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Peter N. Grabosky

Sydney in ferment

Crime, dissent and official reaction

1788 to 1973

Australian National University Press
Canberra 1977
TO MY PARENTS
ACKNOWLEDGMENTS

This book could not have been written without the encouragement and assistance of scores of people on two continents. Ted Robert Gurr and Louis H. Masotti invited me to join them in undertaking a comparative historical study of public order in London, Stockholm, Calcutta, and Sydney, and provided me with financial and intellectual support at every stage of my work. The project was sponsored by the Center for the Study of Crime and Delinquency of the National Institute of Mental Health, U.S. Department of Health, Education, and Welfare (grant number MH21204).

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Most of the credit for the pages which follow must be shared with the above individuals. Any errors of fact or interpretation remain the responsibility of the author.

Burlington, Vermont, 1975

P.N.G.
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INTRODUCTION

While crime may appear to be a ubiquitous and enduring social phenomenon, it has not always been so. Members of smaller and more primitive social systems, when confronted with 'undesirable' behaviour, tended to respond with ostracism or private retribution. Only as human aggregates grew larger and more complex has one seen the emergence of formal institutional proscription of certain behaviours, and the threat of official negative sanctions confronting prospective transgressors.

The phenomenon of crime is both dynamic and subjective. To be sure, specific forms of human behaviour appear to have been universally proscribed for centuries. Nevertheless, observers of social deviance can attest to the fact that changing norms of society and changing forms of behaviour have interacted to produce variations in the labelling of a given set of acts as 'criminal'. Those acts which are perceived by dominant members of society as constituting a challenge to their values are defined as 'crimes', and formal proscriptions change according to the interrelationship of current social values and behaviour.

Cities provide a particularly worthwhile setting for the study of crime, for the rich complexity of urban social organisation is accompanied by an unparalleled diversity of human activity. Thus the city, as the very core of modern society, constitutes the focal point of the conflict of norms and behaviours which circumscribes the definitional aspect of criminality. Indeed, the social dimensions of urban growth, the increase over time in the size, density, and heterogeneity of a city's population, provide an ideal background for a historical study of public order.

In the pages which follow an attempt has been made to trace the evolution of criminality and official reaction over the course of Sydney's history. Sydney has by no means been a typical urban place. Founded as a penal settlement, its population growth has been attributable more to overseas migration than to domestic urban drift. Moreover, the city has not experienced the kind of massive disorder and turmoil which has characterised other metropolitan areas of comparable size. Historically, its population has been relatively homogeneous; even today, its racial and ethnic homogeneity is greater than that of most western cities. But for some of these same reasons, Sydney provides an inviting setting for the historical study of a criminal justice system. In the course of its evolution from prison camp to advanced industrial metropolis, Sydney has been the scene of marked changes in political and social structure, changes which have been more pronounced than were similar trends in other cities, both in Australia and overseas.

The fact that criminality is socially defined and prosecuted renders objective assessment of historical patterns difficult. Rather than pretending to map changes in actual levels of crime, this study seeks to portray fluctuations in criminal behaviour as conceived and reported
within an evolving matrix of social, economic, and political circumstances. As such, it has been possible to discern with some degree of objectivity the amount of concern which contemporary policy makers have invested in matters of public order over the years. It would, in addition, be impossible to limit the focus of the study to the city of Sydney in vacuo. The pattern of Sydney's growth has been such that the city remains inextricably bound with its carrying society; this consideration is of course underscored by the traditionally centralised structure of New South Wales government. To the extent that it has been possible, however, the study has focused on Australia's oldest and largest metropolitan area.

Justifications for the present undertaking are numerous. Urban history remains a relatively undeveloped field of inquiry; its significance in such a highly urbanised society as exists in Australia is obvious. Moreover, the long-term evolution of criminal justice systems has been as neglected in Australia as it has throughout the world. While Australian historians and criminologists have made significant microanalytic contributions to the study of criminality and official reaction in the urban setting, there exist no studies which focus on general aspects of criminal justice over the course of Australian history.

The organisation of the following narrative history is relatively simple. The study begins with a brief history of Sydney's urban growth, set against the background of contemporary changes in levels of reported crime, political dissidence, and developments of police, judicial, and penal institutions. There follows a chapter which delineates the availability of relevant statistical material, then describes the long-term trends in the reported incidence of crime and civil strife from the original European settlement at Sydney Cove until the end of 1972. Chapters 3 through 12 describe successive periods in Sydney's history, as distinguished by short-term changes in the apparent incidence of crime and turmoil or by significant structural changes in the New South Wales political system. In each of these chapters, the nature and dimensions of contemporary disorder are discussed, as are the attending demographic and economic conditions. The extent to which criminality appears to have been influenced by population growth, immigration, and increasing ethnic heterogeneity is noted here, as are the apparent effects of short-term fluctuations in the level of material well being and changes in the structure of the economic system. A significant portion of each chapter is then devoted to the views of the government officials and more affluent members of society in general towards contemporary criminal and dissident activity. Concern here rests with the antecedents and consequences of these orientations: the extent to which these views were conditioned by political and economic interests, and the degree to
which they were translated into modifications of the criminal law, police, and penal systems. Finally, an attempt is made in each chapter to map the impacts of those modifications which were implemented, and to assess the effect of crime control strategies on the disorders of the times. The final chapter seeks to generalise from the historical narrative, and to delineate any consistent relational patterns between the various phenomena under consideration. Where possible, the verbal explanations are complemented by statistical analyses. The chapter concludes with a brief speculation on the future of disorder and official reaction in New South Wales.

This study has been necessarily selective, as an exhaustive account of each of the themes in question would fill many volumes. The paucity of references to 'white collar crime' reflects no bias on the part of the author, but rather the traditional preoccupation of public officials in New South Wales with conventional street crime. It is hoped that the book will serve to integrate previously neglected material with existing work on the various aspects of criminal justice in New South Wales, and to sound the first call for scholars who seek to undertake more intensive scrutiny of institutions, social processes, or historical periods.
Growth of the City

A history of public order in Sydney must focus first on the city of London, for it was there that the original direction of Sydney's history was mapped. Social conditions in London during the late eighteenth century have been discussed extensively elsewhere; suffice it to say at this point that by 1786 a substantial increase in criminal behaviour had aroused the anxieties and antagonisms of the dominant segments of British society. Prisons were packed to overcrowding, a situation aggravated by the recent loss of the American colonies to which thousands of convicts had previously been transported. The House of Commons, having decided in 1784 to renew transportation, called upon the Home Office to select a site.

A number of alternative locations for the transportation of convicts were considered, among them Canada, the West Indies, and the west coast of Africa. Based on the recommendation of the late Captain Cook, who had explored the site in 1770, the Home Secretary, Lord Sydney, selected Botany Bay on the east coast of what was then called New Holland.  

Arthur Phillip, a retired naval officer, was chosen to found the colony; he and his fleet set sail from England in May of 1787. Soon after Phillip and his party arrived at Botany Bay in January 1788, it became evident that the location was far from desirable for a settlement. In an effort to locate a setting preferable to the swampy terrain, devoid of a fresh water supply, Phillip set out northward; a short distance up the coast he passed between two massive heads and into an immense protected harbour. Phillip ultimately selected a small cove at the mouth of a fresh water stream, where the bulk of his 700 convicts and 200 marines landed on 26 January 1788 and succeeding days. He chose to call it Sydney Cove, in honour of the Home Secretary; the colony as a whole had been given the name of New South Wales by Captain Cook in 1770.

Sydney in its embryonic state could hardly be described as a city; it was a military encampment in a beautiful but very wild natural setting. Tents were soon replaced by huts. There were attempts at cultivation, and a bullock track formed the path of what was later to become George Street. Those convicts who, after a rather tiring voyage, were well enough to work were engaged in whatever tasks needed performing, from clearing land and building to taking part in hunting and exploring expeditions.
The settlement was to retain the appearance of a military camp for some time to come. The convict population increased, and the military and administrative infrastructure necessary for organisation and control grew, but at a lesser rate.

The early days at Sydney Cove were austere. The climate was unpredictable, the soil not very fertile. The convicts, most of whom were originally from towns and cities, were largely ignorant of agricultural technique, and went about their work with an understandable lack of enthusiasm. Members of the marine detachment undertook non-military
tasks with extreme reluctance. By July of 1788, Phillip had written to London requesting that migration to the colony by free settlers be encouraged. Such a combination of social and environmental factors brought about near-famine conditions by 1790. Another two years would pass before the colony could sustain itself independently of supplies from England.

Over six thousand convicts had landed at Sydney by the end of the eighteenth century; most were lower class Englishmen who had been convicted of burglary, larceny, or other offences against property. A number of Irish convicts were also transported for similar property offences or for crimes of protest against British rule.

The colony's economic foundation was established in the twelve years following the landing at Sydney Cove; in addition to what Sean Glynn has termed an 'invisible export commodity', gaol services, timber from the mainland and from Norfolk Island provided materials for construction in the colony and became its first major 'visible' export. Even more significant was the contribution of the enterprising John Macarthur, whose early experiments with sheep breeding were to lead to the emergence of the wool industry.

To encourage agricultural productivity, the early governors granted land generously. A system of assigning convicts as servants to free settlers and officers became institutionalised in 1804 but even before that time, convict labour could be obtained at minimal expense. Meanwhile, enterprising officers of the New South Wales Corps (a unit specially recruited for service in the colony which replaced the marine detachment in 1792) were able to monopolise imports to the colony and thus amass considerable wealth.

While the early governors of New South Wales had been invested with almost absolute authority, they were somewhat less than omnipotent. Home Secretaries, ever intent on minimising the expense of the new colony, determined the number and frequency of convict arrivals and were generous in their imposition of budgetary constraints. Members of the military establishment, which gradually evolved into a commercial establishment, were able to protect their interests to a considerable extent, even in the face of the governor's opposition.

While the incidence of criminal behaviour during the early days of the settlement may not be assessed with precision, certain impressions can be gleaned from existing records. By far the most prevalent among serious crimes were various forms of theft. Stealing provisions from public stores was most common during periods of drought when rations were reduced. Otherwise, stealing from farms and dwelling houses appears to have been the modal form of unlawful appropriation. Records from the original Court of Criminal Jurisdiction refer to occa-
Map 1.2 The settlement at Sydney, c. 1802. Source: Library of New South Wales.
sional cases of murder, rape, and assault, but these are decidedly out-numbered by offences against property. Incomplete records suggest that during the closing years of the eighteenth century, three out of every four serious crimes were of an acquisitive nature, while less than 15 per cent involved violence against the person. Only about 5 per cent of the offences constituted transgressions of sexual morality.

It would, of course, be gravely erroneous to describe the early settlement as otherwise peaceful. Attacks on and by the Aboriginal population were frequent at first, dropping off temporarily as the Aborigines withdrew to the then unsettled areas. Otherwise, most of the violence was directed against the prisoners by the authorities, and thus lay beyond the definitional boundaries of criminality.

Sexual behaviour in the settlement was relatively unrestrained, limited primarily by the dearth of women. Only a handful of wives accompanied members of the garrison, and the few female convicts who arrived in the early years turned to prostitution or were taken as concubines. More than one governor was to complain of his subjects’ debauchery, and Governor King himself is alleged to have fathered two sons by a convict mistress.7

The scarcity of females and the general austerity of life in an outpost at the end of the earth led Sydney’s early residents to seek other diversions. One of the most characteristic forms of disorderly behaviour during the early days was drunkenness. By the beginning of the nineteenth century, consumption of spirits had become a colonial institution. The volume of spirits imported legitimately before 1800 totals a staggering 26,974 gallons.8 In addition, it has been reported that smuggling and illicit distillation were rampant. Members of the New South Wales Corps were able to monopolise the liquor trade, resisting the efforts of a succession of governors to suppress the influx of intoxicants. In 1808 a group of officers went so far as to overthrow Governor Bligh, whose energetic efforts to curtail their mercantile excesses had become overly annoying.

As transportation of Irish convicts became more frequent at the turn of the century, their shared awareness of ill treatment at the hands of the British heightened. Many were transported to New South Wales for participating in nationalistic political activity at home, and they became even more intent on obtaining revenge if not liberty in their new setting. In 1804, a group of about 300 Irishmen was involved in an abortive rebellion which was sharply suppressed by a platoon of troops from the garrison. Nine insurgents were killed during the confrontation, eight others were later tried and executed, and upwards of thirty were transported to Coal River (subsequently known as Newcastle) or flogged.9
The town of Sydney underwent impressive change during the administration of Governor Macquarie (1810-21), change of both a social and an architectural nature. Colonial society had inherited British class distinctions, and these inclinations were reinforced by the colony’s unique status as a penal settlement. Convicts, of course, made up the lowest social stratum. They were present in New South Wales to suffer for their transgressions, to redeem themselves, if possible, and to provide cheap labour. The growing number of emancipists in the colony, those who had served their terms of sentence or who had been pardoned, were also regarded by the free population as inferior. They could, however, enjoy economic freedom if not social equality. Macquarie attempted to bestow dignity on the emancipists, a number of whom had become successful entrepreneurs and farmers. Ironically, his attempts served to harden the biases of more than a few ‘respectable’ members of society, arousing further class antagonisms. Meanwhile, the first sizable generations of native-born New South Welshmen were growing up, thus complicating the aforementioned class distinctions. In 1820, Sydney’s population had reached 8000; convicts made up approximately 30 per cent of this total, and former convicts approximately 25 per cent.

TABLE 1.1

N.S.W. Population 1788-1845
selected demographic aspects

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<thead>
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<th>Year</th>
<th>N.S.W. Population</th>
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<th>% Convict</th>
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<td>1035</td>
<td>78.5</td>
<td>69.2</td>
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<td>1796</td>
<td>4100</td>
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<td>58.2</td>
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<td>1800</td>
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<tr>
<td>1805</td>
<td>6950</td>
<td>68.9</td>
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</tr>
<tr>
<td>1810</td>
<td>10,096</td>
<td>65.5</td>
<td>—</td>
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<tr>
<td>1815</td>
<td>13,116</td>
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<tr>
<td>1820</td>
<td>28,024</td>
<td>70.0</td>
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</tr>
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<td>38,890</td>
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<td>44,588</td>
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<td>71,304</td>
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<td>38.3</td>
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<td>1840</td>
<td>127,468</td>
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<tr>
<td>1845</td>
<td>187,918</td>
<td>60.5</td>
<td>9.0</td>
</tr>
</tbody>
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*Sources: Historical Records of Australia; N.S.W. Colonial Secretary, Returns of the Colony.*
Sydney in Ferment

The establishment of a Legislative Council in 1824 constituted a noteworthy change in the colony's political structure. Although the body acted only in an advisory capacity, its establishment reflected the growing influence of agricultural and commercial interests and heralded a departure from the prevailing autocratic structure of military rule.

An ambitious program of public works was carried out during Macquarie's term, despite pressures from the home government to limit colonial expenditure. Under the direction of Macquarie and the architect Francis Greenway, a former convict, roads and buildings were constructed which provided a much more respectable and less hazardous physical shape to the town. Streets were broadened and made relatively free of obstructions. Paintings from the period reveal pleasant houses and buildings of brick and stone, a landscape dotted with windmills and tall masted ships on the harbour.

But as Sydney's population increased in size, the town began to experience predictable urban problems. Despite rigid prohibitions on waste disposal dating to the turn of the century, the Tank Stream, the major source of water for the town of 10,000, had become a sewer by 1826.

By 1820, Sydney was no longer a town in support of a penal settlement; the penal settlement existed in support of a town, one with an increasingly diversifying economy. Sydney was the capital and administrative centre of a small but growing colony. Whaling and sealing activities were expanding in the South Pacific, and Sydney was situated conveniently proximate to trade routes. Exports of wool exceeded 100,000 lb in 1820, and the grazing industry was on the threshold of explosive growth. Despite the uncertainties of drought and flood, agricultural productivity was impressive.

The striking masculinity of Sydney's population, a fact of life since the founding of the colony, persisted throughout the period. Indeed, the percentage of males in the population of New South Wales increased from 65 per cent in 1810 to 75 per cent in 1830. The increase was largely due to Britain's increasing reliance on New South Wales as a penal colony in the aftermath of the Napoleonic wars. Accordingly the imbalance between the sexes was even greater among the convicts. Throughout the 1820s upwards of 90 per cent of the convict population of New South Wales was male.

While the economy of the colony was sound during most of the period from 1810 to 1830, deprivation was not entirely absent. A Benevolent Society, established in 1813, was able to identify 150 destitute people in the town, the majority of whom appeared to have been infirm with age or chronically ill. In the late 1820s a prolonged drought brought about the colony's first economic contraction in the nineteenth
century. Although not as severe or as widespread as the depressions which were to occur in later years, it marked a temporary end to the boom of the two previous decades.

Offences against property continued to predominate among the most serious forms of criminal behaviour in the years before 1830. Most notorious and colourful among these crimes was that of bushranging, a type of highway robbery which appeared to increase in incidence during the late 1820s. Bushrangers were usually escaped convicts, armed and mounted, who victimised travellers on country roads. Property crime was also prevalent in the town of Sydney itself during the period; writings of the time refer to robberies and housebreaking as not infrequent. In September 1828, the Bank of Australia on George Street was the scene of what appears to have been the first bank robbery in Australian history.

Another form of disorder, at least viewed as such by Governor Darling in the late 1820s, was the strong criticism of his administration by the Sydney press. Darling’s attempts to redefine press criticism as blasphemous and seditious libel were largely unsuccessful, however, as his proposed measures were consistently overruled by authorities in England.11

The years around 1830 were among the most violent in Sydney’s history; as had been the case since Phillip’s landing, however, most of the violence was exercised by the authorities. Hangings in the colony reached a record yearly high of fifty-two in 1829, and floggings were administered by the thousand. Capital punishment was generally awarded to those convicted of burglary, robbery, murder, and rape, while floggings were administered to male convicts for a host of lesser offences, from neglect of work to insubordination.12

Meanwhile, the traditional patterns of heavy drinking continued, as did the sexual behaviour which might be described with delicacy as ‘informal’.

To a greater extent than in any other period, the years from 1830 to 1850 were those during which Australia ‘rode on the sheep’s back’. Wool dominated Sydney’s economy and employment structure; transport, export, and supporting services had long surpassed gaolkeeping as dominant occupations.

The 1830s and 1840s were years of exploration and rural settlement. The vast hinterland attracted increasing numbers of settlers, and new trends in convict management called for the dispersion of convicts throughout rural areas, with the result that by 1840, only 25 per cent of the population of New South Wales resided in Sydney. As land policies evolved increasingly in favour of large holders, however, the trend re-
versed, and Sydney's growing dominance as the population centre of New South Wales has continued for 130 years.\textsuperscript{13}

Transportation to the colony continued at the rate of over 3000 per year during the period 1830-81\textsuperscript{14} but while the convict population was at its largest, it was dispersed; Sydney had lost the image of an urban gaol. Indeed, efforts from within the colony to dispel the image were intensive. In 1831 the government undertook the sponsorship of assisted passage for free immigrants, of whom over 130,000 were to arrive by 1859.\textsuperscript{15} Because of this influx of free migrants, the percentage of convicts in the total population decreased, to the extent that by 1840, less than three New South Welshmen in ten numbered among the convict class.

\textbf{TABLE 1.2}  
\textit{Estimated Proportion of N.S.W. Population Resident in Sydney Metropolitan Area}  
\textit{Selected Years, 1810-1970}

<table>
<thead>
<tr>
<th>Year</th>
<th>Estimated N.S.W. Population</th>
<th>Estimated* Percentage Resident in Sydney</th>
</tr>
</thead>
<tbody>
<tr>
<td>1810</td>
<td>10,096</td>
<td>70</td>
</tr>
<tr>
<td>1820</td>
<td>28,024</td>
<td>27</td>
</tr>
<tr>
<td>1825</td>
<td>38,313</td>
<td>29</td>
</tr>
<tr>
<td>1833</td>
<td>62,112</td>
<td>26</td>
</tr>
<tr>
<td>1841</td>
<td>145,303</td>
<td>25</td>
</tr>
<tr>
<td>\textsuperscript{†}1851</td>
<td>197,265</td>
<td>27</td>
</tr>
<tr>
<td>1856</td>
<td>288,361</td>
<td>24</td>
</tr>
<tr>
<td>\textsuperscript{†}1860</td>
<td>348,546</td>
<td>27</td>
</tr>
<tr>
<td>1870</td>
<td>497,992</td>
<td>27</td>
</tr>
<tr>
<td>1881</td>
<td>777,025</td>
<td>31</td>
</tr>
<tr>
<td>1891</td>
<td>1,153,170</td>
<td>35</td>
</tr>
<tr>
<td>1901</td>
<td>1,375,455</td>
<td>36</td>
</tr>
<tr>
<td>\textsuperscript{†}1911</td>
<td>1,699,376</td>
<td>39</td>
</tr>
<tr>
<td>\textsuperscript{†}1921</td>
<td>2,131,690</td>
<td>42</td>
</tr>
<tr>
<td>1931</td>
<td>2,566,314</td>
<td>47</td>
</tr>
<tr>
<td>1941</td>
<td>2,813,056</td>
<td>47</td>
</tr>
<tr>
<td>1954</td>
<td>3,462,313</td>
<td>54</td>
</tr>
<tr>
<td>1961</td>
<td>3,917,013</td>
<td>56</td>
</tr>
<tr>
<td>1970</td>
<td>4,563,252</td>
<td>60</td>
</tr>
</tbody>
</table>

*Figures earlier than 1841 refer specifically to Sydney Town. Subsequent figures refer to metropolitan area; boundaries of metropolitan area expanded periodically throughout the twentieth century.

\textsuperscript{†}Victoria separated from N.S.W. 1851, Queensland separated 1859, Australian Capital Territory separated 1911, Jervis Bay area separated 1916.

Sources: \textit{Historical Records of Australia}; N.S.W. Colonial Secretary, \textit{Returns of the Colony}; N.S.W. Statistical Register; \textit{Official Year Book of N.S.W.}
In the 1830s the land on the immediate fringe of the town was subdivided and became Sydney's first suburbs. While their boundaries, for certain administrative reasons, have remained distinct from those of Sydney proper, the neighbourhoods of Woolloomooloo and Paddington to the east; Surry Hills, Redfern, and Newtown to the south; and Pyrmont and Glebe to the west, would become very much a part of the inner city by the end of the century.

The port had become a busy one; one hundred vessels were registered in Sydney in 1834. As is typical of many seaports, Sydney had its unsavoury waterfront area — the Rocks. Situated on rocky terrain just west of Sydney Cove, the Rocks area was Sydney's first slum; it was notorious throughout most of the century for its grog shops, gambling dens, and brothels.

The emancipist-free settler distinction continued to provide a source of tension in the colony. Assisted passage for free immigrants reduced the necessity to rely on convict labour, however, and free New South Welshmen came to regard transportation as increasingly burdensome; it detracted from both pride and security. Few were disappointed, then, when the Home Government decided to end transportation in 1840.
Sydney in Ferment

With its incorporation in 1842, Sydney’s status as a city had become official. Other events tended to support this elevation in fact as well as in law: the population of the city and suburbs was close to 40,000, and gas lighting had been introduced in 1841. As the decade ended, the Herald called attention to the crying need for sewers. Visitors were struck with the ‘Englishness’ of the city, and aside from the climate, found it reminiscent of Brighton or Plymouth.

By the end of the 1830s, commerce in New South Wales had expanded rapidly. Investment from abroad was plentiful, thus enabling further subsidy of assisted migration. In turn, the availability of labour encouraged further investment. The optimism of the late 1830s was, however, shortlived. Rampant speculation and easy extension of credit were checked by a contraction of the money market in 1840. Drought conditions drastically curtailed agricultural and pastoral productivity. By 1843, a drop in wool prices and a general financial crisis brought the rich to bankruptcy and the poor to destitution. Indeed, wool prices had declined to such an extent that large flocks could no longer be supported. Sheep were boiled down by the thousand for tallow, but exports of this commodity helped alleviate financial difficulties only to a very small extent.

Politically, however, 1843 could be regarded as a year of progress. Elections to the Legislative Council were held for the first time, although franchise was limited. While the governor was to remain the paramount figure, this extension of the franchise marked a significant departure from the old days of the colony as a military prison. The stage was thus set for the attainment of responsible government in 1856.

The apparent incidence of criminal behaviour fluctuated substantially during the period 1830-50. As transportation increased during the 1830s, convict supervision and management became more difficult. Brutal floggings were liberally awarded for such offences as insubordination and neglect of work. By 1835, absconding had become a serious problem.

In the late 1830s, bushranging had become less prevalent in the rural areas, and Sydney was relatively calm. A massacre of Aborigines had taken place at Myall Creek in 1838, and seven of the offenders, white station hands, were executed in Sydney in December of that year. The incidence of most other kinds of crime appears to have been relatively low.

Following the cessation of transportation to New South Wales in 1840, the level of state inflicted violence declined precipitously. Hangings in the colony averaged fewer than eight per year during the 1840s, compared with an average of over 28 per year during the previous decade. With the end of the convict era, flogging quickly fell into disuse.
The most violent period in Australian history had ended. When wages were high before the financial contraction of the 1840s, life in Sydney was sufficiently attractive for increasing numbers of seamen choosing to jump ship in hopes of finding more rewarding occupations ashore. At one point, masters of vessels offered to help subsidise a water police force to reduce the rate of desertion. Growing economic
difficulties were accompanied by alterations in this pattern, however. As the wage and employment picture grew dimmer, desertions fell off markedly but other forms of disorderly activity appeared to increase. The Cabbage Tree Mob, a group of young males who appeared to devote considerable energy to insulting or otherwise harassing 'respectable' people in Sydney, emerged as the first 'delinquent' gang. In addition, public enthusiasm during the 1843 elections was such that activities were interrupted by a riot.

The occurrence of two grisly murders in 1843 and the apparent increase in the incidence of offences against persons and property in Sydney aroused considerable public insecurity. A petition presented on behalf of 682 citizens moved the Legislative Council to appoint a Select Committee to investigate the conditions of crime; by the time its report was tabled, however, life in the city had become more tranquil.

Meanwhile, the tradition of intemperance remained strong. Governor Gipps, in his report on the general state of New South Wales in 1840, related that, 'Drunkenness, the fruitful parent of every species of crime, is still the prevailing vice of the Colony'.

By 1850, Sydney's population exceeded 50,000. In that year, the University of Sydney was incorporated, to be inaugurated two years later as the first university in Australia. The university was to become a source of great civic pride, symbolic of the city's progress since the uncomfortable days of the convict era. It was established as a secular university, which displeased many, but with well over a quarter of Sydney's population Roman Catholic, the decision doubtless averted more discontent than it generated.

Meanwhile, the announcement of the discovery of gold in central New South Wales in 1851 was to have both a sudden impact and a lasting influence on the city. The pace of everyday activity quickened perceptibly; many native Sydneysiders left their homes and employment and headed west in search of the big strike. As stories of easily made fortunes reached the world, thousands of adventurers made their way to Australia, passing through Sydney en route to the gold fields.

Another consequence of the attraction of the gold fields was a substantial labour shortage in the metropolitan area. Wages reached unprecedented levels, and the general level of affluence was in clear contrast with the hard times of a decade earlier. Families without breadwinners were, however, destitute as a result of the rampant inflation of the day.

By the early 1860s the boom had ended; the condition of the working classes in Sydney was sufficiently deprived for a governmental inquiry to be undertaken. The report revealed widespread unemployment, squalid housing conditions, and streets 'infested' with vagrant or neglected children. Noting the high death rates among adult and child
populations alike, the report referred to a 'gradual process of human slaughter that is silently going on'.

The Great Hall of Sydney University, completed in 1859, heralded the progress to be made in education. The Education Act of 1867 provided for compulsory primary education in the colony. Its enactment was timely, for as men returned from the gold fields in the late 1850s and began establishing families, the birth rate rose considerably.

Population growth, stimulated by the gold rush, was strong and steady. While close to 54,000 people inhabited Sydney and its suburbs in 1851, the total grew to 96,000 a decade later and 137,000 by 1871. The population of rural New South Wales increased, but Sydney’s rate of increase was proportionally greater.

The sex structure of Sydney’s population also underwent significant change during the gold rush years. Men were actually underrepresented in the city during the late 1850s. While the statistical masculinity of the colony’s population was to decrease only gradually throughout the century, the population of the Sydney metropolitan area remained relatively balanced.

The general pattern of Sydney’s urban growth had become readily apparent by 1870, marking a drastic departure from previous trends in Western urbanisation. While the development of European cities has been largely attributable to industrialisation and migration from rural areas, Sydney grew in advance of both industrial activity, and rural settlement. Aside from the late 1850s and early 1860s, during the drift back to the city from the gold fields, Sydney’s population increase during the nineteenth century may be attributed almost entirely to overseas migration and natural increase.

The other striking characteristic of urbanisation in New South Wales, as noted earlier, has been the overwhelming concentration of its population in the capital city. This imbalance in population distribution between the metropolis and a vast, empty hinterland is very typical of Australian urban development. While numerous attempts have been made to account for Sydney’s demographic dominance, there exists no one simple explanation; Glynn has offered some eminently plausible suggestions. Access to the hinterland was, in the early days of settlement, somewhat limited; it was not until 1814 that a path across the Blue Mountains was found. The dominance and capital intensive nature of the grazing industry in the first half of the nineteenth century militated against widespread rural settlement. This tendency was enhanced by land policies later in the century which favoured large holdings. In addition, most of the migrants to New South Wales had been urban dwellers before their arrival; they found Sydney a familiar, more attractive setting than the bush and chose to remain in the city. These
Sydney in Ferment

influences were reinforced as Sydney grew, providing a greater range of employment, educational, and cultural opportunities which increasingly outweighed those of the hinterland.

The two decades following the gold rush were regarded as relatively free of crime, although various forms of disorder were visible periodically. The New Year’s riot of 1850 reflected little more than the exuberance of Sydney’s young male population and the inadequacy of her police force. More ‘respectable’ members of society again became sensitive to juvenile excesses, and continued to express concern throughout the early 1850s.

The freewheeling years of the gold rush were accompanied by an apparent increase in drunkenness. By 1854, authorities were complaining of an alarming increase in intemperance since the discovery of gold. While the problem of widespread public drunkenness abated during the relatively austere years of the early 1860s, it was replaced by other forms of disorder. The presence of girls under 16 years of age working as prostitutes in Sydney was noted in 1860 by the Select Committee investigating the condition of the working classes. Shortly after the Committee’s report, with its recommendations for improvements in health and housing, and employment on public works projects, was rejected by the Legislative Assembly, a group of protesting unemployed workers were involved in a minor riot resulting in numerous injuries and arrests.

As the gold fields became exhausted and prospectors’ frustrations increased, the summer of 1860-1 saw numerous attacks on Chinese at Lambing Flat. While these attacks took place at some distance from Sydney, their historical significance in light of future Australian race relations was considerable.

Antagonisms between Protestants and Catholics, somewhat relaxed since the convict era, were heightened in 1868 when an alleged Fenian named O’Farrell shot and wounded the visiting Duke of Edinburgh. Fears of another Irish uprising were unfounded, however, and although the ethnic and religious differences remained conspicuous through the end of the century, there was an absence of political violence.

Unprecedented construction and metropolitan expansion characterised the last thirty years of the nineteenth century in Sydney. During the 1870s the advent of horse drawn trams and omnibuses and improved ferry services permitted suburban development to the extent that the population of the suburbs surpassed that of the city for the first time. Steam powered trams began to replace the horse drawn vehicles in 1850; by the turn of the century, there were close to 100 miles of tramways in the metropolitan area.

The 1880s were prosperous times in Sydney. While thousands of
narrow, two storey terraced houses were erected in such inner suburbs as Woolloomooloo, Glebe, and Paddington, general prosperity and new transport facilities encouraged a further building boom in such newly subdivided areas as Alexandria and Brighton to the south and St Leonards across the harbour to the north. E. C. Fry states that 600 builders and 100 architects were active in Sydney in 1888. In that year, the population of the expanding metropolis was just under 350,000.

While primary production continued to dominate the economy of New South Wales, construction and light industry had increased markedly. Factory employment in the metropolitan area reached 26,000 by 1888, almost double the total of a decade earlier.

One technological innovation destined to contribute greatly to Sydney's affluence was the advent of refrigerated shipping. Having experimented with various techniques throughout the 1870s, Thomas Mort succeeded in sending a shipment of frozen lamb from Sydney to London in 1879. The export potential generated by this development was enormous; it served to stimulate massive investment and further underscored the importance of Sydney as a maritime centre.

Despite the unprecedented affluence enjoyed by so many in Sydney, there were more than a few who experienced privation. Streets in the poorer neighbourhoods of the metropolitan area were dirty and neglected; houses were cramped, badly ventilated, and poorly lit. James, writing in the late 1870s, spoke of common lodging houses accommodating over seventy people in six small rooms. Parks and recreation areas were noticeably few. The dedication of Centennial Park in 1888 helped alleviate the problem somewhat, but its location favoured residents of the eastern suburbs.

Antagonism towards non-white races had been a fact of life in the colony since the founding. Anti-Chinese sentiment was particularly strong within the working class, whose members feared that unrestricted Chinese immigration would result in an invasion of coolie labour; public protest in support of Chinese exclusion was not infrequent. With the enactment by the New South Wales Parliament of the Chinese Restriction and Regulation Act of 1888, migration and naturalisation of Chinese virtually ceased.

While there was very little opposition to the exclusion of Chinese, a much graver situation of political and social strain was heralded by the emergence of industrial conflict. As commerce and industry thrived in New South Wales during the 1870s and 1880s, so too did the trade union movement. While labour-management relations existed in an atmosphere of cordiality unparalleled in Europe or America, workers became increasingly aware of the powers inherent in organisation and of the improvements in working conditions which could be gained by
trade union action. The maritime strike of 1890 marked a great social fracture. It began a chronic labour-management struggle which was to erupt periodically in Sydney during the following 60 years, with profound effects on both politics and public order.

Tied as it was to the fiscal fortunes of Europe, the economy of the colony was exceedingly vulnerable to fluctuations abroad. In 1892, a crisis in international finance moved overseas investors to turn away from Australia; the flow of capital which had sustained the boom years before 1890 thus disappeared. In addition, the aforementioned rapid expansion in housing construction and suburban subdivision resulted in an oversupply of houses and a collapse of the market, further aggravating economic difficulties.

The 1880s, for all their prosperity, were disorderly times. Arrests for drunkenness increased annually at a steep rate. Public outrage at disorderly behaviour by young males was strikingly vocal; 'larrikinism', the expression used to refer to a range of youthful activity from loitering and insulting language, to occasional attacks on police, appeared rampant. Among the more serious crimes to capture public attention and to offend Victorian sensibilities was that of rape. The offence was punishable by death in New South Wales at the time; two of the more famous rape trials in Sydney's history, the Mt Rennie and Büttner cases, were accorded widespread press coverage and provoked heated public debate.

Although their numbers were dwindling and did not exceed 3500, the Chinese of Sydney continued to attract the attentions and antagonisms of the Anglo-Saxon majority. Alleged gambling, opium smoking, and white slavery on the part of the Chinese led to the appointment of a Royal Commission in 1891. While the Commission found little evidence to support the popular suspicions, the Chinese, ironically, appeared to have been overrepresented among victims of assault during the period.28

The Great Strike of 1890 was the occasion for one of the largest collective protests in Sydney's 100-year history. Ten thousand strikers and sympathisers assembled on Circular Quay to protest against the handling of non-union wool. Although the Riot Act was read, only a handful of arrests and injuries were reported;29 future conflicts between labour and management were to be less benign.

As the health of New South Welshmen improved towards the turn of the century and infant mortality declined, the incidence of infanticide and child abandonment showed an apparent increase. Enterprising persons were known to take charge of unwanted children in return for weekly or lump sum payment; neglect, even starvation of the children was not infrequent. The practice was known as 'baby farming'.
Sydney began the twentieth century with a somewhat inauspicious outbreak of bubonic plague. The epidemic, in March of 1900, claimed 112 lives and provided the incentive for a small but historic urban renewal project. That area of the Rocks closest to Darling Harbour was found to be rat infested; a number of buildings were quarantined or actually razed, and enterprising Sydneysiders were paid a penny for each rat pelt which they presented to the Health Department.30

In January 1901, Sydney was the scene of ceremonies celebrating the establishment of the Commonwealth of Australia. In 1908, Jack Johnson’s rise to the World’s Heavyweight Championship at Rushcutters’ Bay further enhanced Sydney’s international reputation. By this time, the population of the metropolitan area was 560,000 and increasing steadily.

Further progress in transportation included the establishment of the first electric tram service, introduced on George Street in 1900, and the founding of the Sydney Harbour Trust. The latter agency, charged with the administration of the port of Sydney, oversaw a reconstruction of the waterfront which was to affirm Sydney’s stature as one of the world’s foremost seaports.

While a number of factories were operating in the metropolitan area, most workers were employed in service occupations, administration, distribution, transportation, and communications. Primary production continued to be the backbone of the economy.

Meanwhile, the Australian labour movement had shifted its strategy from industrial to political action. Extension of the franchise and payment of salaries to office-holders had enabled trade union officials to seek and win seats in the Legislative Assembly. The Labor Party was able to wield considerable influence in the Assembly by the turn of the century, and the first Labor Government was installed in Sydney in 1910.

The rise of the labour movement was to have substantial impact on social policy during the early part of the century. Legislation for the improvement and regulation of working conditions in New South Wales factories dated to 1896, an old age pension scheme was enacted in 1900 and an invalid pension established in 1908.31

Despite its physical distance from the scene of hostilities, Australia was greatly affected by World War I. Thousands of Sydneysiders died in combat; debate over the issue of conscription was heated, and protest demonstrations were frequent. The war was to have its impact on Sydney’s industrial structure as well. With transportation to and from Europe severely restricted, import capabilities were limited. Living costs and unemployment rose together, and the frustrations of Sydney’s workers increased accordingly. Forced under these circum-
Map 1.5  The Sydney Metropolitan Area, 1908. Source: Library of New South Wales.
stances to strive for a greater level of self sufficiency. Australians set to work bolstering their industrial establishment. Industrial development in Alexandria and Waterloo, at the southern fringe of the city of Sydney and close to railway facilities, was accompanied by a population increase in the near eastern suburbs. Subdivision of the Cooper estate permitted further eastward development.

Despite the wartime setting, industrial tensions continued to flare periodically; the General Strike of 1917 and lesser strikes occurring two years later were indicative that the cleavages between labour and management remained sharp.

In addition, times were hard for a good many workers in the years following the Armistice. According to D. W. Rawson, unemployment in the city reached 14 per cent in 1921. Two years later, V. G. Childe referred to the 'distress and actual starvation' of some Sydney workers, apparently unmatched since the depression of the 1890s. The inner suburbs of Camperdown, Glebe, Surry Hills, Redfern, and Woolloomooloo had become congested, their old and poorly constructed residences deteriorating markedly.

Population density in the city and inner suburbs increased slightly after the turn of the century, but did not exceed 40 persons per acre overall. Darlington, with 86.73 persons per acre, was the most densely populated neighbourhood in 1911, followed by Newtown (59.75) and Redfern (56.15).

The population of the metropolitan area increased rapidly during the early decades of the twentieth century; the period 1901-11 saw an increase of 30 per cent and the following decade one of 40 per cent. In racial and ethnic terms, Sydney's population remained overwhelmingly white and of British or Irish heritage.

As the economy of the state readjusted to the dislocation brought about by the war, the 1920s became years of significant building activity. Slum clearance and new construction reached a peak in 1924. In that year, a contract was awarded an English firm to construct a bridge across the harbour, a project first suggested over a century before by the architect Greenway, and long overdue.

At least in terms of criminal behaviour, the first quarter of the twentieth century began rather quietly. Some 'larrikinism' was still apparent, although public indignation had apparently declined. Police attention to prostitution and related offences was described as 'spasmodic'. Other than the revelation of a 1904 Royal Commission that Sydney had become the abortion capital of New South Wales and disclosures that a former minister for lands had taken bribes in return for favourable treatment with regard to leases, there appeared a steady
Sydney in Ferment

diminution in the incidence of most other crimes, as the data in Chapter 2 indicate.

Events changed, however, with the outbreak of World War I. In February 1916 one of the most violent riots in Sydney's history occurred when hundreds of soldiers left their training camps near Liverpool, boarded trains to Sydney, and indulged in a period of looting and carousing in the downtown area. Property damage was substantial, and one soldier was killed during the conflict.

Later in 1916 a series of fires in Sydney mercantile establishments, alleged to have been set by members of the Industrial Workers of the World (I.W.W.), led to one of the most famous and controversial trials in Australian history. In the months to follow, Commonwealth and state governments were energetic in the suppression of political dissent; at one point, practically the entire active membership of the I.W.W. was imprisoned.

As the Armistice marked the end of violence abroad, it was followed by an apparently sharp increase in the incidence of violent crime at home. Homicide and assault statistics showed an increase to pre-war levels. In addition, periodic skirmishes occurred between leftists and returned servicemen during the early 1920s. The most dramatic increase, however, involved acquisitive crimes. Both larceny and robbery with violence rose markedly from 1918 to 1920, as may be seen below in Figures 8.1 and 8.2.

By the mid-1920s in Sydney, technological advances were such that new horizons of urban development had emerged. The electrification of the suburban railways served further to increase the suburbanite's mobility; in addition, the extension in 1932 of the underground railway to the centrally located Wynyard Station greatly facilitated access to the central city. Even more significant, however, was the opening in 1932 of the Harbour Bridge. Development of North Sydney and the suburbs beyond had been inhibited by the difficulty of vehicular access; with the growth of popularity of the motor car and the innovations in rail transport, the opening of the bridge served as a spur to northward urban expansion.

Sydney's urban growth was stalled throughout the 1930s, however, by the depression. As Europe experienced increasing economic contraction, overseas investment in Australia ceased almost completely. This drastic decline, combined with plummeting wool prices, was followed by an increase in the rate of unemployment; at the height of the depression in 1932, nearly one out of three workers was idle. Evictions became increasingly numerous, first from homes, then from city parks, and thousands of homeless people began to occupy open land on the fringe of the metropolitan area. Recovery from the depression was
slow; overseas investment and migration resumed and expanded very gradually. By the end of the decade, however, Australia was once again at war, and survival had become a military rather than an economic problem.

The decade from 1925 to 1935 was marked by an unprecedented diversity of criminal activity. The growing presence of the motor car was accompanied by a sharp increase in auto theft. Gangs of razor slashers competed for the lucrative trade in cocaine during the late 1920s, but their business withered with the onset of the depression. Both the coal and timber industries were shaken by strikes, and confrontation between strikers, non-union labourers, and police were frequent. Allegations of corruption among members of the Sydney City Council led to the appointment of two Royal Commissions in 1928. Evidence of bribery surrounding municipal purchases of coal and electrical generating equipment led to criminal prosecutions and a substantial turnover of seats in the June 1930 municipal elections.38

The depression, needless to say, was accompanied by further political tensions. The growing ranks of unemployed workers frequently chose to voice their grievances through collective public protest; depending upon time, place, or sponsorship, these meetings and demonstrations were often disrupted by a militaristic right wing group called the New Guard, or by the police.

Unique to the depression were the dole and eviction riots, small-scale disturbances which occurred during the distribution of public assistance and the attempted eviction of indigent tenants, respectively. Given the stresses of the time, however, the decade was relatively free of violence. Although arrests and injuries were not infrequent, only one New South Welshman lost his life in a setting of collective disorder. A miner was shot and killed in 1929 during a lockout at Rothbury in northern New South Wales.

World War II, in addition to marking a definitive end to the depression, served to end the Australian's geographical and psychological isolation in a disconcerting manner. The bombing of Darwin in February 1942 and the sinking of a Japanese midget submarine in Sydney Harbour four months later were severe jolts to a people from whom previous wars had been far distant. Although MacArthur established Allied headquarters in Melbourne, Sydney saw its share of military activity as thousands of troops from America and elsewhere passed through on their way to and from battle.

With the war's end, activities in the Sydney metropolitan area turned to the tasks of demobilisation. Returning servicemen were provided with housing and educational subsidies, and most succeeded quickly in finding employment in a rapidly expanding post-war economy. Stimu-
lated by unprecedented overseas demand for Australian primary products and by the momentum of wartime manufacturing, the economic life of Sydney attained a relative robustness even greater than that of the boom years of the 1880s. Even the paralysing coal strike of 1949, which contributed to the fall of the Federal Labor Government, did little more than force a temporary pause in Sydney's economic growth.

The end of the war brought new waves of immigration to Australia with at least half of the arrivals being of non-British origin. Australia's readiness to receive refugees constituted a marked departure from previous immigration policy; assisted migrants from central and eastern Europe were to make a lasting contribution to a culture which had previously been isolated and homogeneous. Already Australia's most cosmopolitan city, Sydney attracted its share of New Australians. The metropolitan area's population grew impressively, passing 1.5 million in 1948. With thousands of older dwellings in the city proper and inner suburbs regarded as substandard, pressures of demand brought about increasing subdivision of the metropolitan fringe, thus making way for the suburban sprawl which characterises the metropolitan area today.

The immediate post-war years saw only slight change in the pattern of criminal activity. Gone was the black marketing which accompanied the rationing and scarcity of wartime. While there was little change in the apparent incidence of serious crime, police periodically increased, then decreased their attention to such offences as prostitution and sly grog selling. The rate of arrests for drunkenness, however, increased consistently and drastically.

