ASPECTS OF THE SYDNEY PRESS,
1803-27.

BY
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ABBREVIATIONS.

A.D.B. Australian Dictionary of Biography.
B.T. Bonwick Transcripts.
C.O. Colonial Office.
C.S.I.L. Colonial Secretary In-Letters.
H.R.A. Historical Records of Australia.
H.R.N.S.W. Historical Records of New South Wales.


A printing press was brought to New South Wales by the First Before the was used mainly to print government orders. However the paper arose as a newspaper as an impetus to print in its early years the personal organ of Governor King. The first copy Howe printed was sent to the Governor's Secretary or the Governor and returned, duly initialed, for the printer to continue and print more copies for distribution. From such a practice contemporaries, and, in their wake, historians believed that a censorship of the Gazette existed. Immediately, however, a problem is raised by the long established convention that the laws of England were the laws of her colonies and that English law since 1695 had known no such thing as a censorship of the Press. Thus the first half of this work is devoted to an attempt to delineate the nature of the relationship between the Gazette and the government between 1803 and 1824.

The central argument is that the Gazette was a government newspaper and that the notion of a independent newspapers and the government was just an illusion.
INTRODUCTION.

A printing press was brought to New South Wales by the First Fleet. Before the Sydney Gazette was established in 1803, the press was used mainly for printing government orders. However, the orders and proclamations of the governors who ran the colony as a gaol did not receive enough publicity and so the impulse to print a newspaper arose. The Sydney Gazette was as unique a newspaper as New South Wales was a unique settlement. Its origins, organisation and policy were unparalleled in any other part of the world. Printed and edited by a convict, George Howe, the Gazette was almost in its early years the personal organ of Governor King. The first copy Howe printed was sent to the Governor's Secretary or the Governor and returned, duly initialled, for the printer to continue and print more copies for distribution. From such a practice contemporaries, and, in their wake, historians believed that a censorship of the Gazette existed. Immediately, however, a problem is raised by the long established convention that the laws of England were the laws of her colonies and that English law since 1695 had known no such thing as a censorship of the Press. Thus the first half of this work is devoted to an attempt to delineate the nature of the relationship between the Gazette and the government between 1803 and 1824.

The central argument is that the Gazette in organisation and policy was a government newspaper and that the notion of a
censorship is misleading because it disguises the true position of the Gazette in the colony by suggesting, as every mention of censorship does, that tension existed between the various governors and the printers of the Gazette. The first chapter attempts to show that whoever was in control of the colony between 1803 and 1821 was also by implication in control of the policies of the Gazette. The second chapter examines the tone of the Gazette and suggests its close connection with the character and beliefs of the printer, a man who in turn consistently lined up with the views of the governors. By examining the economic and technical problems of producing the Gazette in chapter three, it will be suggested that, if the Gazette had not been a government paper, it would not have survived as an economic proposition. Chapter four takes the story from 1821, the year of George Howe's death and his replacement as editor and printer by Robert Howe, to 1824 when the second newspaper was established and when, according to some contemporaries, the censorship of the Gazette was removed. The chapter argues that from 1821 there was on the part of the government an unintentional and gradual loosening of control. The chapter ends by attempting to review the government's relationship with the Gazette over the twenty-one year period.

Circumstances of space and time determined that the work should finish in the year 1827 and not, as originally planned, in 1831. The final three chapters are devoted to an examination of how and why the independent newspapers and the government came into conflict.
after 1824. The chapters argue that the growth of criticism in the
Australian, established in 1824, and particularly the Monitor,
established in 1826, provoked Governor Darling into attempting to
legislate the Press into silence in April and May 1827. Chapter
five argues that Darling was subject to a large number of conflict-
ing pressures between January 1826 and March 1827 which made it
difficult for him to act with any decisiveness; the chapter in-
cludes a lengthy analysis of the instructions he received from the
Colonial Office to deal with the Press, an analysis which shows
that the instructions made Darling's job far from easy. If chapter
five deals only in outline with the complex political manoeuverings
of the year 1826, chapter six attempts to illuminate the ideas and
language which the opponents of a free Press used. Various ideas
were repeated with such frequency by the opponents of the Press
that an attempt has been made in this chapter to organise them into
some sort of coherent form. So strikingly similar were their
arguments to those used by their contemporaries overseas of a like
persuasion that, collectively, they have been called "conservatives"
in contrast to the liberals who believed in a free Press. The
final chapter argues that the turbulent months of April and May
1827 saw a crystallisation of views and that the struggle over the
Press legislation developed into a conflict between the Chief
Justice, Francis Forbes, and the Governor. The triumph of Forbes
and Darling's failure to obtain the main legislation to silence the
Press symbolized the changing nature of New South Wales. Before 1823 the governor's power had been almost unlimited. With the passing of the New South Wales Act in that year, this power was sharply curtailed by the clauses which made it necessary for any laws to conform with English law and for the governor to submit any proposed bill, before enactment, to the Chief Justice to see that this was so. In trying to silence newspaper criticism, Darling was attempting to put the clock back to a time when New South Wales was little more than a gaol.

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The Sydney Gazette was first printed in 1803 and many historians, following the Gazette's contemporaries, have referred to it as a newspaper published under a censorship until 1824. In the first dispatch mentioning the paper, Governor King wrote to Lord Hobart, Secretary of State for the Colonies, that the paper was inspected by an officer before publication and G. Paterson, like the other early compilers of Australian history, wrote in 1811 of the vigilant eye kept on the Gazette. 1. Macquarie's secretary, J.T. Campbell, called himself the "Censor of the Press" and, as such, he was regarded by people as diverse as the Judge-Advocate Jonathan Wylde, the merchant Alexander Riley, and the parliamentarian H.G. Bennet. 2. Late in 1822 Governor Brisbane warned a group who proposed starting another newspaper, that their paper would, like the Gazette, have to be subject to the censor. 3. The idea has moved from contemporaries to historians. An article in the New South Wales Magazine of 1833 referred to the Gazette as being subject to a censorship and this was repeated

by the historians S. Bennett and J. Bonwick later in the century.4
Throughout the twentieth century the same view has been apparent
with the Sydney Morning Herald's centenary history referring to the
censorship, H.M. Ellis calling the Governor's secretary the censor,
and H. Mayer mentioning censorship of the Gazette as one of the
methods which governors used in their attempts to overcome the oppo-
sition of the Press.5 When any question of government censorship
is raised, three entities are involved. First, there is the censor
(an official or a group of men appointed by the government, for
instance); second, the thing to be censored (a newspaper or maga-
zeine); and third an individual with some rights or duties apper-
taining to the thing to be censored (an editor or owner of a news-
paper). However loosely the idea of censorship is used, govern-
ment censorship always involves conflict, potential or real, and
divergent interests between the first and third over the second.
The existence of the first and the third entities in situations
where censorship has arisen has lead to the implication that George
Howe in some way was the owner, as well as the editor, of the Gazette.
Howe himself gave this impression during the 1817 Campbell libel
trial when he said that he took all the profits of the Gazette, and

Magazine, 1 (1), 1833, p. 6; S. Bennett, The History of Austral-
ian Discovery and Colonisation. (Sydney, 1865), p. 343; J.
Bonwick, Early Struggles of the Australian Press. (London,
1890), p. 4.

5. A Century of Journalism: The Sydney Morning Herald and its
Australian Life 1831 - 1931. (Sydney, 1931), p. 12; M.H. Ellis,
Lachlan Macquarie His Life, Adventures, and Times, (2nd Rev. ed.,
Sydney, 1952), pp. 196, 253, 431; H. Mayer, The Press in Aus-
it was also implied by what Brisbane called the lifting of the censorship in 1824. Historians such as R. Flanagan, F. Watson and C.M.H. Clark have accepted this and referred to the Gazette as a private speculation which was carried on at the risk and expense of Howe. 6.

