of the convict system. Official silences now served to justify their open demand for exposure. If the authorities had ‘not grossly neglected their duty… the evils might have been … rectified without public exposure’. The adoption of such a moralising mantle permitted the press to ‘speak the unspeakable’ because they ‘had no choice between the open denunciation of the evils existing and silent acquiescence’. Open exposure in this analysis was then the ‘least of two evils’. Indeed, the Examiner went so far as to suggest that continuing silence would be criminal. This embodied the idea that silence was sanction, that ‘not to name it’ had become a way to allow it. Remaining silent for the sake of moral convention and linguistic propriety was turned on its hypocritical head. In one editorial the paper noted:

Gentlemen who affect great sensitiveness respecting the language employed to describe debasing crime, are not at all startled at its practice and diffusion. They can tolerate the existence of a certain kind of offence, but they cannot endure the mention of them. To suffer from the corroding influence and yet be silent is magnanimous, but to complain is highly culpable. We have no sympathy with such mawkish morality.

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910 Launceston Examiner, 1 July 1846.
912 According to the Examiner, ‘The soul may sicken at the record of such crime – but has not connivance at secrecy nourished its growth?’ Launceston Examiner, 12 December 1846.
913 Launceston Examiner, 28 November 1846.
914 Emphasis in original, Ibid, 5 December 1846. To reiterate the point, the title of this article was ‘A New Offence’. Jeremy Bentham had earlier noted the inherent hypocrisy of the silence taboo. He noted, ‘It seems rather much to subscribe to men’s being hanged to save the indecency of enquiring whether they deserved it.’ Quoted in L. Crompton (1985), op. cit., p 26.
The moral responsibility of Britain towards her colonial outposts did not always translate as criticism. Colonial anxieties sometimes exposed concerns that colonial interests were not sufficiently recognised in London. In 1844 the *Sydney Morning Herald* claimed that the colonial office was in the dark as to the state of convict discipline on Norfolk Island. The situation on the penal island was such that ‘neither the columns of a newspaper, nor the less accessible pages of a parliamentary report could report without outraging common decency.’ Yet changing the system required the sanction of the colonial office and ‘common decency’ had to be put aside. To mobilise the necessary action from London, what ‘could not be written’ must be written. Moreover, ‘the ends of justice, of morality and even the dignity of the human species require that the existence of these enormities should be so far made known as to arouse general indignation towards the system which has produced them’.

In Van Diemen’s Land similar concerns were voiced that Britain was quite simply ignorant of the failure of the probation system, the moral state of the convicts and the wider moral concerns of the colonial community. Unless the ‘truth’ was plainly told, little would change. Throughout the early months of 1846 the *Examiner* regularly claimed ‘that the people of Britain are entirely unacquainted with the demoralising practices in the criminal gangs’. And though the paper ‘dared not employ the language necessary to portray the degradation’, nonetheless, the ‘nauseating subject’ had to be spoken. ‘We must never desist’ demanded one editorial, ‘until the indignation of our fellow countrymen is aroused. They only require to be informed that their expatriated offenders are ripening in the same corruption which once drew down the fires of heaven, to conciliate the sympathy of Britons, and to secure their efforts on our behalf!’

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915 This was closely allied with the idea that the colonial government was ‘deluding’ the colonial office in London. This was a regular accusation voiced in Van Diemen’s Land. See Dr. M. Gaunt, Letter to Sir William Denison, 31 October 1849 in BPP, C & P, T, vol 8, 1847-50, p 67; John Clay, *The Prison Chaplain: A Memoir of the Reverend John Clay*, 1861, reprinted Patterson Smith, 1969, pp 237-8. In his memoirs, the Canadian Exile Linus Miller made similar claims. See L. Miller, *The South Sea Abomination*, 1846, op. cit., p 272.

916 *Sydney Morning Herald*, ‘The South Sea Abomination’, 8 January 1844.

917 *Launceston Examiner*, 3 January 1846. This theme of exposing the state of the colony to the British continued throughout 1846. By March the paper was claiming, ‘The press has hitherto touched but lightly on the most appalling evils; they have been insinuated, glanced at, figuratively referred to, rather than distinctly stated; and yet it is certain, that unless facts are furnished by colonial journals, the people of Britain will never be informed of our condition, nor assist us in the removal of that moral gangrene which
It is difficult to assess just how real and to what extent the ‘fires of heaven’ were truly feared. Did colonists in the 1840s really believe in fire and brimstone from heaven? What exactly did the story of Sodom represent? Historical interpretations today are certainly polarised in interpreting its significance. Yet religious symbolism often featured in colonial calls for an honest and truthful exposure of the moral state of the convicts. Humanitarian and Christian concerns for the ‘wretched’ convicts caught up in the silences of the ‘monstrous system’ were regularly voiced. In 1846, the clergy of Van Diemens Land sent a petition to Earl Grey. They requested the abolition of the probation system. The petition proclaimed that the clergy were ‘induced to make this representation’. Yet it was their ‘deep sense of responsibility of living in a land where such awful sins are committed and where the unhappy convicts are subjected to an association leading them into such shocking corruption’ that justified their mentioning the ‘unspeakable.’ In 1847 the Roman Catholic Bishop of Hobart appeared before a select committee. He informed the members that the present system of convict discipline was ‘certainly not’ a ‘mode of punishment lawful for a Christian nation knowingly to inflict’. The Bishop of Tasmania agreed. He warned the same committee that under the present system, ‘in good truth you punish the soul as well as the body and you virtually affects the community.’

Ibid, 14 March, 1846. By December 1846 the English press made it clear that the British were indeed familiar with the state of morality in the convict gangs. The *Times* informed its readers ‘Crimes without a name are perpetrated daily and without the possibility of prevention. The evils of indiscriminate association and imperfect supervision are prevalent in all their horrible consequences. No attempt of the slightest kind is made to reform the criminals, who become in the end perfect monsters of iniquity. In short, so horrible is the moral condition of the prisoners that were it to be made known in all its entirety, it would hardly be believed.’ *Times*, 16 December 1846.

As Vern Bullough has noted, ‘None of the biblical condemnations of homosexuality refer to Sodom, nor, more important, do any of the biblical references to Sodom explain just exactly what crimes the residents were guilty of having committed.’ See V. Bullough, *Homosexuality: A History from Ancient Greece to Gay Liberation*, Meridian, New York, 1979, p 20.


Allusions to Sodom were a regular feature of convict memoirs. This suggests an overlap between colonial and convict discourses. It further suggests how central the symbolic image of Sodom was in contemporary discourses.


Robert William Willson, evidence given to the select committee of the House of Lords, 7 June 1847, in BPP, JO & T, no 1, 1847, second report, p 569.
stretch your penal code beyond this world into eternity itself’. The \textit{Examiner} went so far as to suggest that remaining silent would in fact be un-Christian. It asked its readers to consider speaking the ‘unspeakable’ as a Christian duty:

Must the colonists in the Nineteenth Century refrain from denouncing an un-Christian and cruel system, which plunges its subjects into the most appalling vices? Must the settlers submit in silence until ‘all dishonor their bodies between themselves’ until all be removed beyond the reach of recovery – until all be delivered ‘over to a reprobate mind’? 

This sense of Christian ‘duty’ towards the convict population was regularly marshaled. Appeals to religious sentiment and the use of biblical imagery were mobilised in other ways. This chapter has noted how this served as a discursive device that was regularly utilised by the press in reporting cases of unnatural crimes. It was also a feature of legal rhetoric. During the 1840s it assumed particular prominence and wider significance; the entire colony was depicted on the brink of destruction. Old Testament symbolism and allegorical metaphors of ‘divine wrath’ and ‘fire and brimstone from heaven’ threatened to visit the colony with a vengeance. The Bishop of Tasmania proclaimed that the time when certain ‘themes were banished by common consent from all decent society’ was over. The colonists ‘dare no longer be silent’ because ‘surely God will visit for these things’. Indeed, according to the Bishop ‘already His visitations and His warnings have begun’. In his 1846 report of Norfolk Island, the chaplain Thomas Naylor similarly pleaded that he too had not ‘dared to be silent’. And why? Because ‘the curse of Almighty God must sooner or later fall in scorching anger upon a nation which can tolerate the continuance of a state of things so demoniacal and unnatural’.

\begin{footnotes}
\item[Bishop of Tasmania, evidence given to the select committee of the House of Lords, 11 May 1847, in \textit{ibid}, p 510.]
\item[\textit{Launceston Examiner}, 14 March 1846.]
\item[The \textit{Hobart Town Courier} wrote of ‘forms of vice and exhibitions of iniquity that threaten, as in earlier days, to entail a curse on the land and to invoke the direct vengeance of heaven’. See \textit{Hobart Town Courier}, 31 May 1845.
\item[T. B. Naylor, ‘Norfolk Island: The Botany Bay of Botany Bay’, Letter to Lord Stanley (undated), printed in \textit{E. Fitzsymmonds (ed.) (1979), op. cit.}, p 17.]
\end{footnotes}
Launceston Examiner ominously warned its readers that ‘to deny the existence of vice will be followed by fearful retribution’.  

The Examiner had little to fear. Indeed it seems that rather than silence and denial, what was deemed unmentionable and unutterable was in fact the hot topic of conversation in the colony. We have seen the power that was invested in speech in the attempts of the penal authorities to silence the convict voice. By the middle of the 1840s, similar concerns extended into the public arena of colonial society. The ease and openness of daily conversations on topics once deemed ‘unspeakable’ epitomised for many just how urgent the necessity of radical reform of the convict system was. The infectious indecency of convict sexual practice had infiltrated public discourse and if, as many perceived, speech and behaviour were closely linked ‘there was something radically wrong, deeply calling for investigation’. As Mr. Lillie noted:

The crimes imputed were notoriously of common conversation – the name which is never heard in the mother country – crimes at which man shudders – are here spoken of openly and with a familiarity that tends to destroy in the mind a sense of their atrocity and degrade man by their mere contemplation.

Many contemporary voices confirmed the ‘unspeakable’ nature of colonial conversations. ‘From what I have heard’ James Burnett told the 1847 select committee, ‘it is a subject of very general conversation in the colony’. Alban Charles Stoner agreed. He informed the same committee that one of the more insidious effects of the present system of convict discipline was ‘the prevalence of conversation and the effect of public notice drawn to subjects that in England you would shudder to hear mentioned.

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928 Launceston Examiner, 12 December 1846.
929 Mr. Lillie, minutes of the meeting of the Presbytery of Van Diemen’s Land, 4 November 1846, printed in the Launceston Examiner, 7 November 1846.
930 Burnett had spent fourteen years in Van Diemen’s Land working in the Surveyor Generals Department. James Burnett, evidence given to the 1847 select committee of the House of Lords, 31 May 1847, in BPP, JO & T, no 1, 1847, second report, p 550. According to Robert Crooke, ‘One peculiarity in the Society of Tasman’s Peninsular maybe noticed. Certain subjects which are generally avoided even among men were openly discussed, and ladies, mothers of families would unreservedly speak of unnatural crimes etc but habit reconciles men to most things.’ See R. Crooke (1958), op. cit., p 113.
There was hardly a newspaper that did not refer to the Abominations …‘931 In a letter published in the *Examiner* one colonist claimed that the unspeakable had been talked about ‘at our firesides for the past two years’.932 Charles Joseph La Trobe’s inquiry into the probation system of convict discipline concluded that it had been ‘a fatal experiment’ for both convicts and the colonists. He closed his report by observing, ‘knowledge of the existence of unnatural crime in various forms, and of the abominable details connected with it’ was not confined to the convict population. Indeed ‘the matter has become so as to say common talk with the lower classes’ and ‘the public mind has become familiarised to the idea and mention of it, and consequently tainted’.933

The power of speech and in particular, the public mobilisation of ‘unspeakable’ discourse did bear fruit for the colonists. Their clamourous conversations, the frequent petitions sent to London, and the explicit claims of the colonial press did eventually register at the metropole. Juxtaposed with many official reports and a number of high profile visits to Britain by prominent colonists, fears that the mother country was ignorant of the state of the colony were eventually assuaged. Yet amidst all the indelicate noise, one voice remained silent.

**The Recall of a Governor: A Scandalous Silence?**

Sir John Eardley-Wilmot was recalled from Van Diemen’s Land in 1846. He was officially dismissed because of his silences over the ‘unspeakable crime,’ or as Gladstone phrased it, ‘the moral condition’ of the convict population.934 The centrality of convict sexual relations to the recall has been largely muted in historical assessments of Van Diemen’s Land.935 William Gladstone always maintained that the recall ‘arose
exclusively out of the causes detailed in my public despatch’. Yet whispered allegations surrounding the Governor’s private life accompanied his dismissal and muddied the reasons behind the recall. Colonial scandals and recalls involving governors have been noted, most recently by Kirsten McKenzie and Robert Aldrich. Yet as a specific moment in the history of colonial recalls the case of Sir John Eardley-Wilmot has not been afforded the analysis it deserves. This awaits future scrutiny. The remainder of this chapter concentrates on the ‘silences’ and ‘omissions’ that led to Wilmot’s removal as Governor.

Sir John Eardley-Wilmot arrived in the colony in August 1843, accompanied by three of his sons. It was not a favourable time for Wilmot to commence his position as the new Lieutenant-Governor. The probation system of convict discipline was still in its infancy, yet the steady arrival of convicts was relentless. The colonial economy had


939 He took oath of office on 21 August 1843. The absence of his wife Eliza Chester was to be of some significance to the ‘unsubstantiated rumours’ that accompanied his recall three years later.
941 His predecessor, Sir John Franklin had grappled with these difficulties. In July 1842 he wrote in alarmed tones to Lord Stanley at the recent arrival of six convict ships and the expectation of more to follow. The colony had neither the facilities, the employment opportunities, nor the finances to adequately cope with such an influx. See Despatch 79, 22 July 1842, Sir John Franklin to Lord Stanley, in BPP, CD 1843-46, pp 75-6.
been stagnant since 1841 and it was about to fall into further decline. Indeed, financial problems would haunt his term in office. The colony was in need of a firm hand to guide it yet Wilmot, described by Stanley as ‘a muddle-brained blockhead’, was clearly not the man. Colonial difficulties aside, his incompetence as an administrator and his constant failure to respond to orders from London generated ongoing unease at the colonial office.

Between 26 March 1844 and 28 February 1846, Sir Eardley-Wilmot received twenty six rebukes concerning incomplete and unexplained reports on the state of the convict population. Many despatches sent from London to Van Diemen’s Land during these years reveal a sense of obfuscation and confusion surrounding the workings of the probation system. In this respect, the concerns expressed by the colonists that London was ill informed were indeed vindicated. In September 1845 Lord Stanley complained to Wilmot that three years since the introduction of the system he found himself ‘destitute of any clear understanding’ of its effects upon the prison population. He was pleased to receive favourable reports on the various stations, and to hear of the ‘confident anticipations’ the Governor and his Comptroller-General held for the future. Yet these predictions were ‘far less significant’ than ‘his and your silence respecting any serious practical evil in the working of the system’. Many at the colonial office expressed similar concerns. The Comptroller-General’s 1845 report on the state of the convict department suggested that the system was a slow work in progress. Wilmot’s covering

942 The depression affected all of the Australian colonies. It emerged after a period of economic boom. Many colonists had made large speculations in land, stock and goods. This led to high interest rates and eventually bankruptcies.
943 After 1840, when convict labour was no longer free, Lord Stanley’s incessant calls for economy and for a reduction in the costs of the convict department were impracticable. The British government did not concede financial responsibility towards the penal colony until after the collapse of the probation system.
945 Lord Stanley to Sir John Eardley-Wilmot, 1 September 1845, printed in the Launceston Examiner, 1 July 1846.
946 Most of the Comptroller-General’s reports between 1842 and 1845 spoke of ‘hoped for’ results. Mr. Forster’s report of August 1845 noted that all was well yet many of his observations rested on future hopes rather than the ‘right here, right now’ demands of the home government. In his report on Point Puer he described the work being carried out on the new penitentiary ‘so arranged that each boy will sleep separately’; at Port Arthur, ‘when a new penitentiary is built and good solid cells erected … I think, as a penal settlement, Port Arthur will be in a highly efficient state’; at Norfolk Island, ‘as far as circumstances will admit’ separation between the classes of prisoners had been enforced and ‘separation boards between
letter conveyed his general satisfaction yet London was not convinced. It was what the Governor had not said and his silences and omissions ‘by their very largeness and vagueness and total want of all characteristic description’ that suggested that all was not well in the colony.947 In London, Sir James Stephen noted:

Nothing can be less satisfactory than the manner in which the Lieutenant-Governor and the Comptroller execute the duty of reporting on the state of these places … It is impossible to derive any distinct impression of what is passing … Forster commends his subordinates; the Lieutenant seems to know little or nothing.948

These rebukes over Wilmot’s omissions and silences continued into 1846. In February, Gladstone again highlighted the importance of clear and detailed reports from the colony.949 He welcomed ‘the statistical information communicated by Mr. Forster’. Yet it was the ‘higher and more momentous’ concern for the moral condition of the prisoners that took precedent over any other facet of the working of the probation system. Both the Governor’s despatches and the Comptroller’s reports had continually failed ‘to throw any sufficient light’ upon the matter.950

The Governor’s inadequate despatches were also subject to colonial criticism. This was a logical extension of the charges and accusations that were leveled at the convict department. The press was particularly vehement in deriding the governor’s administrative capabilities. The Hobart Town Courier described his despatches as ‘an assemblage of inelegancies and inaccuracies – an exhibition of style and paucity of expression for the concoction of which, as a morning exercise, a schoolboy would have

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948 Stephen’s minute, CO 280/184, quoted in A. G. L. Shaw, (1963), op. cit., p 11. Gladstone responded to the ‘brief but laudatory terms’ of the 1845 report. However he reprimanded Sir Eardley-Wilmot because the report ‘does not afford the means of forming any distinct opinion as to the real state of these establishments, or the moral effect produced on the individuals confined in them’. Gladstone to Eardley-Wilmot, 6 March 1846, in BPP, C & P, T, vol 7, 1843-47, p 6.
949 Gladstone to Eardley-Wilmot, Despatch 53, 28 February 1846, in BPP, CD 1843-46, pp 3-5; See also Gladstone to Wilmot, Despatch 94, 27 April 1846, in ibid, pp 44-5.
been whipped’.  

Yet his writing style alone did not generate such criticisms. Rather, it was his silence on matters of substance, the omissions and the concomitant false representations of the workings of the probation system that were particularly condemned.

Editorials in the Launceston Examiner were especially fervent. In February 1846 the paper ominously warned the Governor ‘to invite his attention’ to the convict gangs and to expose the system, because ‘concealment is as dangerous to the ruler as fatal to the people’. Moreover, if Wilmot continued to resist this ‘obvious duty’ then the ‘atrocities known to exist will be laid bare by a less scrupulous hand’.  

By July the paper was increasing its vitriol over the Governor’s silences. Why was he ‘throwing a veil over its enormities?’  They asked their readers:

Can we believe it possible that the Governor is the only person in the island unacquainted with the dreadful atrocities common in gangs and at penal stations? That he alone has never heard of the prevailing crimes and existing diseases? Our pen trembles, our soul sickens when we allude to the loathsome subject. And surely a whisper in his ear should have been sufficient to excite his attention, to quicken his anxiety and to institute a searching investigation …

The colonial press welcomed and applauded the critical rebukes Wilmot regularly received from the colonial office over his inadequate despatches. Their continual demands for noisy exposure of the convict system were further vindicated when the reception of a colonial petition was revealed. This petition had been sent to Britain in 1845. It articulated in great detail the concerns of the colonists; the moral state of the convict gangs, the incompetence of the convict department and the wider financial and

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952 Launceston Examiner, 11 February 1846. The Hobart Town Courier had expressed similar sentiments the previous year. On 24 June 1845 the paper noted, ‘if the local administration should still withhold, from culpable neglect or from a mistaken policy, the information that ought, in deference to Lord Stanley and in justice to the colony, to be imparted – if it should endeavour by partial statements, to lull the Imperial Government into the complacent belief that we are basking in the sunshine of happiness … it will lead to inquiries neither profitable nor pleasant’.

953 Launceston Examiner, 1 July 1846.
political woes of the colony.\textsuperscript{954} In his covering letter to the petition, the Governor had refuted many of these concerns. Indeed, Sir Eardley-Wilmot suggested the petitioners were a ‘colony of liars’. Moreover he specifically denied their allegations of convict sexual practice with the careless assertion, ‘of this I have no confirmation, nor do I believe it’.\textsuperscript{955} Many colonists never forgave Wilmot for this letter.\textsuperscript{956} It was seen as a betrayal of the colony and an intransigent refusal to confront the problems plaguing the convict system.\textsuperscript{957}

If the Governor was in denial, the petition nonetheless ‘startled the British Parliament’. It was greeted with alarm at the colonial office. According to colonial press reports, Lord Stanley ‘has declared his abhorrence of those crimes treated as insignificant by the local authorities. Sir James Graham has indignantly flung their despatches on the table of the House and denounced the deception practiced on the ministry.’\textsuperscript{958} This is one dynamic of colonial politics that has not received sufficient attention from Australian historians: the impact of colonial opinion upon imperial penal policy. Indeed, convict history has long assumed an unequal relationship, an imbalance between the metropolitan centre and the far-flung colonial outposts. Kirsten McKenzie has suggested that ‘metropolitan centre and colonial periphery were bound together in an association of

\textsuperscript{954} This petition was signed by 1750 colonists. It did not call for the immediate abolition of transportation. Rather, the petition called for a reduction in the numbers of convicts transported with a view to the gradual and eventual abolition of transportation at a later date.

\textsuperscript{955} Printed in the \textit{Launceston Examiner}, 1 July 1846.

\textsuperscript{956} See ‘Junius’, letter to the editor, \textit{Launceston Examiner}, 18 July 1846. Both the \textit{Examiner} and the \textit{Hobart Town Courier} continually lambasted Wilmot’s denial throughout July and August 1846. By September the news of his recall occupied their editorial columns instead.

\textsuperscript{957} A year later, the same petitioners wrote to Gladstone. They were greatly concerned with the Governor’s covering letter to their petition. Noting his refusal to believe the reports of ‘unnatural vice’ amongst the convicts they pointed out the discrepancy between this particular assessment and Wilmot’s official reports that had previously confirmed it. Their letter noted, ‘the attempts of the Lieutenant-Governor to conceal and gloss over the hellish atrocities engendered by the probation system, form an example to his subordinate officers – an example but too frequently followed. The Colonial Office and the British Parliament will soon have proof of a state of crime which no official returns have yet made known.’ Petitioner’s Letter to Gladstone, 27 August 1846, in GO 33/55, (AOT.)

\textsuperscript{958} \textit{Launceston Examiner}, 1 July 1846. The paper further reported, ‘All in the Empire, whom the disgusting recital has reached, have turned with loathing from the atrocities engendered by the system; and the people of the colony have been appalled to find Sir Eardley-Wilmot at once their opponent and the victim of his own temerity.’
mutual interest, yet were also frequently at odds’. The ‘at odds’ analysis is appropriate to the colonial context of Australia in the 1830s when colonial reputations were defended by rejecting the hegemony of the metropole. In many ways this continued into the following decade with colonial indignation directed against the perceived neglect and indifference of the mother country. Yet opposition to the probation system was not a simple case of colonial outrage vented hopelessly against the British Government and its protean penal policies. Rather, it involved the colonists themselves exercising agency in seeking alliances with particular sections of the British administration. They fiercely criticised their own incompetent colonial administration. They constantly questioned and challenged the convict department. Further, in directly appealing to the authorities in the metropole the colonists sought support and action rather than conflict. This is what they eventually achieved. As the *Launceston Examiner* noted, ‘the British nation do not sympathise with the local authorities in their indulgence to that kind of vice, and the ministry are prepared ‘at any risk and any cost’ to sweep from this island a system which yields the apples of Sodom and the grapes of Gomorrah’.

In this assessment, colonial politics of the 1840s were directly informed by the interests, opinions and anxieties of the colonists themselves. Speaking the ‘unspeakable’ was clearly both a powerful and a productive discourse. Through the constant and repetitive mobilisation of their voices, the ordinary residents of Van Diemen’s Land exerted power and agency both within the colonial periphery and upon the metropolitan centre.

And so Sir John Eardley-Wilmot was recalled from Van Diemen’s Land. Unlike the colonists he had failed to acknowledge the ‘true moral state’ of the convict population. William Gladstone’s despatch announcing his recall was specific and detailed in its reasoning. According to the Secretary of State for the Colonies, the Governor was the only voice in the colony ‘silent on the matter’. It was only ‘with extreme rarity’

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960 *Launceston Examiner*, 1 July 1846.
961 However, according to the early historian John West, Gladstone’s despatch was ‘a singular example of its author’s mental habits. While he complained that the Governor’s statements were obscure, he gave his own views in odd and scarcely intelligible terms’. John West, (1852, 1971), op. cit., p 196.
962 As Gladstone noted, ‘...it would appear from almost every account of the colony which reaches me, except your own, that there is supposed to prevail in these probation parties a state of things the most
that reference had been made ‘to the moral condition of these men’. Gladstone acknowledged the power of scandalous rumour and unsubstantiated allegations. Yet Wilmot had remained silent and had failed to acknowledge the rumours. Real or imagined, these rumours had effects ‘both here and in the colony’. The Governor’s failure to redress this issue of ‘public justice’ was ‘an error of judgment so serious as to render it altogether inexpedient that you should continue’. More specifically, Wilmot’s silences suggested to the colonial office that he was either utterly ignorant of the state of the convict gangs, or was reluctant to take action. His silences were particularly notable when contrasted with the ‘incomplete, but yet full of meaning’ reports received from other sources.\footnote{Ibid, p 32.}

Gladstone noted, ‘it does not appear, from the information with which you have supplied me that any adequate or sustained effort has been made to contend against it’. He further suggested, ‘your statements taken strictly as they stand, do not so much show a consciousness of its existence, far less of its grave and formidable character’.\footnote{Ibid, p 31.}

Were Gladstone’s accusations justified? Was Sir John Eardley-Wilmot negligent in his duty to attend to the moral state of the probation gangs? The plethora of rebukes he received from the colonial office certainly suggest that his skills as an administrator were lacking.\footnote{Ibid, p 31.} In his defence he wrote of his faith in Mr. Forster’s reports as ‘most accurate, minute and comprehensive’. He felt his own comments were unnecessary.\footnote{Although, as James Francis Hogan mordantly noted in 1898 the constant demand of the colonial office ‘for psychological particulars … would be exceedingly difficult, if not absolutely impossible for any Governor to supply.’ See J. F. Hogan, (1898), op. cit., p 151. The Launceston Examiner, no friend of Eardley-Wilmot and relieved to see his recall similarly scoffed at Gladstone’s reason for the recall. The paper noted, ‘Never was a more ridiculous reason assigned for a necessary act. It would have been as pertinent and rational to have superseded Sir Eardley-Wilmot ‘because he did not pay sufficient attention to the shoe ties of prisoners’ as to dispose of his services because inattentive to their ‘moral and religious welfare.’ Launceston Examiner, 30 September, 1846.}

Yet Gladstone’s claim that the Governor had not shown even ‘a consciousness of its existence’ fails to stand up to scrutiny.\footnote{Eardley-Wilmot to Gladstone, 26 September 1846, in BPP, C, A, vol 10, pp 43-6.} Many of Wilmot’s despatches were not so formidable perhaps of all’. William Gladstone to Sir John Eardley-Wilmot, 30 April 1846, in BPP, C, A, vol 10, 1847-48, p 31.\footnote{See for example Eardley-Wilmot to Comptroller-General Champ, 1 September 1846; Eardley-Wilmot to Gladstone, 2 September 1846 both in GO33/56, AOT.}
much ‘silent’ but rather suggest that he perceived there was a great deal of exaggeration over ‘the horrid crimes’. In response to the recall, Wilmot wrote of ‘exaggerations, inventions and falsehoods … circulated here and transmitted home … unqualified and bold fabrications spread about for party purposes’. Scandal and rumour aside, he pointed out to Gladstone that Lord Stanley himself had acknowledged ‘these practices are not the result, but the inseparable consequences of the Transportation system, under whatever form it has hitherto assumed’. Responding to the accusation that he had failed to ‘contend against it’, Wilmot reminded Gladstone of a private despatch dated 2 November 1843. This was explicit in detailing ‘a nameless crime’ and its common practice in both the male and female convict establishments in the colony. The Governor claimed that since this despatch he had ‘silently but unremittingly’ attended to ‘the suppression and diminution of these horrors’ and had laboured ‘incessantly to provide precautions and remedies’. He made a counter-claim that he had never ‘received to this day the slightest notice’ from the colonial office concerning this despatch. Gladstone confirmed that Wilmot had indeed transmitted ‘the most horrible and revolting accounts’. Yet since that date Wilmot had ‘never followed up that statement, either by a detail of remedial measures which you had put into operation, or by

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968 See Eardley-Wilmot to Lord Stanley, 6 February 1846; Eardley-Wilmot to Gladstone, 10 July 1846, both in BPP, C & P, T, vol 7, 1843-47, p 34 (490); pp 99-104 (555-560).
969 Sir Eardley-Wilmot to Gladstone, 26 September 1846, op. cit. Wilmot had earlier lamented to Lord Stanley that he was constantly subjected to ‘all the vituperation, scurrility and falsehood with which this country unfortunately teems … it does require more than common forbearance to put up with them’. Sir Eardley-Wilmot to Stanley, Despatch 74, 21 April 1846, quoted in K. Fitzpatrick, (1940), op. cit., p 44.
971 This despatch was never published in the Parliamentary Papers. It is to be found in Sir John Eardley-Wilmot’s Letter-book of Despatches to the Secretary of State 14 September 1843 – 28 November 1845, GO25/11, AOT. In writing this private and confidential despatch Wilmot noted, ‘the horrors … defy description, and I cannot make them the subject of a public despatch without outraging decency and creating a disgust almost beyond endurance.’ The Governor went on to describe the women in the factories as having female lovers and practicing ‘onanism to the greatest extent’. Male prisoners in the gangs, ‘commit sodomy to a great extent with one another’. To remedy this state of affairs, Wilmot suggested marriage for the deserving women, and the granting of rent-free land for the men. Stanley failed to acknowledge these suggestions.
972 Sir Eardley-Wilmot to Gladstone, 26 September 1846, op. cit.
973 This claim was made in an earlier despatch. See Eardley-Wilmot to Gladstone, 10 July 1846, in BPP, C & P, T, vol 7, 1843-47, pp 99-104.
974 The Secretary of State also expressed his ‘surprise’ that Wilmot had revealed these details. Gladstone to Eardley-Wilmot, 30 April 1846, in BPP, C, A, vol 10, 1847-48, p 32.
tendering suggestions of that character for the consideration of Her Majesty’s Government’. 

Clearly there were silent omissions and misunderstandings working on both colonial and home fronts. Following the recall notice, the dialogue between William Gladstone and Eardley-Wilmot was largely ‘tit for tat.’ Claim and counter-claim characterised their correspondence. Eardley-Wilmot invited an independent inquiry into the probation system. Gladstone responded by ordering Charles Joseph La Trobe to conduct it. ‘Smoke and mirrors’ also characterised contemporary interpretations of the recall. In his History of Tasmania, written in 1852, the colonist John West claimed Gladstone and the colonial office had made Eardley-Wilmot the scapegoat for the failure of the probation system. Conversely, Stafford H. Northcote defended the action taken by the Secretary of State for the colonies. In 1847 he noted, ‘had Mr. Gladstone hesitated to take that step, upon him would have lain the guilt of permitting and tacitly encouraging the continuance of a state of things never paralleled perhaps since the destruction of those ‘cities of the plain’ which God overthrew.’ Was Sir John Eardley-Wilmot merely the scapegoat, sacrificed to appease another spectacular failure of British penal policy? Or was he just plainly and hopelessly incompetent? Both interpretations reveal that some sort of action was necessary. The probation system was an abject failure both as a penal

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975 ibid
976 Wilmot informed Gladstone that such an investigation would lead to a ‘report most satisfactory to yourself and most honorable to me.’ Sir Eardley-Wilmot to Gladstone, 26 September 1846, op cit.
977 Letter from W. E. Gladstone to Charles J. La Trobe re his appointment to investigate the Probation System of Van Diemen’s Land, 7 May 1846, A1299, cy reel 1956, (ML), pp 43-5. La Trobe’s inquiry exonerated Sir John Eardley-Wilmot from any blame for the failure of the probation system and indeed for the prevalence of unnatural crimes amongst the prison population subjected to it. La Trobe’s inquiry is printed in I. Brand, (1990), op. cit.
978 The Launceston Examiner noted in ironic tones ‘that the same disregard of truth distinguishes the document announcing his recall that marked his own despatches respecting the people of this island’. See Launceston Examiner, 30 September 1846.
979 John West, (1852, 1971), op. cit., pp 195-6; James Fenton made a similar claim in his 1884 history. Fenton noted that the British government ‘attributed the evils of the penal system to defective management in the colony rather than to the imperfections of the system itself’. James Fenton, (1884), op. cit., p 162. According to K. Fitzpatrick, ‘the improvement of the moral and spiritual condition of the convicts was a motive which conflicted with transportation as it was practiced from 1840-46. For the state of affairs which rightly shocked Gladstone, the British Government and not its agent, the Governor, must bear the responsibility.’ K. Fitzpatrick, (1940), op. cit., p 38.
system and in its moral consequences. As the colonists had noisily claimed, remaining silent permitted the continuation of the system and all its moral horrors. By 1846, inaction was sanction and whether these ‘moral horrors’ were real or imaginary was a moot point. For these reasons Sir John Eardley-Wilmot had to be recalled, transportation suspended and a new convict system introduced.

Conclusion

When in 1846 a number of colonists pointedly proclaimed that they ‘dared no longer be silent’, they were employing a particular rhetorical tactic. Bishop Ullathorne had mobilised it a decade earlier. Other voices such as the Launceston Examiner had not, in fact, ever been ‘silent.’ From the first moment the probation system of convict discipline was announced, many years of noise had followed. Moreover, this clamour extended beyond the recall of the Governor and continued to surround the subsequent changes that were introduced into the convict system. What was ‘unmentionable’ remained central to editorials and letters throughout the rest of the decade. Yet the Examiner was not merely indulging in scandalous yellow page sensationalism or political propaganda alone. This ‘silent’ strategy was a constant discursive layer within the lexicon of the nineteenth century. It was prominent in many colonial discourses. It had a variety of uses according to purpose. The ‘unspeakable’ was written down in legal records and mobilised with ease in moments of moral panic. The newspaper press routinely reported ‘unmentionable’ crimes and ‘unspeakable’ incidents. These reports were didactic and cautionary. They served as a warning that drew contours around the boundaries of appropriate social and sexual behaviour. Specific details were often left out. Yet specific details were not required. It was through such enabling discursive devices, that the imagination could be left to its own conclusions as to what the ‘unutterable abominations’ and the ‘nameless horrors’ meant.

Official government documents are imbued with silent discourses. Allusion and metaphor, dots and dashes, and apologies for omissions abound in the historical record. They litter colonial despatches, convict department records and official enquiries. They
convey meanings that are as palpable as any ‘thick description’.\(^981\) This lexicon informed convict memoirs. In 1846, Linus Miller recalled the night-time scenes of the convict dormitory. Yet they were ‘too dark to be written – too dreadful to be thought of … I can do no more than hint at them’.\(^982\) ‘Unspeakable’ rhetoric informed the political propaganda of anti-transportation advocates in the 1830s. It was analysed and utilised in the colonial backlash that followed. The following decade, colonists in Van Diemen’s Land mobilised religious metaphors and biblical imagery to convey the same unspeakable meanings. ‘Silence’ had a long discursive history and it was inscribed in the cultural meanings and the social landscape of contemporary society. It delineated the conventions of polite conversation. In political discourse, it was not a peripheral theme, but often lay at the heart of its meaning. In the final analysis, what was deemed ‘unspeakable’ was in fact central to colonial political discourse and, in the wider imperial context, to the politics of transportation. Sir Eardley-Wilmot’s ‘silences’ and his subsequent recall reveals in microcosm precisely just how central, speaking the ‘unspeakable’ was. In the following chapter we move away from the discursive world of colonial society and return to the convict system. Chapter five examines the many ‘unmentionable’ anxieties that were generated by the presence of juvenile boys within the penal system.


\(^982\) L. Miller (1846), op. cit., p 320; p 367.
Chapter 5

‘The Fruits of an Evil System’: Convict Boys and Juvenile Delinquents

On 19 April 1850, the Surgeon-Superintendent of the Blenheim convict ship recorded the following incident in his journal:

A complaint was made to me that a prisoner named CS had slept in a bunk with one of the boys. I questioned him on the subject, and he confessed having done so, but excused himself by saying he was so sick in the bowels of the vessel, that he went aft [sic] and asked any of the boys to allow him to lie down by them, and that one consented to do so. I threatened him that if he ever repeated the offence, I would give him three dozen lashes and I addressed the prisoners generally and warned them against going to the bunks of the boys, and told them I should flog any man I found there and would receive nothing as an excuse for so un-English and unnatural a practice.

This isolated diary entry reveals something of a significant, yet largely unregarded area of convict history; convict boys and juveniles. Approximately twenty five thousand minors were transported to the penal colonies of Australia. Convict historiography has been remarkably quiet on the issue and it remains an under-researched arena. Marginalised to a paragraph or two in general convict histories, other studies have focused upon specific juvenile institutions. This chapter argues for including youth within adult convict history. As the Surgeon of the Blenheim found, it is difficult to keep them apart. Ludmilla Jordanova has revealed the significance of including children within

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985 In this chapter, minors will refer to youths aged eighteen years and under. In the nineteenth century the term ‘juvenile’ generally embraced an age range of eight to twenty years. Contemporaries were diverse in their use of the terms boy, youth and juvenile. Many penal institutions had different age ranges which affected admission procedures. Historians are similarly different in their use of age in defining the juvenile. See J. Kociumbas, Australian Childhood: A History, Allen & Unwin, Sydney, 1997, p ix.
cultural and social history. According to Jordanova ‘children were part of the dynamics between classes and strata. Far from having their own autonomous history, they were integral to adult conflicts and struggles.’ In the conflicts and struggles of an adult criminal justice system, competing concepts of childhood and youth informed penal discourses of criminal and moral culpability. The moral anxieties generated by the inclusion of young delinquents in the criminal justice system reveal in particular how perceptions of deviancy, crime and sexuality entwined. This chapter argues that the presence of boys and youths magnified already existing moral tensions generated by the massing of criminal men together. I argue that the very idea of the ‘juvenile delinquent’ centred on a sexualised construction of the transported child-felon. This in turn produced further moral complexities for penal administrators. Penal policy and practice surrounding the treatment of youths oscillated from decade to decade, yet these ideological shifts did not extend to a new cultural understanding of ‘delinquency.’ This construction remained a constant.

Lower-Class Youths and the British Justice System

The transportation of juvenile boys to Australia began with the departure of the First Fleet. They featured as ‘juvenile emigrants’ on the final convict ship that arrived in Western Australia in 1869. During the early decades of life in the colonies little distinction was made between the ten-year-old urchin and the mature male prisoner. Both adult and child were worked, rationed and punished in similar measures. This reflected the British criminal justice system. Children were subjected to the same punishments in the same institutions as adult criminals, and they were ‘tried with the full publicity and

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989 Watkin Tench recorded the presence of eighteen convict boys on board his ship the Sirius in 1787. See Watkin Tench, (1788, 1996), op. cit., p 19.

formality of judge and jury or magistrate'.  

In the eyes of the civil law, childhood lasted until the age of twenty-one. The criminal code did not reflect this however. Indeed criminal responsibility began at the age of fourteen. Moreover, children between the ages of seven and fourteen, found able to discern between ‘good and evil’ were also deemed morally responsible. The moral and criminal culpability of this age group divided contemporary observers. The penal reformer Matthew Davenport Hill told one select committee that the seeds of crime were sown by the age of five or six. Conversely, the journalist and barrister William Hepworth Dixon spoke of the ‘folly’, ‘cruelty’ and ‘absurdity’ of holding such children responsible for their own acts. Opinion remained divided yet during the 1820s and 1830s experimental policies, specific to age were slowly and partially introduced into British prisons.

In Britain, the indiscriminate treatment and incarceration of adult and juvenile prisoners brought the concerns of penal reformers into sharp focus. Criminal justice in the nineteenth century embraced the conflicting aims of punishment, deterrence, reform and rehabilitation. It was an impossible task yet a society without a prison system could not be imagined. The many and various systems of prison discipline that were tried and tested during the first half of the century reveal this. A number of contemporary observers concluded that prison neither deterred nor reformed but merely corrupted prisoners further. This perception was encapsulated in the discourses of ‘contamination’ and ‘pollution.’ It found further expression in the regulations that surrounded separation and classification. Later penal developments upheld the idea that the isolation and atomisation of prisoners was the only path to reformation. These ideas were particularly relevant to the treatment of the young offender. Indeed, the irony of removing youths from the ‘corruptions’ of the city streets, only to subject them to the negative influences of adult inmates in the prison was not lost on contemporary reformers.

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These concerns were magnified by a marked increase in the numbers of minors sent to prison or sentenced to transportation during the first half of the nineteenth century. The law reforms of the 1820s had rendered the legal code less bloody, yet had at the same time criminalised much behaviour once deemed harmless.\(^993\) Draconian curbs on the public, cultural and economic activities of the poor and labouring classes extended the definition of crime and ‘designated the deviants’.\(^994\) For the next thirty years British society witnessed an increase in ‘crime’ and an expanding prison population. The imagined terror of a subterranean criminal underworld whose prize scholars were juvenile boys was later immortalised by Dickens. In London, the development of a metropolitan police force in 1828 increased apprehension rates and unrestrained children and youths were particularly susceptible to arrest.\(^995\) The effects of these changes upon lower-class youths were observed by the prison inspectors William Crawford and Whitworth Russell in 1836:

Delinquencies of the most trifling description, committed by mere children, and formerly thought very lightly of, are now treated as grave offences; and the youth who would a few years back on detection have been summarily chastised, is sent to gaol and arraigned before a criminal tribunal.\(^996\)

Other contemporary observers were less sympathetic. Peel’s law reforms reflected ruling-class fears that their control over society was breaking down.\(^997\) In the context of the changes brought to the social and economic landscape of nineteenth-century Britain, fears of social and political subversion loomed large. Restraining the freedom and culture of the lower classes sought to remove from respectable view the

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\(^995\) Avril Kyle has suggested that due to a ‘baby boom’ earlier in the century, ‘there were simply more juveniles in the population to convict’. See A. Kyle, ‘Little Depraved Felons’ in *Australian Historical Studies*, vol 25, no 99, October, 1992, p 320.

\(^996\) Quoted in S. Magarey, (1978), op. cit., p 18.

undesirable effects of rapid industrialisation and the growth of city life. Lower-class children and their public ‘delinquencies’ were central to this process. A host of select committees, philanthropic enquiries and countless law reformers expressed a variety of views on the causes of and the cures for juvenile delinquency. Povery, parental neglect, early addiction to alcohol and the absence of religion and education were all cited as possible causes. Class and cultural disparities informed these judgments and in all of these investigations perceptions of the immoral behaviour of the lower orders explicitly linked criminal and deviant behaviour. Yet in this new national obsession, a certain degree of consensus was revealed. It was an early intimacy with ‘scenes of vice and profligacy’ that corrupted the nation’s youth. ‘Wicked and depraved’ parents, evil step-parents and the ‘scum of the workhouse’ introduced children into the ways of crime. By locating the causes of juvenile crime to the depraved example of their adult guardians, law reformers and jail administrators placed themselves in a moral quagmire. The responsibility of the governing classes to act as moral guardian to the nation’s youth was considered to be an imperative duty of national importance. But how was this to be achieved through both a legal and a prison system that largely failed to distinguish between the adult and the juvenile?