Intolerance of political dissent tended to fluctuate according to international alignments and domestic political conditions. The Communist Party was under attack by the Commonwealth Government from the time of the Soviet-German non-aggression treaty in 1939 until the party endorsed the Allied cause in 1941. With the onset of the Cold War, this antagonism was renewed.39

Towards the end of the 1940s, industrial disputes and other political tensions contributed to a re-emergence of collective protest in Sydney. In 1947, a wharf labourers' strike and protests against Dutch colonial domination in the East Indies resulted in small skirmishes of a relatively non-violent nature. There were a few demonstrations in 1950, focused largely on the Korean War and the development of nuclear weaponry, and these were free of violence. Otherwise, the only other source of significant disorder in this period was the aforementioned 1949 coal strike. Although the Federal Government sent troops to the coalfields and arrested numerous union officials in Sydney, there was no corresponding use of force by the miners.

The face of Sydney changed markedly in the 1960s, to an extent
Growth of the City

unparalleled in the twentieth century. The period could perhaps best be
described as 'the decade of the developer'. An unprecedented level of
commercial affluence was reflected in the towering office blocks which
rose in both the central business district and across the harbour in
North Sydney. To a greater extent than ever before, commercial devel­

opment in the central city supplanted the declining residential popula­
tion in that area. Increasing demand for living space drove real estate
prices along the harbour shore beyond the reach of all but the most
affluent; even the proliferation of high rise flats and condominiums
failed to satisfy the increase.

For the vast majority of Sydneysiders whose income did not permit
the luxury of harbourside living, suburban development served to pro­
vide living space. Middle income and working class suburbs, consisting
largely of detached bungalows roofed in red tile, extended twenty miles
to the southwest toward Bankstown and Liverpool. Middle and upper
class suburbs reached northward to Hornsby, and eastward to the ocean
on both sides of the harbour.

The population of the Sydney metropolitan area increased by 20 per
the more striking demographic changes of the period was a sharp
increase in the size of the young male population. The number of males
aged 18-24 increased an estimated 58 per cent during the decade end­
ing in 1969.

Despite notable population growth in other urban and country areas
of New South Wales, the dominance of the metropolis was even greater
at the end of the decade, with six of ten New South Welshmen residing
in the Sydney area. In addition to attracting the bulk of the overseas
migrants, Sydney also drew people from the country areas of the state.
R. J. Lawrence attributed one-sixth of Sydney's population growth
during the period to rural-urban movement.40

Spurred by a mineral boom, industrial development, and a substan­
tial increase in exports, the standard of living rose markedly in New
South Wales over the two decades after 1950. Aside from a slight
recession in 1960, when unemployment reached 4 per cent, employ­
ment was virtually full during the period. Sydney factory employment
increased to over 400,000 by 1968. The average resident of Sydney
enjoyed a level of material comfort greater than it had been at any time
in the past. Moreover, Australian living standards compared quite
favourably with those of other western industrial societies.

Although there exist no precise figures on the distribution of income
in Sydney, few residents experienced either great wealth or dire poverty.
Those who suffered most were the small number of Aborigines in
Sydney (about 10,000), the aged and chronically ill, and large families

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The emergence of the automobile as a fact of Australian life had a substantial impact on the Sydney metropolitan area. The volume of vehicular traffic overburdened street and parking facilities, and while the suburbanite may have enjoyed easier access to the city, he faced new frustrations upon arrival there.

Meanwhile, the wave of immigration which began in the aftermath of World War II continued to contribute to the city's ethnic diversity. While those of Anglo-Saxon or Celtic heritage still composed the vast majority of the city's population, small neighbourhoods of Greek, Italian, and Yugoslav migrants and their offspring could be found on the fringe of the city proper, and in the inner ring of suburbs. By 1966, 13.3 per cent of Sydney's residents were non-British migrants. In addition, a small Chinese population and an even smaller Aboriginal enclave were situated in the Haymarket and Redfern areas respectively.

The decade of the 1960s was marked by many forms of crime and disorder in Sydney; some of these were visible only sporadically, while others manifested an increase which continued largely unabated through 1972. Drunkenness and related offences, as usual, constituted the major occasions for arrests. In 1963 a Royal Commission concluded that illegal betting on horse racing was rife throughout the
Sydney in Ferment

State; the establishment in 1965 of institutionalised off-track betting under state control provided thousands of Sydneysiders with an alternative to a form of ‘criminal behaviour’ which had become a fact of life. Of greater public concern, however, were the more serious offences against persons and property; beginning in 1963, police reports reflected dramatic increases in the rates of burglary, larceny, assault and robbery, and armed robbery.

Against this background of a general upward trend in the incidence of what the authorities describe as ‘serious criminality’, the 1960s saw periodic sharp increases in the visibility of certain other offences. Prostitution, a traditionally prevalent enterprise in Sydney, met with especially severe official response during the period 1963-6, and again in 1968. In subsequent years, however, the practice appears to have been largely tolerated.

Sydney had long enjoyed the reputation as a city where illegal terminations of pregnancy were readily obtainable. Following disclosures in 1970 of complicity between certain members of the Victorian police force and abortionists in Melbourne, the New South Wales police began to focus more intensively on this particular offence.

Meanwhile, other events tended to contribute to a recent re-emergence of collective protest in Sydney, a form of activity which had been noticeably absent since the late 1940s. Political tensions heightened when, in 1965, the Menzies Government committed Australian troops to the American operations in Vietnam, and began sending conscripts into battle for the first time since World War II. Opposition to the war and to conscription was a policy of the Labor Party, but the most vivid articulation of discontent was voiced by university students. Thousands of young Australians participated in protest demonstrations and marches during the period 1965-72. The State Liberal Government, while unappreciative of the activity, did not regard participation in demonstrations per se as criminal. It was, however, common practice for the government to impose stringent restrictions on the location and form of protest behaviour. Sydney protests were generally non-violent, although some demonstrators engaged in acts of civil disobedience and arrests were not infrequent.

Growing sympathy for the cause of racial equality, again based primarily in the university community, provided further opportunity for collective expression of discontent in the early 1970s. A tour of Australia by the South African Rugby team in 1971 was marked by demonstrations in each of the cities where games were scheduled; Sydney protests were again largely non-violent, although they were met with some heavy-handedness on the part of police and antagonistic rugby enthusiasts.
Criminality and Turmoil: Long-term Trends

Precise measurement of crime over the course of Sydney's history is precluded by two main factors. The administrative structure of New South Wales has been such that in general, relevant data have been compiled only for the colony or state as a whole, and useful statistics applicable only to the municipality or metropolitan area are extremely rare. Available data pertaining to the metropolis will be employed in subsequent chapters to illustrate short-term trends. A second, more universal difficulty inheres in the low validity of the different measures of reported criminality which have been employed at various times during the past two centuries in New South Wales. At no time can the researcher find an idiographic portrait of criminal behaviour in all its luxuriant diversity. Rather, what one sees is an image that is initially created by socio-legal definitions of criminality, then processed through the many filters of the New South Wales criminal justice system: imperfect detection, selective enforcement, partial reporting, selective prosecution. How much distortion is introduced by these filters is and always will be problematical. Our principal and by no means certain assumption is that the criminal behaviours which were of most intense social concern in any era are recorded with relative fidelity.

The most consistently available indicators of criminality during the nineteenth century are returns of convictions at the highest level of the colony's judicial process, the Supreme Court. With the exception of a thirty-year period at mid-century, these high court conviction data are complemented by returns of committals for trial in the same courts. Beginning in 1859, returns of committals (cases brought to trial), and convictions in the Courts of Quarter Sessions, the middle level of the colony's judicial structure, are available and thus permit an aggregation of statistics of the higher criminal courts. From 1893 until the present, Quarter Sessions and high court returns of committals and convictions are based on distinct persons, rather than offences. These statistics are published in aggregated form, combining Quarter Sessions and high court cases.

As in virtually all judicial systems, cases which reach the higher levels of the New South Wales system are relatively few; throughout the history of New South Wales, most cases entering the criminal justice system and all those of a less serious nature have been dealt with at the level of Petty Sessions. Unfortunately, information on the less
serious categories of criminal behaviour are not available for years earlier than 1879. Arrest data by offence have been compiled and published for years between 1879 and 1893 and from 1913 to the present. They thus permit a mapping, albeit an imperfect one, of police activity, as well as a portrayal of changes over time in the incidence of lesser offences. Figure 2.1 provides a description of the data available for a mapping of long-term trends in criminality.

Fig. 2.1 Availability of data on crime and institutions of public order in New South Wales, 1788-1971. Sources: N.S.W. Colonial Secretary, Returns of the Colony (1824-56); N.S.W. Bureau of Statistics, Statistical Register (1860 to 1954-5); N.S.W. Statistician's Office, The Official Year Book of New South Wales (1906- ); N.S.W. Police Department, Annual Report (1862- ); N.S.W. Prisons Department, Annual Report (1874- ).

Long-term trends in criminality, turmoil, and official response in New South Wales may be easily described if not precisely portrayed; the component offences of the categories employed in this study may be found in the Appendix. The rate of crimes against the person ('aggressive crime') appears to have fallen sharply following the cessation of transportation in 1840 (Figure 2.3), then to have diminished gradually throughout the twentieth century despite slight upturns in the late 1910s, 1940s, and 1960s (Figures 2.5 and 2.6). The changing pattern of acquisitive crime is roughly similar to that of offences against the person. After a sharp decline from the high rates of the early nineteenth century (Figure 2.2), the decline throughout most of the present century
has been gradual, with the exception of upturns at the end of World War I and at the beginning of the depression in 1930. Throughout most of the 1960s, however, acquisitive crime appeared to increase sharply, with present rates roughly comparable to those of the late 1880s (Figures 2.5 and 2.7).

Trends in serious crime against sexual morality and custom describe a more complicated pattern. While the reported incidence of these offences was very low during the first years of settlement, rates increased during the 1820s and 1830s and then manifested the drop typical of most New South Wales rates during the mid-nineteenth century. After an upturn in the late 1880s, the rates declined again, rising briefly during the late 1920s, falling once again, then rising to a level in 1970 which was roughly comparable to that of 1880 (Figures 2.4, 2.5, and 2.6).

One of the more striking aspects of the New South Wales criminal justice system has been the attention which the authorities have accorded the phenomenon of public drunkenness. As Figure 2.9 indicates, arrests for this offence have accounted on the average for one out
Fig. 2.3 New South Wales: convictions per 1000 population, serious aggressive crime, 1811-92. Sources: N.S.W. Colonial Secretary, Returns of the Colony (1824-56); N.S.W. Bureau of Statistics, Statistical Register (1860-92).

Fig. 2.4 New South Wales: convictions per 1000 population, serious crimes against sexual morality and custom, 1814-92. Sources: N.S.W. Bureau of Statistics, Statistical Register (1860-92).
Fig. 2.5 New South Wales: higher court convictions per 1000 population, selected offence categories, 1893-1970. *Sources: N.S.W. Bureau of Statistics, Statistical Register (1893-5); N.S.W. Statistician's Office, Official Year Book of New South Wales (1906- ).

of every three apprehensions in New South Wales each year. In the decade following World War II this percentage increased significantly, with drunkenness accounting for half of all arrests for offences other than traffic violations. In recent years, however, the rate has subsided to its normal albeit still-high level. A more consistent decline is visible in rates of arrest for the various forms of disorderly conduct, illustrated in Figure 2.10.

Changing patterns in the incidence of collective disorder in New South Wales are portrayed in Table 2.1. The unsuccessful revolt of the Irish convicts and the overthrow of Governor Bligh at the beginning of the nineteenth century were followed by a relatively tranquil period of about 15 years. The middle years of the century were marked by turmoil as varied as bushranging, in the 1820s and 1830s; Aboriginal massacres in the late 1830s; urban riots or protests in 1843, 1850, and 1861; and the attacks on Chinese at Lambing Flat in 1862. The last decades of the nineteenth century saw the emergence of large-scale labour protest; this form of collective activity was to reappear with greatest intensity during World War I, the late 1920s, and the years
Fig. 2.6 New South Wales: arrests for crimes of aggression and offences against sexual morality and custom per 1000 population, 1879-1970. Source: N.S.W. Police Department, Annual Reports.

Fig. 2.7 New South Wales: High Court and Quarter Sessions, committals per 1000 population, serious crimes of acquisition, 1893-1970. Sources: N.S.W. Bureau of Statistics, Statistical Register (1893-5); N.S.W. Statistician's Office, Official Year Book of New South Wales (1906- ).
# TABLE 2.1
New South Wales: Scope and Magnitude of Civil Disorder

<table>
<thead>
<tr>
<th>Years</th>
<th>Score</th>
<th>Events</th>
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<tbody>
<tr>
<td>1788-95</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>1796-</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>1800</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1801-5</td>
<td>11</td>
<td>Irish convict conspiracy and revolt</td>
</tr>
<tr>
<td>1806-10</td>
<td>3</td>
<td>Overthrow of Governor Bligh</td>
</tr>
<tr>
<td>1811-15</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>1816-20</td>
<td>0</td>
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<tr>
<td>1821-5</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>1826-30</td>
<td>2</td>
<td>Bushranging</td>
</tr>
<tr>
<td>1831-5</td>
<td>1</td>
<td>Small-scale protest by convicts</td>
</tr>
<tr>
<td>1836-40</td>
<td>4</td>
<td>Aboriginal massacres</td>
</tr>
<tr>
<td>1841-5</td>
<td>2</td>
<td>Sydney election riot</td>
</tr>
<tr>
<td>1846-50</td>
<td>2</td>
<td>Sydney New Year's riot</td>
</tr>
<tr>
<td>1851-5</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>1856-60</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>1861-5</td>
<td>5</td>
<td>Lambing Flat riots; Sydney unemployed</td>
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<tr>
<td>1866-70</td>
<td>1</td>
<td>Attempted assassination of Duke of Edinburgh</td>
</tr>
<tr>
<td>1871-5</td>
<td>0</td>
<td></td>
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<tr>
<td>1876-80</td>
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<td>1881-5</td>
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<td>1886-90</td>
<td>11</td>
<td>Anti-Chinese protests; maritime workers and</td>
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<td></td>
<td></td>
<td>shearers strikes; 1890 demonstration</td>
</tr>
<tr>
<td>1891-5</td>
<td>1</td>
<td>Small-scale harassment of Chinese</td>
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<tr>
<td>1896-</td>
<td>1</td>
<td>Street disturbances between working class</td>
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<tr>
<td></td>
<td></td>
<td>youth and military</td>
</tr>
<tr>
<td>1900</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1901-5</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>1906-10</td>
<td>2</td>
<td>Strike activity, Sydney and Broken Hill</td>
</tr>
<tr>
<td>1910-15</td>
<td>1</td>
<td>Small-scale anti-war protest</td>
</tr>
<tr>
<td>1916-20</td>
<td>12</td>
<td>General Strike 1917; strike 1919; Sydney</td>
</tr>
<tr>
<td></td>
<td></td>
<td>arson activity; anti-war protest; soldiers'</td>
</tr>
<tr>
<td>1921-5</td>
<td>1</td>
<td>Post-war street fighting</td>
</tr>
<tr>
<td>1926-30</td>
<td>10</td>
<td>Timber strike, Rothbury lockout; street</td>
</tr>
<tr>
<td>1931-5</td>
<td>11</td>
<td>Unemployed demonstrations; protests;</td>
</tr>
<tr>
<td></td>
<td></td>
<td>eviction riots; street fighting</td>
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<tr>
<td>1936-40</td>
<td>1</td>
<td>Small-scale communist protest</td>
</tr>
<tr>
<td>1941-5</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>1946-50</td>
<td>5</td>
<td>Coal strike; small-scale protest</td>
</tr>
<tr>
<td>1951-5</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>1956-60</td>
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</tr>
<tr>
<td>1961-5</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>1966-70</td>
<td>11</td>
<td>Attempted assassination of Arthur Calwell</td>
</tr>
<tr>
<td></td>
<td></td>
<td>A.L.P. leader; numerous anti-war protests;</td>
</tr>
<tr>
<td></td>
<td></td>
<td>anti-apartheid demonstrations</td>
</tr>
</tbody>
</table>

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before and after World War II, as is shown by Figure 2.11. Following the relatively tranquil years of the 1950s and early 1960s, collective protest against military and racial dimensions of the Federal Government's foreign policy arose in the late 1960s.\textsuperscript{3}

Trends in the evolution of the New South Wales police establishment are even more easily described. While the size of the force declined after consolidation in 1862, it has grown steadily since 1870 with the exception of the early 1930s and the years during World Wars I and II. In per capita terms, the size of the force has tended to keep abreast of the general rate of population growth, with the exception of the first decade of the twentieth century and the war years (Figure 2.12). In the 1960s it increased sharply but did not quite reach the levels that prevailed at the turn of the century.

The aforementioned long-term decline in rates of arrest for most offences has been accompanied by an even steeper decline in the apparent reliance on incarceration as a treatment method. Figure 2.13 illustrates this trend, which is attributable to the fact that both shorter and proportionally fewer prison sentences have been awarded during the twentieth century than was the case in previous years. Since the end of
the long-term decline in the prison population in 1920, the rate has fluctuated only slightly.

![Graph showing trend in New South Wales drunkenness arrests](image)

**Fig. 2.9** New South Wales: drunkenness arrests as percentage of all arrests for offences other than traffic violations, 1879-1970. *Source: N.S.W. Police Department, Annual Reports.*

The foregoing discussion suggests a number of situations or series of events occurring in the course of Sydney's history which merit more detailed examination. The first decade of the nineteenth century was marked by an unsuccessful insurrection and a successful coup d'état, both of which have remained unique events in the history of New South Wales. The period between 1820 and the end of the convict era in 1840 remains unprecedented, both in terms of the apparent rate of incidence of serious crime and the severity of official response to such behaviour.

The years around mid-century merit attention because of the appearance for the first time of behaviour which might be characterised as collective rowdiness, or rioting for fun. In addition, an abrupt increase in the level of public insecurity in 1844, while not unprecedented in New South Wales as a whole, was historically unique in Sydney.

The last two decades of the nineteenth century will be accorded
considerable discussion for a number of important reasons. Criminality in general appeared to be more prevalent during this period than at any subsequent time, and rates of arrest and imprisonment have not since been surpassed. Moreover, authorities at the time seemed unusually attentive to patterns of deviant sexual activity and preoccupied with the recreational behaviour of young working class males. Perhaps the most historically significant event at the end of the nineteenth century involved the emergence of industrial disturbance, one overt manifestation of class conflict which was to become glaringly manifest in subsequent years.

The period during and after World War I was a time of significant political and industrial protest. The emergence of ideological divisions within New South Wales society, especially during the first significant period of international hostility which citizens of New South Wales had ever experienced, was to have a profound effect on the behaviour of government officials. Measures undertaken to suppress political dissent were without precedent since the convict era. Less than a decade later another wave of strikes and protest demonstrations
occurred, along with what may well have been the most severe economic contraction since the near famine conditions during the early days of settlement.

The aftermath of World War II was noteworthy for the apparent absence of post-war social dislocation. One of the more striking trends in criminality during the period was the drastic increase in arrests for
drunkenness. A more politically significant event, the 1949 coal strike, was the last great expression of industrial discontent to date. The most recent period in Sydney's history has been included in the study largely because of the apparently drastic increase in the rate of acquisitive crime, and a corresponding heightening of public anxiety; this period was also marked by unusual fluctuations in levels of official attentiveness to 'victimless crimes' as well as to the emergence of innovations in correctional strategy.

While a review such as this one could conceivably focus upon a large number of different themes, the discussion which follows will be largely addressed to three in particular. For each period of significant change in patterns of public order, Sydney's demographic and economic environment will be described. Any parallel change in such variables as population size, density, ethnic homogeneity, and masculinity will be noted, as will alterations in the structure and health of the economic system. Similarly, contemporary attitudes on the relative severity of crime and speculations as to the causes of crime will be accorded attention, along with the authorities' initial orientations towards the criminal law and existing crime control strategies. Finally, the general structure of police, judicial, and penal systems will be reviewed and attempts made to assess the impact of these institutions on the incidence
of crime. Relating this to the previous two themes is the question: Has public order in Sydney been influenced more by government policy or by larger socioeconomic changes?

![Graph](image)

Fig. 2.13 New South Wales: prisoners in custody at end of year per 1000 population, 1874-1969. Sources: Official Year Books of New Wales; N.S.W. Prisons Department, Annual Reports.
Disorderly behaviour became a fact of life in Sydney only a matter of days after the British flag was unfurled over the settlement. On 6 February 1788, the convict women, who had remained on board the ships pending the construction of suitable shelter ashore, disembarked. An extra ration of rum was issued, and the first evening of 'debauchery and riot' in recorded Australian history took place.¹

Behaviour of a nature regarded as more serious was soon to follow; there were at least eleven trials for theft and three for assault during the first year of the settlement. Acquisitive crime remained the most prevalent form of serious criminal activity throughout the early years of the colony. The kinds of property most frequently appropriated were food and clothing; occasionally, such luxury items as wine, tobacco, or soap were taken. Assault and homicide were much less prevalent, as were rape and 'unnatural offences'. By the mid-1790s, however, at least one or two rapes and homicides appear to have been committed annually.

Relations between the settlers and the Aboriginal natives were strained from the beginning. Neither group was very tolerant of the other's cultural idiosyncracies, and the resulting conflicts were illustrative of substantial mutual hostility. Historians suggest that Aborigines viewed the coming of the white man with a noticeable lack of enthusiasm, and recent interpretations view Aboriginal hostility as guerrilla-type resistance to European encroachment.² In May of 1788, two convicts were attacked and killed by natives while cutting rushes a short distance from Sydney Cove; their bodies were badly mutilated. Governor Phillip himself was struck in the shoulder by a spear during a short excursion away from the settlement. While official policy called for defence against attacks by natives, rather than aggressive warfare, there were those among the colonists who were somewhat less restrained. As the Aborigines withdrew into the hinterland in the years before 1800, a number of them were murdered — a grim foreshadowing of the hunting expeditions which were to mark the nineteenth century.

The Home Government began sending Irish convicts to New South Wales in 1791. While many were transported for the more conventional offences against persons and property, others were sent out for
crimes of protest. As their shared awareness of ill-treatment at the hands of the Anglo-Saxon heightened, the Irish convicts became even more intent upon acting assertively, seeking to obtain revenge if not liberty. An alleged conspiracy of Irish convicts in 1800 moved the authorities to flog five suspects to the extent of 1000 lashes each, and twelve others with up to 500 lashes. In March of 1804, an Irish convict named William Johnston gathered a group of over three hundred of his colleagues and began a march on Sydney from the outer settlement of Castle Hill. Upon learning of their activity, Governor King proclaimed the equivalent of martial law and dispatched a platoon of twenty-seven regular troops to engage the insurgents. In quick order, the two leaders of the Irish group were captured, nine others were shot dead, and the remainder put to flight. Forty or so of the more deeply involved survivors were ultimately captured; eight were hanged, nine were given floggings of up to 500 lashes, and thirty-four others were transported to the Coal River penal settlement.3

Meanwhile, the dearth of female companionship and the absence of other recreational diversions led Sydney's early residents to indulge quite freely in drink. The practice, informal at first, of compensating convict labourers in rum for extra work became institutionalised, and consumption of spirits reached awesome proportions. A. G. L. Shaw related that in the year 1801 the adult population of New South Wales consumed the annual equivalent of eight gallons of proof spirit per person.4 The demand for spirits was exploited by a group of officers of the New South Wales Corps, who monopolised imports and charged greatly inflated prices; they soon earned the nickname 'Rum Corps' for their regiment. It has been suggested by Shaw that both commissioned and senior non-commissioned members were involved in illegal transactions in spirits in 1799.5

Attempts to limit the consumption of spirits were less than successful. While Governor King undertook to reduce the volume of spirits imported into the colony, his ultimate aims were largely thwarted by an increase in smuggling and illicit distillation.

The traffic in spirits also provided a background for the only coup d'etat in Australian history. William Bligh, the very individual who had commanded the Bounty at the time of the mutiny in 1789, assumed the governorship of New South Wales in 1806. The same abrasive, temperamental nature and authoritarian leanings which inflamed the Bounty mutineers were visible soon enough in Sydney. Undertaking with predictable zeal the struggles against the vested interests of the colony which so frustrated his predecessors, Bligh was soon given the nickname 'Caligula'. His tantrums and barrages of insult were frequent occurrences, and in a colony so small and so remote as New South
Sydney in Ferment

Wales were bound to engender reaction. When members of the ‘Rum Corps’ expressed public discontent with the direction of the colony, Bligh, in a manner befitting a sea captain, moved to charge the officers with sedition. On 26 January 1808, when Bligh ordered the cancellation of a traditional ceremony and celebration commemorating the founding of the colony, a group of officers of the New South Wales Corps placed him under house arrest. The celebration took place as scheduled; Bligh’s popularity was such that only his daughter and his secretary sided with him.6

An assortment of demographic and economic factors coincided with the disorders of the period; the crime and turmoil in question seem largely explicable in terms of the lopsided distribution of the sexes, the high rate of population increase in 1790 and 1791, the presence of an oppressed ethnic minority, and a period of severe economic depression.

The social structure of New South Wales during the early years of settlement was, in a word, imbalanced. Three-quarters of the original colonists were lower class Englishmen who happened also to be convicted criminals; the remainder were military personnel. There were relatively few women among those who landed with the First Fleet; approximately 180 female convicts and thirty wives were among the party which numbered slightly over 1000.

The early pattern of population growth in New South Wales was erratic, and largely a function of convict arrivals. The coming of the Second Fleet in 1790, for example, doubled the population of New South Wales overnight. The number of convicts in the population tended to remain around 2000 for most of the colony’s first two decades, while the military and administrative establishment grew steadily. An indicator of this growth pattern is provided in Table 1.1.

The influx of Irish convicts which began in 1791 was to have a profound effect on public order in the colony. By the end of 1800, there were over a thousand Irishmen in the colony, more than 20 per cent of the total population. Their resentment of British dominance was predictable, as was their rebelliousness.

Economic conditions in New South Wales varied substantially in the years before 1800. The first attempts at agriculture were largely unsuccessful, and the Home Government, having assumed that the colony would be self-supporting, made no plans to replenish its provisions. The settlement at Sydney was haunted by the possibility of famine in 1789 and 1790, and rations were reduced drastically; only the arrival of the Second Fleet in June 1790 prevented starvation. Two years later, a severe drought brought about a return of conditions of scarcity. After these initial difficulties, however, the colony’s economic situation showed consistent improvement. New areas were placed under cultiva-
tion, harvests were fruitful, and trade increased. By the mid-1790s, life in New South Wales had become relatively comfortable for non-convicts.

Speculation on the causes of crime during the first years of settlement involved a simple argument. Thefts occurred because extra-legal acquisitiveness had been a way of life for most of the colonists. Indeed, their very presence in New South Wales was directly attributable to those inclinations. These criminal proclivities were heightened moreover by the near famine conditions which prevailed in 1790 and 1792. Governor Phillip, in commenting on the theft of 30 per cent of the colony's corn harvest, provided a blunt diagnosis:

From the time the corn began to ripen to the time it was housed, the convicts were pressed by hunger, and great quantities were stolen and concealed in the woods; several convicts died from feeding on it in its crude state, when carrying the grain to the public granary. But in speaking of these people, it is but just to observe that I can recollect very few crimes during the last three years but what have been committed to procure the necessaries of life.7

One other factor which may have influenced the lack of enthusiasm manifested by many of the convicts after their arrival was the experience of the passage from England. The Second Fleet passage (1789-90) was one of the darker moments in the history of the colony. Fatalities among the convicts on the voyage approached 26 per cent, and many of those who survived the six-month passage were literally dying of starvation and disease.8 Although steps were taken to prevent a recurrence of the situation, the survivors were probably somewhat less than forgiving. In July of 1799, the transport Hillsborough arrived in Sydney with a shipment of convicts, most of whom disembarked with no clothes either on their persons or in their possession. Commercial contractors, eager to maximise profit in the transportation of convicts, quite often denied them material amenities. Conditions on the Hillsborough were so bad, however, that ninety-five convicts never disembarked, having perished from typhus en route.9 While officials in New South Wales did not report the effect of such privations on the subsequent social behaviour of the convicts, few could have expected the convicts' dedication and zeal to be much enhanced as a result of such experiences.

Under the provisions of their respective commissions, the first governors of New South Wales were invested with considerable authority. They were to enforce the existing laws of the realm; beyond that the governors were military commanders empowered to rule by decree.10 Governor Phillip's views about criminality were visible in word if not
in deed. At one point, he was quoted as suggesting that murderers and sodomites were best delivered to the cannibals of New Zealand, although no record exists of his having acted on these inclinations. On the morning after the landing of the female convicts, Phillip revealed his feelings about his colonists' propensities to promiscuous fornication by instructing his sentries to fire upon any man found in the women's compound.

The crime which Phillip came to regard with greatest gravity, however, was theft. In the abstract, such behaviour violated the sanctity of property. Under the particularly austere conditions of New South Wales, theft of foodstuffs quite visibly jeopardised the existence of the whole population. Because theft was covered extensively in the existing criminal law, Phillip had to make few legal changes, other than to issue General Orders which established curfews and forbade convicts to exchange their possessions or clothing for money, spirits, or tobacco. The most significant official response to theft was the use of severe punitive sanctions; these are discussed below.

For reasons of health, Phillip resigned his position and departed from the colony in 1792. Pending the arrival from England of his successor, John Hunter, the colony was governed by the senior officers of the New South Wales Corps. The practices which developed under the administration of Major Francis Grose and Captain William Paterson were to constitute the major problems in the maintenance of order for the following three governors. While Grose and Paterson encouraged the payment of convicts in rum and facilitated the entrepreneurial endeavours of their fellow officers, Governors Hunter, King, and Bligh were each frustrated by their inability to control the behaviour of their colonists.

Stirrings on the part of the recently arrived Irish convicts were viewed with particular distaste by Governor John Hunter. A man with little fondness for the Irish in the first place, Hunter viewed the insolence of the Irish convicts as troublesome and their cohesiveness and class consciousness as threatening. Hunter responded to rumours of a conspiracy with brutal punishment and a spate of regulations for the more effective control of convicts. In 1795, Hunter issued an order requiring that convicts carry passes on their person. The following year, he provided for the numbering of houses in the town of Sydney, and for the registration of their residents. These regulatory policies were continued by Governor King who early in 1802 authorised a general search of dwelling houses in the colony for offensive weapons. In April of that year, he proclaimed the production or concealment of pikes to be an offence punishable by execution. In May 1806, a few months before his departure from the colony, King issued two General
Orders limiting freedom of assembly; the more stringent of the two, issued on 13 May 1806, created the offence of being at large without authorisation. Other forms of behaviour proscribed by King included making use of abusive or insulting language to the patrol, and loitering after sunset.13

In general, the first governors of New South Wales saw criminality as a natural impulse of the convict classes, an impulse which was intensified by conditions of material scarcity. As such, officials of the colony sought first to control crime by limiting opportunities — thus the attempts to restrict freedom of association, the distribution of spirits, and access to weapons. As a last resort, they chose to repress the criminal impulses with punitive measures of great severity.

The first law enforcement organisation in Australia, established in 1789, was exceedingly modest. In August of that year, Governor Phillip appointed twelve convicts whose behaviour had been respectable as a night watch to guard the public stores. While the military establishment could have performed certain law enforcement functions, its members were noticeably reluctant to undertake any responsibilities other than the defence of the colony. The one significant occasion for military involvement in the maintenance of domestic order, the suppression of the Irish convicts' rebellion, was an isolated event.

The discontent of the Irish convicts encouraged the formation of another type of institution, the 'loyal association'. Inspired by the English Volunteer Organisations, Governor Hunter formed the first New South Wales loyal association in 1800, in order to deal with possible disturbances among the convicts. Perhaps the best known of these organisations, the Loyal Parramatta and Sydney Association, was disbanded in 1801, but re-established in 1803 when news of the war with France reached the colony. The loyal associations, whose members were drawn from the ranks of free property owners, complemented the existing military establishment as a kind of reserve militia.14

Penal practices employed during the first years in New South Wales ranged from the brutal to the benign. Capital and corporal punishments were awarded generously, the latter particularly so. Returns from the original Court of Criminal Jurisdiction reveal the severity of the sentences awarded. A labourer convicted in 1789 of stealing a pound of tobacco was given 500 lashes; the following year a man convicted of stealing three pounds of potatoes was sentenced to receive 2000.15 Appropriation of more valuable items, and offences in general which were committed in a dwelling house, were punishable by hanging. Death sentences were, however, often commuted to transportation for 7- or 14-year periods to the penal settlements at Norfolk Island or Coal River. Here offenders were subjected to the most austere conditions of hard labour, under iron (often literally) discipline.
In contrast to the harsh disincentives to criminal behaviour were the rewards which might be extended to convicts for industrious obedience. Beginning in 1790, governors were authorised to grant pardons to well behaved convicts. Depending on its provisions, a pardon could be unconditional, or conditional upon remaining in the colony. Shortly thereafter, during the administration of Governor King, passes, or ‘tickets-of-leave’ were issued, which excused a convict from his assigned labour and permitted him to earn an independent livelihood. According to A. G. L. Shaw, motives other than rehabilitation often underlay the granting of tickets-of-leave. In order to minimise the strain on the public stores, tickets were granted to any convict with the capability of self support, regardless of behavioural merit.

The judicial structure of New South Wales was of a nature befitting a military prison; the senior judicial office, that of Judge Advocate, was occupied by military officers without training in the law. The Court of Criminal Jurisdiction was in fact a court martial, its members drawn from the commissioned officers of the colony.

The various crime control strategies adopted by the early governors were not without their shortcomings. Despite the savage brutality of the punishments awarded those convicted of robbing from the public stores, the thefts continued. Some hungry convicts may have been deterred by the threat of cat or scaffold, but others obviously were not. Moreover, as successful harvests generated an abundance of provisions, thieves turned from necessities to luxury items. In addition, the settlement’s embryonic police force varied markedly in terms of effectiveness. While Phillip proudly related a diminution in the incidence of robbery following the establishment of the night watch, Hunter reported six years later that some of his sentinels were actually involved in thefts from public stores.

Dissident activity by Irish convicts was ultimately suppressed only by the extensive use of fatal force. The brutal floggings administered to the alleged conspirators in 1800 were followed by further stirrings, then by the 1804 insurrection. Only after the deaths of seventeen rebels in 1804 did Irish protest diminish.

Attempts to limit the supply of spirits in the colony were also less than successful. The political power which members of the New South Wales Corps wielded between 1792 and 1809 was sufficiently strong to preclude effective restriction of smuggling and of the illicit distribution of spirits. We see here another of the earlier attempts in New South Wales to enforce a law opposed by a large number of citizens; the theme will reappear frequently in the pages below. Meanwhile, it appears that the efforts of the governors to control the less serious forms of criminality were at best only marginally successful.
The Macquarie Era: 1810-1821

When Lachlan Macquarie assumed the governorship of New South Wales in 1810, Sydney Town was relatively free of serious crime. As Table 4.1 indicates, acquisitive crime continued to be the most prevalent form of serious disorder in the colony. Homicides and serious assaults were apparently rare, rape and sodomy were almost non-existent. While the incidence of crimes of aggression and sexual deviance remained stable throughout Macquarie’s tenure, declining in proportion to the colony’s population, a sharp increase in the apparent rate of theft towards the end of the decade marked the first crime wave of the nineteenth century in Sydney. In addition to these serious crimes

<table>
<thead>
<tr>
<th>Year</th>
<th>Serious Aggressive Crime</th>
<th>Serious Crime Against Sexual Morality and Custom</th>
<th>Serious Crimes of Acquisition</th>
</tr>
</thead>
<tbody>
<tr>
<td>1811</td>
<td>0.90</td>
<td>0.00</td>
<td>3.00</td>
</tr>
<tr>
<td>1812</td>
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</tr>
<tr>
<td>1813</td>
<td>0.67</td>
<td>0.17</td>
<td>4.58</td>
</tr>
<tr>
<td>1814</td>
<td>0.92</td>
<td>0.08</td>
<td>3.42</td>
</tr>
<tr>
<td>1815</td>
<td>N.A.</td>
<td>N.A.</td>
<td>N.A.</td>
</tr>
<tr>
<td>1816</td>
<td>0.44</td>
<td>0.00</td>
<td>1.94</td>
</tr>
<tr>
<td>1817</td>
<td>0.83</td>
<td>0.06</td>
<td>5.22</td>
</tr>
<tr>
<td>1818</td>
<td>0.55</td>
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<td>4.86</td>
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</tr>
<tr>
<td>1820</td>
<td>0.36</td>
<td>0.07</td>
<td>5.86</td>
</tr>
<tr>
<td>1821</td>
<td>0.30</td>
<td>0.03</td>
<td>6.17</td>
</tr>
</tbody>
</table>

Source: New South Wales Colonial Secretary, Returns of the Colony.
of acquisition, the incidence of lesser offences, those punishable summarily by magistrates, appears to have doubled between 1819 and 1820 (Table 4.2). Among the minor offences in question were some which applied only to convicts — attempts to escape, absence without leave, insolence, and unlawful sale of clothing. Other forms of behaviour more generally applicable included disorderly conduct, intoxication, and riot.1

### Table 4.2

<table>
<thead>
<tr>
<th>Year</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>1817</td>
<td>380</td>
</tr>
<tr>
<td>1818</td>
<td>575</td>
</tr>
<tr>
<td>1819</td>
<td>665</td>
</tr>
<tr>
<td>1820</td>
<td>1369</td>
</tr>
</tbody>
</table>

*Source: Appendix to Bigge Commission Report (Mitchell Library, vol. 130).*

A considerable proportion of the criminal behaviour of the day was attributable one way or another to what had by then become a social institution in the colony — the demand for spirits. D’Arcy Wentworth, the Principal Superintendent of Police in Sydney, maintained in 1819 that a ‘great deal’ of smuggling continued to be carried on, and that unlicensed sales of spirits were commonplace.2

Another form of disorder involved the perverse exploitation of those few Aborigines who chose to remain in the vicinity of Sydney. Occasionally, a group of colonists would get two natives slightly drunk and encourage them to fight each other with knives or spears. The outcomes of such episodes were predictably barbarous.3

Although their effects cannot be assessed with precision, the demographic changes which took place towards the end of Macquarie’s term had a marked impact on the incidence of crime. There were roughly 6000 residents in Sydney Town when Macquarie assumed the governorship, and almost 8000 when he arrived back in England in 1822. The population of the colony tripled during the period, reaching just under 30,000 at the end of the decade. The period of greatest population growth included the years from 1817 to 1821. The aftermath of the Napoleonic wars saw increasing reliance upon transportation as a treatment for British offenders, and the convict population of New South Wales increased accordingly. During the five-month period between 24 August 1819 and 28 January 1820, no less than fifteen shiploads of
transported convicts arrived in Sydney; a total of 2559 convicts disembarked. Moreover, the statistical masculinity of the colony's population increased still further so that males formed 70 per cent of the colony's inhabitants by 1820.

The years under Macquarie were prosperous ones. The livestock population increased twofold, the wool industry had begun to prosper, and agricultural productivity was high. The general level of economic well being was unprecedented, leading one to conclude that if any factors were to contribute to the disorder of the times, those of increasing population size and the greater opportunity for theft were probably paramount.

Contemporary opinion on the causes of crime tended to focus on the size and distribution of the convict population. The fall in the apparent rate of acquisitive crime from 1818 to 1819 was generally regarded as due to the opening of a convict barracks in Sydney during the latter year.4 Previously, convicts had not been provided with accommodations, and were consequently forced to seek out and pay for their own lodgings.

The drop in high court committals for acquisitive crime proved to be quite temporary, however, as rates increased in 1820 and 1821. John T. Bigge, who at the time was undertaking an exhaustive examination of the colony and its administration, attributed the 1820 increase to the recent growth in the size of the convict population and to greater vigilance on the part of the police force.5 In addition, Bigge attributed a good deal of the disorderly behaviour of the day to the colony's most striking demographic attribute — the scarcity of women.

As long as the great disproportion continues to exist between the male and the female population in New South Wales, the temptations to illicit intercourse in both, and all the crimes that are committed for the purpose of supporting it, must be expected to prevail.6

The voluminous testimony gathered by Bigge during the course of his inquiry revealed some divergence of opinion within the colony on the causes of the apparent increase in acquisitive crime during 1820. John Blaxland, one of the earlier free settlers in New South Wales, suggested that the courts and the governor had become too lenient, and that in previous years, the greater severity of punishments awarded had acted as a more successful deterrent. Blaxland's brother Gregory viewed matters differently, suggesting that apparent increases in theft were generally attributable to the existence of greater opportunity. Without doubt, there were more people to be robbed and more cattle to be stolen than at any previous time in the history of New South Wales.7

Lachlan Macquarie arrived in Sydney with his own 73rd Regiment at
the end of 1809, and assumed the governorship on 1 January 1810. He was not atypical of military men, placing considerable value on discipline and obedience, and like many commanders, was quite resentful of criticism or opposition. Unlike those who preceded him, however, Macquarie brought to Sydney a certain evangelistic zeal and sense of moral rectitude consistent with his Scottish heritage. These were soon reflected in his General Orders and proclamations.

The instructions which Macquarie received before his departure for New South Wales included provisions for limiting the volume of spirits sold in the colony. Shortly after assuming office, he reduced the number of licensed public houses and created the offence of selling spirits during divine services. In a manner reflecting his strong religious beliefs, Macquarie, who had taken offence at the rather loose practice of cohabitation prevalent at the time, expressed support for the institution of marriage and recommended it to all eligible parties. In addition, he officially proscribed indecent profanation of the Sabbath and made Sunday church attendance mandatory for all convicts.

A number of General Orders promulgated during the early years of Macquarie's term reflected the problems attending Sydney's early urban growth. Citizens were prohibited from discharging firearms in the town (7 Apr. 1810); pigs, dogs, and goats were to be confined to the premises of their owner (11 Aug. 1810); and bathing at the government wharf was forbidden (4 Oct. 1810). Similarly, official aversion to the pastime of inciting fights between drunken Aborigines led to the prohibition of providing natives with spirits (7 Nov. 1818).

Despite Macquarie's reputation for tolerance and fairness, there remained certain glaring asymmetries in the New South Wales criminal justice system. The Select Committee on Transportation (1812) noted that among the cases tried before the Court of Criminal Jurisdiction in 1810,

a person charged with shooting at and wounding a native, was tried simply for an assault, whilst another who had committed a similar offence against an European, was tried on the same day for his life.

Minor offences committed by convicts were punishable by flogging, while free settlers were usually fined for their transgressions. Absence from work or insolence to an overseer could bring a convict 50 lashes, while free men convicted for minor assaults were fined one or two pounds. Two sentences from the bench at Windsor in 1819 provide an interesting view of the convict's legal status. One free settler was fined £10 for harbouring a runaway, while another convicted of striking a convict in government service was awarded a fine of a shilling.

Macquarie's sympathy for the emancipists in the colony served to
arouse the ire of many free settlers. Such prominent citizens as the Reverend Samuel Marsden, a wealthy owner of land and livestock and the most severe magistrate in the colony, and John Macarthur, often described as the father of the Australian wool industry, complained bitterly of the privileges which Macquarie bestowed on the emancipist class. Their complaints were also directed at London, where the authorities, concerned over the expense of the colony and its effectiveness in deterring British criminality, commissioned a thorough investigation of the colony and its administration. In the eyes of the Home Office, New South Wales was to be a place dreaded by Englishmen—the instructions to Commissioner J. T. Bigge called for his assessment of the deterrent effects of transportation. Concern for any rehabilitative impact was secondary at best. The Bigge Commission Report, published in three parts during the years 1822 and 1823, constituted a general repudiation of Macquarie’s policies. While Macquarie regarded New South Wales as a colony to be developed, Bathurst, Secretary of State for War and the Colonies, and Bigge were more concerned with the suppression of post-war disorders in London, and sought a much greater emphasis on the retributive and deterrent functions of the colony. Macquarie, more sensitive than ever of criticism, resigned in 1821 and returned to England. The rehabilitative themes for which he has since been celebrated were to be a long time in re-emerging.

By 1810, the population of Sydney had grown to the extent that the existing system of night patrols was deemed inadequate. Macquarie established the first formal police force in that year, and appointed D’Arcy Wentworth as Principal Superintendent. The town was divided into five districts, each having a watch house, one district constable, and six petty constables attached to it. District constables were paid £10 per year, and provided with food and clothing, while petty constables were provided with food and clothing but received no other compensation. Each constable on patrol carried a cutlass and a rattle, the forerunner of the police whistle. The constable’s primary responsibility, in addition to the apprehension of offenders generally, involved the apprehension of suspected persons found at large in the town after 9 p.m. The first constables included both free men and emancipists, and their conduct was generally regarded as satisfactory.

Macquarie’s ambitious programs of public works relied extensively on convict manpower; the aforementioned concentration of convicts in Sydney was a necessary precondition of this policy. In addition to the continued emphasis on positive incentives to good behaviour, official response to criminal activity was severe. Lashes administered during a flogging were no longer numbered in four figures, but the intensity of corporal punishment administered during the period was gruesome.
Occasionally, solitary confinement was substituted for flogging, but such practices detracted from the available supply of labour and were never much valued. As was the case in the earlier period in the colony’s history, the more serious offences were punishable by hanging or by transportation.