In fact the Sydney Gazette was a government newspaper in organisation and policy. All the facilities for printing were owned by the government, and Howe, originally a convict, was paid a salary whether in rations or in cash. Although many frequently spoke of the censorship and referred to the Gazette as Howe's newspaper, they were at the same time aware of the actual relationship. When Howe requested supplies for the press from Macquarie, he made it clear that he thought his request should be met because of his position as a government servant. 7. Marsden in 1814 also referred to Howe as a servant of the Crown since he received a salary from the government, and it appeared to Macquarie's other enemies that the Gazette conducted a policy favourable to the government for the Reverend Mr. Vale complained to Bathurst that the Deputy-Commissary General had been most foully blasted by insinuations of the Governor through that paper. 8. Campbell writing to Macquarie referred to it

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8. Marsden to Macquarie, 9 April 1814, (Bonwick Transcripts, Box 13, Mitchell Library, Sydney); Vale to Bathurst, 16 April 1818, Ibid., IV, 1, p.285.
as "our Gazette" while Robert Howe, like his father, called himself a government servant. In the third edition of W.C. Wentworth's book, E. Eager, the editor, wrote that the material of the Gazette belonged exclusively to the government, and R.L. Murray's magazine of 1828 commented that the Gazette on the death of Howe in 1821 was a respectable journal, published weekly at the expense and by the authority of government. Economic ownership conferred on the government the right to determine the contents of its newspaper and political considerations made this desirable. Indeed, regarding New South Wales as a whole in this period, it would appear to have been economically and politically impossible for any other arrangement to have existed. Except for the government, very few had enough capital to establish a newspaper, and as the Governor was running a gaol, a free and independent Press would have been intolerable. George Howe could and indeed did exercise his discretion as to what should appear in the Gazette's news columns. But his choice of material and the tone of his arguments were conditioned by his position at first as a convict and later as an emancipist receiving a salary from the government. From the outset the Gazette was designed to be one of the means by which the few attempted to

control the many.

The relationship between the government and the Press in early New South Wales was less similar to that existing in Britain or the United States than to the situation in contemporary France. In Britain, the Liberty of the Press was regarded as an integral part of the constitution so that those who supported restraining measures during and after the French wars protested that their purpose was not to destroy or limit the freedom of the Press, but rather to preserve that liberty by suppressing its licentiousness. The main controls involved taxation, oppressive legislation and ex officio informations, and such controls did not operate in New South Wales in 1803 because, unlike the British governments, the governor owned and controlled the Press. Moreover the eighteenth century tradition, which had a superficial resemblance to the New South Wales position, of government and opposition parties regularly supporting a newspaper with cash from the Treasury or from private funds was slowly being undermined as the Times in 1806 declared its independence of such sources. In the United States newspapers were also closely involved with politics after the revolutionary period and politicians were hiring printers to run a newspaper according to a particular policy or printers themselves used their newspapers in their drive for political office. Even in the colonial period, America differed

from New South Wales. Although the first American newspaper was "Published by Authority" and censors were frequently active, each newspaper was in fact owned and edited by men independent of the government. 13. New South Wales was closer to Napoleonic France where only four Paris newspapers were permitted to discuss political events and where no newspaper or writing of any kind could be published without the government's consent. No formal censorship existed but every newspaper editor was in effect appointed by the government.

A different type of authoritarian government ruled India in the early nineteenth century and the history of the Indian Press ran parallel to, and in many cases touched on, the history of New South Wales. 14. Towards the end of the eighteenth century the East India Company had a variety of relationships with the Press. In Bombay the Bombay Gazette became subservient to the government when a rise in costs forced the proprietors to apply for the exclusive patronage of the government; as a result the paper carried a notice to the effect that any government notices appearing in its columns were to be regarded as official by anyone to whom they referred. Such a notice appeared later in the Sydney Gazette and, in the early eighteen twenties, it was frequently argued that the Gazette carried

government notices free in return for government patronage and a monopoly of printing. During the late eighteenth century Madras had a printer whose work for the government encouraged the Company to obtain from England for him a press and some type, free of duty, just as George and Robert Howe were later to acquire their materials in a similar manner. In 1791 the Bombay Gazette came under a censorship that required the proofs to be submitted to the secretary of the government before publication, and eight years later the arrangement was extended to the whole of India by the Press regulations of the Governor-General, the Marquess of Wellesley.

Wellesley's measures were divided into regulations to control newspaper proprietors and rules for the guidance of the secretary in his role as censor. Of the regulations, the obligation of the printer to put his name on the paper was the first; editors and owners were to supply the Secretary of the Government with their names and addresses; no paper was to be published on Sunday; no paper could be published at all until it had been inspected by the Secretary of the Government; and, finally, the penalty for offending against any of those regulations was to be immediate embarkation for Europe. The rules for the censor banned the publication of all information relating to the finances of the Company, troop movements, shipping news, naval or military preparations, movements of supplies or specie, reprinting extracts from European newspapers which might affect the

credit of the British power with Indian states, observations conveying information to an enemy or exciting alarm or commotion in the Company's territories, all statements with regard to the probability of war or peace with any of the Indian powers, and all private scandals or libels on individuals.

This situation remained with the exception of one short period until 1835. Behind such stringent regulations, some of which could be traced back to the ordinances promulgated by the Star Chamber in 1585, was Wellesley's fear of an invasion by Napoleon. Sharp criticisms had angered him, and just as he aimed at the non-publication of news unfavourable to the administration, so too did the Sydney Gazette when, in similar circumstances, it ostensibly eschewed political matters. The thought lying behind the general support for the censorship in the minds of the Company's servants, one historian has suggested, was that the newspaper should function virtually as a branch of the administration. 16. Such also appeared to be the view of Governor King and his officials. The main difference between India and New South Wales lay in the ownership of the printing facilities - in one, groups independent of the government owned the newspapers which were to be controlled while, in the other, the government owned the only printing press. Only four years after Wellesley promulgated his regulations, King began the Sydney Gazette.

On the origins of the Sydney Gazette historians have been prone

to quote, without regard for the context in which it was written, that part of the dispatch King sent to Hobart on 9 May 1803 where he first mentioned the publication of a newspaper. King wrote:

"It being desirable that the settlers and inhabitants at large should be benefited by useful information being dispersed among them, I considered that a weekly publication would greatly facilitate that design, for which I gave permission to an ingenious man, who manages the Government printing press, to collect materials weekly, which, being inspected by an officer, is published in the form of a weekly newspaper, copies of which so far as they have been published, I have the honour to enclose; and as the motive that has guided me in granting this indulgence to the inhabitants has been for bettering their condition, I promise myself your Lordship's approbation." 17.

H.M. Green has emphasised the phrase "I gave permission to an ingenious man" and has implied that the initiative for founding the Gazette came from George Howe. 18. From here it is only a short step to the idea that Howe owned the Gazette. But this view is open to doubt for a number of reasons, not the least being that the dispatch was written two months after the first appearance of the Gazette while King had very much more important matters on his mind, in particular the vindication of his administration, and that this part was only a small section of a long dispatch which, with a large number of other papers, was sent to Hobart at the same time. King, moreover, possessed the characteristic of being unwilling to take personal responsibility for many of his actions, and since

newspapers were viewed by the British governing classes to which Hobart belonged as rather dangerous weapons of sedition, it seems likely that King, supposedly running a gaol, was apprehensive of the *Gazette's* reception. Consequently he attempted to imply that it was the idea of some "ingenious man", though not a convict called George Howe. Indeed the elaborate justification in the dispatch of the *Gazette's* presence, the heavy emphasis on the aim of bettering the condition of the inhabitants by giving them useful information, does appear to indicate an element of anxiety in King's mind.