There was however, a further dynamic in the construction of the juvenile delinquent. Immoral adults corrupted their children, yet a more insidious constant of these social enquiries was the continual focus upon the behaviour, the habits and the

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998 See ‘Minutes of evidence taken before the committee on the state of the police of the metropolis’ 1816, in BPP, C & P, Police, vol 1; ‘Report from the select committee on the state of the gaols’ 1819, in ibid; ‘Report from the select committee on gaols and houses of correction’ 1835, in BPP, C & P, Prisons, vol 3.
1001 William Wadham Cope, the governor of Newgate identified ‘wicked and depraved’ parents as the main cause of juvenile crime. It was the ordinary of Newgate, the reverend John Davis who identified ‘a very close link between the scum of a workhouse and these juvenile offenders’. See evidence of William Wadham Cope, 25 March 1847 and John Davis, 13 March 1847, both in ‘First report of the select committee of the House of Lords … especially respecting juvenile offenders and transportation’, in BPP, JO & T, no 1, 1847, pp 44-5.
precocious living arrangements of the youths themselves. It was their ‘freedom’ and early independence from any social and moral restraint that rendered them deviant in the eyes of middle-class commentators.\textsuperscript{1003} The regulation of children and their behaviour reflected wider bourgeois concerns.\textsuperscript{1004} Many social reformers wanted to shape and tame these children into ‘valuable members of society’, yet their workless and godless existence threatened to disrupt this future role.\textsuperscript{1005} This created fears that were expressed through negative somatic descriptions that likened them to ‘street Arabs’ and ‘little stunted men’\textsuperscript{1006} Their deviant status was written on their bodies.\textsuperscript{1007} One contemporary described the juvenile delinquent as ‘an infant in age, a man in shrewdness and vice, the face of a child with no trace of childish goodness’.\textsuperscript{1008} This encapsulated environmentalist assumptions of lower-class children as being ‘old before their time’.\textsuperscript{1009} Further, their sexual conduct obsessed investigators. For the first fifty years of the century, the many official enquiries that were conducted in relation to youth, crime and delinquency were less concerned with the causes of crime than with the cultural habits and the sexual behaviour of urban youths.\textsuperscript{1010} These anxieties filtered into the colonial imagination. In 1833, the \textit{Hobart Town Courier} informed its readers of the following ‘news from London’:

\begin{quote}
On a recent occasion it appeared that there existed in London a band of thieves, the oldest of whom was not fifteen; and at their head were
\end{quote}

\textsuperscript{1003} As Phillip McCann explains, ‘It was this early acquaintance with the harsh facts of adult life, the forced independence and forwardness that caused middle-class moralists to view working-class children with such alarm.’ Phillip McCann, \textit{Popular Education and Socialisation in the Nineteenth Century}, Methuen & Co. Ltd, London, 1977, p 5.

\textsuperscript{1004} The behaviour and ‘freedom’ of lower-class children represented the antithesis of their own idealised and sheltered children.


\textsuperscript{1008} S. Robins, \textit{A Letter to the Right Honorable Lord John Russell on the Necessity and Mode of State Assistance in the Education of the People}, Ridgway, London, 1851, p 51.

\textsuperscript{1009} Mary Carpenter, \textit{Juvenile Delinquents: Their Condition and Treatment}, 1853, reprinted Patterson Smith Publishing, New Jersey, 1970, p 7. This was also a concern of utilitarian reformers who campaigned against child labour in the factories and the mills of industrialising Britain. See Hugh Cunningham, (1991), op. cit., pp 64-5.

\textsuperscript{1010} E. P. Thompson and E. Yeo have noted that statistical investigations into poverty were more often morality and social discipline surveys. See \textit{The Unknown Meyhew: Selections from the Morning Chronicle 1849-1850}, Merlin Press, London, 1971, p 53.
a boy and a girl, aged twelve and thirteen respectively who actually lived together as man and wife. The pretended husband attempted to set up an alibi for himself by declaring, “I was at home smoking my pipe at the time they say this here happened.”

Historians have dated the intervention of the middle class policing gaze to different decades of the nineteenth century. Frank Mort has recently argued that the 1830s and 1840s need to be ‘considered as a key moment in the formation of official concerns over morality’. Mort’s analysis suggests that it was the medical profession that led ‘a general onslaught on the culture of the poor’. Likewise, Stephen Kern’s study argued that it was through the development of medical theories that the specific domain of childhood sexuality was produced. He dates this to the late 1860s. The following analysis of parliamentary enquiries reveals that sexuality was a site of earlier concern. Moreover, the same deployment of moral and cultural categories were embraced by a broad spectrum of social, penal and philanthropic reformers. In this context, the domain of childhood sexuality was not merely produced by the later interventions of the emerging medical profession.

The behaviour and morality of children from the lower orders was central to the Inquiry on the State of the Police in the Metropolis of 1816 and 1817. Witnesses were repeatedly asked for their perceptions of urban street culture, from the dog fight to the public house, the boxing match and the coffee house. These questions also extended to the sexual entertainments enjoyed by the juvenile. William Crawford, then investigating the causes of juvenile crime and delinquency informed the inquiry, ‘I apprehend that the greater part of juvenile depredators cohabit with girls of their own age’. He further

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1011 Hobart Town Courier, 5 July 1833.
1014 Lynette Finch has suggested that it was not until the late 1840s that official inquiries and parliamentary debates became concerned with the juvenile delinquent. See L. Finch, The Classing Gaze: Sexuality Class and Surveillance, Allen & Unwin, Sydney, 1993, p 73.
revealed that ‘this early association of the sexes prevails I fear, to an alarming extent’. Other witnesses confirmed the existence of brothels that catered exclusively for young people, ‘some not above eleven or twelve years of age’ and the culture of youths living together in lodging houses, ‘many five or six in a room’. The practice of young female prostitutes who ‘repeatedly’ visited their boys in Newgate was of particular interest to the inquiry. **1016**

These ‘scenes of the most flagrant, the most public and the most shocking debauchery’ continued to inform parliamentary inquiries. In 1819 a Select Committee on the State of the Gaols heard evidence from Stephen Lushington. He was involved with a charitable organisation that provided refuges for destitute youths. Lushington informed the committee of the prevalence of male juveniles living independently in lodging houses. According to this witness, ‘I have no doubt that all of them have girls of some description or other, even the youngest offenders. I have seen a boy whose age did not exceed twelve who had his girl.’ **1017** By 1835, another Select Committee on Gaols and Houses of Correction was offered a more lurid portrait of youthful sexuality. According to William Augustus Miles, an assistant to the constabulary force commission, lower-class children were ‘a class apart’. They possessed their own rules, language, manners and amusements. Moreover:

> There are lodging houses kept by old thieves, where juvenile offenders herd together, and their constant intercourse tends to complete corruption. It is in these hotbeds of vice that they revel in the fruits of their plunder; and though extremely young, they live with girls, indulging in every kind of debauchery. **1018**

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**1017** S. Lushington, 24 March 1819, Minutes of evidence given to the Select Committee on the State of the Gaols, 1819, in BPP, C & P, Prisons, vol 1, p 165.  
**1018** William Augustus Miles, 29 June 1835, Second report of the Select Committee on Gaols and Houses of Correction, 1835, in BPP, C & P, Prisons, vol 3, p 395. In later evidence, Miles suggested that the girls had a particularly negative influence upon the boys. He noted, ‘these boys have their girls, who are more depraved even in their habits, who live extravagantly on the produce of the plunder, urging them on to guilt, and sinking these boys as low as they can be sunk in every species of debauchery and crime.’ In ibid, p 513. For a further insight into Miles and his investigations into juvenile delinquency see Heather Shore, ‘An Old Offender Tho’ So Young in Years: The Criminal Careers of Juvenile Offenders in Middlesex in the 1830s’ in T. Hitchcock, P. King & P. Sharpe (eds.) Chronicling Poverty: The Voices and Strategies of
By mid-century, this focus on ‘vicious’ immoral behaviour, rather than the social and economic causes of crime and poverty remained. In 1851, boys in the Tothill Fields House of Correction were interviewed. One boy told the inspector, ‘I have kept a girl called Long Nell … and also Julia Higgins … Julia had six months here [in prison] I have had the bad disease, another boy had it at the time, who went to the doctors and he gave me some of his stuff, which cured me’\(^{1019}\). These findings were published by a select committee on juvenile offenders in 1852. The same questions had again been asked. But this time, it was the youths themselves who were providing the answers and the evidence.\(^{1020}\) Their statements confirmed what earlier investigators had so obsessively noted.\(^{1021}\)

Historians of nineteenth-century female juvenile delinquency have repeatedly noted that girls were constructed through the image of the ‘fallen’ woman. This perception informed their reformative process because it sought ‘to turn the girl away from active sexuality’.\(^{1022}\) Schlossman and Wallach have argued that boys, in contrast, were seen first and foremost as ‘carefully nurtured young criminals’. Their delinquencies were ‘rarely … regarded as indications of innate moral perversity’.\(^{1023}\) The crimes committed by juveniles tended to be gender specific. Boys were more likely to commit

\(^{1019}\) Quoted in S. Magarey, (1978), op. cit., p 15.

\(^{1020}\) Hugh Cunningham has argued that because children were allowed to come before select committees to testify their experiences, this suggested ‘a new valuation of childhood.’ See H. Cunningham, (1991), op. cit., p 92.

\(^{1021}\) The following decade, the working and cultural lives of London’s poor were investigated by Henry Mayhew. His investigations largely echoed the concerns of the parliamentary committees. See H. Mayhew, *London Labour and the London Poor*, vol 1, 1861, reprinted A. M. Kelly (4 vols), New York, 1967.


Yet defining ‘delinquency’ through this gendered moral dichotomy is untenable. It is clear from these enquiries that perceptions of promiscuity and an early sexual awakening were crucial elements in the construction of male delinquency. Alexander Maconochie suggested that ‘the young man who seduces innocence deserves more richly the house of correction than the unhappy female whom he has allured into the path of destruction’. In many respects precocious sexuality was juvenile delinquency. Moreover, that the moral and cultural behaviour of the nation’s youth was such a constant over time reveals ‘the obsession of a society’. Yet it also diverted attention. Juvenile crime and childhood poverty formed one of the dark sides of urban progress and industrialisation. In constructing delinquency through a moralising discourse based on behavioural and environmentalist assumptions, ruling-class ‘guilt’ was assuaged. The allocation of moral blame lay elsewhere. These children were the ‘other’, the embodiment of savagery and far removed from any likeness to the civilised bourgeois child. As Charles Pearson, a London solicitor, informed one select committee on juvenile delinquency, ‘I do not believe that mental or moral or even religious instruction … will have the effect of diminishing the enormous increase of juvenile crime. It is effective control over the conduct of youth that is wanted’.


1025 Foucault suggested that it was ‘not so much his act, as his life, that is relevant’ in characterising the delinquent. See M. Foucault, (A. Sheridan, trans., 1977), op. cit., pp 249-52.


1030 Charles Pearson, evidence to the select committee on juvenile offenders and transportation, 29 March 1847, in BPP, JO & T, no 1, 1847, p 314. Mary Carpenter shared this attitude. According to this child-saver, ‘it is not physical destitution, nor even want of education which is the cause of crime in the most bold and hardened young offenders, but moral destitution, arising from want of early training and parental neglect’. Mary Carpenter, (1853), op. cit., p 36.
It was in this climate of moral panic and fear of social subversion that the discourses of juvenile penal reform were articulated. Prison visitors, social investigators and philanthropic do-gooders united in denouncing the prison system and the ‘herding’ and the ‘huddling’ of the juvenile with the adult criminal. What hope did the young have of reforming in the polluting environment of the prison? Surely adult criminals would merely complete the task of corruption? Dr. Cotton, the Chaplain at Newgate prison, certainly believed that children ‘had no business’ in the adult prison. He informed one select committee that it was ‘a mockery of justice to send little boys there’. These concerns were widely reiterated. They were informed by the fear of criminal ‘contagion’ and reflected wider perceptions that children imitated behaviour. Many concluded that convicted juveniles had to be removed from both the evils of the metropolis and the British prison system. A new colonial environment was their only hope for reformation. Yet before this could be achieved how were they to escape the adult criminal justice system? It was in this context that the apparatus of the transportation system was singled out in particular.

The Hulks

The young offender with amazement hears
The sins and outrages of riper years
But soon familiar grows with every crime
A veteran in vice while in his prime
Confine not youth in this abandon’d place
To herd with everything most vile and base
Let justice rather strike her victim dead
Than send him here, the path of sin to tread
Where vice unblushing tells her grossest tale,
And images obscene are made for sale
Place not the boy with those who every art
Employ to harden and corrupt the heart:
’T were better doom him to the lion’s den,

1031 Dr. Cotton, evidence to the select committee, 28 August 1835, in second report of the select committee on gaols and houses of correction 1835, in BPP, C & P, Prisons, vol 3, p 517.
1032 George Laval Chesterton was the governor of Cold Bath Fields house of correction. He believed that prison did not reform juveniles but merely corrupted them further. He informed the 1835 select committee that transportation was their only hope of reform. See evidence to the select committee, 11 April 1835, in second report of the select committee on gaols and houses of correction 1835, in ibid, pp 89-95. Many other witnesses noted the utility of what was termed ‘compulsory emigration’.
Then to this curs’d abode of wicked men.

George Holford, The Convicts Complaint, 1815.\textsuperscript{1033}

The hulks were ‘floating detention centres’, or, as one contemporary described them, ‘floating Bastilles’ that littered the Thames and other estuaries of southern England.\textsuperscript{1034} Throughout the seventy years of their existence they provoked horrified and virulent criticism. George Holford was a Benthamite radical who tirelessly campaigned for a juvenile penitentiary to be built in Britain. His poem was written in protest against the hulk system, yet the sentiments behind his sensationalism were reiterated by many contemporary observers. The institution of the hulk was the ‘despair of all penal reformers’.\textsuperscript{1035} Inquiry after inquiry condemned the conditions where filth and fever reigned. The hulks were perennially overcrowded and there was no separation between the different ages and classes of prisoners. A violent and abusive subculture was endemic within their rusting frames. Many officials who were employed in the day-to-day administration of the hulks confirmed these observations. ‘These dens of infamy and pollution’ noted the reverend J. M. Golding, ‘are productive of sins of such foul impurity and unnatural crime that one even shudders to mention them … a mob law, and tyranny of the strong over the weak, exists below, which makes the well disposed live in constant misery and terror’.\textsuperscript{1036} ‘Reeking receptacles of lust and misery’ where ‘crimes impossible to be mentioned were commonly perpetrated’ were familiar descriptions of these floating prisons.\textsuperscript{1037}

Norma Townsend and David Kent have recently criticised historians for reiterating these Gothic-horror perceptions of the hulks. They suggest that these prisonships were well-regulated, ordered and supervised. According to this account, the hulks served an integral role in both the penal and the transportation systems. Further, the

\begin{itemize}
\item \textsuperscript{1033} George Holford, ‘The Convicts Complaint in 1815 and the Thanks of the Convict in 1825’, London, 1825, 365H, (ML.)
\item \textsuperscript{1035} H. Mayhew & J. Binny, (1862), op. cit., p 201.
\item \textsuperscript{1037} H. Mayhew & J. Binny (1862), op. cit., p 199.
\end{itemize}
authors argue that the long held stereotype of the hulks as little more than coffin ships that subjected ‘the convicts to almost unspeakable conditions’ needs to be thoroughly revised. Their argument is certainly convincing. Yet the terror the hulks evoked for the respectable classes was intended to produce similar reactions in the lower orders; they were to serve as a psychological deterrent to crime. Moreover, for contemporary observers the living conditions on board these vessels and the peculiar prison culture of the inmates were indeed unspeakable. For some enlightened penal reformers, it was these horrors that made the removal of young and reclaimable offenders even more imperative. This was also acknowledged by the convict authorities in the penal colonies.

During the late 1820s, juvenile convicts arrived in Van Diemen’s Land with increasing frequency. In the following decade the numbers of youths sentenced to transportation continued to rise. The presence of young male convicts in the colony led Lieutenant-Governor Arthur to suggest innovations in their treatment at home. In 1832 he wrote to Hay at the colonial office. His letter revealed a concern with the practice of confining boys in the hulks before transportation. Arthur viewed this as merely ‘an apprenticeship of crime’. It was both harmful to the individual youth and an impediment to the success of his rehabilitation. According to the Governor, ‘the system of congregating boys in the hulks at home is, I am persuaded, attended with the very worst consequences’. Instead, he suggested that boys and first offenders should be transported immediately upon conviction, rather than being subjected to the demoralising influences of the hulks and prisons of Britain. The Governor explained that the Surgeon-Superintendents ‘invariably declare that they are the most difficult to manage, and the worst to keep under subjection during the voyage’. Arthur both admired and adhered to current penal theories of spatial determinism and behavioural imitation. He concluded

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1039 And as Ignatieff points out, ‘the revolution in punishment was not the generalized triumph of Weberian rationalization which the revisionist account suggested’. See M. Ignatieff in S. Cohen & A. Scull (eds.), (1983), op. cit., p 83.
1040 Jeremy Bentham suggested that prisoners embarking upon the Woolwich hulks were raped as an initiation into the institution. See R. Hughes, (1987), op. cit., p 265.
1042 Ibid.
his letter with the observation that ‘the best and only chance for their effectual correction’
would be found ‘in the secluded and compulsory employment they meet with from the
agricultural settler in the interior of the colony’.  

Despite these recommendations, neither the colonial office nor the Governor himself could adopt them in practice. Van Diemen’s Land was struggling to assign and accommodate all of the youths who arrived during these years. Because of their young age, many colonists viewed them as unskilled and useless workers. Others perceived that their rehabilitation was too much of a moral responsibility for the independent colonial settler to take charge of. Arthur himself had noted in 1827 that many convict boys were ‘entirely useless and generally so mischievous are these corrupt little rogues that they are the dread of every family’.  It was under Arthur’s rule that young convicts were subjected to a specific reformatory policy; a separate juvenile prison was opened at Point Puer in 1834.  

In Britain, the fiscal considerations that perpetually thwarted the implementation of penal innovation meant that the practice of confining juveniles with adult prisoners on the hulks continued into the following decade. In his memoirs, the convict Linus Miller revealed his experiences of the prison-ship. He specifically noted the effects of the system upon young inmates. According to Miller, ‘boys aged from seven to twelve are sent here … If they are not perfect monsters of the devils art before, they become so in a few months time after being sent to the hulks’. The convict John Mitchell made similar observations in 1849. He noted, ‘each hulk, each mess or ward is a normal school of unspeakable iniquity. Young boys who come out, as many surely do, not utterly desperate and incurable villains are sure to become so.’

The Transport Ship

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1043 Ibid.
1045 In his 1822 report, Commissioner John Bigge had criticised the lack of separate facilities for juveniles in Van Diemen’s Land.
Beyond the institution of the hulk, the transport ship provided a more successful arena where the classification, separation and supervision of convicts according to their age and crime-class was increasingly put into practice.\textsuperscript{1047} In 1815 the techniques of penal surveillance were buttressed by the appointment, to every transport ship of a trained surgeon.\textsuperscript{1048} They were to act as the ‘agents of order, responsible for punishment, control, efficiency and a structured and supervised shipboard routine’.\textsuperscript{1049} We have seen the ways that silence and the regulation of speech on board the transport ship performed an important disciplinary function. This was augmented by an obsessive emphasis that was increasingly placed upon the rules of hygiene and cleanliness, a rigid adherence to a time-tabled routine and, from 1817, the separation of the boys from the men. In the wider context, the classification of prisoners reflected the desire to prevent any moral ‘contagion’ be it criminal behaviour or improper speech.\textsuperscript{1050} Yet it was the dynamics of age that were of critical consideration. The prevention of inter-generational contact was seen to be fundamental to the internal moral economy of daily life on board the transport ship. It pervaded the spatial organisation of the ship. It was central to perceptions of order and discipline. Indeed, the ship-board rules were saturated in sexual anxiety. The guidelines of 1832 strictly informed surgeons that night-time illumination, constant activity and age-related separation were fundamental to their duties. According to clause 22:

\begin{quote}
You are to cause the two lanterns, which the owners are bound to provide to be kept burning in the fore and main hatchways during the darkness of night, to prevent those irregularities which have been so much complained of. As it is highly desirable to keep the minds of the convicts as constantly and usefully employed as possible, you are to use your best endeavours to establish schools … and particularly for the boys in male ships, who
\end{quote}

\textsuperscript{1047} This was largely due to a report made by William Redfern on the general management of convict transports. Redfern was a colonial surgeon who had himself been transported as a convict. See his report in despatch between Governor Macquarie and the Commissioners of the Transport Board, 1 October 1814, in \textit{HRA}, ser 1, vol 8, pp 274-92.

\textsuperscript{1048} According to Bryan Gandevia their appointment was the ‘greatest administrative advance in the history of convict transportation’. See B. Gandevia, (1978), op. cit., p 16.


\textsuperscript{1050} Kim Humphery has suggested that the discipline on board the transport ship was not merely imposed as ‘a better convict system’ but was rather the imposition of ‘a new way of life’. See K. Humphery, ‘A New Era of Existence: Convict Transportation and the Authority of the Surgeon in Colonial Australia’ in \textit{Labour History}, no 59, November 1990, p 60.
according to the present mode of fitting are to be kept entirely separate and apart from the men.1051

Joy Damousi has wonderfully revealed the sexual anxieties that surrounded the public and private spaces on board female convict ships.1052 Liaisons between convict women and the male crew were naturally a site of moral anxiety. Yet it is difficult to agree with her assertion that ‘the surveillance of potential sexual activity did not characterize the scrutiny of surgeons as often on male convict ships’.1053 I would argue that an all-male environment at sea for months made ‘potential sexual activity’ a real concern for the Surgeon-Superintendents. Moreover, the presence of male juveniles would have exacerbated these concerns. Many men appointed as Surgeon-Superintendents to the transport ships had previously been employed by the Royal Navy.1054 The sexual sub-culture characteristic of naval vessels was often based on inter-generational relationships.1055 It is crucial to note here that the presence of juvenile girls on the female transports did not receive the same attention.1056 Indeed, there is a silence in the official records over the related issue of female separation according to age.1057 The presence of an all-male crew would have assuaged any moral concerns over ‘unnatural’ practices between the girls and the women. Yet this silence is still curious. It fails to reveal any moral concern for the criminal ‘corruption’ of young girls under the influence of convict women.1058 This brings the issue of separating the boys from the men

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1051 Instructions to Surgeon-Superintendents on Board Convict Ships, 23 June 1832, in BPP, C & P, Prisons, vol 3, p 635.
1057 It was of concern to the authorities involved in the Female Factories however and similarly revolved around fears of criminal and sexual ‘contamination.’ See K. Daniels, (1998), op. cit. During my research I came across an article which appeared in the London Times. It expressed specific concern over the transportation of women and girls on the same ships. The paper argued that for the girls this was ‘far more vindictive and awful than death upon the gallows’. The article advocated that young girls should be sent out separately from women, under the guidance of female teachers and religious men. Times, 16 October 1833.
1058 William Ullathorne was critical of this lack of separation according to age on the transport. He noted, ‘on board the ship in which she sails, there are generally found some two or three grey-headed hags, the
on the transport ship into sharper view because their separation was so clearly integral to perceptions of order and discipline. Kim Humphery has noted that ‘the whole thrust of the new disciplinary regime instituted on board the transports was, for the most part, male defined and directed’. The prevention of criminal and sexual contact between the young and the adult prisoners was central to the ship-board regime. This formed part of a wider reformatory discipline that sought to impose new standards of outward behavioural propriety upon all male prisoners. In this analysis, both young and old were uniformly caught up in the repressive reformatory process.

The imposition of a carefully controlled ship-board routine was designed to ensure separation, yet it did not necessarily produce it. By 1832, the rules of managing the transport ship had expanded from the original ten, to a list of 44 regulations. Throughout the 1830s and into the 1840s generational separation was continually reiterated in these regulations. This suggests that in practice it was not always adhered to. As the surgeon of the Blenheim discovered in 1850, the terrors of what was ‘so un-English and unnatural’ did indeed occur. Such instances threatened both the disciplinary regime and the moral order of the transport ship. Convict memoirs of the voyage reveal that boys and adult prisoners were not always kept apart. In February 1838, William Ullathorne informed the Molesworth Committee that, ‘the boys have a separate apartment below but they mingle on deck with the men and are much corrupted’. Lord Stanley admitted as much to Governor Gipps in 1842. In considering what to do with the reformed juveniles at Parkhurst, their removal to the colonies was seen to be their only hope for a brighter future. Yet as he explained, ‘there is too much reason to fear that [their] moral improvements…would be obliterated by the associations to which they would be exposed on board a convict ship and their subsequent intercourse with criminals

very incarnation of crime, who become the priestesses of initiation to the younger and more simple-minded during the voyage’. See W. Ullathorne, (1837), op. cit., p 26.

1061 See L. Miller, (1846), op. cit.; B. Wait, (1843), op. cit.
in a penal colony.\textsuperscript{1063} Indeed, contact between juvenile and adult prisoners continued in many gaols and institutions in Britain.\textsuperscript{1064} In Australia, juveniles were assigned to the same masters as adult prisoners. They were sent to work in the road-gangs of New South Wales. During the 1840s, they lived and worked alongside adults in the probation gangs in Van Diemen’s Land. As punishment, they were sometimes ordered to the penal stations of Macquarie Harbour, Norfolk Island and Port Arthur. In both the British and the colonial context then, separation between the adult and the juvenile prisoner was never entirely achieved. In the institutions where generational separation was attained, similar moral anxieties prevailed and were often further magnified.

Separate Juvenile Hulks

The prevention of inter-generational contact informed the development of separate juvenile hulks. In 1823, the \textit{Bellerophon} hulk, moored at Sheerness was set aside for juveniles and 320 boys embarked. They later moved to the \textit{Euryalus} at Chatham in 1825. In Britain separate reformatory institutions for boys had existed since the late eighteenth century. They were mostly non-penal and they accommodated boys who were deemed to be at risk of falling into future crime.\textsuperscript{1065} They were managed by volunteers and philanthropic organisations. The separate juvenile hulk was the first government-sponsored scheme to remove criminally convicted boys, aged between eight and nineteen years from adult institutions. It reflected a genuine attempt to isolate and protect boys and to distance them from the corrupting environment of the adult hulks. It was hoped that

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\textsuperscript{1063} Lord Stanley, Despatch 114, in Despatches to the Governor of New South Wales, May-June 1842, p 127, A1288, (ML.)


they would reform through a specific disciplinary regime that centered upon a rudimentary education, work-training and religious and moral instruction. This was to fit them for later transportation to the colonies.

The enlightened benevolence of the initiative was clear. The superintendent of the *Euryalus*, J. H. Capper, insisted that the juvenile hulk was a model of reform and good behaviour. Yet the historical record contains an appallingly grim picture. According to W. Branch-Johnson ‘there were reproduced in miniature between her decks all the evils which half a century’s experience elsewhere had not succeeded in entirely removing’. A select committee in 1835 heard horrific instances of institutionalised violence and abuse committed by those in charge. The *Euryalus* was constantly overcrowded. The boys were not classified according to age or crime-class and a cruel culture of bullying, referred to as ‘Nobs and Noseys’ clearly existed. Thomas Dexter worked in the hospital on board the *Euryalus* until 1833. He related many instances of self-harm that were purposely inflicted to escape the terrors. According to Dexter, ‘when I have seen it in a newspaper that a judge has sentenced a boy out of mercy to him to the hulks, I have made the observation that was it a child of mine I would rather see him dead at my feet than see him sent to that place.’ The committee concluded that behavioural reform was impossible in such an environment and moral deterioration inevitable. The precise features that made the adult prison so reprehensible had merely been replicated. Furthermore the boys’,

unavoidable intercourse with one another must give them innumerable opportunities of contaminating each other’s minds, and thus rendering their confinement, not a salutary preparation for an ultimate change of country, but a hotbed of vice destined to expand in all its maturity in a new and congenial soil.

The fears expressed by the select committee were indeed echoed in the ‘new and congenial soil’ of the colonies. The *Sydney Herald* reported on the juvenile hulk in 1834.

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1066 W. Branch Johnson, (1957), op. cit, p 149.
1068 Report of the select committee on gaols and houses of correction 1835, in ibid, p 5.
The paper informed its readers of the moral training that was provided to the ‘youthful delinquents, some of whom are not more than ten years old’. However ‘notwithstanding the severe lessons taught’ there, many youths merely returned to crime upon their release. Apprehended again by the law, their transportation to New South Wales was from this date ‘inevitable’. The Herald could ‘only wonder’ at the effects of this upon colonial society. In Van Diemen’s Land, the Quaker missionary James Backhouse also confirmed the committee’s observations. In his narrative he noted that ‘some of the juvenile prisoners had been confined on board a Hulk before being sent to Van Diemen’s Land. In this situation, they appear to have corrupted each other greatly. There is much ground to apprehend that the juvenile hulks are nurseries of vice and crime.’ The abandonment of the Euryalus hulk was urged immediately after the 1835 select committee published its findings. In the absence of alternative separate juvenile accommodation and the ever increasing numbers of young delinquents sentenced to prison and transportation during the 1830s, the Euryalus continued to function as a juvenile hulk for a further twelve years. It might have continued longer had it not sunk in 1846.

It is clear that the moral fears generated by confining the young on adult hulks were not assuaged by the separate juvenile institutions. Adult spaces ‘corrupted’ boys, yet the experiences of the Bellerophon and the Euryalus suggested that boys could equally corrupt their own spaces. Many penal reformers concluded that the reformation of the child-felon involved much more than their removal from the demoralising criminal influences imbibed in adult prisons. As George Chesterton the governor of Cold Bath Fields house of correction told the 1835 select committee, ‘I have for some time been of opinion that it was not particularly desirable to separate the boys from the men, when they had the means of free communication. I was satisfied myself that the boys corrupted one another more than the men corrupted the boys.’

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1069 Sydney Herald, 13 February 1834. This was part of the Herald’s wider campaign for the cessation of Transportation in 1834. It railed against the colony receiving the ‘worst’ of criminals and demanded that Britain should deal with her own prisoners at home.
1071 George Laval Chesterton, evidence given to the select committee, 11 April 1835, op. cit., pp 89-90. Commissioner Bigge had expressed similar sentiments in 1822. He suggested that separation on board
Carters Barracks: the limitations of environmental reform

Transportation to a new colonial environment embraced the environmental model of reformatory space. Many contemporaries believed that the removal of children from profligate parents, the vices of urban life and the horrors of the prison system would save them from a life of crime. The colonial setting would provide an ideal reformative environment for the young. George Holford observed the expediency of removing young criminals from Britain. He ‘urged their removal’ because their ‘reform is more likely to be effected abroad than at home, and because more encouragement may be given to such of them as may turn out well, at a distance from this country’.1072 In the colonial context, the assignment system was seen to be particularly conducive to the reformation and the rehabilitation of the young delinquent. The example of a responsible adult master to both teach a trade and to provide moral guidance resembled the paternal relationship. Rural assignment was seen as especially beneficial. It would remove youths from the temptations of Sydney and Hobart. It would take them away from the example of their peers and ensure that wholesome fresh air and honest hard work would mold them into useful and productive settlers. The natural rural setting was their only hope for a respectable future.

The environmental model of juvenile reform was part of a broader international movement that saw related developments in North America, Canada and Europe.1073 This was the ideal model and ‘rural purity as opposed to urban corruption’ continued to inform

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approaches to the problem of juvenile delinquency throughout the nineteenth century.\textsuperscript{1074} In practice however, as the numbers of juveniles sentenced to transportation started to increase, their assignment could not always be guaranteed. In Sydney many un-assigned boys were accommodated with the adult convicts in the Hyde Park Barracks. This situation caused grave concerns and it was in these circumstances that the Carters Barracks opened in 1820.\textsuperscript{1075} Here, boys under the age of sixteen years were housed and schooled. They received a rudimentary education and were taught a variety of trades to equip them with skills for their future assignment.\textsuperscript{1076} The daily routine was harsh and regimented and the boys were closely monitored at night. Submission and docility were not necessarily produced however. According to the \textit{Sydney Gazette} ‘we were not prepared for such depravity … the scourge is obliged to be repeatedly applied to keep them in check’\textsuperscript{1077} The boys were not permitted to mix with the outside population and their hours of exercise were restricted to the convict garden near Hyde Park. On Sundays they were marched to church and were only permitted to leave when the free congregation and the adult male prisoners were ‘clear of the door’.\textsuperscript{1078} In his report of 1822, Commissioner John Bigge declared ‘the Carters Barracks may be considered as the best conducted of all the convict establishments in New South Wales’.\textsuperscript{1079}

Despite Bigge’s glowing commendation, a fierce debate over the incarceration of juveniles was played out in the Sydney press during the 1820s. This reflected in microcosm the much wider penal debate between the advocates of institutionalisation, and others who saw assignment as the preferred model of criminal reform. The \textit{Monitor} fiercely upheld the utility of assignment and the spatial dispersal of young convicts. It railed against ‘the youthful gangs who are herded in the Carters Barracks’. According to


\textsuperscript{1075} The previous 3 years had seen many boys under the age of 16 years arrive in New South Wales. In 1818 220 arrived; in 1819, 234 and in 1820, a further 274 boys were transported to the colony. See J. T. Bigge, Appendix, Bonwick Transcripts no 16, p 2042. (ML.) Boys continued to be housed at Hyde Park Barracks. Bigge revealed that there were fifty boys housed with the adults ‘many of whom are very young’.

\textsuperscript{1076} They were generally trained to be gardeners, shoe-makers, carpenters and domestic servants.

\textsuperscript{1077} \textit{Sydney Gazette}, 15 February 1824.

\textsuperscript{1078} See B. Earnshaw, (1979), op. cit., pp 88-9.

the paper their ‘mere association together makes them ten-fold more the children of Hell
than they were in London or Dublin’. The Monitor suggested that rather than the
punishment of hard physical labour, the boys were given a ‘good education’. The ‘kind
treatment’ they received at the Barracks was turning them into ‘plumb pudding, cricket-
playing young rogues’. They should be immediately assigned and taught a useful trade
‘instead of being brought up to no trade at all and in habits of blasphemy and
wickedness’. The Monitor further demanded that convict boys should be isolated in
rural areas. In Sydney, ‘where women and wine tempt them by means of midnight
robbery, to gratify their vicious and incurable propensities’ they would never reform.

The Sydney Gazette took an opposing stance. It supported the institutionalisation
of boys. The Gazette responded to the sensationalist rhetoric of the Monitor in a more
considered, sympathetic tone. It referred to the Carters Barracks as ‘that humane and
philanthropic establishment’. It pointed out to its readers that the institution sought to
reform, rather than merely punish those ‘young in guilt’. It asked its readers to consider
what would be the moral effects if the convict boys were permitted into colonial society
‘amongst the fully fledged rogues?’ The Gazette suggested that this would merely throw
them ‘in the way of associations from which they are now so effectively debarred’. Their
reform through education, training and disciplinary restraint could only be achieved
within a separate institutional setting and this ‘wholesome restraint’ was well provided by
the barracks. The Gazette did admit that congregating boys ‘maybe in some respects an
evil’. However, it was ‘an evil which has frequently been urged even against public
schools and one which after all possesses much more of sound than sense’.

1080 The Baptist missionary John Henderson agreed. In his observations of the colonies he stressed the
negative effects of association amongst youths themselves. According to Henderson, ‘The keeping
criminals cooped up together and in constant intercourse is recognized in all countries as producing the
most deleterious consequences. These effects are more evident amongst boys, next amongst women, and
least perhaps amongst men.’ John Henderson, Observations on the Colonies of New South Wales and Van
1081 Monitor, 6 April 1827; 26 March 1828. The paper feared that treating juveniles ‘softly’ in the colony
would encourage parents in Britain to bring up their children in crime for ‘the happy chance of them being
sent to Botany Bay’. Monitor, 3 May 1828.
1082 Sydney Gazette, 9 April 1827.
The arguments of the newspaper press formed part of a wider penal discourse. Yet they also reflected some of the ambiguities that surrounded convict boys, their place within the criminal justice system and the purpose of incarceration. Were they to be punished for the past or reformed for the future? Was their separation and removal from Sydney the best means? Or was the disciplinary regime of institutional life preferable?

In New South Wales, the assignment and apprenticeship of juveniles ultimately triumphed over institutionalisation. In 1833, Governor Bourke introduced strict new regulations surrounding the assignment of the young. That year, he issued orders stating that upon arrival, all convict boys aged seventeen and younger ‘will not be allowed to remain in Sydney, nor will they be assigned to any person residing within twenty miles thereof’. All future employers of juvenile labour were to ensure that their young servants were afforded some religious instruction and were taught to read and write. They were also to be taught a trade ‘whereby they maybe enabled to earn an honest livelihood on attaining freedom or manhood’. It was clear that the rural ideal had (for now at least) triumphed over institutional life in Sydney. The Carters Barracks ceased to house boys the following year. In 1836, the Chief Justice Sir Frances Forbes mentioned the juvenile barracks in a letter. He revealed some of the moral concerns that lay behind Bourke’s decision. Forbes noted that the boys had been:

Placed under the best superintendancy and control which could be provided, and much care was taken of their morals as well as in teaching them some useful art or occupation. But the establishment was not found to answer, and has been lately broken up and the boys distributed … The main cause of the failure, I have understood, was the association of a body of young criminals together and the incorrigible effects of their example and communications upon one another.  

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1084 Ibid.
1085 The institutionalisation of children did not entirely disappear however. Nor was it restricted to boys. See E. Windschuttle, ‘Discipline, Domestic Training and Social Control: The Female School of Industry, Sydney 1826-1847’ in Labour History, no 39, November 1980, pp 1-15.
1086 The buildings were converted to house the mounted police, debtors and a chain-gang. See Sydney Gazette, 12 & 24 April 1834.
Separation and the prevention of sexual abuse

Alexander Maconochie believed that under the correct management, convict boys and convict men would produce benevolent and reformative effects upon one another. On this issue, as with many of his theories on penal reform he was very much alone.1088 For most contemporary observers, the ‘inevitability’ of age-related sexual relations deemed the separation of the boys from the men a moral imperative. As chapter three revealed, the sexual subculture that emerged in the penal colonies was sometimes based on an uneven age dynamic. It is impossible to know whether these encounters were consensual or abusive. Evidence given to the Molesworth Committee in 1837 and 1838 certainly played on the fear of both of these power dynamics.1089 Later, investigations into the probation system suggested that a number of boys had been subject to sexual abuse. At stations where separation was little observed, a number of youths were found to be suffering from venereal disease.1090 Thomas Smart was the assistant surgeon at Fingal Probation Station. He reported on the incidence of disease at the station in March 1846. He suggested to the convict department that ‘the complete separation of the boys from the men, both on the works and in the sleeping huts, would prove beneficial to the morals of the party and tend to prevent the crime’.1091 Smart’s ‘solution’ reveals the disjunction between official policy and actual practice; age-related separation was in many instances ignored under the probation system.1092 At Norfolk Island a similar lapse prevailed. Contemporary observations made on the island were particularly explicit on the issue of sexual abuse. Thomas Naylor was the chaplain on the island from 1841 to 1845.

proved such a hive of busy wickedness – sent out on the wing such a swarm of accomplished pests, that it is now broken up and the boys and the men are lodged in the same great barrack. Here begins the initiation into the deeper mysteries of the masonry of crime …’ (1837), op. cit., p 16.
1088 See Alexander Maconochie, Thoughts on Convict Management and other subjects connected with the Australian Penal Colonies, Hobart, 1838.
1089 Some witnesses talked of abuse. Others noted consensual relationships.
1090 See Enclosure no. 5 of Charles Joseph La Trobe’s detailed investigation and report of the probation system in I. Brand, (1990), op. cit., pp 147-60.
1091 Thomas Smart to Dr. Robertson, 2 March 1846, Inclosure 19 in no. 9, in Despatch no. 54, Eardley-Wilmot to Stanley, 17 March 1846, in BPP, C & P, T, vol 7, 1843-47, p 510.
1092 F. C. Hooper suggested that after 1843 boys aged 15 years and above were sent to the adult probation stations rather than the juvenile establishment at Point Puer. See F. C. Hooper, Prison Boys of Port Arthur, Hawthorne Press, 1967, p 26.
According to Naylor, ‘Youths are seized upon, and become the victims of hoary [sic] and unnatural villains … I saw very boys seized upon and lost’. In no less heated terms, Robert Pringle Stuart made a report on the island in 1846. He noted that ‘the young have no chance of escaping from abuse and even forcible violation is resorted to’. Some youths did fight back however. In February 1846, Henry Cooper described as ‘a mere youth’ attacked Richard Beech with an axe. The incident occurred at the Impression Bay probation station in Van Diemen’s Land. The attack resulted in Beech having his leg amputated. The case was tried at the Supreme Court in Hobart. In his defence, Cooper stated the injured man had ‘taken his character away’.1095

Historians have tended to reiterate these contemporary concerns. Michael Belcher has suggested that ‘boys were given no special protection from sexual exploitation, and from all reports the incidence of ‘unnatural crime’ involving boys seems to have been widespread’.1096 Other studies have acknowledged that the separation of male prisoners according to age was an attempt to prevent the sexual abuse of the young.1097 This indeed informed the policy. Yet interpreting separation on these terms alone masks a further, overlapping issue. Inter-generational sexual relations/abuse informed a wider moral discourse. This was articulated through the image of the contaminated colonial child.

Re-thinking Convict Contamination

Shall fathers weep and mourn
To see a lovely son
Debas’d, demoralis’d, deform’d
By Britain’s filth and scum?
Shall mothers heave the sigh,

1095 The Hobart Town Courier reported the court case on 22 April 1846. It noted, ‘From the youthful appearance of the Prisoner, the examination created a great sensation throughout the Court.’ Despite his plea of defence, Cooper was sentenced to death. He was executed on 12 May 1846.
To see a daughter fair
Debauch’d and sunk in infamy
By those imported here?¹⁰⁹⁸

The idea of ‘criminal contagion’ loomed large in the antipodean context. We have seen how the free colonists often played out their ‘contamination’ anxieties through the figure of the innocent colonial child. This image provided colonists in Van Diemen’s Land with a potent weapon that was used to protest against the continuation of the probation system during the 1840s. The residents of New South Wales utilised the same imagery in their anti-transportation rhetoric. It is of critical consideration to note that perceptions of behavioural contagion were always moral and usually sexual. This reflected the idea of the criminal as both a social and a sexual deviant. J. C. Byrne revealed how these concerns surrounded the contact of colonial children with convict servants. In his reminiscences, he noted ‘in the very inmost recesses of the home, vice is inculcated and taught until desire and ability produce practice’.¹⁰⁹⁹ Beneath this moralising discourse lay the related fear of precocious sexuality. This was central to the construction of the lower class juvenile delinquent. It was mirrored by a pervasive fear of the early sexual initiation of the middle class child. In this analysis, the idea of threatened innocence was more than a pertinent and effective theme of colonial political propaganda. It reflected a much wider cultural and ideological construction of childhood itself.

There were two competing ideas of the child in nineteenth-century iconography. The Evangelical ideal immortalised the image of the innocent and pure child. The angel in the nursery was fragile and impressionistic. He was to be sheltered and kept ignorant of the outside realities of the adult world. Opposite this idyllic child was the older, Calvinistic view of children as naturally wicked, evil and depraved. This child had to be shaped, tamed and socialised into his imagined state of grace. In many ways, these constructions of the child reflected the disparities of class; the innocent angelic middle-

¹⁰⁹⁸ Poem quoted in J. Syme, Nine Years in Van Diemen’s Land, McCosh, Park and Dewars, Dundee, 1848, pp 200-01. Syme failed to provide the author or the date of composition. He merely noted, ‘the following lines having fallen in my way, I beg to give them insertion here, as I trust I shall not be alone in deeply sympathising with the sentiments so touchingly expressed’. In ibid. The poem contained ten stanzas.
class child and the dangerous street-urchin. Yet they are not as dichotomous as they first suggest. Both views were saturated in sexual connotation. Childhood was discursively articulated through a sexualised lexicon that spoke of purity and innocence, ruin and depravity, rescue and protection.1100 As Lynette Finch has noted, ‘While the impact of environmental conditions might provide the wherewithal to argue that working-class children, unlike their middle class equivalents, were trained into precocious vice, the internal drives of sexuality, if present in one child, were present in all.’1101 Both constructions embraced the notion that children needed to be guided by a firm moral hand. Without this guidance, all children, regardless of class were vulnerable to regress into a ‘natural’ state of animal savagery. Gay Weber revealed this connection. She argued, ‘the nineteenth century, by involving the child in analogies with social and moral deviants, came to view childhood like savagery, as a curable disease, but one requiring stringent and severe treatment’.1102

In this context, the ‘contagion’ anxieties that were generated by the domestic employment of assigned convicts and ex-convicts in the colonial home, reveals a deeper layer of concern. If we shift the focus away from the adult convict, we might consider instead, how free colonial children themselves provoked these anxieties. Does the idea of ‘criminal contagion’ in fact reveal more about the fears and ambiguities that surrounded the nineteenth century child? To what extent did the bourgeois sexual obsession with the ‘child as savage’ influence perceptions of adult male convict servants? Ann Laura Stoler has suggested that the sexuality of colonial children was ‘both an endangered and dangerous sexuality’. They were to be protected from the contagion of the racial and class other ‘not because their sexuality is so different, but because it is savage, unrestrained and very much the same’.1103

1100 This discourse was similar to that employed by other ‘moral missions’ that sought to rescue fallen women, civilise natives and take Christianity out to heathens.
1102 Gay Weber, ‘Science and Society in Nineteenth Century Anthropology’ in History of Science, vol 12, 1974, p 276. The image of the savage was often identified with the poor, the unemployed, the pauper and the criminal. See also H. Cunningham (1991), op. cit. pp 97-132.
Children and their latent sexuality were a site of potential disorder within the middle class colonial home. Their innocence was a crucial factor in bourgeois claims to moral superiority and respectability. Yet, the implications of Stoler’s argument are also useful in re-examining the issue of separation between the adult and the juvenile prisoner. Separation has been analysed in both convict and penal history in terms of a preventive measure that was taken to avoid the sexual abuse and the exploitation of juveniles. This idea has been reinforced through the concept of a masculine power dynamic that was ubiquitous in the prison system. It was often based on age and the passive/active role that it involved. I do not refute this. However in the context of the nineteenth century, behavioural and environmental ideas surrounding youth, sexuality and criminality often converged. Adult criminals were often likened to, and treated as children. Juvenile delinquency was constructed around precocious sexuality. The idea that the juvenile convict possessed a sexuality that was ‘savage, unrestrained and very much the same’ was little different to that perceived to be an inherent characteristic of the adult criminal. In this context, the sexual fears that surrounded both the adult and the juvenile prisoner coincided. The separation issue moves away from the idea of an abusive power dynamic. Rather, it suggests instead that separation was relational. It was based on an ideological assumption that the juvenile had his own autonomous role within this power dynamic. According to the Chaplain of the Warwick county asylum, ‘the criminal boy is so enslaved to his lusts and appetites and passions, that he has lost the power of self control’.