The ends both of Governor Macquarie and of the Home Office were thwarted during the period, mainly as a result of their fundamental incompatibility. Officials in London wanted to make New South Wales a place which Britons and Irishmen of potentially criminal inclinations would hold in utmost dread. Macquarie, on the other hand, sought to develop the colony in a much wider social and economic context. Indeed, the governor’s rehabilitative strategies of convict management may well have succeeded in making life in Sydney more pleasant for a transgressor than was his previous existence in London. As convicts began to land in New South Wales in increasing numbers towards the end of the decade, neither Macquarie’s humaneness nor his new police force were successful in limiting crime. Criminals in Britain do not appear to have been deterred by the threat of transportation to Sydney, and upon their arrival in the Antipodes, they strained severely the system of treatments which had been developed for a much smaller convict population.
**Lash and Scaffold: 1822-1840**

Although existing statistical returns indicate that 1822 was an atypically busy year in the Courts of New South Wales, the 1820s appear to have been years of relative stability (Table 5.1). The sharp increase in 1822, according to Governor Brisbane, was attributable to the Judge Advocate's having held circuit in Van Diemen's Land, in order to clear up a backlog of cases in that settlement. As had been the case since the colony's founding, the vast majority of committals were for crimes of acquisition.

**TABLE 5.1**

New South Wales: Courts of Criminal Jurisdiction, committals per 1000 population, selected offences, 1819-1824

<table>
<thead>
<tr>
<th>Year</th>
<th>Total Committals:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>All Offences</td>
</tr>
<tr>
<td>1819</td>
<td>2.49</td>
</tr>
<tr>
<td>1820</td>
<td>3.64</td>
</tr>
<tr>
<td>1821</td>
<td>4.31</td>
</tr>
<tr>
<td>1822</td>
<td>6.27</td>
</tr>
<tr>
<td>1823</td>
<td>5.00</td>
</tr>
<tr>
<td>1824</td>
<td>2.99</td>
</tr>
</tbody>
</table>

*Source:* New South Wales Colonial Secretary, *Returns of the Colony*.

By the mid 1820s, a particular form of criminal activity had emerged which was to become one of the more colourful phenomena in Australian history. From time to time, some of the less docile convicts would make their escape, acquire firearms and horses, and head for the bush, gaining their subsequent livelihood from attacks on settlers and travellers in rural areas. ‘Bushrangers’, as they were called, had become so active by 1825 that the Legislative Council passed a unanimous resolution urging ‘prompt and decisive measures’ to suppress ‘the daring Robbers who have formed themselves into Bandittis in these parts of the Colony’.¹

As settlers penetrated more deeply into the hinterland of New South Wales, conflict with Aborigines became increasingly common. Aboriginal attacks on settlers or livestock often precipitated punitive expeditions; the unpleasant situation of reciprocally increasing hostility resulted in a great deal of bloodshed, much of which has been neglected by historians. The massacre of almost sixty Aborigines by a group of volunteer mounted police near Myall Creek in 1838 did not result in a trial, since attempts to obtain evidence were unsuccessful. Later in the year, at the same location, the murder of twenty-eight natives by a group of white station hands resulted in the conviction and execution at Sydney of seven of the offenders.²
Perhaps the most noteworthy pattern in the incidence of criminal behaviour over the period was the apparent increase in serious crimes of acquisition during the late 1820s. As Figure 5.1 indicates, rates of acquisitive crime rose markedly in 1828, while no similar trend is visible with regard to rates of homicide and serious assault. Both categories of crime decreased in relative prevalence during the 1830s.

Fig. 5.1 New South Wales: Supreme Court convictions per 1000 population, crimes against persons and property, 1825-40. Source: N.S.W. Colonial Secretary, Returns of the Colony (1825-40).
During the third and fourth decades of the nineteenth century, criminal activity appeared less influenced by changes in the colony's social structure than by fluctuations in the level of material prosperity. The demographic complexion of Sydney had changed only slightly since the turn of the century: during most of the 1820s seven out of ten residents were male, and a third were prisoners of His Majesty. These imbalances were even greater in the colony as a whole, where the population remained approximately three-fourths male and 40 per cent convict throughout the decade. The absolute size of the convict population was to pose particular difficulties for order maintenance in the mid-1830s.

Changes in policy were to alter the proportion of convicts in the colony significantly by 1840. Despite an increase in the number of transported convicts arriving in the colony, the introduction of assisted passage for free settlers in 1831 was to provide for a partial redressing of the demographic imbalance. In 1841, the percentage of males in Sydney's population had fallen to 58 per cent, and convict residents numbered only 10 per cent.

By the end of the 1820s New South Welshmen were experiencing their first significant period of economic adversity in the nineteenth century. Following two years of noteworthy prosperity, a drought set in during 1827 which lasted until the end of the decade. Crop failures were common, and considerable amounts of property were seized and sold. By the early 1830s, however, productivity in the wool industry had increased, wool prices rose, and the colony began a decade of economic expansion. Interestingly enough, the apparent incidence of serious acquisitive crime tended to vary inversely with the economic well-being of the colony.

Contemporary speculation on the possible causes of crime during the 1820s and 1830s continued to be grounded firmly in the idea of a criminal class, a particular group within the social structure more generally predisposed to lawbreaking. Almost universally, the convicts were regarded as crime prone by definition. Some observers, however, chose to speculate in greater detail. Governor Brisbane, for example, suggested that most serious crime was attributable to lack of education among the colony's Roman Catholic population.

Altho' I am no advocate for the tenets, or doctrines of the Church of Rome, still I consider that in proportion as Roman Catholics increase, Priests should be sent for their spiritual instruction, as it is a remarkable fact of which perhaps your Lordship cannot be aware, that every murder or diabolical crime which has been committed in the Colony since my arrival has been perpetrated by Roman Catho-
Sydney in Ferment

lies, and this I ascribe entirely to their barbarous ignorance, and total want of education, the invariable companions of Bigotry and cruelty, as well as the Parent of crime;4

More typical, however, were references to crime in terms of large numbers of a 'high risk' population. Official references to an increase in robbery with violence in the spring of 1826 included the attempts of Captain F. N. Rossi, First Police Magistrate in Sydney, to explain the disorder. Rossi argued that the behaviour in question was the work of large numbers of former convicts, now free by expiration of sentence, who had come to Sydney in order to obtain certificates of freedom. According to Rossi, these men encountered their 'old associates and confederates' and then tended to relapse into their old ways of crime. Rossi further claimed that the recent influx of another group of prisoners from Port Macquarie, 'men of the most depraved habits and characters', also contributed to the unsavoury atmosphere in the capital.5

Preoccupation with the criminal propensities of the convict classes was to endure well past the cessation of transportation to New South Wales. John Macarthur, a wealthy free pastoralist whose concern for maintaining a rigid class distinction in the colony was greater than most, claimed that

of the cases brought before juries in the Criminal Courts, a very small portion are from the class either of Emigrants or Natives of the Colony — nearly the whole mass of crime being committed either by convicts, or by those who have been in that condition.6

The size and visibility of the convict population tended to inhibit further contemplation on the etiological aspects of crime. There were those, however, who viewed the harsh treatment experienced by some convicts not as a deterrent, but rather as conducive to anti-social behaviour. As Governor Bourke maintained in 1834

Severity carried beyond a certain point, especially towards men of violent or turbulent feelings will only tend to inflame their indisposition to labor into more dangerous acts of desperation and revenge and the history of this Colony during periods in which greater severity was occasionally exercised has fully borne out the truth of this observation.7

Finally, a few observers suggested that the problems at hand might have been attributable to inefficiency in the existing law enforcement apparatus. Captain Rossi cited a difficulty which was to inhibit police activity in New South Wales for the following thirty years: 'The want of
an effective intercourse and connection between the police of Sydney and that of the Districts in the Interior.  

Macquarie's successor, Sir Thomas Brisbane, was an aloof and pious individual, less concerned about the exercise of political power than with the science of astronomy. The direction of his governorship was thus largely provided by the authorities in London, who responded to the recommendations of the Bigge Commission with calls for the exercise of more stringent discipline over the convicts. In particular, Brisbane was charged with expanding the system of convict assignment, the procedure by which convicts were given out as servants and labourers to members of the public.

As the size of the New South Wales convict population increased, however, Brisbane became even more attentive to questions of convict discipline. While absconding had never been tolerated by the authorities, other forms of convict behaviour, such as drinking or gambling, had previously met with only sporadic official reaction. 'An Act to prevent the Harbouring of Runaway Convicts, and the encouraging of Convicts Tippling or Gambling' (1825), created the offence of receiving a convict in a house for the purpose of drinking or gambling. Convictions were punishable by fine, with increased penalties for offences committed on Sundays.

With the appointment of Lt Gen. Ralph Darling to the governorship in December 1825, the colony of New South Wales entered what was perhaps its most punitive phase. To a greater extent than did his predecessors, Darling valued discipline, obedience, and organisation. His intolerance of criticism surpassed that of Macquarie, and he responded in general with hostile indignation and often with repressive force. Two related issues during Darling's administration, the Sudds-Thompson affair and the attempts to restrict freedom of the press, were illustrative of these orientations. In November 1826, Joseph Sudds and Patrick Thompson, two soldiers attached to the garrison at Sydney, committed a less than subtle theft of some articles of clothing in hopes of being relieved of their rather tedious duties, Darling learned of the offence, and with an eye towards deterring similar activity on the part of the garrison troops, ordered the case transferred from Quarter Sessions Court to a Court Martial. Following their conviction, the two soldiers were imprisoned in irons; Sudds, who had been quite ill at the time of his conviction, died soon thereafter.

Public reaction to Sudds's death was strong; moreover, general opinion held that imprisonment in irons was excessive punishment for such a minor offence. When criticism of his severity began to appear in the Sydney press, Darling reacted with hostility. He introduced a spate of legislation to define press criticism of the Colonial Government as
criminal, imposed taxes on newspapers, and provided for the registration and regulation of publishing activities. Darling undertook the prosecution of some of his more vocal critics, and relations between him and the public deteriorated still further. To justify his intense opposition to the public's criticism, Darling invoked the theme of domestic security. At one point, he accused his critics of seeking to foment disorder. 'The prisoners are very numerous [and] every possible exertion has been used by the opposition papers, to incite them to Acts of hostility against the Government.'

The law relating to various crimes of acquisition was revised in 1828 but only in the form of an adoption *verbatim* of existing British law. An indication of the importance with which the authorities of the time viewed the protection of property can be gained from the breadth and severity of the law's provisions. Punishable by hanging were robbery from the person, stealing from a church, burglary, housebreaking, stealing horses, cows, or sheep, and obtaining money by threatening to accuse a party of an infamous crime. Dozens of other clauses pertaining to particular types of unlawful appropriation, from thefts of vegetables to stealing from oyster beds, were included in the Act; non-capital sentences usually involved transportation or imprisonment with hard labour. Other kinds of larceny, for example, were punishable by transportation for a maximum of seven years, or by imprisonment for two years with hard labour or in solitary confinement.

The shortage of labour, a chronic problem in nineteenth-century New South Wales, was even more burdensome before the advent of assisted migration in 1831. In order to minimise any economic inconvenience which might result from diminished productivity of the non-convict labour force, Darling turned to Masters and Servant legislation of the traditional British type. 'An Act for the better Regulation of Servants, Labourers, and Work People' (1828) made the offences of neglecting to work, refusing to work, or absenting oneself from work punishable by a maximum of six months' imprisonment, and forfeiture of all wages and pay. Servants destroying or losing any property entrusted to them could be required to pay double damages or to serve a maximum of six months in gaol.

Penal clauses pertaining to criminal behaviour on the part of masters were noticeably less severe. Persons who employed servants already committed to other employers were liable to a fine of up to £20, and servants who could prove ill usage by an employer could, upon magisterial order, receive amends to the extent of six months' wages, and have their agreement declared no longer binding.

The increasing size and spatial dispersion of the convict population posed substantial problems for the maintenance of order, for the escape
of an assigned convict constituted not only an economic loss, but given the attractions of bushranging, a potential physical threat as well. A measure enacted during 1830 in response to bushranging and housebreaking greatly expanded police powers of search and detention of suspected criminals, and promised the speedy execution of those convicted of robbery or housebreaking.12 The ‘Bushranging Act’ as it was popularly called, empowered any free person to apprehend any stranger on suspicion of being a convict illegally at large, and placed the burden of proof of identity on the accused. In addition, the Act provided for three years’ imprisonment for illegal possession of firearms.

In keeping with the direction set by his predecessor Brisbane, Darling saw to the enactment of further measures to control the disorderly inclinations of the convicts. In 1830, he oversaw the enactment of legislation which provided for 12 months’ hard labour in chains or 100 lashes for transported felons subsequently convicted of such minor offences as drunkenness, neglect of work, or abusive language.13

A few years later, the persistent shortage of labour and growing population increased the need for additional instruments of control. Indolence had been traditionally regarded with disfavour by the administrative and economic elite of New South Wales, and in the affluent days of 1835, the behaviour evoked strong official reaction. An Act for the prevention of Vagrancy, and for the punishment of Idle and Disorderly Persons, Rogues and Vagabonds, and Incorrigible Rogues, in the Colony of New South Wales (1835) introduced an entire range of offences from alms gathering by false pretence to one uniquely Antipodean, that of lodging or wandering in company with Aborigines.14

The Act delineated categories of indolence which were to endure for well over a century in New South Wales law. Individuals thrice convicted of drunkenness within a year, or persons without visible lawful means of support, were classed as ‘idle and disorderly persons’, subject to a maximum of three months’ hard labour. Second offenders, persons betting or exposing themselves in public, and individuals loitering with intent to commit a felony were considered ‘rogues and vagabonds’ and could receive a maximum sentence of six months’ hard labour. A second conviction as ‘rogue and vagabond’ led the offender to be classed as an ‘incorrigible rogue’ liable to punishment of hard labour, whipping, and one year’s imprisonment.

It is quite evident that two conditions valued highly by the authorities, the security of property and the availability of docile, inexpensive labour, underlay much of the aforementioned legislative activity in the 1820s and 1830s. These values also influenced other institutions of public order, to which we now turn.

By the mid-1820s the Sydney town police had been in existence for
well over a decade and had begun to face problems of increasing severity. In the face of continuing pressures from London to minimise expenditures, the Sydney force was chronically short handed. Hazel King related that Sydney patrolmen worked through the night in six-hour shifts, and spent a good part of each day performing such administrative duties as serving warrants and attending court. Pay was painfully low, and recruitment of responsible candidates for the force was difficult. During an 18-month period in 1825-6, there were twenty-five resignations and fifty-seven dismissals for misconduct from a force whose average strength was fifty.

Captain Rossi, appointed Principal Superintendent of Police in New South Wales in 1825, made frequent requests for more manpower and better remuneration, but with notable lack of success. While it was intended that Rossi exercise general supervision and control over police in New South Wales, he was disadvantaged from the start. His previous experience had been in the area of convict management, and not conventional law enforcement. Moreover, his responsibilities as a magistrate involved additional burdens which served to limit his attentions to Sydney. Finally, his freedom was severely limited by the fiscal constraints imposed by the Home Government. When Governor Darling proposed to appoint an assistant Superintendent of Police for Sydney and thus enable Rossi to exercise general superintendence, officials in London viewed the expense as unwarranted, and Darling abandoned the scheme.

The Sydney Police Act, 1833, complicated matters still further by creating additional responsibilities unrelated to conventional law enforcement. In the absence of any municipal institutions, the Sydney Police became involved in such activities as public health, pollution control, and the licensing of dogs, carts, and boats.

Col. H. C. Wilson replaced Rossi in 1833 and while the calibre of recruits improved somewhat under his administration, Wilson continued personally to be burdened with both administrative and judicial responsibilities. Moreover, the hours of duty for patrolmen were extremely taxing: constables patrolled in alternate two-hour shifts two nights out of every three.

In 1835, meanwhile, a decision was reached in London which was to have substantial impact on law enforcement in New South Wales. Beginning in that year, the Home Government was no longer willing to underwrite colonial police expenditures, and placed the entire burden on the New South Wales treasury. While neither the governor nor the members of the Legislative Council could prevail upon the Home Government to reverse its decision, they did what they could to minimise the burden on the treasury in Sydney. New South Wales had
become a relatively orderly place in 1839, and in that year a Select Committee on Police and Gaols recommended a reduction in the size of the Sydney constabulary from 114 to 80.19

Events in the hinterland led to the establishment of two other police forces during the 1820s and 1830s. The mounted police, consisting of a detachment of garrison troops, was formed in 1825 to contain the bushranging which by then had become widespread. The border police, its membership originally drawn from the ranks of transported army deserters, was dispatched in the aftermath of a massacre of Aborigines in 1839. The force was responsible for protecting the Aborigines and the settlers from each other at the far reaches of the settlement. In keeping with existing police practices, activities of the two forces were generally unco-ordinated and communication was minimal.

Richard Bourke, regarded by some historians20 as one of the more humanitarian of the early governors of New South Wales, acquired the reputation despite rather severe constraints. The convict population of the colony increased to a record high during his tenure, and pressures continued from the Home Government to maintain severity of treatment. There were certain developments during Bourke's tenure, however, which reflected sympathies hardly typical of his predecessor. In August 1832, a few months after taking office, he saw to the repeal of the Acts relating to convict discipline which were passed under Darling, and replaced them with measures of significantly reduced severity.21 Most important of these were the restrictions he placed on magistrates' powers of awarding corporal punishment. Humanitarianism, as defined in 1832, was still a bit harsh, however, for even under Bourke's reforms, insubordination, abusive language, or neglect of work were still punishable by 50 lashes. It was to Bourke's credit, however, that the standard military cat o'nine tails was specified as the only authorised instrument of flogging, replacing in some country areas more barbarous adaptations of the instrument.22

Despite Bourke's reputation for humaneness, available data reflect no significant decreases in either the volume or the severity of physical punishment administered during his term as governor. Table 5.2 reveals that floggings actually increased, both in relative and absolute terms, during the years 1833-6. The peak years saw the equivalent of one convict in every four flogged, although many were punished more than once in a given year. The number of hangings tended to fluctuate from year to year. While at no time during Bourke's tenure did the number of executions reach the record of fifty-two set in 1829, the years 1834 and 1835 were among the busiest ever for New South Wales hangmen. Moreover, entire lists of offences were removed from the category of capital crimes in 1832 and 1837, rendering compari-
son over time more difficult. Thus, despite Bourke's improvements upon a most inhumane situation, his reputation as a humanitarian appears to be somewhat inflated.

**TABLE 5.2**

New South Wales: corporal punishment of convicts, 1830-1837*

<table>
<thead>
<tr>
<th>Year</th>
<th>Number of Floggings Administered</th>
<th>Average Number of Lashes Per Flogging</th>
<th>Number of Male Convicts in Colony</th>
<th>Floggings Per Male Convict</th>
<th>Hangings</th>
</tr>
</thead>
<tbody>
<tr>
<td>1830</td>
<td>2985</td>
<td>41</td>
<td>18,571</td>
<td>161</td>
<td>50</td>
</tr>
<tr>
<td>1831</td>
<td>3163</td>
<td>58</td>
<td>21,825</td>
<td>145</td>
<td>32</td>
</tr>
<tr>
<td>1832</td>
<td>3816</td>
<td>43</td>
<td>24,154</td>
<td>158</td>
<td>12</td>
</tr>
<tr>
<td>1833</td>
<td>5824</td>
<td>41</td>
<td>23,357</td>
<td>249</td>
<td>31</td>
</tr>
<tr>
<td>1834</td>
<td>6328</td>
<td>38</td>
<td>25,200</td>
<td>251</td>
<td>44</td>
</tr>
<tr>
<td>1835</td>
<td>7103</td>
<td>46</td>
<td>27,340</td>
<td>260</td>
<td>40</td>
</tr>
<tr>
<td>1836</td>
<td>6904</td>
<td>44</td>
<td>29,406</td>
<td>235</td>
<td>26</td>
</tr>
<tr>
<td>1837</td>
<td>5916</td>
<td>45</td>
<td>32,102</td>
<td>184</td>
<td>12</td>
</tr>
</tbody>
</table>

*It should be noted that the figures cited in the table reflect official returns; the number and intensity of punishments administered informally, contrary to colonial regulations, cannot be determined.


A number of different approaches to the treatment of criminality were employed during the 1820s and 1830s in New South Wales; following the guidelines insisted upon by the Home Government, all were either severe, inexpensive or both. Offenders convicted of serious crimes in New South Wales courts were often transported to one of the colony's main penal establishments: Port Macquarie, Moreton Bay, or Norfolk Island. These places, notorious for their brutality, existed not for the reform of the offender, but to maximise the suffering for his transgressions and to instil dread in anyone who might consider undertaking similar criminal activity.

While the deterrent effect of such punishment may be questioned, it can hardly be doubted that the treatment involved great suffering. Labour was extremely arduous, disciplinary infractions were punished by brutal flogging, and general conditions were such that death rates were extraordinarily high. Indeed, Governor Brisbane has been quoted as suggesting in reference to Norfolk Island that 'the felon who is sent there is forever excluded from all hope of return'. More than one New South Welshman is alleged to have expressed a preference for execution over transportation.

Secondary transportation was severe, but somewhat costly and
unproductive, and a number of alternatives were employed which were based on the more efficient exploitation of convict labour. Lesser offenders, for example, were often sentenced to labour on a treadmill, a punishment which some observers at the time regarded as superior to flogging.

From inquiry, they have no doubt that the men consider labour on the tread-wheel as a punishment; and indeed, it is impossible to conceive that the restraint of a labour so dull and monotonous, of which no one can evade his allotted share, or the irksome regularity and precision with which it is apportioned, can be received in any other light, particularly those whose idle, dissolute, and irregular habits it is intended to correct. The Committee cannot therefore help thinking that if coercive labour and restraint is calculated to reform or deter from crime, no system of discipline can better be calculated for this purpose than that of the tread-wheel, which admits of being regulated and enforced with more strictness and exactitude than any other.24

The Committee reported that during a 4½ month period at the end of 1824, no less than 657,315 lb of wheat and 32,960 lb of bran were ground at one particular mill.25

There were, however, many more criminals in New South Wales than there was grain to be ground, and in 1826, Governor Darling undertook to employ them in chain gangs on public works projects. Over 5000 convicts, almost one in five of those transported to the colony during the decade, worked on the roads at one time or another during the period 1826-36, and the experience could hardly have been a comfortable one. Shaw describes how the prisoners were locked up at night in ‘Prisoners’ Boxes’, small containers mounted on wheels. In order to maximise productivity of the road gangs, flogging was freely employed during the day.26

The chronic shortage of free labour during the 1830s led to the increasing reliance on assignment of convicts as servants to private citizens. In addition to facilitating economic development in rural areas, the dispersal of convicts throughout the colony was regarded as more conducive to rehabilitation than was their concentration.

Perhaps the most noteworthy of the difficulties attending the reliance on assignment as a penal strategy was its ultimate arbitrariness. While some convicts were assigned to humane masters, others fell into the hands of sadists. Authorities agreed that for some, assignment could only be regarded as a reward, while for those less fortunate, the severity of treatment came close to exceeding the heinousness of their transgression. The arbitrariness and lack of uniformity inherent in the
system of convict assignment moved authorities in London to reject it in favour of a return to gang labour.

Significant institutional changes took place in the colony during the 1820s and 1830s, changes which marked the beginning of a move away from military rule. A Legislative Council, created in 1824, marked the first structural departure from gubernatorial autocracy. While the Council was an appointed body with only limited advisory powers, it provided a foundation for future constitutional development and collective decision making.

The evolution of the legal process during the period was of equal significance. A population limited to convicts, soldiers, and administrators might be served well by a system of courts martial, but as the number of free settlers increased, pressures mounted to institute trials by jury. The Home Government, however, was extremely reluctant to introduce such policies in what was still, after all, a prison, and postponed any alterations until 1833. At that point, defendants were able to choose between a civil jury trial and a court martial. It was not until 1839, a half century after the colony’s founding, that military juries were abolished.

Because the Bushranging Act was followed by an apparent diminution in the incidence of serious acquisitive crime, authorities were of the general belief that the Act had functioned as an effective deterrent. Governor Bourke, while regarding the legislation as somewhat repressive, was convinced by the unanimous opinion of the Legislative Council that the statute had been successful in restoring order. Two years later, when Bourke reluctantly renewed the Act a second time, he suggested that feelings of security were substantially reinforced by the Act’s continued operation. Evidence that the Act may have served as much a symbolic as a strategic function may be gleaned from the statement of a police official that few, if any, apprehensions or convictions took place under the Act anywhere in the colony.

It is worth noting that the years 1828 and 1829 were accompanied by severe economic contraction, and that economic recovery tended to be accompanied by a diminution in bushranging activity. It is not unlikely that economic fluctuation contributed to some extent to changing patterns of criminality.

The transition from courts martial to the system of civil juries appears to have taken place without difficulty. Chief Justice Forbes noted in 1836, after the policy of optional jury trial had been in effect for three years, that rates of conviction of jury trials were no lower than those of courts martial. Indeed, he concluded that the introduction of trial by jury in New South Wales had been long overdue.
Towards a Civil Society: 1841-1869

While continued activities of bushrangers kept rural life somewhat hazardous, Sydney had become a noticeably orderly place by 1840. As Governor Gipps wrote in 1841 'In Sydney, the security of property is perhaps as great, and public decency as well preserved, as in most seaport towns in England'. This situation was soon to change, however. Sydney's population exceeded 40,000 in 1844, and the city was small enough that murders produced more than a little alarm. Two particularly well publicised homicides in 1843 and 1844 were committed during a period also marked by an increase in burglary, and the discomfort of the citizenry rose to an unprecedented extent. Public pressure brought about the appointment of a Select Committee to investigate the insecurity of life and property in Sydney; the Committee concluded that while crime in the aggregate appeared not to have increased, a greater than usual proportion of aggravated offences had been committed. Arrest data for the years 1841-4 (Table 6.1) tend to reflect this interpretation; apprehensions for burglary, robbery, and assault showed yearly increases, while those for drunkenness and wilful exposure (presumably urination in public) decreased.

<table>
<thead>
<tr>
<th>Offence</th>
<th>1841</th>
<th>1842</th>
<th>1843</th>
<th>1844 (1 Jan.-31 May)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Murder</td>
<td>15</td>
<td>1</td>
<td>11</td>
<td>6</td>
</tr>
<tr>
<td>Rape</td>
<td>8</td>
<td>8</td>
<td>3</td>
<td>—</td>
</tr>
<tr>
<td>Common assault</td>
<td>276</td>
<td>363</td>
<td>413</td>
<td>182</td>
</tr>
<tr>
<td>Burglary</td>
<td>10</td>
<td>13</td>
<td>29</td>
<td>—</td>
</tr>
<tr>
<td>Robbery</td>
<td>61</td>
<td>106</td>
<td>139</td>
<td>110</td>
</tr>
<tr>
<td>Theft and larceny</td>
<td>611</td>
<td>701</td>
<td>665</td>
<td>249</td>
</tr>
<tr>
<td>Forgery</td>
<td>11</td>
<td>38</td>
<td>14</td>
<td>10</td>
</tr>
<tr>
<td>Disorderly prostitutes</td>
<td>265</td>
<td>420</td>
<td>274</td>
<td>106</td>
</tr>
<tr>
<td>Disorderly character</td>
<td>731</td>
<td>262</td>
<td>227</td>
<td>214</td>
</tr>
<tr>
<td>Drunkenness</td>
<td>7710</td>
<td>4240</td>
<td>3289</td>
<td>866</td>
</tr>
<tr>
<td>Exposure of the person</td>
<td>252</td>
<td>109</td>
<td>86</td>
<td>21</td>
</tr>
</tbody>
</table>

Meanwhile, for the first time since the uprising of the Irish convicts, Sydney was the scene of occasional collective disorder. The behaviour in question, however, was hardly insurrectionary; it may best be described as general rowdiness and mischief-making free of malice, but with visible overtones of class antagonism. Sydney's first delinquent gang, the Cabbage Tree Hat Mob, appeared in the 1840s and attracted considerable attention for their harassment of upper class Sydney-siders. The Mob, comprised of males drawn from lower classes, acquired its name from the low crowned headwear, popular with the members, which was woven from cabbage palm. The group's activities were generally limited to the delivery of insulting or offensive remarks to wealthier passers-by, and the occasional knocking off of the symbol of high status, the tall black hat.2

The first elections in Sydney took place in 1843 in a rather raucous setting: candidates distributed free drink to potential supporters, and drunken mobs spilled through the streets, fighting with political opponents. At least one polling booth was smashed, injuries were numerous, and one person was killed.

The New Year's riot of 1850 differed substantially from the election skirmishes, for it involved young males whose energies were focused almost entirely on the destruction of property. The riot appears to have been a spontaneous byproduct of typical New Years' celebrations; editorials in the Sydney Morning Herald referred to the participants as 'frolicsome' or 'giddy'.3 Small-scale delinquency continued into the 1850s, but public concern over the insulting language of teen-aged boys was soon eclipsed by the rush for gold.

As recovery from the depression became the boom of the gold rush, attentions of many New South Welshmen turned once again to drink — or at least police attention returned to those who had been drinking. Drunkenness arrests increased sharply during the early 1850s, to the extent that a Select Committee on Intemperance was appointed by the Legislative Council. The Committee concluded that while drunkenness had increased, there was no corresponding increase in other crime.4 Thus, despite the frantic pace of the gold rush, Sydney had become, in terms of criminality, a relatively tranquil place. Indeed, the period at mid-century was marked by a long-term decline in the rates of most serious offences.

Accompanying the relative decline in the incidence of serious crime were larger social changes. Sydney's demographic structure began to take on a new shape in the 1840s; the 1851 Census revealed a pattern considerably different from those of the past. The convict population was now negligible, and the imbalance between the sexes had disappeared. One out of every three males was married, and the number
Towards a Civil Society: 1841-1869

of males between the ages of 21 and 45 had declined to only 20 per cent of the total population.

TABLE 6.2
Sydney Police District: selected population statistics, 1841-1851

<table>
<thead>
<tr>
<th>Year</th>
<th>Total Population</th>
<th>Total Male Population</th>
<th>Males Aged 21-45 Percent of Total Population</th>
<th>Unmarried Males as Percent of Total Male Population</th>
<th>Males as Percent of Total Population</th>
</tr>
</thead>
<tbody>
<tr>
<td>1841</td>
<td>35,507</td>
<td>20,733</td>
<td>33</td>
<td>71</td>
<td>58</td>
</tr>
<tr>
<td>1846</td>
<td>49,630</td>
<td>27,015</td>
<td>26</td>
<td>66</td>
<td>54</td>
</tr>
<tr>
<td>1851</td>
<td>58,993</td>
<td>30,031</td>
<td>20</td>
<td>66</td>
<td>51</td>
</tr>
</tbody>
</table>

Source: New South Wales Census Returns.

The racial and ethnic dimensions of Sydney’s population remained overwhelmingly white and British. Other cultures were represented, to a very limited extent, by transient seamen. One of the more noteworthy population trends was the increase in the percentage of Sydney residents who were born in the colony; during the five years preceding the gold rush, the proportion of native-born Sydney residents increased by almost 10 per cent.

Economic fluctuation in mid-nineteenth century New South Wales was extreme, and bore significantly on the incidence of certain kinds of criminal behaviour. Speculation in land and livestock led to unrealistically high prices; the impact of overseas economic contractions brought about numerous bankruptcies and widespread unemployment in Sydney. While the summer of 1843 marked the worst of the depression period, recovery was slow. Exports increased haltingly for the remainder of the decade, but it was not until the discovery of gold in 1851 that boom times reappeared.

Relationships between the level of prosperity and short-term fluctuations in the incidence of crime during the 1840s and 1850s reveal rather interesting patterns. Rates of arrests for drunkenness tended to fall off markedly during the period of economic contraction and to increase sharply during the gold rush years. This general relationship, which has persisted in New South Wales to the present, is one of the more consistent findings to emerge from existing data.

The Report of the Select Committee on the Insecurity of Life and Property (1844) suggested a number of causes for the increase in crime during the early 1840s, foremost of which was the economic contraction. For the more fortunate, wages were low; the unemployed enjoyed none at all. Such conditions of deprivation, following so soon
Sydney in Ferment

after the boom of the late 1830s, were seen as having aroused acquisitive tendencies.

The report also suggested that certain demographic considerations underlay the increase in criminal activity. A number of former inmates of the penal settlement at Norfolk Island, their sentences having expired, had recently arrived in Sydney, and were automatically regarded as unsavoury characters. The concentration of prisoners in Sydney which followed the abolition of convict assignment in 1841 was seen as further conducive to disorder; in particular the Committee criticised the lax superintendence of the Convict Barracks at Hyde Park.

The inefficiency of the police force, a seemingly perennial theme in New South Wales, was yet another factor cited in the report. Although the size of the Sydney force had been substantially reduced since the 1830s, the Committee's criticism was primarily directed at the decentralised structure of police organisation.5

By the late 1840s, when Sydney had returned to a more orderly state, the Sydney Morning Herald attributed the tranquillity of the times to a decline in the convict population. As an editorial stated somewhat dramatically,

all the moral and social evils of the convict system, all the contamination and vice which the mother country had ejected from her own bosom, and cast upon us, were evils for which no mere pecuniary benefits could serve as a counterpoise.6

If the Herald's argument seemed a bit simplistic, there was good reason. Renewal of transportation to New South Wales had been discussed, and most New South Welshmen, hardly desirous of returning to the convict era, were attempting to marshal sufficient evidence to preclude such a policy.

Chronic labour shortages have traditionally accompanied periods of affluence in New South Wales. This phenomenon was of particular significance in shaping public policy during the mid-nineteenth century. Workers who refused to complete the terms of their engagements or who absented themselves from work were regarded not only as sinful souls, but as threats to the economic well-being of their employers.

Master and Servant legislation had been a part of English law since at least 1349,7 and the 1840 Amendment to the 1828 New South Wales Act reaffirmed the gravity with which the shirking of work responsibilities was regarded.8 Refusing to work or leaving work uncompleted was punishable by double damages or by a maximum of three months' imprisonment in default, a shorter term than that prescribed in the earlier Act.
Sydney's position as a busy seaport in an affluent colony had a further effect on the supply of labour. Seamen whose ships called at Port Jackson were greatly tempted by the wages to be earned ashore, so that desertion and insubordination were quite prevalent. Masters of vessels whose crews were so inclined complained of a great delay and inconvenience, and prevailed upon the Legislative Council to take appropriate action. Their concern was so great that they even expressed willingness to bear increased customs duties in order to finance the expansion of the water police. The resulting legislation provided for such an expansion, and imposed the penalty of up to three months' hard labour for desertion or insubordination. In addition, the Water Police Act provided for a fine of up to £50 for harbouring deserters, and created powers of search and detention which were so repressive that the Act was disallowed by the Home Government. A significantly modified version was subsequently passed by the Legislative Council, and received the Royal Assent in 1843.

As economic conditions deteriorated during the early 1840s and increasing numbers of hitherto respectable citizens suffered the embarrassment of bankruptcy, indebtedness came to be regarded as somewhat less heinous a condition than it had been considered in previous years. The treatment generally accorded this crime was arrest and imprisonment, and as the threat of such sanctions became more immediate, Governor Gipps pronounced them 'oppressive' and 'unnecessary'. In 1843, the most austere of the depression years, legislation was enacted which abolished the punishment of imprisonment for debt.

By the end of the convict era, the spirit of humane reformism then current in Britain had reached New South Wales, and was reflected in a very visible trend away from physical punishment. Table 6.3 suggests that hangings were markedly less frequent following the cessation of transportation. Moreover, the corporal punishment which had been administered so liberally as recently as the late 1830s was all but discontinued.

**TABLE 6.3**

<table>
<thead>
<tr>
<th>Years</th>
<th>Capital Convictions</th>
<th>Executions</th>
<th>Executions as Percent of Capital Convictions</th>
</tr>
</thead>
<tbody>
<tr>
<td>1825-9</td>
<td>437</td>
<td>139</td>
<td>32</td>
</tr>
<tr>
<td>1830-4</td>
<td>718</td>
<td>169</td>
<td>24</td>
</tr>
<tr>
<td>1835-9</td>
<td>494</td>
<td>119</td>
<td>24</td>
</tr>
<tr>
<td>1840-4</td>
<td>131</td>
<td>55</td>
<td>42</td>
</tr>
<tr>
<td>1845-9</td>
<td>48</td>
<td>19</td>
<td>40</td>
</tr>
<tr>
<td>1850-4</td>
<td>38</td>
<td>19</td>
<td>50</td>
</tr>
<tr>
<td>1855-9</td>
<td>47</td>
<td>17</td>
<td>36</td>
</tr>
</tbody>
</table>

*Source: New South Wales Colonial Secretary, *Returns of the Colony.*
The changes in public opinion which accompanied the decreasing reliance on hanging as a form of punishment covered many themes. The *Atlas*, a liberal newspaper published in Sydney during the 1840s, was outspoken in its opposition to capital punishment, and articulated arguments which were to be voiced by opponents of hanging in New South Wales for the following 110 years. The *Atlas* based its arguments less on prescriptive humanitarian considerations than on empirical grounds. One of the dominant themes in its editorials was the contention that hanging was a less than successful deterrent. Indeed, on more than one occasion it was argued that execution acted as a stimulus to emulation, and actually served in part to provoke the taking of human life. In addition to the theme of direct imitative behaviour, it was suggested that under certain circumstances of interacting homicidal and suicidal impulses, the threat of capital punishment might even encourage desperate acts. The claim that public execution tended to reinforce the depravity of lower class spectators,¹² hardly a novel theme, was also voiced in editorials. The *Atlas*, however, was more concerned with the unintended consequences of capital punishment for the criminal justice system.

Need we remind Sir Charles FitzRoy, that in every chapter of our criminal code where public opinion has pronounced the punishment to be too severe, the law has become obsolete, and fallen into disuse before the legislature has repealed it? And that when the severity of punishment has been properly relaxed, magistrates have always been more ready to commit, prosecutors to persevere, and juries to convict!?³

Thus the orientations of New South Wales officials towards the disorders of the period tended to reflect the humanitarian movement. The severity of penal sanctions was generally mitigated, and, aside from the creation of offences involving the desertion of seamen, there were no significant expansions of the criminal law. It was appropriate that these developments coincided with the end of the convict era in New South Wales.

In 1840, police services in New South Wales could still be described in two words: fragmented and unco-ordinated. There were six separate police forces in the colony in the years before 1851; the city police and the water police covered Sydney, while the hinterland was patrolled by the mounted police, the border police, the native police, and the rural constabulary. Moreover, procedures for information exchange among the various forces were lacking, and joint actions were further inhibited by interdepartmental jealousies.

While centralisation of police services had been recommended as
early as 1820 by Bigge and by subsequent committees in 1835 and 1839, the reorganisation of police in New South Wales had always been impeded by fiscal constraint or by insufficient public demand. Movements for reform emerged periodically, usually in response to incidents of disorder. The reduction in size of the Sydney police force which was effected in 1840 was one of the subjects of a Select Committee's inquiry in 1847; the Committee noted the usual organisational impediments to police efficiency in addition to abysmally low wages and long hours.\textsuperscript{14}

Ever since the Home Government shifted the burden of police appropriations to the Colonial Treasury in 1835, the Sydney police faced the continuing threat of budgetary retrenchment. The relatively tranquil years before 1842 led many to believe that existing police appropriations were unnecessarily generous, and both appropriations and the force level were cut back markedly. In 1843 and 1844 the Sydney police force was partially funded at the municipal level, and the Sydney Corporation was no less willing to curtail expenditure than were the governor and Legislative Council. Hazel King reveals that between 1839 and 1844 the size of the Sydney police force was reduced by well over one-third, and reached a low of ninety-five in the latter year.\textsuperscript{15} When events in 1844 illustrated the inadequacies of existing finance, full responsibility for police appropriations was again placed with the Legislative Council.

Sydney's return to a state of relative tranquillity in the late 1840s was apparent to the authorities in London; Viscount Grey, concerned over Maori uprisings in New Zealand, saw fit to reduce the size of Her Majesty's garrison in Sydney. In a letter to Governor FitzRoy, he stated that

\begin{quote}
New South Wales may be regarded as being perfectly safe, for the present, at least, from any attack from a foreign enemy; there are no native tribes capable of engaging in serious hostilities with the Colonists, and the Convict Establishment is now reduced so low, while so great an increase has taken place in the numbers of the free population, that there is no longer the necessity which some years ago existed for maintaining a considerable military force to guard against the risk of an attempt to rise on the part of the convicts.\textsuperscript{16}
\end{quote}

Problems of administrative structure and fiscal rigidity were not the only factors detracting from the efficiency of law enforcement in New South Wales; crises of leadership continued throughout the 1840s. Three consecutive chiefs of police in Sydney were dismissed for alleged indiscretions: Col. H. C. Wilson was suspended by Governor
Gipps in 1939 for using policemen in his private service; in 1848, William A. Miles resigned in the face of allegations that he was drunk on duty; the following year, J. Long Innes was replaced after an investigation revealed that he had been involved in irregular practices during his earlier term as Visiting Magistrate at Darlinghurst Gaol.\textsuperscript{17}

By mid-century, the quality of the Sydney police force had descended to its lowest point. The scandals visible in the higher levels of the force had their counterparts at the level of the rank and file. Lockhart described Sydney’s constables as ‘such confirmed drunkards that they could not be trusted out of surveillance’, suggesting that many of them were ‘infirm old men’, or ‘petty tyrants’ with ‘itching palms’.\textsuperscript{18}

Working conditions were so adverse that recruitment of dedicated men to the force remained extremely difficult. A number of policemen continued to be drawn from the ranks of ticket-of-leave holders, since it was often impossible to attract free men to such onerous work.

Another committee, appointed in the aftermath of the 1850 riots, found similar faults and made similar recommendations. While a Police Regulation Act, 1850, provided for the appointment of an Inspector-General of Police with the intent of his co-ordinating various law enforcement functions, it was disallowed by the Home Government on a technicality. The advent of the gold rush, concern for attaining responsible government, and the rapid succession of cabinets during the period distracted the attentions of the Legislative Council to the extent that further action was postponed. Until a Central Police Office was established in 1851 to process interforce communications, the only vehicles for exchange of information between the various forces were notices inserted in the Government Gazette.\textsuperscript{19}

It was not until 1862, after an outbreak of bushranging and disturbances on the gold fields again illustrated the need for centralised law enforcement machinery, that definitive action was undertaken. The Police Regulation Act established the essential structure of the New South Wales Police Force which has endured to the present. Under the 1862 Act, the colony was split into police divisions; for example, existing law enforcement personnel in Sydney were incorporated into the Metropolitan Division. Each division was under the responsibility of a superintendent, who was in turn responsible to the Inspector-General, John McLerie.

The cessation of transportation to New South Wales coincided with what was perhaps the most significant experiment in penal practice in Australian history: Captain Alexander Maconochie’s activity on Norfolk Island.\textsuperscript{20} Maconochie, a naval officer who served as secretary to the Lieutenant Governor of Van Diemen’s Land in the late 1830s,
took a more than casual interest in the existing convict system. A former prisoner of war of the French, Maconochie viewed the prevailing treatment methods from a different perspective than did other administrators.

The major basis for Maconochie’s divergence of view was his concern for rehabilitation as the ultimate end of punishment. While most of his contemporaries subscribed to the view that the offender should suffer, Maconochie maintained that the purpose of treatment was the ultimate restoration of the offender to a functioning membership in society. The operation of the convict system in Van Diemen’s Land was regarded by Maconochie as degrading to both the prisoners and their keepers. Claiming that brutal treatment often encouraged vice and crime, he recommended the introduction of alternative treatment approaches based on rewards as incentives to co-operative behaviour.

Maconochie’s writings had stirred the interest of officials in London, where increasing thought had been given to alternative treatments of prisoners. The decision to discontinue transportation to New South Wales reflected these inclinations in part, as did the appointment of Maconochie as Commandant of the Norfolk Island Penal Settlement in 1840. During his tenure on Norfolk Island, Maconochie experimented with an array of unprecedented policies. Among the more significant of these was the ‘Mark System’, under which prisoners were awarded points or marks for good conduct. Disciplinary offences were punished by fines expressed in marks, and a given prisoner’s tally would determine not only the range of privileges accorded him, but also the duration of his sentence.

Maconochie’s efforts to approximate normal social conditions on Norfolk Island led him to establish situations of group co-operation wherein members of a group would share responsibility for each other’s behaviour, gaining or losing marks accordingly. Other measures undertaken by Maconochie for the amelioration of conditions in the settlement included his sponsorship of musical and dramatic presentations by the inmates, as well as a party which he hosted for his prisoners on the occasion of Queen Victoria’s birthday.

Official reaction to Maconochie’s experimentation, however, was generally unfavourable. In New South Wales, where the tradition of harsh treatment was half a century old, his policies were greeted with ridicule or anger. Governor Gipps, although favourably impressed by the results of Maconochie’s policies, expressed discomfort with the fact that the treatment involved no suffering for the transgressors. The Home Government, while willing to underwrite experimentation with Maconochie’s correctional strategies, was reluctant to implement them. Authorities in London refused to amend prison regulations to
permit the mark system to become fully operational. Disturbed at the expense of the project, and concerned that the deterrent and retributive dimensions of punishment were being neglected at Norfolk Island, Stanley recalled Maconochie in 1843.

Maconochie's brief period of attempted reform occurred during a time of major structural change in New South Wales penal practice. The rapid influx of free migrants to the colony helped alleviate the labour shortage; this, combined with the general desire to transcend the heritage of 'convictism', moved the authorities to discontinue the assignment of convicts and to rely instead first on their employment on public works projects, and later on their simple incarceration. The decision of the Home Government to discontinue the transportation to Norfolk Island of offenders convicted in New South Wales moved Governor Gipps to establish a prison at Cockatoo Island in Sydney Harbour, and to construct a gaol at Darlinghurst.