On the other hand, there is evidence to suggest that King started the *Gazette* in an attempt to counter the threats to his authority prevalent in New South Wales at the time by giving his orders a wider circulation. Insubordination was rife in early 1803. At the troublesome Castle Hill settlement fifteen mutinous Irish convicts absconded and, directly flouting the Governor's orders, another group of men formed a Masonic Lodge which King angrily called a seditious act. More seriously for King, some officers of the New South Wales Corps were trafficking in spirits contrary to his command and once, such disobedience was claimed by an officer to be due to his ignorance of the Governor's orders. 19. Some of the officers

in January 1803 wrote on some paper a number of scurrilous and defamatory verses attacking King and these pipes, as they were called, received much publicity.\textsuperscript{20} King began an inquiry into the affair, one that was significantly entitled "Inquiry re Printed Libel against the Government of the Territory."\textsuperscript{21} Despite the title, the libel was not in fact printed but throughout the hearing the pipes were referred to as "the papers".\textsuperscript{22} King wanted to give Government orders greater publicity. Attempts had been made; in 1801 an abridgement of government orders was distributed for the purpose of reminding the inhabitants of those ordinances and each individual, to whom the circular was issued, was commanded to display it in a conspicuous place.\textsuperscript{23} The following year appeared Australia's first book, \textit{New South Wales General Standing Orders: Selected from the General Orders Issued by Former Governors}. The most logical step from here was a newspaper and the prospectus of the \textit{Sydney Gazette} declared its main purpose to be the publication of general orders and public notices.\textsuperscript{24}

From the beginning the \textit{Gazette} looked an official newspaper and, like the government, its tone was British, Protestant, respectable, educated and commercial. The masthead, a woodcut depicting various

22. See Watson, ed., \textit{H.R.A.}, 1, 4, p. 672, note 76.
elements in the colony, featured a female figure prominent in the foreground. Her arm outstretched towards a man tilling the soil with a bullock team, she was seated on a box bearing the date 1788 and at her feet were a collection of agricultural implements near some scrub. Behind her on the harbour lay a ship flying the Royal Ensign and in the rest of the background were various buildings, such as a windmill, a church and a fortress with battlements. Around the whole woodcut were the words "THUS WE HOPE TO PROSPER", with "Thus" and "Prosper" separated by a four-leaf clover. The inscription appears to be related to the symbols of the tools and the ploughman; when in an article during 1818 Howe used the phrase, he wrote "Thus, by learning and industry, we hope to prosper". On 24 June 1804 Howe changed the masthead and from that day the Gazette carried a royal coat-of-arms, the emblem that appeared on government notices and proclamations when printed singly in broadside form. The masthead stood above the words "PUBLISHED BY AUTHORITY" below which every edition carried a notice, signed by the governor's secretary, to the effect that any government order or proclamation appearing in the Gazette would have official status. These orders were also printed on the front page. Apart from the advertising blurb that his paper was to be a solid source of information and that he courted the assistance of the ingenious and the intelligent, Howe also declared in his "address" in the first edition his

25. Sydney Gazette, 26 September 1818.
intention of avoiding political discussion and "personal animadversion". This meant that criticism of the administration would not appear and, although the circumstances of the time tended to dictate such a course, one historian has suggested that, because the Gazettes were sent to the Colonial Office, King could not afford to permit the insertion of any controversy.  

Throughout its early years, the Gazette failed to mention anything that might hurt the susceptibilities of government officials or the military. When King was attempting to court-martial the military officers for writing defamatory verses, the only mention he or they received in the Gazette concerned his dining on board H.M.S. Buffalo. Instead of governmental rows, it carried court reports, articles on agricultural methods, letters, extracts from overseas papers especially on the French war, ship news, notes on the moral improvement of the lower orders, maudlin verse, and miscellaneous news involving plenty of death, crime, oddities, social gossip and bad puns. Its style was pretentious and verbose but Howe sometimes laced the moral strictures, in which he delighted, with an ironic humour. When a particular suicide attempt failed, the man according to the Gazette was restored to the "Current of Anxiety by which he had been precipitated to so criminal an attempt upon his existence and which had been occasioned by a superabundance of sensibility and

27. Sydney Gazette, 17 April 1803.
an insupportable vexation occasioned by the elopement of an amiable partner, whose paramour, to add to his mortification, wore a wooden leg." 28. The news space of the Gazette was determined by advertisements and government notices, and while official orders were for the few to interpret and enforce for the many, the advertisers aimed at the wealthy elite who could afford silver-mounted gentlemen's pocket books, English Chintz, lavender water, jewellery, umbrellas, and the "Eating-House" in Pitt's Row.

Although the content and tone indicated that Howe aimed the Gazette broadly at the ruling elite, it was nevertheless the organ of the Governor and those close to him rather than such of his enemies as the military within this group. When George Johnston, a senior officer of the Corps and one of King's most persistent detractors, was attacked by pipes in 1806, no mention of the incident appeared in the news columns of the Gazette. 29. Neither King nor his secretary took advantage of the attack to denigrate an enemy by having the verses published, thus avoiding encouragement to what they considered the disaffected lower classes. However, an incident involving a letter from Flinders to King and published in the Gazette of 12 June 1803, shows that King regarded the Gazette as under his personal supervision. King saw one of the first copies off the press, realised that the letter as printed contained an error concerning directions for sailing through Torres' Straits, and recalled

28. Ibid.
29. See Johnston's advertisement, Ibid., 6 July 1806.
all issues for correction irrespective of whether or not they had been bought by subscribers. On reporting this to Sir Joseph Banks, George Caley, his botanist looking at a prison from the point of view of a free man, could only comment that if such a verbal order of the Government were lawful, he was at a loss to know what a man could call his own. 30. The autocratic King, on the other hand, regarded everything and particularly the official newspaper printed by a convict as subject to his control.

As under King, the Gazette supported his successor William Bligh and through the espousal of Bligh's monetary reforms became closely involved in the dispute which was to lead to the Governor's overthrow. This conflict stemmed from the traditional clash between successive naval governors and the New South Wales Corps partly over the traffic of spirits, from the financial aspirations of the landowner John Macarthur and from Bligh's arbitrary actions and self-righteous anger which provoked a desire for revenge among his victims. At this time the use of a variety of coin and promissory notes as a medium of exchange had turned the monetary system into a chaos which Bligh attempted to remedy by abolishing what was known as "Currency". 31. By a proclamation published in the Gazette on 4 January 1807 Bligh declared that all promissory notes which as part

31. For details of this complex situation, see S.J. Butlin, Foundations of the Australian Monetary System, 1788 - 1851. (Melbourne, 1953), p. 65 ff.
of this currency were often made payable in quantities of spirits or wheat, should be settled in monetary terms. All notes from that date were to be drawn payable in sterling money and all outstanding notes made payable in copper coin or colonial currency were to be sued for as if in money. Bligh's attempted reform failed because, as the Gazette wrote on 5 July, "The extraordinary fluctuations that have taken place in the price of wheat since the Hawkesbury floods of March 1806 have given rise to many litigations." Disputes arose from the practice of drawing notes in terms of wheat which was often, for lack of coin, the only way a settler could pay his debts and which had risen in price from a normal level of 7s. 6d. per bushel to 30s. Those who had contracted a debt worth £50 in wheat now found the same quantity of wheat worth £200. Creditors holding these promissory notes were, according to the Gazette, generally insisting upon payment of the promised number of bushels and successfully enforcing payment in defiance of Bligh's proclamation. However, the Gazette continued, it was "not only the duty but the interest of every well-meaning man" to pay strict obedience to a regulation, the design of which was to abolish such chicanery. It urged individuals not to bind themselves to payment of any specific number of bushels of an article to which unforeseen events could give even a ten-fold value and which, in the Gazette's words, "could let Shylock still insist upon his bond." "The orders admit not of misconstruction", the Gazette finished, "the sterling value of the note,
when drawn, in justice should be demanded, whatever be the mode of payment, and any excess upon that demand is unquestionably an invasion of another's right."