Without separation, neither adult nor youth would ‘reform’ precisely because they were akin. That many reformers insisted on the need to ‘make them boys again’ reveals this idea further. The Governor of Parkhurst, Robert Woollcombe

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1104 J. Weeks suggests that the separateness of childhood was ‘a symbol of middle-class status, as much as non-working women’. See J. Weeks, Sex Politics and Society: The Regulation of Sexuality since 1800, Longman, London, 1981, pp 48-9.


1107 According to Matthew Davenport Hill, the delinquent ‘is a little stunted man already – he knows much and a great deal too much of what is called life. He can take care of his own immediate interests. He is self reliant, he has so long directed or misdirected his own actions and has so little trust in those about him that he submits to no control and asks for no protection. He has consequently much to unlearn – he has to be turned again into a child.’ M. D. Hill, ‘Practical Suggestions to the Founders of Reformatory Schools’ in J. C. Symons, On the Reformation of Young Offenders, London Routledge, 1855, p 2. See also Mary Carpenter, (1853), op. cit., p 298.
observed the imperative of this. He noted, ‘until the two questions of adult and juvenile prison discipline are recognised and treated as wholly distinct from each other, both in principle and detail, no satisfactory results in either will be obtained’.1108

**Separate Juvenile Ships**

The conventional focus on age-related separation has led to a relative silence over the moral concerns that were generated by the young themselves. We have seen that the separate juvenile hulk and the Carters Barracks were both regarded as having ‘failed’ to reform the boys they sheltered. The massing of juveniles together continued to create moral anxieties for prison administrators. In Van Diemen’s Land, conduct reports and official investigations in 1843 and again in 1847 revealed instances of sexual activity at Point Puer and at the male orphan school in Hobart.1109 There is evidence to suggest that some youths on Norfolk Island participated in sexual relations on their own terms and within their own age group.1110 The experiences of the separate juvenile convict ships reproduced these concerns. But they also brought other cultural ambiguities over age, youth, moral culpability and the penal system itself, into sharp focus.

Between 1837 and 1841 eight juvenile convict ships arrived in Van Diemen’s Land. Approximately 1200 boys aged from eight to nineteen years experienced transportation aboard the separate juvenile ship.1111 Separate ships were never sent from Ireland, and young convicts, both Irish and English continued to be sent out with adult prisoners during these years. The decision to charter special transports for boys reflected

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1109 The male orphan school at Hobart was established in 1828. It came under the authority of the Convict Department in 1844. Van Krieken suggests it was ‘grimly penal in nature’ long before it was placed in the hands of the penal authorities. See R. Van Krieken, (1992), op. cit., pp 56-7.
1110 The punishment records from Norfolk Island noted that youths were caught together ‘in the bush in an improper situation’. Some youths were charged with ‘unnatural crime’ and they were often the same age. See Alexander Maconochie, Return of Ill Conducted English Prisoners under sentence of Transportation at Norfolk Island for Twenty, Fifteen, Ten and Seven Years, with particulars of their Offences, 4 April 1842, in BPP, C D 1843-46, pp 16-22.
the increasing numbers of juveniles caught up in the criminal justice system during the 1830s. The idea belonged to Lord John Russell.\footnote{In 1836 he was the Under Secretary of State for the Home Department. Lord Russell had a long career in penal reform and his attention was often directed to juvenile crime and delinquency.} In 1836 he specifically recommended the scheme ‘to avoid the evil of mixing up that class of offenders with older criminals during the voyage’.\footnote{This was a testament to the failure of ship-board separation. Despatch, Lord Glenelg to Sir John Franklin, 28 October 1836, in Appendix B, Report from the select committee on Transportation 1838, in BPP, C & P, T, vol 3, 1837-61, pp 214-5.} The first ship, the \textit{Francis Charlotte} arrived in Hobart in 1837 with 140 boys. By all accounts the voyage was deemed a success. Sir John Franklin was delighted with the early results. He noted that the experiment had been ‘highly conducive to the interests of morality among young culprits’. Franklin informed the colonial office that he had ‘no doubt as to the expediency of forwarding and disposing in like manner all future culprits’.\footnote{Despatch, Sir John Franklin to Lord Glenelg, 4 August 1837, in ibid, pp 215-6.} It seems that a rigorous moral, religious and disciplinary program had been imposed on the boys throughout the journey. In his report, the Surgeon-Superintendent Alexander Nesbitt proudly revealed that ‘theft was exceedingly rare’ and ‘immoral language and behaviour had entirely disappeared’. Nesbitt was clearly happy with the experiment. He concluded his report of the voyage in the following self-congratulatory terms:

\begin{quote}
I may not be considered too bold in asserting that the experiment, so far as it goes, has been successful, and perhaps, I may be allowed to add, from my own observation that the manner in which these unfortunates have been disposed of in this colony seems to bid fair, as the human means can avail, to complete what has been contemplated – to withdraw them from the fangs of vice, and render them useful members of society.\footnote{Report of Alexander Nesbitt, 2 June 1837, Enclosure no. 1 in no. 38, in ibid, pp 217-8. Thomas Lempriere similarly noted the experiment as ‘very desirable’. See T. J. Lempriere, (1839, 1954), op. cit., p 104.}
\end{quote}

The disciplinary regime and the careful supervision that the \textit{Francis Charlotte} boys had been subjected to on the voyage, was to continue on their arrival in the colony. They were not permitted to disembark in Hobart but were immediately shipped off to the juvenile penal station at Point Puer. The Commandant, Captain Charles O’Hara Booth was optimistic ‘that with proper attention to their morals, education and instruction in their different trades, the major part of these juvenile offenders, uncontaminated by the
adult prisoner will turn out useful and worthy members of the colony’. Their continuing separation from adult prisoners was deemed vital for their reform. Yet beyond this, their isolation from the boys already at the Point was also imperative to the success of the experiment. Upon their arrival they were kept apart ‘as far as could be’ from the other boys. Indeed, rigorous steps were taken to ensure this spatial separation. According to Booth the ‘precaution was taken, just previous to their arrival of removing every boy (temporarily) to Port Arthur, whose characters were likely to contaminate them’ because ‘example tends to have a malignant influence over small boys’.

Attention has tended to focus on the progressive nature and the benevolent intentions of the juvenile transports. Bryan Gandevia has suggested that ‘the juvenile ships were one of the more constructive experiments of the convict era’. For the boys involved it might well have been constructive. Captain Booth looked with confidence to the future when each boy would become ‘a good and industrious citizen’. Yet it seems perverse logic that in order to prevent the ‘contamination’ of the newly arrived Francis Charlotte boys, other boys who were seen as potential ‘corrupters’ were sent to the adult penal station across the water. This reflected the wider classificatory principle of all institutions; new arrivals were kept ‘innocent’ and separate from the established residents. It also reveals the extraordinary lengths that were taken to preserve this innocence; some boys temporarily lost their right to separate treatment. Technically all boys at Point Puer were ‘incorrigible’ by virtue of just being there. Yet a hierarchy of imagined moral ‘innocence’ clearly existed. In his diary Booth noted the new arrivals as ‘nice boys – poor little fellows’.

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1116 Report of Captain Charles O’Hara Booth, 24 July 1837, Enclosure no. 2 in no. 38, in BPP, C & P, T, vol 3, 1837-61, p 220. Booth was a naval officer who was in charge of Port Arthur from 1833-44.
1117 Ibid.
1120 B. J. Bridges notes a similar policy of separating the newly arrived from the established residents at the Sydney Male Orphan School. New residents were to be subject to a probation class. ‘This step was taken because of ‘great injury’ having been found to result from new admissions to mix with the other inmates without first taming them in such a class.’ See B. J. Bridges, ‘The Sydney Orphan Schools 1800-1830’, M Ed Thesis, University of Sydney, 1973, pp 575-6.
Perceptions of children and childhood in the nineteenth century were ambivalent and often contradictory. Lower-class children convicted of crime compounded these tensions because their age and background clouded perceptions of moral innocence or criminal culpability. Anomalous approaches were often adopted in their penal management. Susan Houston has suggested that ‘prison reformers created for themselves a complex and ambiguous figure of a blameless child who is nevertheless guilty’. Lieutenant-Governor Arthur who had established Point Puer in 1834 certainly demonstrated ‘a puzzling mixture of compassion and severity’ towards juvenile convicts. His ambivalence was encapsulated in a private letter where he wrote ‘it is utterly impossible to imagine a more corrupt fraternity of little depraved felons … But all are objects of compassion’. This confusion was to characterise later perceptions of and developments in, the penal management of the young. During the 1860s, the English social observers Henry Mayhew and John Binny made a report on the young prisoners in the House of Correction at Tothill Fields in London. They noted:

Some were so young, that they seemed to need a nurse, rather than a jailor, to watch over them; others again had such frank and innocent faces, that we could not help fancying they had no business there; whilst others had such shameless and cunning painted in their features, that the mind was led insensibly towards fatalism, and to believe in criminal races as thoroughly as in cretin ones.

Yet if confusion muddled the issue for some, other contemporary observers demonstrated a less equivocal attitude. Indeed, many perceived the juvenile delinquent to be worse than the adult criminal and more difficult to reform. Thomas Lempriere was a Commissariat officer on the Tasman Peninsula. Perhaps he was having a bad day, but in 1839 he insisted ‘so deeply do the seeds of wickedness appear rooted in the breast of the urchin convicts, that in every degree of turpitude of which men are guilty, these boys

\[1124\] Lieutenant-Governor Arthur to Adam Turnbull, private secretary, 8 February 1834, quoted in D. Heard (ed.), 1981, op. cit., p 27.
outdo them'.  

In Sydney, the *Monitor* often referred to juvenile convicts as ‘the children from hell’. The Surgeon-Superintendent Daniel Ritchie likewise noted that ‘boys are not the least dangerous class of criminals. Their physical weakness is in proportion to their moral depravity.’ Perceptions such as these, suggest why refractory boys were often sent to Port Arthur; it was the last resort, short of Norfolk Island.

A punitive sentence to the adult establishment formed one of the harsher punishments inflicted on boys at Point Puer. Booth’s report of convict conduct at Port Arthur in June 1836 recorded that there were thirteen boys residing at the adult settlement. John Fairarray was described as ‘an abominable little monster’. Frank McManus was ‘an incorrigibly obstinate bad lad – tried ten times’, and James Kelly had ‘a bad influence over other smaller boys’. These conduct reports always noted that the removal of juveniles to the adult settlement was ‘temporary’. Nonetheless, many contemporaries were vehemently critical of this practice. Despite his belief that the boys’ ‘innate depravity and turbulent dispositions exceed any conception’ Thomas Lempriere criticised the removal of boys to Port Arthur. In his book on the penal settlements in 1839, he wrote that it was ‘severe and calculated to do away with the benefit intended by the Point Puer establishment’. Not only did ‘the same bad boys’ remain companions, but their separation from the men at Port Arthur was ‘impossible entirely to enforce’. Lempriere hinted that ‘the consequences maybe easily foreseen’.

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1127 *Monitor*, 6 April 1827.
1128 D. Ritchie, Surgeon-Superintendent of the *Egyptian* juvenile ship, in ‘Regulations duties and routines concerning behaviour and conduct of prisoners for *Egyptian*’ 1839, in Journal of H. M. S. Rattler, Ritchie Family Papers 1/4/10/7, University of Melbourne Archives. This attitude prevailed into the twentieth century. In 1910 Havelock Ellis suggested that ‘the child is naturally, by his organisation, nearer to the animal, to the savage, to the criminal, than the adult’. Quoted in S. J. Gould, *Ontogeny and Phylogeny*, Basil Blackwell, Cambridge, Massachusetts, 1977, p 124.
1129 Boys had always been present at Port Arthur from when it was first established in 1830. See Booth’s Report on Point Puer, 24 July 1837, appendix B, Enclosure no. 2, in no. 38 in BPP, C & P, T, vol 3, 1837-61, pp 220-22.
1131 Between January and June 1837, nine boys were received at Point Puer from Port Arthur, and eighty nine boys were sent to Port Arthur from Point Puer. See Booth Report, (1837), op. cit., p 222.
1132 Commandants Report of Conduct at Port Arthur, 1 June 1836, in Tasmanian Papers 129, cy reel 1383, (ML.)
1133 Point Puer Charges and Sentences 1835-39, in Tasmanian Papers 134, cy reel 3079 and Commandants Report of Conduct at Port Arthur, 1 June 1836, in Tasmanian Papers 129, cy reel 1383, (ML.)
In 1843, Benjamin Horne was appointed by the British Government to make a full, official enquiry into Point Puer. His report confirmed Lempriere’s ‘consequences’ by reiterating the long-held fears that were generated by the failure of separation. According to Horne, ‘from the number of Point Puer boys already in the gangs at Port Arthur and the imperfect bearing and discipline of the boys generally, I am afraid that the process of forming a habitual prisoner class is already going on rapidly.’

Punishing boys by sending them to a stint at Port Arthur was hardly benevolent, reformatory or enlightened. The *Colonist* described the adult penal station as ‘worse than Dante’s Hell’. Yet despite the criticisms generated in the colony, a similar policy operated at the ‘model’ juvenile prison in Britain. Parkhurst was established in 1838. Juvenile inmates who refused to submit to the repressive disciplinary regime here were deemed ‘incorrigible.’ They forfeited their right to separate juvenile treatment and were transferred back to the adult prison system, usually to Millbank. From here, transportation was certain and their voyage would certainly not be on a separate juvenile ship. Benjamin Wait recalled an incident involving Parkhurst boys in his memoirs. Wait was incarcerated on board the *Leviathan* hulk in 1838. During his time there, he noted that fifty or so boys were removed to Parkhurst. However:

These boys had been away scarcely a week before [some] were sent back to the hulk as irreclaimable characters. The lads said it was for breaking open the cellar and taking some potatoes to roast, and some of the other boys ‘come it’ on them.

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1136 *Colonist*, 6 May 1834.
1137 Boys at Parkhurst were subjected to a rigorous discipline that embraced both punishment and rehabilitation. After an initial period of solitary confinement they were slowly introduced to a system of gradual association. Under this they were trained in trades that would be useful in the colonial context. After 3 years they were sent out to the colonies as exiles with conditional pardons.
1138 Millbank was used as a holding depot for all prisoners awaiting transportation. Juvenile inmates at Millbank were in theory separated according to age. Boys less than sixteen years of age were kept apart from the older juveniles aged sixteen to twenty. See Sir George Grey to Earl Grey, 20 January 1847, in BPP, C & P, T, vol 7, 1843-47, pp 194-200.
1139 Benjamin Wait, (1843), op. cit., p 237.
In 1846, the annual review of Parkhurst reported that seventy-nine boys who had ‘mischievously employed themselves in unsettling and perverting others’ had been removed that year. According to the report, ‘the salutary effect of that step has been very apparent since that time in the improved conduct of the remaining prisoners’.\textsuperscript{1140} We do not know what the eventual ‘effect of that step’ was for the seventy-nine boys who had been removed. We do know that their status as ‘incorrigibles’ expelled from Parkhurst, would not have endeared them to the convict department on their arrival in Van Diemen’s Land.

**Convict Boys and ‘Older’ Youths**

The incident of the *Francis Charlotte* points to some of the ambiguities and the limitations that ‘separating’ the boys from the men produced. The arrival of a later ship involved in the separate transport experiment brought into sharp focus a further ambivalent issue; at what age should the boys be separated from one another?\textsuperscript{1141} In March 1839, 160 juveniles arrived in Van Diemen’s Land on board the *Pyramus*. By all accounts the voyage had passed without incident and on arrival the boys were ‘of healthy appearance’. The Surgeon-Superintendent, Mr. Foreman made ‘a favorable report of the conduct of these boys, as well as the ten overseers (convicts) who came out with them’.\textsuperscript{1142} Sir John Franklin acknowledged the arrival of the boys in a despatch to Lord Glenelg. He praised the ‘very satisfactory and creditable’ performance of Mr. Foreman. However contrary to these outward niceties, it seems that there was some cause for concern. The Comptroller-General of convicts, Mr. Forster had inspected the ship on arrival. Forster was a firm believer in the mechanical use of separate sleeping berths and separation boards that were examined in chapter two. He expressed grave concerns that there were no separation boards on the ship. Moreover, each sleeping berth on the

\textsuperscript{1140} Parkhurst Report 1846, quoted in Mary Carpenter, (1851), op. cit., p 319.
\textsuperscript{1141} Separation according to age informed the administration of most reformatory and penal juvenile institutions in Britain. However, the fact that distinctions were drawn at a variety of different ages in different institutions attests to the confusion that surrounded the issue. See Report from the Select Committee on Gaols and Houses of Correction 1835, in BPP, C & P, Prisons, vol 3.
\textsuperscript{1142} Mr. M. Forster to Franklin, 25 March 1839, Enclosure no. 4, in Despatch, Sir John Franklin to Lord Glenelg, 12 April 1839, in BPP, C & P, T, vol 6, 1810-41, p 859.
Pyramus accommodated up to four bodies. In his despatch, Franklin noted that ‘the point I wish particularly to draw to your Lordship’s attention is Mr. Forster’s suggestion that in the fitting up of transports in future, the sleeping places of the convicts should be partitioned off from each other’. He continued:

This measure has been adopted at Port Arthur, and at the road parties in the colony with advantage; being found very conducive to cleanliness and a prevention to immorality, which should be especially guarded against where large bodies of depraved beings are congregated together … it is very desirable the younger convicts should not be associated with those who, older in years and crime, are calculated to harden those less depraved than themselves. With this view I would suggest, that in future transportations of juvenile offenders to this colony, the older youths should not be sent out in the same vessels with the smaller boys. \(^{1143}\)

Franklin’s concerns were accentuated by the presence, on board the Pyramus of ‘no fewer than seventy’ youths who were eighteen and nineteen years of age. These youths were too old to be sent to Point Puer; they were instead to be held in Hobart. Their presence on the ship, their moral effect upon the younger boys and the inadequacies of spatial segregation in the sleeping quarters had clearly caused alarm for the convict department. In Britain, the Governor’s request was passed from Lord John Russell in Downing Street, to the Secretary of State for the Home Department and onto Sir John Barrow, Lord Commissioner of the Admiralty. Was the issue considered to be of equal moral importance to the authorities in the metropole? Or was this procrastination typical bureaucratic bumbling? Whatever the delay, Franklin’s suggestion was not implemented. According to Barrow ‘it would be prejudicial to the health of the convicts and cause increased expense’. \(^{1144}\)

The incident of the Pyramus produced some familiar anxieties. The spatial arrangements of ordering and atomising juvenile bodies on board the ship were perceived to be inadequate. So too was the separation of the ‘older youths’ from the ‘smaller boys.’ This was intimately bound up with perceptions of behavioural imitation. \(^{1145}\) Yet the issue

\(^{1143}\) Despatch, Sir John Franklin to Lord Glenelg, 12 April 1839, in BPP, C & P, T, vol 6, 1810-41, p 858.
\(^{1144}\) J. Barrow to F. Maule, 1 November 1839, in ibid, p 859. Maule was the solicitor to the Treasury.
\(^{1145}\) J. H. Capper, the Superintendent of the Euryalus juvenile hulk made similar age-related observations in a report in 1834. He noted, ‘Since the reduction of the number of convict boys, by the transportation of the elder ones, considerable improvement has manifested itself in the behaviour of the younger boys.’ Report
also concerned ideas surrounding puberty and adolescence. These concepts were less well defined than they eventually became towards the end of the nineteenth century.\textsuperscript{1146} Nonetheless, many observers during the first half of the century believed the age of ‘older youths’ to be ‘the period of greatest moral peril’.\textsuperscript{1147} The older youths at Parkhurst were described as ‘abject slaves’ to ‘sensual appetites and propensities’ with no desire to ‘become respectable characters’.\textsuperscript{1148} Not only was there a morbid fascination with masturbation as a ‘fatal’ and ‘unmitigated evil’, many contemporaries specifically linked the emergence of adolescence with criminal behaviour.\textsuperscript{1149} Jelinger Symons was an inspector of the Union Workhouse Schools in Britain. He noted that youth ‘especially between the ages of fifteen and twenty-five is the season when the passions are strongest and vice rifest’.\textsuperscript{1150} Andrew Dickson made similar claims. His experiences of reforming juvenile delinquents in English Canada led him to conclude that ‘the period bordering on adolescence shows most evidently a greater tendency to crime than any other. This obviously arises from the power and energy of the passions, and as yet the defective cultivation of the mind and training of the morals.’\textsuperscript{1151}

Henry Mayhew’s social investigations into the working lives and social conditions of London’s labouring classes are well documented. Less observed are his views on adolescence, puberty and crime. According to Mayhew, puberty occurred at the age of fifteen. It was at this age when criminal dispositions were developed and the destiny of the youth ‘especially when apart from the molding and well directed care of parents or friends, is influenced perhaps for life’. Mayhew also believed that puberty occurred earlier in lower-class children. Through an early exposure to the vices of the


\textsuperscript{1148} Report of Parkhurst Prison 1846, quoted in Mary Carpenter, (1851), op. cit., p 319.


\textsuperscript{1150} J. C. Symons, (1849, 1984), op. cit., p 27.

\textsuperscript{1151} Andrew Dickson, Special Report, 10 March 1853, quoted in S. L. Houston (1975), op. cit., p 96.
adult world and the underworld of the brothel, ‘their extraordinary licentiousness’ was of little surprise. His investigations of the streets and his enquiries into the jails of the metropolis convinced Mayhew that criminal youths had an early and ‘extreme animal fondness for the opposite sex’.1152

There is evidence to suggest that the onset of puberty was class-specific in the past.1153 It is impossible to speculate what the average age of puberty was for the lower classes. Inadequate nutrition, poor housing and harsh working conditions would have been influential. Bryan Gandevia has examined the physical characteristics of boy convicts sent from London to Australia. He concludes that they were well below average height, ‘doubtless underweight’ and pock marked, suggesting past exposure to infectious diseases.1154 It is doubtful that Mayhew’s observations on early puberty are correct.1155 Rather, his views reveal instead how contemporaries negotiated the ambivalence of this age in relation to their moral and environmentalist assumptions of the lower classes.1156 As a ‘turning point’ or ‘a fatal step’ in the biological life cycle, these years were viewed as a particularly precarious time. Without firm moral guidance the adolescent represented moral danger and social subversion.1157 Criminality, sexuality and adolescence formed an unholy alliance in the anxious eyes of respectable observers such as Mayhew. As Anna Davin has suggested, middle-class commentators were ‘doubly outsiders: by age as well as class’ when referring to lower-class children.1158 It was a disparity of classed

1155 The idea that the environment determined the age of puberty was to cause considerable concern in Australia. Here, the warm weather was seen to be influential. These ideas informed the later nineteenth century legal and parliamentary debates over the age of consent. See L. Finch (1993), op. cit., pp 80-2.
1156 The analysis here is limited to lower-class youths, yet obviously these concerns extended to the middle classes. The ‘abnormal’ middle-class youth was also perceived in sexual terms. Somatic descriptions of the middle class masturbator and the lower class criminal child are remarkable in their parallels.
moralities, but also an easy connection to make in the context of the nineteenth century.\textsuperscript{1159} Many youths were indeed caught up in the mechanics of the criminal justice system. The legal system had created their ‘criminal’ delinquency in the first place, and it was middle-class moralists who constructed this through a discourse of moral deviancy.\textsuperscript{1160} As Jelinger Symons remarked, ‘juvenile crime is a moral disease which requires a moral remedy’.\textsuperscript{1161}

‘Moral remedies’ were certainly implemented on board the \textit{Hindostan} juvenile ship. In 1841 it arrived in Van Diemen’s Land with 200 boys aged between eleven and sixteen years. Sir John Franklin’s suggestion that young boys and older youths should not be transported on the same vessels had perhaps been extravagant. However, Matthew Forster’s concerns over the sleeping arrangements on board the \textit{Pyramus} were taken into consideration. Separation boards were not introduced, yet it seems that greater attention had been paid to the surveillance of the sleeping quarters; they were closely monitored. Andrew Henderson was the Surgeon-Superintendent on board. He recounted the voyage in detail in his book, \textit{Scraps and Facts of Convict Ships}. Henderson had instituted a strict and disciplined night-time watch on the \textit{Hindostan}. Forty-eight boys ‘of good conduct’ were appointed as ‘night watch-men’. They formed ‘two guards’ and were subdivided into platoons of four. Between six o’clock in the evening and six o’clock in the morning, their duties were:

to preserve order and good behaviour among the boys in that department of the ship over which they are stationed, and in particular to prevent all larking, quarrelling, fighting, swearing, the using of indecent or obscene language and the singing of immoral songs, and to see the boys in their proper berths by eight o’clock, after which time no speaking, singing or noise of any kind shall, on any account whatever, be permitted.\textsuperscript{1162}

\begin{itemize}
\item \textsuperscript{1159} David Walker noted that this idea was particularly prevalent in Australia from the 1860s to the end of the century. He suggested that ‘it was commonly assumed that working-class youths were degenerate and that criminality, degeneracy and seminal loss were interrelated’. See D. Walker, ‘Continence for a Nation: Seminal Loss and National Vigour’ in \textit{Labour History}, no 48, May 1985, pp 1-14.
\item \textsuperscript{1161} J. C. Symons, (1849, 1984), op. cit., p 96.
\item \textsuperscript{1162} Andrew Henderson, \textit{Scraps and Facts of Convict Ships}, Devonport, 1845, p 13.
\end{itemize}
It is clear that the regulation of silence and the monitoring of voices were integral to this disciplinary regime. Henderson’s boy-guards were encouraged to report any misdemeanors made by their charges and also any ‘lapses of duty’ that they noticed among their fellow guards. Henderson believed that this rotating system of constant night-time surveillance had been a great success. He recommended that it should be adopted on all future transports. His book does not detail any incident of spatial or spoken transgression on board the *Hindostan*. What the boys thought of the system, and how they used it to collude with, or disrupt these surveillance measures is not to be known.

On arrival in Hobart, Henderson recommended that eighty-six boys of ‘physical maturity’ be immediately assigned to respectable free colonists. All of these boys were aged between fourteen and sixteen years and Henderson ‘was at pains to point out that these juveniles should immediately be separated from the younger boys’. They were not to be sent to Point Puer.\textsuperscript{1163} The age and the physical development of these youths were here clearly acknowledged.\textsuperscript{1164} In this analysis then, the separate ship experiment produced new complexities for convict administrators. It brought the problematic issues of age, adolescence and puberty into sharper view. Separating the boys from the men had been the original incentive for the experiment. Later developments led to the separation of the juvenile body itself. After 1843, only boys aged fifteen years and younger were ‘officially’ sent to Point Puer.\textsuperscript{1165} The issue of age and concerns with the exchange of criminal and sexual knowledge had informed both of these processes.

\textit{‘A melancholy, bleak cancer spot’: The paradoxes of Point Puer}\textsuperscript{1166}


\textsuperscript{1165} In Britain, boys aged 13 and under were separated from the older youths at Parkhurst. At Newgate, boys aged 15 and under were kept separate from the ‘older youths’.

\textsuperscript{1166} This was William Champ’s description of the place. See W. Champ, 29 July 1844, in Point Puer Correspondence 1843 & 1844, in Tasmanian Papers 60, A1089, (ML.)
Kim Humphery has suggested that ‘the use of juvenile convict ships and the establishment of Point Puer boys’ prison near Port Arthur in 1834 represented one of the most important and far-reaching of state and philanthropic interventions into the management of young male offenders in early colonial Australia’.\(^{1167}\) According to Humphery, this ‘testified to ideological shifts regarding the cultural understanding and supervision’ of young convicts.\(^{1168}\) Yet we have seen that the use of juvenile convict ships re-iterated some familiar concerns. The problem of age-related separation was not solved but was rather reproduced in a new and concentrated form. The spatial organisation of juvenile bodies on-board the ship produced the same moral anxieties that surrounded the sleeping quarters in all institutional settings. The experiment highlighted the moral ambiguities in classifying new ‘innocent’ arrivals as worthy of protection from the ‘incorrigible’ boys. This in turn saw the removal of the ‘incorrigible’ boy to the adult terrors of Port Arthur. In 1841 the \textit{Lord Goderich} arrived with 176 boys. Only 108 were sent to Point Puer, and the rest were distributed between the various adult probation stations.\(^{1169}\) There were then, limitations to the separate ship scheme. It did not represent an ‘ideological shift’ in the ‘cultural understanding’ of the delinquent youth because ultimately the construction of delinquency remained unchanged. This is further revealed when we consider some of the paradoxes of Point Puer itself.

The very establishment of Point Puer was anomalous.\(^{1170}\) It opened in 1834, the same year that Carters Barracks ceased to operate as a juvenile institution. It was Lieutenant-Governor Arthur’s creation, yet he always fiercely defended the system of assignment as the most effective penal system ‘ever devised’ and the ‘best and only chance’ for reforming youths in particular.\(^{1171}\) The establishment of the boys’ prison was largely motivated by moral concerns. In November 1833, the \textit{Isabella} arrived with 300 prisoners. Half of them were convict boys aged between eight and ten years of age.\(^{1172}\) During 1833 and 1834, many boys were housed with adult convicts in overcrowded

\(^{1168}\) Ibid, p 32.
\(^{1170}\) The \textit{Hobart Town Courier} referred to Point Puer as ‘anomalous’ on 12 December 1846.
\(^{1171}\) Sir George Arthur Papers re Convicts 1822-47, vol 29, pp 612-14, A2189, (ML.)
\(^{1172}\) Reported in the \textit{Colonist}, 18 November 1833.
conditions at Hobart Town Gaol. Yet in establishing Point Puer on the Tasman Peninsula where the colony’s worst adult recidivists were sentenced to further penal servitude, Arthur made an unfortunate if not utterly misguided decision.

Geographically, Point Puer was unsuitable. The tiny island certainly made escape impossible. Yet the soil was unproductive, there was little wood for fuel and the lack of fresh water meant that daily provisions had to be delivered from Port Arthur. This proximity to the adult penal station also meant that many of the school teachers and the dormitory overseers employed at Point Puer were convict men. The moral propriety of this was questioned by Thomas Lempriere. In 1839 he asked, ‘Can such men all at once change their nature and become examples of morality and integrity to the boys?’

In 1843 Benjamin Horne specifically linked the use of convict teachers to indiscipline at Point Puer. He noted that the establishment was ‘daily suffering in a moral point of view from the want of proper teachers’. Horne recommended that three teachers who had been trained by the Council of Education be immediately sent from Britain. He was convinced ‘for several reasons’ that these men ‘should be married’.

The initial wooden buildings that had housed the first sixty-eight boys soon became unable to accommodate and effectively survey a rapidly increasing population of young convicts. In 1838 there were 478 boys at Point Puer and by 1840 this number had increased to 700.

The following year Sir John Franklin received orders from the British government. The separate system of prison discipline was to be introduced ‘generally’ at Port Arthur, but at Point Puer it was to be introduced ‘with the least

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1174 Horne Report 1843, cited in P. Bundee, (1984), op. cit., p 124. The original report is not available in the Australian archives. Paul Bundee has printed it in his book. Unless otherwise stated, the following references to the 1843 report are taken from this reproduction. B. J. Bridges study of the Male Orphan School at Sydney noted similar anxieties surrounding the employment of convict servants. In 1826, ‘Archdeacon Scott visited the Male Orphan School and ‘unofficially’ recommended that the twenty male convict servants be replaced by newly arrived Protestant convicts … Scott made his representations for the change of convicts unofficially so as to avoid the necessity for an inquiry which would expose the problem to the public and necessitate the bringing of the boys to give ‘disgusting evidence.’’ B. J. Bridges, (1973), op. cit., p 293.
1175 In his diary Charles O’Hara Booth recorded the arrival of the first ‘68 urchins’ on 10 January 1834. They were all drunk, having found Booth’s six dozen case of wine. See D. Heard, (ed.), (1981), op. cit., p 167.
possible delay. In a letter to Captain Booth, Franklin informed him of ‘the necessity of carrying out this principle by all possible means, both with reference to any new buildings which maybe erected … and in the division of those already existing’. Booth had previously made such recommendations ‘in the interests of morality’ in his report of 1837. These suggestions had not been acted upon then; Franklin’s instructions of 1841 were not to be carried out either.

These shortcomings were explicitly revealed in 1843. Benjamin Horne wrote a damning report on the entire system and structure of Point Puer. Horne was an apostle of the separate system at Parkhurst, with its silent cellular discipline. His report depicted Point Puer as the antithesis of this system. He was appalled at the wooden buildings and the un-slung hammocks he found there. He likened the boys’ communal sleeping on the floor to ‘a horde of gypsies in a large barn’. Horne recommended that each boy ‘should have a separate sleeping cell as at Parkhurst’. This was ‘absolutely necessary as a preventive to moral crimes.’ The haphazard nature of the buildings required a large number of staff by night and day to watch the boys. According to Horne, the surveillance of bodies ‘would be much better maintained by separate cells and stone walls’. Further, the fact that many overseers at the Point were men from Port Arthur exacerbated these concerns. Horne was convinced ‘that they would prevent moral improvement among the boys’ and would even ‘nullify the best system of discipline ever established’. William Champ agreed. He later noted that ‘the impropriety of this is so obvious that I need hardly say how desirable it is to substitute men of a totally different class’.

1177 Booth Report, (1837), op. cit., p 221.
1178 F. C. Hooper, (1954), op. cit., Appendix 5, p 183. Horne’s reference to gypsies was a familiar theme within the rhetoric of juvenile delinquency and lower-class disorder in general. It equated the poor with nomads, savages and wandering tribes. Mayhew and Binny were similarly appalled at the boys sleeping on the floor at Tothill Field House of Correction in 1860. See Mayhew & Binny, (1862), op. cit., p 434.
1180 Ibid, p 124.
1181 William Champ, 29 July 1844, Point Puer Correspondence 1843 & 1844, in Tasmanian Papers 60, A1089, (ML.)
Horne’s report was saturated in moral anxiety. This was accentuated by the presence of Port Arthur men, yet it also reflected the moral terrors produced by the boys themselves.\footnote{Horne’s concerns were not new. They had long obsessed penal reformers. Select Committees’ since 1812 had focused upon the sleeping arrangements, the surveillance, and the classification of juveniles according to age and crime-class. This focus continued throughout the nineteenth century.} He was appalled by their filthy appearance. If cleanliness was next to godliness, these boys had no chance of redemption. He specifically noted that ‘the most worthless boys and poorest in character’ were also ‘the most ragged and dirty’.\footnote{F. C. Hooper, (1954), op. cit., Appendix 5, p 183.} Horne was concerned with the lack of separation and classification of the establishment. The gaol at the Point was condemned as a ‘mockery of separate or solitary confinement’. The boys were not separated from one another. Instead, the comparatively good ‘associates daily with boys much worse than himself returning to the general class thoroughly corrupt’.\footnote{Horne Report 1843, p 118.} His horror at the association permitted between the boys was amplified by ‘their apparent familiar acquaintance with a vice which a Christian is scarcely permitted to name’. According to Horne, this situation ‘imperatively demands complete segregation at every moment when they are not under observation by efficient free overseers. In the course of the first week I spent at Point Puer, I heard this crime familiarly alluded to three times.’\footnote{Ibid, p 108.}

As with the adult prisoners, the boys at Point Puer were not silenced. They used their voices both in protest and in jest. They were often punished harshly for doing so. Indeed, their voices generated outraged horror that was often greater than that evoked by the adult prisoners. The return of punishments inflicted at the Point between 1 January and 30 June 1837 records 72 cases of ‘insolence’, 52 cases of ‘profane language’, 26 boys charged with ‘talking and singing in cells’ and 4 with ‘indecent conduct’.\footnote{Booth Report (1837), op. cit., p 221.} On 30 May 1835, Walter Paisley was ‘charged with [illegible] the boys in the cells on Sunday evening last by reciting an obscene story’. He was sentenced to seven days solitary confinement on bread and water. ‘Making use of obscene language’ earned William Churchill forty-eight hours of solitary confinement on bread and water. Joseph Hawke was similarly confined for twenty-four hours for ‘making use of improper expressions’.

\footnote{1182 Horne’s concerns were not new. They had long obsessed penal reformers. Select Committees’ since 1812 had focused upon the sleeping arrangements, the surveillance, and the classification of juveniles according to age and crime-class. This focus continued throughout the nineteenth century.\hline F. C. Hooper, (1954), op. cit., Appendix 5, p 183.\hline Horne Report 1843, p 118.\hline Ibid, p 108.\hline Booth Report (1837), op. cit., p 221.}
William Massey was lucky. He got away with a reprimand having been ‘charged upon the complaint of Overseer North with making use of improper expressions in barracks after hours’. What precisely was deemed ‘obscene’ and ‘improper’ we can only imagine. Female convicts were punished for similar verbal transgressions.

If Benjamin Horne was appalled at the frequency with which the boys ‘alluded’ to moral crimes, he later confirmed these fears. In his report he noted:

I am sorry that a case has since occurred between two boys which left me no longer in doubt upon the subject, as Captain Booth was so satisfied at the truth of the charge that he sought to inflict the highest punishment he could inflict.

It is difficult to determine what exactly this particular case involved. Captain Booth was aware of ‘vice’ between the boys. In 1837 a letter from Mr. Forster alerted him to ‘this horrible crime’. In his reply, Booth wrote that he ‘was quite horror struck’ by the allegations. He was also ‘quite perplexed to know what method to adopt to detect such horrid proceedings’. Booth promised a thorough, albeit silent investigation into the matter. He informed Forster that he had ‘not named it to ... a soul for fear of its getting publicity on the establishment’. The record books of punishment from Point Puer are similarly opaque. ‘Disorderly conduct in barracks at night’, ‘putting out lamps in the barracks at night’, ‘most indecent conduct’ and ‘being in the water closet for some improper purpose’ were listed in the ‘moral’ crime category of records between October and December 1838. Unsurprisingly, the press was rather more explicit. One report referred to ‘the abominations which prevail, in an assemblage of juvenile offenders, to an extent unparalleled even in this land of probation iniquity’.

1187 Walter Paisley, 30 May 1835 in Point Puer Charges and Sentences 1835-39, Tasmanian Papers 134, cy reel 3079, (ML); William Churchill, 30 October 1838; Joseph Hawke, 14 November 1838; William Massey, 16 December 1838, all in Point Puer Record Book Oct-Dec 1838, Tasmanian Papers 129, cy reel 1383, (ML.)
1190 Extract of a letter from Captain O’Hara Booth to Mr. Forster, Port Arthur, 9 September 1837, in F. C. Hooper (1954) op. cit., Appendix X, p 186.
1191 Extracts from Point Puer Record Book Oct-Dec 1838, op. cit.
1192 Hobart Town Courier, 12 December 1846. The Launceston Examiner was no less fervent in its reports of the juvenile establishment. See Launceston Examiner 23 December 1846.
Benjamin Horne concluded his report with the recommendation that the juvenile establishment should abandon Point Puer altogether. This would prove equally economical to any attempt to improve the existing deficient buildings. A site of isolated self-sufficiency would be an ideal location and he recommended Maria Island. The imperative of losing the Port Arthur taint was clearly of central importance. Horne’s recommendations were well received by the British government and by many in the convict department.\footnote{William Champ replaced Charles O’Hara Booth as Commandant of Port Arthur in 1844. He responded to Horne’s Report positively and agreed with all of his recommendations for the Point. He preferred the site of Safety Cove rather than Maria Island. See letter, 29 July 1844, op. cit.} William Champ entirely applauded his report. He agreed ‘that not one shilling more’ be spent at Point Puer. The press later commented on Horne’s ‘important statements and startling disclosures’.\footnote{\textit{Hobart Town Courier}, 12 December 1846.} Maria Island was eventually deemed unsuitable yet a new site at Safety Cove was chosen. Plans were drawn up to build a new penitentiary that was based on the separate system. Financial and administrative shortcomings meant that the building of the juvenile institution was slow. The press caustically noted its progress ‘is at the usual rate of Government works’.\footnote{Ibid.} Over two years lapsed before Sir Eardley-Wilmot even acknowledged Horne’s report in his official correspondence with the metropole. In October 1845 he informed the colonial office that ‘the separate apartments about to be built in the new penitentiary at Safety Cove will greatly improve their [the boy’s] moral training’.\footnote{Sir Eardley-Wilmot to Lord Stanley, 25 October 1845, in BPP, C & P, T, vol 7, 1843-47, p 33.} In the meantime, the half yearly reports from the convict department vaguely suggested that ‘all the attention circumstances will admit of is paid to the classification, and to the other means necessary for the improvement of the boys’.\footnote{Ibid.} However, little changed at Point Puer. By the close of 1846 the \textit{Hobart Town Courier} had had enough. ‘Separate treatment in especial relation to Point Puer was directed years ago’ they fumed. Yet:

The system first established is still continued in almost unmitigated operation, and evils which, in the language of Captain Forster ‘affect the eternal as well as temporal interests of so many youths’ and which are of no slight moment to the moral and social relations of the community, are
still practically and recklessly perpetuated. There is the same ‘herding together.’ There is the same facility of intercourse with Port Arthur, the same risk of contamination. Arrangements under which it is admitted to be ‘impossible’ to introduce a good system of discipline, either penal or reformatory remain in their essentials, unchanged.\footnote{1198}

Administrative incompetence, insufficient funding, and a gradual decline in the number of juveniles arriving in the colony meant that the penitentiary at Safety Cove was never completed.\footnote{1199} Point Puer was finally abandoned in 1849. The remaining boys were moved to a probation station at Cascade with separate apartments that were ‘well adapted for the enforcement of strict discipline and supervision’.\footnote{1200} This was to be a temporary arrangement however. The station at Cascades was merely to shelter the boys until they could be assigned as apprentices to respectable free settlers. Colonial penal policy towards juveniles had once again changed. The failure of the institutional model at Point Puer had made it come full circle. Assignment and the spatial dispersal of boys were back as the favoured reformatory discipline.\footnote{1201}

Conclusion

In 1856, the returned Chartist convict John Frost delivered a series of lectures. To his assembled British audiences he told sensational and lurid tales of the boys at Point Puer. Frost informed his listeners that ‘the big boys and the little ones slept in the same

\footnote{1198} Hobart Town Courier, 12 December 1846.
\footnote{1199} This decline was due to a change in British penal policy with respect to juveniles. In 1847, the British government acknowledged that the establishment of government run juvenile reformatories, rather than transportation was the best means of ‘reforming’ the young. These institutions were to be less penal and ‘more of a purely reformatory character’. See Sir George Grey to Earl Grey, 20 January 1847, in despatch, Grey to Denison, 5 February 1847, in BPP, C & P, T, vol 7, 1843-47, pp 198-200. This was also connected to changing attitudes towards children of the lower orders. See H. Cunningham (1991), op. cit., pp 4-5.
\footnote{1201} In practice however, not all of the youths were able to be assigned. They remained at the station performing work for the government instead.
room, and I need not tell you what followed’. His narration of scandalous scenes that ‘threw Norfolk Island and Port Arthur into the shade’ was clever and effective political propaganda. Yet these tales were not told in an ideological vacuum. They played on real contemporary fears that surrounded the imaginings of childhood, delinquency and sexuality. This chapter has argued that young male convicts represented many cultural anxieties. In part, these anxieties were created by ambiguous and conflicting notions of ‘the child’ and ‘the youth.’ When social reformers investigated the causes of juvenile delinquency they blamed the outside influences of wicked parents and profligate adults. Yet they could not forget that ‘evil’ might reside in the young themselves. This was reflected in the many parliamentary enquiries that were conducted into juvenile institutions throughout the nineteenth century. The sleeping arrangements, the spatial separation and the screening of young bodies were obsessively focused upon.

Confusion often muddied perceptions of the moral and criminal culpability of the young. Their treatment within the penal system revealed this. It was a fitful system that was characterised by oscillating ideas of punishment and reform. There was an ongoing tension between the competing models of the institution and the assignment system. The discrepancies between the theory and practice of separation suggest further ambiguities.

The undifferentiated treatment of the adult and the child prisoner generated acute anxieties. Yet separating the boys from the men reproduced the same anxieties. It often accentuated them because the regulation and surveillance of juvenile bodies revealed that the ‘failures’ of reform could no longer be ‘blamed’ on the influence of the adult prisoner.