Before long, rumours of administrative indiscretions on the part of the Principal Gaoler at Darlinghurst began to attract public attention. In 1849, a Select Committee appointed to investigate disciplinary conditions at the gaol revealed that numerous abuses had in fact taken place. More than one of the turnkeys was described as an habitual drunkard, and some members of the staff were alleged to have cohabited with female prisoners. Both the Principal Gaoler and the Visiting Magistrate used prisoners in their personal service, and the former official was further accused of profiting directly from the sale of artifacts made by inmates. The Committee concluded that existing practices served neither to deter potential criminals nor to reform transgressors presently in custody, and recommended that gaol discipline be tightened.22

With the exception of a variation on the mark system which was implemented between 1851 and 1858, New South Wales prisons in the 1850s were quite unlike what Maconochie might have envisioned. When it came to the attention of the authorities in 1858 that under the modified mark system a person convicted of manslaughter could earn his freedom in three years and three months, it too was abolished.

Inmates of the prison on Cockatoo Island, denied the incentive to good behaviour, responded with resistance and insubordination. Conditions in the prison grew so disorderly that a Select Committee was appointed in 1861; its report provided the first thorough review of penal practices in New South Wales since the cessation of transportation.

The Committee's description of conditions on Cockatoo Island was extremely stark:
Towards a Civil Society: 1841-1869

The buildings assigned for the prisoners, especially for their confinement at night, are of a deplorable description. There are in all five dormitories, which have been built with very imperfect means of ventilation; on either side of each there are double tiers of transverse sleeping berths, with coffin-like apertures opening upon a narrow central passage. In this passage are placed night-tubs for the common use of the men during the twelve hours they are locked up.23

Darlinghurst Gaol was also described in less than pleasant terms:

The whole of the cells in the upper portion of the women's wards were swarming with bugs; about the ceilings, the walls, the hinges of the doors, they were in masses of an inch or more in diameter.24

In addition to criticising the calibre of the warders, the Committee found nutritional and working conditions in the prisons quite unsatisfactory. Most distressing, however, were the deviant sexual practices which appeared rampant. Testimony before the Committee revealed that homosexual behaviour among Cockatoo Island inmates was widespread, and the report related these findings with gravity.

The brutalising effect upon the prisoners is admitted by all, and it is described by some as terrible in depravity. Practices grossly obscene are common, and, on evidence possessing the consistency of truth, and which your Committee does not feel warranted in doubting, unnatural crimes of the deepest dye are committed.25

The Committee's recommendations were numerous, and in some cases, surprisingly innovative. They urged that more commodious living areas be provided, that sewage facilities be constructed, and that prisoners be given the opportunity to attend divine services regularly.

Other suggestions were quite forward looking, reminiscent of and to some extent derivative from Maconochie's work of two decades before. The Committee recommended the reintroduction of the mark system, and the extension of educational opportunity to inmates. The report further urged that prisoners be given productive employment with remuneration, in order to minimise the difficulties of readjustment upon discharge.26

Attitudes among colonial officials towards the Committee's recommendations were mixed, for concerns that the prisoner's lot should remain an uncomfortable one were still quite strong. The 1867 Amendments to the Prisons Regulation Act reflected these conflicts; the warders themselves were subject to quasi-military discipline, and the prisoners to an even more degrading routine of jumping to attention and saluting. Rations were small, and punishment for disciplinary
Sydney in Ferment

infractions was harsh. The persistence of uncomfortable prison conditions was reflected in the outbreak of disorder during the summer of 1864-5. The riots were suppressed only after corporal punishment was reintroduced and the use of armed force threatened.

On the other hand, there was some amelioration of prison conditions. A modified mark system was reinstituted, and haircut regulations were relaxed. Another reform of the period involved the classification and segregation of different types of offenders, with variable treatments administered according to the nature and severity of the offence. Six categories of prisoner were stipulated: those sentenced to imprisonment with hard labour for more than five years; those sentenced to lesser terms of imprisonment with hard labour; prisoners under sentence of imprisonment only; those awaiting trial; lunatics; and debtors.27

The impact of official response to the disorder of the 1840s defies complete assessment, for during the period larger structural changes were evident and significant. By 1842, wages had fallen, unemployment was increasing, and the temptation to leave one's work or to desert one's ship had largely disappeared. Thus, economic conditions had all but obviated the need for masters and servants and seamen's regulation legislation.28

Changing patterns of conventional criminality appear to have been masked in a similar manner by economic fluctuation. The crime wave of the early 1840s seemed to peter out as economic conditions improved later in the decade, and the incidence of crime had begun to subside even before assertive official action had been taken. The Select Committee on the Insecurity of Life and Property served a largely symbolic function. As a gesture in response to public pressure, the appointment of the Committee gave the impression that the government was acting assertively.29

The centralisation of New South Wales police forces in 1862 was widely regarded as not only a worthwhile innovation, but one which was forty years overdue. There seems little doubt that the facilities of communication available to the reorganised force were in no small part responsible for the success in suppressing the bushranging of the 1860s. Meanwhile, the long-term decline in serious criminality continued through the 1860s and 1870s. The attempted assassination of the Duke of Edinburgh in 1868 was not followed by a rebellion of Irish nationalists, and aside from a slight increase in rates of conviction for acquisitive crime in the mid-1860s, available evidence suggests that Sydney was becoming an increasingly orderly place. This trend, however, was not to endure much longer.

80
Past and Future in Collision: 1870-1900

The last two decades of the nineteenth century in Sydney were rich years historically, marked by an intriguing juxtaposition of themes, antique and modern. Antipathy towards orientals was growing throughout New South Wales, and public demonstrations in support of their exclusion were not uncommon. Protest against the attempted debarkation in Sydney of a group of Chinese in 1888 was followed by legislation restricting further immigration. The Act constituted a significant step in the development of the White Australia Policy.¹

Given the strict standards of sexual morality which had developed by 1880, the disproportionate attention accorded deviant sexual activity was to have been expected. The years 1882-6 appear to have seen unusual official attention directed at sex offences as Figures 7.1 and 7.2 indicate. Arrests for rape and attempted rape declined after the peak year of 1886, while lesser sexual offences other than indecent exposure reached a high in 1892. Indecent exposure cases reached a peak in the mid-1880s, and may possibly have been related to a parallel increase in arrests for drunkenness or to changing standards of bathing attire.

Two of the more famous criminal trials in Sydney's history, the Mount Rennie and Büttner cases, took place in 1886 and 1889 respectively.² The charge in both cases was rape, a capital offence at the time, and each attracted widespread public attention for different reasons. The Mount Rennie Case involved the trial of twelve teen-aged boys for the alleged gang rape of a girl in Moore Park. The 'Outrage' was generally received with vocal indignation, but when nine of the twelve defendants were sentenced to be hanged, a considerable debate arose.³ The trial had involved a number of marathon sittings, one of which lasted over eighteen hours; evidence was confusing, sometimes contradictory, the defendants were young, and the penalties were ultimate. Four of the boys were finally executed, and debate over capital punishment continued until the end of the century.

Two years after the Mount Rennie trial, the conviction of Ernest Büttner attracted much less attention. When it was subsequently revealed that his 'victim' had formerly worked as a prostitute in Brisbane, considerable public scepticism was aroused; her admission of having
Sydney in Ferment

Fig. 7.1 New South Wales: arrests per 1000 population, indecent exposure and all offences against sexual morality and custom, 1879-93. Source: N.S.W. Police Department, Annual Reports.

consented to relations with Büttner provoked an intense reaction from the press. A Royal Commission was appointed, and Büttner, after having spent 72 days in custody and 18 days in a condemned cell, received a Royal Pardon and £50 compensation.

The readiness with which arrests were employed as means of social control in the early 1880s is strikingly apparent in Figure 2.8.

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While there were over 75 arrests per 1000 population in 1881, the annual rate has averaged under 45 during the twentieth century, and in no year did it exceed 50. As had been the case ever since, the offence of drunkenness provided the greatest source of arrests during the period.

Apprehensions for drunkenness and vagrancy offences showed a decrease in the late- and mid-1880s respectively, while gambling
Sydney in Ferment

arrests increased in the early 1890s. Rates of arrest for aggressive and acquisitive crime remained relatively stable throughout the period, as Figure 7.3 indicates.

Fig. 7.3 New South Wales: arrests per 1000 population, selected offences, 1879-93. Source: N.S.W. Police Department, Annual Reports.

Another form of public disorder which received a large share of attention in Sydney during the closing years of the nineteenth century was referred to as 'larrikinism'. While the expression 'larrikin' was applied very loosely to young males with delinquent inclinations, larri-
Plate 4. 'In the heart of Sydney — a gambling rendezvous in King Street', 1880. Reproduced by permission of The Bulletin.
kins were, more strictly speaking, members of street gangs or 'pushes' whose activities varied widely in type and intensity. The behaviour of some so-called larrikins was limited largely to sartorial self-expression. Among the types of attire they favoured were high heeled boots, bell bottom trousers, and brightly coloured scarves.

Activities which Sydneysiders found more objectionable included the traditional pastimes of loitering on street corners and making suggestive remarks to passers-by. Since larrikins, as were their predecessors in the 1840s, were drawn from Sydney's working class, their general comportment and behaviour tended to offend the sensibilities of more 'respectable' members of society. More dangerous manifestations of larrikinism included pitched battles between rival 'pushes' and, in some cases, assaults on pedestrians and policemen.4

Gangs were visible in Sydney as early as the 1840s, and thus the larrikinism of the 1880s and 1890s may hardly be regarded as historically unique.

The following passage is illustrative of typical 'larrikin' behaviour and of resulting upper class sentiment:

Unable to individually resent a well merited contumely, and pressed back upon their own ranks for companionship, the primeval larrikins collected in crowds at street corners at first content to revenge themselves upon their social superiors, who had despised them, by abuse and occasional assaults. By insensible degrees, their operations expanded, and realising their strength, they tyrannised over all thoroughfares in the neighbourhood of their retreats.5

A more significant historical phenomenon than larrikinism, and one without precedent in Sydney, was that of large-scale labour protest. Strikes of a substantial magnitude were recorded in New South Wales during the years 1885, 1886, 1888, and 1890, with the events of the last year the most severe to that point in Australian history.

Although the strike by shearers and maritime workers which occurred between August and November of 1890 was ultimately defeated through the use of non-union labour, the strikers' show of strength was substantial. Picketing and occasional harassment of non-union labour led to the appointment of special constables and to the deployment of colonial artillery. At one point during the strike, 10,000 sympathisers paraded through the streets of Sydney in a column 1½ miles long. Their assembly and rally at the waterfront was relatively free of violence, considering the size of the group. While some vehicles were overturned and more than one policeman injured by flying objects, arrests were very few.

A dramatic confrontation between police and criminals occurred in
February 1894, when three men suspected of burgling the Sydney offices of the Union Steamship Company were accosted by police on Bridge Street. Although the men were in possession of firearms, they chose to defend themselves with iron bars; in keeping with the policy of the time, the police were unarmed. Five policemen were injured in the ensuing fight, and two of the suspected burglars were taken into custody. They were convicted of wounding with intent to murder, and hanged on 31 May 1894. Shortly after the ‘Bridge Street Sensation’, members of the New South Wales police force began carrying firearms as a matter of routine.6

As considerable progress was made in the area of public health and sanitation while the technology of fertility control remained in a somewhat primitive state, more and more Sydneysiders were burdened with unwanted children. These difficulties were compounded in the early 1890s by the economic contraction, and the practice of ‘baby farming’ grew prevalent. Enterprising Sydneysiders would capitalise on the decline in infant mortality by offering to adopt children for a fee. Perhaps the most energetic practitioners of baby farming were John and Sara Makin, in whose Macdonaldtown backyard the corpses of seven infants were unearthed in October 1892. The Makins, who changed names and addresses frequently, had charged from £2 to £5 for an adoption. Following their conviction, John Makin was hanged, and his wife sentenced to 14 years’ imprisonment.7

Other than the cessation of Chinese immigration, there were few noticeable demographic changes during the 1880s and 1890s. While the racial homogeneity of the New South Wales population may have served to inhibit collective violence, the most interesting pattern was that of migrant criminality.

Despite continuing migration from England and Ireland, almost two-thirds of all New South Welshmen counted in the 1891 Census were Australian born. The Britishness of the population was overwhelming: by the turn of the century, over 95 per cent of the population of New South Wales was born either in Australia or in the U.K. Seventy per cent were Protestant, a fourth Roman Catholic. Illustrative data are presented in Table 7.1.

Arrest records for the period reveal a number of interesting patterns. Perhaps most striking is the fact that the vast majority of those persons arrested were migrants, born outside Australia. Irish-born offenders in particular were overrepresented in most arrest categories, especially those of offences against the person and against good order. In addition, the average offender during the 1890s tended to be in his late twenties; males between the ages of 25 and 30 were overrepresented among those apprehended.
### TABLE 7.1
New South Wales: selected demographic data, 1871-1901

<table>
<thead>
<tr>
<th>Year</th>
<th>Total Population</th>
<th>Percent Australasian Born</th>
<th>Percent Irish Born</th>
<th>Percent Born in British Empire Outside Australasia</th>
</tr>
</thead>
<tbody>
<tr>
<td>1871</td>
<td>503,981</td>
<td>61·2</td>
<td>12·5</td>
<td>34·6</td>
</tr>
<tr>
<td>1881</td>
<td>751,468</td>
<td>68·1</td>
<td>9·2</td>
<td>27·8</td>
</tr>
<tr>
<td>1891</td>
<td>1,132,234</td>
<td>72·3</td>
<td>6·6</td>
<td>23·9</td>
</tr>
<tr>
<td>1901</td>
<td>1,359,133</td>
<td>80·5</td>
<td>4·4</td>
<td>16·6</td>
</tr>
</tbody>
</table>

*Source: N.S.W. Statistical Registers.*

### TABLE 7.2
New South Wales: arrests for selected offence categories, per cent Irish born, 1891, 1901

<table>
<thead>
<tr>
<th>Year</th>
<th>% Irish Born Total N.S.W. Population</th>
<th>Offences Against the Person</th>
<th>Offences Against Property With Violence</th>
<th>Offences Against Property Without Violence</th>
<th>Forgery and Offences Against the Currency</th>
<th>Offences Against Good Order</th>
</tr>
</thead>
<tbody>
<tr>
<td>1891</td>
<td>6·6</td>
<td>13·9</td>
<td>13·0</td>
<td>10·1</td>
<td>13·0</td>
<td>16·3</td>
</tr>
<tr>
<td>1901</td>
<td>4·4</td>
<td>6·8</td>
<td>4·1</td>
<td>6·7</td>
<td>3·4</td>
<td>23·4</td>
</tr>
</tbody>
</table>

*Source: N.S.W. Statistical Registers.*

### TABLE 7.3
New South Wales: total apprehensions, per cent of those apprehended born outside Australasia, 1885-1893

<table>
<thead>
<tr>
<th>Year</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>1885</td>
<td>67·7</td>
</tr>
<tr>
<td>1886</td>
<td>66·7</td>
</tr>
<tr>
<td>1887</td>
<td>63·6</td>
</tr>
<tr>
<td>1888</td>
<td>61·3</td>
</tr>
<tr>
<td>1889</td>
<td>59·0</td>
</tr>
<tr>
<td>1890</td>
<td>59·3</td>
</tr>
<tr>
<td>1891</td>
<td>58·5</td>
</tr>
<tr>
<td>1892</td>
<td>56·6</td>
</tr>
<tr>
<td>1893</td>
<td>54·3</td>
</tr>
</tbody>
</table>

*Source: N.S.W. Statistical Registers.*
The early 1890s were accompanied by the most significant period of economic adversity to confront Sydney in a half century. An international financial crisis which began late in 1890 resulted in substantial withdrawals of investments from Australian houses of finance. A number of banks in Sydney folded, land values and commodity prices fell drastically, and unemployment rose. For those fortunate enough to remain employed, the level of real wages dropped 10 per cent. Aside from the predictable diminution in the rate of arrests for drunkenness, the depression appears to have had no immediate effect on the incidence of disorder. The collective protests which did occur during the period actually preceded the worst of the depression years, and were more the result of increasing working class consciousness than of economic adversity.

Contemporary views on the causes of crime during the last decades of the nineteenth century were plentiful and diverse. By far, the behaviour which evoked the most etiological speculations was that generally referred to as 'larrikinism'. Indeed, the ostensible 'roots' of larrikinism remained a topic for discussion over a period of at least twenty years.

As the standard of living in Sydney (at least through the 1880s) was among the highest in the world, many viewed larrikinism as a product of affluence. In 1881, the *Bulletin* claimed

Our larrikins are as much the outcome of the prosperity of the laboring classes as of anything else . . . .
The peculiar prominence they attain is clearly attributable to the comparative ease with which they, as compared with the same class in the old world, can acquire the means for indulgence and for idleness.8

As late as 1892, on the eve of the depression, similar contentions were voiced in Parliament.

Most of us who have given any attention to this species of crime can trace it to the fact that there is too much leisure for the boys and youths in this country. They are not kept sufficiently at work. As was told to me some time ago, when it was my duty in a public capacity to make inquiry, particularly as to larrikinism — want of parental control, too much leisure, and too much food are at the bottom of this evil.9

The theme of parental neglect as a cause of larrikinism was popular throughout the 1880s. 'Ajax' attributed this in turn to large families and to the disproportionate number of public houses in Sydney. Three years later, the Intoxicating Drink Inquiry Commission suggested that
the offspring of intemperate parents tended often to indulge in disorderly behaviour. The Comptroller-General of Prisons suggested in 1885 that larrikinism was partly attributable to climatic conditions, since summer evenings in Sydney were quite warm and thus conducive to outdoor activity.10

Attempts to explain juvenile misbehaviour also touched upon shortcomings in the educational system. Secular education became a particular scapegoat.

We broke down the system of religious training in our public schools, because we were afraid to impart what was religious dogma, without making any attempt to substitute another system in its place . . . . I am sure that the want of this training lies at the root of all this larrikinism in our community; the children are not taught at school the reverence which is due to their superiors.11

An alternative explanation, addressing itself to deviant behaviour in general, was unfortunately not subject to empirical verification.

I believe that in making secular education the chief thing, and religious teaching a secondary and desultory matter, we dishonor God, and therefore, we have brought upon us punishment which we are now suffering by reason of the many strikes and suicides, and the larrikinism in our midst.12

Perhaps the most multifaceted of contemporary discussion of larrikinism was offered by the prison administrator, Frederick Neitenstein. In addition to the aforementioned themes of defective home life and parental neglect, Neitenstein suggested that the absence of recreational opportunity led youth in Sydney to seek less socially acceptable diversions. In a manner indicative of the moral climate of the time, he further proposed that the unsavoury literature, dancing halls, and gaming establishments present in the city also tended to encourage juvenile misbehaviour.

Neitenstein suggested in addition that the public's perception of the behaviour in question was greatly influenced by the news media. The widespread press coverage accorded the 'pushes', he claimed, may have stimulated some emulative behaviour; in any event, the attentions of the press seemed to encourage a kind of careless usage on the part of many, who tended to employ the term 'larrikinism' in reference to any street disturbance. Moreover, media amplifications of these kinds of activity may also have served to raise public insecurity to a level unjustified by empirical reality.13 Despite the popularity during the period of a song entitled, 'Afraid to go Home in the Dark', Neitenstein maintained that Sydney's streets remained relatively safe.
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The argument that drunkenness contributed to the increase in many forms of criminality appeared again and again during testimony before the Intoxicating Drink Inquiry Commission in 1887. The Inspector-General of Police estimated that three-quarters of all crime was directly attributable to drink, while a former chaplain at Berrima Gaol attributed 90 per cent of crime ‘directly or indirectly’ to excessive use of intoxicants. The Governor of Darlinghurst Gaol even exceeded these estimates, claiming that the percentage of his inmates whose presence in gaol was due to drink was not less than 92 or 93 per cent.14

There seems little doubt that these estimates are inflated somewhat by the prevailing practice of zealously prosecuting drunkenness per se as an offence. No less a public figure than Sir Alfred Stephen, however, maintained that the link between drunkenness and conventional criminality was strong:

A very large, a preponderating, proportion of crime was directly and indirectly the result of intoxication — in the cases of small crimes, very frequently; but in those of the greater crimes, particularly crimes of violence, almost universally.15

Mental disorder was held to be still another factor contributing to criminal activity; the theme of innate criminality had long been a popular one in New South Wales, and personality disturbances were still regarded as more or less spontaneous phenomena. In 1886, Harold Stephen argued that ‘Criminals, for the most part, are mad to a certain extent; their moral sense is so degraded from their birth upwards, that they are not sane on the point of morality . . . ‘.16 Three years later, Wm. C. A’Beckett reasserted this interpretation:

There are certain crimes which we cannot imagine any man committing. No sane man would commit them. Medical men will testify that in many instances men who commit offences suffer from lunacy, and should be treated as lunatics.17

At least with regard to sex offences, the theme of lunacy endured to the end of the century. In 1897, Neitenstein referred to ‘offenders against nature, assailers of little children, and other lust-degnerates’ as ‘sexually insane’.18

Despite the popularity of explanations based on notions of inherent badness, many observers suggested certain social bases for criminal activity. As crowded prison conditions grew worse in the 1880s it became widely accepted that prison life, far from reforming the offender, corrupted him still further. The Comptroller-General of Prisons himself maintained in 1882:
There can be no question but that plural cellular occupation is the hot bed of crime extension, and that many a man is corrupted, and many a crime planned during the long hours of the night in associated cells.19

Other, more radical, observers saw crime as inspired by the profligacy of the ruling class. 'Ajax' argued dramatically that

When men of years and of high station and of royal descent shall have learned to spurn at and condemn pleasure; when seductions, mistresses, and adulteries have to them lost their charms; young men will readily perceive that it is for them to reform in turn, and a youthful population of true hearted and earnestly thoughtful men will number in force. . . . But while men of abundant means aim only at self aggrandizement and the attainment of pleasure; while they recklessly dissipate their wealth among gamblers and courtezans; while the acquisition of money is a chief desideratum; and while continence and true manhood are rarely seen—amid all our seeming progress a disastrous and retrograde movement is going on, and a vast multitude of our fellow-citizens are sinking low beneath the level of the brute.20

Two other suspected causes of criminal behaviour, urbanisation and economic deprivation, received only slight attention during the period. As Sydney's population growth continued to outstrip that of the rural hinterland, one early advocate of decentralisation argued, with particular reference to gambling, that 'The evil of gambling which we see about us comes from the rotten condition of society. It is the consequence of the wretched system which draws thousands into the cities.'21 In 1893 the Inspector-General of Police suggested that economic adversity tended to stimulate property crime. He argued that many thefts arose as a result of 'undoubted distress from lack of employment'.22 A cursory review of contemporary debates and commentary, however, revealed no further references to these factors.

Towards the end of the nineteenth century in New South Wales the power of the pastoralists was eclipsed by that of the urban middle class. Commercial and professional interests, overwhelmingly Protestant, rose to prominence in Parliament; their orientations towards criminal behaviour were strongly grounded in the dominant climate of Victorian morality.

Preoccupation with sex constituted the most strikingly visible theme of the period. Sexuality was an undeniable part of human existence in Sydney, and while parliamentarians could not legislate it away, they did their best to regulate and repress it. Sexual deviance and other
forms of criminal behaviour with sexual overtones were viewed with unusual indignation by public officials.

Certain penalties prescribed in the Criminal Law Amendment Act, 1883, reflected these attitudes starkly. Both forcible rape and carnal knowledge of a female under ten years of age were punishable by death; the severity of these penalties seems to have had no parallel elsewhere in the British Empire at the time, except in Tasmania. The 'abominable crime of buggery' was punishable by up to life imprisonment. In addition, offenders convicted of attempted rape, various offences related to carnal knowledge, indecent assault, and wilful exposure were subject to both whipping and imprisonment.

The moral outrage precipitated by the alleged Mount Rennie rape in 1886 was voiced in newspaper coverage which can best be described as bombastic. Frank Clune refers to a series of editorial broadsides in the Sydney press which speak of the defendants in the case as 'more cruel and degraded than savages'; 'more brutal than beasts'; 'less than human'; and 'unworthy to be classed even with the lower animals'. Concern for the international image of New South Wales on the eve of the colony's Centennial, as much as any humanitarian consideration, underlay the decisions to commute five of the nine capital sentences awarded at the trial.

So great was the desire of some to protect Australian womanhood that a Seduction Punishment Bill was introduced in the New South Wales Legislative Assembly in 1887. The Bill proposed not only to make seduction a criminal offence, punishable by up to two years hard labour, but also to define as criminal any attempt to have illicit connection with a girl of 'previously chaste character'. J. S. Farnell, a former Premier who introduced the legislation, provided an indication of his sentiments by quoting the following passage from Goldsmith during debate on the measure:

> When lovely woman stoops to folly  
> And finds too late that men betray.  
> What charm can soothe her melancholy?  
> What art can wash her guilt away?  
> The only art her guilt to cover,  
> To hide her shame from every eye,  
> To give repentance to her lover,  
> And wring his bosom, is—to die.

Other members, however, were quite uncomfortable with the vague wording of the Bill, and recognising the potential it provided for blackmail, elected not to enact it.

The following year, an Abolition of Whipping Bill was defeated in
the Assembly by those members who viewed corporal punishment as a necessary instrument of retribution for sexual offenders. The following discussion refers to the particular offence of carnally knowing a girl under ten years of age:

Mr. ABIGAIL: . . . Where is the manhood of any person who would descend to a crime of that kind? Such a person can have no more manhood in him than the devil himself.
Mr. MELVILLE: Would it not be better to take away his manhood altogether?
Mr. BARBOUR: I would inflict that punishment in addition to the other!25

Defenders of virtue introduced a Vice Suppression Bill in 1892 which proposed, among other things, to raise the age of consent from 16 to 17 and to create the offence of securing females for the purpose of prostitution. The degree of their moral indignation was readily visible in the debate:

When we think of what is going on in the city at the present time, when we look around as men of the world and see the condition of society at the present moment, young girls, 13, 14, and 15 years of age being inveigled into these dens for no other purpose than their immediate ruin, it is a matter that should make every hon. gentleman in this house quake.26

This Bill, however, contained such drastic provisions of police search and other deprivations of legal rights that it too failed of enactment.

The closing years of the nineteenth century marked the high point of prohibitionist activity in New South Wales. Anglicans dominated the temperance movement, energetically calling attention to the wave of drunkenness which was apparently engulfing Sydney. The Commission of Inquiry which reported in 1887 on matters related to intoxication presented findings unfavourable to the prohibitionists’ cause, however. The rate of consumption of beer, wine, and spirits had decreased substantially over the past decade, and was not markedly different from rates in the other Australian colonies.

Most striking, however, was the Commission’s recommendation with regard to the definition of public drunkenness as a crime:

Our laws have started with the assumption that drunkenness is a crime, and have treated it accordingly; and now, after many years of experience, we find that our efforts at repression have failed in the most disastrous manner. We have not succeeded in producing any amelioration in the habits of the habitual drunkard, and our
gaol treatment, though it has admittedly been instrumental in prolonging the drunkard’s life, has yet done nothing to help or to induce him to reform. Another method now remains to be tried. We may cease to regard the habitual drunkard as a mere criminal to be punished by fine and imprisonment, and inquire whether something may not be accomplished by treating him as one who suffers from a disease which is, to some extent, analogous to temporary or intermittent derangement of mind.\textsuperscript{27}

Despite this recommendation, and one of a similar nature made nine years later by the Comptroller-General of Prisons, drunkenness continued to be regarded as a criminal offence. Prohibitionists, however, were successful in bringing about a reduction in the number of licensed public houses in the city, and in maintaining Sunday closing regulations.

Gambling, although a traditional Sydney pastime, was also regarded by the authorities with distaste, although it failed to evoke as indignant a response as did deviant sexual behaviour. One of the more intense critics of this ‘national evil’ asserted that

\begin{quote}
We are breeding a race of ‘spielers’ and scoundrels all over Australasia. No man can walk along Pitt or George Street without being horror struck at the number of young men to be seen there who ought to be earning their living, instead of endeavouring to outwit their fellow man by all kinds of chicanery.\textsuperscript{28}
\end{quote}

Another member suggested that defence funds be reallocated to finance a crackdown on gambling, an activity to which he referred as ‘a disgrace to any community professing to believe in Christianity’.\textsuperscript{29}

When, in 1893, the New South Wales Parliament enacted legislation creating the offence of sweepstakes betting, George Adams moved his thriving lottery enterprise to Brisbane.

At one point in 1891 the issue of gambling provided a focus for the convergence of attitudes towards a whole range of criminal behaviour. Accusations that members of Sydney’s Chinese population were involved in gambling, opium smoking, and white slave traffic aroused public indignation and brought about the appointment of a Royal Commission. The Commission concluded that while some Chinese did operate gambling establishments and a few did smoke opium, allegations of white slavery were unfounded. Indeed, the report stated that those Australian women who were living with Chinese men claimed to enjoy much better treatment under their present circumstances than they had previously been accorded by white Australian males.\textsuperscript{30}

The racialism which so pervaded late nineteenth century Australian
society manifested itself throughout the hearings. While the Commission’s report concluded that the Chinese in Sydney were quite law abiding, and not at all guilty of defiling Australian womanhood, testimony before the Commission was much less complimentary. No less a person than the Inspector-General of Police asserted: ‘I recommend that the Chinese, being an alien race, should be placed under some special supervision, and I still hold to that opinion both for sanitary, social, and moral reasons’.  

* Reaction in Parliament to the prevalence of child neglect and ‘baby farming’ brought about significant redefinition legislation in 1892. The Children’s Protection Act, inspired by recent legislation in Britain and Victoria, provided that all adoptions be registered and that all infant deaths be reported within 24 hours and be subjected to inquest. Penal clauses in the Act provided for a fine of £50 or 12 months’ imprisonment for persons found guilty of abusing or neglecting children.

The range of street offences referred to broadly as ‘larrikinism’ evoked official reaction according to the relative gravity of particular acts of delinquency. Generally boisterous behaviour or loitering were viewed as simple annoyances, while insulting language directed at female pedestrians was regarded as more serious. Assaults on members of the public generally, or on policemen, often elicited responses sufficiently indignant to be accompanied by calls for corporal punishment. A Disorderly Conduct Suppression Bill was introduced in the Legislative Assembly during 1892; the Bill proposed to increase the fine and gaol term for the existing offence of ‘riotous behaviour’ and prescribed penalties of whipping in certain cases of assault. Its provisions were largely redundant, however, as ample provision for corporal punishment existed in the decade-old Criminal Law Amendment Act.

In contrast with the strong antipathy towards many forms of disorderly behaviour, there emerged in New South Wales a distinct counter-trend. Thirty-six Labor candidates were elected to the Legislative Assembly in 1891; representation of the working classes was accompanied by a movement to abolish capital punishment. Legislation to this effect was introduced on numerous occasions, but each attempt met with opposition sufficiently strong to preclude enactment. Similar attempts to abolish corporal punishment were likewise unsuccessful.

Despite their lack of success on these two policy measures, reformers in New South Wales were able to effect certain fundamental changes in criminal procedure. The Criminal Law and Evidence Amendment Act, 1891, enabled a defendant charged with an indict-
able offence to give evidence on his own behalf. The First Offenders Probation Act, 1894,\textsuperscript{33} constituted one of the major reforms of the period. Stimulated by crowded prison conditions and the growing realisation that imprisonment often had only the worst influence on the offender, the Act allowed judges to substitute a period of probation in lieu of a prison sentence for a first offender. The enactment of this legislation marked the first significant use of non-custodial treatment since the convict era.

In addition to providing for the enactment of these reforms, the populist and working class bloc in the Legislative Assembly was successful in helping stifle a spate of potentially repressive bills. Such measures as the aforementioned Vice Suppression and Disorderly Conduct Suppression Bills were denied enactment largely because of the new representation of working class interests.

The last decades of the nineteenth century thus saw substantial divergence in articulated attitudes towards deviant behaviour. The defenders of middle class morality stood in contrast to those more ‘common’ citizens who sought to avoid further curtailment of individual freedom. Predictably, the legislative struggles between the two groups resulted in measures of both repression and reform.

By the end of the nineteenth century, the New South Wales police force had assumed a wide range of responsibilities, many quite unrelated to their conventional tasks of law enforcement. In addition to licensing public houses and supervising the increasing volume of vehicular traffic in the metropolis, the police had been awarded duties ranging through the control of truancy and the administration of the Diseased Animals and Meat Act, to dogcatching. There seems little doubt that the assumption of these extraneous responsibilities detracted from the overall efficiency of the force. Inspectors-General complained consistently of this problem, but with notable lack of success; by the turn of the century, police had assumed the additional responsibilities of investigating applications for old age pensions, compiling electoral lists of newly enfranchised women, and inspecting shearing sheds.

Other socioeconomic phenomena served to impose even further responsibilities on the police. As industrial strife emerged for the first time in New South Wales on a significant scale, the normal strength of the force was regarded as insufficient to cope with potential disorder. Steps were therefore undertaken for the temporary augmentation of the force through the appointment of special constables and temporary reassignment of colonial defence forces. In 1892, industrial difficulties at Broken Hill in the southwestern part of the colony necessitated the temporary transfer of 221 officers from the Metropolitan District. In spite of this substantial reduction in the size of the metro-
Past and Future in Collision: 1870-1900

politan force, there was no apparent change in the incidence of crime or of arrests.

Acts of violence against police in Sydney appeared to increase in the late 1880s, and considerable debate arose over the desirability of providing members of the force with firearms. While the Inspector-General himself was quoted in 1889 as opposing the routine arming of the police, events were to militate in favour of a change in policy. Violence against police continued unabated, and following the Bridge Street Sensation in 1894, police on duty were equipped with pistols.

Meanwhile, allegations that police themselves tended to employ unwarranted force were heard from time to time in Parliament. It appears, however, that in general, the police exercised relative self restraint. Perhaps the greatest opportunity for police heavy handedness arose during the 1890 strike, but as has been indicated, the procession of 10,000 men through Sydney produced but a handful of arrests and injuries.

The prison system of New South Wales had remained largely unchanged since the convict era, and it was only at the very end of the nineteenth century that major ameliorative innovations were introduced. The primary concerns of prison administrators during the 1870s were the productivity and profitability of prison labour. The Comptroller-General of Prisons emphasised labour matters in each of his annual reports, complaining that prisoners convicted of drunkenness returned again and again for short sentences, a treatment which proved to be neither productive nor rehabilitative.

Conditions in the prisons of New South Wales, meanwhile, were only slightly more benign in the late 1870s than they had been a decade before. While cellular confinement and restricted association had replaced the dormitory accommodation of the 1860s, practices of physical coercion were widely employed. Allegations by inmates of Berrima Gaol that they were frequently beaten, chained to the walls of their cells in a spreadeagle fashion, and gagged, led to the appointment of a Royal Commission in 1878.

The Commission’s report reflected reluctance to accept the statements of the prisoners, and tended generally to support the denials of prison personnel. Nevertheless, the following description of the gaol’s Governor, William Small, suggests that life at the facility could only have been harsh.

He is clearly a person of hasty temper; he is impatient to some extent of contradiction; he has been not infrequently rough in his manner towards, and somewhat arbitrary in his treatment of, prisoners, and has sometimes been wrongfully in collision with some
of his subordinate officers; but we certainly do not think him of a
revengeful or cruel disposition.36

Further indications of the unpleasantness of existing conditions are
visible in the Commission’s recommendation that stricter controls be
placed on the use of the gag, a mechanical device which, when
inserted in the prisoner’s mouth, prevented him from speaking. The
Commission further recommended that ring bolts be removed from
cell walls, and that the Comptroller-General of Prisons visit the facil-
ity with greater frequency.

As imprisonment remained the dominant treatment during the
1880s and 1890s, prisons in New South Wales became increasingly
crowded. To an extent unsurpassed before or since, prisons served as
warehouses for drunkards, vagrants, the aged and infirm, and lunatics,
in addition to the more conventional offenders. The opening of a girl’s
reformatory at Shaftesbury in 1880 and a new prison at Goulburn in
1883 relieved some of the pressure, but conditions remained extremely
crowded. The peak years of 1884-6 saw the annual totals of prison
receptions exceed 20,000; twenty-two out of every thousand New South
Welshmen were admitted to prison in each of these years.

One ameliorative experiment undertaken in the 1880s involved
partial remission of sentences for participation on a public works pro-
ject.37 The number of prisoners participating in the construction of the
Trial Bay Breakwater was not large, however, and no attempts were
undertaken to expand such non-custodial alternatives. Despite an
occasional reference to rehabilitative aims by prison administrators,
retribution and deterrence continued to serve as foundations of cor-
rectional policy. Comptroller-General Maclean, sensitive to public
suspicions that prison conditions were insufficiently harsh, revealed
that prisoners under sentence of less than a year were provided with
four ounces of meat twice weekly and suggested ‘This cannot be con-
sidered a temptation to prison life by members of a meat-eating com-

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The reaction of prisoners to these austere conditions was predict-
able. Breaches of discipline were frequent, and a riot took place in
the new prison at Bathurst in November 1889. The disorder lasted
over a period of days, and was quelled only after reinforcements were
brought from Sydney.40

George Miller succeeded Maclean as Comptroller-General of Pris-
ons in 1890, and called for conditions which in many respects were
even more austere. While he relaxed regulations with regard to shaves
and haircuts, Miller suggested that solitary confinement or ‘separate
treatment' of young petty offenders was an insufficient deterrent, and advocated the reintroduction of corporal punishment and the bread and water diet. At one point in his 1892 Annual Report, Miller articulated part of his correctional philosophy:

Those who complain that prisoners are not reformed in gaols should remember that gaol is not, strictly speaking, a reformatory, nor is it an asylum. It is a place to which offenders against the laws are sent to serve certain periods under a stern and exact discipline as a punishment for their crimes, and a warning to others, as well as for the protection of society.41

While the New South Wales Government, despite Miller's requests, remained unwilling to introduce corporal punishment for offences related to larrikinism, they provided him in 1893 with sufficient latitude to effect major changes in prison diet and living conditions. Offenders under the age of 25 who were serving sentences of less than one year continued to be subject to separate treatment. Those serving sentences up to 14 days were to receive only bread and water during their term of imprisonment. Offenders serving sentences from 14 days to six months were to alternate on a weekly basis between bread and water and normal rations, while those serving sentences in excess of six months would be kept on bread and water for the final 14 days of their terms. In addition to these dietary restrictions, Miller provided that offenders serving sentences of less than six months be required to sleep on a plank bed without a mattress.42 In 1894, with the government's authorisation, he reinstituted the gag in order to check the use of what he termed 'blasphemous and frequently vile and filthy language'.43 Intensive criticism from opposition members moved the government to withdraw this authority in the following year, however.

Frederick W. Neitenstein became Comptroller-General of Prisons in June 1896, and presided over a significant restructuring of the New South Wales prisons system. Unlike his predecessors, Neitenstein was as concerned with reform as with deterrence or retribution. Steadfastly opposed to the existing functions of prisons as warehouses for the cast-offs of society, he refined classification procedures, and sought to treat individuals rather than offences. Neitenstein was aware of overseas developments in penal practice, and during his term as Comptroller-General, he presented a spate of policy recommendations to the Ministers of Justice under whom he served. While some of these suggestions were never acted upon (such as that of treating drunkenness as a medical rather than as a criminal matter), a great number of significant changes were introduced during Neitenstein's term or shortly
thereafter. Library and sanitary facilities were greatly expanded, eligibility for remission of sentence in cases of good behaviour was broadened considerably, dark cells were abolished, and provisions for solitary confinement were limited. The steady decline in the number of prison admissions which began in 1894 permitted the allotment of a separate cell to each prisoner by the turn of the century. Cells were lighted in the evening, and the opportunity for physical exercise increased. The classification system was expanded, and a special facility was established at Goulburn for first offenders serving long sentences. Particular attention was paid to prisoners just prior to discharge; they were accorded more privileges, increased visiting rights, and efforts were made to aid them in securing employment; the establishment of an Association for Aiding Discharged Prisoners reflected public sympathy for these policies. Pay and working conditions of Prisons Department personnel were also improved significantly.44

In keeping with the trend towards non-custodial correction which began with the First Offenders Probation Act, the Justices Fines Act, 1899, provided for partial remission of sentences in cases where offenders imprisoned in default of payment of fines were able to pay a portion of the sum in question. Thousands of man-years of imprisonment were spared by these measures, as Tables 7.4 and 7.5 indicate.

### TABLE 7.4

New South Wales: prisoners liberated under the provisions of the First Offenders Probation Act and subsequent statutes, 1895-1907

<table>
<thead>
<tr>
<th>Year</th>
<th>Persons Liberated</th>
<th>Prison Receptions Per 1000 Population</th>
</tr>
</thead>
<tbody>
<tr>
<td>1895</td>
<td>184</td>
<td>14.8</td>
</tr>
<tr>
<td>1896</td>
<td>62</td>
<td>13.4</td>
</tr>
<tr>
<td>1897</td>
<td>78</td>
<td>11.4</td>
</tr>
<tr>
<td>1898</td>
<td>145</td>
<td>11.4</td>
</tr>
<tr>
<td>1899</td>
<td>153</td>
<td>10.7</td>
</tr>
<tr>
<td>1900</td>
<td>120</td>
<td>10.5</td>
</tr>
<tr>
<td>1901</td>
<td>179</td>
<td>10.4</td>
</tr>
<tr>
<td>1902</td>
<td>241</td>
<td>10.2</td>
</tr>
<tr>
<td>1903</td>
<td>232</td>
<td>10.6</td>
</tr>
<tr>
<td>1904</td>
<td>385</td>
<td>9.7</td>
</tr>
<tr>
<td>1905</td>
<td>371</td>
<td>9.0</td>
</tr>
<tr>
<td>1906</td>
<td>219</td>
<td>8.0</td>
</tr>
<tr>
<td>1907</td>
<td>325</td>
<td>7.5</td>
</tr>
</tbody>
</table>

Source: N.S.W. Statistical Registers.
TABLE 7.5
New South Wales: remission of sentence by part payment of fines, 1902-1909

<table>
<thead>
<tr>
<th>Year</th>
<th>Persons Imprisoned in Default of Payment of Fines</th>
<th>Prisons Subsequently Released After Paying Portion of Fines</th>
<th>Days Remitted By Part Payment of Fines</th>
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</thead>
<tbody>
<tr>
<td>1902</td>
<td>8062</td>
<td>1008</td>
<td>20,179</td>
</tr>
<tr>
<td>1903</td>
<td>8379</td>
<td>1081</td>
<td>20,198</td>
</tr>
<tr>
<td>1904</td>
<td>7681</td>
<td>1287</td>
<td>22,035</td>
</tr>
<tr>
<td>1905</td>
<td>7347</td>
<td>1247</td>
<td>22,389</td>
</tr>
<tr>
<td>1906</td>
<td>6853</td>
<td>1327</td>
<td>14,100</td>
</tr>
<tr>
<td>1907</td>
<td>6635</td>
<td>1510</td>
<td>28,379</td>
</tr>
<tr>
<td>1908</td>
<td>7158</td>
<td>1538</td>
<td>29,147</td>
</tr>
<tr>
<td>1909</td>
<td>6471</td>
<td>1435</td>
<td>29,773</td>
</tr>
</tbody>
</table>

Source: N.S.W. Statistical Registers.

While Neitenstein tended to avoid practices which he saw as needlessly degrading, one of his innovations was to have the unintended consequence of making prison life even more drab and depersonalised. By 1901, numbers were substituted for prisoners' names, 'in order to assist prisoners in concealing their identity from each other, and to prevent blackmailing upon discharge'. At least one effect of Neitenstein's reforms was readily visible. Reported breaches of prison discipline decreased 40 per cent from 1897-1901.45

Neitenstein's tenure marked a fundamental change in New South Wales correctional practice. The rehabilitative orientations to criminality which had lain dormant since the days of Maconochie were revived, and came to constitute the ideal (if not always realised) direction of New South Wales penal institutions in the twentieth century.

The apparent decline of larrikinism in Sydney at the end of the 1890s attracted somewhat less public attention than did its rise. There also appeared to be certain misconceptions about the relative effectiveness of the treatments aimed at its suppression. Retrospective interpretations such as those of Brodsky and the authors of editorials and letters in the *Sydney Morning Herald* have been based on the contention that larrikinism was effectively suppressed by the application of corporal punishment.46 Existing records provide little support for these claims, however. Because the expression 'larrikinism' was employed in reference to behaviours as varied as insulting language and assault, any blanket assertions are risky. Solitary confinement on a diet of bread and water, hardly a pleasurable alternative to the lash, was the primary
punishment awarded to young male offenders during the 1890s. While Comptroller-General of Prisons Frederick Neitenstein suggested that this practice may have had some deterrent effect, larrikin 'pushes' were still active as late as 1900.47

Moreover, it is quite evident that by the mid-1890s, floggings for infractions of prison discipline were infrequent, and sentences of flogging for criminal offences were very rare. Police records reveal that at least twice in 1893 and once in 1895 floggings were administered in cases of wanton assault.48 Comptrollers-General of Prisons made explicit recommendations from 1890 to 1892 that whippings be administered to youthful minor offenders, but they appear to have accepted the treatment of restricted rations as an adequate substitute.49 Whatever punishments were awarded to the youthful delinquents of the day, the data in Table 7.6 suggest that there was but a slight diminution in the incidence of ‘larrikin-type offences’ during the decade, at least in the particular district of Sydney which the police regarded as a ‘high-crime area’.