During the following weeks the issue was debated in the newspaper. On 12 July, the Gazette again asked if it was not an insult to common justice that the present holder of a wheat note, not being the person to whom the note was first granted, should demand a greater consideration for it than had been originally allowed. And then Howe embarked on a complicated piece of theory involving three people who over the period of the price rise in wheat had exchanged a note: If A received from B a note drawn payable to B by C for twenty bushels of wheat when at 8s. per bushel, A should be paid £8 sterling; but if A held the note while the price rose five times its original level, A would breach a principle of equity to demand twenty bushels worth £40. This echoed the view of Bligh, when on 11 July, he dismissed an appeal by John Macarthur against a court's decision that a wheat note signed by Andrew Thompson, one of the more successful farmers, and held by Macarthur, was payable in money at the price of wheat existing when the note was drawn.

Defeated in the courts over an issue which H.V. Evatt has suggested Macarthur used to test Bligh's courage and tenacity, Macarthur turned to writing letters to the Gazette under the pseudonym of
"Oculist". Taking up Howe's theoretical arguments, Macarthur claimed that a contract for wheat payments should be met in wheat, and asked if the Gazette would maintain its attitude if the price of wheat fell. Against this Howe reaffirmed his position, argued that to consider a fall in the price of wheat was irrelevant, and appealed to humanity to relieve the "doleful condition" into which many had been plunged because of the holders of wheat notes enforcing their "rights" and demanding the higher price. At the end of his letter, Macarthur had accused the printer of "calling names", a reference to Howe's earlier remark about Shylock insisting upon his bond, and he urged Howe to abstain from it because, as he wrote, although well informed liberal people were aware of the powerful effect of that practice, there were "too many narrow minds with whom it could do the printer an injury." To this Howe replied that he had never departed from "such a principle of justice as to have had recourse to personal animadversion or reflexion", and that he considered "the Oculist" to be "in possession of too liberal a mind" seriously to suppose him, the printer, "capable of so manifest a breach of duty and good manners."

Not to be outdone, Macarthur replied the following week in a

32. H.V. Evatt, Rum Rebellion. (Sydney, 1965), p. 88; on the authorship Ellis states that "Oculist's" diction resembled that of Macarthur, Watson suspects that the author was well known to Howe, and at his trial Macarthur's questions to Bligh's secretary indicate that he, Macarthur, was the author; H.M. Ellis, John Macarthur. (Sydney, 1955), p. 294; Watson, ed., H.R.A., 1, 6, p. 729, note 90; Evidence of Griffin at Macarthur's trial, Ibid., pp. 323 - 327.

33. Sydney Gazette, 26 July 1807.
sharply worded letter on which Howe made no comment. He accused Howe of trying to mislead and confound public opinion, claimed that he, Macarthur, had nothing to do with the persecutors of the unfortunate sufferers of the Hawkesbury flood and hoped that for the credit of the colony such circumstances would not arise again. Slightly shifting the issue, he made his main point about the sanctity of contracts more forcibly when he wrote that, if he agreed one year for a quantity of wheat to be delivered the following season, was it not his indisputable right to demand its delivery. This should be so because, however it might rise in price, he was obliged to receive the same wheat without any compensation if it fell in value. Although he sympathised with those suffering from a price rise, was he to forego his demand of a man who had escaped the calamity and was merely holding the wheat for some future rise to make it more profitable to sell. And he berated Howe for implying that he, Macarthur, should be called a "Shylock", "An Invader of Another's Rights", and "An Insulter of Common Justice". To use such language was in truth a "manifest breach of duty and good manners", and, what was infinitely more reprehensible, the pernicious doctrine with which he, Mr. Editor, had contrived to work up these invectives, was calculated to produce no less an effect than that of destroying all confidence in their mutual dealings with one another and to banish integrity and good faith from their society.

34. Ibid., 2 August 1807.
By contrast, the relative cordiality of the early part of this exchange suggests that, despite his approval of Bligh's reforms, Howe's sympathies lay closer to Macarthur and that the invective may have forced Howe to support Bligh with greater enthusiasm. Indeed, throughout 1807 there was little mention of Governor Bligh in the Gazette and court reports, a good substitute for controversy, tended to be the major news item. But the Governor's secretary later said that Bligh at the time had called the argument Howe put forward in the Gazette over the promissory note well-reasoned. Shortly afterwards, Bligh prosecuted Lord, Kable and Underwood for writing a letter derogatory to the governor and in the Gazette Howe again lent his support against these three men to whom the rebels in 1808 were to grant land. 35. In October 1807, Surgeon Harris who held a strong dislike for Bligh wrote to Mrs. King, wife of the previous Governor, and in passing called Mr. Howe "a great turncoat" for now supporting Bligh. 36. However it mattered little from the point of view of the Gazette whom the printer favoured in the ensuing rebellion because a scarcity of paper forced Howe to suspend publication during the crucial months. Throughout 1807 Howe had struggled along with very little paper at his disposal. In March the Gazette appeared on a single sheet which largely contained government regulations, advertisements and ship news. From the middle of April to early June no

35. Ibid., 16 August 1807; Evatt, op. cit., p. 205.
Gazette was issued until the arrival of a supply of paper enabled Howe to bring out four page editions until late August when again he stopped printing it. Three months before his overthrow, Bligh apologised to the Colonial Office for not sending the Gazettes of September and October because a scarcity of paper had occasioned its suspension.37.

Howe eventually acquired enough paper to print the Gazette on 15 May 1808 and, not surprisingly, the newspaper became the organ of the rebels. They appear to have immediately taken over the printing press because on the day following Bligh's overthrow, 27 January 1808, George Johnston on assuming command found some paper on which to print a proclamation ending martial law.38. As had been his practice under earlier governors, Howe submitted the proofs of the Gazette to the official who was now known as the Colonial Secretary and Macarthur, who had taken over the position, signed the usual notice that appeared in the Gazette signifying the official nature of the orders and proclamations appearing in the paper. Behind an order at this time that subscribers should pay corn to the public store to the value of their debts to Howe to enable him to continue printing the Gazette, there was, it has been suggested, a desire to make government orders more widely felt in the Hawkesbury area which remained largely pro-Bligh.39. Ironically, part of the Gazette's

financial problems stemmed from Howe's relationship with the government for it seems that during this, and possibly the earlier period, he was not allowed to print for private individuals. As in organisation, so in policy the *Gazette* echoed the sentiments of the new governors since it spoke on 9 October 1808 of the "pernicious and immoral tendency of illicit distillation." Their opposition to the practice, however, was occasionally used by Johnston and Macarthur as a means to attack their enemies and Martin Mason, a Hawkesbury settler and a well-known doctor, was convicted and commanded by an order appearing several times in the *Gazette* to destroy a still he had been using. At Johnston's court-martial in 1811, Mason gave evidence that this "unhandsome and scurrilous libel", as he called it, had been part of a campaign conducted by the rebels against him for supporting Bligh. He had been using a small ten gallon still for medicinal purposes for many years and, since other doctors had done the same, he considered his conviction unjust. This injustice had been compounded by the appearance of the order in the newspaper because, when he was sentenced, another man also convicted on the same day for working a forty gallon still received no mention in the government orders of the *Gazette*.