George Arthur established the boys’ prison as an antidote to the moral corruption of the young prisoners who were incarcerated with adults in Hobart Gaol. Yet Point Puer left a much larger legacy. In the following decade Benjamin Horne demanded that the juvenile institution move away from the ‘worst of men’ at Port Arthur. But it was already much too late. Point Puer had its very own independent ‘convict taint.’ The Launceston

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Examiner described it as ‘a school of iniquity where lads acquire a knowledge of extreme wickedness’. The plan to move the institution to the new site at Safety Cove would not have removed this disreputable taint. It would have merely transferred it. Moreover, Safety Cove was only two miles away. This chapter has argued that the physical separation of the boys from the men did not sever the juvenile delinquent from the broader cultural and ideological values that surrounded his construction. These values were class-bound. They explicitly linked social misbehaviour, moral impropriety and legal non-conformity and labeled them deviant. In the final analysis ‘innate moral perversity’ constructed the juvenile delinquent because crimes and offences against social morality were always related to sexuality.

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1203 Launceston Examiner, 5 December 1846.
Chapter 5

‘The Fruits of an Evil System’: Convict Boys and Juvenile Delinquents

On 19 April 1850, the Surgeon-Superintendent of the *Blenheim* convict ship recorded the following incident in his journal:

A complaint was made to me that a prisoner named CS had slept in a bunk with one of the boys. I questioned him on the subject, and he confessed having done so, but excused himself by saying he was so sick in the bowels of the vessel, that he went aft [sic] and asked any of the boys to allow him to lie down by them, and that one consented to do so. I threatened him that if he ever repeated the offence, I would give him three dozen lashes and I addressed the prisoners generally and warned them against going to the bunks of the boys, and told them I should flog any man I found there and would receive nothing as an excuse for so un-English and unnatural a practice.

This isolated diary entry reveals something of a significant, yet largely unregarded area of convict history; convict boys and juveniles. Approximately twenty five thousand minors were transported to the penal colonies of Australia. Convict historiography has been remarkably quiet on the issue and it remains an under-researched arena. Marginalised to a paragraph or two in general convict histories, other studies have focused upon specific juvenile institutions. This chapter argues for including youth within adult convict history. As the Surgeon of the *Blenheim* found, it is difficult to keep them apart. Ludmilla Jordanova has revealed the significance of including children within

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1206 In this chapter, minors will refer to youths aged eighteen years and under. In the nineteenth century the term ‘juvenile’ generally embraced an age range of eight to twenty years. Contemporaries were diverse in their use of the terms boy, youth and juvenile. Many penal institutions had different age ranges which affected admission procedures. Historians are similarly different in their use of age in defining the juvenile. See J. Kociumbas, *Australian Childhood: A History*, Allen & Unwin, Sydney, 1997, p ix.
cultural and social history. According to Jordanova ‘children were part of the dynamics between classes and strata. Far from having their own autonomous history, they were integral to adult conflicts and struggles.’ In the conflicts and struggles of an adult criminal justice system, competing concepts of childhood and youth informed penal discourses of criminal and moral culpability. The moral anxieties generated by the inclusion of young delinquents in the criminal justice system reveal in particular how perceptions of deviancy, crime and sexuality entwined. This chapter argues that the presence of boys and youths magnified already existing moral tensions generated by the massing of criminal men together. I argue that the very idea of the ‘juvenile delinquent’ centred on a sexualised construction of the transported child-felon. This in turn produced further moral complexities for penal administrators. Penal policy and practice surrounding the treatment of youths oscillated from decade to decade, yet these ideological shifts did not extend to a new cultural understanding of ‘delinquency.’ This construction remained a constant.

**Lower-Class Youths and the British Justice System**

The transportation of juvenile boys to Australia began with the departure of the First Fleet. They featured as ‘juvenile emigrants’ on the final convict ship that arrived in Western Australia in 1869. During the early decades of life in the colonies little distinction was made between the ten-year-old urchin and the mature male prisoner. Both adult and child were worked, rationed and punished in similar measures. This reflected the British criminal justice system. Children were subjected to the same punishments in the same institutions as adult criminals, and they were ‘tried with the full

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1210 Watkin Tench recorded the presence of eighteen convict boys on board his ship the *Sirius* in 1787. See Watkin Tench, (1788, 1996), op. cit., p 19.

publicity and formality of judge and jury or magistrate. In the eyes of the civil law, childhood lasted until the age of twenty-one. The criminal code did not reflect this however. Indeed criminal responsibility began at the age of fourteen. Moreover, children between the ages of seven and fourteen, found able to discern between ‘good and evil’ were also deemed morally responsible. The moral and criminal culpability of this age group divided contemporary observers. The penal reformer Matthew Davenport Hill told one select committee that the seeds of crime were sown by the age of five or six. Conversely, the journalist and barrister William Hepworth Dixon spoke of the ‘folly’, ‘cruelty’ and ‘absurdity’ of holding such children responsible for their own acts. Opinion remained divided yet during the 1820s and 1830s experimental policies, specific to age were slowly and partially introduced into British prisons.

In Britain, the indiscriminate treatment and incarceration of adult and juvenile prisoners brought the concerns of penal reformers into sharp focus. Criminal justice in the nineteenth century embraced the conflicting aims of punishment, deterrence, reform and rehabilitation. It was an impossible task yet a society without a prison system could not be imagined. The many and various systems of prison discipline that were tried and tested during the first half of the century reveal this. A number of contemporary observers concluded that prison neither deterred nor reformed but merely corrupted prisoners further. This perception was encapsulated in the discourses of ‘contamination’ and ‘pollution.’ It found further expression in the regulations that surrounded separation and classification. Later penal developments upheld the idea that the isolation and atomisation of prisoners was the only path to reformation. These ideas were particularly relevant to the treatment of the young offender. Indeed, the irony of removing youths from the ‘corruptions’ of the city streets, only to subject them to the negative influences of adult inmates in the prison was not lost on contemporary reformers.

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These concerns were magnified by a marked increase in the numbers of minors sent to prison or sentenced to transportation during the first half of the nineteenth century. The law reforms of the 1820s had rendered the legal code less bloody, yet had at the same time criminalised much behaviour once deemed harmless.1214 Draconian curbs on the public, cultural and economic activities of the poor and labouring classes extended the definition of crime and ‘designated the deviants’.1215 For the next thirty years British society witnessed an increase in ‘crime’ and an expanding prison population. The imagined terror of a subterranean criminal underworld whose prize scholars were juvenile boys was later immortalised by Dickens. In London, the development of a metropolitan police force in 1828 increased apprehension rates and unrestrained children and youths were particularly susceptible to arrest.1216 The effects of these changes upon lower-class youths were observed by the prison inspectors William Crawford and Whitworth Russell in 1836:

Delinquencies of the most trifling description, committed by mere children, and formerly thought very lightly of, are now treated as grave offences; and the youth who would a few years back on detection have been summarily chastised, is sent to gaol and arraigned before a criminal tribunal.1217

Other contemporary observers were less sympathetic. Peel’s law reforms reflected ruling-class fears that their control over society was breaking down.1218 In the context of the changes brought to the social and economic landscape of nineteenth-century Britain, fears of social and political subversion loomed large. Restraining the freedom and culture of the lower classes sought to remove from respectable view the

1216 Avril Kyle has suggested that due to a ‘baby boom’ earlier in the century, ‘there were simply more juveniles in the population to convict’. See A. Kyle, ‘Little Depraved Felons’ in Australian Historical Studies, vol 25, no 99, October, 1992, p 320.
undesirable effects of rapid industrialisation and the growth of city life. Lower-class children and their public ‘delinquencies’ were central to this process. A host of select committees, philanthropic enquiries and countless law reformers expressed a variety of views on the causes of and the cures for juvenile delinquency.\textsuperscript{1219} Poverty, parental neglect, early addiction to alcohol and the absence of religion and education were all cited as possible causes. Class and cultural disparities informed these judgments and in all of these investigations perceptions of the immoral behaviour of the lower orders explicitly linked criminal and deviant behaviour.\textsuperscript{1220} Yet in this new national obsession, a certain degree of consensus was revealed. It was an early intimacy with ‘scenes of vice and profligacy’ that corrupted the nation’s youth.\textsuperscript{1221} ‘Wicked and depraved’ parents, evil step-parents and the ‘scum of the workhouse’ introduced children into the ways of crime.\textsuperscript{1222} By locating the causes of juvenile crime to the depraved example of their adult guardians, law reformers and jail administrators placed themselves in a moral quagmire. The responsibility of the governing classes to act as moral guardian to the nation’s youth was considered to be an imperative duty of national importance. But how was this to be achieved through both a legal and a prison system that largely failed to distinguish between the adult and the juvenile?\textsuperscript{1223}

There was however, a further dynamic in the construction of the juvenile delinquent. Immoral adults corrupted their children, yet a more insidious constant of these social enquiries was the continual focus upon the behaviour, the habits and the

\textsuperscript{1219} See ‘Minutes of evidence taken before the committee on the state of the police of the metropolis’ 1816, in BPP, C & P, Police, vol 1; ‘Report from the select committee on the state of the gaols’ 1819, in ibid; ‘Report from the select committee on gaols and houses of correction’ 1835, in BPP, C & P, Prisons, vol 3.
\textsuperscript{1220} Pearson has suggested that the nineteenth century ‘did not speak of deviance. It spoke of paupers, the dangerous classes, the perishing classes, vagabonds and nomads.’ See G. Pearson, The Deviant Imagination: Psychiatry Social Work and Social Change, Macmillan, London, 1975, p 148.
\textsuperscript{1222} William Wadham Cope, the governor of Newgate identified ‘wicked and depraved’ parents as the main cause of juvenile crime. It was the ordinary of Newgate, the reverend John Davis who identified ‘a very close link between the scum of a workhouse and these juvenile offenders’. See evidence of William Wadham Cope, 25 March 1847 and John Davis, 13 March 1847, both in ‘First report of the select committee of the House of Lords … especially respecting juvenile offenders and transportation’, in BPP, JO & T, no 1, 1847, pp 44-5.
precocious living arrangements of the youths themselves. It was their ‘freedom’ and early independence from any social and moral restraint that rendered them deviant in the eyes of middle-class commentators.\footnote{1224} The regulation of children and their behaviour reflected wider bourgeois concerns.\footnote{1225} Many social reformers wanted to shape and tame these children into ‘valuable members of society’, yet their workless and godless existence threatened to disrupt this future role.\footnote{1226} This created fears that were expressed through negative somatic descriptions that likened them to ‘street Arabs’ and ‘little stunted men’.\footnote{1227} Their deviant status was written on their bodies.\footnote{1228} One contemporary described the juvenile delinquent as ‘an infant in age, a man in shrewdness and vice, the face of a child with no trace of childish goodness’.\footnote{1229} This encapsulated environmentalist assumptions of lower-class children as being ‘old before their time’.\footnote{1230} Further, their sexual conduct obsessed investigators. For the first fifty years of the century, the many official enquiries that were conducted in relation to youth, crime and delinquency were less concerned with the causes of crime than with the cultural habits and the sexual behaviour of urban youths.\footnote{1231} These anxieties filtered into the colonial imagination. In 1833, the Hobart Town Courier informed its readers of the following ‘news from London’:

> On a recent occasion it appeared that there existed in London a band of thieves, the oldest of whom was not fifteen; and at their head were

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  \item As Phillip McCann explains, ‘It was this early acquaintance with the harsh facts of adult life, the forced independence and forwardness that caused middle-class moralists to view working-class children with such alarm.’ Phillip McCann, \textit{Popular Education and Socialisation in the Nineteenth Century}, Methuen & Co. Ltd, London, 1977, p 5.
  \item The behaviour and ‘freedom’ of lower-class children represented the antithesis of their own idealised and sheltered children.
  \item See A. M. Platt, \textit{The Child Savers: The Invention of Delinquency}, University of Chicago Press, 2\textsuperscript{nd} edn. 1977.
  \item Mary Carpenter, \textit{Juvenile Delinquents: Their Condition and Treatment}, 1853, reprinted Patterson Smith Publishing, New Jersey, 1970, p 7. This was also a concern of utilitarian reformers who campaigned against child labour in the factories and the mills of industrialising Britain. See Hugh Cunningham, (1991), op. cit., pp 64-5.
  \item E. P. Thompson and E. Yeo have noted that statistical investigations into poverty were more often morality and social discipline surveys. See \textit{The Unknown Meyhew: Selections from the Morning Chronicle 1849-1850}, Merlin Press, London, 1971, p 53.
\end{itemize}
a boy and a girl, aged twelve and thirteen respectively who actually lived together as man and wife. The pretended husband attempted to set up an alibi for himself by declaring, “I was at home smoking my pipe at the time they say this here happened.”

Historians have dated the intervention of the middle class policing gaze to different decades of the nineteenth century. Frank Mort has recently argued that the 1830s and 1840s need to be ‘considered as a key moment in the formation of official concerns over morality’. Mort’s analysis suggests that it was the medical profession that led ‘a general onslaught on the culture of the poor’. Likewise, Stephen Kern’s study argued that it was through the development of medical theories that the specific domain of childhood sexuality was produced. He dates this to the late 1860s. The following analysis of parliamentary enquiries reveals that sexuality was a site of earlier concern. Moreover, the same deployment of moral and cultural categories were embraced by a broad spectrum of social, penal and philanthropic reformers. In this context, the domain of childhood sexuality was not merely produced by the later interventions of the emerging medical profession.

The behaviour and morality of children from the lower orders was central to the Inquiry on the State of the Police in the Metropolis of 1816 and 1817. Witnesses were repeatedly asked for their perceptions of urban street culture, from the dog fight to the public house, the boxing match and the coffee house. These questions also extended to the sexual entertainments enjoyed by the juvenile. William Crawford, then investigating the causes of juvenile crime and delinquency informed the inquiry, ‘I apprehend that the greater part of juvenile depredators cohabit with girls of their own age’. He further

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1232 Hobart Town Courier, 5 July 1833.
1235 Lynette Finch has suggested that it was not until the late 1840s that official inquiries and parliamentary debates became concerned with the juvenile delinquent. See L. Finch, The Classing Gaze: Sexuality Class and Surveillance, Allen & Unwin, Sydney, 1993, p 73.
revealed that ‘this early association of the sexes prevails I fear, to an alarming extent’. Other witnesses confirmed the existence of brothels that catered exclusively for young people, ‘some not above eleven or twelve years of age’ and the culture of youths living together in lodging houses, ‘many five or six in a room’. The practice of young female prostitutes who ‘repeatedly’ visited their boys in Newgate was of particular interest to the inquiry. 1237

These ‘scenes of the most flagrant, the most public and the most shocking debauchery’ continued to inform parliamentary inquiries. In 1819 a Select Committee on the State of the Gaols heard evidence from Stephen Lushington. He was involved with a charitable organisation that provided refuges for destitute youths. Lushington informed the committee of the prevalence of male juveniles living independently in lodging houses. According to this witness, ‘I have no doubt that all of them have girls of some description or other, even the youngest offenders. I have seen a boy whose age did not exceed twelve who had his girl.’ 1238 By 1835, another Select Committee on Gaols and Houses of Correction was offered a more lurid portrait of youthful sexuality. According to William Augustus Miles, an assistant to the constabulary force commission, lower-class children were ‘a class apart’. They possessed their own rules, language, manners and amusements. Moreover:

There are lodging houses kept by old thieves, where juvenile offenders herd together, and their constant intercourse tends to complete corruption. It is in these hotbeds of vice that they revel in the fruits of their plunder; and though extremely young, they live with girls, indulging in every kind of debauchery. 1239

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1239 William Augustus Miles, 29 June 1835, Second report of the Select Committee on Gaols and Houses of Correction, 1835, in BPP, C & P, Prisons, vol 3, p 395. In later evidence, Miles suggested that the girls had a particularly negative influence upon the boys. He noted, ‘these boys have their girls, who are more depraved even in their habits, who live extravagantly on the produce of the plunder, urging them on to guilt, and sinking these boys as low as they can be sunk in every species of debauchery and crime.’ In ibid, p 513. For a further insight into Miles and his investigations into juvenile delinquency see Heather Shore, ‘An Old Offender Tho’ So Young in Years: The Criminal Careers of Juvenile Offenders in Middlesex in the 1830s’ in T. Hitchcock, P. King & P. Sharpe (eds.) Chronicling Poverty: The Voices and Strategies of
By mid-century, this focus on ‘vicious’ immoral behaviour, rather than the social and economic causes of crime and poverty remained. In 1851, boys in the Tothill Fields House of Correction were interviewed. One boy told the inspector, ‘I have kept a girl called Long Nell … and also Julia Higgins … Julia had six months here [in prison] I have had the bad disease, another boy had it at the time, who went to the doctors and he gave me some of his stuff, which cured me’. These findings were published by a select committee on juvenile offenders in 1852. The same questions had again been asked. But this time, it was the youths themselves who were providing the answers and the evidence. Their statements confirmed what earlier investigators had so obsessively noted.

Historians of nineteenth-century female juvenile delinquency have repeatedly noted that girls were constructed through the image of the ‘fallen’ woman. This perception informed their reformatory process because it sought ‘to turn the girl away from active sexuality’. Schlossman and Wallach have argued that boys, in contrast, were seen first and foremost as ‘carefully nurtured young criminals’. Their delinquencies were ‘rarely … regarded as indications of innate moral perversity’. The crimes committed by juveniles tended to be gender specific. Boys were more likely to commit

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1241 Hugh Cunningham has argued that because children were allowed to come before select committees to testify their experiences, this suggested ‘a new valuation of childhood.’ See H. Cunningham, (1991), op. cit., p 92.
1242 The following decade, the working and cultural lives of London’s poor were investigated by Henry Mayhew. His investigations largely echoed the concerns of the parliamentary committees. See H. Mayhew, London Labour and the London Poor, vol 1, 1861, reprinted A. M. Kelly (4 vols), New York, 1967.
property crime and girls committed ‘moral crimes without victims’. Yet defining ‘delinquency’ through this gendered moral dichotomy is untenable. It is clear from these enquiries that perceptions of promiscuity and an early sexual awakening were crucial elements in the construction of male delinquency. Alexander Maconochie suggested that ‘the young man who seduces innocence deserves more richly the house of correction than the unhappy female whom he has allured into the path of destruction’. In many respects precocious sexuality was juvenile delinquency. Moreover, that the moral and cultural behaviour of the nation’s youth was such a constant over time reveals ‘the obsession of a society’. Yet it also diverted attention. Juvenile crime and childhood poverty formed one of the dark sides of urban progress and industrialisation. In constructing delinquency through a moralising discourse based on behavioural and environmentalist assumptions, ruling-class ‘guilt’ was assuaged. The allocation of moral blame lay elsewhere. These children were the ‘other’, the embodiment of savagery and far removed from any likeness to the civilised bourgeois child. As Charles Pearson, a London solicitor, informed one select committee on juvenile delinquency, ‘I do not believe that mental or moral or even religious instruction … will have the effect of diminishing the enormous increase of juvenile crime. It is effective control over the conduct of youth that is wanted’.

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1246 Foucault suggested that it was ‘not so much his act, as his life, that is relevant’ in characterising the delinquent. See M. Foucault, (A. Sheridan, trans., 1977), op. cit., pp 249-52.


1251 Charles Pearson, evidence to the select committee on juvenile offenders and transportation, 29 March 1847, in BPP, JO & T, no 1, 1847, p 314. Mary Carpenter shared this attitude. According to this child-saver, ‘it is not physical destitution, nor even want of education which is the cause of crime in the most bold and hardened young offenders, but moral destitution, arising from want of early training and parental neglect’. Mary Carpenter, (1853), op. cit., p 36.
It was in this climate of moral panic and fear of social subversion that the discourses of juvenile penal reform were articulated. Prison visitors, social investigators and philanthropic do-gooders united in denouncing the prison system and the ‘herding’ and the ‘huddling’ of the juvenile with the adult criminal. What hope did the young have of reforming in the polluting environment of the prison? Surely adult criminals would merely complete the task of corruption? Dr. Cotton, the Chaplain at Newgate prison, certainly believed that children ‘had no business’ in the adult prison. He informed one select committee that it was ‘a mockery of justice to send little boys there’.

These concerns were widely reiterated. They were informed by the fear of criminal ‘contagion’ and reflected wider perceptions that children imitated behaviour. Many concluded that convicted juveniles had to be removed from both the evils of the metropolis and the British prison system. A new colonial environment was their only hope for reformation. Yet before this could be achieved how were they to escape the adult criminal justice system? It was in this context that the apparatus of the transportation system was singled out in particular.

**The Hulks**

The young offender with amazement hears  
The sins and outrages of riper years  
But soon familiar grows with every crime  
A veteran in vice while in his prime  
Confine not youth in this abandon’d place  
To herd with everything most vile and base  
Let justice rather strike her victim dead  
Than send him here, the path of sin to tread  
Where vice unblushing tells her grossest tale,  
And images obscene are made for sale  
Place not the boy with those who every art  
Employ to harden and corrupt the heart:  
‘T were better doom him to the lion’s den,

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1252 Dr. Cotton, evidence to the select committee, 28 August 1835, in second report of the select committee on gaols and houses of correction 1835, in BPP, C & P, Prisons, vol 3, p 517.
1253 George Laval Chesterton was the governor of Cold Bath Fields house of correction. He believed that prison did not reform juveniles but merely corrupted them further. He informed the 1835 select committee that transportation was their only hope of reform. See evidence to the select committee, 11 April 1835, in second report of the select committee on gaols and houses of correction 1835, in ibid, pp 89-95. Many other witnesses noted the utility of what was termed ‘compulsory emigration’.
Then to this curs’d abode of wicked men.
George Holford, The Convicts Complaint, 1815.\textsuperscript{1254}

The hulks were ‘floating detention centres’, or, as one contemporary described them, ‘floating Bastilles’ that littered the Thames and other estuaries of southern England.\textsuperscript{1255} Throughout the seventy years of their existence they provoked horrified and virulent criticism. George Holford was a Benthamite radical who tirelessly campaigned for a juvenile penitentiary to be built in Britain. His poem was written in protest against the hulk system, yet the sentiments behind his sensationalism were reiterated by many contemporary observers. The institution of the hulk was the ‘despair of all penal reformers’.\textsuperscript{1256} Inquiry after inquiry condemned the conditions where filth and fever reigned. The hulks were perennially overcrowded and there was no separation between the different ages and classes of prisoners. A violent and abusive subculture was endemic within their rusting frames. Many officials who were employed in the day-to-day administration of the hulks confirmed these observations. ‘These dens of infamy and pollution’ noted the reverend J. M. Golding, ‘are productive of sins of such foul impurity and unnatural crime that one even shudders to mention them … a mob law, and tyranny of the strong over the weak, exists below, which makes the well disposed live in constant misery and terror’.\textsuperscript{1257} ‘Reeking receptacles of lust and misery’ where ‘crimes impossible to be mentioned were commonly perpetrated’ were familiar descriptions of these floating prisons.\textsuperscript{1258}

Norma Townsend and David Kent have recently criticised historians for reiterating these Gothic-horror perceptions of the hulks. They suggest that these prisonships were well-regulated, ordered and supervised. According to this account, the hulks served an integral role in both the penal and the transportation systems. Further, the

\textsuperscript{1254} George Holford, ‘The Convicts Complaint in 1815 and the Thanks of the Convict in 1825’, London, 1825, 365H, (ML.)
\textsuperscript{1256} H. Mayhew & J. Binny, (1862), op. cit., p 201.
\textsuperscript{1258} H. Mayhew & J. Binny (1862), op. cit., p 199.
authors argue that the long held stereotype of the hulks as little more than coffin ships that subjected ‘the convicts to almost unspeakable conditions’ needs to be thoroughly revised. Their argument is certainly convincing. Yet the terror the hulks evoked for the respectable classes was intended to produce similar reactions in the lower orders; they were to serve as a psychological deterrent to crime. Moreover, for contemporary observers the living conditions on board these vessels and the peculiar prison culture of the inmates were indeed unspeakable. For some enlightened penal reformers, it was these horrors that made the removal of young and reclaimable offenders even more imperative. This was also acknowledged by the convict authorities in the penal colonies.

During the late 1820s, juvenile convicts arrived in Van Diemen’s Land with increasing frequency. In the following decade the numbers of youths sentenced to transportation continued to rise. The presence of young male convicts in the colony led Lieutenant-Governor Arthur to suggest innovations in their treatment at home. In 1832 he wrote to Hay at the colonial office. His letter revealed a concern with the practice of confining boys in the hulks before transportation. Arthur viewed this as merely ‘an apprenticeship of crime’. It was both harmful to the individual youth and an impediment to the success of his rehabilitation. According to the Governor, ‘the system of congregating boys in the hulks at home is, I am persuaded, attended with the very worst consequences’. Instead, he suggested that boys and first offenders should be transported immediately upon conviction, rather than being subjected to the demoralising influences of the hulks and prisons of Britain. The Governor explained that the Surgeon-Superintendents ‘invariably declare that they are the most difficult to manage, and the worst to keep under subjection during the voyage’. Arthur both admired and adhered to current penal theories of spatial determinism and behavioural imitation. He concluded

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1260 And as Ignatieff points out, ‘the revolution in punishment was not the generalized triumph of Weberian rationalization which the revisionist account suggested’. See M. Ignatieff in S. Cohen & A. Scull (eds.), (1983), op. cit., p 83.
1261 Jeremy Bentham suggested that prisoners embarking upon the Woolwich hulks were raped as an initiation into the institution. See R. Hughes, (1987), op. cit., p 265.
1263 Ibid.
his letter with the observation that ‘the best and only chance for their effectual correction’ would be found ‘in the secluded and compulsory employment they meet with from the agricultural settler in the interior of the colony’.  

Despite these recommendations, neither the colonial office nor the Governor himself could adopt them in practice. Van Diemen’s Land was struggling to assign and accommodate all of the youths who arrived during these years. Because of their young age, many colonists viewed them as unskilled and useless workers. Others perceived that their rehabilitation was too much of a moral responsibility for the independent colonial settler to take charge of. Arthur himself had noted in 1827 that many convict boys were ‘entirely useless and generally so mischievous are these corrupt little rogues that they are the dread of every family’. It was under Arthur’s rule that young convicts were subjected to a specific reformatory policy; a separate juvenile prison was opened at Point Puer in 1834. In Britain, the fiscal considerations that perpetually thwarted the implementation of penal innovation meant that the practice of confining juveniles with adult prisoners on the hulks continued into the following decade. In his memoirs, the convict Linus Miller revealed his experiences of the prison-ship. He specifically noted the effects of the system upon young inmates. According to Miller, ‘boys aged from seven to twelve are sent here … If they are not perfect monsters of the devils art before, they become so in a few months time after being sent to the hulks’. The convict John Mitchell made similar observations in 1849. He noted, ‘each hulk, each mess or ward is a normal school of unspeakable iniquity. Young boys who come out, as many surely do, not utterly desperate and incurable villains are sure to become so.’

The Transport Ship

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1264 Ibid.
1266 In his 1822 report, Commissioner John Bigge had criticised the lack of separate facilities for juveniles in Van Diemen’s Land.
Beyond the institution of the hulk, the transport ship provided a more successful arena where the classification, separation and supervision of convicts according to their age and crime-class was increasingly put into practice.\textsuperscript{1268} In 1815 the techniques of penal surveillance were buttressed by the appointment, to every transport ship of a trained surgeon.\textsuperscript{1269} They were to act as the ‘agents of order, responsible for punishment, control, efficiency and a structured and supervised shipboard routine’.\textsuperscript{1270} We have seen the ways that silence and the regulation of speech on board the transport ship performed an important disciplinary function. This was augmented by an obsessive emphasis that was increasingly placed upon the rules of hygiene and cleanliness, a rigid adherence to a time-tabled routine and, from 1817, the separation of the boys from the men. In the wider context, the classification of prisoners reflected the desire to prevent any moral ‘contagion’ be it criminal behaviour or improper speech.\textsuperscript{1271} Yet it was the dynamics of age that were of critical consideration. The prevention of inter-generational contact was seen to be fundamental to the internal moral economy of daily life on board the transport ship. It pervaded the spatial organisation of the ship. It was central to perceptions of order and discipline. Indeed, the ship-board rules were saturated in sexual anxiety. The guidelines of 1832 strictly informed surgeons that night-time illumination, constant activity and age-related separation were fundamental to their duties. According to clause 22:

You are to cause the two lanterns, which the owners are bound to provide to be kept burning in the fore and main hatchways during the darkness of night, to prevent those irregularities which have been so much complained of. As it is highly desirable to keep the minds of the convicts as constantly and usefully employed as possible, you are to use your best endeavours to establish schools … and particularly for the boys in male ships, who

\textsuperscript{1268} This was largely due to a report made by William Redfern on the general management of convict transports. Redfern was a colonial surgeon who had himself been transported as a convict. See his report in despatch between Governor Macquarie and the Commissioners of the Transport Board, 1 October 1814, in HRA, ser 1, vol 8, pp 274-92.

\textsuperscript{1269} According to Bryan Gandevia their appointment was the ‘greatest administrative advance in the history of convict transportation’. See B. Gandevia, (1978), op. cit., p 16.


\textsuperscript{1271} Kim Humphery has suggested that the discipline on board the transport ship was not merely imposed as ‘a better convict system’ but was rather the imposition of ‘a new way of life’. See K. Humphery, ‘A New Era of Existence: Convict Transportation and the Authority of the Surgeon in Colonial Australia’ in Labour History, no 59, November 1990, p 60.
Joy Damousi has wonderfully revealed the sexual anxieties that surrounded the public and private spaces on board female convict ships.1273 Liaisons between convict women and the male crew were naturally a site of moral anxiety. Yet it is difficult to agree with her assertion that ‘the surveillance of potential sexual activity did not characterize the scrutiny of surgeons as often on male convict ships’.1274 I would argue that an all-male environment at sea for months made ‘potential sexual activity’ a real concern for the Surgeon-Superintendents. Moreover, the presence of male juveniles would have exacerbated these concerns. Many men appointed as Surgeon-Superintendents to the transport ships had previously been employed by the Royal Navy.1275 The sexual sub-culture characteristic of naval vessels was often based on inter-generational relationships.1276 It is crucial to note here that the presence of juvenile girls on the female transports did not receive the same attention.1277 Indeed, there is a silence in the official records over the related issue of female separation according to age.1278 The presence of an all-male crew would have assuaged any moral concerns over ‘unnatural’ practices between the girls and the women. Yet this silence is still curious. It fails to reveal any moral concern for the criminal ‘corruption’ of young girls under the influence of convict women.1279 This brings the issue of separating the boys from the men.

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1272 Instructions to Surgeon-Superintendents on Board Convict Ships, 23 June 1832, in BPP, C & P, Prisons, vol 3, p 635.
1278 It was of concern to the authorities involved in the Female Factories however and similarly revolved around fears of criminal and sexual ‘contamination.’ See K. Daniels, (1998), op. cit. During my research I came across an article which appeared in the London Times. It expressed specific concern over the transportation of women and girls on the same ships. The paper argued that for the girls this was ‘far more vindictive and awful than death upon the gallows’. The article advocated that young girls should be sent out separately from women, under the guidance of female teachers and religious men. Times, 16 October 1833.
1279 William Ullathorne was critical of this lack of separation according to age on the transport. He noted, ‘on board the ship in which she sails, there are generally found some two or three grey-headed hags, the
on the transport ship into sharper view because their separation was so clearly integral to perceptions of order and discipline. Kim Humphery has noted that ‘the whole thrust of the new disciplinary regime instituted on board the transports was, for the most part, male defined and directed’. 1280 The prevention of criminal and sexual contact between the young and the adult prisoners was central to the ship-board regime. This formed part of a wider reformatory discipline that sought to impose new standards of outward behavioural propriety upon all male prisoners. In this analysis, both young and old were uniformly caught up in the repressive reformatory process.

The imposition of a carefully controlled ship-board routine was designed to ensure separation, yet it did not necessarily produce it. By 1832, the rules of managing the transport ship had expanded from the original ten, to a list of 44 regulations. 1281 Throughout the 1830s and into the 1840s generational separation was continually reiterated in these regulations. This suggests that in practice it was not always adhered to. As the surgeon of the Blenheim discovered in 1850, the terrors of what was ‘so un-English and unnatural’ did indeed occur. Such instances threatened both the disciplinary regime and the moral order of the transport ship. Convict memoirs of the voyage reveal that boys and adult prisoners were not always kept apart. 1282 In February 1838, William Ullathorne informed the Molesworth Committee that, ‘the boys have a separate apartment below but they mingle on deck with the men and are much corrupted’. 1283 Lord Stanley admitted as much to Governor Gipps in 1842. In considering what to do with the reformed juveniles at Parkhurst, their removal to the colonies was seen to be their only hope for a brighter future. Yet as he explained, ‘there is too much reason to fear that [their] moral improvements…would be obliterated by the associations to which they would be exposed on board a convict ship and their subsequent intercourse with criminals very incarnation of crime, who become the priestesses of initiation to the younger and more simple-minded during the voyage’. See W. Ullathorne, (1837), op. cit., p 26.

1280 K. Humphery (1990), op. cit., p 66.
1282 See L. Miller, (1846), op. cit.; B. Wait, (1843), op. cit.
in a penal colony. Indeed, contact between juvenile and adult prisoners continued in many gaols and institutions in Britain. In Australia, juveniles were assigned to the same masters as adult prisoners. They were sent to work in the road-gangs of New South Wales. During the 1840s, they lived and worked alongside adults in the probation gangs in Van Diemen’s Land. As punishment, they were sometimes ordered to the penal stations of Macquarie Harbour, Norfolk Island and Port Arthur. In both the British and the colonial context then, separation between the adult and the juvenile prisoner was never entirely achieved. In the institutions where generational separation was attained, similar moral anxieties prevailed and were often further magnified.

Separate Juvenile Hulks

The prevention of inter-generational contact informed the development of separate juvenile hulks. In 1823, the Bellerophon hulk, moored at Sheerness was set aside for juveniles and 320 boys embarked. They later moved to the Euryalus at Chatham in 1825. In Britain separate reformatory institutions for boys had existed since the late eighteenth century. They were mostly non-penal and they accommodated boys who were deemed to be at risk of falling into future crime. They were managed by volunteers and philanthropic organisations. The separate juvenile hulk was the first government-sponsored scheme to remove criminally convicted boys, aged between eight and nineteen years from adult institutions. It reflected a genuine attempt to isolate and protect boys and to distance them from the corrupting environment of the adult hulks. It was hoped that

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1284 Lord Stanley, Despatch 114, in Despatches to the Governor of New South Wales, May-June 1842, p 127, A1288, (ML.)
they would reform through a specific disciplinary regime that centered upon a rudimentary education, work-training and religious and moral instruction. This was to fit them for later transportation to the colonies.

The enlightened benevolence of the initiative was clear. The superintendent of the *Euryalus*, J. H. Capper, insisted that the juvenile hulk was a model of reform and good behaviour. Yet the historical record contains an appallingly grim picture. According to W. Branch-Johnson ‘there were reproduced in miniature between her decks all the evils which half a century’s experience elsewhere had not succeeded in entirely removing’.  

A select committee in 1835 heard horrific instances of institutionalised violence and abuse committed by those in charge. The *Euryalus* was constantly overcrowded. The boys were not classified according to age or crime-class and a cruel culture of bullying, referred to as ‘Nobs and Noseys’ clearly existed. Thomas Dexter worked in the hospital on board the *Euryalus* until 1833. He related many instances of self-harm that were purposely inflicted to escape the terrors. According to Dexter, ‘when I have seen it in a newspaper that a judge has sentenced a boy out of mercy to him to the hulks, I have made the observation that was it a child of mine I would rather see him dead at my feet than see him sent to that place.’  

The committee concluded that behavioural reform was impossible in such an environment and moral deterioration inevitable. The precise features that made the adult prison so reprehensible had merely been replicated. Furthermore the boys’, 

unavoidable intercourse with one another must give them innumerable opportunities of contaminating each other’s minds, and thus rendering their confinement, not a salutary preparation for an ultimate change of country, but a hotbed of vice destined to expand in all its maturity in a new and congenial soil.  

The fears expressed by the select committee were indeed echoed in the ‘new and congenial soil’ of the colonies. The *Sydney Herald* reported on the juvenile hulk in 1834.

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1287 W. Branch Johnson, (1957), op. cit, p 149.
1289 Report of the select committee on gaols and houses of correction 1835, in ibid, p 5.
The paper informed its readers of the moral training that was provided to the ‘youthful delinquents, some of whom are not more than ten years old’. However ‘notwithstanding the severe lessons taught’ there, many youths merely returned to crime upon their release. Apprehended again by the law, their transportation to New South Wales was from this date ‘inevitable’. The Herald could ‘only wonder’ at the effects of this upon colonial society.1290 In Van Diemen’s Land, the Quaker missionary James Backhouse also confirmed the committee’s observations. In his narrative he noted that ‘some of the juvenile prisoners had been confined on board a Hulk before being sent to Van Diemen’s Land. In this situation, they appear to have corrupted each other greatly. There is much ground to apprehend that the juvenile hulks are nurseries of vice and crime.’1291 The abandonment of the Euryalus hulk was urged immediately after the 1835 select committee published its findings. In the absence of alternative separate juvenile accommodation and the ever increasing numbers of young delinquents sentenced to prison and transportation during the 1830s, the Euryalus continued to function as a juvenile hulk for a further twelve years. It might have continued longer had it not sunk in 1846.

It is clear that the moral fears generated by confining the young on adult hulks were not assuaged by the separate juvenile institutions. Adult spaces ‘corrupted’ boys, yet the experiences of the Bellerophon and the Euryalus suggested that boys could equally corrupt their own spaces. Many penal reformers concluded that the reformation of the child-felon involved much more than their removal from the demoralising criminal influences imbibed in adult prisons. As George Chesterton the governor of Cold Bath Fields house of correction told the 1835 select committee, ‘I have for some time been of opinion that it was not particularly desirable to separate the boys from the men, when they had the means of free communication. I was satisfied myself that the boys corrupted one another more than the men corrupted the boys.’1292

1290 Sydney Herald, 13 February 1834. This was part of the Herald’s wider campaign for the cessation of Transportation in 1834. It railed against the colony receiving the ‘worst’ of criminals and demanded that Britain should deal with her own prisoners at home.
1292 George Laval Chesterton, evidence given to the select committee, 11 April 1835, op. cit., pp 89-90. Commissioner Bigge had expressed similar sentiments in 1822. He suggested that separation on board
Carters Barracks: the limitations of environmental reform

Transportation to a new colonial environment embraced the environmental model of reformatory space. Many contemporaries believed that the removal of children from profligate parents, the vices of urban life and the horrors of the prison system would save them from a life of crime. The colonial setting would provide an ideal reformatory environment for the young. George Holford observed the expediency of removing young criminals from Britain. He ‘urged their removal’ because their ‘reform is more likely to be effected abroad than at home, and because more encouragement may be given to such of them as may turn out well, at a distance from this country’.1293 In the colonial context, the assignment system was seen to be particularly conducive to the reformation and the rehabilitation of the young delinquent. The example of a responsible adult master to both teach a trade and to provide moral guidance resembled the paternal relationship. Rural assignment was seen as especially beneficial. It would remove youths from the temptations of Sydney and Hobart. It would take them away from the example of their peers and ensure that wholesome fresh air and honest hard work would mold them into useful and productive settlers. The natural rural setting was their only hope for a respectable future.

The environmental model of juvenile reform was part of a broader international movement that saw related developments in North America, Canada and Europe.1294 This was the ideal model and ‘rural purity as opposed to urban corruption’ continued to inform

convict ships be left to the discretion of the Surgeon-Superintendents. He noted, ‘it appears doubtful whether greater mischiefs do not arise from placing the boys by themselves during the night, than by distributing them in small numbers amongst the other convicts.’ Bigge Report May 1822, in BPP, Colonies, vol 1, 1822-35, p 6.


approaches to the problem of juvenile delinquency throughout the nineteenth century.\textsuperscript{1295} In practice however, as the numbers of juveniles sentenced to transportation started to increase, their assignment could not always be guaranteed. In Sydney many un-assigned boys were accommodated with the adult convicts in the Hyde Park Barracks. This situation caused grave concerns and it was in these circumstances that the Carters Barracks opened in 1820.\textsuperscript{1296} Here, boys under the age of sixteen years were housed and schooled. They received a rudimentary education and were taught a variety of trades to equip them with skills for their future assignment.\textsuperscript{1297} The daily routine was harsh and regimented and the boys were closely monitored at night. Submission and docility were not necessarily produced however. According to the \textit{Sydney Gazette} ‘we were not prepared for such depravity … the scourge is obliged to be repeatedly applied to keep them in check’.\textsuperscript{1298} The boys were not permitted to mix with the outside population and their hours of exercise were restricted to the convict garden near Hyde Park. On Sundays they were marched to church and were only permitted to leave when the free congregation and the adult male prisoners were ‘clear of the door’.\textsuperscript{1299} In his report of 1822, Commissioner John Bigge declared ‘the Carters Barracks may be considered as the best conducted of all the convict establishments in New South Wales’.\textsuperscript{1300}

Despite Bigge’s glowing commendation, a fierce debate over the incarceration of juveniles was played out in the Sydney press during the 1820s. This reflected in microcosm the much wider penal debate between the advocates of institutionalisation, and others who saw assignment as the preferred model of criminal reform. The \textit{Monitor} fiercely upheld the utility of assignment and the spatial dispersal of young convicts. It railed against ‘the youthful gangs who are herded in the Carters Barracks’. According to

\textsuperscript{1296} The previous 3 years had seen many boys under the age of 16 years arrive in New South Wales. In 1818 220 arrived; in 1819, 234 and in 1820, a further 274 boys were transported to the colony. See J. T. Bigge, Appendix, Bonwick Transcripts no 16, p 2042. (ML.) Boys continued to be housed at Hyde Park Barracks. Bigge revealed that there were fifty boys housed with the adults ‘many of whom are very young’. J. T. Bigge, Bonwick Transcripts no 19, p 2852, (ML.)
\textsuperscript{1297} They were generally trained to be gardeners, shoe-makers, carpenters and domestic servants.
\textsuperscript{1298} \textit{Sydney Gazette}, 15 February 1824.
the paper their ‘mere association together makes them ten-fold more the children of Hell than they were in London or Dublin’. The Monitor suggested that rather than the punishment of hard physical labour, the boys were given a ‘good education’. The ‘kind treatment’ they received at the Barracks was turning them into ‘plumb pudding, cricket-playing young rogues’. They should be immediately assigned and taught a useful trade ‘instead of being brought up to no trade at all and in habits of blasphemy and wickedness’. The Monitor further demanded that convict boys should be isolated in rural areas. In Sydney, ‘where women and wine tempt them by means of midnight robbery, to gratify their vicious and incurable propensities’ they would never reform.

The Sydney Gazette took an opposing stance. It supported the institutionalisation of boys. The Gazette responded to the sensationalist rhetoric of the Monitor in a more considered, sympathetic tone. It referred to the Carters Barracks as ‘that humane and philanthropic establishment’. It pointed out to its readers that the institution sought to reform, rather than merely punish those ‘young in guilt’. It asked its readers to consider what would be the moral effects if the convict boys were permitted into colonial society ‘amongst the fully fledged rogues?’ The Gazette suggested that this would merely throw them ‘in the way of associations from which they are now so effectively debarred’. Their reform through education, training and disciplinary restraint could only be achieved within a separate institutional setting and this ‘wholesome restraint’ was well provided by the barracks. The Gazette did admit that congregating boys ‘maybe in some respects an evil’. However, it was ‘an evil which has frequently been urged even against public schools and one which after all possesses much more of sound than sense’.

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1301 The Baptist missionary John Henderson agreed. In his observations of the colonies he stressed the negative effects of association amongst youths themselves. According to Henderson, ‘The keeping criminals cooped up together and in constant intercourse is recognized in all countries as producing the most deleterious consequences. These effects are more evident amongst boys, next amongst women, and least perhaps amongst men.’ John Henderson, Observations on the Colonies of New South Wales and Van Diemen’s Land, Baptist Mission Press, 1832, Facsimile Edition 1965, p 20.

1302 Monitor, 6 April 1827; 26 March 1828. The paper feared that treating juveniles ‘softly’ in the colony would encourage parents in Britain to bring up their children in crime for ‘the happy chance of them being sent to Botany Bay’. Monitor, 3 May 1828.

1303 Sydney Gazette, 9 April 1827.
The arguments of the newspaper press formed part of a wider penal discourse. Yet they also reflected some of the ambiguities that surrounded convict boys, their place within the criminal justice system and the purpose of incarceration. Were they to be punished for the past or reformed for the future? Was their separation and removal from Sydney the best means? Or was the disciplinary regime of institutional life preferable? In New South Wales, the assignment and apprenticeship of juveniles ultimately triumphed over institutionalisation. In 1833, Governor Bourke introduced strict new regulations surrounding the assignment of the young. That year, he issued orders stating that upon arrival, all convict boys aged seventeen and younger ‘will not be allowed to remain in Sydney, nor will they be assigned to any person residing within twenty miles thereof’. All future employers of juvenile labour were to ensure that their young servants were afforded some religious instruction and were taught to read and write. They were also to be taught a trade ‘whereby they maybe enabled to earn an honest livelihood on attaining freedom or manhood’. It was clear that the rural ideal had (for now at least) triumphed over institutional life in Sydney. The Carters Barracks ceased to house boys the following year. In 1836, the Chief Justice Sir Frances Forbes mentioned the juvenile barracks in a letter. He revealed some of the moral concerns that lay behind Bourke’s decision. Forbes noted that the boys had been:

Placed under the best superintendency and control which could be provided, and much care was taken of their morals as well as in teaching them some useful art or occupation. But the establishment was not found to answer, and has been lately broken up and the boys distributed … The main cause of the failure, I have understood, was the association of a body of young criminals together and the incorrigible effects of their example and communications upon one another.