### TABLE 7.6

No. 4 Police District, Sydney: arrests for selected offences related to larrikinism, January-June 1891-1900

<table>
<thead>
<tr>
<th>Year</th>
<th>Riotous Behaviour</th>
<th>Assault Police</th>
<th>Common Assault</th>
<th>Obscene or Indecent Language</th>
<th>Injure Property</th>
<th>Total</th>
</tr>
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<tbody>
<tr>
<td>1891</td>
<td>33</td>
<td>17</td>
<td>32</td>
<td>47</td>
<td>14</td>
<td>143</td>
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<td>20</td>
<td>36</td>
<td>60</td>
<td>23</td>
<td>170</td>
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<tr>
<td>1893</td>
<td>39</td>
<td>13</td>
<td>30</td>
<td>47</td>
<td>16</td>
<td>145</td>
</tr>
<tr>
<td>1894</td>
<td>46</td>
<td>11</td>
<td>19</td>
<td>51</td>
<td>14</td>
<td>141</td>
</tr>
<tr>
<td>1895</td>
<td>47</td>
<td>12</td>
<td>37</td>
<td>53</td>
<td>7</td>
<td>156</td>
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<tr>
<td>1896</td>
<td>30</td>
<td>10</td>
<td>31</td>
<td>52</td>
<td>12</td>
<td>135</td>
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<tr>
<td>1897</td>
<td>36</td>
<td>8</td>
<td>49</td>
<td>29</td>
<td>12</td>
<td>134</td>
</tr>
<tr>
<td>1898</td>
<td>45</td>
<td>13</td>
<td>35</td>
<td>31</td>
<td>7</td>
<td>131</td>
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<tr>
<td>1899</td>
<td>31</td>
<td>8</td>
<td>35</td>
<td>35</td>
<td>12</td>
<td>121</td>
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<tr>
<td>1900</td>
<td>16</td>
<td>10</td>
<td>42</td>
<td>41</td>
<td>10</td>
<td>119</td>
</tr>
</tbody>
</table>

*Source: New South Wales Legislative Assembly ‘Police Reports Respecting Disturbances Between the Military and a Certain Section of the Public known as “Pushes”’, 1900, p. 5.*

If any official policy served to deter attacks on members of the police force, it seems likely that the arming of police in 1894 would have had a greater impact than any threat of formal punishment. Whatever may have been the case, arrests on charges of assaulting, resisting,
or obstructing police numbered in excess of 400 per year after 1894. This figure may still be regarded as high, although totals from the early 1880s exceeded 1000 per year. The charge in question is sufficiently ambiguous to preclude any rigorous assumptions, however.

Larrikinism in general seems to have been less influenced by official policy than by larger social change. While there was no significant change in the colony's age and sex structure which would explain any decline, Maclachlan suggested a number of causes for the gradual disappearance of larrikinism, including the introduction of free and compulsory education in 1880, and increased access by members of the working class to organised recreational facilities. It might also be suggested that by the turn of the century, the New South Wales public had grown accustomed to and more tolerant of youthful exuberance.

By 1904 the attentions of statisticians and public officials alike had been attracted to a striking demographic trend: the birth rate in New South Wales had declined markedly since 1889. Concern over this pattern was sufficiently strong that a Royal Commission was appointed. The Commission's report concluded that the decline in question was attributable not to changes in the age and sex structure or marriage rate, but to the widespread practice of contraception and abortion.

Official views of these practices were almost uniformly unfavourable, and were based on an assortment of values. The procurement of abortion was at the time a statutory offence under the New South Wales Crimes Act, 1900 (sections 82-84); the circumstances under which a doctor could perform such an operation lawfully were undefined by the courts, and, for practical purposes, almost non-existent. Fertility control in general not only offended prevailing standards of sexual morality, but was regarded as threatening to social and economic well being. Concern for maintaining an adequate labour supply was quite salient.

With the proportion of births decreasing, and the natural increase of population diminishing, the demand for the products of industry must flag and the capacity of the nation to utilize the natural resources of the state must tend to fail. WHO CAN TELL WHAT PROGRESS NEW SOUTH WALES MIGHT NOT HAVE MADE IF, SINCE 1864, 280,000 CITIZENS HAD NOT BEEN LOST, AND HAD PERFORMED THEIR SHARE IN THE DEVELOPMENT OF THE COUNTRY; OR WHAT STRIDES IN PROSPERITY AUSTRALIA MIGHT HAVE TAKEN, IN THE SAME PERIOD, WITH THE ASSISTANCE OF NEARLY A MILLION MORE INHABITANTS?

Moreover, racial overtones in the report were hardly subtle.
The future of the Commonwealth, and especially the possibility of maintaining a ‘white Australia’, depend on the question whether we shall be able to people the vast areas of the continent which are capable of supporting a large population.52

Although of lesser importance than the aforementioned economic and racial themes, public health considerations also underlay the Commission’s sentiments. Medical technology and methods of antisepsis were relatively primitive at the time, and the Commission argued that abortion often led to infection of reproductive organs and sterility. A slightly less valid contention was that terminations of pregnancy tended to produce ‘neuroticism’, ‘hysteria’, and ‘mental deterioration in women’.53 The dominant view of the Commission, however, was that procreation was the duty of Australian women and consequently, that any attempt at fertility control constituted a selfish act and an abdication of civic responsibility.

Prior to the publication of the Commission’s report, attempts to suppress abortions and the distribution of contraceptive materials had been relatively unsuccessful. Contraceptive devices were freely advertised in the Sydney press, although a number of prosecutions under the Obscene and Indecent Publications Act, 1901, had led to more veiled and subtle copy.54 Midwives, keepers of lying-in homes, and nurses also advertised their services, referring not too obscurely to their attentiveness to the ‘problems’ of pregnancy. In testimony before the Commission, members of the New South Wales police claimed knowledge of thirty-eight reputed abortionists in Sydney. Prosecutions for abortion were rarely undertaken, however, for women who underwent successful terminations of pregnancy were unwilling to testify, and according to the police, the only evidence adequate to sustain a conviction was a dying deposition.55

The Commission recommended a veritable barrage of approaches to suppress fertility control, including more precise certification of causes of death, the licensing and inspection of maternity hospitals and lying-in homes, and restrictions on the distribution of abortifacients and contraceptives. Further recommendations included the prohibition of ‘indecent’ advertisements, whether veiled or unveiled, and increased emphasis by the clergy on the inculcation of religious doctrine.56

The New South Wales Government responded to the Commission’s findings and recommendations with an array of measures. The Poisons Act, 1905, required that ergot of rye, a commonly employed abortifacient, be dispensed by prescription only. The Private Hospitals Act, 1908, provided for the licensing and inspection of private hospitals, and required the registration of patients admitted to, and births and deaths
occurring in, such establishments. The Police Offences (Amendment) Act, 1908, prohibited publication of newspapers containing any indecent or obscene advertisement or report.

Because of the invisibility of fertility control practices, it is most difficult to assess the impact of the above policies. Doubtless, advertising practices were largely muted, but there remains some question as to whether contraceptive devices and terminations of pregnancy became more difficult to obtain. Stonham stated that

the prohibition of importation of various drugs and appliances gave a distinct fillip to the local manufacture of such articles, and that these articles are more easily obtainable and have a larger sale than the imported goods.$^{57}$

### TABLE 7.7

New South Wales: persons charged and convicted in higher courts: abortion and related offences, 1900-1910

<table>
<thead>
<tr>
<th></th>
<th>Procuring miscarriage</th>
<th>Concealment of birth</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Persons Dealt With</td>
<td>Persons Convicted</td>
</tr>
<tr>
<td>1900</td>
<td>9</td>
<td>9</td>
</tr>
<tr>
<td>1901</td>
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<td>1</td>
</tr>
<tr>
<td>1905</td>
<td>7</td>
<td>3</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th>Abortion and attempts to procure</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Persons Dealt With</td>
</tr>
<tr>
<td>1906</td>
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<tr>
<td>1908</td>
<td>6</td>
</tr>
<tr>
<td>1909</td>
<td>4</td>
</tr>
<tr>
<td>1910</td>
<td>6</td>
</tr>
</tbody>
</table>

*Source: N.S.W. Statistical Registers.*

The birth rate, moreover, remained relatively low and stable before dropping still further in the aftermath of World War I (Figure 7.4), and available criminal statistics reveal no apparent trend in the enforcement of abortion laws (Table 7.7). It seems likely that the practice of abortion became more of an underground activity, more dangerous in general (if that were possible) and perhaps slightly less available to members of lower income groups.
Fig. 7.4  New South Wales: live births per 1000 of mean population, 1881-1921. Source: N.S.W. Bureau of Statistics, Statistical Register (1882-1922).
The Great War and its Aftermath: 1914-1920

The outbreak of World War I precipitated a wave of nationalism in Australia; the renaissance of reverence for Motherland and Empire was reflected in the rush to enlist for combat service and in the crowds gathered in the streets singing ‘God Save the King’. Despite the broad consensus, there were more than a few Sydneysiders who viewed military service less than enthusiastically. While compulsory military training for home service had been instituted by the Defence Act, 1910, Fitzpatrick estimated the number of noncompliers throughout Australia during the years from 1912 to 1914 at close to 30,000.1

Moreover, a number of determined activists, regarding the war as but a corollary of capitalist exploitation, were vocal in their opposition to it. A branch of the Industrial Workers of the World had been established in Sydney during 1907, and its members stood in the vanguard of anti-war activity. The following excerpt from Direct Action, the organisation’s newspaper, suggests the flavour of their sentiments:

War! Wha For? For the Workers and their Dependants: Death, Starvation, Poverty, and Untold Misery. For the Capitalist Class: Gold, Stained with the Blood of Millions, Riotous Luxury, Banquets of Jubilation over the Graves of their Dupes and Slaves. War is Hell! Send the Capitalists to Hell and War is Impossible.2

This and other I.W.W. prose prompted police raids on I.W.W. premises and arrests of its more vocal members on charges ranging from riotous behaviour to conduct prejudicial to recruiting. As the war continued and Allied losses mounted, the Federal Prime Minister, W. M. Hughes, advocated that conscription for overseas service be instituted in order to provide replacements sorely needed at the front. I.W.W. criticism grew in intensity, and after a series of fires had occurred in Sydney department stores and warehouses during the winter of 1916, twelve members of the I.W.W. were arrested on charges of treason and arson.3

Nineteen sixteen had been a particularly troubled year in Sydney; it began with one of the more unusual riots in the city’s history. Pressures to maintain the supply of recruits for the war effort were great, and training camps in Australia were uncomfortable and overcrowded.
Sydney in Ferment

Conditions at one base near Liverpool were among the most austere; in February, a large number of soldiers reacted to an increase in drill by walking out of camp and storming a hotel in Liverpool. Having appropriated and consumed the publican's supply of beer and spirits, a number of the troops began brawling among themselves and with the police, while others made their way to the railway station and boarded trains for Sydney. Noisy, drunken soldiers arrived at Central Railway Station in train after train, and marched through the city overturning fruit carts and smashing windows. Meanwhile, a group of about 500 soldiers was confronted by an armed military picket at the station; several shots were fired, killing one rioter and wounding six. Activity on the streets of the city was disorganised, and consisted primarily of small groups of soldiers wandering around the city well into the night. Those participants with interests in addition to that of staying drunk directed their energies against property rather than persons. In addition to the aforementioned casualties at Central Station, four policemen were injured and sixty rioters were arrested. The Commonwealth Government responded to the disturbance by ordering the six o'clock closing of hotels under the War Precautions Act, and no further incidents of this kind occurred.4

Wartime economic conditions, meanwhile, provided another source of tension; wages were fixed during the later war years, while prices rose (see Table 8.1), and industrial discontent heightened accordingly. Although the I.W.W. enjoyed only minimal support in the New South

<table>
<thead>
<tr>
<th>Year</th>
<th>Average Annual Manufacturing Wage £ s. d.</th>
<th>Mutton (lb) 3·0</th>
<th>Average Retail Prices, Sydney</th>
<th>Bread (2 lb) 3·5</th>
<th>Milk (qt) 4·5</th>
<th>Eggs (doz) 1·3</th>
<th>Beef (lb) 4·5</th>
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</thead>
<tbody>
<tr>
<td>1910</td>
<td>90.16.4</td>
<td></td>
<td></td>
<td></td>
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<td></td>
</tr>
<tr>
<td>1911</td>
<td>96.7.1</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1912</td>
<td>104.8.10</td>
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<td></td>
<td></td>
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<td></td>
</tr>
<tr>
<td>1913</td>
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<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1914-15</td>
<td>112.18.11</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1915-16</td>
<td>119.5.11</td>
<td></td>
<td></td>
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<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1916-17</td>
<td>126.3.3</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
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</tr>
<tr>
<td>1917-18</td>
<td>126.3.7</td>
<td></td>
<td></td>
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<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1918-19</td>
<td>137.6.6</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1919-20</td>
<td>154.17.6</td>
<td></td>
<td></td>
<td></td>
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<td></td>
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</tr>
</tbody>
</table>

Source: Official Year Books of New South Wales.

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Wales labour movement, their advocacy of work slowdowns became attractive to many Sydney working men. Following a decrease in productivity among workers in the Randwick railway yards, a work card system was instituted; a walkout took place on 2 August 1917 and shortly afterwards sympathy strikes disrupted the coal and maritime industries.

The authorities' enmity toward the I.W.W. was reinforced by these events, and arrests of the movement's remaining active membership soon followed. By the end of 1917 some eighty 'Wobblies' were in prison. Official response to the 1917 strike included the recruitment of strike breakers from country areas; with economic conditions as austere as they were, the strikers soon capitulated.

Arrest data for the war years reflect varied patterns of criminality. Violent acquisitive crime (assault and robbery) decreased noticeably during the years from 1916 to 1918; they increased sharply in the immediate aftermath of the war. Crimes against property without violence also appeared to increase markedly beginning in 1918.

Apprehensions for drunkenness, relatively high in the pre-war years, dropped sharply during the war, and after a decrease in 1919, rose sharply thereafter. Arrests for prostitution fluctuated from year to year throughout the period, revealing no apparent trend.

The attitudes of federal and state authorities towards political dissent were particularly hostile during the war years; criticism of government policy was viewed at best as unpatriotic, and more commonly as seditious. The I.W.W. was perceived by both Commonwealth and New South Wales Governments as the most threatening movement of the time. The 'Wobblies' outspoken attacks focused not only on such generally accepted values as parliamentary democracy and racial purity, but were also directed at institutions from conventional trade unionism to the Monarchy to the war effort, each of which was embraced with considerable intensity by a large segment of society.

Australia's distance from the front lines may have contributed to the need of leaders from both major parties to project the image of a closer threat, and the I.W.W. served as an eminently convenient scapegoat.

It was held responsible for the strike wave, for the defeat of the politicians by the industrialists within the Labor Party; most heinous of all, it was anti-conscription, anti-war, anti-British, pro-German—or so respectable opinion said.

Hughes articulated his views on the I.W.W. quite directly:

I say deliberately that this organization holds a dagger at the heart
of society, and we should be recreant to the social order if we did not accept the challenge it holds out to us. As it seeks to destroy us, we must in self defence destroy it.7

Legislative activity reflected these inclinations quite starkly; a number of new offences were created, and police were afforded generous procedural liberties. The Commonwealth War Precautions Act, 1914-
15, a typical example of sweeping wartime legislation, greatly expanded powers of search and seizure. It provided in addition for the detention and relocation of resident aliens, at the discretion of the government. The Commonwealth Crimes Act, 1914, broadened the definition of treason to include assistance in any form to any public enemy; the offence was, of course, punishable by death.

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**Fig. 8.2** New South Wales: arrests for common assault, simple larceny, and prostitution and related offences per 1000 population, 1911-25. *Source: N.S.W. Police Department, Annual Reports.*
At the state level, the energies of the Holman Labor Government were directed primarily at the modification of criminal procedure. The Crimes Prevention Act, 1916, made the offences of incitement to or encouragement of crime triable summarily rather than before a jury. The legislative history of the Act hints at the government's motives.

Holman's second reading speech began at 1.24 a.m. on the day of adjournment and lasted throughout the night. Although he emphasised that the main purpose of the bill was to streamline criminal procedure, it is apparent that his dominant motive was to increase the probability of conviction. Holman stated, quite candidly:

Hon. members will admit that the penalties have their most repres­sive effect, not when they are made heavy, but when they are made reasonably certain. It is the possibility of escape at the jury trial and the extreme difficulty that is always felt in convincing a jury that they should convict a man who three or four months before is reported to have used a few heated words in the course of an excited address, which tends to make the law as it stands a dead letter.8

Following the I.W.W. arson trial, at which all twelve defendants were convicted of sedition and conspiracy, the Hughes Government acted swiftly against the organisation as a whole. In December 1916, a Commonwealth Unlawful Associations Bill was introduced and quickly enacted. The Act declared the I.W.W. to be an unlawful association, and defined membership in the organisation as criminal behaviour punishable by six months' imprisonment.

In the aftermath of the Unlawful Associations Act, I.W.W. activity continued under the label of 'Workers Defence and Release Com­mittees'. The Act, however, was amended in July 1917, and the Gover­nor General empowered to declare associations unlawful, thus obviating the need for future definitional amendments. Powers of police entry to suspected premises and seizure of materials were further broadened.

While the I.W.W. had few friends in Federal Parliament, there were members who feared extension of the Unlawful Associations Act, and who objected to its definitional bias and to its limitations on freedom of expression.

An association is only unlawful in the opinion of the ruling powers. In regard to religious and political liberties, social or economic advancement, we are indebted to unlawful associations for the position that we occupy today and for the freedom that we enjoy.9

These objections were to no avail, however, as the Amendment was followed by the arrest of the movement's entire active membership.
Public officials in New South Wales have never been appreciative of dissent, and their reaction to such behaviour during the war years was predictable. Antipathy to criticism was quickly translated into numerous provisions limiting political freedom. The pattern set by Governor Darling, thus revived, was to remain visible long after the Armistice.

Manpower resources of the New South Wales police force were severely strained during the war, due largely to an increase in resignations from the force and to the department's assumption of unconventional responsibilities. By the end of 1916, 162 members of the force had enlisted for military service, and suitable candidates for recruitment to the force were so scarce that minimal educational requirements had to be lowered.\(^{10}\)

Moreover, the department had assumed numerous additional administrative responsibilities, leading the Inspector-General to complain publicly that

There has been an increasing tendency on the part of other departments, and even of departments of the Commonwealth service, to place upon the Police the performance of duties which can in no wise be considered legitimate Police operations. The making of various inquiries and reports upon technical matters, the performance of duties as inspectors or representatives of other departments in country towns, and the compilation of various returns constitute a demand upon the time of the Police which can in many instances only be met by the sacrifice of attention to legitimate Police work, particularly in the Metropolitan District.\(^{11}\)

Although the police were relieved of responsibility for regulation and supervision of weights and measures in 1916, they continued to perform a vast array of extraneous tasks. Administration of state liquor laws had always involved the allocation of considerable resources for licensing and inspection, and motor vehicle registration became increasingly burdensome as the automobile grew in popularity.

The General Strike of 1917 further increased the burdens on the already undermanned force; the protection of strike breakers necessitated substantial re-deployment of large numbers of officers. As existing manpower resources were strained to the limit, the force was augmented, following the precedent set in 1890, with the appointment of 521 special constables drawn from the public service at large and from the Prisons Department.\(^{12}\)

The growth of political protest during the war years was accompanied by yet another noteworthy expansion in the role of the New South Wales police. Political espionage and surveillance activity was
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undertaken for the first time on a significant scale, and unlike the more routine administrative responsibilities, these were approached with apparent enthusiasm. At the outbreak of the war, liaison was established between the New South Wales Police Department and Commonwealth military intelligence officials for the purpose of apprehending and interning enemy aliens. Soon thereafter, subversion experts in the New South Wales force turned their attention to the I.W.W.

Police agents infiltrated the movement and collected substantial quantities of information on its membership and activities. Even after the effective suppression of the I.W.W., surveillance of leftist activity in Sydney continued. Police plainclothesmen recorded hundreds of pages of summaries of speeches and meetings held in the Sydney Domain during 1918 and 1919, and in some cases even reported on meetings held under the auspices of the opposition Labor Party. Moreover, historians are in general agreement that a large part of the evidence used to convict the twelve I.W.W. arson conspirators was the product of police fabrication. While police activity in New South Wales had never been free of implicit political undertones, events of World War I marked a precedent. Here for the first time the New South Wales police performed an explicitly political function; they were actively engaged in the suppression of dissent by means whose legal propriety was often highly doubtful.

A major change in Australian police organisation took place in 1917 after circumstances of considerable embarrassment to Prime Minister Hughes. The Prime Minister's arguments in support of his proposed conscription policies met with a decidedly cool reception in Queensland, and while addressing a crowd at Warwick, Hughes was the target of a well-aimed egg. The local police sergeant refused to arrest the culprit, however, and the Premier of Queensland, an outspoken opponent of conscription, viewed the affair with amused tolerance. To lessen the possibility of similar occurrences in the future, Hughes established a Commonwealth Police Force shortly afterwards.

Public accusations of police corruption in the area of vice suppression were aired in 1915 by a Sydney physician, Dr Ralph Worrall. In testimony before the Select Committee on the Prevalence of Venereal Diseases, Worrall maintained that police acceptance of bribes from brothel keepers was common practice in Sydney, and that a de facto system of licensing was in effect. Police officials, on the other hand, denied these charges and claimed to have no evidence of graft. The Metropolitan District Superintendent insisted that 'The Police have done everything in their power to keep brothel keepers on the move

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and prostitutes off the streets'. Worrall further contended that, in addition to exposing police to temptation, the continued official proscription of brothel keeping and corresponding lack of adequate health supervision, contributed to the spread of venereal disease.

A number of alterations were made in New South Wales criminal procedure during the early part of the twentieth century, tending generally to reflect the spirit of progressive reform which characterised those years. The Poor Prisoners Defence Act, 1907, marked a significant extension of legal assistance. Previously, it had been the practice of the state to support the defence in capital cases where the defendant was indigent; the 1907 Act extended eligibility to all cases involving indictable offences, at the discretion of the presiding judge. An amendment intended to create an office of public defender was rejected, however, as too many members feared that the office would tend to encourage incompetence and nepotism.

A significant modification of the judicial structure of New South Wales had been introduced by the Criminal Appeal Act, 1912. The Act established a Court of Criminal Appeal, a body empowered to hear appeals against improper convictions and requests for review of sentence generally. While opposition members tended to view the Act as threatening to the ministerial monopoly of responsibility with regard to the prerogative of mercy, the government saw it as a worthwhile reform, following the constitution of a similar court in England in 1907. While the New South Wales Act in theory broadened the avenues of redress for convicted offenders, Table 8.2 indicates that the court was generally reluctant to quash convictions or to vary sentences.

In keeping with contemporary trends, a system of Children's Courts was established by the Neglected Children and Juvenile Offenders Act, 1905. While juveniles charged with murder or rape retained the right to trial by jury, the Act provided that lesser offenders be given a private hearing before a magistrate and retain the right of appeal to Quarter Sessions Courts.

Throughout the later years of the nineteenth century, authorities in New South Wales were troubled about recidivism; prison officials advocated lengthened or cumulative sentences for those whose criminal behaviour was apparently verging on habit. Under the Habitual Criminals Act, 1905, certain recidivists could be detained 'during His Majesty's pleasure', or in other words, awarded indeterminate sentences. This type of treatment had been suggested in the mid-nineteenth century by Captain Maconochie as a means of providing the offender with an incentive for reform. Whatever its purpose or impact, however, the Act was not accorded extensive use; during the first twenty years the Act was in force, only 106 offenders in New South Wales were
TABLE 8.2
Appeals to the New South Wales Court of Criminal Appeal, 1912-1924

<table>
<thead>
<tr>
<th>Year</th>
<th>Distinct Persons Tried, Higher Courts</th>
<th>Total CasesAppealed</th>
<th>ConvictionsQuashed</th>
<th>New Trials Granted</th>
<th>SentencesVaried</th>
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</thead>
<tbody>
<tr>
<td>1912</td>
<td>n.a.</td>
<td>21</td>
<td>—</td>
<td>—</td>
<td>2</td>
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<tr>
<td>1913</td>
<td>1125</td>
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</tr>
<tr>
<td>1914</td>
<td>951</td>
<td>46</td>
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<td>—</td>
<td>1</td>
</tr>
<tr>
<td>1915</td>
<td>963</td>
<td>57</td>
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<td>6</td>
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<td>1920</td>
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<td>1536</td>
<td>90</td>
<td>5</td>
<td>12</td>
<td>9</td>
</tr>
</tbody>
</table>

Source: N.S.W. Statistical Registers.

declared Habitual Criminals.

The reluctance of the courts to award indeterminate sentences reflected the deeply entrenched belief that the primary purpose of imprisonment was not rehabilitation, but punishment for a fixed and calculable term, proportionate to the wickedness of the offence in question. This sentiment is still widely shared in the judiciary and magistracy of New South Wales.

Imprisonment remained the dominant treatment approach during the period, and although the gradual amelioration of custodial conditions which began at the turn of the century continued, prison life remained uncomfortable at best. Vance Marshall, a radical activist who served a term for his protest activities, reported a less than pleasant experience with coarse uniforms, unlighted cells, and beatings administered by prison warders. Under the existing system of quasi-military discipline, prisoners were addressed by number and often forced to eat bland, occasionally rotten food without cutlery.18

Among the innovations of the period were the establishment of two minimum security facilities, the Tuncurry Afforestation Camp, founded in 1913, and the Emu Plains Prison Farm, in 1914. These were among the first facilities to be established as a result of Neitenstein's plans for diversification.
Plate 5. 'S'all ri' ole fler, you lemme alone, can't yer see I'm aeshtheshic. Ain't I limp? Don't I cling?' From Sketch, Vol. 1, 1882. Reproduced by permission of The Bulletin.
Rare Plant (genus Larrakinus), visible to advantage only at street fights and down-the-harbour picnics.

Nevertheless, certain correctional anachronisms were still very much a part of the New South Wales criminal justice system. The use of leg irons to restrain prisoners in transit was not discontinued until 1917. Despite the continued pleadings of Comptrollers-General for at least two decades, well over two-thirds of those entering prison in 1919 were sentenced in default of payment of fines.¹⁹

Public policy seems to have had little lasting impact on the incidence of crime during the era of the Great War; while collective disorder on the part of military men did not reappear following the introduction of six o'clock closing, the rate of arrests for drunkenness seemed more responsive to economic conditions. The energetic suppression of the I.W.W. may have inhibited the expression of political dissent, but proposals to institute conscription for overseas service were rejected in two referenda and then abandoned. In addition, the Australian Communist Party was founded in Sydney in 1920. If nothing else, official policy during the period succeeded in reinforcing public mistrust of the Police Force.²⁰
Boom and Depression: 1925-1939

With the exception of opium smoking by some members of the Chinese population, the use of drugs other than alcohol was historically very rare in Sydney. This situation changed, however, in the late 1920s with the emergence of a thriving traffic in cocaine. The potential for lucrative profits from such an enterprise stimulated considerable competition, a condition which had its physical as well as its economic dimension.

The conflicts which developed between competing entrepreneurs in the cocaine trade were relatively violent, by Sydney standards. Originally the pistol was employed as the main instrument of coercion, but following enactment of licensing legislation in 1927, it was replaced by the razor. By 1928 the ‘Razor Gangs’ were receiving widespread newspaper coverage, and had captured the public’s attention. Stories of maimings were not infrequent, and public insecurity appears to have increased accordingly. Alarm was generally unjustified, however, for use of razor weapons was confined almost exclusively to hostilities between those directly involved in the drug trade, prostitution or other illicit enterprises.

Arrest data for the period reflect varied patterns of criminality (Table 9.1). Apprehensions for various crimes of acquisition increased markedly in 1929 and 1930, and remained relatively high through 1935. The police appeared to pay quite close attention to gambling during most of the period 1927-35, and sharp increases in arrest rates during odd years suggest that periodic crackdowns were undertaken. Prostitution and vagrancy offences received similar close attention in the late 1920s.

The most interesting patterns in arrest rates during the period involve fluctuations in arrests for drunkenness and related offences. Here the rates tend to vary quite closely with the business cycle, dropping off at the beginning of the depression, reaching a low point during the austere years of 1931-2, and increasing during the following years of economic recovery. These changes may have been attributable in part to elasticity in the public’s effective demand for intoxicants, and to the greater preoccupation of the police with other forms of disorder during the worst of the depression years.
TABLE 9.1

New South Wales: arrest rates per 1000 population, selected offence categories, 1925-1936

<table>
<thead>
<tr>
<th>Year</th>
<th>Aggressive Crime</th>
<th>Acquisitive Crime</th>
<th>Drunkenness</th>
<th>Prostitution</th>
<th>Gambling</th>
<th>Vagrancy</th>
</tr>
</thead>
<tbody>
<tr>
<td>1925</td>
<td>1.30</td>
<td>3.65</td>
<td>13.23</td>
<td>.73</td>
<td>.54</td>
<td>.56</td>
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<tr>
<td>1926</td>
<td>1.41</td>
<td>4.06</td>
<td>13.46</td>
<td>.99</td>
<td>.74</td>
<td>.65</td>
</tr>
<tr>
<td>1927</td>
<td>1.35</td>
<td>4.20</td>
<td>13.58</td>
<td>.86</td>
<td>.73</td>
<td>.73</td>
</tr>
<tr>
<td>1928</td>
<td>1.31</td>
<td>4.68</td>
<td>14.35</td>
<td>1.25</td>
<td>.94</td>
<td>.79</td>
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<tr>
<td>1929</td>
<td>1.27</td>
<td>5.43</td>
<td>13.43</td>
<td>.94</td>
<td>.82</td>
<td>.73</td>
</tr>
<tr>
<td>1930</td>
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<td>6.40</td>
<td>10.27</td>
<td>.52</td>
<td>1.13</td>
<td>.71</td>
</tr>
<tr>
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<td>1.13</td>
<td>6.67</td>
<td>8.26</td>
<td>.31</td>
<td>1.48</td>
<td>.64</td>
</tr>
<tr>
<td>1932</td>
<td>1.22</td>
<td>6.48</td>
<td>8.42</td>
<td>.29</td>
<td>1.42</td>
<td>.53</td>
</tr>
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<td>7.10</td>
<td>9.85</td>
<td>.29</td>
<td>1.76</td>
<td>.53</td>
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<td>.99</td>
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<td>10.20</td>
<td>.43</td>
<td>1.87</td>
<td>.55</td>
</tr>
<tr>
<td>1935</td>
<td>1.05</td>
<td>6.99</td>
<td>10.71</td>
<td>.36</td>
<td>2.02</td>
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<td>.99</td>
<td>6.33</td>
<td>11.71</td>
<td>.33</td>
<td>1.99</td>
<td>.51</td>
</tr>
</tbody>
</table>

Source: New South Wales Police Department, *Annual Reports*.

Fig. 9.1 New South Wales: drunkenness and related offences, arrests per 1000 population, 1870-1970. Source: N.S.W. Police Department, *Annual Reports*. 119
Class antagonisms flared again in Sydney during 1929 when large-scale industrial disturbances arose in both the timber and coal industries. On 1 February timber workers struck against an arbitration award which reduced wages and rescinded previous improvements in working conditions. Two weeks later proprietors of the coal mines in
northern New South Wales sought to reduce wages by initiating a lock-out of some 10,000 miners.

Protest marches and picketing were prevalent both in Sydney and in the north; striking timberworkers in the city were frequently involved in fistfights. The Bavin (Nationalist) Government attempted to suppress protest throughout the state by means of police deployment and legislation; arrests of picketers and union officials in Sydney were numerous, but the strike continued. Towards the end of the year, police opened fire on a group of miners at Rothbury, wounding seven and killing one. This was an event of considerable historical significance — the most severe repression of labour protest in twentieth-century New South Wales.

The use of non-union labour under police protection dealt a harsh blow to both the miners and the timberworkers; by the end of 1929 the depression had arrived, unemployment was increasing, and workers in both industries had no choice but to return to work on terms dictated by management.

The onset of the depression served to still industrial unrest but replaced it with tensions of a different kind. As unemployment increased, large numbers of jobless workers took to the streets in protest. Others joined them if only to participate in some kind of purposeful activity. Efforts of police to disperse the gatherings were often intense, and while confrontations were free of fatal force and arrests were relatively few, batons were employed freely on more than one occasion.

Small-scale violence appeared to increase in the early 1930s as newspapers accorded considerable attention to bashings and fistfights. Members of Sydney’s small Chinese community were frequent victims of assault and pilfering.

Although the eviction riots which occurred during the worst of the depression years were not widespread, they constituted a high water mark of tension between police and public. While thousands of impoverished tenants left their homes and established camps around the metropolitan area, others were reluctant to move. In a few of the more extreme situations, attempts by police to execute eviction orders grew into pitched battles with resisting tenants, and attracted large numbers of spectators generally unsympathetic to the police. These events tended to result in injuries to both sides and in the arrest of the resisters. One such riot in Newtown in June 1931 produced nineteen arrests; seventeen arrests were made following a similar incident a month later in suburban Bankstown.

While the population of the Sydney metropolitan area reached one million in 1926, there were no significant changes in rate of growth
that would appear to have had any significant effect on public order. Annual increases were steady, but not sharp. Population density remained relatively low during the period, decreasing slightly in some inner suburban neighbourhoods as a result of metropolitan expansion.

Meanwhile, the arrival of a few non-British European migrants during the 1920s made but a small dent in an overwhelmingly homogeneous society. According to the 1933 Census, Italian-born residents of Sydney totalled slightly over 3000; the Italian community received disproportionate attention, however, because of the activities of the Camorra, reputedly an Italo-Australian criminal gang.7

Without doubt, the single change in social condition which had the most significant influence on crime and disorder in Sydney was the depression. As estimated unemployment rates in Sydney rose from 11 per cent in 1928 to 32 per cent in 1932 (Table 9.2), industrial protest was replaced by political protest. Material deprivation had reached a point where thousands were without means of support, a condition unprecedented in scope, if not in intensity, in the history of New South Wales.

<table>
<thead>
<tr>
<th>Year</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>1928</td>
<td>11.3</td>
</tr>
<tr>
<td>1929</td>
<td>11.5</td>
</tr>
<tr>
<td>1930</td>
<td>21.7</td>
</tr>
<tr>
<td>1931</td>
<td>30.8</td>
</tr>
<tr>
<td>1932</td>
<td>32.5</td>
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<tr>
<td>1933</td>
<td>28.9</td>
</tr>
<tr>
<td>1934</td>
<td>24.7</td>
</tr>
<tr>
<td>1935</td>
<td>20.6</td>
</tr>
<tr>
<td>1936</td>
<td>15.4</td>
</tr>
</tbody>
</table>

Source: Commonwealth Year Books.

Opinion as to the causes of disorder during the period tended generally to be divided on class and party lines. Arguments from the Labor benches stressed the inequitable distribution of wealth; a prominent Labor spokesman, H. V. Evatt, maintained during a 1925 debate on capital punishment that ‘much serious crime is due to poverty, to disease and to insufficient provision for the health and wellbeing of the community’.8
With the economic contraction in 1929, Labor members continued to emphasise distributive themes.

With regard to starvation and misery, there has been more crime during the present Government's regime than at any other period, and this is brought about by the economic conditions. When men become desperate they are driven to crime to try and get food and shelter for their children.\(^9\)

Another Labor member, commenting on the apparent increase in prostitution asserted:

The present social order of things is the main cause of solicitation by women. Generally speaking, women are driven on to the streets because of want of employment or because of the industrial conditions under which they work. The basic wage which girls receive is scarcely enough to keep them in clothes, considering the present price of clothes. Those girls are often driven to the streets.\(^10\)

Illustrative of the divergence in opinion was the remark from government benches which the above statement provoked. A Nationalist member retorted that girls were driven to the streets not by unemployment, but by vanity and laziness.\(^11\)

Nationalist views of crime included a more explicitly political theme as well. Frequently during debates, they would accuse the Labor members of unwarranted sympathy with criminals.

Hon. gentlemen opposite are altogether too softhearted in regard to persons who commit crimes, and it is that sort of sympathy which encourages them in crime. They say, 'We have always got a good backer in the Labour Party, which will stand behind us'.\(^12\)

The ideological cleavage which characterised New South Wales politics during the late 1920s provided for marked divergence in elite orientations towards public disorder. Labor members tended to view criminality in general as an unfortunate by-product of a malfunctioning social system, and thus advocated widespread structural change combined with a rehabilitative treatment of the offender. They were generally tolerant of industrial and political protest.

Legislative developments during the first Labor rule of the period (June 1925-October 1927) reflected these inclinations. The Pistol Licence Act (1927), which required the licensing of handguns, and the Police Offences (Amendment) Drugs Act (1927), regulating the distribution of narcotics by physicians and pharmacists, were the most significant redefinitions of the period. While an attempt to legislate the abolition of capital punishment was unsuccessful, the government con-
continued the traditional Labor policy of commuting the sentences of those convicted of capital crimes.

Members of the National Party, in power from October 1927 to November 1930, were of a totally divergent view. They reacted to crime with anger and moral indignation and regarded industrial protest as a dire economic threat. While the roots of these orientations were diverse, foremost among them was the belief that primary responsibility for criminal behaviour lay with the individual — an attitude which contrasted starkly with the structural approach taken by Labor members. As one Nationalist offered, somewhat tautologically, 'Criminals exist because they are criminals; they exist because their inner vision is warped and because they are of criminal instincts'. The Nationalists thus saw their task as one of suppressing the individual's criminal inclinations and protecting the existing socioeconomic environment.

In some cases the Nationalists' attitudes towards disorder were reinforced if not precipitated by public pressure. One member revealed that he had received numerous complaints about the apparent increase in prostitution during 1929, and asserted that a particular clergyman claimed to have been solicited by prostitutes on seventy-three occasions in one week.

The response of the Bavin Government to events in 1928 and 1929 involved the most significant broadening of the New South Wales criminal law in the twentieth century, and aroused the wrath of the Labor opposition.

The Crimes (Amendment) Act of 1929 constituted the first of a series of extensions of the criminal law. Possession of a razor at or immediately before the time of arrest on any charge became an offence punishable by six months' imprisonment. In addition to this redefinition, the Act modified penalties and procedures for other offences. A provision obviously directed at razor gangs made the crimes of malicious wounding and inflicting grievous bodily harm punishable by whipping in addition to penal servitude. While opposition members had little sympathy for razor slashers, they were strongly opposed to the Act's provisions for corporal punishment.

In another clause, shoplifting offences by females were removed from the coverage of the First Offenders (Women) Act, 1919, which provided for hearings *in camera* in cases of minor first offences by women. This provision did not involve a broadening of definition, but rather an attempt to deter shoplifting by according public exposure to apprehended offenders.

The Crimes (Intimidation and Molestation) Act, 1929, inspired by British legislation two years earlier, was enacted in the shadow of the
1929 timberworkers' strike. The Act was specifically intended to suppress collective protest on the part of striking workers, and to ensure continued access of strike breakers to their places of employment. To this end, it broadened the existing definition of unlawful assembly and procession, created the offences of intimidation, watching and besetting, following a person from place to place, and hiding tools or clothes as acts of harassment. In particular, the government sought to define mass picketing as criminal, for reasons indicated by the following remarks of Premier Bavin during debate on the bill:

It will be readily understood that with the massing of 500 or 1,000 men around the gate of any working premises where a volunteer labourer wished to offer his services, it is not necessary for them to exercise any form of violence or to make any threats; the mere fact of their massing there and watching a man, even without deliberately insulting him or doing anything for which a policeman could arrest them, is sufficient intimidation to prevent any ordinary man from presenting himself for work.\textsuperscript{15}

The degree to which Premier Bavin perceived industrial protest as threatening may be sensed from the tone of his discussion during the debate. At one point, he referred to mass picketing as 'a most ingenious, malicious, cruel, and vindictive form of intimidation', while at another, he went so far as to describe the behaviour as 'a form of tyranny that has hardly ever been equalled in the history of the world'.\textsuperscript{16}

The Intimidation and Molestation Act contained certain modifications of criminal procedure in addition to the aforementioned definitional extensions. In July of 1929, seven union leaders were arrested in Sydney on charges of conspiracy to unlawfully molest, intimidate, and assault non-unionists. The offences in question were subject to trial before a jury, and because of insufficient evidence, the prosecution was unable to obtain a conviction. In order to assure future convictions on similar charges, the government included in the Act provisions for the relevant offences to be tried summarily rather than before a jury.

Members of the Labor opposition were predictably incensed at what they perceived as blatant legislative bias. One member, referring to a recent lockout in the northern coalfields, suggested

If the Premier is so solicitous about enabling men to work, let him tell the people who have locked out 12,000 men and resorted to a most powerful form of intimidation what he thinks of their action. That form of intimidation is far more effective than any other that
could be practiced, because once the mines are closed, not one man can go to work.17

Labor criticisms were to no avail, however, and the legislation was enacted soon thereafter.

The Vagrancy (Amendment) Act of 1929, directed at Sydney prostitutes and razor gangs, created the offence of consorting with reputed criminals. Thus, for merely associating with people of 'bad character', an individual was subject to six months' imprisonment. The Bill as originally introduced included a provision that arrest on charges of being 'idle and disorderly' constituted *prima facie* evidence of guilt, but this rather drastic clause was struck in committee.

Class based orientations to criminality were thus explicit to an extent unmatched since the 1890s. Nationalists, intent on maintaining the availability and docility of the work force, enacted strong measures for the suppression of industrial protest. Their attitudes towards conventional crime were reflected in strategies of harsh deterrence. Labor members, on the other hand, were able to do little more than register their vociferous disapproval of government legislative activity.

A number of minor changes in the structure of the New South Wales Police Department were implemented during the period, most of which involved expansion of police functions. A Drug Bureau was established in 1926 for the purpose of restraining the traffic in cocaine and other narcotic substances; in 1934, the Police Offences Amendment (Drugs) Act removed the burden of administering the law relating to dangerous drugs from the Pharmacy Board and placed it with the police.

A Consorting Squad was organised in 1929 for the more efficient surveillance and apprehension of 'reputed' criminals under the Vagrancy (Amendment) Act. In 1930, another special squad was established and given the responsibility of suppressing illegal betting and sly grog selling.18 Meanwhile, renewed attention to dissident activity was reflected in the establishment of a mobile squad, a plainclothes group which devoted considerable energy towards the harassment and dispersal of political meetings and demonstrations.19

The Criminal Investigation Branch underwent reorganisation in 1929, based on the structure of the Liverpool (England) Police. The reorganisation was designed to streamline allocation of investigative responsibility, and to prevent overlapping inquiry. In 1931, the C.I.B. was expanded to include two new sections: the Modus Operandi group analysed particular styles of criminal behaviour, while the Stolen Property Tracing Section focused on the aftermath of acquisitive crime.20

A structural change of some significance, although of relatively brief duration, involved the temporary transfer of part of the Metropolitan
Division to the northern coalfields during the 1929 lockout.21 Inspectors-General continued to complain of staffing shortages, and a noteworthy innovation in recruitment policy was introduced in 1933 with the appointment of thirty police cadets. These recruits, aged 16 to 18, served in what might be termed apprenticeship roles, and were eligible for a regular appointment to the force upon attaining the age of 21.22

As the economic contraction worsened and street protests by the unemployed grew more prevalent, middle class insecurities became increasingly visible. When the colourful and outspoken J. T. Lang formed a Labor Government in October 1930, the deep ideological cleavage in New South Wales society widened still further. Those in professional and mercantile occupations were deeply committed to free enterprise and deeply distrustful of Lang, whom they perceived as the herald of socialism.

To protect private enterprise and the Empire from Lang, the unemployed, and communism, a group of middle class veterans of World War I organised a private domestic security force in Sydney. The rise of the New Guard, as the paramilitary organisation was called, was unparalleled in the history of New South Wales.23

The movement was very largely class and generationally based, as its membership was drawn almost exclusively from that group of suburban middle class males born between 1885 and 1900. The military motif of the New Guard was most apparent in the movement's organisational structure, which involved a division of the Sydney Metropolitan area into 'zones', each under the supervision of a 'commander' who was known by the rank which he held during the war.

The founder of the New Guard, Eric Campbell, described the goals of the movement in his memoirs:

Our objective, as I saw it, was twofold: first, to preserve law and order and maintain services in case of civil strife breaking out as a direct result of the economic crisis, and second, to foil any attempt, constitutional or unconstitutional, by the government to foist socialization upon the people.24

New Guard activity in Sydney involved, in addition to the unofficial opening of the Harbour Bridge by a mounted guardsman (one Captain de Groot), the extensive surveillance of leftist activity. On numerous occasions, members of the Guard harassed and disrupted communist meetings, occasionally with the tolerance of the police. In addition, members of the movement had devised elaborate plans to take over and maintain gas, electric, water, and sewage services in the event of industrial unrest. An offer of New Guard volunteer labour during a 1931 maritime strike was declined by shipping executives.
In December 1931, police estimated the membership of the New Guard in the metropolitan area at 36,000; the movement, however, was short lived. With Lang's fall from power in May 1932, it had become evident that the threat of a socialist revolution, if ever real, had subsided. Campbell left Sydney on a tour of Europe, and when he returned, the organisation had all but dissolved.

While imprisonment remained the dominant response to criminal activity throughout the period, there existed considerable divergence of view with regard to alternative treatment approaches. In general, Labor members were inclined towards reformative treatment, while Nationalists emphasised deterrence and retribution. These distinctions were clearly evident during debate on the Capital Punishment Abolition Bill, introduced in 1925. Nationalists opposed abolition, arguing that capital punishment gave expression to a 'healthy feeling of anger', and accused the Labor members of being overly sentimental.