The *Gazette* adhered to government policy over politically less

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40. Evidence of J. Palmer to the Select Committee on Transportation, 1812, p. 64, Parliamentary Papers, 1812, 11, 341.
controversial subjects such as the problem of the debts of men leaving the colony. Attempts had been made to prevent men quitting New South Wales without paying their debts by a system known as "Detainer" whereby a creditor could ask the government to stop a man from leaving until his debts had been discharged. On 18 June 1809 the Gazette reported the case of a seaman who had contracted debts amounting to over £300 and whose creditors, because of his poverty, were forced to await his return from a sealing trip. Although it admitted that this was the only way to settle the issue, the Gazette attacked the creditors as incautious and moralized about the folly of allowing credit to men on the basis of their future earnings. The week after this report the Gazette carried a general order abolishing the detainer system which, the order said, caused "great inconveniences unattended by any benefits." But the order also stipulated that anyone leaving the colony had to insert, at least twice, notice of intention in the Gazette so that creditors would have time to recover their debts. 42 In the same issue an anonymous correspondent took umbrage at Howe's "severe animadversions" about the detainer system and declared that its operation was of "the most salutary kind in protecting the property of the settled inhabitants from the frauds that would inevitably be practised if people had it in their power to glide away, like "the baseless fabric of a vision!"

Howe retaliated by detailing the disadvantages of the system and noted that the order could not fail in its "desired utility".

Between 1810 and 1821 the Gazette furthered Macquarie's policies and was frequently used to attack his enemies. Macquarie, who once wrote of the Press in general as "that powerful engine of evil and of good", saw the Gazette to be of great importance in giving publicity to the orders and proclamations of his government. 43 Although he secured Howe's allegiance with a salary, Macquarie nevertheless made it clear that Howe, like everyone else in New South Wales, would flout the Governor's authority only at his peril. When in 1813 he placed heavy restrictions on the right of holding public meetings, he stipulated that advertisements calling a meeting had to be vetted first by the Provost-Marshal before they were placed, in accordance with regulations, in the Gazette; if, however, the printer placed an advertisement in the Gazette without the approval of the Provost-Marshal, he would be liable to a fine of £50. 44 In 1817 one of Howe's compositors was dismissed on the Governor's orders because he had signed J.H. Bent's petition attacking Macquarie's administration. 45 In return for the possibility of these sanctions Macquarie gave Howe support in other than purely monetary terms. When Simeon Lord, a wealthy merchant and magistrate, tried to put pressure on Howe to lower his advertising rates and asked Macquarie

44. Proclamation, 27 November 1813, (B.T., Box 13).
45. See below p. 3/1.
to institute an inquiry into the Gazette's financial affairs, the whole matter after a few preliminary letters was quietly dropped. Since the newspaper industry of the early nineteenth century was undercapitalised, proprietors and editors could resist such pressure only with difficulty. In this case, however, the government's resources and its concomitant power made Lord's efforts futile and Howe made no change to his advertising rates.

The Gazette became involved in the clash between Macquarie and J.H. Bent, the judge of the Supreme Court, as the Governor resisted Bent's attempts to separate the judiciary from the executive and place himself on an equal footing with Macquarie. One part of the dispute centered on the payment of the toll on the turnpike road between Parramatta and Sydney which, because Macquarie had exempted himself, Bent also refused to pay. Whereupon Macquarie issued a government and general order which was published in the Gazette and inserted in the order books of the regiment of the garrison. It did not mention Bent's name but referred to "An officer of very high rank in the civil service" whom, it implied, was lacking in public spirit by failing to contribute his mite to so useful and beneficial an establishment as the road. The Governor could not help, it continued, expressing publicly his astonishment and regret that this officer should be the first and only person in the colony

46. Wylde to Macquarie, 9 October 1818, Colonial Secretary In-
Letters, 1817, (New South Wales State Archives, Sydney).
47. Government and General Order, Sydney Gazette, 9 September 1815.
who had openly and avowedly attempted to break through and counteract the regulations which he, the Governor, had deemed it necessary to establish for the benefit and improvement of the country. And he ordered the keepers of the Toll Gates and the police to enforce the regulations. Bent later complained to Bathurst that Macquarie had accused him of a want of public spirit, censured his conduct and authorised the toll-collectors to proceed to personal violence against him. 48. Since his arrival Bent felt Macquarie had harassed him by a "variety of petty mortifications", but, he wrote, "I little expected that even Governor Macquarie would have converted the public Gazette into the means of gratifying his displeasure towards one of his Majesty's judges;...and I am certain that even where there was authority to censure (which I contend Governor Macquarie has not) a similar mode of censuring by publication in a gazette, or by orders inserted in a regimental book, never was resorted to in any other part of his Majesty's dominions, and could never be contemplated in any country where the independence and dignity of the judicial office were thought objects worthy to be attended to or secured." The row between Macquarie and Bent reached such a pitch that Macquarie refused to allow Bent's advertisement giving notice of the assembly of the Supreme Court to appear in the Gazette and apart from his arrival, the reading of his commission, and his departure, the only other

mention Bent received in the Gazette concerned Macquarie's general order recalling him and forbidding him to practice. 49.

The Gazette figured more prominently in the skirmishes between Macquarie, his supporters and the Reverend Samuel Marsden, the colony's senior Anglican minister, of which the first concerned the Free Settler letters. 50. In the Gazette of 5 March 1814 appeared a letter from one signing himself "A Free Settler" who enquired about a public library in the colony. When in England, he wrote, he had learnt of a collection of books which had been subscribed by pious and charitable persons for public use in New South Wales. In fact he had decided to emigrate partly because he realised that the education of his children would be provided for; but, he finished his quiet letter, no such collection appeared to exist. The following week a letter signed by "Another Free Settler", again in a moderate tone, mentioned that Marsden kept such a collection and criticised him for not advertising it, although, the letter admitted, it was used by a large number of people. Then "Free Settler" replied that he intended no criticism of Marsden for he had indeed been informed that the Reverend Chaplain had a good collection of books, and that he occasionally lent them among his friends in a most obliging manner; and he ended that those circumstances might possibly have led the Gazette's correspondent to the erroneous belief that the books lent to him were public property. A reply from Marsden then appeared.


50. The letters appear in the Sydney Gazette, 5 to 26 March 1814.
in the Gazette explaining that he had bought the books with money from his own pocket and that he had nothing to do with a public library. He was not, he replied, accountable to the writer of the last letter, or to the public for the distribution of those books, though they had not been withheld from anyone that had applied for them. Angry possibly because of some element of truth in the letters about a public subscription in England, Marsden demanded Howe reveal the writers' names. 51. When Howe refused, Marsden tried to force him by approaching the Governor. 52. He regretted, Marsden wrote to Macquarie, that after twenty years of suffering many hardships and privations he should have been the only person whose reputation should have been injured in the Sydney Gazette. It was not intended, he said, that the Sydney Gazette which was published by Authority should be used as a vehicle through which the envious and the malicious should have assassinated the reputation of any of his Majesty's subjects, and more especially those who should have arduous and painful duties to perform in the settlement. To this Macquarie replied that although the Sydney Gazette was published by authority yet it was not thence to be inferred that each particular paragraph or article contained in it was either warranted by Authority or at all times approved of when published. 53. But the

51. Ellis, Lachlan Macquarie, p. 321; Marsden to Howe, 23 March 1814, (Bigge Appendix, B.T., Box 13).
52. Marsden to Macquarie, 9 April 1814, (Bigge Appendix, B.T., Box 13).
53. Macquarie to Marsden, 13 April 1814, (Bigge Appendix, B.T., Box 13).
letters did not, Macquarie continued, appear to him to be offensive otherwise he should have made the editor answerable for their insertion and because of this he would not require Howe to surrender the authors' names. He ended by suggesting that Marsden could, however, have recourse to the courts of law. Marsden suspected J.T. Campbell, Macquarie's secretary, as the author but the evidence was inconclusive and there the matter rested.