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1305 Ibid.
1306 The institutionalisation of children did not entirely disappear however. Nor was it restricted to boys. See E. Windschuttle, ‘Discipline, Domestic Training and Social Control: The Female School of Industry, Sydney 1826-1847’ in Labour History, no 39, November 1980, pp 1-15.
1307 The buildings were converted to house the mounted police, debtors and a chain-gang. See Sydney Gazette, 12 & 24 April 1834.
Separation and the prevention of sexual abuse

Alexander Maconochie believed that under the correct management, convict boys and convict men would produce benevolent and reformative effects upon one another. On this issue, as with many of his theories on penal reform he was very much alone.\textsuperscript{1309} For most contemporary observers, the ‘inevitability’ of age-related sexual relations deemed the separation of the boys from the men a moral imperative. As chapter three revealed, the sexual subculture that emerged in the penal colonies was sometimes based on an uneven age dynamic. It is impossible to know whether these encounters were consensual or abusive. Evidence given to the Molesworth Committee in 1837 and 1838 certainly played on the fear of both of these power dynamics.\textsuperscript{1310} Later, investigations into the probation system suggested that a number of boys had been subject to sexual abuse. At stations where separation was little observed, a number of youths were found to be suffering from venereal disease.\textsuperscript{1311} Thomas Smart was the assistant surgeon at Fingal Probation Station. He reported on the incidence of disease at the station in March 1846. He suggested to the convict department that ‘the complete separation of the boys from the men, both on the works and in the sleeping huts, would prove beneficial to the morals of the party and tend to prevent the crime’.\textsuperscript{1312} Smart’s ‘solution’ reveals the disjuncture between official policy and actual practice; age-related separation was in many instances ignored under the probation system.\textsuperscript{1313} At Norfolk Island a similar lapse prevailed. Contemporary observations made on the island were particularly explicit on the issue of sexual abuse. Thomas Naylor was the chaplain on the island from 1841 to 1845.

\begin{enumerate}
\item\textsuperscript{1309} See Alexander Maconochie, \textit{Thoughts on Convict Management and other subjects connected with the Australian Penal Colonies}, Hobart, 1838.
\item\textsuperscript{1310} Some witnesses talked of abuse. Others noted consensual relationships.
\item\textsuperscript{1311} See Enclosure no. 5 of Charles Joseph La Trobe’s detailed investigation and report of the probation system in I. Brand, (1990), op. cit., pp 147-60.
\item\textsuperscript{1312} Thomas Smart to Dr. Robertson, 2 March 1846, Inclosure 19 in no. 9, in Despatch no. 54, Eardley-Wilmot to Stanley, 17 March 1846, in BPP, C & P, T, vol 7, 1843-47, p 510.
\item\textsuperscript{1313} F. C. Hooper suggested that after 1843 boys aged 15 years and above were sent to the adult probation stations rather than the juvenile establishment at Point Puer. See F. C. Hooper, \textit{Prison Boys of Port Arthur}, Hawthorne Press, 1967, p 26.
\end{enumerate}
According to Naylor, ‘Youths are seized upon, and become the victims of hoary [sic] and unnatural villains … I saw very boys seized upon and lost’. In no less heated terms, Robert Pringle Stuart made a report on the island in 1846. He noted that ‘the young have no chance of escaping from abuse and even forcible violation is resorted to’. Some youths did fight back however. In February 1846, Henry Cooper described as ‘a mere youth’ attacked Richard Beech with an axe. The incident occurred at the Impression Bay probation station in Van Diemen’s Land. The attack resulted in Beech having his leg amputated. The case was tried at the Supreme Court in Hobart. In his defence, Cooper stated the injured man had ‘taken his character away’.

Historians have tended to reiterate these contemporary concerns. Michael Belcher has suggested that ‘boys were given no special protection from sexual exploitation, and from all reports the incidence of ‘unnatural crime’ involving boys seems to have been widespread’. Other studies have acknowledged that the separation of male prisoners according to age was an attempt to prevent the sexual abuse of the young. This indeed informed the policy. Yet interpreting separation on these terms alone masks a further, overlapping issue. Inter-generational sexual relations/abuse informed a wider moral discourse. This was articulated through the image of the contaminated colonial child.

Re-thinking Convict Contamination

Shall fathers weep and mourn
To see a lovely son
Debas’d, demoralis’d, deform’d
By Britain’s filth and scum?
Shall mothers heave the sigh,

1316 The Hobart Town Courier reported the court case on 22 April 1846. It noted, ‘From the youthful appearance of the Prisoner, the examination created a great sensation throughout the Court.’ Despite his plea of defence, Cooper was sentenced to death. He was executed on 12 May 1846.
To see a daughter fair
Debauch’d and sunk in infamy
By those imported here?  

The idea of ‘criminal contagion’ loomed large in the antipodean context. We have seen how the free colonists often played out their ‘contamination’ anxieties through the figure of the innocent colonial child. This image provided colonists in Van Diemen’s Land with a potent weapon that was used to protest against the continuation of the probation system during the 1840s. The residents of New South Wales utilised the same imagery in their anti-transportation rhetoric. It is of critical consideration to note that perceptions of behavioural contagion were always moral and usually sexual. This reflected the idea of the criminal as both a social and a sexual deviant. J. C. Byrne revealed how these concerns surrounded the contact of colonial children with convict servants. In his reminiscences, he noted ‘in the very inmost recesses of the home, vice is inculcated and taught until desire and ability produce practice’. Beneath this moralising discourse lay the related fear of precocious sexuality. This was central to the construction of the lower class juvenile delinquent. It was mirrored by a pervasive fear of the early sexual initiation of the middle class child. In this analysis, the idea of threatened innocence was more than a pertinent and effective theme of colonial political propaganda. It reflected a much wider cultural and ideological construction of childhood itself.

There were two competing ideas of the child in nineteenth-century iconography. The Evangelical ideal immortalised the image of the innocent and pure child. The angel in the nursery was fragile and impressionistic. He was to be sheltered and kept ignorant of the outside realities of the adult world. Opposite this idyllic child was the older, Calvinistic view of children as naturally wicked, evil and depraved. This child had to be shaped, tamed and socialised into his imagined state of grace. In many ways, these constructions of the child reflected the disparities of class; the innocent angelic middle-

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1319 Poem quoted in J. Syme, Nine Years in Van Diemen’s Land, McCosh, Park and Dewars, Dundee, 1848, pp 200-01. Syme failed to provide the author or the date of composition. He merely noted, ‘the following lines having fallen in my way, I beg to give them insertion here, as I trust I shall not be alone in deeply sympathising with the sentiments so touchingly expressed’. In ibid. The poem contained ten stanzas.

class child and the dangerous street-urchin. Yet they are not as dichotomous as they first suggest. Both views were saturated in sexual connotation. Childhood was discursively articulated through a sexualised lexicon that spoke of purity and innocence, ruin and depravity, rescue and protection. As Lynette Finch has noted, ‘While the impact of environmental conditions might provide the wherewithal to argue that working-class children, unlike their middle class equivalents, were trained into precocious vice, the internal drives of sexuality, if present in one child, were present in all.’ Both constructions embraced the notion that children needed to be guided by a firm moral hand. Without this guidance, all children, regardless of class were vulnerable to regress into a ‘natural’ state of animal savagery. Gay Weber revealed this connection. She argued, ‘the nineteenth century, by involving the child in analogies with social and moral deviants, came to view childhood like savagery, as a curable disease, but one requiring stringent and severe treatment’.

In this context, the ‘contagion’ anxieties that were generated by the domestic employment of assigned convicts and ex-convicts in the colonial home, reveals a deeper layer of concern. If we shift the focus away from the adult convict, we might consider instead, how free colonial children themselves provoked these anxieties. Does the idea of ‘criminal contagion’ in fact reveal more about the fears and ambiguities that surrounded the nineteenth century child? To what extent did the bourgeois sexual obsession with the ‘child as savage’ influence perceptions of adult male convict servants? Ann Laura Stoler has suggested that the sexuality of colonial children was ‘both an endangered and dangerous sexuality’. They were to be protected from the contagion of the racial and class other ‘not because their sexuality is so different, but because it is savage, unrestrained and very much the same’.

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1321 This discourse was similar to that employed by other ‘moral missions’ that sought to rescue fallen women, civilise natives and take Christianity out to heathens.
1323 Gay Weber, ‘Science and Society in Nineteenth Century Anthropology’ in *History of Science*, vol 12, 1974, p 276. The image of the savage was often identified with the poor, the unemployed, the pauper and the criminal. See also H. Cunningham (1991), op. cit. pp 97-132.
Children and their latent sexuality were a site of potential disorder within the middle class colonial home. Their innocence was a crucial factor in bourgeois claims to moral superiority and respectability. Yet, the implications of Stoler’s argument are also useful in re-examining the issue of separation between the adult and the juvenile prisoner. Separation has been analysed in both convict and penal history in terms of a preventive measure that was taken to avoid the sexual abuse and the exploitation of juveniles. This idea has been reinforced through the concept of a masculine power dynamic that was ubiquitous in the prison system. It was often based on age and the passive/active role that it involved. I do not refute this. However in the context of the nineteenth century, behavioural and environmental ideas surrounding youth, sexuality and criminality often converged. Adult criminals were often likened to, and treated as children. Juvenile delinquency was constructed around precocious sexuality. The idea that the juvenile convict possessed a sexuality that was ‘savage, unrestrained and very much the same’ was little different to that perceived to be an inherent characteristic of the adult criminal. In this context, the sexual fears that surrounded both the adult and the juvenile prisoner coincided. The separation issue moves away from the idea of an abusive power dynamic. Rather, it suggests instead that separation was relational. It was based on an ideological assumption that the juvenile had his own autonomous role within this power dynamic. According to the Chaplain of the Warwick county asylum, ‘the criminal boy is so enslaved to his lusts and appetites and passions, that he has lost the power of self control’. Without separation, neither adult nor youth would ‘reform’ precisely because they were akin. That many reformers insisted on the need to ‘make them boys again’ reveals this idea further. The Governor of Parkhurst, Robert Woollcombe

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1325 J. Weeks suggests that the separateness of childhood was ‘a symbol of middle-class status, as much as non-working women’. See J. Weeks, Sex Politics and Society: The Regulation of Sexuality since 1800, Longman, London, 1981, pp 48-9.
1328 According to Matthew Davenport Hill, the delinquent ‘is a little stunted man already – he knows much and a great deal too much of what is called life. He can take care of his own immediate interests. He is self reliant, he has so long directed or misdirected his own actions and has so little trust in those about him that he submits to no control and asks for no protection. He has consequently much to unlearn – he has to be turned again into a child.’ M. D. Hill, ‘Practical Suggestions to the Founders of Reformatory Schools’ in J. C. Symons, On the Reformation of Young Offenders, London Routledge, 1855, p 2. See also Mary Carpenter, (1853), op. cit., p 298.
observed the imperative of this. He noted, ‘until the two questions of adult and juvenile prison discipline are recognised and treated as wholly distinct from each other, both in principle and detail, no satisfactory results in either will be obtained’.1329

**Separate Juvenile Ships**

The conventional focus on age-related separation has led to a relative silence over the moral concerns that were generated by the young themselves. We have seen that the separate juvenile hulk and the Carters Barracks were both regarded as having ‘failed’ to reform the boys they sheltered. The massing of juveniles together continued to create moral anxieties for prison administrators. In Van Diemen’s Land, conduct reports and official investigations in 1843 and again in 1847 revealed instances of sexual activity at Point Puer and at the male orphan school in Hobart.1330 There is evidence to suggest that some youths on Norfolk Island participated in sexual relations on their own terms and within their own age group.1331 The experiences of the separate juvenile convict ships reproduced these concerns. But they also brought other cultural ambiguities over age, youth, moral culpability and the penal system itself, into sharp focus.

Between 1837 and 1841 eight juvenile convict ships arrived in Van Diemen’s Land. Approximately 1200 boys aged from eight to nineteen years experienced transportation aboard the separate juvenile ship.1332 Separate ships were never sent from Ireland, and young convicts, both Irish and English continued to be sent out with adult prisoners during these years. The decision to charter special transports for boys reflected

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1330 The male orphan school at Hobart was established in 1828. It came under the authority of the Convict Department in 1844. Van Krieken suggests it was ‘grimly penal in nature’ long before it was placed in the hands of the penal authorities. See R. Van Krieken, (1992), op. cit., pp 56-7.
1331 The punishment records from Norfolk Island noted that youths were caught together ‘in the bush in an improper situation’. Some youths were charged with ‘unnatural crime’ and they were often the same age. See Alexander Maconochie, Return of Ill Conducted English Prisoners under sentence of Transportation at Norfolk Island for Twenty, Fifteen, Ten and Seven Years, with particulars of their Offences, 4 April 1842, in BPP, C D 1843-46, pp 16-22.
the increasing numbers of juveniles caught up in the criminal justice system during the 1830s. The idea belonged to Lord John Russell.\textsuperscript{1333} In 1836 he specifically recommended the scheme ‘to avoid the evil of mixing up that class of offenders with older criminals during the voyage’.\textsuperscript{1334} The first ship, the \textit{Francis Charlotte} arrived in Hobart in 1837 with 140 boys. By all accounts the voyage was deemed a success. Sir John Franklin was delighted with the early results. He noted that the experiment had been ‘highly conducive to the interests of morality among young culprits’. Franklin informed the colonial office that he had ‘no doubt as to the expediency of forwarding and disposing in like manner all future culprits’.\textsuperscript{1335} It seems that a rigorous moral, religious and disciplinary program had been imposed on the boys throughout the journey. In his report, the Surgeon-Superintendent Alexander Nesbitt proudly revealed that ‘theft was exceedingly rare’ and ‘immoral language and behaviour had entirely disappeared’. Nesbitt was clearly happy with the experiment. He concluded his report of the voyage in the following self-congratulatory terms:

I may not be considered too bold in asserting that the experiment, so far as it goes, has been successful, and perhaps, I may be allowed to add, from my own observation that the manner in which these unfortunates have been disposed of in this colony seems to bid fair, as the human means can avail, to complete what has been contemplated – to withdraw them from the fangs of vice, and render them useful members of society.\textsuperscript{1336}

The disciplinary regime and the careful supervision that the \textit{Francis Charlotte} boys had been subjected to on the voyage, was to continue on their arrival in the colony. They were not permitted to disembark in Hobart but were immediately shipped off to the juvenile penal station at Point Puer. The Commandant, Captain Charles O’Hara Booth was optimistic ‘that with proper attention to their morals, education and instruction in their different trades, the major part of these juvenile offenders, uncontaminated by the

\textsuperscript{1333} In 1836 he was the Under Secretary of State for the Home Department. Lord Russell had a long career in penal reform and his attention was often directed to juvenile crime and delinquency.

\textsuperscript{1334} This was a testament to the failure of ship-board separation. Despatch, Lord Glenelg to Sir John Franklin, 28 October 1836, in Appendix B, Report from the select committee on Transportation 1838, in BPP, C & P, T, vol 3, 1837-61, pp 214-5.

\textsuperscript{1335} Despatch, Sir John Franklin to Lord Glenelg, 4 August 1837, in ibid, pp 215-6.

adult prisoner will turn out useful and worthy members of the colony’. Their continuing separation from adult prisoners was deemed vital for their reform. Yet beyond this, their isolation from the boys already at the Point was also imperative to the success of the experiment. Upon their arrival they were kept apart ‘as far as could be’ from the other boys. Indeed, rigorous steps were taken to ensure this spatial separation. According to Booth the ‘precaution was taken, just previous to their arrival of removing every boy (temporarily) to Port Arthur, whose characters were likely to contaminate them’ because ‘example tends to have a malignant influence over small boys’.  

Attention has tended to focus on the progressive nature and the benevolent intentions of the juvenile transports. Bryan Gandevia has suggested that ‘the juvenile ships were one of the more constructive experiments of the convict era’. For the boys involved it might well have been constructive. Captain Booth looked with confidence to the future when each boy would become ‘a good and industrious citizen’. Yet it seems perverse logic that in order to prevent the ‘contamination’ of the newly arrived Francis Charlotte boys, other boys who were seen as potential ‘corrupters’ were sent to the adult penal station across the water. This reflected the wider classificatory principle of all institutions; new arrivals were kept ‘innocent’ and separate from the established residents. It also reveals the extraordinary lengths that were taken to preserve this innocence; some boys temporarily lost their right to separate treatment. Technically all boys at Point Puer were ‘incorrigible’ by virtue of just being there. Yet a hierarchy of imagined moral ‘innocence’ clearly existed. In his diary Booth noted the new arrivals as ‘nice boys – poor little fellows’.  

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1337 Report of Captain Charles O’Hara Booth, 24 July 1837, Enclosure no. 2 in no. 38, in BPP, C & P, T, vol 3, 1837-61, p 220. Booth was a naval officer who was in charge of Port Arthur from 1833-44.  
1338 Ibid.  
1341 B. J. Bridges notes a similar policy of separating the newly arrived from the established residents at the Sydney Male Orphan School. New residents were to be subject to a probation class. ‘This step was taken because of ‘great injury’ having been found to result from new admissions to mix with the other inmates without first taming them in such a class.’ See B. J. Bridges, ‘The Sydney Orphan Schools 1800-1830’, M Ed Thesis, University of Sydney, 1973, pp 575-6.  
Perceptions of children and childhood in the nineteenth century were ambivalent and often contradictory. Lower-class children convicted of crime compounded these tensions because their age and background clouded perceptions of moral innocence or criminal culpability. Anomalous approaches were often adopted in their penal management. Susan Houston has suggested that ‘prison reformers created for themselves a complex and ambiguous figure of a blameless child who is nevertheless guilty’.\textsuperscript{1343} Lieutenant-Governor Arthur who had established Point Puer in 1834 certainly demonstrated ‘a puzzling mixture of compassion and severity’ towards juvenile convicts.\textsuperscript{1344} His ambivalence was encapsulated in a private letter where he wrote ‘it is utterly impossible to imagine a more corrupt fraternity of little depraved felons … But all are objects of compassion’.\textsuperscript{1345} This confusion was to characterise later perceptions of and developments in, the penal management of the young. During the 1860s, the English social observers Henry Mayhew and John Binny made a report on the young prisoners in the House of Correction at Tothill Fields in London. They noted:

\begin{quote}
Some were so young, that they seemed to need a nurse, rather than a jailor, to watch over them; others again had such frank and innocent faces, that we could not help fancying they had no business there; whilst others had such shameless and cunning painted in their features, that the mind was led insensibly towards fatalism, and to believe in criminal races as thoroughly as in cretin ones.\textsuperscript{1346}
\end{quote}

Yet if confusion muddled the issue for some, other contemporary observers demonstrated a less equivocal attitude. Indeed, many perceived the juvenile delinquent to be worse than the adult criminal and more difficult to reform. Thomas Lempriere was a Commissariat officer on the Tasman Peninsula. Perhaps he was having a bad day, but in 1839 he insisted ‘so deeply do the seeds of wickedness appear rooted in the breast of the urchin convicts, that in every degree of turpitude of which men are guilty, these boys

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\item\textsuperscript{1344} G. Dow & I. Brand, ‘Cruel only to be kind?’ Arthur’s Point Puer’, in History of Education Review, vol 15, no 1, 1986, p 22.
\item\textsuperscript{1345} Lieutenant-Governor Arthur to Adam Turnbull, private secretary, 8 February 1834, quoted in D. Heard (ed.), 1981, op. cit., p 27.
\item\textsuperscript{1346} H. Meyhew & J. Binny, (1862), op. cit., p 402.
\end{itemize}
outdo them’. In Sydney, the *Monitor* often referred to juvenile convicts as ‘the children from hell’. The Surgeon-Superintendent Daniel Ritchie likewise noted that ‘boys are not the least dangerous class of criminals. Their physical weakness is in proportion to their moral depravity.’ Perceptions such as these, suggest why refractory boys were often sent to Port Arthur; it was the last resort, short of Norfolk Island.

A punitive sentence to the adult establishment formed one of the harsher punishments inflicted on boys at Point Puer. Booth’s report of convict conduct at Port Arthur in June 1836 recorded that there were thirteen boys residing at the adult settlement. John Fairarray was described as ‘an abominable little monster’. Frank McManus was ‘an incorrigibly obstinate bad lad – tried ten times’, and James Kelly had ‘a bad influence over other smaller boys’. These conduct reports always noted that the removal of juveniles to the adult settlement was ‘temporary’. Nonetheless, many contemporaries were vehemently critical of this practice. Despite his belief that the boys’ ‘innate depravity and turbulent dispositions exceed any conception’ Thomas Lempriere criticised the removal of boys to Port Arthur. In his book on the penal settlements in 1839, he wrote that it was ‘severe and calculated to do away with the benefit intended by the Point Puer establishment’. Not only did ‘the same bad boys’ remain companions, but their separation from the men at Port Arthur was ‘impossible entirely to enforce’. Lempriere hinted that ‘the consequences maybe easily foreseen’.

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1348 *Monitor*, 6 April 1827.
1349 D. Ritchie, Surgeon-Superintendent of the *Egyptian* juvenile ship, in ‘Regulations duties and routines concerning behaviour and conduct of prisoners for *Egyptian*’ 1839, in Journal of H. M. S. Rattler, Ritchie Family Papers 1/4/10/7, University of Melbourne Archives. This attitude prevailed into the twentieth century. In 1910 Havelock Ellis suggested that ‘the child is naturally, by his organisation, nearer to the animal, to the savage, to the criminal, than the adult’. Quoted in S. J. Gould, *Ontogeny and Phylogeny*, Basil Blackwell, Cambridge, Massachusetts, 1977, p 124.
1350 Boys had always been present at Port Arthur from when it was first established in 1830.
1352 Between January and June 1837, nine boys were received at Point Puer from Port Arthur, and eighty nine boys were sent to Port Arthur from Point Puer. See Booth Report, (1837), op. cit., p 222.
1353 Commandants Report of Conduct at Port Arthur, 1 June 1836, in Tasmanian Papers 129, cy reel 3079, (ML.)
1354 Point Puer Charges and Sentences 1835-39, in Tasmanian Papers 134, cy reel 3079 and Commandants Report of Conduct at Port Arthur, 1 June 1836, in Tasmanian Papers 129, cy reel 1383, (ML.)
In 1843, Benjamin Horne was appointed by the British Government to make a full, official enquiry into Point Puer. His report confirmed Lempriere’s ‘consequences’ by reiterating the long-held fears that were generated by the failure of separation. According to Horne, ‘from the number of Point Puer boys already in the gangs at Port Arthur and the imperfect bearing and discipline of the boys generally, I am afraid that the process of forming a habitual prisoner class is already going on rapidly.’

Punishing boys by sending them to a stint at Port Arthur was hardly benevolent, reformatory or enlightened. The *Colonist* described the adult penal station as ‘worse than Dante’s Hell’. Yet despite the criticisms generated in the colony, a similar policy operated at the ‘model’ juvenile prison in Britain. Parkhurst was established in 1838. Juvenile inmates who refused to submit to the repressive disciplinary regime here were deemed ‘incorrigible.’ They forfeited their right to separate juvenile treatment and were transferred back to the adult prison system, usually to Millbank. From here, transportation was certain and their voyage would certainly not be on a separate juvenile ship. Benjamin Wait recalled an incident involving Parkhurst boys in his memoirs. Wait was incarcerated on board the *Leviathan* hulk in 1838. During his time there, he noted that fifty or so boys were removed to Parkhurst. However:

These boys had been away scarcely a week before [some] were sent back to the hulk as irreclaimable characters. The lads said it was for breaking open the cellar and taking some potatoes to roast, and some of the other boys ‘come it’ on them.

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1357 *Colonist*, 6 May 1834.
1358 Boys at Parkhurst were subjected to a rigorous discipline that embraced both punishment and rehabilitation. After an initial period of solitary confinement they were slowly introduced to a system of gradual association. Under this they were trained in trades that would be useful in the colonial context. After 3 years they were sent out to the colonies as exiles with conditional pardons.
1359 Millbank was used as a holding depot for all prisoners awaiting transportation. Juvenile inmates at Millbank were in theory separated according to age. Boys less than sixteen years of age were kept apart from the older juveniles aged sixteen to twenty. See Sir George Grey to Earl Grey, 20 January 1847, in BPP, C & P, T, vol 7, 1843-47, pp 194-200.
1360 Benjamin Wait, (1843), op. cit., p 237.
In 1846, the annual review of Parkhurst reported that seventy-nine boys who had ‘mischievously employed themselves in unsettling and perverting others’ had been removed that year. According to the report, ‘the salutary effect of that step has been very apparent since that time in the improved conduct of the remaining prisoners’.\footnote{Parkhurst Report 1846, quoted in Mary Carpenter, (1851), op. cit., p 319.} We do not know what the eventual ‘effect of that step’ was for the seventy-nine boys who had been removed. We do know that their status as ‘incorrigibles’ expelled from Parkhurst, would not have endeared them to the convict department on their arrival in Van Diemen’s Land.

Convict Boys and ‘Older’ Youths

The incident of the \textit{Francis Charlotte} points to some of the ambiguities and the limitations that ‘separating’ the boys from the men produced. The arrival of a later ship involved in the separate transport experiment brought into sharp focus a further ambivalent issue; at what age should the boys be separated from one another?\footnote{Separation according to age informed the administration of most reformatory and penal juvenile institutions in Britain. However, the fact that distinctions were drawn at a variety of different ages in different institutions attests to the confusion that surrounded the issue. See Report from the Select Committee on Gaols and Houses of Correction 1835, in BPP, C & P, Prisons, vol 3.} In March 1839, 160 juveniles arrived in Van Diemen’s Land on board the \textit{Pyramus}. By all accounts the voyage had passed without incident and on arrival the boys were ‘of healthy appearance’. The Surgeon-Superintendent, Mr. Foreman made ‘a favorable report of the conduct of these boys, as well as the ten overseers (convicts) who came out with them’.\footnote{Mr. M. Forster to Franklin, 25 March 1839, Enclosure no. 4, in Despatch, Sir John Franklin to Lord Glenelg, 12 April 1839, in BPP, C & P, T, vol 6, 1810-41, p 859.} Sir John Franklin acknowledged the arrival of the boys in a despatch to Lord Glenelg. He praised the ‘very satisfactory and creditable’ performance of Mr. Foreman. However contrary to these outward niceties, it seems that there was some cause for concern. The Comptroller-General of convicts, Mr. Forster had inspected the ship on arrival. Forster was a firm believer in the mechanical use of separate sleeping berths and separation boards that were examined in chapter two. He expressed grave concerns that there were no separation boards on the ship. Moreover, each sleeping berth on the
Pyramus accommodated up to four bodies. In his despatch, Franklin noted that ‘the point I wish particularly to draw to your Lordship’s attention is Mr. Forster’s suggestion that in the fitting up of transports in future, the sleeping places of the convicts should be partitioned off from each other’. He continued:

This measure has been adopted at Port Arthur, and at the road parties in the colony with advantage; being found very conducive to cleanliness and a prevention to immorality, which should be especially guarded against where large bodies of depraved beings are congregated together … it is very desirable the younger convicts should not be associated with those who, older in years and crime, are calculated to harden those less depraved than themselves. With this view I would suggest, that in future transportations of juvenile offenders to this colony, the older youths should not be sent out in the same vessels with the smaller boys.  

Franklin’s concerns were accentuated by the presence, on board the Pyramus of ‘no fewer than seventy’ youths who were eighteen and nineteen years of age. These youths were too old to be sent to Point Puer; they were instead to be held in Hobart. Their presence on the ship, their moral effect upon the younger boys and the inadequacies of spatial segregation in the sleeping quarters had clearly caused alarm for the convict department. In Britain, the Governor’s request was passed from Lord John Russell in Downing Street, to the Secretary of State for the Home Department and onto Sir John Barrow, Lord Commissioner of the Admiralty. Was the issue considered to be of equal moral importance to the authorities in the metropole? Or was this procrastination typical bureaucratic bumbling? Whatever the delay, Franklin’s suggestion was not implemented. According to Barrow ‘it would be prejudicial to the health of the convicts and cause increased expense’. 

The incident of the Pyramus produced some familiar anxieties. The spatial arrangements of ordering and atomising juvenile bodies on board the ship were perceived to be inadequate. So too was the separation of the ‘older youths’ from the ‘smaller boys.’ This was intimately bound up with perceptions of behavioural imitation. Yet the issue

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1364 Despatch, Sir John Franklin to Lord Glenelg, 12 April 1839, in BPP, C & P, T, vol 6, 1810-41, p 858.
1365 J. Barrow to F. Maule, 1 November 1839, in ibid, p 859. Maule was the solicitor to the Treasury.
1366 J. H. Capper, the Superintendent of the Euryalus juvenile hulk made similar age-related observations in a report in 1834. He noted, ‘Since the reduction of the number of convict boys, by the transportation of the elder ones, considerable improvement has manifested itself in the behaviour of the younger boys.’ Report
also concerned ideas surrounding puberty and adolescence. These concepts were less well defined than they eventually became towards the end of the nineteenth century. Nonetheless, many observers during the first half of the century believed the age of ‘older youths’ to be ‘the period of greatest moral peril’. The older youths at Parkhurst were described as ‘abject slaves’ to ‘sensual appetites and propensities’ with no desire to ‘become respectable characters’. Not only was there a morbid fascination with masturbation as a ‘fatal’ and ‘unmitigated evil’, many contemporaries specifically linked the emergence of adolescence with criminal behaviour. Jelinger Symons was an inspector of the Union Workhouse Schools in Britain. He noted that youth ‘especially between the ages of fifteen and twenty-five is the season when the passions are strongest and vice rifest’. Andrew Dickson made similar claims. His experiences of reforming juvenile delinquents in English Canada led him to conclude that ‘the period bordering on adolescence shows most evidently a greater tendency to crime than any other. This obviously arises from the power and energy of the passions, and as yet the defective cultivation of the mind and training of the morals.

Henry Mayhew’s social investigations into the working lives and social conditions of London’s labouring classes are well documented. Less observed are his views on adolescence, puberty and crime. According to Mayhew, puberty occurred at the age of fifteen. It was at this age when criminal dispositions were developed and the destiny of the youth ‘especially when apart from the molding and well directed care of parents or friends, is influenced perhaps for life’. Mayhew also believed that puberty occurred earlier in lower-class children. Through an early exposure to the vices of the

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1371 Andrew Dickson, Special Report, 10 March 1853, quoted in S. L. Houston (1975), op. cit., p 96.
adult world and the underworld of the brothel, ‘their extraordinary licentiousness’ was of little surprise. His investigations of the streets and his enquiries into the jails of the metropolis convinced Mayhew that criminal youths had an early and ‘extreme animal fondness for the opposite sex’.1373

There is evidence to suggest that the onset of puberty was class-specific in the past.1374 It is impossible to speculate what the average age of puberty was for the lower classes. Inadequate nutrition, poor housing and harsh working conditions would have been influential. Bryan Gandevia has examined the physical characteristics of boy convicts sent from London to Australia. He concludes that they were well below average height, ‘doubtless underweight’ and pock marked, suggesting past exposure to infectious diseases.1375 It is doubtful that Mayhew’s observations on early puberty are correct.1376 Rather, his views reveal instead how contemporaries negotiated the ambivalence of this age in relation to their moral and environmentalist assumptions of the lower classes.1377 As a ‘turning point’ or ‘a fatal step’ in the biological life cycle, these years were viewed as a particularly precarious time. Without firm moral guidance the adolescent represented moral danger and social subversion.1378 Criminality, sexuality and adolescence formed an unholy alliance in the anxious eyes of respectable observers such as Mayhew. As Anna Davin has suggested, middle-class commentators were ‘doubly outsiders: by age as well as class’ when referring to lower-class children.1379 It was a disparity of classed

1376 The idea that the environment determined the age of puberty was to cause considerable concern in Australia. Here, the warm weather was seen to be influential. These ideas informed the later nineteenth century legal and parliamentary debates over the age of consent. See L. Finch (1993), op. cit., pp 80-2.
1377 The analysis here is limited to lower-class youths, yet obviously these concerns extended to the middle classes. The ‘abnormal’ middle-class youth was also perceived in sexual terms. Somatic descriptions of the middle class masturbator and the lower class criminal child are remarkable in their parallels.
moralities, but also an easy connection to make in the context of the nineteenth century.\textsuperscript{1380} Many youths were indeed caught up in the mechanics of the criminal justice system. The legal system had created their ‘criminal’ delinquency in the first place, and it was middle-class moralists who constructed this through a discourse of moral deviancy.\textsuperscript{1381} As Jelinger Symons remarked, ‘juvenile crime is a moral disease which requires a moral remedy’.\textsuperscript{1382}

‘Moral remedies’ were certainly implemented on board the \textit{Hindostan} juvenile ship. In 1841 it arrived in Van Diemen’s Land with 200 boys aged between eleven and sixteen years. Sir John Franklin’s suggestion that young boys and older youths should not be transported on the same vessels had perhaps been extravagant. However, Matthew Forster’s concerns over the sleeping arrangements on board the \textit{Pyramus} were taken into consideration. Separation boards were not introduced, yet it seems that greater attention had been paid to the surveillance of the sleeping quarters; they were closely monitored. Andrew Henderson was the Surgeon-Superintendent on board. He recounted the voyage in detail in his book, \textit{Scraps and Facts of Convict Ships}. Henderson had instituted a strict and disciplined night-time watch on the \textit{Hindostan}. Forty-eight boys ‘of good conduct’ were appointed as ‘night watch-men’. They formed ‘two guards’ and were subdivided into platoons of four. Between six o’clock in the evening and six o’clock in the morning, their duties were:

\begin{quote}
\textit{to preserve order and good behaviour among the boys in that department of the ship over which they are stationed, and in particular to prevent all larking, quarrelling, fighting, swearing, the using of indecent or obscene language and the singing of immoral songs, and to see the boys in their proper berths by eight o’clock, after which time no speaking, singing or noise of any kind shall, on any account whatever, be permitted.}\textsuperscript{1383}
\end{quote}

\textsuperscript{1380} David Walker noted that this idea was particularly prevalent in Australia from the 1860s to the end of the century. He suggested that ‘it was commonly assumed that working-class youths were degenerate and that criminality, degeneracy and seminal loss were interrelated’. See D. Walker, ‘Continence for a Nation: Seminal Loss and National Vigour’ in \textit{Labour History}, no 48, May 1985, pp 1-14.


\textsuperscript{1382} J. C. Symons, (1849, 1984), op. cit., p 96.

\textsuperscript{1383} Andrew Henderson, \textit{Scraps and Facts of Convict Ships}, Devonport, 1845, p 13.
It is clear that the regulation of silence and the monitoring of voices were integral to this disciplinary regime. Henderson’s boy-guards were encouraged to report any misdemeanors made by their charges and also any ‘lapses of duty’ that they noticed among their fellow guards. Henderson believed that this rotating system of constant night-time surveillance had been a great success. He recommended that it should be adopted on all future transports. His book does not detail any incident of spatial or spoken transgression on board the Hindostan. What the boys thought of the system, and how they used it to collude with, or disrupt these surveillance measures is not to be known.

On arrival in Hobart, Henderson recommended that eighty-six boys of ‘physical maturity’ be immediately assigned to respectable free colonists. All of these boys were aged between fourteen and sixteen years and Henderson ‘was at pains to point out that these juveniles should immediately be separated from the younger boys’. They were not to be sent to Point Puer. The age and the physical development of these youths were here clearly acknowledged. In this analysis then, the separate ship experiment produced new complexities for convict administrators. It brought the problematic issues of age, adolescence and puberty into sharper view. Separating the boys from the men had been the original incentive for the experiment. Later developments led to the separation of the juvenile body itself. After 1843, only boys aged fifteen years and younger were ‘officially’ sent to Point Puer. The issue of age and concerns with the exchange of criminal and sexual knowledge had informed both of these processes.

‘A melancholy, bleak cancer spot’: The paradoxes of Point Puer

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1386 In Britain, boys aged 13 and under were separated from the older youths at Parkhurst. At Newgate, boys aged 15 and under were kept separate from the ‘older youths’.
1387 This was William Champ’s description of the place. See W. Champ, 29 July 1844, in Point Puer Correspondence 1843 & 1844, in Tasmanian Papers 60, A1089, (ML.)
Kim Humphery has suggested that ‘the use of juvenile convict ships and the establishment of Point Puer boys’ prison near Port Arthur in 1834 represented one of the most important and far-reaching of state and philanthropic interventions into the management of young male offenders in early colonial Australia’.\textsuperscript{1388} According to Humphery, this ‘testified to ideological shifts regarding the cultural understanding and supervision’ of young convicts.\textsuperscript{1389} Yet we have seen that the use of juvenile convict ships re-iterated some familiar concerns. The problem of age-related separation was not solved but was rather reproduced in a new and concentrated form. The spatial organisation of juvenile bodies on-board the ship produced the same moral anxieties that surrounded the sleeping quarters in all institutional settings. The experiment highlighted the moral ambiguities in classifying new ‘innocent’ arrivals as worthy of protection from the ‘incorrigible’ boys. This in turn saw the removal of the ‘incorrigible’ boy to the adult terrors of Port Arthur. In 1841 the \textit{Lord Goderich} arrived with 176 boys. Only 108 were sent to Point Puer, and the rest were distributed between the various adult probation stations.\textsuperscript{1390} There were then, limitations to the separate ship scheme. It did not represent an ‘ideological shift’ in the ‘cultural understanding’ of the delinquent youth because ultimately the construction of delinquency remained unchanged. This is further revealed when we consider some of the paradoxes of Point Puer itself.

The very establishment of Point Puer was anomalous.\textsuperscript{1391} It opened in 1834, the same year that Carters Barracks ceased to operate as a juvenile institution. It was Lieutenant-Governor Arthur’s creation, yet he always fiercely defended the system of assignment as the most effective penal system ‘ever devised’ and the ‘best and only chance’ for reforming youths in particular.\textsuperscript{1392} The establishment of the boys’ prison was largely motivated by moral concerns. In November 1833, the \textit{Isabella} arrived with 300 prisoners. Half of them were convict boys aged between eight and ten years of age.\textsuperscript{1393} During 1833 and 1834, many boys were housed with adult convicts in overcrowded

\textsuperscript{1389} Ibid, p 32.
\textsuperscript{1391} The \textit{Hobart Town Courier} referred to Point Puer as ‘anomalous’ on 12 December 1846.
\textsuperscript{1392} Sir George Arthur Papers re Convicts 1822-47, vol 29, pp 612-14, A2189, (ML.)
\textsuperscript{1393} Reported in the \textit{Colonist}, 18 November 1833.
conditions at Hobart Town Gaol. Yet in establishing Point Puer on the Tasman Peninsula where the colony’s worst adult recidivists were sentenced to further penal servitude, Arthur made an unfortunate if not utterly misguided decision.

Geographically, Point Puer was unsuitable. The tiny island certainly made escape impossible. Yet the soil was unproductive, there was little wood for fuel and the lack of fresh water meant that daily provisions had to be delivered from Port Arthur. This proximity to the adult penal station also meant that many of the school teachers and the dormitory overseers employed at Point Puer were convict men. The moral propriety of this was questioned by Thomas Lempriere. In 1839 he asked, ‘Can such men all at once change their nature and become examples of morality and integrity to the boys?’ 1394 In 1843 Benjamin Horne specifically linked the use of convict teachers to indiscipline at Point Puer. He noted that the establishment was ‘daily suffering in a moral point of view from the want of proper teachers’. Horne recommended that three teachers who had been trained by the Council of Education be immediately sent from Britain. He was convinced ‘for several reasons’ that these men ‘should be married’. 1395

The initial wooden buildings that had housed the first sixty-eight boys soon became unable to accommodate and effectively survey a rapidly increasing population of young convicts. In 1838 there were 478 boys at Point Puer and by 1840 this number had increased to 700. 1396 The following year Sir John Franklin received orders from the British government. The separate system of prison discipline was to be introduced ‘generally’ at Port Arthur, but at Point Puer it was to be introduced ‘with the least

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1395 Horne Report 1843, cited in P. Bundee, (1984), op. cit., p 124. The original report is not available in the Australian archives. Paul Bundee has printed it in his book. Unless otherwise stated, the following references to the 1843 report are taken from this reproduction. B. J. Bridges study of the Male Orphan School at Sydney noted similar anxieties surrounding the employment of convict servants. In 1826, ‘Archdeacon Scott visited the Male Orphan School and ‘unofficially’ recommended that the twenty male convict servants be replaced by newly arrived Protestant convicts … Scott made his representations for the change of convicts unofficially so as to avoid the necessity for an inquiry which would expose the problem to the public and necessitate the bringing of the boys to give ‘disgusting evidence.’” B. J. Bridges, (1973), op. cit., p 293.
1396 In his diary Charles O’Hara Booth recorded the arrival of the first ‘68 urchins’ on 10 January 1834. They were all drunk, having found Booth’s six dozen case of wine. See D. Heard, (ed.), (1981), op. cit., p 167.
possible delay’. In a letter to Captain Booth, Franklin informed him of ‘the necessity of carrying out this principle by all possible means, both with reference to any new buildings which maybe erected … and in the division of those already existing’.

Booth had previously made such recommendations ‘in the interests of morality’ in his report of 1837. These suggestions had not been acted upon then; Franklin’s instructions of 1841 were not to be carried out either.

These shortcomings were explicitly revealed in 1843. Benjamin Horne wrote a damming report on the entire system and structure of Point Puer. Horne was an apostle of the separate system at Parkhurst, with its silent cellular discipline. His report depicted Point Puer as the antithesis of this system. He was appalled at the wooden buildings and the un-slung hammocks he found there. He likened the boys’ communal sleeping on the floor to ‘a horde of gypsies in a large barn’. Horne recommended that each boy ‘should have a separate sleeping cell as at Parkhurst’. This was ‘absolutely necessary as a preventive to moral crimes.’

The haphazard nature of the buildings required a large number of staff by night and day to watch the boys. According to Horne, the surveillance of bodies ‘would be much better maintained by separate cells and stone walls’. Further, the fact that many overseers at the Point were men from Port Arthur exacerbated these concerns. Horne was convinced ‘that they would prevent moral improvement among the boys’ and would even ‘nullify the best system of discipline ever established’. William Champ agreed. He later noted that ‘the impropriety of this is so obvious that I need hardly say how desirable it is to substitute men of a totally different class’.

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1398 Booth Report, (1837), op. cit., p 221.
1399 F. C. Hooper, (1954), op. cit., Appendix 5, p 183. Horne’s reference to gypsies was a familiar theme within the rhetoric of juvenile delinquency and lower-class disorder in general. It equated the poor with nomads, savages and wandering tribes. Mayhew and Binny were similarly appalled at the boys sleeping on the floor at Tothill Field House of Correction in 1860. See Mayhew & Binny, (1862), op. cit., p 434.
1401 Ibid, p 124.
1402 William Champ, 29 July 1844, Point Puer Correspondence 1843 & 1844, in Tasmanian Papers 60, A1089, (ML.)
Horne’s report was saturated in moral anxiety. This was accentuated by the presence of Port Arthur men, yet it also reflected the moral terrors produced by the boys themselves. He was appalled by their filthy appearance. If cleanliness was next to godliness, these boys had no chance of redemption. He specifically noted that ‘the most worthless boys and poorest in character’ were also ‘the most ragged and dirty’. Horne was concerned with the lack of separation and classification of the establishment. The gaol at the Point was condemned as a ‘mockery of separate or solitary confinement’. The boys were not separated from one another. Instead, the comparatively good ‘associates daily with boys much worse than himself returning to the general class thoroughly corrupt’. His horror at the association permitted between the boys was amplified by ‘their apparent familiar acquaintance with a vice which a Christian is scarcely permitted to name’. According to Horne, this situation ‘imperatively demands complete segregation at every moment when they are not under observation by efficient free overseers. In the course of the first week I spent at Point Puer, I heard this crime familiarly alluded to three times.

As with the adult prisoners, the boys at Point Puer were not silenced. They used their voices both in protest and in jest. They were often punished harshly for doing so. Indeed, their voices generated outraged horror that was often greater than that evoked by the adult prisoners. The return of punishments inflicted at the Point between 1 January and 30 June 1837 records 72 cases of ‘insolence’, 52 cases of ‘profane language’, 26 boys charged with ‘talking and singing in cells’ and 4 with ‘indecent conduct’. On 30 May 1835, Walter Paisley was ‘charged with [illegible] the boys in the cells on Sunday evening last by reciting an obscene story’. He was sentenced to seven days solitary confinement on bread and water. ‘Making use of obscene language’ earned William Churchill forty-eight hours of solitary confinement on bread and water. Joseph Hawke was similarly confined for twenty-four hours for ‘making use of improper expressions’.

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1403 Horne’s concerns were not new. They had long obsessed penal reformers. Select Committees’ since 1812 had focused upon the sleeping arrangements, the surveillance, and the classification of juveniles according to age and crime-class. This focus continued throughout the nineteenth century.