Nationalists also adhered consistently to the view that the threat of severe physical punishment was effective as a deterrent.

It is commonly known that the average criminal is a coward. The man who is criminally inclined is also a coward by instinct, and if he sees the penalty of death facing him he will think a thousand times before committing the crime of murder, therefore it must act as a deterrent.

Labor members, citing empirical evidence from the United States and Queensland, suggested that capital punishment was no better a deterrent than imprisonment. Moreover, they argued that the possibility of execution rendered it more difficult to obtain convictions in capital cases, and that execution was final and irremediable, in case of error.

Although floggings had not been formally administered in New South Wales for a quarter of a century, provisions for corporal punishment remained in force, and were even broadened in 1929 by the Crimes (Amendment) Act. Attitudes towards corporal punishment tended to vary according to party affiliation; Labor members in general regarded it as a brutalising regression towards the previous century, while Nationalist spokesmen viewed flogging as richly deserved by such transgressors as the razor slashers. Although there was no doubt some variation in the intensity with which members valued their respective party's positions, the divergence in official policy was quite clear-cut.

Police Commissioner Childs, frustrated in 1933 by persistent small-scale violence in Sydney, claimed that flogging would serve as an effective deterrent. Despite this resurgence of interest in corporal punishment, the treatment was not employed during this period.

The gradual amelioration of prison conditions continued during the
period, and despite occasional criticisms that prison life had become insufficiently unpleasant, the custodial environment remained austere. Even the small wage paid to prisoners was reduced by 20 per cent in 1931. The most significant development in the prison system during these years involved the expansion of minimum security facilities; between 1927 and 1930, afforestation camps were established at Bombala, Glen Innes, Brookfield, and Oberon. Facilities of this nature, in addition to serving a productive function, were viewed as providing a much healthier social atmosphere for less dangerous offenders.

While the precise effects of various authoritative approaches to the treatment of crime are impossible to assess, certain patterns of impact are discernible. The Pistol Licensing Act, 1927, did appear to restrain the use of handguns, but an alternative and equally threatening (if not equally fatal) weapon, the razor, was adopted by those who persisted in arming themselves.

Of the various measures intended to suppress razor gang activity, the Vagrancy (Amendment) Act, 1929, was heralded by the authorities as most successful. The Commissioner of Police claimed that 'no other Act of Parliament had been of such assistance for years in ridding the city and streets of undesirables'. The Chief Commissioner in Victoria announced that numerous disreputable characters had begun to arrive in Melbourne from Sydney, and the Chief Secretary of New South Wales asserted that the effects of the Act had exceeded his expectations. More arrests for consorting were made in Sydney during January and February of 1930, and razor gang activity became less prevalent.

Economic conditions, however, also appear to have had an appreciable effect on gang activity. As the depression became increasingly severe, the traffic in cocaine which had provided the basis for considerable gang hostility decreased somewhat. The decline of the razor gang may thus have been as much attributable to the business cycle as to energetic prosecution under the 'Consorting Act'.

Similarly, the occurrence of industrial strife may have been even more susceptible to economic fluctuation. Strikes in New South Wales tend generally to be both less frequent and less successful during periods of economic contraction, and gains to be won by means of industrial protest vary inversely with the unemployment rate. The impact of such legislation as the Crimes (Intimidation and Molestation) Act, 1929, on the incidence of picketing and other forms of industrial protest was thus largely masked by systemic change.

The incidence of street demonstrations by unemployed workers and that of eviction riots were likewise responsive to depression conditions. Such events occurred only during the most severe periods of economic
contraction and diminished as conditions improved. While activities of
the police and the New Guard appeared to have some suppressive
impact, their primary effect was the further erosion of respect on the
part of the working class public for law enforcement officials.30

The procedural modifications enacted in the Crimes (Amendment)
Act, 1929, in order to reduce shoplifting by females, appear to have
had little lasting influence. Table 9.3 indicates that while the apparent
incidence of larceny by females declined in 1930, it remained relatively
high, both in absolute terms and as a percentage of all larceny cases,
in subsequent years.

**TABLE 9.3**

New South Wales: cases of simple larceny dealt with in Courts of Petty
Sessions, 1924-1934

<table>
<thead>
<tr>
<th>Year</th>
<th>Total Cases</th>
<th>Female Cases</th>
<th>Per 1000 Females</th>
<th>Female Cases as % of Total Cases</th>
</tr>
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<tbody>
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<td>1924</td>
<td>4837</td>
<td>629</td>
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<td>18.1</td>
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<td>.963</td>
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<td>7008</td>
<td>1200</td>
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<td>10,266</td>
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<td>1933</td>
<td>10,587</td>
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<td>.791</td>
<td>9.6</td>
</tr>
<tr>
<td>1934</td>
<td>10,538</td>
<td>1239</td>
<td>.952</td>
<td>11.8</td>
</tr>
</tbody>
</table>

**Source:** New South Wales Police Department, *Annual Reports.*

By the mid-1930s, Australia had begun to recover from the depres­sion and New South Welshmen began once again to indulge their
appetite for gambling. The state lottery established in 1932 by the
Lang Government had been warmly received, but wagering on horse
races remained an extremely popular practice. The act of placing a
wager with an off-course local bookmaker, known as ‘starting price (or
S.P.) betting’ remained within the definitional boundaries of criminal­
ity, and by 1935, police began turning their attentions to the practice
with increasing zeal.

The Superintendent of the Metropolitan Police District estimated in
1935 that 75 per cent of the public did not object to the practice of
S.P. betting, and it was not surprising that public reaction varied
directly with the intensity of police prosecution. The enthusiasm manifested by the police was such that members of Parliament began to raise objections, and a Royal Commission was soon appointed. The Commission's report affirmed what had long been obvious to the average resident of Sydney: illegal betting was widespread, 'in spite of the inhibitions of the law which is apparently powerless to stop it'.

While the report did not question the wisdom of defining S.P. betting as criminal, it raised serious questions about police practices. Among the activities undertaken by the police in the enforcement of betting laws were the deployment of undercover agents, the unlawful entry of private residences, and the presentation of false evidence in criminal proceedings. Referring particularly to the use of police agents, the Commission concluded that

The odd conviction that may be obtained as a result of their services is greatly outweighed by the disadvantages consequent upon their employment. They are spies and informers, and their use creates distrust in the minds of the public. It was abundantly clear from cases heard before the Commission that their evidence, generally speaking, is entirely untrustworthy.

Needless to say, any existing strain in the relations between the police and the public in New South Wales could hardly have been mitigated by these developments. In any event, the police relaxed their vigilance somewhat in the aftermath of the Commission's report, and arrests for gambling offences decreased somewhat in the late 1930s, as Figure 9.3 indicates.

During the 1920s and 1930s, the Federal Government armed itself with an array of provisions designed to suppress political dissent. Enacted at various times, most of these powers were defined with such sweeping generality that they could easily have been construed so as to proscribe even the mildest criticism. Under the 1926 Amendment to the Commonwealth Crimes Act, for example, any group could be declared unlawful for promoting ill will between classes, or for advocating or encouraging the overthrow by force or violence of 'the established government of any civilized country'.

Immigration statutes were also employed by the Commonwealth to silence dissent. Following strikes by seamen and waterside workers in 1925, the government enacted amendments which permitted the deportation of unco-operative union leaders who happened not to have been born in Australia.

Prosecution of communist activity in Sydney, closely tied to developments in international politics, became quite erratic after the outbreak of World War II. The Australian Communist Party, responding
with dogged loyalty to policy directions from Moscow, denounced the Allied cause after the signing of the Nazi-Soviet pact in April 1940. The Commonwealth Government reacted energetically, placing a ban on Communist Party literature in May; the following month, the party was declared an unlawful association under existing National Security (Subversive Associations) Regulations. Attempts at suppressing communist activity included frequent police raids in Sydney, but there appears to have been no lasting repressive effect. The movement went underground, meetings continued, and membership increased.

With the German invasion of the Soviet Union in June 1941, the A.C.P. reversed its policy and came out energetically in support of the war effort. The Commonwealth Government continued to define the party as an unlawful association, but relaxed its vigilance. By October, the ‘illegal’ communist press enjoyed a weekly nationwide circulation of 50,000. By the end of the year, the party had been redefined as a lawful association, and the communists were spared official harassment until after the war.

132
Vice, Drunkenness and Cold War Tensions: 1940-1955

The years of World War II saw a significant shift in trends of criminality in Sydney, as Figures 2.5 through 2.9 above indicate. Unlike the experience of World War I, which saw long-term declines in most crime indicators punctuated by a temporary upsurge following the Armistice, this increase began shortly after the commencement of hostilities. Of even greater significance is the fact that the increases in crime which began during the war did not abate following the surrender of the Axis powers in 1945. The war thus marked the beginning of a new era in the social history of Sydney, the start of a long-term increase in rates of crime.

The increases, however, were not precipitously abrupt, and authorities, of course, had no way of knowing that they heralded a long-term change. Police expressed concern at increases in armed violence and aggressive crime in general, but arrest data reveal remarkable stability in rates for the bulk of serious offences. The Vice Squad was slightly more attentive to gambling and sly grog selling in Sydney during 1944 and 1945, but subsequent years saw greater tolerance on their part, as Table 10.2 indicates.

By far the most striking development in post-war Sydney was the massive increase in arrests for drunkenness. Huge annual increases occurred between 1945 and 1948, to the extent that drunkenness offenders constituted well over half of the total input to the New South Wales criminal justice system at the end of the decade (Table 10.3). Trends in the more serious forms of criminality were thus less apparent to the authorities, whose preoccupation with drunkenness was without precedent.

The ideological conflicts of earlier years lay relatively dormant during World War II, but were revived at the onset of the Cold War. Industrial and political protest reappeared on a somewhat limited scale in 1947, and reached a peak during the coal strike two years later. A strike of wharf labourers in Sydney during March 1947, moved a Liberal member of State Parliament to organise a public meeting on
### TABLE 10.1

**New South Wales: arrests per 1000 inhabitants, selected offences, 1943-1951**

<table>
<thead>
<tr>
<th>Year</th>
<th>Homicide</th>
<th>Serious Assault</th>
<th>Assault and Robbery</th>
<th>Breaking and Entering</th>
<th>Simple Larceny</th>
</tr>
</thead>
<tbody>
<tr>
<td>1943</td>
<td>0.020</td>
<td>0.086</td>
<td>0.044</td>
<td>1.400</td>
<td>3.075</td>
</tr>
<tr>
<td>1944</td>
<td>0.028</td>
<td>0.095</td>
<td>0.042</td>
<td>1.330</td>
<td>2.709</td>
</tr>
<tr>
<td>1945</td>
<td>0.029</td>
<td>0.089</td>
<td>0.038</td>
<td>1.413</td>
<td>2.797</td>
</tr>
<tr>
<td>1946</td>
<td>0.030</td>
<td>0.100</td>
<td>0.044</td>
<td>1.379</td>
<td>2.586</td>
</tr>
<tr>
<td>1947</td>
<td>0.025</td>
<td>0.093</td>
<td>0.034</td>
<td>1.182</td>
<td>2.721</td>
</tr>
<tr>
<td>1948</td>
<td>0.033</td>
<td>0.106</td>
<td>0.036</td>
<td>0.833</td>
<td>2.516</td>
</tr>
<tr>
<td>1949</td>
<td>0.028</td>
<td>0.106</td>
<td>0.036</td>
<td>0.916</td>
<td>2.459</td>
</tr>
<tr>
<td>1950</td>
<td>0.029</td>
<td>0.090</td>
<td>0.021</td>
<td>0.787</td>
<td>2.456</td>
</tr>
<tr>
<td>1951</td>
<td>0.038</td>
<td>0.096</td>
<td>0.032</td>
<td>0.683</td>
<td>2.678</td>
</tr>
</tbody>
</table>

**Source:** New South Wales Police Department, *Annual Reports.*

### TABLE 10.2

**Metropolitan Police District: Vice Squad arrests, selected offences, 1943-1951**

<table>
<thead>
<tr>
<th>Year</th>
<th>Gambling and Betting</th>
<th>Sly Greg Selling</th>
</tr>
</thead>
<tbody>
<tr>
<td>1943</td>
<td>4412</td>
<td>196</td>
</tr>
<tr>
<td>1944</td>
<td>6646</td>
<td>412</td>
</tr>
<tr>
<td>1945</td>
<td>6787</td>
<td>335</td>
</tr>
<tr>
<td>1946</td>
<td>6301</td>
<td>195</td>
</tr>
<tr>
<td>1947</td>
<td>5498</td>
<td>176</td>
</tr>
<tr>
<td>1948</td>
<td>n.a.</td>
<td>n.a.</td>
</tr>
<tr>
<td>1949</td>
<td>5689</td>
<td>209</td>
</tr>
<tr>
<td>1950</td>
<td>5368</td>
<td>163</td>
</tr>
<tr>
<td>1951</td>
<td>4970</td>
<td>183</td>
</tr>
</tbody>
</table>

**Source:** New South Wales Police Department, *Annual Reports.*

the Domain for the purpose of recruiting volunteer labour. While newspaper descriptions of ensuing events varied between a 'basher gang outrage' and a 'spontaneous reaction of workers to organised provocation', it is evident that the meeting was disrupted by a group of about 100 communist waterside workers. At least two injuries were reported, and nineteen 'wharfies' were arrested on charges of assault, indecent language, and offensive behaviour.
TABLE 10.3
New South Wales: arrests for drunkenness and related offences* 1943-1951

<table>
<thead>
<tr>
<th>Year</th>
<th>Arrests</th>
<th>Rate Per 1000 Population</th>
<th>Drunkenness Arrests as Percentage of Total Arrests for Offences Other Than Traffic Violations</th>
</tr>
</thead>
<tbody>
<tr>
<td>1943</td>
<td>34,956</td>
<td>12.2</td>
<td>31.9</td>
</tr>
<tr>
<td>1944</td>
<td>34,620</td>
<td>11.9</td>
<td>34.1</td>
</tr>
<tr>
<td>1945</td>
<td>43,624</td>
<td>14.9</td>
<td>37.4</td>
</tr>
<tr>
<td>1946</td>
<td>62,430</td>
<td>21.1</td>
<td>44.3</td>
</tr>
<tr>
<td>1947</td>
<td>67,580</td>
<td>22.5</td>
<td>47.7</td>
</tr>
<tr>
<td>1948</td>
<td>82,981</td>
<td>27.2</td>
<td>55.0</td>
</tr>
<tr>
<td>1949</td>
<td>78,485</td>
<td>24.9</td>
<td>52.9</td>
</tr>
<tr>
<td>1950</td>
<td>78,840</td>
<td>24.3</td>
<td>53.2</td>
</tr>
<tr>
<td>1951</td>
<td>83,349</td>
<td>25.1</td>
<td>54.4</td>
</tr>
</tbody>
</table>

*Drunkenness, Drunkenness with Disorderly Conduct, and Inebriates Act Violations.

Source: New South Wales Police Department, Annual Reports.

Four months later, a group of students from the University of Sydney assembled outside the offices of the Dutch Consul-General on Margaret Street in protest against Dutch colonial policy in the East Indies. The students were joined by a small number of wharf labourers and soon thereafter by a contingent of policemen, some in plainclothes and others in uniform. The police, members of a mobile unit called the ‘21 Squad’, dispersed the assembly with force and attacked a number of demonstrators. Fourteen arrests were made, but because of questionable police practice, all but one resulted in acquittal.2

The strike by New South Wales coal miners in 1949 was the largest and most significant industrial conflict in 20 years. The miners, striking over wages, hours, and working conditions, refused to submit to arbitration, and posed a threat to the New South Wales economy generally. Workers in many industries were laid off, numerous services were curtailed, and the supply of beer diminished drastically. The Commonwealth and State Labor Governments were forced by circumstances into increasingly militant postures; a National Emergency (Coal Strike) Act was passed in Canberra, the Sydney headquarters of the Australian Communist Party were raided, and a number of union officials were arrested.3 As the strike wore on, it became increasingly evident that a crisis was at hand for whatever conscious revolutionary movement existed in New South Wales. The energetic prosecution of trade union
militants, however, combined with the deployment of Commonwealth troops to the coalfields to take over mining operations, brought about the defeat of the strike. Moreover, the economic impact of the strike was so great that public sympathy for the miners eroded rapidly. Anti-communist and anti-striker sympathy grew to the extent that the defeat of the strike met with general approval.

Minor demonstrations occurred in the year following the coal strike, but these were of a relatively insignificant nature. Sydney radicals protested against the U.N. operations in Korea (which included a contingent of Australian troops) and against the development of nuclear weaponry, but only a handful of arrests resulted and the demonstrations were free of violence.4

Despite the occurrence of substantial demographic and economic change during the post-war period, there appeared no *prima facie* connection between these factors and changes in the pattern of criminal behaviour. One of the more striking demographic developments in the history of New South Wales, the influx of large numbers of immigrants from eastern and southern Europe, began in the late 1940s. Commonwealth officials, recalling the high rates of criminality among migrants in the nineteenth century, were apprehensive at first, but careful scrutiny of migrants' conduct revealed an appreciably lower incidence of crime than in the community generally.5

Aside from perturbations during the 1949 coal strike, the post-war era, unlike the period 30 years before, was free of economic dislocation. Indeed, the late 1940s were years of full employment to an extent unprecedented in the twentieth century. The only apparent upward shift in the level of crime produced by this increase in material well-being was reflected in the traditional rise in rates of arrest for drunkenness.

Despite the lack of any drastic increase in serious crime, explanations of post-war criminal activity were in abundance. The Commissioner of Police, William J. MacKay, attributed violent crime to 'a certain moral looseness' characteristic of war time, and to the disruption of normal family relationships. MacKay also offered the traditional explanation of police manpower shortage.6 There were other explanations offered by the police, many of them familiar. The demobilisation brought thousands of young men back to Sydney, men no longer subject to the rigours of military discipline and many facing an uncertain future. With the reduction in rationing at the end of the war, the demand for black market consumer goods fell off quickly. According to police spokesmen, the black market had provided a source of big, easy, and safe money for those entrepreneurs who sought to exploit it; many of these individuals had been involved in the more
common form of acquisitive crime before the war, and were apparently returning to those former practices.⁷

Among the less common explanations for the criminality of the time was that of J. S. Freeman, a member of the Legislative Assembly. In the Lombrosian tradition of biological determinism, he suggested that delinquent behaviour was frequently attributable to such somatic irregularities as epilepsy, congenital syphilis, asymmetry of the skull, and glandular malfunction. Freeman suggested that insufficient medical attention contributed significantly to public disorder.

I suggest in all seriousness that members of the medical profession, particularly those employed in the Education Department, should, at the behest of the government, pay greater attention to skull malformations. There are children growing up who might in adult life become criminals and lunatics but who could be saved if given attention now.⁸

Towards the end of the decade, as the Cold War began to dominate Australian political life and as protest activity became more visible, the theme of the ‘Communist Menace’ was heard with increasing prevalence. Although the Australian Labor Party controlled both Federal and State Parliaments during the post-war years, the major direction of political debate was forced by the Federal Opposition Leader, R. G. Menzies. An arch-conservative with deep reverence for British royalty and civilisation, Menzies had developed strong antagonism towards the Soviet Union and towards the Australian Communist Party in the 1930s.

As did Churchill, whom he admired greatly, Menzies perceived an increasing threat to British civilisation from communism, whether international or domestic, and saw an imminent danger of war with the Soviet Union. He was also quite aware that the theme could be exploited in domestic politics, and proceeded to make the symbol of Red Menace the keystone of Australian political discourse; it continued as such, indeed, right throughout the 1950s and 1960s. The Labor Party was thus forced into a defensive posture; just as the Sydney Morning Herald referred to the 1949 coal strike as ‘part of the Russian Cold War’ Labor blamed the strike on the Communist Party of Australia.⁹

During the 1949 election campaign in the aftermath of the coal strike, Menzies pledged to proscribe the Communist Party if his recently formed Liberal Party were elected. His campaign was successful, and in April 1950, he introduced in Federal Parliament the Communist Party Dissolution Bill. Reminiscent of the Unlawful Associations legislation of World War I, the Bill declared the Communist
Party an unlawful association, disqualified its members from holding public or trade union office, and provided for a five-year prison sentence for continued participation in party activities.

Although the Bill was enacted in October 1950, it was disallowed as unconstitutional by the High Court of Australia the following March. However, Menzies' commitment to the policy was such that he brought about a double dissolution and campaigned again on a pledge to amend the Federal Constitution by submitting the issue to a referendum. After Menzies was returned to power and the new Parliament enacted enabling legislation, the issue was submitted to the Australian people in the referendum of September 1951. Despite Menzies' energetic efforts, the issue was defeated by a narrow margin, and membership in the Communist Party remained beyond the boundaries of defined criminality.

The post-war years were difficult ones for the police; a large number of constables, dissatisfied with having to put in a six-day week for £6.6s., resigned from the force. In 1946, 310 members of the force left for one reason or another, a percentage turnover of approximately 8 per cent. In his 1946 report, the Commissioner admitted that the personnel shortage necessitated deferring the usual training of recruits and administering instead only a short training course. Meanwhile, the State Government sought to lessen the staffing shortage by establishing the parking police, a special unit comprised of partially disabled ex-servicemen. In the following year, wages were increased, a five-day week adopted, and the minimum age for recruits reduced from 21 to 19 years. These innovations were accompanied by the appointment of an additional 508 members to the force.

The residents of Sydney continued their tradition of coolness to the police, leading the *Sydney Morning Herald* to remark indignant

It is a cynical commentary on the lawlessness rampant in Sydney that, as happened on Friday, bystanders should hoot and jeer at policemen struggling on a city pavement with a suspect for the possession of a loaded pistol.11

The lack of support for the police was attributable in part to the widespread feeling that members of the force were going about their duties in certain matters with a bit too much zeal; the intensity with which drunkenness was prosecuted had a markedly unfavourable impact. Even the *Herald*, hardly sympathetic to leftist causes, reacted with consternation when members of the No. 21 Squad broke up the July 1947 Margaret Street demonstration with noticeable force. Sternly critical of police 'Basher Tactics', a *Herald* editorial concluded 'The
police have come very badly out of the whole affair in Margaret Street. The impression left is that they provoked rather than prevented the more serious aspects of the disturbance'.12 Further complaints concerning police behaviour were heard from members of the Legislative Assembly. Not only were the Consorting and Vice Squads alleged to have harassed innocent people, but arrests for drunkenness were apparently indiscriminate. As one member suggested:

I understand that on some week ends no fewer than 800 arrests are made, many of the victims being respectable persons. I have complained about this repeatedly, and I shall continue to do so. Complaints have been made to me that persons emerging from a hotel are 'grabbed' by the police and taken to the 'clink'. A police van known as the 'trawler' is used to take arrested persons to the lock up. The police 'grab' all and sundry and charge them at the police station. I receive complaints from every part of my electorate.13

In addition to providing the theme of electoral discourse, the Cold War served to stimulate institutional innovation. In 1949, the Federal Labor Government established the Australian Security Intelligence Organization, intended to defend the Commonwealth against espionage, sabotage, and subversive activity. ASIO thus relieved the New South Wales and other state police forces of some of the burdens of political espionage which had adversely affected their public images during most of the previous 40 years.

While members of the Howard Prison Reform League were to claim during the later 1940s that the prisons of New South Wales were among the best in the world,14 there was no dearth of criticism from other quarters. Frank Snow described the presence in the New South Wales system of commonly recognised faults of prisons. He was particularly critical of the boredom and humiliation brought about by the prison experience, and of the inadequacy of existing medical, educational, and recreational opportunities. Snow also suggested that the archaic regulations and disciplinary procedures reflected a continuing emphasis on retribution.15

The Department of Prisons underwent a number of changes during the post-war years, principally involving the adoption of innovations which had been previously instituted overseas. A classification committee was established at Long Bay, permitting the more systematic assignment of prisoners to the different facilities and training programs. A consulting psychiatrist and full time psychologist were appointed to the department, clothing issues were improved, and educational opportunities for prisoners were broadened. In addition, the first steps were taken to establish an institutionalised system of parole. Informal pro-
cedures of conditional release dating from the convict era were modified in 1951 with the appointment of a Parole Board. While the Board's function was to be advisory, and the exercise of Royal Prerogative was still contingent upon ministerial recommendation, the establishment of the Board provided a foundation for the future exercise of autonomous decision making power. As a necessary corollary of the initial appointment of a parole board, 1951 also saw the establishment of the Adult Probation Service, the officers of which were to supervise the conduct of offenders released under the new scheme.

The issue of corporal punishment, a treatment still permitted (if not practised) under the Crimes Act, re-emerged briefly in 1946 after a number of violent crimes reached the public's attention. In effect, the rate of violent crime appears to have increased only slightly, as Table 10.1 indicates. Nevertheless, a Sydney judge threatened to award sentences of flogging for offenders convicted of violent crime, and the Sydney Morning Herald agreed that such a deterrent might be the only suitable corrective.16 This set off the familiar debate; opponents of corporal punishment argued that the practice tended to brutalise and failed to deter, while advocates suggested that retribution and retaliation were deeply rooted human instincts. Moreover, they regarded corporal punishment as an effective deterrent; citing a familiar, if historically inaccurate example, proponents argued that 'One application of the lash effectively quelled the activities of the “pushes” which dispersed almost at once when a stand was made by using this deterrent'.17 The debate blew over quickly, however, and corporal punishment remained a dormant, although legally permissible, method of dealing with offenders.

The mid-1950s were quiet years in Sydney. Aside from the publicity surrounding the defection of a Soviet diplomat and a damaging ideological split in the Labor Party, a spirit of Cold War somnolence reigned. Ever since the soldiers' riot in 1916, Sydney bars were required to close at 6 p.m. The hour of intensive drinking between the end of the working day and closing time, concluding with a 'six o'clock swill', was hardly conducive to evening sobriety. The early closing had other effects as well; a Royal Commission reported in 1954 that the Metropolitan Police had taken what appeared to be a laissez-faire attitude to sly grog selling. While the Commission was reluctant to affirm the existence of widespread corruption in the Vice Squad, the report left little to the imagination. Two previous Metropolitan District Superintendents were strongly criticised for dereliction of duty. The Commission, no doubt realising that suppression of sly grog selling would be difficult to accomplish, recommended instead that a later closing hour be established.18 Later in the year, a referendum was held and a 10 p.m.
closing was restored. The tradition of the ‘six o’clock swill’ endured, however, as bars were still required to close for one hour at 6.30 p.m. This unhappy requirement was abolished in 1963 by the Liquor Amendment Act.

Because 1955 was the fourteenth consecutive year of Labor dominance in state politics and one free of sensational criminal activity, the introduction of legislation to abolish capital punishment was timely. While no execution had taken place during Labor’s years in power, there was still great concern to legislate the policy in question, and mark a definitive break with the hanging heritage in New South Wales. The relevant provisions of the Crimes (Amendment) Act, 1955, abolished capital punishment for all offences save treason and piracy; the Act had the effect of abolishing execution generally since, by the late 1930s, murder had become the only offence for which capital sentences were awarded.

The tone of debate on the issue was almost too familiar to relate. Those opposed to abolition regarded hanging as an effective deterrent, or as punishment well deserved by transgressors who were ‘animals in human form’. Those favouring abolition suggested that hanging was barbaric, did not act as a deterrent, and made convictions in capital cases very difficult to obtain. As the mid 1950s were relatively tranquil years, the abolitionists were able to prevail over their opponents with little difficulty.
An Age of Lawlessness?: 1956-1973

Despite references to an ‘age of lawlessness’, the most recent period in Sydney’s history was marked not by a uniform increase in all kinds of criminal behaviour, but by developments of much greater diversity. Tables 11.1 and 11.2 are illustrative: homicide rates remained relatively stable, declining slightly at the end of the decade. Rates of serious assault increased approximately 50 per cent between 1965 and 1970, steadily at first, with a pause in 1969, and a marked rise in 1970. Although arrests for drunkenness remained the greatest single input to the New South Wales criminal justice system, they declined in both absolute and proportionate terms.

**TABLE 11.1**

New South Wales: offences known to the police per 100,000 population, selected offences, 1960-1970

<table>
<thead>
<tr>
<th>Year</th>
<th>Homicide*</th>
<th>Serious Assault†</th>
<th>Rape and Attempts</th>
<th>Armed Robbery</th>
<th>Assault and Robbery</th>
<th>Break and Enter</th>
<th>Larceny</th>
<th>Embezzlement</th>
<th>False Pretences</th>
</tr>
</thead>
<tbody>
<tr>
<td>1960</td>
<td>4.0</td>
<td>11.5</td>
<td>2.1</td>
<td>6</td>
<td>4.5</td>
<td>204.8</td>
<td>393.8</td>
<td>10.5</td>
<td>86.2</td>
</tr>
<tr>
<td>1961</td>
<td>4.0</td>
<td>11.6</td>
<td>2.3</td>
<td>6</td>
<td>4.8</td>
<td>206.8</td>
<td>410.9</td>
<td>15.4</td>
<td>88.7</td>
</tr>
<tr>
<td>1962</td>
<td>3.9</td>
<td>12.3</td>
<td>2.1</td>
<td>5</td>
<td>4.5</td>
<td>203.3</td>
<td>383.3</td>
<td>14.2</td>
<td>94.4</td>
</tr>
<tr>
<td>1963</td>
<td>3.9</td>
<td>11.0</td>
<td>3.0</td>
<td>3</td>
<td>3.4</td>
<td>228.6</td>
<td>384.6</td>
<td>21.3</td>
<td>104.0</td>
</tr>
<tr>
<td>1964</td>
<td>4.7</td>
<td>14.0</td>
<td>3.3</td>
<td>6</td>
<td>4.2</td>
<td>239.9</td>
<td>388.3</td>
<td>21.0</td>
<td>100.3</td>
</tr>
<tr>
<td>1965</td>
<td>5.1</td>
<td>12.4</td>
<td>2.9</td>
<td>1</td>
<td>5.4</td>
<td>298.2</td>
<td>430.7</td>
<td>22.7</td>
<td>90.2</td>
</tr>
<tr>
<td>1966</td>
<td>3.9</td>
<td>13.2</td>
<td>2.8</td>
<td>1</td>
<td>6.0</td>
<td>315.0</td>
<td>437.6</td>
<td>20.4</td>
<td>87.6</td>
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<tr>
<td>1967</td>
<td>3.9</td>
<td>14.0</td>
<td>3.9</td>
<td>1</td>
<td>6.6</td>
<td>315.3</td>
<td>507.5</td>
<td>13.9</td>
<td>82.2</td>
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<td>1968</td>
<td>4.4</td>
<td>15.1</td>
<td>4.7</td>
<td>2</td>
<td>9.6</td>
<td>439.2</td>
<td>625.4</td>
<td>18.9</td>
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<td>1969</td>
<td>3.6</td>
<td>15.0</td>
<td>4.8</td>
<td>5</td>
<td>11.0</td>
<td>484.8</td>
<td>636.6</td>
<td>14.9</td>
<td>89.6</td>
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<tr>
<td>1970</td>
<td>3.2</td>
<td>18.5</td>
<td>4.4</td>
<td>4</td>
<td>13.9</td>
<td>618.3</td>
<td>831.4</td>
<td>15.9</td>
<td>101.8</td>
</tr>
</tbody>
</table>

*Murder and Manslaughter.
†Attempted Murder and Actual Bodily Harm.

*Source: New South Wales Police Department, Annual Reports.*
By far the most striking trend in criminality during Sydney's recent history occurred in the area of acquisitive crime. Beginning in 1963, rates of burglary, larceny, armed robbery, and robbery with assault showed sharp annual increases. The years from 1963 to 1970 saw rates of larceny and break-and-enter increase well over 100 per cent, while that of assault and robbery increased 300 per cent.

The rate of reported armed robberies increased sixteenfold from 1963 to 1969, before dropping off slightly in 1970. Continuing an upward trend which began in the late 1950s, the rate of ‘rape and attempts’ known to the police rose by 100 per cent during the 1960s.

Media response to these seemingly drastic increases in assault, rape, and property crime was predictable. Headlines in Sydney's evening papers, the *Sun* and *Mirror*, frequently referred to the behaviours in question in less than subtle terms, and the public sense of insecurity increased accordingly.

Industrial protest, a major source of turmoil in Sydney since the last decade of the nineteenth century, was largely replaced by political protest. The years following the reactivation of conscription laws in 1965 and the deployment of Australian troops to Vietnam saw numerous

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**TABLE 11.2**

New South Wales: arrests for drunkenness and related offences,* 1960-1970

<table>
<thead>
<tr>
<th>Year</th>
<th>Arrests</th>
<th>Rate Per 1000 Population</th>
<th>Drunkenness Arrests as Percentage of Total Arrests for Offences Other Than Traffic</th>
</tr>
</thead>
<tbody>
<tr>
<td>1960</td>
<td>69,455</td>
<td>17.9</td>
<td>39.1</td>
</tr>
<tr>
<td>1961</td>
<td>68,710</td>
<td>17.4</td>
<td>36.4</td>
</tr>
<tr>
<td>1962</td>
<td>69,463</td>
<td>17.3</td>
<td>36.6</td>
</tr>
<tr>
<td>1963</td>
<td>66,647</td>
<td>16.4</td>
<td>34.2</td>
</tr>
<tr>
<td>1964</td>
<td>62,523</td>
<td>15.1</td>
<td>31.4</td>
</tr>
<tr>
<td>1965</td>
<td>64,039</td>
<td>15.2</td>
<td>32.4</td>
</tr>
<tr>
<td>1966</td>
<td>56,942</td>
<td>13.4</td>
<td>30.1</td>
</tr>
<tr>
<td>1967</td>
<td>56,235</td>
<td>13.0</td>
<td>29.7</td>
</tr>
<tr>
<td>1968</td>
<td>58,758</td>
<td>13.2</td>
<td>30.7</td>
</tr>
<tr>
<td>1969</td>
<td>60,405</td>
<td>13.3</td>
<td>30.6</td>
</tr>
<tr>
<td>1970</td>
<td>59,682</td>
<td>12.9</td>
<td>31.6</td>
</tr>
</tbody>
</table>

*Drunkenness, Drunkenness with Disorderly Conduct, Inebriates Act Violations.

*Source: New South Wales Police Department, *Annual Reports*. 
rallies and marches in Sydney, most of which were student-based and highly organised. Two or three major protests, with over 1000 participants, were staged each year from 1965 to 1972, while smaller-scale demonstrations occurred more frequently, inspired by events in the war or by visits to Sydney of prominent public figures associated with war or conscription policies. The largest protests took place in 1970 in the aftermath of the invasion of Cambodia by American and South Vietnamese forces. Protest activity generally involved marches from the University of Sydney through the city, ending in a rally at central city locations such as the steps of Town Hall, Martin Place, or Chifley Square. In cases of protest directed specifically at conscription, occasional 'sit-in' style occupations of Commonwealth offices occurred.

By international standards, the Sydney protest activities were non-violent; the only protest-related fatality occurred when a Commonwealth police officer died of a heart attack while carrying sit-in protestors from an office building. Injuries were infrequent, and numbers of arrests varied substantially from one demonstration to the next, largely dependent upon mutual expectations and hostilities between participants and police. The Moratorium march in September 1970 provoked one of the stronger official reactions in recent memory; arrests totalled 200, and relations between police and demonstrators were unusually strained. A further 187 arrests were made during an anti-war demonstration in May of 1971.

During the 1950s and 1960s, young Australians had become increasingly dissatisfied with the Commonwealth Liberal Government's continued tacit approval of South African apartheid policy. Small protests occurred early in 1971, and the occasion for larger demonstrations arose during an Australian tour by a South African rugby team in July of that year. Attempts to disrupt the matches in Sydney were met with massive deployments of police; 220 arrests were made during a one-week period, almost two-thirds of them during a match at the Sydney Cricket Ground on 10 July. As in the case of anti-war protest, the Sydney anti-apartheid demonstrations resulted in relatively few injuries.

Prostitution continued to thrive in Sydney during the 1960s. Paul Wilson has estimated that 15,000 men availed themselves of the services of prostitutes in the city each week. As had been characteristic for most of Sydney's history, enforcement of laws which forbade soliciting, the keeping of brothels, and other related behaviours appears to have been very irregular. Arrest records (Table 11.3 and Figure 9.2, above) show a drastic increase in the mid-1960s, followed by an equally sharp decline at the end of the decade. The significance of these
TABLE 11.3

New South Wales: arrests for prostitution and related offences,* 1960-1970

<table>
<thead>
<tr>
<th>Year</th>
<th>Arrests</th>
<th>Arrest Per 1000 Population</th>
</tr>
</thead>
<tbody>
<tr>
<td>1960</td>
<td>7002</td>
<td>1.81</td>
</tr>
<tr>
<td>1961</td>
<td>7169</td>
<td>1.81</td>
</tr>
<tr>
<td>1962</td>
<td>8037</td>
<td>2.00</td>
</tr>
<tr>
<td>1963</td>
<td>13,580</td>
<td>3.33</td>
</tr>
<tr>
<td>1964</td>
<td>15,436</td>
<td>3.73</td>
</tr>
<tr>
<td>1965</td>
<td>13,580</td>
<td>3.22</td>
</tr>
<tr>
<td>1966</td>
<td>12,880</td>
<td>3.04</td>
</tr>
<tr>
<td>1967</td>
<td>8946</td>
<td>2.07</td>
</tr>
<tr>
<td>1968</td>
<td>3441</td>
<td>.78</td>
</tr>
<tr>
<td>1969</td>
<td>2411</td>
<td>.53</td>
</tr>
<tr>
<td>1970</td>
<td>3632</td>
<td>.71</td>
</tr>
</tbody>
</table>

*Prostitution, suffer; Prostitution, male person living on; Soliciting by known prostitute; Offensive behaviour (female); Vagrancy (female); Vagrancy Act Offences (female).

Source: New South Wales Police Department, Annual Reports.

data, however, is at best highly questionable.8

Among the least visible modes of criminality in Sydney was the illegal termination of pregnancy. While abortions continued to be performed by the thousands each year,9 Table 11.4 shows that only a handful of prosecutions were undertaken by the police. As was the case with other ‘victimless crimes’, but perhaps even to a greater extent, problems of obtaining evidence sufficient to sustain a conviction remained extremely great. Throughout the 1960s, the authorities in New South Wales were largely tolerant of abortion in Sydney. In 1970, however, disclosures by Bertram Wainer, a Melbourne physician, that members of the Victorian police force had received numerous payments from Melbourne abortionists led to a major scandal in that state. Heightened public attention directed to the issues of law enforcement and abortion in New South Wales, reinforced by the increasing activity of abortion law reform advocates in Sydney, led the New South Wales police to prosecute abortionists in the metropolis with unprecedented energy. The ‘crackdown’ ended following a trial court decision in 1971 which had the effect of significantly reducing the chances of conviction.

In the late 1960s, the New South Wales Police became more attentive to male homosexuality. Certain members of the Vice Squad under-
Sydney in Ferment

TABLE 11.4
New South Wales: prosecutions for unlawful abortion, 1960-1970

<table>
<thead>
<tr>
<th>Year</th>
<th>Offences Known* ('Abortion and Attempts')</th>
<th>Arrests* ('Abortion, Attempts, Etc.')</th>
<th>Distinct Persons Convicted ('Attempts to Procure Abortion')‡</th>
</tr>
</thead>
<tbody>
<tr>
<td>1960</td>
<td>4</td>
<td>15</td>
<td>0</td>
</tr>
<tr>
<td>1961</td>
<td>6</td>
<td>19</td>
<td>6</td>
</tr>
<tr>
<td>1962</td>
<td>10</td>
<td>12</td>
<td>1</td>
</tr>
<tr>
<td>1963</td>
<td>8</td>
<td>14</td>
<td>2</td>
</tr>
<tr>
<td>1964</td>
<td>11</td>
<td>18</td>
<td>3</td>
</tr>
<tr>
<td>1965</td>
<td>5</td>
<td>17</td>
<td>5</td>
</tr>
<tr>
<td>1966</td>
<td>0</td>
<td>2</td>
<td>1</td>
</tr>
<tr>
<td>1967</td>
<td>2</td>
<td>0</td>
<td>1</td>
</tr>
<tr>
<td>1968</td>
<td>5</td>
<td>17</td>
<td>2</td>
</tr>
<tr>
<td>1969</td>
<td>6</td>
<td>14</td>
<td>9</td>
</tr>
<tr>
<td>1970</td>
<td>85</td>
<td>8</td>
<td>2</td>
</tr>
</tbody>
</table>

*Source: New South Wales Police Department, Annual Reports.


took an intensive surveillance of public lavatories in Sydney, and arrests for a number of offences involving deviant sexual behaviour increased markedly. The energetic activity of the ‘Indecency Squad’, as the detail was informally named, met with less than favourable public response, however, and its members were reassigned at the end of 1969.10 The corresponding change in enforcement practices is reflected in part by Table 11.5.11

TABLE 11.5
New South Wales: arrests for selected offences involving sexual deviance, 1963-1970

<table>
<thead>
<tr>
<th>Year</th>
<th>Indecent Act Between Males in Public or Private</th>
<th>Indecent Act Between Male Person and Female Person in Public or Private</th>
<th>Indecent Act Soliciting in Public</th>
<th>Indecent Act Procuring or Attempting to Procure in Public or Private</th>
<th>Buggery and Attempts</th>
<th>Willful Exposure</th>
<th>Total</th>
<th>Total Rate Per 10,000 Males</th>
</tr>
</thead>
<tbody>
<tr>
<td>1963</td>
<td>44</td>
<td>36</td>
<td>21</td>
<td>85</td>
<td>117</td>
<td>359</td>
<td>662</td>
<td>3.23</td>
</tr>
<tr>
<td>1964</td>
<td>30</td>
<td>13</td>
<td>1</td>
<td>59</td>
<td>64</td>
<td>368</td>
<td>535</td>
<td>2.57</td>
</tr>
<tr>
<td>1965</td>
<td>85</td>
<td>22</td>
<td>11</td>
<td>33</td>
<td>37</td>
<td>419</td>
<td>607</td>
<td>2.88</td>
</tr>
<tr>
<td>1966</td>
<td>32</td>
<td>18</td>
<td>6</td>
<td>23</td>
<td>68</td>
<td>371</td>
<td>518</td>
<td>2.42</td>
</tr>
<tr>
<td>1967</td>
<td>48</td>
<td>12</td>
<td>5</td>
<td>13</td>
<td>42</td>
<td>409</td>
<td>529</td>
<td>2.43</td>
</tr>
<tr>
<td>1968</td>
<td>56</td>
<td>19</td>
<td>18</td>
<td>39</td>
<td>101</td>
<td>426</td>
<td>659</td>
<td>2.96</td>
</tr>
<tr>
<td>1969</td>
<td>64</td>
<td>7</td>
<td>23</td>
<td>59</td>
<td>58</td>
<td>542</td>
<td>753</td>
<td>3.31</td>
</tr>
<tr>
<td>1970</td>
<td>29</td>
<td>11</td>
<td>35</td>
<td>28</td>
<td>52</td>
<td>446</td>
<td>601</td>
<td>2.58</td>
</tr>
</tbody>
</table>

Source: New South Wales Police Department, Annual Reports.

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The total population of the Sydney Metropolitan Area grew by approximately 20 per cent during the decade of the 1960s, a numerical increase of over half a million. It seems safe to speculate that the size of Sydney's population and the spatial expanse of the metropolitan area tended to enhance anonymity and make apprehension of the offender difficult. However, it is doubtful that these factors alone contributed more than a slight amount to the drastic increases in assault and crimes of acquisition during the decade beginning in 1963.

A breakdown of general population growth trends, however, presents a more informative picture. As was stated earlier, the number of 18 to 24 year old males in New South Wales increased by 58 per cent during the period from 1959 to 1969. Since the beginning of the twentieth century, males in this age range have been identified as the most crime prone group in New South Wales. It has thus been suggested by the New South Wales Bureau of Crime Statistics and Research that the recent 'crime wave' might be partly explained in terms of the growth of this high risk population. Recent research by Paul Ward which revealed a rather stable rate of convictions for 18 to 24 year olds was further supportive of the hypothesis. Moreover, rates of offences which tend less to be associated with young males, such as homicide and embezzlement, showed no apparent trend during the period.

At least until the early 1970s, the substantial influx of southern and eastern European migrants in Sydney appeared to have had little direct influence on the incidence of crime. Research by Ronald Francis reported that immigrants generally were underrepresented among the New South Wales prison population, with the exception of Yugoslavs, who appeared more liable to commit crimes of violence, and New Zealanders.

It may be that Yugoslav criminality is explicable in terms of intra-ethnic communal tensions; rivalries between Serbians and Croatians may well have been imported to New South Wales, and manifestations of Croatian nationalism grew increasingly visible in Australia during the late 1960s. Further research on the offender-victim relationship in Yugoslav criminality is needed, however, before assertions of this kind can be removed from the realm of speculation. Paul Ward has revealed that conviction rates for Yugoslav-born offenders tend not to vary across categories of offence, and that Yugoslavs were equally overrepresented among those convicted of acquisitive crime. He suggested that reluctance on the part of the former Commonwealth Liberal Government to deport offenders to a communist nation increased the opportunity for recidivism.

Criminal behaviour on the part of New Zealanders may perhaps be
explained in part by the great freedom of movement between New Zealand and New South Wales. As passage to Australia was relatively inexpensive and passports were not required for entry, it may well be that New Zealanders with tendencies towards crime were tempted to leave their small and homogeneous society for the greater diversity and anonymity of a large metropolis. At the very least, large numbers of young New Zealanders who visited Australia on working holidays served to expand the age cohort of potential delinquents. Pending additional research, however, these suggestions must be regarded as speculative. Whatever the extent of their overrepresentation, it is nonetheless the case that the Yugoslav and New Zealand minorities were overshadowed, in terms both relative and absolute, by the native-born majority in New South Wales prisons.