The dispute between Macquarie and Marsden arising as it did out of their different views on the future of New South Wales, their mutual preoccupation with power and their similar personalities developed in 1817 into a major fracas over the Philo Free letter. J.T. Campbell, angered by Marsden's marked disrespect for Macquarie in not attending a meeting of aborigines at Parramatta while Macquarie himself was there, wrote a slanderous letter to the Gazette under the pseudonym "Philo Free." 54. The letter opened by comparing the South Sea Bubble to the New South Wales Philanthropic Society to which funds had been subscribed in 1813 and not accounted for by the officers of the society. Then, in the central paragraph, Campbell by implication attacked Marsden through his missionary activities in the Pacific islands - the missionary spirit found throughout the islands of the South Seas had introduced to the inhabitants muskets and cutlasses, vermin and the art of distillation. An ardent thirst for the influence of this spirit pervaded all the inhabitants of the

54. Sydney Gazette, 4 January 1817.
Islands and pigs, pine trees and New Zealand flax were the returns made for the comforts of the spirit instilled into them. Under the cloak of religion the Christian Mahomet of the South Seas was furthering his material interests, but Campbell wrote, those who bolt the pork and the profits should un-bolt their coffers and bear also the expenses of their Gospel vendors and bacon curers. Finally, Campbell criticised the treatment of the aborigines in New South Wales and finished with a few quiet remarks about the distribution of certain books, an echo of the Free Settler row.

Depending upon where their sympathies lay, the people of Sydney were either outraged or amused by this letter. George Howe and some readers of the Gazette were obviously delighted judging by some of the letters which appeared in that paper a few weeks later and which alluded in a quietly ribald way to Philo Free. Marsden naturally exploded and demanded that Howe be indicted by the Judge-Advocate, Jonathan Wylde, for criminal libel. Wylde at first agreed because he believed the editor had abused the use of the press entrusted to him. On Wylde's suggestion, Macquarie issued a government and general order in the Gazette, disclaiming all responsibility for publication of the letter, disapproving of it and expressing regret that because of great pressure of business in the Secretary's office it should have appeared in the Gazette. By an odd chance,

55. Ibid., 25 January and 1 February 1817.
Macquarie shortly afterwards ordered Howe to dismiss his compositor, George Williams, for signing a critical petition of J.H. Bent to the House of Commons. Williams immediately made out a deposition to the effect that Philo Free had been written by Campbell, not Howe, with the result that Marsden changed the information and had Campbell indicted. He had, Marsden later said, no wish to punish the printer because he was only the menial servant of the Crown and one compelled to do whatever his superiors ordered him; he was in fact only using Howe as a stepping-stone. Thus Campbell was charged with having composed and published, while occupying the official situation of Secretary to the Governor, a letter that defamed and vilified the good character and reputation of Samuel Marsden and insinuated that he was of a sordid and avaricious disposition and a religious imposter. In October 1817, the case was heard before the Judge-Advocate and six military officers and with much chicanery, perjury and bad law the trial developed into a very curious affair.

Not the least curious was the Gazette's treatment of the trial. The Judge-Advocate's report and the report in the Gazette show marked discrepancies. In the Gazette's report little appeared of the prosecution's address, Marsden's testimony, his cross-examination and the evidence of a number of witnesses. George Howe was accused,

58. Macquarie to Howe, 21 February 1817, (Bigge Appendix, B.T., Box 15).
59. Marsden to Bigge, 17 January 1821, (Bigge Appendix, B.T., Box 35).
but cleared, of perjury over one small part of his evidence while his major contention that Campbell had not handed "Philo Free" in his, Campbell's, handwriting to him in the Gazette office, was a complete fabrication. Somewhat uneasy, Howe wrote a vindication of his remarks made during the trial and printed it in the same issue of the Gazette which carried the report. Towards the end of the report, it was mentioned that no one "could for a moment attach the imputed culpability to the defendant", Campbell. The court, however, had taken the opposite view - Campbell on circumstantial evidence appeared guilty but as Wylde pointed out that they could not convict him without concrete evidence a compromise verdict was reached. Of this verdict the Gazette printed the first half - "that Campbell was guilty of having permitted a public letter to be printed in the Sydney Gazette which tended to vilify the public character of Marsden as the agent of the Missionary Societies for propagating the Gospel in the South Seas" - and omitted the last half - "and that it was in the power of the defendant in his official capacity as secretary to the Governor to have prevented the publication of! The court then adjourned until the following week when the judgement was to be handed down. On this occasion, Marsden's solicitor said that he did not wish to move the court for judgement because Marsden was bringing an action for damages in the civil court when Campbell might prove a justification of the libel. Garling, on the other hand, wanted the judgement handed down lest, as he put it, the
public might misunderstand the grounds on which the judgement was waived. But he failed and Campbell was discharged. No mention of the impending civil action appeared in the Gazette, however, and the last half of its report of the trial was filled with a discussion of the relevance of the verdict to the original charge and a round criticism of the court for not finally pronouncing sentence.

A similar pattern involving the suppression in the Gazette of anything tending to damage Campbell's position was followed after the account of the trial. The report, written by Michael Massey Robinson, a clerk in Campbell's office, and seen by Campbell before publication, was generally recognized as unfair or, as one witness Alexander Riley later said, very partial. It was so distorted that, on Wylde's prompting, F. Garling wrote a letter to the Gazette correcting it, only to have the letter returned from Howe who said he had instructions not to insert it. Wylde later remarked that he did not charge Howe with contempt of court because the statement formed what was termed the leader of the paper and did not purport to be a formal report of the trial. But the Gazette itself called it a report and leaders were not a regular feature of the paper until the mid-twenties. In fact, Wylde appears to have lacked the courage to prosecute Howe not only because he may have realised the great legal complexities in the way of success but

mainly because of the **Gazette's** connection with the government over a subject which, in Wylde's words, excited "disagreeable sensations" in Macquarie whenever he mentioned it.\(^\text{64}\) While the trial for criminal libel was reported in the **Gazette** in a very garbled fashion, the civil case in which Campbell was found guilty and Marsden awarded £200 damages was not mentioned. Although Commissioner Bigge was to point out the legal absurdities of the whole affair, H.G. Bennet in 1820 noted the oddity of finding Campbell guilty at the first trial not for being the author of the letter but for having in his official capacity allowed its publication, when the concept of the censor of the Press was unknown to the laws of England.\(^\text{65}\)

Shortly after Marsden's success in the civil courts, Macquarie quarrelled with him ostensibly over his conduct as a magistrate and again the **Gazette** was used as a weapon. To discover the truth of assertions that Marsden in his magisterial duties was intolerably severe on some prisoners Macquarie sent Wylde to question them, an act that Marsden saw as deliberately undermining his authority. But when Macquarie wrote direct to their gaoler without consulting the Magistrate, Marsden resigned. Macquarie, however, instead of accepting the resignation and, as Bigge was later to write, inserting on the retirement of a colonial officer the usual elaborate eulogies in the **Gazette**, announced in a government order printed in that

\(^{64}\) Ibid.
newspaper, that he had dispensed with the services of Marsden as a magistrate. Marsden felt he had been dismissed and Bigge saw it as a dismissal accompanied with disgrace. Thus, from 1803 to 1821, the Sydney Gazette had represented the views of the government of New South Wales and, within government circles, those of the various governors.