1405 Horne Report 1843, p 118.


1407 Booth Report (1837), op. cit., p 221.
William Massey was lucky. He got away with a reprimand having been ‘charged upon the complaint of Overseer North with making use of improper expressions in barracks after hours’. What precisely was deemed ‘obscene’ and ‘improper’ we can only imagine. Female convicts were punished for similar verbal transgressions.

If Benjamin Horne was appalled at the frequency with which the boys ‘alluded’ to moral crimes, he later confirmed these fears. In his report he noted:

I am sorry that a case has since occurred between two boys which left me no longer in doubt upon the subject, as Captain Booth was so satisfied at the truth of the charge that he sought to inflict the highest punishment he could inflict.

It is difficult to determine what exactly this particular case involved. Captain Booth was aware of ‘vice’ between the boys. In 1837 a letter from Mr. Forster alerted him to ‘this horrible crime’. In his reply, Booth wrote that he ‘was quite horror struck’ by the allegations. He was also ‘quite perplexed to know what method to adopt to detect such horrid proceedings’. Booth promised a thorough, albeit silent investigation into the matter. He informed Forster that he had ‘not named it to … a soul for fear of its getting publicity on the establishment’. The record books of punishment from Point Puer are similarly opaque. ‘Disorderly conduct in barracks at night’, ‘putting out lamps in the barracks at night’, ‘most indecent conduct’ and ‘being in the water closet for some improper purpose’ were listed in the ‘moral’ crime category of records between October and December 1838. Unsurprisingly, the press was rather more explicit. One report referred to ‘the abominations which prevail, in an assemblage of juvenile offenders, to an extent unparalleled even in this land of probation iniquity’.  

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1408 Walter Paisley, 30 May 1835 in Point Puer Charges and Sentences 1835-39, Tasmanian Papers 134, cy reel 3079, (ML.); William Churchill, 30 October 1838; Joseph Hawke, 14 November 1838; William Massey, 16 December 1838, all in Point Puer Record Book Oct-Dec 1838, Tasmanian Papers 129, cy reel 1383, (ML.)
1411 Extract of a letter from Captain O’Hara Booth to Mr. Forster, Port Arthur, 9 September 1837, in F. C. Hooper (1954) op. cit., Appendix X, p 186.
1412 Extracts from Point Puer Record Book Oct-Dec 1838, op. cit.
1413 Hobart Town Courier, 12 December 1846. The Launceston Examiner was no less fervent in its reports of the juvenile establishment. See Launceston Examiner 23 December 1846.
Benjamin Horne concluded his report with the recommendation that the juvenile establishment should abandon Point Puer altogether. This would prove equally economical to any attempt to improve the existing deficient buildings. A site of isolated self-sufficiency would be an ideal location and he recommended Maria Island. The imperative of losing the Port Arthur taint was clearly of central importance. Horne’s recommendations were well received by the British government and by many in the convict department. William Champ entirely applauded his report. He agreed ‘that not one shilling more’ be spent at Point Puer. The press later commented on Horne’s ‘important statements and startling disclosures’. Maria Island was eventually deemed unsuitable yet a new site at Safety Cove was chosen. Plans were drawn up to build a new penitentiary that was based on the separate system. Financial and administrative shortcomings meant that the building of the juvenile institution was slow. The press caustically noted its progress ‘is at the usual rate of Government works’. Over two years lapsed before Sir Eardley-Wilmot even acknowledged Horne’s report in his official correspondence with the metropole. In October 1845 he informed the colonial office that ‘the separate apartments about to be built in the new penitentiary at Safety Cove will greatly improve their [the boy’s] moral training’. In the meantime, the half yearly reports from the convict department vaguely suggested that ‘all the attention circumstances will admit of is paid to the classification, and to the other means necessary for the improvement of the boys’. However, little changed at Point Puer. By the close of 1846 the Hobart Town Courier had had enough. ‘Separate treatment in especial relation to Point Puer was directed years ago’ they fumed. Yet:

The system first established is still continued in almost unmitigated operation, and evils which, in the language of Captain Forster ‘affect the eternal as well as temporal interests of so many youths’ and which are of no slight moment to the moral and social relations of the community, are

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1414 William Champ replaced Charles O’Hara Booth as Commandant of Port Arthur in 1844. He responded to Horne’s Report positively and agreed with all of his recommendations for the Point. He preferred the site of Safety Cove rather than Maria Island. See letter, 29 July 1844, op. cit.
1415 Hobart Town Courier, 12 December 1846.
1416 Ibid.
1418 Ibid.
still practically and recklessly perpetuated. There is the same ‘herding together.’ There is the same facility of intercourse with Port Arthur, the same risk of contamination. Arrangements under which it is admitted to be ‘impossible’ to introduce a good system of discipline, either penal or reformatory remain in their essentials, unchanged.¹⁴¹⁹

Administrative incompetence, insufficient funding, and a gradual decline in the number of juveniles arriving in the colony meant that the penitentiary at Safety Cove was never completed.¹⁴²⁰ Point Puer was finally abandoned in 1849. The remaining boys were moved to a probation station at Cascade with separate apartments that were ‘well adapted for the enforcement of strict discipline and supervision’.¹⁴²¹ This was to be a temporary arrangement however. The station at Cascades was merely to shelter the boys until they could be assigned as apprentices to respectable free settlers. Colonial penal policy towards juveniles had once again changed. The failure of the institutional model at Point Puer had made it come full circle. Assignment and the spatial dispersal of boys were back as the favoured reformatory discipline.¹⁴²²

Conclusion

In 1856, the returned Chartist convict John Frost delivered a series of lectures. To his assembled British audiences he told sensational and lurid tales of the boys at Point Puer. Frost informed his listeners that ‘the big boys and the little ones slept in the same

¹⁴¹⁹ Hobart Town Courier, 12 December 1846.
¹⁴²⁰ This decline was due to a change in British penal policy with respect to juveniles. In 1847, the British government acknowledged that the establishment of government run juvenile reformatories, rather than transportation was the best means of ‘reforming’ the young. These institutions were to be less penal and ‘more of a purely reformatory character’. See Sir George Grey to Earl Grey, 20 January 1847, in despatch, Grey to Denison, 5 February 1847, in BPP, C & P, T, vol 7, 1843-47, pp 198-200. This was also connected to changing attitudes towards children of the lower orders. See H. Cunningham (1991), op. cit., pp 4-5.
¹⁴²² In practice however, not all of the youths were able to be assigned. They remained at the station performing work for the government instead.
room, and I need not tell you what followed’. His narration of scandalous scenes that ‘threw Norfolk Island and Port Arthur into the shade’ was clever and effective political propaganda. Yet these tales were not told in an ideological vacuum. They played on real contemporary fears that surrounded the imaginings of childhood, delinquency and sexuality. This chapter has argued that young male convicts represented many cultural anxieties. In part, these anxieties were created by ambiguous and conflicting notions of ‘the child’ and ‘the youth.’ When social reformers investigated the causes of juvenile delinquency they blamed the outside influences of wicked parents and profligate adults. Yet they could not forget that ‘evil’ might reside in the young themselves. This was reflected in the many parliamentary enquiries that were conducted into juvenile institutions throughout the nineteenth century. The sleeping arrangements, the spatial separation and the screening of young bodies were obsessively focused upon.

Confusion often muddied perceptions of the moral and criminal culpability of the young. Their treatment within the penal system revealed this. It was a fitful system that was characterised by oscillating ideas of punishment and reform. There was an ongoing tension between the competing models of the institution and the assignment system. The discrepancies between the theory and practice of separation suggest further ambiguities. The undifferentiated treatment of the adult and the child prisoner generated acute anxieties. Yet separating the boys from the men reproduced the same anxieties. It often accentuated them because the regulation and surveillance of juvenile bodies revealed that the ‘failures’ of reform could no longer be ‘blamed’ on the influence of the adult prisoner.

George Arthur established the boys’ prison as an antidote to the moral corruption of the young prisoners who were incarcerated with adults in Hobart Gaol. Yet Point Puer left a much larger legacy. In the following decade Benjamin Horne demanded that the juvenile institution move away from the ‘worst of men’ at Port Arthur. But it was already much too late. Point Puer had its very own independent ‘convict taint.’ The Launceston

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Examiner described it as ‘a school of iniquity where lads acquire a knowledge of extreme wickedness’. The plan to move the institution to the new site at Safety Cove would not have removed this disreputable taint. It would have merely transferred it. Moreover, Safety Cove was only two miles away. This chapter has argued that the physical separation of the boys from the men did not sever the juvenile delinquent from the broader cultural and ideological values that surrounded his construction. These values were class-bound. They explicitly linked social misbehaviour, moral impropriety and legal non-conformity and labeled them deviant. In the final analysis ‘innate moral perversity’ constructed the juvenile delinquent because crimes and offences against social morality were always related to sexuality.

1424 Launceston Examiner, 5 December 1846.
Chapter 6

‘The Brothel his Home, the Gaming House his Church and his Lusts he will 
make his God’  

Marriage Morality and Male Convicts

In 1839 the Sydney Monitor lamented the state of immorality amongst the male lower orders of New South Wales. According to the paper, it could not be explained by the ‘inherent debauchery and predatory habits’ of a population of criminals. Rather, it was closely connected to ‘that great and peculiar fact, namely their celibacy’. The paper noted:

Had every man on becoming free had the same opportunity to marry which he would have had in the Mother Country, he might have become thoroughly reformed, if not for his own sake, for the sake of his offspring … no means are so effectual in promoting virtuous conduct among any people of any class, whether in New South Wales or elsewhere as conjugal, parental and filial ties.

The paper further suggested that such desires ‘must be gratified before a nation composed exclusively of the male sex as the Colony has been, can lead a chaste, sober and domestic life’. The ideal of the Christian patriarchal family as the foundation of society was transported to Australia, as indeed it was throughout the Empire. The ‘peculiar fact’ of celibacy rendered emulating British society problematic. Yet in the context of the penal colonies, the familial ideal held an additional significance. Marriage was deemed central to the reformation and rehabilitation of the criminal. The unique circumstances of populating Australia with a majority of unreformed male felons then, brought questions of marital relationships, familial life and sexuality into sharp focus. From the inception of the penal colonies to the cessation of transportation and beyond, it remained a constant and recurring concern.

1425 Monitor, 15 June 1838.
1426 Monitor, 23 January 1839.
1427 According to Ronald Hyam, ‘the expansion of Europe was not only a matter of Christianity and commerce, it was also a matter of copulation and concubinage’. See R. Hyam, ‘Empire and Sexual Opportunity’ in Journal of Imperial and Commonwealth History, vol 14, no 2, January 1986, p 35.
Marian Aveling has highlighted the centrality of gender relations and marriage to the early planning and foundation of the new penal colonies. Yet convict historians have in general remained remarkably quiet on the whole question of gender relations in the penal colonies. Separate histories have served to sever the experiences of male and female convicts. Moreover, historians writing about convict marriage have concentrated on its effects upon convict women. More particularly, this historiography has revealed the reformatory purpose of marriage for women alone. Early feminist interpretations of Australia’s founding mothers seized the reformatory ideal of marriage to refute the idea that transported women were ‘all of them, with scarcely an exception, drunken and abandoned prostitutes’. This long held pejorative perception of convict women is perhaps an underlying reason why marriage as reformatory for men has been understated. After all, the ‘damned whores’ and ‘notorious strumpets’ were unlikely to lead the refuse of Britain’s criminals towards the happy harmonious hearth. In The Women of Botany Bay, Portia Robinson noted, ‘belief that marriage among the convicts promoted respectability and decreased licentiousness and promiscuity remained central to all official and semi-official attitudes towards the convict women’. Robinson writes of ‘marriage among the convicts’ yet fails to extend the perceived benefits to encompass

1428 Aveling failed to extend her analysis beyond the 1820s. This chapter argues that gender relations were an ongoing concern from the foundation of the penal colonies and through to the late 1840s. Gender continued to occupy colonial concerns in the second half of the nineteenth century. See M. Aveling, ‘Gender in Early New South Wales Society’ in Push from the Bush, no 24, April 1987, pp 30-40; ‘Imagining New South Wales as a Gendered Society 1783-1821’ in Australian Historical Studies, vol 25, no 98, April 1992, pp 1-12.


1430 Report from the select committee on transportation 1838, quoted in M. Dixon (1976), op. cit., p 136.

1431 Many contemporaries spoke of female convicts as ‘being worse’ than their male counterparts. Some believed convict women merely corrupted criminal men further. This belief was expressed by the Sydney Gazette in 1825. According to the newspaper, although the colony was desperate for more women, the behaviour of female convicts acted far more as a disincentive for further numbers to be transported. Moreover, their behaviour was unlikely to encourage male convicts to pursue the married state. They noted, ‘where women are wickedly inclined, at least such has been the discovery hitherto, that they are far more infamous than the men: such a fact may have been operative against the transportation of females.’ Sydney Gazette, 28 April 1825. For a further examination of these attitudes see J. Damousi, (1997), op. cit., esp. pp 34-58.

both participants. Her argument proposes an exclusive view of marriage and morality as a privileged site belonging to one sex alone.

This chapter seeks to revise this unbalanced view of convict marriage. It considers gender as a relational construct, to reveal a different and yet more nuanced portrait of marriage and the ways it intersected ideas surrounding the criminal reformation of transported male convicts. Certainly, many contemporary observers noted the beneficial effects of marriage upon male behaviour. The prison reformer John Burt believed that ‘unmarried men, when they are pursuing a criminal career will, as a class be much more demoralised than the married’. Likewise, Alexander Maconochie insisted that ‘the character of prisoners, both male and female, is observed to be always improved by marriage’. Marriage as a reformatory ideal was clearly intended to remake and reform both male and female convicts. On a wider scale, perceptions of marriage and familial life were central in establishing and solidifying the moral and social basis of a new colonial community. As the Monitor reported in 1839, the unmarried state of many men had failed to achieve both these ideals. Enforced celibacy, then, was not reformatory. Nor was it natural. Rather, it threatened to produce unnatural results.

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1433 Joy Damousi reiterated this when she observed that Samuel Marsden, ‘became a leading advocate of the need for convicts to marry and procreate within marriage in order to eliminate the ‘vice, idleness and depravity’ amongst convict women’. See J. Damousi, (1997), op. cit., p 36.
1434 Satadru Sen has recently argued that in the penal settlements in the Andaman Islands convict marriage was central to rehabilitation schemes. See S. Sen, (2000), op. cit., p 220.
1436 Alexander Maconochie, Thoughts on Convict Management and Other Subjects Connected with the Australian Penal Colonies, Hobart, 1838, p 22.
1437 Watkin Tench made this clear in his memoirs of the First Fleet. He noted, ‘While they were on board ship the two sexes had been kept most rigorously apart, but when landed their separation became impracticable, and would have been, perhaps wrong. Licentiousness was the unavoidable consequence, and their old habits of depravity were beginning to recur. What was to be attempted? To prevent their intercourse was impossible, and to palliate its evils only remained. Marriage was recommended and such advantages held out to those who aimed at reformation as have greatly contributed to the tranquility of the settlement.’ See W. Tench, (1788, 1996), op. cit., p 45.
1438 Caroline Chisholm suggested that the gender imbalance in the Australian colonies not only led to ‘misery and crime’ but also ‘this unnatural anomaly of the human race in that Colony [NSW], may be traced in a great degree the gradual but certain extermination of those unfortunate tribes, the Aborigines of New Holland; they the original holders of the soil, demand the speedy and parental interference of a humane Government.’ Caroline Chisholm, letter to Earl Grey, 25 January 1847, in M. Kiddle, Caroline Chisholm, Melbourne University Press, 1996 edition, p 197.
Reformation aside, these perceptions were augmented by the belief that marriage was the natural right of every man, ordained by the laws of nature, and sanctioned by the benevolence of a Christian God.\textsuperscript{1439} According to one contemporary observer, ‘Marriage is the right of man as man. It is one of the conditions of his existence that he should marry; it is rendered necessary by the very constitution of his being.’\textsuperscript{1440} In the late eighteenth and early nineteenth century marriage was unachievable for many men involved in the masculine project of colonialism.\textsuperscript{1441} In the context of the penal colonies it was especially problematic as male convicts always surpassed the numbers of women transported. Certainly convicted prisoners had few conjugal privileges in British jails. As a ‘natural right’ however, the right to marry was extended to include male convicts transported to the penal colonies. This too has remained an unexplored, almost silent area of convict history. An examination of the proposals for convict family migration to Australia explicitly reveals this idea. The following analysis explores the ways that contemporaries negotiated the moral implications of the separation of families in Britain and the gender imbalance in the Australian colonies. In this chapter I argue that the ever-present and ongoing attempts to redress this imbalance reveal male sexuality as a constant source of colonial anxiety. Marriage and gender relations informed colonial politics, and at times these issues shaped the wider politics of imperial transportation itself.

Transportation and Family Migration

The idea of encouraging single convicts to marry and permitting married convict families to join their transported loved ones was a consideration in official policy from the very foundation of the colony. Before the First Fleet set sail in 1787 Arthur Phillip, the first Governor of New South Wales acknowledged the importance of marriage to the

\textsuperscript{1439} According to the \textit{Monitor}, the unmarried state of many convicts and ex-convicts was ‘contrary to God’s premoeval [sic] command, and to the very nature of man as a social and intellectual being.’ \textit{Monitor}, 8 February 1839. In many respects this compliments the nineteenth century ideology of marriage and motherhood as the natural right and duty of women.


\textsuperscript{1441} This paradoxical state of affairs is effectively conveyed in the introduction of P. Russell (ed.) \textit{For Richer For Poorer: Early Colonial Marriages}, Melbourne University Press, 1994, esp. p 2.
founding of the new colony. Marriage between single convicts and the promise of familial conveyance for those already married was to be an ‘indulgence’ granted solely on his recommendation. Only well conducted prisoners would be eligible. In this respect Arthur Phillip implicated the central function of marriage in the disciplinary mechanisms of penal policy. The reformed would be rewarded with marriage or family reunion. The unreformed would be doomed to celibate bachelorhood. The married state was thus an incentive to transform convicted men into honest hardworking pioneers of settler society. Happy, healthy and sexually fulfilled convicts would make for a pliant, disciplined workforce and this was seen as an imperative to the foundation and social stability of the new settlement. Further, the marriage of men was closely related to preserving ‘the settlement from gross irregularities and disorders’.

In this respect, marriage sought to contain and control convict sexuality in the new colony. In the first despatch sent from Sydney in May 1788 Phillip noted, ‘the very small proportion of females makes the sending out an additional number absolutely necessary’. According to Marian Aveling, Arthur Phillip ‘never ceased urging the authorities to send more convict women, to marry the convict men and settle the land’. Despite his recommendations, few women and no convict wives accompanied the First Fleet.

This oversight was to plague antipodean society for the next sixty years. Indeed, the perennial disjuncture between theory and practice meant that the policy of family migration remained irregular and uncertain. This was due mainly to the British government’s desire to keep transportation as ‘economic’ as possible. In the early decades of the life of the colony the arrival of single convict women and the wives and

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1442 A. G. L. Shaw briefly noted the conveyance of wives and families as a reward and an incentive to good conduct. See Shaw, (1966), op. cit., p 229.
1444 This was augmented by the threat of exile to New Zealand for any man convicted of sodomy. See O. Rutter, (1937), op. cit., p 18.
1445 Despatch, Arthur Phillip to Lord Sydney, 15 May 1788, in ibid, p 141.
1448 Clare Anderson notes a similar situation with respect to the transportation of convicts from South Asia to Mauritius. She argues that the issue of family migration was a recurring concern, yet it was more talked about than implemented. See C. Anderson, (2000), op. cit., pp 18-21.
families of transported men was uneven and sporadic.\textsuperscript{1449} Yet few contemporaries doubted the wisdom of familial conveyance to the penal colony of New South Wales. It was a constant and recurring theme of penal discourse and it informed wider perceptions of colonial society. In 1812 a select committee on transportation, concerned with the ‘misery and vice’ likely to prevail in ‘a society in which the women bear no proportion to the men,’ specifically recommended ‘affording increased facilities to the wives of male convicts who may wish to accompany or follow their husbands to New South Wales’. Not only was this central to perceptions of reform, it was also ‘the most eligible way of providing the colony with women’ and ‘one which may with very great advantage be much extended’.\textsuperscript{1450}

The committee clearly perceived the moral benefits to both individual men and to the wider colonial society. Yet Lachlan Macquarie held a much narrower, less encompassing vision of the social needs of the infant colony. According to the Governor, it was not more women, but more men who were required to found the basis of New South Wales. Road builders and labourers for the public works and farming establishments were vital with ‘the prosperity of the country depending on their numbers’.\textsuperscript{1451} Macquarie was more inclined to issue free pardons for women to leave the colony than be financially burdened by them.\textsuperscript{1452} The 1812 committee explicitly rejected Macquarie’s request that no more ‘useless women’ be sent to the colony. Marriage and family life would reform male prisoners and make them compliant workers. Further, an expanding population, upon ‘whose increase here, as in all infant colonies its growing

\textsuperscript{1449} Portia Robinson notes that some provision was made for convict wives to accompany the Second Fleet. In 1802 thirty women traveled with their convicted spouses. The practice was not regularly repeated however. See Portia Robinson, (1988), op. cit., pp 170-1.

\textsuperscript{1450} Report from the select committee on transportation 1812, in BPP, C & P, T, vol 1 1810-32, p 12.

\textsuperscript{1451} Macquarie, letter to Viscount Castlereagh, 30 April 1810, in Appendix 33, in ibid, p112.

\textsuperscript{1452} See Appendix 33 in ibid. In his letter Macquarie explained to Viscount Castlereagh that he had granted a number of free pardons to women so that they could leave the colony. He wrote, ‘I have been myself induced to grant more free pardons than I could have wished; but in order to enable a number of women, who had lived for many years with and had children by soldiers of the 102d regiment, to marry these men, and accompany them home I judged it expedient, with that view, to grant them free pardons, as it relieved the government from the expense of victualling and supporting those unfortunate women and their children’. Macquarie to Castlereagh, 30 April 1810 in ibid, p 113. Macquarie did encourage marriage however and he offered the incentive of a ticket-of-leave to men who married and proved they could support themselves. According to Bigge, in promoting marriage between convicts the Governor ‘has shown the most anxious disposition to improve their morals and condition.’ See J. T. Bigge, Report, (1822, Adelaide, 1966), op. cit., p 154.
prosperity in great measure depends,’ would ensure the future growth of the colony. In this familial discourse, the twin goals of reforming male prisoners and building a new and prosperous society were firmly linked. Sexing the colony was central to both.1453

Marriage and the reformation of male prisoners was a recurring theme of the following decade. Testimonies offered to John Bigge’s inquiry into the state of New South Wales reveal this relationship. The Reverend Cartwright insisted that ‘marriage improved the morals of the convicts’. His contemporary, the Reverend Cowper confirmed ‘that from the want of Happiness or Domestic attachment that arises from the marriage state, the Convicts are induced to pursue various modes of Dissipation that lead to evil’. Bigge agreed, concluding in his final report ‘that marriage, even in New South Wales operates as a corrective of vicious propensities; and that point of view is to be encouraged by giving as early permission as possible to the wives of convicts to follow their husbands to the colony.’1454

It seemed clear that some wives wanted to come. Fears that destitute women and children left behind in Britain were deliberately committing crimes in order to be reunited with men already in the penal colonies often provoked concerned comment.1455 Such fears further lent weight to the beneficial moral and social effects of the voluntary exile of families. In 1828, the arrival of nineteen female convicts whose husbands had earlier been transported to Sydney provoked an anxious Darling to wonder whether female crime was indeed a product of male transportation. Had these women committed crimes to join their husbands in New South Wales? Was it wise to insist that married men must

1455 Commissioner Bigge noted this. He disapproved of the practice of transported women being assigned to their convict husbands immediately on arrival in New South Wales. Bigge feared this was both a cause of female crime in Britain and further, diluted the terror of Transportation as a punishment. He recommended a period of detention in the Female Factory and later assignment to the husband as a reward for good behaviour. See J. T. Bigge, Report, (1822, Adelaide, 1966), p 167.
prove reformation and moral worthiness before their wives could join them? Or should families be sent automatically?\textsuperscript{1456}

Domesticity informed the wider colonial project.\textsuperscript{1457} In the Australian context, the idea of marriage as a means of social discipline and criminal reformation was often expressed at times of social unease. Indeed, the disproportionate gender ratio in the penal colonies was continually reiterated as the fundamental cause of many social ills. Moral panic often accompanied the publication of the annual census. In 1834 the *Colonist* printed the results of the latest census of New South Wales. According to the report, there were 21,845 male convicts and only 2,698 female convicts ‘of whom between 400 and 500 are immured in the factory’. The *Colonist* insisted this ‘was the cause of those frightful violations’ and that ‘precocious prostitution which prevails so lamentably…’\textsuperscript{1458}

At other times, moral panic arose when violent sexual crimes were committed in the colony. The sexual assault of children in particular raised concerned voices on the topic.\textsuperscript{1459} In 1828, the *Monitor* reported the rape of an eight year old girl. The paper explicitly linked the crime with the gender imbalance in the colony and it was virulent in its attack:

The Transportation of male convicts without a due proportion of female is a shocking practice and a disgrace to a Christian Government. It is a national iniquity. It is felt in our little community to be a most dreadful evil. How Her Majesty’s Ministers can continue to neglect to remedy this shocking practice we cannot conceive.\textsuperscript{1460}

\textsuperscript{1456} Darling to William Huskinson, 3 April 1828, in Appendix to report from the select committee on secondary punishments 1832, in BPP, C & P, T, vol 1 1810-32, p 136.


\textsuperscript{1458} *Colonist*, 11 February 1834.

\textsuperscript{1459} These concerns were still being voiced twenty years later in Van Diemen’s Land. See Letter from Dr. M. Gaunt to Sir William Denison, 20 July 1848, in BPP, C & P, T, vol 9, 1849, pp 42-3. Satadru Sen has noted that similar concerns occupied the convict authorities in the Andaman Islands. Sen suggests that such concerns stemmed ‘not so much from the inherent criminality’ of convicts, but was rather ‘from the realities of a society with more men than women’. See S. Sen, (2000), op. cit., p 218.

\textsuperscript{1460} *Monitor*, 14 February 1828.
Was the British government wilfully gender-blind in transporting more men than women? How did colonial gender relations feature in the debates and practices of later shifts in imperial policy? These concerns and the moral anxieties they produced crystallized during the 1830s. During that decade the British government sought to render transportation a more formidable deterrent to crime in England, by producing dreadful images with which to terrify the popular imagination. In Sydney, the Monitor wryly noted that the British government wished to scare the lower orders so much ‘that those who are starving may prefer starving nevertheless to transportation’. In Britain, the Spectator summed up the prevailing mood. It noted:

It is certain that Transportation is not generally dreaded by those who render themselves liable to it, and it is therefore safe to conclude, that to make it the punishment for the great majority of serious offences, is to hold out a premium for the commission of them. The system then, does not lesson crime at home, while in the colony its effects are indescribable in the full extent of their atrocity.

In 1831-2 a select committee on secondary punishments was convened. The official object of the committee was ‘to ascertain means by which transportation would be rendered more severe and more dreaded’ to Britain’s criminals. The focus of the committee then was criminal deterrence in Britain. Yet many of the questions asked concentrated on perceptions of colonial morality and the ‘innumerable difficulties attending a remedy’ to the disproportion of the sexes. A number of witnesses specifically connected the gender imbalance with the colonial crime rate and the wider state of immorality in the colony. One witness, T. H. Scott enlightened the committee with tales of the ubiquity of bigamy and concubinage in New South Wales. He made further moral ‘allusions’ by noting:

The great disproportion of the two sexes (I think it is one to thirteen amongst the convict population; and one to four or five, taking the

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1461 The colonial press certainly thought so. See Australian 7 April 1825; Sydney Gazette 28 April 1825; 2 January 1826.
1462 Monitor, 6 April 1827.
1463 Spectator, published in Monitor, 14 January 1839.
1464 Later select committees in 1837, 1838 and 1847 made the same observations.
whole population) leads to other vices and crimes into which it is not perhaps necessary for me to enter; but some steps should be taken as early as possible to prevent them.\footnote{1465 T. H. Scott, ‘On the Effects of Transportation to New South Wales’, Appendix 7, in Appendix to report from the select committee on secondary punishments 1832, in BPP, C & P, T, vol 1, 1810-32, pp 147-8.}

Elizabeth Fry suggested that family migration would alleviate many of the social and moral disorders in the penal colonies. She told the committee, ‘it is thought much good would result if the wives were allowed rather sooner to follow their husbands to New South Wales than they do now’. Other witnesses acknowledged the impossibility of transportation as a means of criminal deterrence \textit{and} reformation. John Stephen had been a magistrate in New South Wales for three years when he appeared before the committee in February 1832. Stephen was asked for his opinions on familial exile. What were its effects upon transportation as a terror and a punishment, and did it reform men? The following exchange illuminates the inevitable polarities between these two outcomes:

Q: ‘If the Wives and Families of Convicts were sent out to them, or allowed to accompany them, would not that divest the punishment of all its terrors?’

A: ‘Entirely, I think.’

Q: ‘Do not you think it would be likely to induce the reformation of convicts if their wives and families were sent out with them?’

A: ‘It certainly would have a tendency in some respects to do that.’\footnote{1466 Evidence of Elizabeth Fry, 23 March 1832, in ibid, p 129; Evidence of John Stephen, 7 February 1832, in ibid, p 29.}

In many respects it was a double-bind. Theoretically, rendering transportation a severe and dreadful punishment might act as a deterrent to crime to a certain extent. In practice, larger problems arose. How were men to reform in the colonies once deterrence at home had failed? Did the sending out of families merely dilute the dread of the punishment? For many penal reformers in Britain, family exile was indeed anomalous to the new tenor of transportation. Many concluded that the practice merely assuaged the intended fear and terror of the punishment. It was rather considered as a blessing to the criminal, akin to a free passage to a new life in ‘the lucky country’ for the whole family.
Yet in the creation of a new community in the antipodes, could the mother country ignore the basic foundation of her own society? What would be the social and moral consequences? This disjuncture was to form one of the many tensions within colonial society. It created a further tension between the Australian colonies and the metropole. As the *Hobart Town Almanack* observed in 1833, the separation of the sexes ‘may be a just deprivation, and indeed in some degree a punishment, but a very demoralising one’.

Indeed, for both New South Wales and Van Diemen’s Land, the individual reformation of the prisoner, juxtaposed with the wider reputation of colonial morality converged at precisely this point. Britain’s desire for deterrence was clearly at odds with colonial interests. In Sydney, the *Monitor* suggested that making the colony ‘a place fit only for the residence of demons’ would merely serve to ‘alienate the affections’ of the free colonists ‘from the Mother Country’. The *Monitor* adopted a particularly vehement view of the colonial relationship. My own readings of the paper, across a time frame of twenty years suggest that this view was rarely moderated. Edward Hall was the owner of the paper and beyond the pages of the newspaper press his own political writings to the colonial office were often vitriolic. Hall frequently railed against the ‘artificial’ creation of the gender imbalance in the colonies. This was caused by transportation but it was also the result of the fiscal frugality and, according to Hall, deliberate blindness on the part of the British authorities. The moral consequences that resulted from these failings pervaded his written tirades. Sandra Blair has remarked that during the 1820s ‘Governor Darling thought Hall as bad as the English radical William Cobbett and deplored his “republican outpourings”’. The *Monitor* and Hall were no less radical in their views twenty years later. In many respects, the *Monitor* stands out

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1468 In his history, James Bonwick encapsulated this contradiction. He wrote of the evils produced by the gender disparity in colonial society. Sodomy, rape and prostitution feature prominently. He closed his book by observing the disjuncture between transportation as a severe punishment and marriage as reformatory. He noted, ‘Earlier marriages, after arrival in the colony, would have prevented much of the evil. But if permitted to marry as soon as landed from the vessel, the cause of order may have suffered in Britain, for crime would thus appear the means of advancement in life.’ James Bonwick, (1870), op. cit., p 282.
1469 *Monitor*, 6 April 1827.
against the other newspapers in New South Wales. It awaits further research and investigation as a particular voice in the colony.

Alexander Maconochie was another ‘particular’ voice within contemporary penal discourse. He was explicit in criticising the new tenor of transportation. According to Maconochie, the move towards terror and deterrence, rather than reformation through family life, was both misguided and unworthy of a nation calling itself Christian. Even in the penal context he insisted, ‘on the establishment of families depends all morals. It is the law of nature. The family consisting of husband wife and children is the cradle of order and morality. A house full of unmarried men is the cradle of disorder and immorality. It is confusion. The laws of God and nature are set at defiance by such a fictitious and artificial state of society.’

The centrality in which Maconochie held the influence of the family to criminal reformation and social progress was entwined throughout all his writings on crime and punishment. In 1840 he suggested that rather than ‘unnaturally’ separate men, women and juveniles convicted of crimes, they should be brought together, working out their sentences in family groups so that ‘all would thus benefit by the presence of all’. He proposed that transportation to the colonies should be accompanied with a sentence of divorce. This would allow convicts to ‘be at liberty to form a connection in them, which has been found in almost all cases to improve the character of both parties to it’. At a time when divorce was morally repugnant and largely unavailable, his progressive and enlightened ideas acknowledged the relational dynamics of gender. ‘I am certain’ he wrote ‘that no one who really thinks of the subject will deny that nothing, no nothing can be worse in point of morality than the existing system as regards this matter. The degradation to which both sexes may be said to be even sentenced by it is most painful.’

1471 Alexander Maconochie to Sir George Gipps, 19 February 1840, in HRA, ser 1, vol 20, Feb 1839-Sep 1840, pp 540-1.
1472 Alexander Maconochie to Sir George Gipps, 19 February 1840, in ibid, p 540.
Few contemporaries agreed with any of Maconochie’s ‘latitudinarian’ theories on penal science.\footnote{1474} One observer contemptuously remarked they were ‘the offspring of a visionary imagination’.\footnote{1475} John Gregory commented on his proposals for divorce to the Executive Council in Van Diemen’s Land in August 1837. Gregory derided his assertion that the consequences of ‘the want both of wives and husbands in the penal colonies’ were ‘such as would make the blood curdle’. According to Gregory ‘nothing has come under my own observation would lead me to suppose such a state of things to exist’.\footnote{1476} The question of divorce was never officially considered as a means of increasing the marital prospects of convicts arriving in the colonies.\footnote{1477} For many, exile from home practically enforced it anyway and for the unmarried convict, other possibilities were continually being considered.\footnote{1478}

**Gender Relations at Emu Plains 1822-25**

In May 1822, an ‘experiment’ commenced at Emu Plains. Thirty-two women from the female factory in Parramatta were sent to the government agricultural settlement.\footnote{1479} Concerned with overcrowding at the factory and convinced that the women could be ‘usefully employed in light field work’ Governor Brisbane was further hopeful that the presence of women would yield beneficial moral results to the male prisoners. The strictest orders were given ‘to the Superintendent and those acting under

\footnote{1474}Governor Gipps opposed his proposal to send women and juveniles to Norfolk Island in 1840. According to Gipps, this was ‘less on account of the male convicts, than of the troops who guard them’. See Gipps to Russell, 25 February 1840, in HRA ser 1, vol 20, Feb 1839-Sep 1840, p 528.\footnote{1475} Mr. Forster to the Executive Council of Van Diemen’s Land, 28 August 1837, in BPP, C & P, T, vol 6 1810-41, p 525.\footnote{1476} John Gregory to the Executive Council of Van Diemen’s Land, in ibid, p 525.\footnote{1477} Naval Surgeon Peter Cunningham had similarly advocated divorce to accompany the sentence of transportation. See Two Years in New South Wales: Comprising Sketches of the Actual State of Society in that Colony, vol 1, third edition, London, 1828, pp 279-80.\footnote{1478} A. G. L. Shaw suggests that during the 1830s ‘only about a quarter of the male convicts were married and some doubtless had no wish to see their wives again…’ See Shaw, (1966), op. cit., p 229.\footnote{1479} Emu Plains was praised by Commissioner John Bigge and both Governors Macquarie and Brisbane as the most productive and the most reformatory of all the government agricultural settlements in the colony. Macquarie’s despatches to Bathurst between 1820 and 1822 continually praised the site. In July 1821 the Governor sent the colonial secretary a tin of Emu Plains tobacco to prove his point. In July 1822 he suggested that the site ‘never ought to be alienated’. See Macquarie to Bathurst, 27 July 1822, in HRA, ser 1, vol 10, Jan 1819–Dec 1822, pp 693-4. Brisbane similarly waxed lyrical on Emu Plains as ‘the best school of reform in the colony’. See Brisbane to Bathurst, 24 September 1825, in HRA, ser 1, vol 11, Jan 1823-Nov 1825, pp 846-8.
him to prevent all improper intercourse between the men and women, and to employ
them separately’. Yet the hope was that marriage would eventually result. In 1825
Emu Plains and the convict authorities in charge of the site were embroiled in a scandal.
Allegations that the women had been sent there for the sole purpose of prostitution led to
the experiment being abandoned. The following year an official enquiry exonerated
the colonial authorities of all improprieties. The ‘odious task of propagating this
falsehood’ had been a political tactic to discredit the Governor. The enquiry
acknowledged the scandal and the rumours surrounding prostitution at the settlement as
utterly false. Further, it concluded that the ‘motive of the act was perfectly innocent, if
not laudable’. The Governor’s intentions behind the scheme had been ‘dictated by
humane and virtuous feelings’ and ‘the females were benefited both in health and moral
habits by their settlement at Emu Plains’.

These conclusions officially dispelled any charges of moral impropriety. Yet
sexual scandal and the question of prostitution have generally informed the
historiography of Emu Plains 1822-25 ever since. As a result, the episode has been

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1480 See Proceedings of Enquiry, Enclosure no. 2 in Despatch 77, Brisbane to Bathurst, 10 September 1825,
in HRA, ser 1, vol 11, Jan 1823-Nov 1825, p 819.
1481 A similar scandal occurred in 1831 at the Colonial Hospital in Launceston. Kay Daniels suggests that
officially sanctioned prostitution was not ‘exceptional in a colony where petty corruption was ubiquitous,
abuse of power commonplace and in which women were acutely vulnerable to sexual harassment’. See
‘Prostitution in Tasmania during the Transition from Penal Settlement to ‘Civilized’ Society’ in K. Daniels
1482 See Earl Bathurst to Governor Darling, 10 September 1826, in HRA, ser 1, vol 12, June 1825-Dec
1826, p 563. The protagonists of the rumours were later identified as Dr. James Hall and Sir John Jamison.
Both men opposed Brisbane’s land policies and the introduction of the dollar into the colonial economy. When Brisbane and his administrators were exonerated of any charges of moral impropriety at Emu Plains, the colonial office declared Jamison ‘persona non grata’. The Blossom suggested that Hall had spied on Emu Plains at night ‘in order to watch with a scrupulous and impatient eye over the virtue of the fair
inhabitants of the settlement’. The Blossom, no 1, May 1828, p 60. For further insight into the scandal, see
C. Liston, ‘Brisbane’s Administration Under Attack’ in ‘New South Wales Under Governor Brisbane 1821-
1825’ PhD Thesis, University of Sydney, 1980; B. Fletcher, ‘Sir John Jamison in New South Wales 1814-
1483 The inquiry concluded that the allegations had been secretly whispered to ears at the colonial office for
the purpose of ‘exciting an unfavorable impression against the public officers employed in the
administration of the affairs of the colony’. See Report of Commission of Enquiry, 7 September 1825, in
HRA, ser 1, vol 11, Jan 1823-Nov 1825, pp 814-18.
1484 Bathurst to Darling, 10 September 1826, op. cit., p 562.
written about solely in relation to female convicts and female sexuality.\textsuperscript{1485} Laurel Heath argued in her thesis that had the experiment continued it might have liberated more women from both the overcrowded factory and their reliance upon government support. Moreover, it would have furthered their chances of marriage. Joy Damousi likewise emphasizes that the dispute of 1825 ‘points not only to issues that concerned colonial authorities in relation to convict women, but also highlights some of the key themes that have shaped convict women’s history.’\textsuperscript{1486}

The convict men involved in the experiment have been rendered entirely absent from these studies. The emphasis that has been placed upon female sexuality completely ignores the moral anxieties generated by all-male convict establishments. Yet Governor Brisbane’s initiative did not solely involve women. More particularly, the issues of prostitution and marriage can not be considered in isolation, or as pertaining to female sexuality alone. This is only part of a much wider picture. If we consider the experiment at Emu Plains as a microcosm of anxieties surrounding sex and gender relations in the colony, we can interpret it within this broader context. Brisbane sincerely believed that secluding the sexes entirely from one another was likely to produce more harm and less reform for both male and female alike. He always justified his scheme by citing the nineteen marriages that had resulted from it. Indeed, many contemporaries who applauded his intentions similarly stressed the success of the experiment in terms of the number of resulting marriages and the ‘good effects’ this had produced upon both the female and the male convicts.\textsuperscript{1487} The \textit{Australian} explicitly linked the reformation of male convicts with the mere presence of women. It sympathetically noted that the experiment had restored men ‘to comparative respectability, by placing within their reach inducements to reformation, and enabling them to participate in the charities of life’.\textsuperscript{1488}

\textsuperscript{1485} Jan Kociumbas highlighted the issue of prostitution and argued that the episode at Emu Plains was merely ‘an experiment in enforced marriage and reproduction’. See J. Kociumbas, \textit{The Oxford History of Australia} \textit{vol 2 1770-1860}, Oxford University Press, 1992, p 175.
\textsuperscript{1487} Out of 32 women who participated in the experiment, 8 were returned to the factory as ‘unsuitable’ and of the 24 remaining, 19 were subsequently married by 1825.
\textsuperscript{1488} \textit{Australian}, 21 April 1825.
Peter Murdoch, the then Superintendent of Emu Plains, years later informed a select committee how ‘the men were much better behaved after the women were there’.  

Contemporary ideas of reformatory space have been analysed. Thomas Brisbane’s term as Governor of New South Wales was characterised by the popular idea of environmental reformation. Brisbane was further influenced by the recommendations of Commissioner John Bigge. His report of 1822 had advocated the natural, rural farming establishment over the crowding of the urban scene. Outdoor, physical work was perceived to be more reformatory to the convict and more productive to the colony than mere incarceration. These ideas embraced both male and female convicts. They were further reflected in Brisbane’s desire to prevent overcrowding at both Hyde Park Barracks and at the Female Factory at Parramatta. His policy of dispersing male convicts over the colony was certainly welcomed by the press. The Sydney Gazette praised his clearing gang schemes because ‘at one blow’ these gangs ‘swept the barracks’ referred to as ‘yon Gomorrah’ of ‘a sin of iniquity and removed those evils which were supposed to be existent’.

Ideas of criminal reform were inextricably entwined with ideas of morality. In August 1824 Brisbane wrote to Under-Secretary Horton at the colonial office. His letter mentioned the experiment then underway at Emu Plains. He noted, ‘independent of the value in training Prisoners to Agricultural pursuits, the Moral Consequences are most highly gratifying’.

Indeed, ‘moral’ concerns featured in many his private letters. Writing to his cousin Michael Bruce in January 1824, he noted how the placing of men in

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1489 Peter Murdoch, evidence given to the select committee on transportation, 22 March 1838, in BPP, C & P, T, vol 3, 1837-61, p 114.
1491 Bigge was highly critical of the female factory at Parramatta. He deplored the lack of work, the insufficiency of discipline and classification, and the opportunities afforded for evening prostitution. He recommended the need for a new institution for female prisoners and the further encouragement of marriage. As he noted, it was ‘better policy to give them a chance of correcting their morals by early marriage, than to continue that detention with the certainty of more deeply depraving them in their single state’. In ibid, pp 104-5.
1492 Sydney Gazette, 28 April 1825.
1493 Brisbane to Horton, 12 August 1824, in HRA ser 1, vol 11, Jan 1823-Nov 1825, pp 339-40.
barracks fostered ‘that crime which I would not even venture to write’.

In another letter he admitted his hopes that the presence of women at Emu Plains would prevent ‘unnatural crimes being committed by the convicts’. Later, he informed Bathurst that rather than sanctioned prostitution, the sending of women to the settlement had been ‘imposed upon me from circumstances as almost one of necessity; and I trust it has proved not an invaluable experiment’.

Was the prevention of ‘unnatural vice’ between convict men the real reason for the experiment? Brisbane was obviously concerned with the possibilities of the practice. Yet there was only one case of unnatural crime reported at Emu Plains before the women arrived. The case was subsequently found to be ‘false and malicious’. However, in the report of the commission of enquiry into the allegations of prostitution, it was revealed that none of the women were suffering from venereal disease. Yet some of the men ‘from Sydney and other stations’ were. Was this medical ‘evidence’ merely a weapon used to deny charges of prostitution? Or did it confirm Brisbane’s fears of unnatural vice between the male prisoners? As with other historical scandals, it is difficult to reveal the true motives behind the Governor’s actions. Laurel Heath has suggested that ‘the truth seems to have been lost in the web of claims and counter-claims, accusations and denials, official statements and private notes left by the opposing factions…’ If the Governor’s ‘truth’ is elusive, nonetheless, an examination of comments made in the colonial newspapers reveals how gender and sexuality were pivotal concerns. These concerns explicitly shaped contemporary perceptions of same-sex and mixed-sex convict establishments.