A pilot study of lesser offenders revealed a somewhat different pattern, however. As Table 11.6 indicates, native-born white Australians were underrepresented in a sample of offenders convicted at Central Court of Petty Sessions, Sydney, early in 1973, while Aus-

### TABLE 11.6

Central Court of Petty Sessions, Sydney: birthplace of individuals convicted, 8 February-8 May 1973

<table>
<thead>
<tr>
<th>Country of Birth</th>
<th>Percentage of Population, Sydney Metropolitan Area</th>
<th>Percentage of Those Convicted</th>
</tr>
</thead>
<tbody>
<tr>
<td>Australia (white)</td>
<td>74.93</td>
<td>70.79</td>
</tr>
<tr>
<td>Australia (Aboriginal)</td>
<td>.20</td>
<td>3.20</td>
</tr>
<tr>
<td>New Zealand</td>
<td>1.03</td>
<td>2.83</td>
</tr>
<tr>
<td>Great Britain</td>
<td>9.06</td>
<td>6.36</td>
</tr>
<tr>
<td>Germany</td>
<td>.90</td>
<td>1.09</td>
</tr>
<tr>
<td>Netherlands</td>
<td>.65</td>
<td>.81</td>
</tr>
<tr>
<td>Greece</td>
<td>1.70</td>
<td>3.81</td>
</tr>
<tr>
<td>Italy</td>
<td>2.29</td>
<td>.97</td>
</tr>
<tr>
<td>Malta</td>
<td>.74</td>
<td>.48</td>
</tr>
<tr>
<td>Poland</td>
<td>.47</td>
<td>.73</td>
</tr>
<tr>
<td>Yugoslavia</td>
<td>1.40</td>
<td>2.06</td>
</tr>
<tr>
<td>Hungary</td>
<td>.41</td>
<td>.41</td>
</tr>
<tr>
<td>U.S.S.R.</td>
<td>.32</td>
<td>.61</td>
</tr>
<tr>
<td>U.S.A.</td>
<td>.33</td>
<td>.37</td>
</tr>
<tr>
<td>Other</td>
<td>5.52</td>
<td>5.40</td>
</tr>
<tr>
<td>Total</td>
<td>99.95</td>
<td>99.92</td>
</tr>
</tbody>
</table>

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Australian Aborigines were substantially overrepresented. In addition to New Zealanders and Yugoslavs, Greek-born offenders were among the more significantly overrepresented groups.

Although criminality among migrant groups remained relatively low, the possibility of indirect influence on the incidence of crime is very real. In general, increasing cultural heterogeneity could hardly be expected to widen acceptance of the behavioural standards of the New South Wales public officials, which were largely derived from the Victorian era. Moreover, Australian-born sons and grandsons of southern and eastern European migrants were disproportionately found in lower income groups, and enjoyed very little social or economic mobility. As criminal statistics do not reflect ethnicity, the full effect of Sydney's increasing ethnic heterogeneity has yet to be assessed.

The soaring increases in crimes of acquisition during a period of unparalleled material comfort encouraged alternatives to the traditional hypotheses that theft is a product of poverty or of general economic adversity. First among these is what might be called the 'relative deprivation' hypothesis. While only a very few Sydneysiders were denied the basic necessities of food, clothing, and shelter, many became increasingly aware of the level of well-being available to some segments of the population. This greater visibility of material things, amplified by widespread media advertising, may be regarded as having been overtly enticing to those individuals who did not enjoy the level of affluence which would permit them to acquire the objects legally. Having learned to value the material perquisites of high status, but lacking the economic advantage necessary to obtain them lawfully, the individual sought to acquire them by the means available to him.

Closely related to the theme of relative deprivation and temptation is that of increasing opportunity. There were, quite simply, more objects to steal in the Sydney of the 1960s than at any time in the past. Automobiles, television sets, and other such attractive items existed in unprecedented quantity, while retailers continued to display their merchandise as openly as ever before. Evidence that the majority of burglaries in Sydney occurred in the affluent eastern and northern suburbs while the majority of apprehended burglars lived elsewhere lends further support to this contention.

The hypothesis of increased opportunity might also explain increases in rates of offences against the person. It was suggested by Paul Ward that the post-war 'baby boom' produced not only more potential criminals but more potential victims as well. There were, in Sydney, more young women to rape and more young men with whom to fight than ever before.

Attempts to explain the apparent increase in criminality during the
period varied widely, in terms both of substantive thrust and of scientific rigour. One noteworthy change in perspectives was reflected in the increasingly used conception of criminal behaviour as a social product. Whereas some observers as recently as the late 1940s viewed crime as a phenomenon stemming from innate causes, most contemporary opinion focused on the environmental etiology of crime.

Rather than addressing themselves to particular kinds of criminality, interpreters tended generally to suggest factors which they contended have encouraged disorderly behaviour in general. Perhaps the most persistently visible of their arguments was that the recent increase in crime was largely attributable to a general atmosphere of permissiveness. Commentators such as Cannon suggested that an increase in personal freedom, combined with a decline in educational and family discipline, served to loosen the restraints which hitherto contained criminal behaviour. Universal peacetime military service, he maintained, somewhat nostalgically,

had the effect of making most young men conscious participants in the surging nationalism, militarism, and imperial loyalty of those days.

Combined with strong, even tyrannical classroom and parental discipline, as well as a still-harsh economic system, young people were shown clearly and forcibly where the older generation said their obligations lay.\textsuperscript{19}

In a manner strikingly reminiscent of opinion in the 1880s, contemporary observers contended that the absence of such restraint from present day society contributed significantly to the increase in crime and protest.

Among the more popular explanations for the recent increase in crime, particularly with government and police spokesmen, was the theme of insufficient deterrence. In the simplest terms, crime increased because police were too few in number and punishments insufficiently severe. The strength of the New South Wales force, a major issue in the 1965 state election, remained a perennial topic of discussion. The following words of Premier Askin (then Leader of the Opposition) reflected the views of the government and police department generally.

Many thousands of women are mortally afraid of prowlers these days, and wolf packs of louts are committing savage and brutal crimes.

Many criminals are apprehended by the police but it is not apprehension and penalty that counts. We need deterrents: and there is no better deterrent than a policeman in uniform on the beat or in
a vehicle. I say that the serious shortage of police so vigorously complained about by the Police Association and to which we have repeatedly called attention on the floor of the House is an important contributory factor to the present crime wave.20

The suggestion that criminals were not accorded sufficiently severe treatment has been a familiar one in Sydney since at least 1800. The speech quoted above went on to criticise the soft treatment of offenders; after taking office in 1965, members of the Liberal Government often argued on behalf of the need for more severe sentencing. In addition, spokesmen for the police were consistent in their advocacy of an increase in the severity of criminal sanctions.

The official concern which arose in 1969 over the pack rape issue was accompanied by extensive discussion of contemporary social conditions. Among the suggested roots of pack rape was the drabness of industrial life.

It can be said that for workers who feel that they are mere cogs in the technological machine, subordinated to the productive processes, life in a contemporary workshop may well prove to be both soul destroying and mind destroying. In a society where status is much sought after, the unskilled worker receives no regular promotion and no regular wage increases. Industrial life has less and less meaning for him as he realizes that the products of his efforts in industry tend to end up as waste.

In considering the problem of pack rape, we must face up to the unpleasant fact that our form of society takes very little heed of outlets for the development of their personalities, which are often repressed by industrial conditions becoming more and more dehumanized.21

The Select Committee on Violent Sex Crimes proposed numerous correlates of the pack rape phenomenon, not the least of which was family instability. Suggesting that many offenders had come from homes where divorce, drinking and gambling were a way of life, the Committee concluded that socialisation processes had been distorted and traditional values had not been inculcated.22 It seems reasonable to infer that similar interpretations would also have been applied to other kinds of conventional crime.

One speculative interpretation of the apparent increase in certain types of crime is based on the problem of differential reportability. It had been generally accepted in the United States that only a fraction of crimes committed ever come to the attention of the police. Recent research in Australia suggested the existence of a similar situation.23
Such findings raise the unanswerable question about changes over time in the reportability of certain offences. A woman in 1890, for example, may well have been reluctant to report having been raped, fearing the stigma attached to such victimisation at that time. Her more recent counterpart may have been much less hesitant, however. Similarly, the percentage of assaults known to the police may have increased as a result of changing social values and a diminishing tolerance for interpersonal violence. While these suggestions are plausible, they are, unfortunately, not subject to empirical confirmation.

As the apparent increase in rates of acquisitive crime continued unabated throughout the mid-1960s, greater attention was focused on the public's relative ignorance of crime prevention methods. The police force in particular was outspoken in its advocacy of a more protective posture on the part of banks and commercial establishments. Insurance companies began to encourage homeowners to install improved alarm and locking mechanisms, and automobile owners were warned against leaving their vehicles unlocked. Thus, to a certain extent, the absence of sufficient public precaution was regarded as having contributed to the increase in crime.

Since the criminal law of New South Wales defined such a vast range of human behaviour as criminal, public orientations towards crime and turmoil were necessarily varied. The greatest source of uniformity existed with regard to the most serious offences against persons and property: homicide, rape, the various categories of assault, and traditional crimes of acquisition. These continued to be viewed as serious threats to physical and material well being.

Other offences, particularly the so-called 'victimless crimes', were the subject of much more diverse orientations. While those who advocated the 'decriminalisation' of such offences as abortion, homosexual behaviour, and public drunkenness were still in a minority, there was obviously less of a consensus with regard to the 'wrongfulness' of these behaviours than of such acts as murder and armed robbery. Moreover, considerable differences of opinion existed as to how strenuously laws regarding environmental offences and other forms of 'corporate crime' should be enforced. Protest was regarded as more or less legitimate depending on the issue and on the ideological concurrence of the public. The State Liberal Government regarded political protest with uncomfortable tolerance at best, and more often with hostile indignation. Political dissent, when expressed in terms of injury to persons or property, was opposed by the vast majority of society.

It is possible, however, to suggest certain interrelated attitudinal inclinations of public officials in New South Wales and of the society generally which underlay the continued definition of much behaviour
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as criminal. As had been suggested, the striking racial and ethnic homogeneity of Australian society had been a dominant cultural characteristic since the original settlement. Anglo-Saxon Protestant values came under challenge periodically, but only from political and industrial radicals. Even these challenges were directed primarily at the distribution of wealth, and left sexual behaviour largely untouched.

In the years after World War II, unprecedented innovations in transport and communications exposed New South Welshmen to a vast range of influences from around the world. Sydney was no longer an isolated place, where existence was predictable and unvaried, but a cosmopolitan city where a rich diversity of attitudes were expressed and inclinations exercised. There existed nevertheless within New South Wales society generally and among members of the governing Liberal Party in particular a kind of archaic cultural monism which was reflected in the following statement by a Liberal member of the New South Wales Legislative Assembly.

A shared morality is the cement of society. A recognized morality is as necessary to society’s existence as a recognized government. Accordingly, that recognized morality is entitled to protection, and to the support of the law for such protection. In short, it is permissible for any society to take the steps needed to preserve its own existence as an organized society. Immorality — even sexual immorality in private — may, like treason, be something that ultimately jeopardizes a society’s continued existence.25

This perceived threat to dominant cultural values was complemented and reinforced by what might be termed an intolerance of ambiguity on the part of the officials in question. There apparently existed a tendency to regard the many forms of deviant behaviour en bloc. As each was perceived, it was subjectively linked to others in a manner unjustified by empirical reality. Thus, behaviours as diverse as pack rape, cannabis smoking, and political protest were regarded alike as products of permissiveness; blanket rejection of deviance in general was reinforced. The following statement by another Liberal member of the New South Wales Legislative Assembly is illustrative:

The fact is that our society, after devoting enormous sums for education and other social services, has produced a generation whose vocal leaders throw scorn at everything we thought was precious. On the one hand we have such reprehensible conduct as vandalism, robbery, assault, mass rape, and drug addiction, while on the other the organisation of sit-ins, demonstrations, and even riots. Honesty, virtue, dignity and the rule of law are in the discard.26

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The tendency to embrace the entire range of prevailing behavioural norms was thus strengthened, and possibilities of decriminalisation were decreased accordingly.

The theme of criminality emerged in the mid-1960s as an eminently exploitable political resource. In addition to their aforesaid orientations towards crime, some public officials in New South Wales seemed to value the symbol of lawlessness as an instrument to aid in obtaining or maintaining power.27 In his policy speech before the 1965 state election, Robin Askin, then Leader of the Opposition, stressed the ineffectiveness of the Labor Government in reducing crime. Inspired perhaps by his earlier success and by similar gains made by American political practitioners in subsequent years, Premier Askin emphasised the issue of crime almost exclusively in the 1970 Georges River by-election. He was, however, unsuccessful in this instance, as the seat was lost to the Labor opposition.

Deterrence by increasing penalties was a major theme of the New South Wales Liberal Government, one which was expressed in legislation soon after the Liberals returned to power in 1965. The Crimes (Amendment) Act, 1966, increased the penalty for armed robbery from 14 to 20 years' imprisonment, and the Police Offences, Vagrancy, and Crimes (Amendment) Act, 1967, increased fines for lesser assaults. Fines for a whole range of summary offences were increased by the Summary Offences Act, 1970.

Comprehensive redefinition of the New South Wales criminal law had never been undertaken, and piecemeal amendment but rarely. One of the few examples of decriminalisation in later years occurred during the closing years of the Labor regime, when, in response to the recommendations of a Royal Commission, a state operated off-track betting system was established. Before the inauguration of the Totalisator Agency Board in 1965, it was estimated that close to 30 per cent of the population in the Sydney Metropolitan Area engaged in illegal betting. In testimony before the Commission, the Police Commissioner of New South Wales revealed that public disregard for the existing law and reluctance to co-operate with the police in their enforcement efforts were widespread. Indeed, the Commissioner went so far as to admit that the existing law was unenforceable.28 Further arguments in favour of decriminalisation were directed at the differential impact of the existing statute; the individual who, because of age, infirmity, or distance from the racetrack could not be physically present at a race meeting was denied the opportunity to wager. Moreover, official proscription of betting produced a secondary criminogenic effect by attracting 'protection' and similar rackets. These findings, combined with the Labor Government's relative receptiveness to social change, the long
An Age of Lawlessness?: 1956-1973

tradition of horse racing in New South Wales, and the extent of public
tolerance for starting price betting, made the task of redefinition much
easier.

An even more abrupt instance of decriminalising redefinition
occurred in the aftermath of the 1972 federal elections, which saw the
Australian Labor Party return to power after 23 years in opposition.
The A.L.P. had consistently opposed the Liberal Government’s war
and conscription policies, and included in its 1972 platform a pledge
to abolish national service and to cease prosecution of the offenders
who had resisted. Shortly after he was asked to form a government,
Prime Minister Whitlam announced the abolition of conscription, the
release from custody of those seven conscientious objectors who had
been imprisoned under the previous government, and the cessation of
further arrests and prosecutions for resistance. The decision constituted
one of the more sudden reversals of policy in recent Australian history.

Other pressures to narrow the scope of the criminal law in New
South Wales arose from many segments of the society during the
period, but unlike the S.P. betting and conscription situations, the
advocates of particular redefinitional policies were insufficient in num­
ber or strength and faced continuing intractable opposition from
government.

Although the wisdom of defining public drunkenness as criminal
behaviour was questioned by public officials in the nineteenth century,
organised advocacy of redefinition was late in emerging. In March
1973 a symposium was held in Sydney at which social welfare special­
ists, sociologists, and criminologists suggested that drunkenness be
treated as a medico-social problem rather than a criminal offence.
They advocated that temporary accommodation, counselling, and
rehabilitation services be made available to drunks as an alternative
to arrest and fine or imprisonment. Officials of government and police
in New South Wales, however, generally resistant to social innovation,
argued that existing procedures maximised protection of both individ­
ual and society. Another impediment to the redefinition of drunken­
ness rested in the fact that those whose interests lay immediately at
stake, the thousands of New South Welshmen arrested each year for
the offence, were not able to organise and articulate their policy
preferences.

Advocates of legalised abortion were perhaps the best organised of
any particular reform interest in New South Wales. In addition to the
New South Wales Abortion Law Reform Association, groups as
diverse as the General Assembly of the Presbyterian Church and the
New South Wales Humanist Society called for the liberalisation of
existing statutes. The rise of women’s rights and environmental pro-
tection groups also widened the scope of support for redefinition. This activity was further inspired by the aforementioned scandal in Victoria, by the enactment of liberal statutes in the United Kingdom (1967) and South Australia (1969), and by the 1973 decision of the United States Supreme Court. Opposition to redefinition lay in the Roman Catholic community and in the government’s general intolerance of sexual freedom. The older theme of ‘populate or perish’ served but a small residual role, and recent opposition to reform was morally rather than racially or economically based.

Meanwhile, a trial court decision in 1971 had a significant impact on the question of abortion in New South Wales; juries were subsequently instructed that they could take social factors into account in determining the necessity of a termination of pregnancy. Although statutes dealing with abortion remained unchanged, by late 1973 many general practitioners in Sydney were performing the operation on a routine basis.

There was very little broadening of the New South Wales criminal law during the period, the law itself being sufficiently general in scope to encompass most forms of deviant behaviour. Exceptions were few and relatively insignificant. Kidnapping and obtaining credit by fraud were first defined as criminal by the Crimes (Amendment) Act, 1961, and a number of offences relating to aircraft were created by the Crimes (Amendment) Act, 1967. The Vagrancy, Disorderly Houses, and Other Acts (Amendment) Act, 1968, created the offence of being on premises habitually used by prostitutes, and specifically prohibited the use of massage parlours for purposes of prostitution, thus facilitating police access to such establishments. The Summary Offences Act, 1970, created the offence of loitering for the purpose of prostitution in or near a public place.

Subsequent attempts to broaden the definition of criminality were few, limited largely to what might be termed ‘rhetorical modernisation’. The Summary Offences Act, 1970, and the Commonwealth Public Order (Protection of Persons and Property) Act, 1971, both contained provisions directed specifically at sit-in protests. These definitions complemented existing statutes dealing with unlawful assembly and interfering with public officials. The Summary Offences Act repealed a whole range of archaic categories of offences, but replaced them with broadly defined and occasionally vague substitutes. Thus, such rustic expressions as ‘rogue and vagabond’ and ‘incorrigible rogue’ were replaced by the offence of ‘having no visible means of support’. Similarly, ‘obscene’, ‘indecent’, ‘profane’, ‘threatening’, ‘abusive’, or ‘insulting’ language was redefined as ‘unseemly’.

The basic purpose of the 1970 and 1971 Acts, however, was not
to define new areas of behaviour as criminal. Freedom of assembly and procession in Sydney had been and remained contingent upon the approval of the Commissioner of Police. The legislation was intended instead to modernise and generalise the existing definitions, to enhance deterrent effect by increasing penalties and to symbolise governmental response to and express moral indignation over the apparent increase in small-scale deviant behaviour.

Although a number of minor innovations were introduced during the period, the fundamental structure of the New South Wales Police Department continued essentially unchanged. Power within the force remained centralised in the office of the Commissioner, who was directly responsible to the Premier. Antiquated physical requirements and low salaries inhibited recruitment efforts and members of the force continued to be drawn largely from conservative working class backgrounds. Their exposure to divergent values was minimal, and resistance to structural innovation in the department remained strong.

Although promotion below officer rank was still based mainly on seniority, advancement to middle and higher ranks became based on merit and achievement. Numerous officers in the higher ranks of the force began to avail themselves of increasing opportunities for professional education. In-service training programs were expanded, and special courses in criminology and law were offered by the University of Sydney. Nevertheless, the most visible change in the New South Wales force during the period was one of size rather than structure. Table 11.7 reveals the increase in size of the New South Wales Police Force after 1960.

<table>
<thead>
<tr>
<th>Year</th>
<th>Size of Force</th>
<th>Percent Annual Increase</th>
<th>Police Per 1000 Citizens</th>
</tr>
</thead>
<tbody>
<tr>
<td>1960</td>
<td>5130</td>
<td>2.35</td>
<td>1.32</td>
</tr>
<tr>
<td>1961</td>
<td>5309</td>
<td>3.49</td>
<td>1.34</td>
</tr>
<tr>
<td>1962</td>
<td>5416</td>
<td>2.02</td>
<td>1.35</td>
</tr>
<tr>
<td>1963</td>
<td>5560</td>
<td>2.66</td>
<td>1.36</td>
</tr>
<tr>
<td>1964</td>
<td>5700</td>
<td>2.52</td>
<td>1.38</td>
</tr>
<tr>
<td>1965</td>
<td>5885</td>
<td>2.02</td>
<td>1.40</td>
</tr>
<tr>
<td>1966</td>
<td>6276</td>
<td>6.64</td>
<td>1.48</td>
</tr>
<tr>
<td>1967</td>
<td>6607</td>
<td>5.27</td>
<td>1.52</td>
</tr>
<tr>
<td>1968</td>
<td>6914</td>
<td>4.65</td>
<td>1.56</td>
</tr>
<tr>
<td>1969</td>
<td>7066</td>
<td>2.20</td>
<td>1.56</td>
</tr>
<tr>
<td>1970</td>
<td>7144</td>
<td>1.10</td>
<td>1.54</td>
</tr>
</tbody>
</table>

*Source: New South Wales Police Department, Annual Reports.*
The coolness which traditionally characterised public attitudes toward the police in Sydney appeared to increase during the 1960s. Chappell and Wilson revealed that Sydneysiders had grown markedly less supportive of the police during the period 1967-70. While this decline in support was partially attributable to spillover from the Victorian abortion scandal, a number of equally plausible explanations may be offered. The vagueness and generality of summary offences legislation in New South Wales precluded all but the most selective enforcement. An individual's arrest, whether for unseemly language or for a motoring offence, appeared often arbitrary, and at worst, simply biased. Antipathy towards the police tended to be greater among younger people, suggesting that police comportment during situations of collective protest may have served to erode public support somewhat. Chappell and Wilson also suggested that the class background and training of police in New South Wales tended to insulate members of the force from non-professional contact with the general citizenry, further contributing to polarisation.

Given the interactive constraints of a sweeping criminal law and finite police manpower, the general pattern of police activity in Sydney remained relatively unchanged from previous years. Response to criminality tended to vary according to the gravity attributed to the offence in question. Homicide, the more serious assault cases, armed robbery, and other 'serious' crimes of acquisition received rather intensive and uniform attention, primarily because of the seriousness with which most members of society regarded them. Smaller-scale property offences occurred in numbers so large as to preclude much in the way of reaction, other than renew calls for greater precautionary practice on the part of the public. Political protest tended to elicit a sizeable police presence and general restraint, although occasional mass arrests and physical heavy handedness were noted.

Offences such as abortion, prostitution, and homosexual behaviour, because of widespread practice, general invisibility, and low physical and material threat were subject to more sporadic official response. Their suppression was of a very low priority, especially in light of the increase in 'serious' crime. The occasional crackdown which generally followed media amplification of public announcements by legislators, clergymen, or citizen's groups served little more than a symbolic function. Drunkenness, on the other hand, received a rather energetic response because of its prevalence and ease of detection. The cost in terms of fiscal and human resources of such dedicated enforcement remained quite high but it appears to have been a sacrifice which both police and government officials were willing to make.

The presence of corrupt practices within the New South Wales Police

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Department itself, a recurring theme in the history of the force, emerged again during the period. Although no situation of the magnitude of the scandal in Victoria occurred, allegations of bribery and of extortion were not infrequent. The suggestion that members of the Vice Squad were personally active in brothel keeping was voiced from time to time and a number of officers were dismissed for the unauthorised disclosure of information to private insurance investigators. Unauthorised use of injurious physical force by New South Wales officers seemed to occur less frequently than in the past and killings by police, while not unknown, were extremely rare. However, investigative proceedings of such behaviour were undertaken within the department and away from public view and it remained impossible to determine the extent to which criminal activity within the police force was tolerated or prosecuted.

The justification usually advanced in favour of intradepartmental investigation was that under such procedures, police under questioning could not refuse to answer, on pain of immediate dismissal. Senior members of the force argued that were investigation to be conducted by some kind of public tribunal, it would be necessary to extend the normal right against self-incrimination to the officers under scrutiny, with the consequent likelihood that neither proof of offence nor dismissal would be possible. The validity of this argument is debatable.

Throughout its history, the New South Wales Police Department had two major objectives: the prevention of crime and the apprehension of suspected perpetrators. As the reported incidence of crime increased during recent years, however, both the police and the government viewed the rise not as an adverse reflection of police efficacy, but as a justification for an increase in the size of the force. The police nevertheless appear to have had a vested interest in concealing certain forms of criminal behaviour, particularly the less serious offences where probability of clearance or apprehension was low.

To this end, a long standing practice in the force was the keeping of 'Paddy's Book', a record of purse snatchings, bicycle thefts, and other small-scale offences which did not appear in official crime totals. The introduction of a computerised information retrieval system in 1970 was accompanied by a change in data recording practices, and as a result, large numbers of previously undisclosed offences came to the attention of high ranking members of the department.

Realising that even partial disclosure of these data would reveal both the informality of previous reporting practices and substantially higher crime totals, the Commissioner of Police withheld any such references from his Annual Report. Shortly thereafter, a detective-sergeant who had been working with the new information system
revealed the shortcomings of previous official reports in an unauthorised public announcement which caused considerable embarrassment to both the government and the Commissioner of Police. Following an unsuccessful and widely publicised attempt to have Detective-Sergeant Arantz committed to a psychiatric institution, he was dismissed from the force for unauthorised disclosure of confidential information. The Arantz affair stimulated intense criticism from members of the Labor opposition, and served further to detract from the public image of the Police Department.35

The most noteworthy development in the New South Wales police system during the decade of the 1960s was the considerable increase in private security forces. As proprietors of banks, department stores, and other large commercial establishments in Sydney began to suffer from the wave of offences against property in mid-decade, they became aware that the existing strength and deployment of the New South Wales police was providing insufficient protection. In-house security arrangements were developed or augmented in many of these establishments; in addition, there arose in Sydney a private security industry consisting not only of patrols and watchmen but of armoured car and cash carrying services as well. By the early 1970s the industry had grown rapidly in terms of both labour intensive services and electronic alarm and surveillance systems.

The New South Wales police welcomed the advent of the security industry, regarding it not as a threat or as a reflection of their inefficacy, but as proper and long overdue precautionary activity by the public. In his 1970 Annual Report, the New South Wales Commissioner of Police expressed his appreciation for the assistance rendered by private services in the apprehension of offenders.36 These developments, however, were not without disadvantage for the public police establishment. Resignations from the New South Wales force increased significantly in the late 1960s and reached 255 in the year 1970 alone. While police salaries did increase, they were often not competitive with wages available in the private sector. It was generally recognised that a significant number of those resigning were experienced officers of superior competence who left the force in order to enter private security work. The deleterious effect of such a trend on the quality and effectiveness of the force, in addition to imposing substantial economic burdens, was undeniable.

Correctional practices in New South Wales continued their gradual evolution during the period. Despite the agency's change of name in 1970 from Department of Prisons to Department of Corrective Services, there were no major structural changes, but rather a continuing diversification of activity.
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The increasing numbers of offenders entering the New South Wales criminal justice system placed considerable pressure on the physical resources of the Department of Corrective Services, and produced one trend of significance. Over the decade 1964-73 there was an increased reliance on non-custodial correctional alternatives, as Table 11.8 indicates. It became the practice to grant probation to first offenders for all but the most serious offences. With the enactment of the Parole of Prisoners Act, 1966, the Parole Board was invested with decisional autonomy. Parole services were greatly expanded, and the yearly number of prisoners granted conditional release almost tripled.

**TABLE 11.8**

New South Wales: trends in custodial and non-custodial correction, 1964-1971

<table>
<thead>
<tr>
<th>Year</th>
<th>Daily Average Prison Population</th>
<th>Prisoners Released on Probation</th>
<th>Prisoners in Custody at End of Year</th>
<th>Prisoners Released on Parole and Licence</th>
</tr>
</thead>
<tbody>
<tr>
<td>1964-5</td>
<td>n.a.</td>
<td>2957</td>
<td></td>
<td>338</td>
</tr>
<tr>
<td>1965-6</td>
<td>3369</td>
<td>n.a.</td>
<td>3140</td>
<td>325</td>
</tr>
<tr>
<td>1966-7</td>
<td>3504</td>
<td>n.a.</td>
<td>3334</td>
<td>324</td>
</tr>
<tr>
<td>1967-8</td>
<td>3642</td>
<td>n.a.</td>
<td>3292</td>
<td>631</td>
</tr>
<tr>
<td>1968-9</td>
<td>3685</td>
<td>1828</td>
<td>3345</td>
<td>659</td>
</tr>
<tr>
<td>1969-70</td>
<td>3823</td>
<td>2149</td>
<td>3351</td>
<td>719</td>
</tr>
<tr>
<td>1970-1</td>
<td>3953</td>
<td>2119</td>
<td>3493</td>
<td>935</td>
</tr>
</tbody>
</table>

Sources: Official Year Book of New South Wales; New South Wales Department of Corrective Services, Annual Report; New South Wales Prison Statistics.

Within the custodial setting the trend towards diversification of treatment approaches also continued. The individual who was awarded a custodial sentence might have been assigned by the classification committee to one of an entire range of installations, from maximum security prisons to minimum security work camps and farms.

Two innovations which were introduced by the department, periodic detention and work release, represented further movement in the direction of non-custodial community based treatment. Periodic detention prisoners served their sentence over a series of weekends, at a minimum security facility at the Long Bay Complex in Sydney. Established in 1971, the periodic detention program involved only a very small number of prisoners and at the time of this writing was still regarded as an experimental or pilot program. It did reflect, however, a growing interest in treatment approaches which permitted an offender...
Sydney in Ferment

to maintain more normal familial and social relationships. Under the work release program, established in 1969, selected prisoners were assisted in securing employment outside of prison, but remained in custody during non-working hours. This program too was intended to facilitate the individual’s resocialisation by placing him in a position of greater responsibility and familiarising him with the demands of society prior to his release.

The work release and periodic detention schemes remained relatively insignificant, however, in that each program accommodated only 30 to 40 prisoners at a given time. Aside from these and the aforesaid emphases on parole and probation, penal practices in New South Wales remained substantially unchanged since Neitenstein’s innovations at the turn of the century.

To be sure, prisoners’ diet, accommodation, recreational and educational opportunity, and health care improved markedly over the previous half century. To a great extent, however, prisons in New South Wales continued to serve as rather austere warehouses for social undesirables. The barriers to maintenance of self-esteem and healthy social relationships which such a setting imposed were recognised by the New South Wales Government. The Minister of Justice remarked in 1971:

We want prisoners to be ‘normal’ to which end we place them in an abnormal environment, unlike anything else on the outside, in daily contact with fellow inmates, many of them abnormal by any definition. Even the best managed institution is an abnormal environment for human beings and no way yet devised has overcome that handicap. Take away from a man his freedom, his right to make decisions, his opportunity for sexual and family life, and you deprive him of three of the most precious things in life. The longer his sentence, the more likely a prisoner is to be corrupted by the institutional climate.37

These remarks were made in the aftermath of a noticeably violent year in the New South Wales prison system. Disturbances arose at a number of different installations, and alleged treatment of prisoners during one episode at Bathurst was sufficiently harsh that events are referred to as the ‘Bathurst Batterings’.

There remained in New South Wales society, however, persistent attachment to the themes of deterrence and retribution which, combined with the great desire to forget about those in prison, lessened the likelihood of major structural change in the near future.

The maldistribution of legal services remained one of the more persistent and severe sources of bias in the New South Wales criminal
justice system. While the Public Defenders Act of 1969 extended the potential scope of legal aid for indigent defendants to committal proceedings, there still existed no right to counsel for most recidivists. The fact that guilty pleas were offered in 85 per cent of all higher court cases reflects widespread plea bargaining. In addition, legal aid for the indigent was generally unavailable at the level of Petty Sessions, where the overwhelming majority of criminal cases are heard.\(^{39}\)

While studies had yet to be undertaken at other stages of the criminal process in New South Wales, there was some evidence to suggest, not surprisingly, that the absence of representation tended to work towards the disadvantage of the defendant in Courts of Petty Sessions. A preliminary report by the New South Wales Bureau of Crime Statistics and Research revealed that first offenders represented by counsel before the lower courts tended to receive significantly more favourable treatment than did their counterparts without representation.\(^{40}\) These distinctions remained significantly visible across such diverse categories of offence as larceny, driving, and summary offence cases, and tended to confirm the suspicion that favourable treatment before the law was often purchasable.\(^{41}\)

The most impressive development in the distribution of legal assistance was the founding of the Aboriginal Legal Service, a non-governmental organisation established in 1970. Inspired originally by heavy-handed police conduct in the neighbourhood of Redfern, with its large population of Aborigines, a group of young, articulate Aborigines contacted a number of Sydney lawyers, with the intention of bringing charges against the police. From their original meetings, there emerged an organisation which provided Aborigines in Sydney with general legal assistance on civil and criminal matters. Financed by a Commonwealth grant and private donations, the Service had its own legal and paralegal staff, and also relied on a panel of Sydney barristers and solicitors who volunteered their services without fee. In addition to the favourable impact of the service on the position of Aborigines in court, relations between the police and the Aboriginal community became considerably less strained.\(^{42}\)

Because of the notoriously low validity of New South Wales crime statistics in relation to all but a few kinds of offences, the effects of public action on the extent of criminality in Sydney are difficult to assess. It is virtually impossible to determine the extent to which the incidence of criminal behaviour had been influenced by the various treatment approaches, and the following impressions must be regarded as speculative.

While the possibility of deterrent effect resulting from the increase in the severity of sanctions may not be discounted, it is readily appar-
ent that armed robberies and assaults were committed with even greater frequency after penalties were increased in 1966 and 1967 respectively. Similarly, thousands of anti-war and anti-apartheid demonstrators took to the streets in 1971 despite recent summary offences legislation and the authorities’ increased reliance on arrest in situations of collective protest.

Nor did the substantial increase in the size of the New South Wales Police Department over the decade have any apparent effect on the incidence of crime. Stable patterns of such offences as homicide and drunkenness appeared unchanged, and visible upward trends in the rate of acquisitive crime were largely undisturbed. Sporadic police attention to prostitution, gambling, abortion, and homosexual offences produced short-term repressive effects, but the inelasticity of these behaviours precluded any lasting control. As was suggested earlier, periodic ‘crackdowns’ served a largely symbolic function and provided at best for the quarantining and de facto licensing of the behaviours in question.

The impact of official attention to the so-called ‘victimless’ crimes, moreover, carried with it a strong class bias. Knowledge of means of fertility control tends to vary directly with socioeconomic status, and women of relative affluence who, before the impact of R. v. Wald and Wall, were unable to travel overseas in order to obtain a termination of pregnancy could purchase legal or illegal abortion services in Sydney under much more hygienic surroundings than their lower income counterparts. Similarly, those Sydneysiders whose income permitted could gamble in Hobart, or get drunk and indulge deviant sexual appetites in the privacy of their own homes, while people of lesser means ran the risk of arrest.

There remained some speculation that the resources of the New South Wales criminal justice system which were currently directed towards or involved in the suppression of drunkenness and other victimless offences could have been effectively mobilised against the more serious aggressive and acquisitive crimes. Alternative conjectures held that the effects of such strategies, other than relieving some pressure on courts and prisons, would be minimal and that only large-scale structural changes such as a massive redistribution of wealth would serve to reduce the incidence of serious criminal behaviour.

Given the resistance to innovation on the part of government officials in New South Wales, however, it was unlikely that either contention would be subject to empirical test in the near future.
Conclusions

The pages above have provided a descriptive overview of the various eras and forms of public disorder and official reaction which marked the history of Sydney before 1973. Although the nature of the study has necessitated the sacrifice of depth for breadth, it is possible (and indeed imperative) to attempt an integration of the themes discussed above. In those few situations where it has been possible to do so, advanced statistical techniques were employed in order to explain trends in criminality. Otherwise, less formal means of explanation have been employed. By no means has it been possible to account for all of the events and recurring phenomena which have been visible over the years; certain general patterns are readily discernible, however, and a delineation of these will facilitate the task of those who wish to undertake more intensive historical study or to compare the Sydney experience with those of other cities.

Despite the paucity and questionable validity of available criminal statistics, an attempt was made through the use of multiple regression analysis to discern the determinants of some of the long-term trends in criminality which were outlined in Chapter 2. Measures of population masculinity, economic conditions, urbanisation, police force strength, and police appropriations were regressed on Supreme Court conviction rates for three major offence categories for the period 1826-93. The resulting equations explained from 61 to 86 per cent of the variance in the conviction rates, as is revealed in Table 12.1.

In these analyses, masculinity of the population emerged as the most significant contributor to rates of conviction for serious crimes against the person and for serious crimes against property. Police force manpower level, on the other hand, made the most significant contribution to measures of crimes against sexual morality. The possibility of the above relations resulting from the presence of a trend component in the various data series was tested in subsequent analysis by introducing time as an explicit variable. Results indicated the dominant influence of a trend component in all but the serious property crime model; in this case, the estimate of the effect of population masculinity continued to dominate the equation well within the .05 limit of statistical significance.
TABLE 12.1
New South Wales: determinants of selected Supreme Court conviction rates, 1826-1893
(Standardised regression coefficients)

<table>
<thead>
<tr>
<th>Economic conditions</th>
<th>Serious Aggressive Crime</th>
<th>Serious Crimes of Acquisition</th>
<th>Serious Crimes Against Sexual Morality and Custom</th>
</tr>
</thead>
<tbody>
<tr>
<td>Population masculinity</td>
<td>.85*</td>
<td>.84*</td>
<td>.22</td>
</tr>
<tr>
<td>Urbanisation</td>
<td>-.07</td>
<td>.07</td>
<td>xxx</td>
</tr>
<tr>
<td>Police Force strength</td>
<td>xxx</td>
<td>xxx</td>
<td>.67†</td>
</tr>
<tr>
<td>Police appropriations</td>
<td>.06</td>
<td>.05</td>
<td>xxx</td>
</tr>
<tr>
<td>R²</td>
<td>.86</td>
<td>.77</td>
<td>.61</td>
</tr>
</tbody>
</table>

*Significant at .01
†Significant at .05

Coefficients underscored remained significant when controlling for trend. xxx indicated F-level insufficient to enter equation.

The reader is cautioned, however, against viewing the findings as anything more than suggestive. Aside from the aforementioned problems of validity, discontinuities in the data series precluded the application of more rigorous econometric techniques. Fortunately, the availability of continuous data series beginning in 1914 permitted a more thorough analysis. Additional independent variables employed in the analysis of twentieth-century arrest and conviction rates included a measure of industrial unrest, and two 'dummy variables' to represent years of war and of Labor Party control of the state government. Population masculinity was excluded from this analysis because of its insignificant variance during the present century.

The regression equations, based on Cochrane-Orcutt iterative transformations in order to correct for autocorrelated residuals, contained the estimates listed in Table 12.2. Three of the six equations listed explained over 90 per cent of the variance in the respective dependent variables, with the weakest of the six still accounting for 52 per cent. The measure of urbanisation dominated all but one of the six, and appears to have been particularly influential with regard to rates of arrest for crimes against the person and against property.

When time was introduced as an explicit independent variable in order to control for the effects of trend, the urbanisation measure continued to exert significant influence on rates of arrest for acquisitive crime, and remained a discernible but no longer statistically significant determinant of the remaining crime measures.
**TABLE 12.2**

New South Wales: determinants of selected arrest and conviction rates, 1914-1969

(Standardised regression coefficients)

<table>
<thead>
<tr>
<th></th>
<th>Arrest Rate: Crimes Against the Person</th>
<th>Conviction Rate: Serious Aggressive Crime</th>
<th>Arrest Rate: Acquisitive Crimes Against Property</th>
</tr>
</thead>
<tbody>
<tr>
<td>Economic conditions</td>
<td>-0.02</td>
<td>-0.05</td>
<td>-0.08</td>
</tr>
<tr>
<td>Industrial unrest</td>
<td>0.02</td>
<td>0.19*</td>
<td>0.00</td>
</tr>
<tr>
<td>Police Force strength</td>
<td>-0.04</td>
<td>0.08</td>
<td>0.03</td>
</tr>
<tr>
<td>Urbanisation</td>
<td>0.52*</td>
<td>0.06</td>
<td>0.83†</td>
</tr>
<tr>
<td>Police appropriations</td>
<td>0.05</td>
<td>0.40*</td>
<td>-0.10</td>
</tr>
<tr>
<td>Labor Government</td>
<td>0.15</td>
<td>0.03</td>
<td>0.03</td>
</tr>
<tr>
<td>War</td>
<td>-0.02</td>
<td>-0.29</td>
<td>0.09</td>
</tr>
<tr>
<td>Durbin-Watson Statistic(^5)</td>
<td>n.a.</td>
<td>1.96†</td>
<td>1.84*</td>
</tr>
<tr>
<td>(R^2)</td>
<td>0.85</td>
<td>0.60</td>
<td>0.90</td>
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<table>
<thead>
<tr>
<th></th>
<th>Conviction Rate: Serious Acquisitive Crime</th>
<th>Arrest Rate: Crimes Against Sexual Morality and Custom</th>
<th>Conviction Rate: Sexual Acquisitive Crime</th>
</tr>
</thead>
<tbody>
<tr>
<td>Economic conditions</td>
<td>-0.09</td>
<td>0.06</td>
<td>0.08</td>
</tr>
<tr>
<td>Industrial unrest</td>
<td>-0.00</td>
<td>0.01</td>
<td>0.03</td>
</tr>
<tr>
<td>Police Force strength</td>
<td>0.17</td>
<td>0.06</td>
<td>-0.07</td>
</tr>
<tr>
<td>Urbanisation</td>
<td>0.63*</td>
<td>0.86†</td>
<td>0.95†</td>
</tr>
<tr>
<td>Police appropriations</td>
<td>-0.04</td>
<td>0.03</td>
<td>0.03</td>
</tr>
<tr>
<td>Labor Government</td>
<td>-0.02</td>
<td>0.01</td>
<td>0.03</td>
</tr>
<tr>
<td>War</td>
<td>0.08</td>
<td>-0.01</td>
<td>0.03</td>
</tr>
<tr>
<td>Durbin-Watson Statistic(^5)</td>
<td>2.39*</td>
<td>2.54*</td>
<td>2.04*</td>
</tr>
<tr>
<td>(R^2)</td>
<td>0.52</td>
<td>0.94</td>
<td>0.93</td>
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</tbody>
</table>

\(^*\)Significant at .05  
\(^†\)Significant at .01  

Coefficients underscored remained significant when controlling for trend.

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*Conclusions*

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The findings reported above may be summarised as follows: during the convict era and later colonial period, crimes against the person and against property appear to have been most closely associated with the overrepresentation of males in the population, their rates declining as the sex structure of the colony became less imbalanced. In the twentieth century, offences against the person, against property, and against sexual morality and custom have been positively associated with increasing urbanisation. Variations in law enforcement resources appear to have had little effect, save for the positive relationship between police appropriations and measures of serious aggressive crime.6

It became apparent in the course of the analysis of twentieth-century crime rates that the trends under observation may well have been subject to the delayed influence of the more significant determinants. In other words, variations in rates of crime may have been produced by increases in urban growth or police manpower which occurred in a previous year, or by the cumulative effect of such changes occurring in a previous span of years. In order to test for the presence of such individual or cumulative lag influences, further regression analyses were conducted based on Lagrangean polynomial interpolations.7 The results revealed the presence of a significant five-year cumulative effect in the case of the relationship between urbanisation and each measure of acquisitive and sexual crime. These findings thus were generally consistent with the results of the simultaneous time-series analysis reported in Table 12.2.

Among the more interesting patterns of criminality in the history of New South Wales have been the drastic fluctuations in rates of arrest for many of the less serious offences. These periodic phenomena, discussed in some detail in the pages above, were strikingly visible after the mid-1930s. Interpretation of these data is difficult, and regression analyses reveal no significant structural determinants; contextual materials suggest, however, that while the fluctuations may have been in part attributable to change in the incidence of offences per se, they were largely the results of changes in police enforcement policy.

The criminal law of New South Wales imposed difficult burdens on the police. Under persistent conditions of manpower shortage, they were faced with the responsibility of controlling a vast array of criminal behaviours, some of which were practised by tens of thousands of individuals (as in the case of starting price betting before the advent of the Totalisator Agency Board). The police were thus faced with a fundamental dilemma; while a laissez-faire approach to victimless crime would permit greater attentiveness to more serious forms of criminality, it ran the risk of antagonising those members of the public with strong propensities to moral indignation. Alternatively, more rigorous en-
Conclusions

forcement policy tended to weaken support for police among members of the public at large.

The police of New South Wales adapted to this dilemma with sporadic enforcement policies, dramatically attending to certain specific offences from time to time, while maintaining a relaxed position in intervening years. Such a situation of *de facto* licensing punctuated with periodic crackdowns appears to have relieved, at least in part, this one dimension of conflict within New South Wales society. This conflict nevertheless lingered, as more affluent citizens of New South Wales indulged their deviant inclinations in private or in more permissive jurisdictions. Less affluent citizens lacking privacy or mobility, however, still faced the shadow of official proscription.