The Gazette showed that the ideas of the utilitarians had moved with the early colonists from Britain to New South Wales. The concept of improvement permeated the columns of the Gazette and Howe hoped to improve man's material lot in the colony by encouraging a spirit of enterprise. In the first issue he said that the "utility" of a paper lay in its being a source of information and the first masthead suggested that prosperity came from endeavour. The Gazette, Howe hoped on 2 January 1819, would "always find a rank among the more useful institutions of the colony." He printed articles on agricultural methods such as "Extract from the Reports of the SOCIETY for BETTERING the CONDITION and INCREASING the COMFORTS of the POOR. A LETTER, Suggesting a Mode of Preserving POTATOES", "Observations on the Choice and Care of SHEEP" and "CULTURE of HOPS in GREAT BRITAIN".\(^1\) When the Gazette shrank from four pages to two during 1806, these essays were virtually abandoned; but immediately Howe reverted to the original size in 1817, the Gazette again began to carry such articles as "Dr. Anderson's Remarks upon the Dairy."\(^2\)

Despite the reduction in size in the intervening years, Howe continued to give much emphasis to crop news and weather reports. Readers would occasionally respond to this emphasis on agricultural affairs;

\(^1\) Sydney Gazette, 1 May 1803, 12 August 1804 and 3 February 1805.
\(^2\) Ibid., 12 to 26 July 1817.
and one, calling himself "Equericus", sent a letter to the Gazette of 17 July 1808 on the treatment of horses. The idea of improvement affected the Gazette in other than purely rural matters. On 1 June 1816 Howe discussed in detail a plan for cultivating Hyde Park and explicitly mentioned "the spirit of improvement" which animated the inhabitants of Sydney. When reporting Macquarie's tour of Van Diemen's Land, he noted in the Gazette of 11 January 1812 the Governor's satisfaction with "the spirit of industry" which pervaded the agricultural settlement. The report concluded:

"With the improvements which the Governor has been pleased to plan for the general good of those settlements, joined to their active exertions which it has been his Excellency's pleasure so highly to applaud, the prosperity that already dawns will be accelerated, and it is fervently to be desired that each succeeding year may be distinguished by the happiest effects that persevering industry can produce."

Men's efforts to improve themselves through industry were reflected in the Gazette's preoccupation with financial matters. During the last two months of 1813 and 1815 debates on local currency, reminiscent of the Macarthur-Howe argument of 1807, dominated the correspondence columns. In the course of a long article on the state of the monetary system in the Gazette of 10 October 1812, Howe deplored the presence of a large number of people employed "in trade" rather than in "serviceable industry." No true benefit could accrue to the colony, he suggested, from mere buying and selling and many persons could be more profitably employed in producing goods. Similarly, in
the Gazette of 28 September 1811, Howe reported the launching of a boat of 130 tons in Sydney and remarked that it reflected "the highest credit to the spirit of enterprise and progressive exertion" of the colony. By regularly supplying news of shipping movements and the tides, Howe catered for his commercial audience. Much of the Gazette was devoted to advertisements and S.J. Butlin, an economic historian, has used them as a major source for his work, noting on occasions how well they reflected the development of a commercial code and the expansion of the number and variety of business establishments. Everything from books, fresh meat, women's dresses to beaver hats was advertised to be sold from retail shops, from auctioneers or from ships which had imported the goods. People also wanted to sell "Brick dwelling" houses or "The Old Red Lion" of O'Connell Street while others were to let grazing farms, cottages or land. Jobs were offered to "sober and industrious" men to manage farms, work in shops, take ships on sealing trips or become apprentices. Although circumstances tended to dictate that much of the life of the colony should be severely practical, the Gazette revealed the presence of a state of mind closely associated with the utilitarian ideology, the basis of which was in fact materialistic.

Man's spiritual needs were also catered for by the Gazette and the ideas of the evangelicals were prominent. Clark has shown the

connection between the Gazette and the evangelicals and has argued that from 1803 to 1823 the paper mirrored the values of the Protestants who, he states, rose to power under Macquarie. Although few of the proposed religious essays appeared, Howe included much of what he called in the Gazette's prospectus "select admonitions". Reports of events were coloured by the insertion of sentences driving home a particular moral or by the use of value-charged words. When one James Hailey received 200 lashes for helping another man steal a barrel of salted pork, the Gazette of 17 April 1803 hoped that this would act as an example by which it earnestly trusted "others may be deterred from the commission of such offences." The punishment of several prisoners for trying to escape was reported on 5 November 1814 "as an example to deter others from similar rash attempts." Not only was the criminal justly punished and his punishment meted out as a deterrent to others, he was also supposed to accept his deserts with a meek repentance becoming of his sin and, in some cases, appropriate to his departure for another world. One man, sentenced to death for rape, clearly pleased the writer of the Gazette's account on 25 November 1804 by repenting, by "yielding to his fate", and by making a "short harangue which he concluded with the fervent hope that his untimely end would operate to others as a wholesome warning against a life of vice and dissipation." By

contrast, Howe strongly disapproved of a criminal about to be executed unrepentant and unconcerned for his future life and dismissed his crimes in a brief report in the Gazette of 27 May 1804 as due to his "extraordinary habit of intimacy with the natives." Didactic stories and verses to illustrate the punishment of sin frequently appeared, and through these lessons Howe perhaps hoped to strengthen the moral purpose of his readers. Alcohol undid many men and on the 11 January 1817 a long piece of verse called "The Progress of Intemperance" told how it wrecked the life of one young man. The youth, Tom Tamper, courted and married "the comely Jane" who bore him three children "till Tom from home began to roam" and "leagued with a noisome alehouse band." An insatiable thirst for alcohol developed for which he paid with money obtained from selling their few possessions. After spending his time in debauchery, he would return home to rage and shout and beat his wife while his naked infants screamed

"In pity spare our mother dear, nor take her precious life! She gives us bread, by her we're fed; oh! father she's your wife!"

Although on this occasion he heeded "the just appeal", Tom continued to beat her until "by grief outworn" she welcomed death. The children then followed her to "the realms of blest Eternity". The husband, "shunn'd and contemn'd, by all despised" was now filled with anguish but, the author finished

"Repentance now too late obtrudes; no hope remains for thee; Remorse, poor wretch, must be thy scourge: thy dread Eternity!"
This concern for morality seems to have represented Howe's estimate of his readers' values because letters to the Gazette occasionally dealt with moral problems. On 17 November 1810 a correspondent wrote about "suppressing vice, establishing moral habits, and educating and bringing up our children in a decent and orderly way."

The concern for the spiritual welfare of the inhabitants of the colony found common ground with the desire to improve their material condition on humanitarian principles. As with slavery in Britain, the aborigines of New South Wales supplied the main topic on which the evangelicals and utilitarians met. In the Gazette of 4 January 1817 occurred a report about aboriginal children at a "Native Institution" which, Howe trusted, would reward the hopes of its patrons "by providing a seminary for the helpless offspring of this Country and opening the path to their future civilization and improvement." A year later Macquarie attended an assembly of aborigines and was, according to the Gazette of 3 January 1818, "much gratified by the very improved, decent and orderly appearance of the several tribes." On 1 January 1814 Howe compared the ways of life of the settler and the aborigine and, after arguing that each preferred his own, concluded

"With habits so diametrically at variance we can as little hope to civilize the native by bringing him into our way of life as he can hope to barbarize us by reversing the position. Desirable, therefore, as it may be, to give them a relish of improvement, yet under such contrasted prejudices it is scarcely to be hoped for a considerable time at least."
The humanitarians' desire to infuse "a relish of improvement" into the aborigines was part of their general concern for poverty and one correspondent told the Gazette of 8 February 1817 that "improving the condition of the Poor" was "one of the most important subjects" for any Community. But humanitarian beliefs had other outlets in the Gazette; after an account of a duel reprinted from a Paris paper, the Gazette of 24 May 1817 commented that it was "afflicting to humanity to see the barbarous custom of duelling yet prevail in an age of philosophy and knowledge."