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1494 Brisbane’s letter went on to explain that since the introduction of dispersing men over the colony, ‘it is altogether inconceivable, the change that has taken place’. Brisbane to Michael Bruce, 30 January 1824, in Letters Received 1819-25, MSS 329, (ML.)

1495 Brisbane to illegible, undated in ibid; Brisbane to Bathurst, 3 June 1825, in HRA, ser 1, vol 11, Jan 1823 –Nov 1825, p 620.

1496 In her thesis, Carol Liston noted, ‘Sir John Jamison, who made the [prostitution] charges, claimed that there had been no complaints of sodomy while he was magistrate near Emu Plains, but Brisbane and the commandant at Newcastle believed that it was common.’ See C. Liston, (1980), op. cit., pp 141-2.

1497 Sir John Jamison to James Hall, 20 September 1822, in Letters Received, 1819-25, MSS 329, (ML.)

1498 Evidence of Dr. West, in Report of Commissioners of Enquiry, 7 September 1825, Enclosure no. 1 in Despatch, Sir Thomas Brisbane to Earl Bathurst, 10 September 1825, in HRA, ser 1, vol 12, June 1825-Dec 1826, p 827.

The colonial press generally welcomed, and later defended Brisbane’s scheme. When the conclusions of the inquiry were made public, the *Sydney Gazette* suggested ‘now the contrivers … of the secret plots…may comfortably secret themselves in their own ditch!’ The *Australian* certainly believed ‘unnatural vice’ had been prevalent at Emu Plains. Prostitution or not, the sending of female convicts there had been predicated on the idea that their very presence would serve as a ‘preventative’. This was to be applauded. One editorial suggested that the government had sent women to the establishment knowing,

that crimes were commonly the result of wayward and corrupt minds; but that they might be the offspring of situation, the creature of circumstance. Nothing proves a more powerful excitement to human action, and tends more to reclaim from vice than the social communion of man and womankind.

Indeed, rather than dwell on the specific question of prostitution at the settlement, the press used the experiment as a platform to highlight the broader moral concerns generated by the imbalance of the sexes in New South Wales. These concerns included the ‘unnatural’ seclusion of the sexes in barracks and factories and its impact upon the prevalence of urban prostitution and the frequency of sexual crimes. Many commentators suggested the need for greater cohabitation, marriage and procreation amongst the convict population. These issues were all freely aired in the recently liberated newspaper press. Writing of the Female Factory in light of the gender imbalance in January 1826, the *Sydney Gazette* declared, ‘the system of confining all women indiscriminately in that prison is not by any means so beneficial either to the parties themselves or to the community, as that system which was entered into, by way of experiment, on the

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1500 *Sydney Gazette*, 8 September 1825.
1501 According to the paper the Governor had no choice but to ‘prescribe some antidote to the extensive evil which prevailed’. See *Australian*, 21 April 1825.
1502 *Australian*, 21 April 1825.
Government establishment at Emu Plains. The *Blossom* entirely agreed. It lamented the unnatural seclusion of the sexes as against the ‘natural order’ of God. The *Blossom* directly linked convict marriage with criminal reformation when it asked its readers:

Where or in what condition now would have been those several men and women, thus married and settled, if they had been kept separate and prevented the opportunity that was thus afforded them? Is it not likely that the penal settlements and the third class would be their residence – mayhap the gallows, the hospital or the gaol their doom?

We can clearly note here that marriage between prisoners was considered reformatory to both male and female convicts, and further, the moral and social benefits believed to flow to the wider society. The *Australian* went so far to suggest that even the cohabitation of unmarried convict couples with its semblances of domesticity, decency and managed sexuality was ‘preferable to the dissoluteness and crime which is prevented’. The *Australian* commented upon a related anxiety concerning crime, morality and sexuality in the colony. According to the paper, the ‘monstrous disproportion’ of the sexes was ‘one of the worst features in the colonisation of New South Wales’. It had led to widespread prostitution, concubinage and ‘sham’ marriages contracted to escape the master-servant nature of the assignment system. Yet in separating the sexes to prevent these ‘moral irregularities’, further sexual anxieties had merely been produced. According to one editorial, in seeking to prevent prostitution, ‘mischievous intermeddlers’ who favoured the placing of women in the Factory had merely ‘occasioned the commission of sins we cannot mention, mischief we need not detail. They were fully resolved ‘not to do evil that good may come’ but in the affected ardor of their immoderate zeal of the two evils they forgot to choose the lesser.’

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1504 *Sydney Gazette*, 2 January 1826.
1505 *Blossom*, no 1, May 1828, p 59. This was the first and last edition of this short lived journal established by John Walker Fulton.
1506 *Australian*, 7 April, 1825. In Britain, among the lower orders, legal marriage did not become common until the second half of the nineteenth century. In the colonial context, Aveling has suggested that ‘cohabitation was the norm for the majority of people living in urban centers in the 1830s’. See M. Aveling, ‘She Only Married to be Free; or Cleopatra Vindicated’ in *Push from the Bush*, no 2, November 1978, pp 116-24. See also G. Karskens, *The Rocks: Life in Early Sydney*, Melbourne University Press, Melbourne, 1997, pp 80-102.
1507 *Australian*, 7 April 1825.
The idea that prostitution was the ‘lesser of two’ evils has a long history.\(^ {1508}\) Within nineteenth-century discourses it was perceived as the ‘Great Social Evil.’ However, it was further acknowledged as ‘the necessary evil.’\(^ {1509}\) Obviously there were prevailing double standards and inherent gender inequalities implicit in this. Yet as Robert Connell suggests, ‘the state is not blindly patriarchal, but implicated in the gender order, shaping the relations of gender while itself shaped by them’.\(^ {1510}\) Moreover, in a society numerically dominated by men it held further resonance. If prostitution and concubinage were moral evils, unnatural acts and sodomy were even more so. Kay Daniels has argued that prostitution and ‘heterosexual behavior of any kind, however far from the ideal of marriage, seemed to the authorities to serve a useful purpose’.\(^ {1511}\) Certainly prostitution was ‘useful’.\(^ {1512}\) Yet attitudes towards the ‘necessary evil’ further reveal the extent to which the masculine nature of colonial society was so much more repulsed by the sexual threat from within.\(^ {1513}\) As Alexander Maconochie perceptibly observed, without ‘normal’ sexual contact, ‘we cannot be surprised that their passions should take a different direction’.\(^ {1514}\)

\(^{1508}\) According to Randolph Trumbach one of the ‘justifications’ for prostitution ‘between the twelfth and the seventeenth centuries’ was ‘that if prostitution was not tolerated, the world would be overrun with sodomy…’ See R. Trumbach, ‘Sodomy Transformed: Aristocratic Libertinage, Public Reputation and the Gender Revolution of the 18th Century’ in M. Kimmel (ed.) Love Letters Between a Certain Late Nobleman and the Famous Mr. Wilson, Harrington Park Press, London, 1990, pp 105-24. Prostitution in Renaissance Italy was sanctioned by a system of government run brothels. Preventing sodomy was one of the main ‘justifications.’ Prostitution in towns and ports with military barracks has long served a similar function.


\(^{1511}\) Kay Daniels, (1984), op. cit., p 41.

\(^{1512}\) In the wider colonial context, A. L. Stoler & F. Cooper have noted, ‘Policy makers alternatively saw prostitution, concubinage and “healthy conjugal sex” as the basis on which colonial authority might be secured or irreparably undermined. Sexuality was tied to politics in numerous ways…’ See A. L. Stoler & F. Cooper, ‘Between Metropole and Colony: Rethinking a Research Agenda’ in their Tensions of Empire: Colonial Cultures in a Bourgeois World, University of California Press, 1997, p 26.

\(^{1513}\) According to Robert Crooke prostitution was both rife and welcomed in Van Diemen’s Land. In his memoirs he noted, ‘all this was doubtless pleasant enough to those who liked such things, and there are few young men (or perhaps old men either) who are troubled with many scruples on the score of chastity’. See R. Crooke, (1958), op. cit., p 5.

\(^{1514}\) Alexander Maconochie, evidence to the 1847 select committee of the House of Lords, 17 March 1847, in BPP, JO & T, no 1, 1847, p113.
Ambivalent attitudes towards the female factories further reveal these concerns. For many contemporaries in the colonial community, incarcerating convict women had long been perceived as a social and moral necessity.\textsuperscript{1515} The factories provided shelter and work for the unassigned. They served as lying-in hospitals for pregnant women and prison for the ‘refractory.’ They protected some women from destitution, and further ‘protected’ the wider community from those women deemed ‘undesirable.’ Governor Brisbane himself had a typical attitude towards the factory women. In one private letter he remarked, ‘every woman who goes out from the Female Factory to service is a w***’.\textsuperscript{1516} The history of the female factories in both New South Wales and Van Diemen’s Land has been extensively documented by feminist historians.\textsuperscript{1517} Recent scholarship has focused on the experiences of the female inmates. A colourful internal culture has been revealed to illuminate the survival strategies and the private spaces created by the women themselves. Yet these studies have tended to downplay (and even ignore) the wider impact these female institutions exerted upon perceptions of gender and sexual relations within the colonial landscape. For some observers, the Female Factories were not useful, reformatory nor humane. Rather they merely generated and intensified already existing social and moral anxieties.\textsuperscript{1518}

The masculine nature of colonial society provided the crucible for these anxieties. During the 1820s a number of concerned voices were to be heard. Peter Cunningham was opposed to the housing of women in the Female Factory in New South Wales ‘where the female does not amount to an eighth of the male population’. He argued that the factory should be reserved as a site for punishment or for women in

\textsuperscript{1515} The Reverend Samuel Marsden for example believed the female factory was necessary in order to prevent prostitution in the town of Parramatta. See Samuel Marsden, \textit{An Answer to Certain Calumnies}, London, Hatchard and Son, 1826.

\textsuperscript{1516} Thomas Brisbane to Michael Bruce, 20 May 1825, Letters Received 1819-25, MSS 329, (ML).


‘destitution and old age’. Cunningham advocated marriage for both sexes because it was ‘the best species of reform’. Moreover, incarceration had wider social implications. It ‘not only tends materially to check the advancement of population in our young community, but gives rise to the most abominable of crimes …’ Cunningham was critical of the idea that the factory served to prevent prostitution. He was rather more concerned with the moral behaviour of convict men, in the absence of women. As he noted ‘if by the suppression of one crime you create another some thousand times worse, you surely cannot deem yourself doing good’.\footnote{Peter Cunningham, (1828), op. cit., pp 276-7.} John Walker Fulton expressed similar sentiments towards the women’s ‘factory thralldom’. He spoke of ‘unwilling nuns’ shut up in the ‘convict nunnery’. Moreover, separating the sexes was both unnatural and ‘illegal’ according to Divine Law. Further:

Keeping our penal settlements without women, when necessity has not caused the deficiency, is a disgrace to any British Government, unless it can be argued or attempted to be asserted that mankind, while ruling for the support of good order, of good government, or universal happiness, and the fulfillment of the sacred laws of God, has a power to rear a second Gomorrah – to change the nature and intention of his Maker, by altering the propensities and thus transforming the noblest work of God into a beast.\footnote{Blossom, no 1, May 1828, pp 57-8. The Blossom further perceived prostitution to be ‘socially useful’. The practice of permitting women out of the factory at night (which ceased in 1822) was defended because ‘comparatively, the good that arose from such a measure, by far counter-balanced any evil that must have existed - we learn that it was the means of many of them becoming wives and mothers, and having advanced progressively in life by their industry’. In ibid, p 57.}

These gendered concerns were to continue to occupy the social and moral anxieties of the colony.\footnote{Twenty years later these concerns remained apparent in Van Diemen’s Land. In 1846 the Launceston Examiner criticised the female factory and the female hiring depot in Launceston. The paper concluded that the only good thing about these institutions were the ‘facilities afforded for marriage’. See Launceston Examiner, 14 November 1846.} A year after the scandal of Brisbane’s experiment, the new Governor, Sir Ralph Darling was still finding the whole issue of convict marriage and sexual morality ‘extremely perplexing and embarrassing’.\footnote{Darling to Earl Bathurst, Despatch, 3 September 1826, in HRA, ser 1, vol 12, June 1825-Dec 1826, p 525.} His despatches regularly informed Earl Bathurst of the ‘desirable’ changes needed. In 1826 he noted that ‘while
the disproportion of the sexes generally is extreme, there are not less than three hundred
women immured in the Factory’. Though the female factory was necessary to contain the
refractory women, it offered other women ‘little, if any opportunity, of being
married’. Yet it was the impact of this upon the male convicts that was again of
particular significance. According to Darling, ‘crimes, which are the consequences of
men … being assembled in bodies and secluded, as it were, from the world, are I
apprehend very common; and the difficulty of counteracting the evil with the necessary
attention to morality and decorum appears almost insurmountable.’

In 1826 the Governor took decisive steps to overcome these difficulties. He
appointed a board of management and ordered an enquiry into conditions at the female
factory. Darling next commissioned a committee to examine the moral and social
conduct of male prisoners in Sydney. These individual inquiries led to modifications to
the rules of convict marriage and changes to the assignment system. Though these
changes involved the regulations surrounding individual male and female convicts, they
sought to address the wider gender concerns of the colony. Convict reformation and
social transformation through marriage and family life were clearly Darling’s aims.
Following the recommendations of both inquiries, the Governor increased the incentives
for single male prisoners to marry. These incentives permitted married men more
freedom in working for an independent wage. Darling perceived these financial
incentives to be ‘desirable on every account’ because marriage ‘should be encouraged in
all cases, when the parties can obtain the means of supporting themselves’. Darling

1523 Ibid.
1524 Ibid.
1525 This board of management existed until 1836. Governor Bourke disbanded the board after a scandal at
the factory led to administrative change. See L. Heath (1978), op. cit., chapter 3.
1526 See Enclosure no. 3, Government Notice, 27 June 1826, in HRA ser 1, vol 12, June 1825-Dec 1826, p
528.
1527 Darling to Bathurst, 3 September 1826, op. cit., p 525. These sentiments had been noted earlier by John
Bigge. In his report of 1822 he explicitly connected marriage, reform and working for a wage. He wrote,
‘To those who either are married, or are followed by their wives and children, and who possess the means
of supporting them by their labour on Saturdays, the gradual acquirement of property and the comforts
attending it, afford an inducement to good conduct of a very powerful operation; and it is observed
therefore that the convict mechanics who are married, and are permitted to live out of barracks, are much
less engaged in criminal enterprises than the other descriptions of convicts in Sydney… it imposes the
necessity of greater labour and caution for the support of their families.’ Bigge Report, (1822, 1966), op.
cit., p 36.
also modified the rules of assignment. Male convicts would now be assigned to their free wives, and convict wives to their free husbands. Married convict couples would henceforth be assigned to the same master. The female factory was to be closed to married women, save for those women undergoing legal punishment.\footnote{According to Laurel Heath, under Darling the female factory became more penal, better managed and more appropriately classed and surveyed. Moreover, ‘within the structures of the colony, it appeared to be an efficient component in the overall pattern of convict management’. See Laurel Heath, (1978), op. cit., chapter 2.} Darling admitted that his moral intentions for modifying the rules surrounding convict marriages ‘may fail in some instances’. However the issue was of such importance that even if these changes ‘tend only to the reformation of a few, it is deserving the experiment’.\footnote{Darling to Bathurst, 3 September 1826, op. cit., p 525.}

Despite these initiatives, the anxieties generated by the incarceration of women in a society where the gender disparity remained so marked were never assuaged. Moreover, the perception that prostitution was a ‘necessary evil’ and the antidote to ‘unnatural crimes’ remained firmly in place.\footnote{In September 1845 Lord Stanley wrote to Sir John Eardley-Wilmot. He suggested various ways of preventing unnatural vice in the sleeping spaces of convict accommodation. He further suggested, ‘to whatever extent it may be found practicable and safe to act on Captain Maconochie’s suggestion of invoking the presence of women to elevate the tone of moral sentiment amongst the male convicts, and so to prevent the commission of such crimes, that remedy must also be applied’. It is unclear whether Stanley was proposing a system of state sanctioned prostitution to ‘service’ the convicts, but the underlying idea ‘unwelcome and revolting as the subject will be’ is clear. These suggestions were printed in the Launceston Examiner, 8 July 1846.} Sixty years after the First Fleet departed, a select committee of the House of Lords was still framing its questions on the moral effects of transportation in gendered terms. In 1847 a returned convict, noted in the records as ‘A.B.’ was asked for his opinions on ‘the mixture of convicts with profligate women’ as a means of ‘diminishing the offence [sodomy] of which we have been speaking’. According to A.B., prostitution was indeed ‘useful’ because men ‘if they have access to females, let them be ever so low, it would have kept them from committing that crime’\footnote{‘A.B.’ evidence to the select committee, 26 April 1847, in BPP, JO & T, no 1, 1847, first report, p 453.}. We have seen how these anxieties emerged in Van Diemen’s Land during the 1840s. In September 1844, Sir John Eardley-Wilmot informed the colonial office that he had provided a number of female convicts with early tickets-of-leave. This was to enable the women to leave the over-crowded female factories and the Anson Hulk. Though Wilmot’s actions were not strictly in accord with the regulations of convict discipline, the
Governor reasoned, ‘I believe this plan for them is the best, for although I believe many of them will be on the Town yet I conscientiously think that even that is better than the horrible and disgusting crimes which I have alluded to in my despatch of the 2 November 1843 … marked private and confidential’.\textsuperscript{1532}

Wilmot’s desire to alleviate the overcrowded conditions of the female institutions was a response to the ‘unnatural’ crimes said to be occurring within them. Separating the sexes was ‘unnatural’ and had produced unnatural results in both the probation gangs and the female factories.\textsuperscript{1533} In this analysis then, the idea that prostitution was ‘better than the horrible and disgusting crimes’ embraced both male and female sexualities. So long as marriage was an unachievable ideal for the majority, prostitution was the ‘necessary evil’ required to channel sexuality at least into its proper direction. In his 1852 \textit{History of Tasmania}, John West encapsulated this moral ambivalence. He argued that the government of Van Diemen’s Land became ‘far less scrupulous’ in permitting convicts to marry during the 1840s. West wrote in outraged moral tones at these marriages. Many were ‘a disguise for licentiousness’ or were of ‘a very temporary character’. However, he did concede that ‘as a choice of evils this course was the least’.\textsuperscript{1534} The encouragement of marriage and the tacit acceptance of cohabitation and prostitution coexisted then, as ‘compatible, not alternative policies’.\textsuperscript{1535} Both male and female convicts were thus similarly directed towards behavioural perceptions of the ‘natural’ and the ‘normal.’ The

\textsuperscript{1532} Sir Eardley-Wilmot, 13 September 1844, in Letter book of Despatches to the Secretary of State, 14 Sep 1843-28 Nov 1845, GO25/11, (AOT). The Despatch of 2 November 1843 had likewise informed the Colonial Office that Eardley-Wilmot had issued a number of early tickets-of-leave to men, to enable them to leave the gangs and to ‘prevent the evil alluded to’. In ibid.

\textsuperscript{1533} Situational same-sex relations were here clearly acknowledged. These observations embraced both sexes. Sir George Gipps visited Norfolk Island in March 1843. He sent Lord Stanley a detailed written report of the state of the convicts there. Under Captain Maconochie’s command, Gipps concluded that social conditions on the island had improved. Yet the Governor was puzzled over why so many daring attempts had recently been made to escape the island. He suggested to Stanley, ‘the reason is, I believe, to be found in the extreme isolation of the place, in their being so entirely cut off from Society, or from even a view or a glimpse of Society, and more especially from the Society of women. The yearning of their hearts towards society is indescribable; it constitutes their torment; it is a punishment greater than the lash, or any other that man can inflict upon them.’ See Governor George Gipps to Lord Stanley, Despatch 43, 1 April 1843, in HRA ser 1, vol 22, April 1842-June 1843, p 633.

\textsuperscript{1534} John West, \textit{The History of Tasmania}, (1852, 1971), op. cit., p 511.

\textsuperscript{1535} K. Daniels, (1984), op. cit., p 23.
double standard itself was natural and normal in the nineteenth century because anything was better than the unnatural.\textsuperscript{1536}

Free Female Immigration

Convict marriage and ideas surrounding family reunion dissected the discourses of penal reformation. The anxieties produced by the gender imbalance further reveal that the broader moral concerns of colonial society were inextricably woven into perceptions of convict marriage and morality. By the 1830s the disparity between the numbers of men and women being transported to the colonies grew. Moreover, many men sentenced to transportation were young and single. They did not leave wives and children behind. In 1833, the New South Wales census revealed a total colonial population of 60 794 out of which only 16 515 were women.\textsuperscript{1537} A similar disparity was revealed in the sister colony of Van Diemen’s Land.\textsuperscript{1538} Even the tiny all-male nature of the new settlement in Western Australia was ominously reported in the colonial press. In April 1833 the Hobart Town Courier informed its readers, ‘by the last accounts from Port Augusta, Swan River, there were 32 unmarried young men, and not one unmarried female at that place’.\textsuperscript{1539} During this decade, as penal reformers in Britain sought ways to render transportation more formidable, colonists increasingly turned their attention to remedying the imbalance of the sexes. Free female immigration was seen as the answer.\textsuperscript{1540} Great hopes were placed upon the advantages single women would bring to the colonies and ‘between 1832

\textsuperscript{1536} As with prostitution, this clearly contradicted the bourgeois ideal of self control. It also illuminates the vulnerability of the abstemious ideal.
\textsuperscript{1537} Census figures, 2 September 1833, reported in the Colonist 11 February 1834.
\textsuperscript{1538} In 1834 the Van Diemen’s Land census revealed a total population of 40 283, of whom 11 482 were women. See J. Bonwick, (1870), op. cit., pp 271-2.
\textsuperscript{1539} Hobart Town Courier, 5 April 1833.
and 1836 the majority of colonial emigration funding was spent importing single women\textsuperscript{1541}.

The political, social and economic dynamics of colonial emigration were complex and many.\textsuperscript{1542} Kirsty Reid has recently revealed how colonists in Van Diemen’s Land hoped free female emigration would gratify an increasing demand for female labour during the 1830s.\textsuperscript{1543} Contemporaries certainly discussed the many merits of increasing the numbers of free single women in the colonies. Often, these benefits were perceived in economic terms. Other observers were more concerned with leveling the disparate gender ratio and improving the moral reputation of the penal colonies. In his History of Van Diemen’s Land, written in 1835, Henry Melville noted the utility of free female immigration. ‘The colony’ he wrote, ‘is yet greatly deficient in females, there being, according to the last census taken, very nearly three males to every female: consequently any measure by which the deficiency maybe made up, must be beneficial to the morality as well as to the interests of the community.’\textsuperscript{1544}

Behind Melville’s support for increasing the numbers of free British women in the colony lay the hope that women would bring a benevolent civilizing force to the tone of antipodean society. This reflected the nineteenth century ideal of women and femininity exerting an elevating civil influence in the public domain and a moral one in the private sphere. Moreover, it was hoped that through their domestic role as wives and mothers, women would both preserve and reproduce familial and social relations. It was in the family where social meanings of order and morality were centrally located.\textsuperscript{1545} Moreover, this had particular gendered meanings for perceptions of male morality. These ideas were clearly expressed by the Reverend H. Carmichael in 1834. According to the Reverend,

\textsuperscript{1543} K. Reid, ‘Setting Women to Work: The Assignment System and Female Convict Labour in Van Diemen’s Land, 1820-1839’ in Australian Historical Studies, no 121, April 2003, pp 8-9.
women’s ‘influence in restraining men from immorality and vice will be more and more felt according as they become distributed as heads of families over the territory. Nothing has so powerful an influence over the conduct of men, as the society of virtuous and intelligent females.’

Similar sentiments were expressed in the sister colony of New South Wales. The navy surgeon Peter Cunningham noted the social advantages that the immigration of free single women would bring to the colony. According to the surgeon, ‘women are in fact one of the best and most patriotic consignments that could be sent out to our rising country. Even furthering a few shiploads of volunteers from the streets of our overgrown towns in Britain would benefit greatly our convict community.’ These views were part of his broader philosophy on gender relations, and indeed masculinity itself. Cunningham advocated marriage for all men as a ‘natural right’. He further believed that women and familial ties provided an important moral and elevating influence upon men. He did not limit this to the lower orders and the convict population alone. Indeed, for men holding respectable and responsible positions within colonial society he felt marriage and family life to be especially significant. ‘Inferiors everywhere’ he noted, ‘ape the good or evil ways of those above them; it is therefore obvious how much moral benefit is likely to result from virtuous example.’ In this analysis, both women and married men were perceived to have beneficial effects upon the unmarried, masculine nature of colonial society.

Between 1833 and 1836 the Emigration Committee sent out fourteen ships to the colonies of New South Wales and Van Diemen’s Land. Out of 4088 men, women and

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1547 They were still being expressed in the colony in 1846. Edward Smith Hall informed the Colonial Committee on Transportation, 19 October 1846 that ‘if we do but get plenty of free women it will be the making of New South Wales. We shall experience a prosperity never yet befalling us.’ See evidence of E. S. Hall, Enclosure no. 2 in letter to Earl Grey, 1 August 1849, in BPP, C & P, T, vol 8, 1847-50, p 726.
1548 Peter Cunningham, (1828), op. cit., p 280.
1549 Cunningham, ibid, p 324.
1550 This idea was highlighted by the Monitor during 1839. In many editorials references were made to the demoralising effects of bachelorhood. See Monitor, 8 February 1839; 15 June 1839.
children, 2703 were single women aged between fifteen and thirty years of age. John Marshall was the agent for the London Emigration Committee. He summed up the ethos of the enterprise when he expressed his belief that ‘moral, industrious and well ordered women’ sent out to the colonies ‘were likely from the influence of their character and conduct’ to both ‘elevate the morals there,’ and ‘diminish the great disparity existing’. Such moral hopes were certainly realized in Launceston. In 1836 the colonist James Henty wrote to the Emigration Committee lamenting the cessation of the system as ‘a severe national loss’. Henty was concerned that ‘without a supply of females we shall revert back to the old and barbarous state of the colony as it existed in 1832’. Moreover:

It is quite astounding to see in this town the moral improvement which has taken place in our society within these few years; and one powerful cause I ascribe to the introduction of females. I do sincerely hope that Launceston may be excepted from the severe infliction which the non arrival of female emigrants must necessarily impose upon it; here the plan has succeeded to admiration.

Despite the ‘astounding’ moral success of the presence of women in Launceston, free female immigration was not universally applauded. During the mid 1830s Britain was experiencing a ‘surplus woman problem’. One might think that female emigration to the colonies was both a sensible and good idea in such circumstances. Yet the conveyance of women to the penal colonies where many men were wifeless and in need of some godliness generated great moral ambivalence. This ambivalence was embraced by opponents of the scheme both in Britain and in the colonies. By sending out free single women, was Britain benefiting her colonies by providing future colonial wives? Was the enterprise merely a misguided attempt to ‘convert the vagabonds of London into the matrons of Australia’?

Were these women facing an inevitable ruined life of

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1552 John Marshall, ibid, p 92.
1553 Letter from James Henty, in evidence of Henry Walter Parker, 22 March 1838, in ibid, p 112.
1554 According to William Molesworth the whole scheme was a misguided attempt ‘to convert the vagabonds of London into the matrons of Australia’. The result was that ‘the free emigrants now outstrip in vice and obscenity’ the convict population. William Molesworth, ‘Life in the Penal Colonies’ in Westminster Review, vol XXVII, July 1837, p 85.
And what sort of single woman would choose to emigrate to the penal colonies anyway? As A. J. Hammerton has noted, many contemporaries ‘viewed female emigration as a hazardous last resort for the destitute and ruined, and an almost unthinkable alternative for woman with any claims or aspirations to respectability’.  

Ambivalent moral attitudes were perhaps confounded by the distortions of class. Most of the women who arrived in the colonies with the assistance of the Emigration Committee were from the lower social orders. They brought few skills and little capital with them. Without ‘their natural’ male protectors, some colonists viewed them in the same moral light as convict women. Indeed, Governor Arthur believed that many of the female emigrants who arrived in Hobart in 1832 were ‘far more depraved than the generality of convict women’. Others questioned the appropriateness of the enterprise itself. Doubts were expressed that ‘shiploads of young women with certificates of good character’ sent to the colonies ‘with a view to purify the character of the colonial community’ would in practice have any moral and reformatory impact upon antipodean society. As the Archbishop of Dublin noted in a letter to the Reverend H. Bishop:

To pour, from time to time, portions of sound wine into a cask full of vinegar, in hopes of converting the vinegar back into wine, would have been as rational and as successful a scheme. The result has been, as might have been expected, that the newcomers, instead of disinfecting this moral lazar house, for the most part become as deeply infected as the rest.

Kirsty Reid has argued that the emigration scheme failed to satisfy Van Diemen’s Land need for ‘suitably skilled’ women workers. She confines her analysis to economic considerations alone. Yet many critics of the scheme agreed with the sentiments expressed by the Archbishop of Dublin. They too focused upon the ‘immoral’

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155 Anne Summers reiterated this idea. She suggested that women who participated in the assisted emigration schemes of the 1830s ‘were subjected to the same kind of treatment as the women convicts’ and their fate was ‘one of exploitation and abuse.’ See Anne Summers, (1975), op. cit., p 278; p 281.
1558 Governor George Arthur to Lord Goderich, 8 September 1832, CSO 280/35, (AOT).
1559 Letter from the Archbishop of Dublin to the Reverend H. Bishop on the evidence taken before the transportation committee, containing His Grace’s opinions on the efficacy of the punishment of transportation, 2 March, 1838, Appendix I, no. 52, in BPP, C & P, T, vol 3, 1837-61, p 301.
consequences, rather than the hoped for economic benefits of free female immigration.\textsuperscript{1561} Dr. James Lang informed the 1837 select committee that concubinage in New South Wales ‘has increased within the last three years, since the female emigration scheme commenced.’\textsuperscript{1562} In his history of the colonies (1870) James Bonwick remarked that the ‘only immediate perceptible effect was a vast increase of prostitution in the streets of Hobart Town.’\textsuperscript{1563} Some contemporaries expressed anxieties over the ‘moral temptations’ that faced even ‘good’ women upon their arrival in the colonies. In Britain, the owner of the Times John Walter viewed the enterprise as nothing less than a ‘white slave trade’ and little more than the convenient offloading of workhouse paupers, orphans and prostitutes.

In this shared climate of moral anxiety, the British Government was compelled to modify the rules. The operations of the Emigration Committee (temporarily) ceased in 1836. After this date single women were permitted to the colonies only under the ‘protection’ of a guardian or as part of a respectable family unit. Both contemporaries and historians since have tended to interpret the practice of free female immigration as ‘unsuccessful’ in the 1830s.\textsuperscript{1564} Yet rather than view it in terms of economic or moral ‘failure’, we might instead consider it as part of a much broader process. This process entwined ideas of reforming male convicts and domesticating their social relations. It informed broader perceptions of gender relations and the demographic and future population concerns of colonial society. It further involved both imperial and colonial

\textsuperscript{1561} Even John Marshall admitted it was ‘inevitable’ that some women would be ‘ruined’ in the colonies. Indeed, it was ‘perfectly out of the question that a portion of them should not turn out ill’. John Marshall, evidence 19 March 1838, op. cit., p 100.
\textsuperscript{1562} Dr. J. D. Lang, evidence to the select committee, 2 June 1837, in report from the select committee, in BPP, C & P, T, session 1837, pp 256-7. The following year when the committee resumed its hearings, Bishop Ullathorne suggested that the free female emigration scheme had been discontinued ‘I believe in consequence of the abandoned conduct of the women generally who have been sent to the colony; they were found to be a great evil to the colony, and to have increased the amount of vice to a very great extent’. Evidence to the select committee, 8 February 1838, in BPP, C & P, T, vol 3, 1837-61, p 22.
\textsuperscript{1563} James Bonwick, (1870), op. cit., p 272.
\textsuperscript{1564} See R. B. Madgwick, Immigration into Eastern Australia, 1788-1851, Sydney, 1969 edition. Hammerton suggests that the initial scheme of the 1830s had a lasting hostile effect on public attitudes towards female emigration in both Britain and in the Australian colonies. See A. J. Hammerton, (1975), op. cit., p 539.
Moreover, the issue of free female immigration persisted. During 1837 and 1838 Sir John Franklin repeatedly and consistently requested that the colonial office send out more free single women to Van Diemen’s Land. This continuity reveals the importance of the issue to colonial society, and it remained significant to subsequent inquiries into emigration. In May 1840 female emigration was again the subject of debate in the House of Commons. William Molesworth objected to the proposal to resume female emigration to the colonies. Regardless of the ‘real evil’ that had been produced by the disproportion of the sexes, female emigration had failed in the past. It had ‘led to utter and permanent demoralization’. Notwithstanding the ‘moral’ opposition of Molesworth (who had vested interests in free familial immigration) in July 1840 the Hobart Town Courier reported, ‘at the instance of Captain Montague, who was three times examined before the Emigration Committee, two hundred emigrant females are to be sent out at once to Van Diemen’s Land’. Indeed, it was during the 1840s that questions of family exile, free single female emigration and the transportation of women became evermore central to the politics of transportation as it entered its twilight years. As one observer belatedly noted in 1849, ‘the basis of transportation must undoubtedly be laid in the maintenance of the equality of the sexes in the colony or colonies to which British criminals are transported’.

The Moral Economy in a State of Transition: New South Wales in the 1840s

New South Wales in the 1840s was a society in transition. Transportation in its original design ceased in 1840. Yet throughout the decade the colony continued to

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1565 In May 1838 a meeting of residents was held at the Pulteney Hotel in Sydney to discuss the future of transportation and free immigration to the colony. The meeting concluded that both must continue yet the greatest emphasis was placed on the need for free female immigration. This was closely bound up with the reputation of the colony. According to one speaker, Mr. Campbell, ‘the known immorality of the colony had rendered it infamous; and this immorality was not to be attributed to the fact of there being a vast number of convicts in the colony, but to the fact that these men were herded together and left without the humanizing influence of women.’ Reported in the Monitor, 30 May 1838.
1566 Indeed, the free single women on the last four ships that arrived in 1836 received glowing commendations with respect to their economic skills and their morality. See Hammerton, (1975), op. cit., p 549.
1567 Debate in the House of Commons, 5 May 1840, reported in the Hobart Town Courier, 25 September 1840.
1568 Hobart Town Courier, 3 July 1840.
receive male convicts. ‘Exiles’ from the English penitentiary system and ticket-of-leave holders from the financially depressed colony of Van Diemen’s Land arrived from time to time. The inflow of male prisoners into New South Wales was sporadic and gentle. Yet it produced regular and anxious requests for an equal proportion of women to similarly arrive. ‘The colonists’ warned Edward Hall ‘ought to petition against receiving any males, whether convict or free unless free females were also sent out in proportional numbers. The Government have no right to load us with one sex without the other; it is contrary to justice and a great moral crime.’

In May 1842 Governor Gipps sent a Despatch to the Colonial Secretary. Enclosed was a list of male convicts requesting permission for a free passage for their wives and families to join them. Gipps considered these men ‘worthy of this indulgence’. In his reply dated 9 December 1842, Lord Stanley informed the Governor, ‘that Her Majesty’s Government have decided that New South Wales being no longer a place of Transportation, the indulgence of sending out the families of convicts to that Colony should be discontinued, as the expense of their conveyance now that female convict ships in which they have been heretofore sent, do not proceed thither, would be very considerably increased’. Accordingly, the practice of free family conveyance ceased to the colony. Gipps’ personal feelings on the issue are not recorded. The colonist Edward Hall however had plenty to say on the issue. He specifically invoked Britain’s moral responsibility towards her colonial possessions. Hall railed against the fiscal frugality of the colonial office with respect to this issue. He noted:

If New South Wales would pay for the deportation of females, they would be sent without hesitation. It is the expense which causes the Imperial Government to hesitate to do what nevertheless is so imperative a duty. The expense however, is much smaller than founding mere penal settlements would be, and erecting new Sodom barracks, or keeping the prisoners in penitentiaries and hulks in England.

\[1570\] E. S. Hall, 19 October 1846, minutes of evidence taken before the Colonial Committee on Transportation, Enclosure no. 2, in ibid, p 723.
\[1571\] Gipps to Stanley, 7 May 1842; Stanley to Gipps, 9 December 1842 in Governors Despatches (ML).
\[1572\] E. S. Hall, Letter to Earl Grey, 1 August 1849, op. cit.
Free familial conveyance ceased in 1842 yet gender concerns continued to inform colonial attitudes towards later developments in British penal policy. In 1845 a number of ticket-of-leave prisoners from the financially struggling sister colony of Van Diemen’s Land arrived in New South Wales. Some colonists welcomed the cheap labour they provided. Others were vehemently critical of the economic threat they posed to the free settlers. Yet much of the anxiety generated by their arrival was of a ‘moral’ rather than an economic nature. Their presence in New South Wales threatened to keep the convict nature of society well and truly alive. Colonial desires to move away from an unsavory penal past and towards an independent and respectable free future were reflected in their hesitation to accept the prisoners. These moral anxieties over the ‘nature’ of colonial society were explicitly articulated through gendered concerns. In the debates surrounding the propriety of permitting convicts to work out the remainder of their sentences in the colony, the question of achieving gender balance was central. In August 1845, Gipps wrote to Stanley, ‘not with the desire to prevent the issue’ but rather to draw the Colonial Secretary’s attention to:

the evils which may be brought upon New South Wales if pardons of this nature be issued in Van Diemen’s Land in excessive number, or without the utmost possible caution. I would further again beg to press upon your Lordship the additional urgency which this influx of a male population from Van Diemen’s Land will create for female immigration from the United Kingdom, the importance of which I have already noticed in my despatches of the 28 February and 9 April last No.’s 46 and 70.

The same concerns surrounded the vexed issue of the colony endorsing the arrival of prisoners known as ‘exiles.’ The exile system was based on a period of penal incarceration in Britain, under the ‘separate system’, followed by transportation. Those prisoners who failed to reform under the new system would be sent to Van Diemen’s Land as ‘abject’ convicts. Men who were deemed suitably reformed would be sent to

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one of the free colonies with a conditional pardon. These men would be known as ‘exiles’. Reformed or not, ‘exiles’ threatened to taint the status and reputation of free colonial society with the stigma of convictism. For this reason, many colonial outposts refused to participate in the scheme.1576 New South Wales was in need of labour at this time and reluctantly agreed to the proposal. Economic considerations aside, Gipps’ outward Despatches concerning their expected arrival in 1845 reveal gender concerns as again paramount. Gipps continually expressed his anxiety that ‘the intention of having their wives and families forwarded to the colony will not be lost sight of’. Indeed, the Governor repeated this request twice in nine days. He further emphasized its importance by enclosing a letter from Charles Joseph La Trobe, the administrator of Port Phillip. Exiles were welcomed at Port Phillip.1577 The newly established settlement benefited from the cheap labor they provided. Moreover, they were popular with the settlers and would ultimately themselves constitute the bulk of the new settler society. Because of this, La Trobe felt he had ‘reason to urge upon the attention of His Excellency and Her Majesty’s Government the absolute necessity of adding proportionally [sic] to our female population and of adopting immediate steps calculated to encourage female emigration from the mother country to these shores’.1578

The question of the colony receiving exiles again surfaced in 1848.1579 The proposal generated uproar in the colony at large.1580 Many colonists rejected the proposal. Working people opposed the economic threat that the introduction of exile labour would

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1576 Canada, Corfu, South Australia and South Africa refused to receive them. Opposition to receiving exiles was often voiced through moral discourses. These discourses reveal how moral and gender concerns were central to colonial perceptions and anxieties surrounding ideas of ‘respectability’ and reputation. New Zealand accepted a number of juvenile exiles from Parkhurst and later regretted it. They used the example of these youths to refute the claims of the colonial office that ticket-of-leave exiles were reformed before they left the shores of England. See Petition from Auckland against sending out Exiles to New Zealand, transmitted in Governor Grey’s Despatch, no. 84, 7 July 1849, in BPP, C & P, T, vol 10, 1851, p 40 (580).
1577 However, the tide of public opinion had turned against them by the later 1840s when the economy had gone into decline. Both the competition they presented and their very presence was now greatly resented by the free settlers. Moreover, in such a climate they were targeted as the cause of an ‘increasing crime rate’.
1578 Gipps to Stanley, 19 February 1845, Despatch no. 37; Gipps to Stanley, 28 February 1845, Despatch no. 46; La Trobe to Colonial Secretary in Sydney, 19 February 1845, in Enclosure no. 3 in Despatch 46, all in BPP, CD, 1843-6, pp 61-2.
1579 The option of receiving exiles was offered to and debated at many colonial outposts. See Earl Grey, Circular to the Governors of Western Australia, New Zealand, The Cape, Ceylon and Mauritius, 7 August 1848, in HRA, ser 1, vol 26, Oct 1847-Dec 1848, pp 590-92.
1580 For reaction at the Cape of Good Hope see K. McKenzie, (2003), op. cit.
Other colonists perceived the ‘exile’ system as little more than the resumption of transportation in a new and as yet unknown moral disguise. Respectable immigrants feared the exile system might discourage any future ‘middle-class’ emigration to the colony. Disparate though opponents of the scheme were, they found common unity in a moralising rhetoric that was duly employed to register their opposition. The ‘convict stain’, the willful importation of ‘contamination’ and ‘pollution’ and the threat to colonial respectability were all routinely mobilised. Noisy debate in the Legislative Council was more considered but no less ‘moralising.’ Here, debates anxiously centered on the negative impact male exiles would make on existing colonial gender relations. Eventually, the Legislative Council approved the colonial office proposal to again send out a number of exiles to New South Wales. However, they demanded one specific qualification. The colony would only welcome exiles on the condition that their wives and families would travel with them, rather than follow them later ‘under any stipulation or condition whatever’. This was vital. It was considered ‘a point of the greatest importance to the complete success of the measure’. Moreover, accompanied by their families it was hoped that:

the evils arising from large aggregations of males in the narrow compass of a vessel, and almost necessarily in a state of idleness may be avoided, and the beneficial tendencies of the first stage of their probationary career on their arrival in the Colony may not be needlessly endangered by a severance of domestic ties.  

For those exiles without wives an equal number of free single women were to be instantly conveyed, ‘to maintain, as far as possible, an equality of the sexes, so as to prevent a recurrence of those social evils which are allowed on all hands to have been the worst feature of the late system of transportation’. This colonial demand was warmly supported.

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1581 Norma Townsend suggests that it was only working people from the lower orders who had a consistent attitude in opposing Transportation throughout the 1830s and 1840s. During both decades their opposition was largely economic. See N. Townsend, ‘The Clamour of … inconsistent Persons.’ Attitudes to Transportation within New South Wales in the 1830s’ in Australian Journal of Politics and History, vol 25, no 3, 1979, p 351.


1583 Ibid.
welcomed by the press. Both the *Sydney Morning Herald* and the *Australian* approved of this ‘most material’ qualification. ‘So obvious are the excellent reasons urged for this modification’ noted the *Australian* in April 1848, ‘that we cannot doubt for one moment that it will be cordially adopted by his Lordship’.\(^{1584}\) These sentiments were shared by many in the wider colonial community and served to assuage some of the more hostile opponents of the exile system. According to one observer, the strength of feeling upon the issue of maintaining an equal gender ratio was such that ‘the colonists will rebel sooner than receive them [exiles] without an equal number of free women’.\(^{1585}\)

Michael Sturma has noted that ‘for New South Wales as a community, respectability meant overcoming the stigma of convictism’.\(^{1586}\) New South Wales in the 1840s was a society in flux. Colonists hoped to shed the image of Botany Bay depravity and move towards a respectable colonial future.\(^{1587}\) Yet the transition involved a precarious balancing act. The need for cheap labour in the form of exiles and ticket-of-leave holders threatened to keep the penal nature of the colony alive. In stabilizing the sex ratio and insisting that the exile scheme involve instant family conveyance, colonists sought to dilute these past penal associations. The ongoing reformation of the individual ‘exile’ and the transformation of colonial society were intimately bound up with the politics of gender relations during these transitional years. Moreover, gender issues specific to Australia informed colonial attitudes towards imperial penal policies and in London, the colonial office increasingly found itself acquiescing.\(^{1588}\)

\(^{1584}\) *Sydney Morning Herald*, 8 April 1848; Ibid, 10 April 1848; *Australian*, 7 April 1848.

\(^{1585}\) E. S. Hall, letter to Earl Grey, 1 August 1849, op. cit., p 714.


\(^{1587}\) A ‘respectable colonial future’ also involved colonial political representation. As Kirsten McKenzie has noted, ‘The diffusion of a culture of respectability through the British Empire was a global phenomenon, and a necessary precursor to the establishment of representative political institutions in the colonies by the middle of the nineteenth century.’ See K. McKenzie, ‘Of Convicts and Capitalists: Honour and Colonial Commerce in 1830s Cape Town and Sydney’ in *Australian Historical Studies*, no 118, 2002, p 199.