One interesting but largely invisible aspect of these enforcement policies concerns the attitudes of the police themselves to various ‘victimless’ crimes. While members of the force on occasion alluded to the virtual impossibility of suppression, they appeared publicly unsupportive of proposals for decriminalisation. Whether this reflects the moral judgment of high ranking members of the force, or the desire to maintain conditions favourable to a justification for increased appropriations is open to question. In any event, most members of the force appeared reluctant to involve themselves in the primary stages of policy making, at least with regard to this general category of criminal activity.

Dissident political activity in Sydney, visible in such ‘unconventional’ forms of political behaviour as rebellion, riot, and street protest, was relatively rare. While the absence of systematically compiled data precludes a precise mapping of the trends and their correlates, certain patterns are apparent. Direct applications of force with intent to overthrow the existing regime occurred on only two occasions, both very early in the city’s history. Aside from the Irish convicts’ rebellion of 1804 and the ‘Rum Rebellion’ of 1808, residents of Sydney did not seek to challenge the political system by violent means. The only noteworthy incipient revolutionary activity, visible in the I.W.W. and New Guard movements, occurred during two periods of twentieth-century economic and social dislocation, but the periods of crisis and the movements themselves proved to be short lived.

Rioting in New South Wales, whether arising from hedonistic inclination or explicit grievance, was very infrequent; when it did occur, this form of collective disorder was of brief duration and low magnitude. Regardless of the participants’ motives, it tended to occur during periods of economic distress. Large-scale collective protest, generally in the form of non-violent protest marches and demonstrations, appeared sporadically following its emergence as a mode of political
expression in mid-nineteenth century. Behaviour of this sort tended to occur during periods of governmental reluctance or inability to respond to the preferences of large segments of the public. With few exceptions, the events in question were limited to periods of war, economic decline, or labour-management tension. Reactions on the part of organised workers to what they viewed as threats to economic well-being constituted the bulk of such activity before 1935, while objection to foreign and military policy, emerging first during World War I, served as the dominant theme of later protest.

The relative infrequency of collective disorder during the first half century of Sydney's history appears to have been the product of two conditions: the coercive capacities of the regime, and the persistence of relatively favourable economic conditions. Colonial authorities commanded an impressive monopoly of coercive force, and while the threat of lash and scaffold could not suppress all dissident inclinations, they appear to have inhibited most forms of collective protest. Moreover, those convicts who demonstrated the greatest propensities to criminal or dissident activity were sent to isolated penal 'sub-settlements' at some distance from Sydney; the most notorious of these was Norfolk Island.

In addition to the obvious disincentives to dissent, conditions existed in early New South Wales which encouraged supportive political inclinations. Although authorities in London originally viewed transportation as a punishment only slightly less dreadful than execution, existence for convicts in early New South Wales was not uniformly miserable. At best, an industrious individual could take great advantage of the opportunities afforded by a developing economy; at worst, material deprivation in Sydney was less severe than in the slums of contemporary London. Thus the political system of early New South Wales was as effective as most others of that time in providing a tolerable existence for the majority of its citizens.

Perhaps the most plausible explanations for the lack of persistent public disorder in Sydney since the convict era have rested on the overwhelming racial homogeneity of the population, and on the relative readiness of existing institutions and authorities to respond favourably to the citizenry's demands. After the immigration of Asians was ended in the late nineteenth century, racial minorities were numerically negligible, and communal conflict was minimal. Issues which drew Sydney citizens to the streets, or moved them to undertake more subtle non-co-operative forms of protest tended not to linger. Adaptive propensities of the political system were such that when erosions of legitimacy did occur, they were not cumulative or enduring. Prolonged severe disaffection was limited to numerically insignificant groups, and aggregate
public support remained quite strong.

The last two decades of the nineteenth century were a crucial period in the history of New South Wales, as the development of labour organisations constituted a significant agent of social change. Although the emerging labour movement met with a less than cordial reception on the part of the economic elite, the kinds of violent repressive practices which characterised American labour history were noticeably rare. Strikes and protests over union recognition and working conditions in 1890 were followed by extensive working class activity in conventional channels; this shift from industrial to political action constituted one of the more abrupt changes in the political history of New South Wales. The Labor Party provided formal institutional machinery for the aggregation and articulation of working class demands; it held the balance of power in the New South Wales Parliament by the turn of the century, and was instrumental in the enactment of legislation improving working conditions and instituting such social reforms as old age pensions. There was little lag between the extension of working class political consciousness and participation, and the subsequent adaptive response of existing institutions.

The emergence of working class political participation in New South Wales tended to alleviate rather than to generate class conflict. Labor parliamentarians in the 1890s opted for bargaining and compromise at the expense of revolutionary purity. Subsequently, as electoral success remained their paramount concern, Labor Party leaders maintained their posture of compromise, seeking the piecemeal satisfaction of working class demands rather than a drastic restructuring of political and economic institutions. The spread of revolutionary consciousness was thus limited to numerically insignificant factions such as the I.W.W., while a moderate Labor Party was accepted as a fact of political life by those who might otherwise have resisted such developments.

Australian forces were involved in overseas combat on four separate occasions during the twentieth century, with consistent consequences for domestic dissent and official response. Support for the various war efforts was generally quite strong within the New South Wales public, although opposition to Australian participation in Vietnam had grown substantially by 1972. When dissident activity was not broadly based, it tended to elicit a harsh repressive response from state and federal governments. Whether or not federal authorities appeared responsive to popular sentiment, protest tended to subside with the termination of international hostilities.

While few residents of Sydney were perfectly satisfied with the distribution of wealth and freedom in their society, intense frustration was experienced by only a very few. The occasional annoyance seems
always to have passed on; inequalities in the standard of living endured, but only the small Aboriginal population may be regarded as having been severely deprived. Meanwhile, symbols as diverse as the Monarchy and a viable and enduring Labor Party remained sufficient palliatives for members of a polity who might otherwise have sought to engage in more heated conflict. The vast majority of Sydneysiders viewed their governments as effective: within an increasingly urbanised and cosmopolitan society, resort to violence by citizen or state was thus minimal.

The evolution of law enforcement and correctional institutions in New South Wales was marked by significant structural change and increase in size. There nevertheless remained certain chronic problems in each of these components of the criminal justice system which were perennial sources of complaint.

That the policeman's lot improved markedly over the first century and a half of Sydney's history is beyond dispute; one need only look back at the abysmal working conditions and paltry (often nonexistent) compensation which characterised police work in the early nineteenth century. Yet, relative to the general level of well-being in the society at large, improvement in the nature of law enforcement work was minimal. Indeed, it may be argued that economic expansion and diversification in New South Wales provided an ever widening range of alternative vocational opportunities, inhibiting recruitment and facilitating frequent turnover within police ranks. Thus, while law enforcement officials no longer had to contend with a force comprised of irresponsible drunkards, they were faced with policemen who may be less qualified, or at best, with those who remained at their work under conditions of great personal sacrifice.

Another chronic burden on the police of New South Wales was the necessity of performing extraneous administrative duties; records of police complaint concerning such matters were visible since the 1830s. Yet, despite the expansion of the state civil service, such claims on police resources remained substantial. The matter of an overload of demand for police services was further reflected in the scope of the law which the police were charged with enforcing. The issue of victimless crime has been addressed above; it appears that throughout the history of New South Wales, the extent of criminal behaviour exceeded the ability of the police to identify and control it. This produced not only the aforementioned problems of resource allocation, but, upon occasion, invited corruption and served to strain relations between police and public.

Police surveillance of political dissidents further detracted from law enforcement functions and tended to tarnish the image of the force.
Fortunately, this practice seems to have been less visible in later years, if for no other reason than the expansion of domestic intelligence operations at the federal level. Otherwise, police involvement in political issues appears to have been limited to crowd control functions, a task which tended periodically to provoke charges of the unwarranted use of force.

One of the more welcome innovations in New South Wales law enforcement, the 1862 centralisation of police forces, served to overcome previous problems of communications and control, and spared New South Wales the difficulties inherent in the fragmented organisation of law enforcement operations such as that which characterises the United States. Yet despite this step in the direction of organisational efficiency, such practices as promotion based on seniority and the maintenance of antiquated physical requirements for police service tended to inhibit the modernisation and improvement of the force.

One of the more perplexing and enduring problems faced by policy makers in New South Wales concerned the treatment of convicted criminals. In general, trends in correctional philosophy evolved from retribution to incapacitation to rehabilitation; these themes were evident in the operational treatment strategies of physical punishment, incarceration, and non-custodial treatment. The convict era was, of course, a unique period in the history of the colony. The difficulties of controlling a large convict population were great; capital and corporal punishment were inexpensive, easily administered, and consistent with the moral sensibilities of the times. Secondary transportation, a more costly alternative, served the purpose of isolating the more troublesome convicts. Ironically, the early years of settlement were not without innovative themes. Policies of convict assignment and the granting of tickets-of-leave, encouraged by the necessities of economic development, were embryonic examples of community based treatment programs.

Changes in New South Wales correctional practices resulted from the diffusion of British humanitarian thought and from the changing nature of the colony's social structure. Free immigration and natural population growth lessened the need for convict labour; incarceration provided a convenient way of coping with deviance after corporal punishment fell into disuse. For most of the following century, retributive incarceration remained the dominant correctional strategy. Increasing attention was paid to matters of rehabilitation; modifications were implemented in piecemeal fashion and prison conditions improved gradually, but with little change in the overall structure of the prisons system. Incarceration became an increasingly expensive treatment strategy during the twentieth century, however, and its effec-
tiveness as a deterrent and as a method of rehabilitation grew more questionable. Thus began an investment in such non-custodial alternatives as probation, parole, work release, and periodic detention, a new treatment strategy which seemed destined to dominate correctional practice for some time to come.

While the impact of the media on public perceptions of criminality in New South Wales may not be assessed with precision, it does appear that attention on the part of journalists to the more sensational forms of criminality (particularly violent crime and sexual offences) may have produced a slightly distorted view of the insecurity of society over the past century. This phenomenon may be attributed to a number of factors. Public demand for dramatic stimuli always tended to be strong, and the various media may have devoted disproportionate attention to crime in order to enhance audience appeal. Moreover, the needs of politicians for exploitable issues are characteristic of most political systems; the tendency of candidates in New South Wales to identify with the theme of law and order, and of opposition members to take issue with the crime control policies of the government, were indeed reinforced by their ready access to the news media.

There is evidence, however, to suggest that even in spite of continued media attention to matters of crime, the New South Wales public tended to regard other concerns as more pressing. At the very peak of the most recent 'crime wave', Wilson and Brown reported that their survey revealed education to be an issue of greater concern among their respondents. Subsequently, as Australia experienced the inflation and recession then prevalent on a world wide scale, prices rather than crime loomed largest in the citizen's mind. Accordingly, political discourse shifted to economic matters and exploitation of law and order themes for political advantage subsided.

As had been the case throughout much of the history of New South Wales, future trends in criminality and disorder appeared more than likely to be subject to the influence of demographic and economic factors. Although the age cohort whose members were born in the aftermath of World War II passed beyond the 'crime prone' or 'high risk' range, a drastic drop in levels of crime seemed unlikely. Subsequent annual birth rates in New South Wales declined, but at a very gradual rate. Meanwhile, the actual number of births increased, as did the overall population of the Sydney metropolitan area. The inferences which could be drawn from these trends were uncomplicated; high levels of acquisitive crime appeared destined to remain a fact of life in New South Wales for the foreseeable future.

With few exceptions (the most noticeable being that of Japan), high levels of acquisitive crime were endemic to modern capitalist societies.
The years since World War II saw Australia move consistently towards what might be described as a mass consumption society. As New South Welshmen enjoyed creature comforts to an unprecedented extent, and more importantly became increasingly socialised into patterns of acquisitiveness, theft and other forms of unlawful appropriation could be expected to increase. These tendencies, moreover, could hardly be inhibited by inflationary pressures which then characterised the New South Wales economy.

We are confronted here not with superficial endeavours to gratify impulses, but with a society’s fundamental value patterns. As long as these prevailed, and to the extent to which they increased, one could expect New South Welshmen to seek to improve their material well-being, most through means defined by authorities as legitimate, and others extralegally. Propensities to theft might conceivably be lessened by a massive restructuring of social and economic relationships, or alternatively by the implementation of Orwellian methods of social control. But both of these possibilities appeared remote indeed.

The likelihood of significant civil disorder in the future of New South Wales appeared to be low. Given the tradition of an absence of turmoil, only the most drastic social dislocation could precipitate an outbreak of collective violence. Barring war, severe economic contraction, and the economic or political persecution of ethnic and racial minorities, it seemed probable that those grievances harboured by New South Welshmen would not be expressed in the streets. Even if such forms of disorder were to arise, they could not be expected to have exceeded the relatively low magnitude of those that occurred in Britain and Scandinavia. The possibility that collective violence in New South Wales would begin to approach the levels visible in the United States during the 1960s was practically nil.

The phenomenon of inelasticity in the less serious forms of criminal behaviour also merits mention here, for members of New South Wales society could be expected to continue indulging their appetites for drink, gambling, and illicit sex as they had since the landing at Sydney Cove. Problems in controlling these forms of behaviour were likely to continue in the immediate future; in the long run, however, as the increasing heterogeneity of the New South Wales population is accompanied by a greater tolerance of human differences, some form of de facto, then de jure decriminalisation seemed likely. Diversion of habitual drunkards from the criminal justice system to detoxification centres, state regulation of gambling and prostitution enterprises, and official tolerance of homosexual behaviour were instituted in other polities without a corresponding collapse of the social order. The success of these overseas endeavours would not go unnoticed in New
Sydney in Ferment

South Wales. Indeed, precedents had already been set in New South Wales with the establishment of state lottery and totalisator systems. Further innovations were likely in succeeding decades.

From prison camp to advanced industrial society, the history of Sydney has been a colourful one, and while problems of public order rarely dominated the larger picture, they provide an interesting reflection of contemporary attitudes and institutions. Over the years, the tranquillity which characterised Sydney was greater than that in many of the world’s cities, and less than that of others. As long as state and federal governments continued to provide conditions of freedom and comfort for the vast majority of its inhabitants, Sydney was destined to remain a relatively orderly place.
Appendix

OFFENCES INCLUDED IN THE VARIOUS INDEX CATEGORIES

**Serious Aggressive Crime**

<table>
<thead>
<tr>
<th>Murder</th>
<th>Manslaughter</th>
<th>Attempt to murder</th>
</tr>
</thead>
<tbody>
<tr>
<td>Setting fire to a dwelling with persons therein</td>
<td>Wounding with intent to murder</td>
<td>Wounding with intent to do grievous bodily harm</td>
</tr>
<tr>
<td>Cutting and maiming</td>
<td>Stabbing and cutting</td>
<td>Shooting with intent to murder</td>
</tr>
<tr>
<td>Feloniously wounding</td>
<td>Inflicting grievous bodily harm</td>
<td>Malicious injury</td>
</tr>
</tbody>
</table>

**Serious Crimes of Acquisition**

<table>
<thead>
<tr>
<th>Garrotting</th>
<th>Forgery</th>
<th>Assault with intent to rob</th>
</tr>
</thead>
<tbody>
<tr>
<td>Robbery with violence</td>
<td>Receiving</td>
<td>Highway Robbery</td>
</tr>
<tr>
<td>Bushranging</td>
<td>Assault and Robbery</td>
<td>Robbery in company</td>
</tr>
<tr>
<td>Breaking, entering and stealing</td>
<td>Armed Robbery</td>
<td>Housebreaking</td>
</tr>
<tr>
<td>Stealing in a dwelling house</td>
<td>Robbery</td>
<td>Cattle stealing</td>
</tr>
<tr>
<td>Sheep stealing</td>
<td>Burglary</td>
<td>Larceny—of vehicle or boat</td>
</tr>
<tr>
<td>Larceny</td>
<td>Horse stealing</td>
<td>Passing valueless checks</td>
</tr>
<tr>
<td></td>
<td>Embezzlement</td>
<td>Offences against the</td>
</tr>
<tr>
<td></td>
<td>Fraud</td>
<td>currency</td>
</tr>
<tr>
<td></td>
<td>Uttering</td>
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</table>

**Serious Crimes Against Sexual Morality and Custom**

<table>
<thead>
<tr>
<th>Rape</th>
<th>Assault with intent to ravish and abuse</th>
</tr>
</thead>
<tbody>
<tr>
<td>Carnal Knowledge</td>
<td>Indecent assault</td>
</tr>
<tr>
<td>Sodomy</td>
<td>Buggery</td>
</tr>
<tr>
<td>Bigamy</td>
<td>Other offences against females</td>
</tr>
<tr>
<td>Attempted rape</td>
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</tr>
<tr>
<td>Incest</td>
<td></td>
</tr>
<tr>
<td>Bestiality</td>
<td></td>
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<tr>
<td>Unnatural offence</td>
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**Abortion and Related Offences**

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<thead>
<tr>
<th>Abortion</th>
<th>Abortion—attempt to procure</th>
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<tr>
<td>Attempt to procure miscarriage</td>
<td>Abortion, attempts, etc.</td>
</tr>
<tr>
<td>Supplying or procuring drug or instrument to procure miscarriage</td>
<td>Concealing the birth of an infant</td>
</tr>
<tr>
<td>Infanticide</td>
<td>Abandoned infants</td>
</tr>
<tr>
<td>Abandoning or exposing child under 2 years of age</td>
<td>Endangering health of infant by exposure</td>
</tr>
</tbody>
</table>
Sydney in Ferment

Acquisitive Crimes Against Property

Stealing
Cattle stealing
Horse stealing
Sheep stealing
Dog stealing
Stealing animals or birds ordinarily kept in confinement
Stealing in a dwelling
Stealing or destroying a valuable security
Stealing from a wharf
Stealing from a vessel in port
Stealing letters or articles sent by post
Larceny
Larceny—simple from a shop or dwelling
  from the person
  by a bailee
  by a servant
  of things attached to land
  of animals
  by finding
  by trick
  from public library
Larceny of or illegally using vehicle or boat
Use vehicle or boat without consent of owner
Killing or wounding cattle, sheep, etc.
Killing cattle with intent to steal carcass, skin or other part
Illegally using cattle, sheep, etc.
Unlawfully branding
Having possession of a stolen animal, or any part thereof
Possession of skin or carcass of stolen cattle
Unlawful possession of trees, fence, or like material
Misappropriation
Illegal possession and disposal of goods
Receiving stolen property
Supposed stolen goods in custody
Goods in custody suspected stolen
Burglary
Breaking and entering
Breaking and entering with intent to steal
Being unlawfully on premises
Being in a public place with intent to steal
Found in enclosed yard, dwelling house, etc., for any unlawful purpose
Enter dwelling house with intent to steal at night
Found in any street, etc., with intent to commit felony
Having housebreaking implements in possession
Accessory to felony

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Appendix

Aggressive Crime (Against the Person)

Assault
Aggravated assault on female
Common assault
Malicious wounding
Murder
Incite to murder
Setting fire to a dwelling, person being therein
Shooting
Wounding
Aggravated assault
Simple assault

Bodily harm:
causing or inflicting, actual or grievous; attempt to inflict, actual or grievous; occasioning actual or grievous
Manslaughter
Attempt to murder
Attempt to discharge loaded fire arm with intent
Stabbing
Shooting, stabbing, or wounding with intent to do bodily harm

Aggressive Crimes Against Person and Property

Armed Robbery
Assault and rob whilst armed with an offensive weapon
Assault and robbery
Robbery with violence
Garrotting
Attempt to choke or strangle with intent to commit an offence
Assault with intent to commit robbery
Demanding money by menace and threat
Demanding property by menaces or threat

Aggressive Crimes Against Property

Malicious damage
Wilful or malicious damage to property
Maliciously injuring property
Malicious injuries to vessel
Injuring property in museums and certain other public places
Malicious acts with intent to obstruct or injure railway engine or carriage
Injuries to buildings by explosive substances, or attempt injuries to manufacture or machinery
Injuries to mines
Maliciously endangering life by obstructing railway
Railways—endangering passengers
Malicious damage to telegraph post, wire or insulator, or attempt arson
Careless use of fire
Setting fire to grass
crops
house
fence
other buildings
mines
ship

Sacrilege
Maliciously killing, maiming, or wounding cattle
Maliciously killing, maiming, or wounding other animals or birds

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**Crimes of Assertiveness**

- Assault on a constable
- Assault on a special constable in the execution of his office
- Assaulting, resisting, or obstructing police

**Behaviour:**
- riotous
- indecent
- offensive
- insulting
- abusive
- obscene
- threatening

**Sedition**

- Riot
- Unauthorised procession
- Injuries to buildings and machines by rioters

**Resisting arrest**

- Inciting to, urging, or encouraging the commission of crimes

**Lewdness**

- Aiding escape
- Play at game to annoyance, etc.

**Language:**
- profane
- riotous
- indecent
- offensive
- abusive
- obscene
- threatening
- seditious
- treasonous

**Treason**

- Unlawful assembly
- Obstructing workmen by violence or threat of violence
- Disorderly behaviour at public political meetings
- Inciting person to resist a constable
- Throw or discharge stone or missile
- Piracy and revolt
- Public mischief

**Crimes of Indolence**

- Vagrancy
- Rogue or vagabond
- Beg or gather alms

**Idle or disorderly person**

- Incorrigible rogue
- No visible means of support

**Drug Offences**

- Smoking opium
- Poisons Act—violations
- Keeping house for purpose of smoking opium

**Police offences (Drugs) Act violations**

**Drunkenness**

- Drunkenness
- Drunkenness with disorderly conduct

**Habitual drunkenness**

- Drunk, drunk and disorderly

**Gambling Offences**

- Gambling
- Betting
- Common gaming house—found therein

**Gaming and betting**

- Common gaming house—keeping
- Gaming and Betting Act violations
Appendix

Liquor Offences

Sly grog selling
Selling liquor without a licence
Liquor Act violations

Offences Against the Family

Bigamy
Polygamy
Wife and child desertion
Not providing wife with necessaries
Breaches of Deserted Wives and
Children Act
Not complying with maintenance order

Prostitution and Related Offences

Prostitution
Prostitution, suffer
Soliciting
Soliciting by known prostitute
Prostitution, male person living on
Owner occupier, or agent of house
permitting prostitution therein
Female arrests for vagrancy
Female arrests for vagrancy
Keeping brothel or disorderly house
Female arrests for vagrancy
Female arrests for offensive
behaviour

Sexual Crimes

Rape
Attempted rape
Assault with intent to ravish and abuse
Carnally abusing girls under the age of 10 years
Attempt at carnally abusing girls under the age of 10 years
Carnally abusing girls between the ages of 10 and 12 years
Attempts at carnally abusing girls between the ages of 10 and 12 years
Carnally abusing girls between the ages of 10 and 16 years
Carnal knowledge
Attempts at carnal knowledge
Carnally knowing by fraud
Carnally knowing a pupil or daughter
Attempt at carnally knowing a pupil or daughter
Indecent assault
Indecent assault on males
Indecent assault on females
Indecent assault on a girl under 16 years of age
Indecent act between males in public or private
Indecent act—male person party to in public or private
Indecent act—male person soliciting or inciting in public place
Indecent act—male person attempting to solicit or incite in public place
Bestiality
Attempts at bestiality
Sodomy
Attempts at sodomy
Buggery
Attempts at buggery
Indecent exposure
Wilful exposure
Obscenely exposing the person
Other sexual offences
<table>
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<td>False statement to registrar</td>
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CHAPTER ONE


2It appears that geopolitical and strategic considerations also influenced Lord Sydney's choice. For a fuller discussion, see Geoffrey Blainey, *The Tyranny of Distance* (Melbourne: Sun Books, 1966).


6N.S.W. Court of Criminal Jurisdiction, 'Minutes of Evidence'. Archives of N.S.W., 1147 A & B.


11Charles H. Currey, 'The Darling Decade, 1825-1835' (Library, Faculty of Law, University of Sydney, n.d.), p. 135.

12Annual returns of executions during the nineteenth century may be found in N.S.W. Colonial Secretary, *Returns of the Colony 1824-1856*, and N.S.W. Bureau of Statistics, *Statistical Register*, 1860-1900.

13Discussion of rural-urban population distribution is complicated somewhat by alterations to the boundaries of both N.S.W. and the Metropolitan Area. For example, when part of southeastern N.S.W. became the Colony of Victoria in 1851, Sydney's statistical dominance increased markedly. Similar distortion has resulted from the incorporation of municipalities into the Metropolitan Area at various times in the twentieth century. Despite these artificial amplifications, Sydney's overshadowing of the hinterlands has been very real and quite substantial. Table 1.2 provides an illustration of this trend.


16*Sydney Morning Herald*, 6 November 1850.


Sydney in Ferment

20 N.S.W. Colonial Secretary, *Returns of the Colony, 1857*. Archives of N.S.W., 4/290, p. 506.


22 N.S.W. Legislative Council, *Report from the Select Committee on Intemperance* (Sydney: Government Printer, 1854).


29 *Sydney Morning Herald*, 20 September 1890.

30 W. M. Hughes, *Crusts and Crusades* (Sydney: Angus and Robertson, 1947), p. 175.


34 N.S.W., *Statistical Register, 1911* (Sydney: Government Printer, 1912), p. 64.


37 The best general picture of the depression era is provided in L. J. Louis and Ian Turner (eds.), *The Depression of the 1930s* (North Melbourne: Cassel Australia Ltd, 1968).

38 *Sydney Morning Herald*, 19 April 1953, p. 10.


CHAPTER TWO

1The terms 'high court' and 'higher court' refer to the Supreme Court of New South Wales sitting in Sydney and on circuit elsewhere throughout the colony or state. This body is not to be confused with the High Court of Australia, a federal institution established in 1903.

2The scoring procedures were patterned after those of Ted Robert Gurr and Muriel McClelland, Political Performance: A Twelve Nation Study (Beverly Hills: Sage Professional Papers in Comparative Politics, 01-018, 1971).


CHAPTER THREE


2Rowley, The Destruction of Aboriginal Society, p. 17.

3Humphrey McQueen, 'Convicts and Rebels', Labour History, no. 15 (November 1968), pp. 8-9.


5Ibid., pp. 103-4.

6Evatt has shown that Bligh did have some sympathisers among the free settlers of the colony. Their lack of overt support for the deposed governor may thus have been attributable to tolerance of the insurgents combined with fears of reprisal. H. V. Evatt, Rum Rebellion (1st ed. Sydney: Angus and Robertson, 1938).

7Phillip to Dundas, 3 October 1792, Historical Records of Australia, Series I, vol. 1, pp. 373-4.


9Ibid., p. 239.


12Indeed, Hunter referred to Irish convicts as 'liars and perjurers' and recommended that they be sent to Africa. Historical Records of Australia, Series I, vol. 3, pp. 175, 348.

13McQueen, 'Convicts and Rebels', pp. 8-9.


15Chapter 1, n. 6.

16Shaw, Convicts and the Colonies, p. 73.

CHAPTER FOUR

2 Minutes of Evidence ‘Taken by the Bigge Commission’, Mitchell Library BT Box 2, pp. 581-90.
6 Ibid., p. 106.
9 Proclamations, Government and General Orders made and Published by the respective Governors in Chief of the Territory of New South Wales from the Establishment of the Colony to the end of the Year 1821 (Archives of N.S.W.), pp. 109, 115, 119, 185.

CHAPTER FIVE

3 N.S.W. Colonial Secretary, Returns of the Colony, 1841 (Archives of N.S.W., 4/290), pp. 257-8.
4 Brisbane to Bathurst, 28 October 1824, Mitchell Library MSS., A1267, pt 4, pp. 25-6.
8 Rossi, Report of 7 October 1826, p. 518.
10 Geo. IV, no. 1 (26 March 1828).
11 Geo. IV, no. 9 (17 July 1828).
12 Geo. IV, no. 10 (21 April 1830).
13 Geo. IV, no. 12 (12 May 1830).
14 Geo. IV, no. 12 (25 August 1835).

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17King, 'Some Aspects of Police Administration', p. 218. In addition, see the testimony of Col. H. C. Wilson in N.S.W. Legislative Council, Minutes of Evidence taken before the Select Committee on Police (Sydney: Government Printer, 1835), p. 36.

18Ibid., p. 35.


213 Wm. IV, no. 3 (1 October 1832).

22King, 'The Humanitarian Leanings', p. 27.


25Ibid.

26Shaw, Convicts and the Colonies, p. 215.

27This period in the evolution of colonial government is discussed in Melbourne, Early Constitutional Development, pp. 104-62.

28Bourke to Goderich, 22 March 1832, Mitchell Library MSS., A1210, p. 379.

29N.S.W. Legislative Council, 'Report of the Sub-committee on the Bush-ranging Bill, July 2, 1834', in N.S.W. Legislative Council, Votes and Proceedings, 1835, p. 7. A contradictory interpretation suggests that numerous arrests were made under the Act, and that these apprehensions were often quite arbitrary. See Alexander Harris, Settlers and Convicts; or Recollections of Sixteen Years' Labour in the Australian Backwoods, by an Emigrant Mechanic (2nd ed., Melbourne: Melbourne University Press, 1964), pp. 81-3.

30Forbes to Glenelg, 12 April 1836, Mitchell Library MSS., A741, pp. 120-2.

CHAPTER SIX


3Sydney Morning Herald, 12 January 1850, p. 2; 23 January 1850, p. 2.


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6Sydney Morning Herald, 3 January 1847.
71349 was the date of the first Statute of Labourers, enacted because of a labour shortage following the Black Death. See T. F. T. Plucknett, A Concise History of the Common Law (5th ed. London: Butterworth and Co. 1956), p. 32.
8Masters and Servants (Amendment) Act 4 Vic. no. 23 (20 October 1840).
9An Act for the further and better Regulation and Government of Seamen within the Colony of New South Wales and its Dependencies and for establishing a Water Police, 4 Vic. no. 17 (6 October 1840).
107 Vic. no. 21 (22 December 1843).
12Atlas, 7 December 1844, p. 16; 11 February 1845, pp. 124-5; 22 February 1945, p. 146.
14N.S.W. Legislative Council, Minutes of Evidence Taken Before the Select Committee on Police (Sydney: W. W. Davies, Government Printer, 1847), pp. 6, 15.
15King, 'Some Aspects of Police Administration', p. 221.
17King, 'Some Aspects of Police Administration', p. 222.
18C. G. N. Lockhart, 'Sketch of a Proposed System of Police for the Colony of N.S.W.' (1850) Archives of N.S.W., 2/674.15, p. 6.
19King, 'Some Aspects of Police Administration' p. 214.
20The best review of Maconochie's life and work is Barry's Alexander Maconochie.
22N.S.W. Legislative Council, Report from the Select Committee on the Darlinghurst Gaol (Sydney: Government Printer, 1849), pp. 5-6.
24Ibid., p. 24.
25Ibid., pp. 6-7.
26Ibid., p. 10.
27These regulations were established in 1867 under the provisions of the Act for the further Regulation of Gaols, Prisons, and Houses of Correction in the Colony of N.S.W. and its Dependencies, and for other purposes relating thereto (4 Vic. no. 29, 16 December 1840), euphemistically known as the 'Prisons Regulation Act'.
29Sydney Morning Herald, 2 October 1844, p. 3.

CHAPTER SEVEN

1For an overview of this aspect of Australian history, see Myra Willard, History of the White Australia Policy to 1920 (2nd ed. Melbourne: Melbourne University Press, 1967).
These trials are accorded extensive discussion in Frank Clune, *Scandals of Sydney Town* (Sydney: Angus and Robertson, 1957).


The phenomenon of larrikinism has been accorded considerable attention; literary treatments range from sophisticated analysis to blatant polemic. See N. D. Maclachlan, ‘Larrikinism in Australia’ (unpublished thesis, University of Melbourne); Ambrose Pratt, ‘“Push” Larrikinism in Australia’, *Blackwood's Magazine*, no. MXXIX (July 1901), pp. 27-40; Ajax (pseud.), ‘Larrikinism’, *Sydney Quarterly Magazine*, vol. 1, no. 2 (January 1884), pp. 207-15; Nat Gould *Town and Bush* (London: George Routledge and Sons, Ltd, 1896); *Bulletin* (Sydney) 18 June, 1881; 17 June 1882; *Sydney Morning Herald*, 26 June 1893.

Pratt, ‘“Push” Larrikinism’, p. 32.


*N.S.W. Parliamentary Debates*, 1st Series, vol. 76, 4 April 1895, p. 5085.


Ibid., pp. 30-1.


*N.S.W. Parliamentary Debates*, 1st Series, vol. 41, 10 September 1889, p. 4923.

*N.S.W. Department of Prisons, Annual Report for the Year 1896*, p. 47.


*N.S.W. Department of Police, Annual Report for the Year 1893* (Sydney: Government Printer, 1894), p. 3.


28 N.S.W. Parliamentary Debates, 1st Series, vol. 51, 26 May 1891, p. 223. (Mr O’Sullivan, M.L.A.)

29 Ibid., p. 225. (Mr Hutchinson, M.L.A.)


31 Ibid. (Appendix), p. 334.

325 Vic. no. 5 (1891).

3357 Vic. no. 23 (1894).


36 N.S.W. Legislative Assembly, Berrima Gaol Inquiry Commission Report (Sydney: Thomas Richards, Government Printer, 1878), p. 34.

37 N.S.W. Department of Prisons, Annual Report for the Year 1886 (Sydney: Government Printer, 1887), p. 2 (hereafter known as Prisons Reports).


46 Isadore Brodsky, Sydney Looks Back (Sydney: Angus and Robertson, 1957); Sydney Morning Herald, 28 June 1933, p. 2; 15 August 1946, p. 2.


48 Ibid., p. 5.

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50 Maclachlan, 'Larrikinism in Australia'.
52 Ibid., p. 53.
53 Ibid., p. 19.
54 Ibid., p. 16.
55 Ibid., vol. II, pp. 52-3. The point that police might conceivably have been receiving bribes was, of course, not raised.

CHAPTER EIGHT

2 Direct Action (Sydney), 10 August 1914, p. 1.
9 Australia, Commonwealth Parliamentary Debates, 19 July 1917, p. 317. (Mr Finlayson, M.H.R.)
11 Ibid.
12 N.S.W. Police Department, Annual Report for the Year 1917 (Sydney: Government Printer, 1918), p. 6.
13 'Police Reports on Political Meetings Held in Sydney Domain', Archives of N.S.W., 7/5589, 7/5594.
16 N.S.W. Legislative Assembly, 'Papers Relating to Statements Made by Dr. Ralph Worrall Before the Select Committee on Prevalence of Venereal Diseases in Connection with Certain Improper Practices Alleged to be Prevalent in the Police Service in Connection with Prostitution,' N.S.W. Parliamentary Papers, 1915, p. 899.
17 Ibid., p. 900.
CHAPTER NINE

1 The extent to which patent cough medicines were used indiscriminately during the early years of the present century has not been determined.

2 Sydney Morning Herald, 7 January 1928, p. 16.


5 Sydney Morning Herald, 3 January 1930, p. 11.


8 N.S.W. Parliamentary Debates, 3 September 1925, p. 574.

9 N.S.W. Parliamentary Debates, 18 September 1929, p. 87. (P. M. McGirr, M.L.C.)

10 N.S.W. Parliamentary Debates, 22 October 1929, p. 686. (Mr Walker, M.L.A.)

11 Ibid. (Mr Arkins, M.L.A.)


13 N.S.W. Parliamentary Debates, 3 September 1925, p. 579. (Mr Kay, M.L.A.)

14 N.S.W. Parliamentary Debates, 22 October 1929, p. 699. (Capt. Chaffey, M.L.A.)

15 N.S.W. Parliamentary Debates, 26 September 1929, p. 383.

16 Ibid, pp. 382, 387.

17 Ibid., pp. 391-2. (Mr Connell, M.L.A.)


20 N.S.W. Police Department, Annual Report for the Year 1929, p. 5; Annual Report for the Year 1931, p. 5.

21 N.S.W. Police Department, Annual Report for the Year 1930 (Sydney: Government Printer, 1931), p. 5.


23 For a view of the New Guard through the eyes of its leader, see Eric Campbell, The Rallying Point (Melbourne: Melbourne University Press, 1965); for a more academic discussion, see Phyllis Mitchell, 'Australian Patriots: A Study of the New Guard', Australian Economic History Review,
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vol. IX, no. 2 (September 1969), pp. 156-78; an official interpretation of the movement may be found in N.S.W. Police Department, 'Inquiries Relative to the New Guard Movement and its Objects', New South Wales Parliamentary Papers, 1931-1932, vol. 5, p. 1057.

24Campbell, The Rallying Point, p. 72.
25N.S.W. Parliamentary Debates, 3 September 1925, p. 638. (Mr Bavin, M.L.A.)

26Ibid., pp. 619-20. (Mr Arkins, M.L.A.)


28Sydney Morning Herald, 6 March 1930, p. 11.

29Sydney Morning Herald, 9 January 1930, p. 12.

30Some sense of this erosion may be obtained from a set of documents entitled 'Protests by Various Organisations Against Treatment of Demonstrations by Unemployed, 1933-1934', Archives of N.S.W., 7815. The role of the New Guard in the suppression of protest is discussed by Mitchell, 'Australian Patriots', p. 168, Campbell, The Rallying Point, p. 69, and Rawson, 'Political Violence in Australia', Part 2, p. 36. Rawson also discusses direct police activity against protestors.

31N.S.W. Legislative Assembly, Report of the Royal Commission of Inquiry into Allegations against the Police in Connection with the Suppression of Illicit Betting (Sydney: David Harold Paisley, Government Printer, 1936), p. 117.

32Ibid., pp. 118-19.

33Crimes (Amendment) Act, 1926 (Commonwealth) Sec. 30A(a).


35Davidson, The Communist Party of Australia, p. 81.

36Ibid., p. 82.

CHAPTER TEN


4Sydney Morning Herald, 5 July 1950, p. 3; 31 August 1950, p. 1.

5W. R. Dovey, Investigation of the Conduct of Migrants (Canberra: Commonwealth Department of Immigration, 1951).

6Sydney Morning Herald, 23 May 1946, p. 4. Police ranks had indeed been significantly thinned during the war years, as Figure 2.12 indicates.

7Sydney Morning Herald, 31 January 1945, p. 2.

8N.S.W. Parliamentary Debates, 2 November 1948, pp. 304-6.

9Sydney Morning Herald, 18 July 1949, p. 4; Webb, Communism and Democracy, p. 13.

10N.S.W. Police Department, Annual Report for the Year 1946 (Sydney: Government Printer, 1947), p. 3.

11Sydney Morning Herald, 29 October 1945, p. 2.

12Sydney Morning Herald, 18 September 1947, p. 2.

13N.S.W. Parliamentary Debates, 2 October 1947, pp. 179-80. (Mr Shannon, M.L.A.)
CHAPTER ELEVEN

4Sydney Morning Herald, 26 June 1968, p. 1.
6Sydney Morning Herald, 12 July 1971, p. 3; Harris, Political Football.
8Plausible alternative explanations for the post-1967 decline in rates of arrest for prostitution abound. The following, suggested by Paul Ward, should be regarded as neither exhaustive nor mutually exclusive:
   a. The Vice Squad may have relaxed its activity in return for bribe payments.
   b. The prostitution ‘industry’ may have become less centralised; increasing use of one girl ‘shift’ houses and ‘massage parlours’ at the expense of large-scale brothels may have reduced the ratio of arrests per raid.
   c. Prostitutes may have been subject to less frequent arrests but to increased fines upon conviction. In other words, the police and magistracy may have adopted a more efficient system of de facto licensing.
   d. Police may have reacted to the policy of one Sydney magistrate who is reputed to have refused to convict alleged prostitutes on charges of offensive behaviour, demanding that they be charged with the more serious offence of soliciting.
   e. There may have been less prostitution.
9Estimates of the number of abortions performed in Australia each year range between 20,000 and 120,000, with the average of plausible estimates at about 75,000. If unlawful terminations were distributed across urban places in proportion to population size, about 15,000 such offences would be committed in the Sydney metropolitan area annually. For further discussions of national estimates, see Wilson, The Sexual Dilemma, pp. 15-17.
10It is rumoured that the real reason for the cessation of the squad’s activity was pressure brought to bear because of the embarrassing arrest of some unknown person with significant political influence. This interpretation remains unsubstantiated, but nevertheless not altogether implausible.
11A number of alleged male sex offenders were arrested on a general charge of ‘offensive behaviour’. In terms of existing records, their activity is indistinguishable from street protest.

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15Over two-thirds of the Aboriginal convictions in the sample arose from charges of 'vagrancy', 'unseemly words', and 'offensive and indecent behaviour'.


18Personal communication, March 1974.


20N.S.W. Parliamentary Debates, 13 October 1964, p. 1169.


24Recent evidence suggests that public tolerance of some of these behaviours increased substantially in the early 1970s. See Chappell and Wilson, *The Australian Criminal Justice System*, p. 158; See also Wilson and Brown, *Crime and the Community*.


the police as elastic, tending to vary between poles of support and opposition. Such an interpretation can only be confirmed through further survey research, however. Personal communication, 6 March 1974.

33The N.S.W. Bureau of Crime Statistics and Research estimated the annual cost of processing Sydney and inner suburban drunks through the criminal justice system at S$122,000. See N.S.W. Bureau of Crime Statistics and Research, Statistical Report 7, City Drunks: A Possible New Direction (Sydney: N.S.W. Bureau of Crime Statistics and Research, February 1973).


35Interview with Philip Arantz, 4 December 1972.


37J. C. Maddison, address delivered at the Sixth Biennial Conference of the Australian Crime Prevention, Correction, and After-Care Council, Canberra, 1971.

38Although corporal punishment had not been formally administered since the turn of the century, the N.S.W. Crimes Act still provided for this type of treatment. Corporal punishment was finally abolished under the Crimes and Other Acts Amendment Act (1974).

39The order of priorities for the distribution of legal aid for indigent defendants includes: a. first offenders; b. frequent recidivists; and c. occasional recidivists facing serious charges. Personal communication, G. D. Woods, 6 March 1974.

40Only one-third of the defendants appearing before Courts of Petty Sessions in 1972 were represented by counsel. (N.S.W. Bureau of Crime Statistics and Research, November 1973), p. 4.

41Purchasability refers in the N.S.W. context to the distribution of legal services and not to judicial corruption.

42J. H. Wootten, 'The Aboriginal Legal Service, Report to Annual General Meeting' 30 August 1971; Greg Woods speculated that the Legal Service, by making Aborigines in Sydney more aware of their rights, increased tensions between the police and the Aboriginal community. He states that the police tended to resent the service to a considerable extent. Personal communication, 6 March 1974.

CHAPTER TWELVE

1The indicators of the independent variables regressed on the various measures of criminality were constructed as follows:

a. economic conditions. Averaged standard scores of (1) percentage change from mean of preceding two years, N.S.W. overseas export revenues per capita, 1909-1971; (2) per cent of labour force unemployed, N.S.W. 1907-1971 (sign inverted); (3) petitions in bankruptcy per capita, N.S.W. 1860-1910 (sign inverted); (4) percentage change from mean of preceding two years, index of export prices, N.S.W., 1861-1905; (5) percentage change from mean of preceding two years, colonial revenue per capita, N.S.W., 1821-1856; (6) percentage change from mean of preceding two years, intercolonial and overseas export revenues per capita, N.S.W. 1826-1908. This composite indicator thus represents short-term economic fluctua-
tions, in addition to the general state of the economy in a given year. It does not purport to measure long-term changes in material well-being.

b. population masculinity. Percentage of the N.S.W. population of the male sex.

c. urbanisation. Percentage of the N.S.W. population residing in the Sydney metropolitan area.

d. police force strength. Number of law enforcement personnel per 1000 inhabitants, N.S.W.

e. police appropriations. Percentage of the N.S.W. annual budget allocated for police operations.

2 There exist a number of plausible explanations for this latter relationship. On the one hand, an expansion of law enforcement resources may have enabled police to devote closer attention to sexual offences. Alternatively, the growth of the police force may have occurred coincidentally with an increase in the behaviours in question. It is also possible that an increasing moral rigidity on the part of colonial elites was accompanied both by an expansion of the police force and by a more indignant official attitude toward sexual deviance.

3 Independent variable measures regressed on twentieth century rates included:

a. industrial unrest. Mandays of work lost in strikes and lockouts per 1000 trade union members, N.S.W.

b. Labor government. Years in which the Australian Labor Party controlled the Government of N.S.W. for the entire calendar year.

c. war. Years in which Australian troops were engaged in combat operations overseas.


5 The Durbin-Watson statistic tests for autocorrelation of residuals. None of the results was indicative of significant autocorrelation. See J. Durbin and G. S. Watson, 'Testing for Serial Correlation in Least Squares Regression', *Biometrika*, vol. 38 (1951), pp. 159-77.

6 This relationship may result from the fact that rates of crime against the person and law enforcement investment tend to decline during periods of war and to increase thereafter. The negative influence of war on aggressive criminality is visible in Table 12.2.


8 Chapter 11, n. 28.

9 Gollan, *Radical and Working Class Politics*.

10 Wilson and Brown, *Crime and the Community*. 

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Crime fascinates many members of the public. They are eager to know what forms it takes, whether kinds of crime change, what measures are taken to combat it.

*Sydney in Ferment* draws widely on primary sources, many previously unpublished. It focuses on trends in criminal behaviour, political dissidence, collective violence and crime control polices in New South Wales from Phillip's landing in 1788 to the early 1970s. It investigates variations in rates and types of crime and threats to public order and discusses changes in criminal law, the creation and development of police forces and trends in criminal procedure and penal form. Its conclusion on the relative weights to be given to the influence of short-term changes in policy on criminal justice and to fundamental social and economic factors will provoke spirited discussion.

This book is a lively account both of crime itself and also of the changes in the moral attitudes of the officials and the public at large.

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