\(^{1588}\) Despite assurances from Earl Grey, a lack of imperial funding meant that exiles arrived in the colony in 1849 without their families and children. This was to provoke widespread anti-transportation sentiment throughout the colony. A further five shiploads of exiles arrived yet in the face of vehement colonial outrage, London conceded that the exile scheme to NSW could no longer be sustained.
In 1846 Sir Charles FitzRoy reignited the issue of familial conveyance and the practice soon after recommenced to New South Wales.\textsuperscript{1589} The reversal of Stanley’s 1842 directive reveals how gender concerns provided the colonists with an effective bargaining tool in their negotiations with the colonial office in London. This reveals in microcosm just how the politics of gender came to inform colonial demands and in turn, informed British colonial policy. Gipps’ successor, Sir Charles FitzRoy, was concerned for those prisoners who were still serving out their sentences. He wrote to William Gladstone in September 1846 lamenting the cessation of familial conveyance in 1842. He charged Her Majesty’s Government with having ‘not given due weight to the fact that, although Transportation to this colony has been discontinued, there still remains a large number of convicts (especially male convicts) who are working out their sentences.’ Fitz Roy explicitly linked the imperative of domestic relations to moral reformation. He suggested nothing would tend to the reformation of these prisoners more ‘than the prospect formerly held out to them, that those who proved themselves deserving of such a reward, might ultimately be rejoined by their wives and families’. He feared many men without this future hope and reformatory incentive had deteriorated in character since 1842. FitzRoy scoffed at the issue of expense. He specifically appealed to the moral sensibilities of the metropole in noting, ‘the influence of the presence of the wives and children of the men in a community where the disparity of the sexes is so great, I cannot believe that Her Majesty’s Government would think the question of expense worthy of consideration in comparison with the good that would result from reverting to the former humane practice’.\textsuperscript{1590}

Sir Charles FitzRoy found favour in London. The colonial office entirely validated his request. FitzRoy’s insistence upon the matter was timely. Viewed in the moral aftermath of the recently failed probation system in Van Diemen’s Land, the colonial office could not but approve his request.\textsuperscript{1591} Family migration was now

\textsuperscript{1589} Free familial conveyance to New South Wales finally ceased in October 1852. See Grey to FitzRoy, 30 October 1852, Despatches, Inward Correspondence (ML).

\textsuperscript{1590} FitzRoy to Gladstone, 1 September 1846, in HRA, ser 1, vol 25, April 1846- Sept 1847, pp 190-1.

\textsuperscript{1591} During the next few years, FitzRoy was regularly reprimanded by Earl Grey for granting free family passages to, what seemed to the colonial office, anyone who requested them. See Grey to FitzRoy,
perceived as an urgent issue of morality. It entwined the individual prisoner, the social conditions and reputation of colonial society and the very morality of the British Empire itself. Indeed, the centrality of the issue was explicitly highlighted in a letter sent from Under Secretary Stephen to S. M. Phillips in January 1847. He wrote that the practice of familial conveyance was no longer to be considered ‘a mere gratuitous favor or bounty’ to the prisoner, but was rather:

The single measure habitually taken by this country for mitigating the great moral evils incident to the creation in the Southern Hemisphere of Societies composed exclusively of Male Convicts. Considering the enormities of those evils, Lord Grey is of opinion that the Government of this Nation were not at liberty thus to discontinue the single remedial practice by which they were alleviated and thus to aggravate, on grounds of economy alone, the moral debasement of those Communities.1592

Norma Townsend has argued that ‘women were an anomaly’ to the ‘thoroughly masculine’ penal system in New South Wales. She further suggests that the ‘massive and unprecedented’ system was ‘bound to present deep problems for women’.1593 Yet women and gender relations were always cardinal to transportation (at least in theory) and to the wider concerns of colonial society. By the 1840s, colonial discourses increasingly reveal that it was the masculine nature of colonial society that was ‘the deep problem’. This was both the product of colonialism as a (mostly) male enterprise and transportation as a (mostly) male punishment. The scandalous moral failure of the probation system in Van Diemen’s Land had explicitly revealed this. In this analysis, it was the ‘thoroughly masculine’ nature of colonial society and the penal system which had both become anomalous by the 1840s. As the free settler Alexander Harris reflected in 1847, ‘My own sense was never so much that of the absence of comforts and conveniences when living where there was no individual of the female sex, as that I was living an unnatural and incomplete life’.1594

1592 Earl Grey to Sir Charles FitzRoy, 24 March 1847, Enclosure no. 1; Under Secretary Stephen to Mr. S. M. Phillips, 6 January 1847, both in ibid, pp 399-400.
1594 Alexander Harris, Settlers and Convicts or Recollections of Sixteen Years Labour in the Australian Backwoods, London, 1847, p 88.
A New Penal Colony: Lessons Learnt?

Ann Laura Stoler has recently urged colonial historians to include in their histories those imperial policies and plans that were framed and debated yet were never actually implemented within the colonial context. She asks us to consider ‘what can we learn about colonial cultures and the states they sustained from what might have been, from what never happened, from exploring the counterfactual?’ Inspired by this challenge, the following examination explores the proposals that surrounded the establishment of a penal colony in ‘North Australia.’ This colony existed for five short months between January and May 1847. Looking at the plans for its establishment and the reasons why the colony was abandoned so early further supports my argument that gender relations were indeed of critical consideration within later penal policy. This episode further reveals just how anomalous the ‘thoroughly masculine’ penal system was now considered to be. Moreover, these considerations were acknowledged as axiomatic by both metropolitan centre and at the colonial periphery.

In 1847, rumours that a new penal colony was to be established on one of the islands off Australia were circulated in the press. The Hobart Town Courier doubted that the British Government would ever again attempt to establish an all male penal colony. ‘More especially’ it reassured its readers, ‘after the fearful revelations that have been made of the results of such unnatural assemblages at Norfolk Island and in this colony, we think ourselves justified in questioning the authenticity of a statement that charges the present Ministry with the awful responsibility of seeking to form other exclusively male establishments for penal probation’. The Courier was correct to doubt this particular rumour. However, proposals for a new penal colony known as ‘North Australia’ did emerge in the 1840s. It was not a new idea. A plan for a penal colony north of Moreton

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1596 The islands suggested in the rumour were either the Solomon Islands or those in Torres Straits. Hobart Town Courier, 6 February 1847.
Bay was first proposed during the 1830s. The idea was reiterated the following decade in the debates over where to send exiles from Pentonville and how to alleviate the twin problems of overcrowding in an economically depressed Van Diemen’s Land. Plans for the new colony see-sawed so long as exiles were welcomed in New South Wales and at Port Phillip. Reports that they had been ‘ruined’ in Van Diemen’s Land led the colonial office to resurrect the proposal in 1845. It was feared that pardoned convicts and exiles were suffering from the under-employment plaguing the colony. They were reported to be associating with unreformed convicts in the probation gangs and imbibing ‘the same low tone of moral feeling and the same degrading and lamentable habits’. Pardoned convicts would be encouraged to leave Van Diemen’s Land for North Australia. The new settlement was envisioned by many as a pure and rural farming idyll and future exiles from Pentonville would also be sent there.

In 1845, Lord Stanley wrote to Sir John Eardley-Wilmot with the details of the plan. Stanley admitted that ‘the most serious objection to such a plan would be that the society of North Australia would be composed of males only’. It was therefore proposed that ‘if not the whole, a least a large portion’ of women sentenced to future transportation in Britain would be shipped to the new settlement. Further, the ‘most deserving’ female convicts in Van Diemen’s Land would be greatly encouraged to migrate to the new colony. Stanley further reasoned that as ‘the far greater part of all transported female convicts are unmarried’ the ‘male convicts might therefore form legitimate connexions’ with them. Married men’s families would be freely conveyed. Any further gender disparity would be augmented by ‘an emigration from this country, consisting of a far

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1597 The idea was first recommended by Sir Richard Bourke to Lord John Russell, 26 October 1838. By 1845 Sir James Graham approved of the plan and was ‘most anxious to see it carried into immediate execution’. H. Manners Sutton to J. Stephen, 10 September 1845, letter printed in the *Launceston Examiner*, 11 July 1846.

1598 See the 1845 letters of Hampton and Boyd in BPP, CD 1843-46, op. cit., pp 62-66. In a letter written to C. E. Trevelyan, James Stephen at the colonial office noted how the lack of employment in Van Diemen’s Land, ‘however material, seems to his Lordship the least important of the aspects in which this redundancy of labour is to be regarded. The moral evils resulting from it are of the most serious nature.’ James Stephen to C. E. Trevelyan, 21 November 1845, printed in the *Hobart Town Courier*, 1 July 1846.

1599 H. Manners Sutton to James Stephen, 10 September 1845, printed in the *Launceston Examiner*, 11 July 1846.
larger proportion of female emigrants than has been customary'.\textsuperscript{1600} At the Colonial Office, Stephen had explicitly noted the expediency of ‘obtaining for the new colony a much larger proportion of females than usually exists in the penal colonies’.\textsuperscript{1601}

Women, marriage and domesticity were central to the proposals for the establishment of North Australia. Gender relations in the new colony were paramount and the colonial office was determined not to repeat the mistakes of the recent past. Yet in their attempts to modify these mistakes, administrators in London had overlooked colonial reactions. The \textit{Launceston Examiner} reported the plans for North Australia in June and July 1846. Moral outrage informed the tone of their editorials. The paper railed against Lord Stanley’s ‘last feat of statesmanship’.\textsuperscript{1602} It was not the removal of the best conducted male prisoners which provoked their ire. Rather, it was the removal of ‘most, if not all, of our female convicts, so that the evils arising from the great disproportion of sexes may be prevented IN THE NEW SETTLEMENT! Thus the disproportion here is to be remedied by making it more disproportionate.’\textsuperscript{1603} Two weeks later the paper warned its readers, ‘Unless the contemplated scheme is abandoned, or speedily checked, this colony must perish. We invite colonists calmly to contemplate the new plan, and, perceiving its inevitable consequences unite in the strongest remonstrance against it.’\textsuperscript{1604}

If colonists believed Van Diemen’s Land would ‘perish’ without women, it was the lack of women that led to the eventual abandonment of the new penal settlement. It seems that the colonial office had also overlooked reactions in the metropole. North Australia was opposed in Britain by the very authorities required to ‘recruit’ the future female settlers. Both the Poor Law commissioners and the Emigration Commissioners refused to promote the sending of free female emigrants to the new and as yet uninhabited colony. Some prison authorities perceived the sending out of all future

\textsuperscript{1600} Despatch from Lord Stanley to Sir John Eardley-Wilmot, September 1845, printed in the \textit{Hobart Town Courier}, 1 July 1846.
\textsuperscript{1601} James Stephen to C. E. Trevelyan, 21 November 1845, in ibid.
\textsuperscript{1602} Lord Stanley had since been replaced by W. E. Gladstone at the Colonial Office.
\textsuperscript{1603} \textit{Launceston Examiner}, 24 June 1846.
\textsuperscript{1604} \textit{Launceston Examiner}, 4 July, 1846. The paper suggested that the removal of women from the colony would merely increase the prevalence of ‘unnatural crime’. It informed readers that, ‘An evil already of great magnitude would be aggravated by Lord Stanley’s arrangement’. 
exiles’ wives and families as too much of an indulgence and refused to endorse the practice. In the midst of these difficulties, the colonial secretary noted, ‘unless a certain assurance can be obtained for sending there a sufficient number of women, it ought to be abandoned’. North Australia was threatening to become another all-male enterprise, ‘without restraint’, with ‘all their vices’ and without ‘women to humanise them’. Certain assurances were not obtained. The new colony was indeed abandoned by the end of May 1847.\footnote{1605}{See A. G. L. Shaw, ‘Earl Grey’s Exiles’ in Shaw (1966), op. cit., pp 312-34.}

What then does this episode reveal? What historical weight can we ‘assign to a set of improbable visionary designs that were … never implemented’?\footnote{1606}{A. L. Stoler, (2002), op. cit., p 157.} Clearly lessons had been learnt. The ‘awful responsibility’ of gender balance was acknowledged to be quintessential in all future plans for social engineering in the colonies. Whether it was in the founding of new penal settlements or free settler colonies, this consideration was now imperative. Moreover, it was a shared concern that reverberated from colony to metropolitan centre and back again. If we go back to Arthur Phillip, we can see how gender relations had always informed the theory, if not the practice of penal and colonial policies. The gradual evolution from British penal colony to free colonial society necessitated that these discrepancies be redressed. The proposal for a penal colony in North Australia epitomised this transition because it demanded that theory and practice converge. When the presence of women in the new colony looked unlikely, the colony was abandoned. Modifications were made and introduced into Van Diemen’s Land instead. The new system here further reveals how gender fused with the politics of transportation during these twilight years. If officials at the colonial office had finally recognized the consequences of gender-blind colonial policies, the changing tide of penal theory equally embraced the lessons learnt from the past.

‘It is an Unnatural Population and Unnatural indeed are the Consequences’. \footnote{1607}{F. Adams Marriot, Archdeacon of Hobart Town, ‘A Letter Addressed to his Excellency Sir William Denison, On the Occasion of Presenting a Petition from the Clergy of the Diocese of Tasmania Against the Renewal of Transportation to this Colony.’ May 1847, p 6, printed in the \textit{Sydney Morning Herald}, 6 July 1847.}
Van Diemen’s Land in the late 1840s

The collapse of the Probation System in 1846 was a microcosm of many related anxieties. Moving beyond the hysterical moral outrage and the scandals of Sodom explored in chapter four, the system had always been an unpopular penal experiment in the colony. Juxtaposed with a faltering colonial economy and a growing desire for representative government, the colonists found a common cause in the politics of gender. For many, removing the wifeless and godless spectre of male penal society was the first small step towards independence. Too many men had been sent out in the preceding years for either the economy or the sleeping quarters to accommodate them appropriately.\textsuperscript{1608} The unnatural and immoral state of the colony had to be rendered ‘normal’ and respectable. As with the sister colony, Van Diemen’s Land sought social stability and moral certainty. In order to elevate the fallen status of the colony and to ‘civilize’ its inhabitants, women, marriage and domesticity had to be immediately conveyed.

These demands were regularly voiced in the colony. In 1846, the \textit{Launceston Examiner} suggested to its readers that the disproportionate gender ratio of Van Diemen’s Land had ‘perceptibly retarded the social advancement of the community’. Moreover, so long as it remained, the reformation of prisoners ‘must prove nugatory’.\textsuperscript{1609} In a related context it was during these years that the \textit{Cornwall Chronicle} regularly campaigned for the encouragement of marriage between convicts. According to the paper ‘in this way alone is the dreadful crime … to be prevented and the vengeance of heaven averted’.\textsuperscript{1610} Many colonists echoed the voices and sentiments expressed by the press. Jacob Lackland asserted that through past penal policies ‘the government has made virtue impossible’.\textsuperscript{1611} In one colonial petition sent to the metropole in 1847 ‘on behalf of the convicts’, it was

\textsuperscript{1608} In a petition of ‘parents and guardians residing in the island of Van Diemen’s Land’ the colonists noted ‘that between the years 1841 and 1847, there have arrived 23,800 prisoners of the Crown of whom only 4076 were females’. Petition, transmitted in Lieutenant-Governor Sir William Denison, Despatch 163, 12 November 1847, in BPP, C & P, T, vol 10, 1851, pp 32-3 (572-3).

\textsuperscript{1609} \textit{Launceston Examiner}, 4 July 1846; ibid, 14 October 1846.

\textsuperscript{1610} \textit{Cornwall Chronicle}, 28 November 1846.

\textsuperscript{1611} Jacob Lackland, \textit{Common Sense: An Enquiry into the influence of Transportation on the Colony of Van Diemen’s Land}, Launceston, Henry Dowling, 1847, p 20.
stressed ‘that the enabling their wives and children to join them’ was ‘but a bare act of justice towards those who have been subjected to the pernicious and miserable probation system’.

Following the recall of Sir John Eardley-Wilmot, male transportation was suspended for two years. The eventual resumption of transportation to the colony remained an open question. In 1846 the colonial secretary Earl Grey was non-committal: ‘whether any more male convicts will ever be transported thither, or to any other place … is a question on which, for the present, I will reserve my opinion’. Between 1846 and 1848 only women (and juveniles) were transported to Van Diemen’s Land. Through furious protest and an outraged moral discourse, the suspension of male transportation was largely a colonial initiative. Colonial agency upon the imperial stage was further demonstrated when the call for more women was heeded. Indeed, without colonial agitation for women to continue to arrive in the colony it is conceivable that transportation to Van Diemen’s Land might have terminated permanently in 1846, rather than eventually in 1853. In this analysis then, between 1846 and 1848 the continuation of transportation was a colonial demand and women were central to its very operation.

In 1846 Sir William Denison was appointed the new Lieutenant-Governor of Van Diemen’s Land. On the eve of his departure to the colony, he received instructions from Earl Grey. The transportation system had been modified and a new system of convict discipline was to be inaugurated in the colony. Every female sentenced to transportation in Britain would henceforth be sent to the colony. On arrival, the women were to be strictly separated from one another. The ‘most assiduous attention’ was to be given to their moral and religious instruction, and also to ‘their education in such matters as maybe of use to them in an industrial point of view’. Such instruction was to ensure that at the end of their sentences ‘they maybe in some measure fitted to become wives and mothers of families’. Denison was strictly informed that every encouragement and

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inducement ‘should be held out to them to form legitimate connections with unmarried convicts’.  

Male convicts still under sentence in the colony were to be introduced to a new penal system. The probation system of convict discipline was to be replaced with task work. Every male prisoner was to be employed by the government in village building schemes. These villages were to comprise between one hundred and two hundred cottages ‘with well fenced gardens’. Each village would also include a church and a school, and provide housing for a clergyman and a teacher. It was envisaged that these villages would encourage free emigration to the colony and with this ‘infusion of wholesome blood to remove as far as possible the convict taint’. Convicts with tickets-of-leave and pardons would also be permitted to settle in these villages and ‘should be allowed to have their wives and families sent out to them’.

Indeed throughout his written instructions concerning the management of convicts in 1846, Grey continually stressed the moral propriety of familial conveyance. As he noted more than once, ‘it will be desirable in all cases that the wives and families of pardoned convicts should be sent out to join them’.

Earl Grey’s detailed instructions conveyed a clear message. Female convicts were to be reformed and refashioned into their future colonial role as suitable wives and capable mothers. Male convicts were to build new rural settlements, domestic utopias designed to appeal to future family settlers. These settlements would eventually house

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1615 Ibid, p 515.
1616 Ibid, p515. Grey suggested that the convict would have to pay for half the costs of travel for his family with the public paying the other half. In April 1848, Grey informed Denison that the transportation of males was to resume. It was termed the ‘compulsory immigration scheme.’ Following a period of separate imprisonment in Britain and a period working on public works, men were to be sent to the colony with tickets-of-leave. Denison was informed that it was in his power to assign each man to a different part of the colony, according to the demand for their labour ‘and at a distance from the temptations of the towns.’ Wives and families would again be encouraged to join them. This was ‘very desirable, both as regards the convicts themselves and the interests of the colony’. See Earl Grey to William Denison, Despatch 66, 27 April 1848, in BPP, C & P, T, vol 8, 1847-50, pp 132-44.
1617 Grey to Denison, 30 September 1846, op. cit., p 522. The London Times informed the British reading public of the changes to the transportation system. They had been implemented ‘with the view of eventually restoring that natural proportion of numbers between the sexes, the disturbance of which has on all occasions led to such dreadful crimes’. Times, 16 December 1846.
their own families, whether they arrived as migrants from Britain or were created out of new convict relationships. In essence Van Diemen’s Land was to become a family friendly, self sufficient rural arcadia and in Grey’s own words, ‘in short, a complete society would be formed’. Grey’s domestic utopia was given a further fillip in 1848. In April he wrote to Denison announcing that men convicted of unnatural crimes at home were now considered ‘wholly unsuitable for transportation’ and ‘such convicts will not be sent to the colony’.

The Bishop of Tasmania doubted the wisdom of the new penal policy. ‘To what a depth of degradation must that community be considered as having fallen’ he asked Earl Grey, ‘if such measures are seriously contemplated as means of its recovery?’ According to the Bishop, all the plans to ‘equalize the numbers of the sexes’ were ‘objectionable’ and doomed to failure. Increasing the numbers of convict women was ‘calculated to do serious injury to the moral condition of the colony at large’. Moreover, the presence of women would neither reform men nor prevent unnatural vice, because ‘the beginning of the sin’ was ‘contracted in the gangs’. Further, once unnatural vice becomes ‘a habit’ it is ‘rarely corrected by the presence of women’ and ‘as rarely, ever finally abandoned’.

Yet the Bishop’s voice of dissent was largely a solitary one. Most contemporaries acknowledged the imperative of promoting domesticity and family life in the colony. To ensure its very future both convicts and the colonists had to be encouraged to stay and more free settlers encouraged to arrive. In the meantime balancing the sex

1618 Grey to Denison, 30 September 1846, op. cit., p 515.
1619 Grey to Denison, 27 April 1848, op. cit., p 135.
1620 As he further noted, ‘a large importation of women of fallen character, many of them prostitutes, is not the most likely method to improve the morals, even of the most depraved amongst the convicts …’ Bishop of Tasmania, ‘Notes on Transportation and Prison Discipline as Applied to Van Diemen’s Land’, 15 February 1847, in BPP, C & P, T 1843-47, vol 7, pp 3-4 (443-44). James Bonwick similarly argued that ‘unnatural vice’ was not so much due to the paucity of women, than ‘the brutal sensuality of men of crime, herded in masses together’. See Bonwick, (1870), op. cit., p 272.
1621 Bishop of Tasmania, ibid.
1622 Caroline Chisholm agreed with his views on female convicts. In a letter to Earl Grey she noted that sending convict women to the colonies ‘only adds infinitely to the moral evil, and it is with gratification I have to observe that I never met but with one man who did not express extreme desire to be married to a woman of good character, and it is a most erroneous opinion that such women make suitable wives enough for reclaimed convict men; nature and moral religion both shrink from the idea of such characters as mothers of children…’ Caroline Chisholm to Earl Grey, 25 January 1847, printed in M. Kiddle, (1996), op. cit., pp 196-7.
ratio in Van Diemen’s Land was equally desired and Earl Grey’s proposals to increase female transportation to the colony were generally applauded. According to the Launceston Examiner, ‘a dozen shiploads’ of women would be welcomed with open arms by the colonists. Convict marriages were certainly encouraged by the convict department. Between June and December 1849, 531 convict couples were granted permission to marry. In his report on the state of the convict department at the close of 1849, J. S. Hampton happily noted ‘the highly beneficial influence of marriage on the conduct of convicts of both sexes in this colony’. Moreover, he was equally hopeful ‘that the new duties and associations which thereby devolve upon them will render all much more circumspect and contribute to their elevation in the social scale’.

The Lieutenant-Governor himself bent the regulations at times to ensure that convict wives and families would arrive in the colony. In 1848 male transportation to the colony resumed, under the ‘compulsory exile system’. Exiles were sent to the colony with a ticket-of-leave. They had to work hard and earn enough money to pay for half of their transportation costs, before they were granted conditional pardons. Only then could they apply for their families to join them. Denison informed the colonial office in 1849 that he had changed the rules. Convicts might now pay for their family’s passage before receiving their pardons because this was ‘a much stronger inducement’ for the exile to save his wages. Moreover, ‘it would be the best means of reducing the disproportion now existing between the sexes in the colony, and between the bond and the free’. Denison, like so many before him recognized that ‘the presence of a wife and children would be an

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1623 Sir William Denison had some interesting ideas on the consequences of gender imbalance. In a letter to the Lord Bishop of Tasmania, dated 28 October 1848 he noted; ‘Of course, in every community where the proportion between the sexes is not maintained at an equality, there will always be a tendency towards the indulgence of the animal appetites in ways which are shocking to persons with minds properly constituted; and of course, in a society composed to a great extent of criminals, the checks which education and religion impose upon the indulgence of the appetites are less effectual than where better educated persons form the majority of the community.’ In BPP, C & P, T, vol 9, 1849, p 93.

1624 Launceston Examiner, 4 July 1846.

1625 This was a significant number out of a total male convict population of 18 397 and a total female convict population of 4090. See Report of the Comptroller-General of the State of the Convict Department, 31 December 1849, in BPP, C & P, T, vol 8, 1847-1850, p 99 (427).

1626 Ibid.

1627 Female transportation continued to the colony throughout these years. In January 1848 Earl Grey wrote to Denison informing him of the imminent arrival of the female convict ship the Elizabeth and Henry with 170 female convicts, two convict wives and 3 convict children. Earl Grey to William Denison, 19 January 1848, GO 33/56, (AOT).
additional guarantee for the good conduct of the convict, and lastly that were the money not to be paid for this purpose, it was not probable that it would be paid in for any other’. Earl Grey agreed and the Lieutenant-Governor’s changes were subsequently approved in London.\textsuperscript{1628}

**Conclusion**

In conclusion, we might here consider Anne Summers’ memorable assertion that ‘in practice women were transported solely to serve as sexual commodities and the British Government acted as imperial whoremaster’.\textsuperscript{1629} It is difficult to refute her claim entirely.\textsuperscript{1630} Pejorative attitudes towards female convicts and the contemporaneous belief that prostitution was a ‘necessary evil’ reveal this.\textsuperscript{1631} Yet Summers’ argument entirely subdues both colonial and female agency. Moreover, sex and gender relations were tied to both colonial and penal politics in numerous ways and the issue was multilayered. We have seen how the normalising of gender relations through marriage and familial life were considered central to the individual reformation of both male and female prisoners. Reformation was further related to controlling and containing the expression of ‘unnatural’ sexualities.\textsuperscript{1632} Prostitution was a ‘necessary evil’ but for contemporaries it was also the ‘lesser of two evils’ in a society where ‘the monstrous conception of a Marquis de Sade seems to have received the sanction and notoriety of general

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\item William Denison to Earl Grey, 10 September 1849, in BPP, C & P, T, vol 8, 1847-50, p 2. (Also in GO 33/68, AOT.) Earl Grey responded on 25 July 1850. He approved of Denison’s modifications and noted, ‘It is upon many grounds of the highest importance that these men should be joined by their families as soon as is possible, without impairing the efficiency of the punishment to which they are to be subjected. Accordingly, the payments which they are required to make … are to be allowed to reckon towards making up the proportion of the expense of sending out their families…’ Earl Grey to Sir William Denison, Despatch 114, 25 July 1850, in ibid, pp 148-9.
\item Anne Summers, (1975), op. cit., p 270.
\item Marian Aveling has suggested, ‘no revision can overturn Summers’ understanding of women convicts as a ‘colonized sex’, brought to Australia for the reproductive purposes … of men they were expected to obey.’ See M. Aveling, ‘Bending the Bars: Convict Women and the State’ in K. Saunders & R. Evans (eds.) (1992), op. cit., p 147; and Aveling, (1992), op. cit., p 3. More recently Sian Rees has followed Summers’ interpretation. Writing of women transported on the Lady Julian in 1789, Rees suggested ‘they had been brought over from England to sleep with the camp guards and bear children to male settlers, and this is largely what they did’. S. Rees, (2001), op. cit., p 215.
\item In this analysis, the imperial ‘whoremaster’ was equally the imperial ‘unnatural crime preventer’.
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custom’. Directing sexuality through the correct channel of marriage and family life sought to contain it. In this respect both male and female convicts were ideologically confined by bourgeois constructions of morality.

The moral anxieties aroused by free female immigration during the 1830s further illustrate the need to revise the British ‘whoremaster’ stereotype. Many contemporary observers in Britain doubted the propriety of and the wisdom behind the enterprise and this was often expressed through moralising discourses. Some colonists, mindful of the need for female emigration to Australia shared these concerns for the women involved. In this climate of moral anxiety, the many women who did freely arrive exhibited autonomy and agency in making the decision to leave their homeland and travel to the antipodes. According to her biographer it was not the British government, but rather Caroline Chisholm who ‘suggested to Earl Grey that five hundred single women should be sent out to relieve the forlorn state of the Australian bachelors’. Moreover, though the policy was perennially under-funded and un-coordinated, the issue of sending out prisoners’ families reveals that it was domesticity and family life rather than whoredom that was long recognized and always acknowledged as vital. If in the eighteenth century it was seen as an ‘indulgence’ and a reward for good behaviour, by the 1840s it had increasingly become a matter of social justice and morality ‘both as regards the convicts themselves and the interests of the colony’. Both the reformatory ideal of the family and the basic sentiment underlying the policy, that marriage was a man’s ‘natural’ right, remained unchanged. Even the vehemently anti-convict Launceston Examiner suggested in 1846 that ‘every facility consistent with discipline should be given to convict marriages’.

Family life and domesticity were the foundation upon which nineteenth-century British

1633 British and Foreign Review, vol 5, July 1837, pp 127-9. As Earl Grey noted, the question of women ‘Becomes a subject of much importance when it is considered that the tendency to unnatural crime, fostered as it must be when numbers of one sex are congregated together, though checked by material obstacles will in all probability breakout when the convict is released from control and seeks its indulgence, unless some opportunity be afforded for legitimate sexual intercourse.’ Earl Grey to Sir William Denison, 30 September 1846, in BPP, C & P, T, vol 7, 1843-47, pp 521-2.
1634 Margaret Kiddle, (1996), op. cit., p 77.
1636 Launceston Examiner, 28 November 1846.
society was based. In the colonial context, gender relations, marriage and domesticity assumed the same moral and social imperative.\textsuperscript{1637}

Enforced whoredom? Or rather the promotion of ‘legitimate’ sexual intercourse, family life and the normalising of social relations? This chapter opened with the \textit{Monitor} railing against the enforced celibacy of thousands of male prisoners. It was a recurring theme of the colonial press and its venom was directed towards what it saw as the moral indifference of the metropole.\textsuperscript{1638} A leading editorial in June 1838, noted ‘the folly, the madness, the cruelty, the profanity to colonise against nature; to colonise with a race of unmarried men; to people a country without women!’\textsuperscript{1639} In this analysis then, it was not so much Britain acting as ‘imperial whoremaster’, but rather colonial demands that informed the politics of gender in Australia. As this chapter has revealed, these politics were in turn, inextricable from the penal policies and practices of imperial transportation. In the final analysis, both provided the colonists with a powerful weapon in defending, and an effective bargaining tool in shaping, the future direction of an increasingly mature and autonomous colonial society.

\textsuperscript{1637} As A. L. Stoler has noted, nineteenth-century citizenship ‘made the rights of women and children solely dependent on their sexual and conjugal contracts with men. Women were seen as crucial to civil society not as participatory citizens in the public sphere, but as those who would insure that marriage, sexual morality and family provided the natural foundations for civil life.’ See A. L. Stoler, (1995), op. cit., pp 131-2. See also A. McClintock (1997), op. cit., pp 89-111.

\textsuperscript{1638} Britain was often held responsible for the state of morality in the penal colonies. Colonists found much to criticize, from fiscal frugality, to ill conceived systems of convict discipline. The politics of gender was a further colonial grievance directed at the metropole. Yet as this chapter has revealed, these grievances also enabled colonists to exercise agency and wield a degree of power on the colonial stage.

\textsuperscript{1639} \textit{Monitor}, 15 June 1838.
Conclusion

In 1846, a letter was discovered on the body of a man who had been condemned to death for his role in the Norfolk Island Mutiny of July 1846. The letter is printed here as it appears in the archives. It read:

Dear Lover,
I hope you wont forget me when i am far away and all my bones is moldered away I have not closed an eye since i have lost sight of you your precious sight was always a welcome and loving charming spectacle. Dear Jack I value death nothing but it is in leaving you my dear behind and no one to look after you But I hope you will beware of the delusive of man. the only thing that grieves me love is when I think of the pleasant nights we have had together. I hope you wont fall in love with no other man when i am dead I remain your True and loving affectionate Lover.

The Commandant John Price sent this melancholy lament to the convict department in Hobart. His covering letter to the Comptroller-General was of a rather different tone. He noted, ‘disgusting as is its nature, I feel that it would be a dereliction of my duty did I not transmit so convincing a proof of the horrid crime that I am satisfied prevails here to a great extent, a crime that can only be prevented by the erection of separate sleeping apartments and constant inspection of the wards’. The discrepancy between the sentimental words penned by Jack’s lover and John Price’s formulaic discourse of abomination reveals much more than the cultural gulf of language. The love letter expressed the capacity of convicts to turn their captivity into something beyond the brutal, de-humanising experience of penal exile. That men could ‘fall in love’ in such circumstances is one aspect of male convict history that has received little attention in the historiography of the penal settlements. Perhaps today it seems too remarkable.

1640 Civil-Commandant, John Price to Comptroller-General, 7 October 1846, in GO 33/57, p 251, (AOT).
1641 George Haggerty has recently revealed that male love has received little attention from other historians of sexuality. He suggests that it is time to supplement the historical approach to rape and brief encounters with an understanding of love and its place in the study of male-to-male desire. See G. Haggerty, ‘Male Love and Friendship in the Eighteenth Century’ in K. O’Donnell & M. O’Rourke (eds.), 2003, op. cit., pp 70-81.
1642 However perhaps this attests to the enduring spirit of humanity itself? Romance in the Nazi concentration camps has been revealed to have existed. This is not to detract from the terrible or to sanitise the past, but rather points to the resilience of the human capacity for love and survival in the midst of other inhumane actions.
Yet the ‘love’ that was discursively articulated at a time when ‘disgusting’ and ‘horrid’ was the general consensus, alerts us to acknowledge a different cultural understanding of male convict relations. The ‘pleasant nights’ they spent together reveal that some convict men found companionship in exile. In so doing, they also subverted the obsessive spatial-sexual surveillance regime of the penal authorities. In many ways, language, space, sex and surveillance linked John Price and Jack’s lover. In the penal environment, both men were aware of their significance. What separated them were the ideological distinctions of class and civil status and constructed ideas of crime, discipline and order; but also, as the letter revealed, perceptions of love, morality and male behaviour.

Our access to the past is largely gained through the official discourses of the ruling classes. In the study of convictism this is especially so. The fragments and the small moments ‘from below,’ such as Jack’s love letter, are important. They highlight the porous and penetrable nature of official discourse and its practicable workings in the penal context. They reveal the ways that the theories of the ‘official mind’ were often frustrated in both real and imaginary directions. The convict population of colonial Australia were not entirely powerless or without agency. Rather, they ‘demonstrated that human nature was too complex and too contrary to be neatly reshaped into an Enlightenment mould’.  

Penal discourse in the nineteenth century was itself fluid, insecure and vulnerable to change. In Britain, the many diverse and different prison regimes of the regions, and within the numerous prisons in London, reflected the difficulties and complexities that surrounded the social construction of crime and the most efficacious means with which to deal with it. The holy trinity of deterrence, punishment and reform made for a complicated task. Ideological perceptions of criminal ‘reform’ were themselves fragile and unstable. The contemporary debates of penology produced competing theories.

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1644 This remains germane for the present day. Crime and punishment remain one of the perennial social and political ‘problems.’ For example, in the Guardian Weekly, 15-21 April 2004, Derek Brown reported that British prison authorities are today facing over-crowding. According to the report, there are more people in custody (75, 544) than there are prison places (75, 437). See also C. Strange ‘Epilogue’ in A. Bashford & C. Strange (eds.), (2003), op. cit., pp 222-23.
of incarceration or transportation, assignment or probation, separation or silence. These debates occupied a critical place in the moral and social discourses of nineteenth century British society and, by extension, colonial Australia. They formed part of a fractured and uneven cultural landscape that was characterised less by the onward march of innovative progress, and more by the uneven developments of hesitant and often conflicting politics of penal practice.

Colonial Australia occupied a unique place within the wider imperial process. Here, the ‘tensions of empire’ were explicitly shaped and produced by the convict, colonial and imperial dynamics of antipodean society. The relation between these three encounters was often competing, yet also intertwined, and this set the tone of colonial society and shaped the meanings of its social, cultural and political parameters. This thesis has been a study of disjunctures and oppositions, but also one of transgressions and permeations. The intersecting rhetorics of penal and colonial discourses produced many contradictions and complexities. These tensions inextricably woven their way through many dimensions of the wider social and cultural fabric of colonial society, where neither government officials nor the bourgeois ‘respectable’ classes were all powerful. They were played out in the debates over convict or immigrant labour and the continuation of transportation or the promotion of free colonisation. They were manifest in the political, cultural and moral divisions that emerged between the ‘artificial groupings’ of the ‘emancipists’ and the ‘exclusives.’\textsuperscript{1645} Yet the mapping of constructed categories drew contours and boundaries that might be crossed. Following the cessation of direct transportation to New South Wales in 1840, the desire for respectable colonial status was continually faced with the possibility, threat, or temptation - depending on point of view - of the renewal of transportation. Cheap labour was sometimes desired and welcomed in the colonial community. This desire oscillated according to the individual political and financial circumstances of the colonists. In 1850 colonists who supported the renewal of transportation to New South Wales were labeled by their opponents ‘the pollutionists’. The endurance of the mythological convict ‘stain’ was embraced or denied according to

circumstance. Perceptions of the colony as a distinct and social community were galvanized through the shaping influence of the colonial press. Yet the press too was often divided on the important issues of the day, and it was here where the divisions of society were daily played out. Gender relations and the importance of women and familial social relations were fundamental requisites to bourgeois perceptions of social order and moral respectability. This was perhaps the issue around which the free ‘respectable’ community was the most united. Incessant appeals to ‘bring out the wives’ and to civilise the community with more women informed colonial discourse for the entire period of imperial transportation. As we have seen, the colonists were often thwarted by political circumstances that were not of their making. Yet colonial agency was also, at times, productive and powerful.

What is striking about colonial Australia is the extent to which male sexuality intersected so many different concerns. Moral fears infused the politics and practice of transportation. Sexuality informed perceptions of criminality and delinquency and this, in turn, specifically shaped the administration of the convict system. Within the discourses and imaginings of respectable bourgeois civility, ideas of sexual morality shaped and defined the classing process. Colonial society was obsessed with reputations, with behavioural propriety and with the construction of defensive borders and boundaries. Morality and sexuality established the contours around social norms and the proprieties of acceptable behaviour. The enemy of respectability was the sexualised convict ‘other.’ At another level, colourful sexual rhetorics pervaded political discourses and the metaphors of protest that cut across the metropole and the colony. Through these linguistic tactics, colonists appealed to moral reputations and imperial responsibilities. Together with the scandalous invocation of ‘silence’ and its particular symbolising lexicon, these colonial discourses revealed the political power of sexual discourse, representation and cultural imaginings. This, in turn, shaped and informed the relationship between the core and the periphery. Beneath the political layers of discourse and rhetoric, male sexuality and its imaginings lay deep at the heart of colonial society.
Future Trajectories

The most interesting and ambitious efforts to rethink Australian history from its convict ‘bottom up’ (no pun intended) have been made by feminist and cultural historians, who have transformed our understandings of the convict experience and its encounter with the colonial ruling authorities. This scholarship has provided a basis for new investigations into the social and ideological underpinnings of penal policy and administration, and the complex interplay between aims and actions, rhetoric and reality. Reading the body, hearing the convict voice, exploring the small moments of resistance and resilience have profound and important meanings in the examination, but also in the problematisation of the power dynamics of colonial society. They have further implications for our understanding of the history of crime and punishment, the construction of deviancy and the classed meanings of these processes. The insights of social history, post colonial studies and literary theory will continue to offer new readings to the historical meanings of class, crime and colonialism. Yet many avenues remain unexplored. The history of sexuality must be a serious contender in the future direction of colonial history. I will conclude this thesis with some suggestions for what route this may follow.

Eighteenth-century and Georgian constructions of gender, sex and sodomy have been extensively researched.\textsuperscript{1646} Recent historical scholarship has highlighted the 1860s to be a crucial decade in the emergence of medical theories of sex, later culminating in the science of sexology and the emergence of modern sexual taxonomies.\textsuperscript{1647} In between, we have a relatively barren and silent gap for the first fifty years of the nineteenth century. The scandals of Lord Byron and the British Navy are perhaps the exceptions.\textsuperscript{1648}


\textsuperscript{1648} See A. N. Gilbert (1974), op. cit.; A. N. Gilbert, (1976), op. cit.,
Yet it was precisely during the years of imperial transportation that the Georgian idea of the third sex and the sodomite gave way to a particular and idiosyncratic medicalised ‘type’ of moral deviant. It was also during these years that institutionalisation increasingly came to house the lower orders. It was in the prison, the workhouse, the orphanage and the reformatory that the slow encroachment of medical knowledge and surveillance produced a plethora of observations on the habits, behaviours and inclinations of incarcerated bodies. More particularly, in the microcosm of the penal colonies, the observations made on male convicts suggest a rethinking in the historical mapping of ‘deviant’ sexualities.

The idea that deviancy was written on the criminal body was often commented upon by contemporary social observers. It was later examined by practitioners of phrenology who linked the dimensions and measurements of the skull and the jaw-line to produce new theories of criminality as a mental and moral process. Historians have not fully explored the cultural construction of the criminal in this period and the links that were made between somatic and sexual deviancy. These ideas have tended to be associated with the later medical emergence of a particular ‘type’ of sexual deviant, notably the ‘emaciated middle-class masturbator’ and, the ‘effeminate invert.’ Certainly it was not until the late nineteenth century that new medical understandings of sexuality emerged, yet convict historians must engage with contemporary perceptions of a somatic ‘criminal type’ and the sexualised meanings that were constructed within it.

Convict and colonial records are permeated with scientific or, at the very least, pseudo-scientific ideas that correlated body types to particular criminal behaviours and sexual practices. There is an important link here between the observations made by penal and other institutional authorities, with the later emergence of ‘scientific’ theories of

1649 See D. de Giustino, (1975), op. cit.
1651 Kay Daniels is the exception. Her analysis of the role of the medical authorities in the female factories of Van Diemen’s Land suggested that colonial medical officers made important observations on female deviancy and sexuality long before the later works of Ellis and Lombroso. See K. Daniels, (1998), op. cit., pp 177-83.
sexuality. The role of the medical authorities in the penal colonies forces a shift in the dating process, back to earlier observations that were made on convict bodies. Certainly, the medical inspection of male convicts for signs of sexual disease was crude and elementary. Yet the idea that sexual deviancy might be located both within and upon the body was established long before medical theorists of the mid to late nineteenth century warned against the ‘evils’ of same-sex behaviour, masturbation and ‘degeneracy.’

Flogging has long featured as a critical component of convict historiography. There is scope here for further explorations in the cultural and moral meanings of flogging. The links between this practice as a psychological ‘emasculisation’ and a physical ‘rape’ have been made. These processes have been placed within the context of a masculine hierarchical power dynamic, and the brutal and repressive context of penal punishment. But what of a further examination of flogging in terms of its sexual meanings? Not the perverse and the sadistic, but rather the links that many contemporaries made between flogging and ‘unnatural vice’, and the ways that the punishment intertwined with perceptions of further criminal demoralisation, brutality and ‘degeneracy.’ A consideration of the debates that surrounded the abolition of flogging in the penal and the military context, and the sexual and moral meanings discursively conveyed in this process, would widen our understanding of the practice. We need to locate flogging away from the paradigms of punishment alone, and frame it within the wider cultural context. This adds a further layer to the moral meanings of, and the anxieties produced by flogging. It suggests a new understanding and a new reading of flogging - both for its place within the disciplinary systems of slavery, convict society, the military and indeed within the wider criminal justice system – but also for its meanings in the cultural and historical construction of ‘deviancy’, ‘criminality’ and sexuality.

The dynamics of childhood, youth and adolescence is a further and productive site for future historical analysis. Contemporaries were divided in their constructions of the different categories of youth, and historians have inherited the complexities that were

produced by this. Yet the histories of childhood intersect with the histories of crime, class and sexuality in profound and important ways. Children and youth explicitly reveal contemporary ideas that underscored both crime and sexuality as taught and behavioural imitative processes. Contemporary ideas of puberty and adolescence, but also childhood itself, were perceived through a sexual lens that confused the classifications of age, moral culpability and agency. In the penal context, the presence of youths highlighted in microcosm the many tensions that were generated by age, by penal practice and by the moral ambiguities their treatment there produced. Within the wider moral and cultural landscape of the nineteenth century, many anxieties surrounded children. They occupied a central place in the classing process, but they also threatened to rupture its moral certainties. Historians must continue to engage with these complexities and confusions. In our quest to understand how the mapping and ordering and imaginings of the adult bourgeois world sought certainty and stability, we need to explore how this also produced profound ambivalence and many tensions. These tensions lay beneath many discourses that were central to the cultural meanings of the nineteenth century. They informed contemporary perceptions in both real and imaginative ways, ways that also and often went above, and far beyond, empire.
Appendices

Appendix A

‘Return showing the numbers of Huts, Separate Apartments and Solitary Cells’, 30 April 1848, in BPP, C & P, T, vol 9, 1849, p 258.

Appendix B

Letter from John Price to Comptroller-General Hampton, 17 March 1847, in Tasmanian Papers, 94/95, (ML.)

Appendix C

Aaron Price, Diary entry 11 February, 1847, in CY 880, (ML.)

Appendix D

Aaron Price, Diary entry 4 January, 1847, in CY 880, (ML.)
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