But between the ideal and the reality lay a gap and the Gazette, unlike the papers of the mid-twenties, did little to make men think while pandering instead to their interest in "blood and sex." With a few exceptions, the Gazette avoided such controversial subjects as the clashes between the various governors and the military, the critical books on New South Wales of W.C. Wentworth and H.G. Bennet, and the court case, Eager versus Field, which in 1820 undermined Macquarie's emancipist policy by throwing doubt on the Governor's legal right to grant pardons to convicts. On 29 February 1812 Howe replied to a correspondent, who had sent "an invective under the specious appearance of a pun", that such matter could not obtain admission in the paper and, when William Bland was tried for producing some verses and letters severely critical of Macquarie, Howe wrote

"To recapitulate any part of the libellous matter would be to distress or agitate the feelings of our Readers. It is enough to say that their sentiment and expression
were held to be in an odium which every well disposed man would be certain to feel upon occasions of this special kind — wherein the character of the officer who governed the Colony had been basely slandered." 5.

Men reading this report may have wondered what Bland's libel was but the Gazette left them in no position to critically examine his attack on Macquarie and to decide for themselves whether there was any substance in it. Instead, Howe catered for the almost universal interest in "blood and sex", something which newspapers in most times have done. 6. Death and crime frequently appeared in the news columns of the Gazette and court reports took up much of the news space. Often the homilies of George Howe were absent and the event, some unusual and ghastly thing, was presented without any moral trimmings. The Gazette of 12 July 1807 gave an account of the death of a man whose gun exploded when he fired it; "The breach penetrated the pericranium and lodged in the brain" where it remained for two hours. After it had been removed, the man recovered enough to ask if there was any hope and to speak "with much precision." He then rapidly recited a greater part of the multiplication table, and at the expiration of four hours expired." Despite his ideals Howe seems to have taken a delight in detailing the aborigines' acts of

5. Sydney Gazette, 26 September 1818.
violence and "outrages." On 29 June 1814 he produced a special mid-week edition solely to report a murder trial and, when some prisoners were accused of murder, he headed a report in the Gazette of 29 May 1808 with these remarks:

"We do not wish to anticipate the event of a legal investigation into these serious and very dreadful accusations: But as the murder of the above unfortunate persons must excite in the public mind a desire to be acquainted with the leading circumstances of the atrocious acts, we shall endeavour to acquit ourselves of this painful duty."

Sex was treated more circumspectly and the names of the people involved were not printed. In the Gazette of 14 October 1814 Howe noted the sale of a wife by auction and on 12 August 1804 there occurred a paragraph about "a remote inhabitant" who, arriving in Sydney on business, met "a nymph". "In her he contemplated the only prospect of his future bliss", according to the Gazette, "and ventured tremulously, to disclose a partiality, which some might harshly term an indiscretion." The attraction was mutual, but because a generous gift might "bind the wavering inclination", the visitor felt that "a display of liberality would give permanence to his imagined conquest." So he made out "an order in her favour", the Gazette concluded, "and there ended the amour." When Howe on 20 May 1820 wrote about a woman who had sold her daughter for £300 and allowed her to be taken to India, the report so struck one reader that he noted it.

7. Sydney Gazette, 5 May 1805 and 23 August 1817.
in his diary remarking that no real names were mentioned in the Gazette. Clark has suggested that the Gazette's reports of murders and unusual events were connected with the Protestants' concern with death, but they also seemed to have been linked with Howe's existence as a tradesman and petty thief before he arrived in New South Wales. At this time, the working classes of the large towns in Britain were supplied with broadsides by innumerable printers, of whom the most well known was James Catnach, and these single sheets costing one penny related stories about fires, shipwrecks, deaths, murders or anything strange or unnatural. It seems likely that, before he arrived in Sydney, Howe knew of these publications and was accordingly influenced by their material.

The preoccupations of the colony's governing class were revealed in other facets of the Gazette. Since they were Englishmen they tended to revere all things British, a sentiment the Gazette frequently illustrated. To the youth of the colony Howe presented on 25 December 1819 "a Christmas box in the wish that they may rise in virtue, and the love of their parent home, Great Britain." Special editions were produced on 25 August and 19 October 1814 to give the news of British victories and the capture of Napoleon. On 16 September 1804 Howe reprinted from the British papers some verses entitled "Britannia's Call to her Gallant Tars" and this type of "Patriotic

10. Altick, op. cit., p. 287.
effusion" reappeared throughout the Macquarie period when Michael Massey Robinson's poetry celebrating royal birthdays was printed. For the deaths of members of the royal family, the Gazette came out with black borders for three consecutive weeks. For all their ideals and tolerance, these Englishmen regarded the aborigines as inferiors. When "a deplorable set of creatures", in the Gazette's words, "were disposed in moments of intemperance to hack and hue one another all to pieces" outside the paper's office in George Street, the proximity of such a bloody riot prompted the writer of this report to reveal his deepest feelings and he stressed the aborigines' lack of inclination "to adopt the manners of a people whose superiority" they could not hope "in centuries to attain." Unlike the aborigines and many of the convicts, the governing class had received some education and the Gazette would often exhibit literary aspirations. On 27 March 1819 Howe appealed that anyone who had borrowed a small volume called Homer's Odyssey would much oblige him by packing off "the little licentious pagan" to the Gazette receiving office where the Iliad bemoaned in solitude the desertion of its partner. Such pretentiousness reflected tastes which were, for a colony so preoccupied with material existence, somewhat esoteric, but which were widespread enough for a man to advertise in the Gazette of 7 September 1816 the opening of "An English Reading

11. Sydney Gazette, 4 to 18 April 1818 and 19 June to 3 July 1819.
12. Ibid., 30 October 1818.
School" in Sydney "for the Improvement of Articulation and general Oratory." Only the educated would have appreciated the pun that appeared in the first Gazette of 5 March 1803 when Howe wrote: "The Belles Lettres the other evening becoming the topic of conversation, one of the PARTIE observed, that he had read Chesterfield's LETTERS, but had never seen BELL'S." Such remarks generally gave the Gazette a certain intimate nature, which, coupled with what H.M. Green has called "a Dickensian shabby gentility", was apparent in a letter published in the centre of the front page in the edition of 17 September 1809. Signed by one "Candidus", the first paragraph discussed a convention, typical of contemporary English manners, by which recently married women were not seen in public without their husbands before they left for the honeymoon. The last half of the letter declared in urgent, confidential terms that, contrary to a vicious rumour then circulating in Sydney, a certain girl had not left her father's house and walked with her bridesmaid in full view of all and sundry before she left with her husband for their honeymoon. This intimacy of the Gazette was heightened by its social gossip, epitomised by the elaborate descriptions of the celebrations for the monarchs' birthdays. On 8 June 1816 the Gazette reported "a sumptuous and elegant dinner" given by the Governor for a large party among whom "the utmost harmony and festivity prevailed." Such

characteristics suggest that George Howe aimed the Gazette at the small ruling group in the colony.


In the Gazette of the 1820's Robert Howe was fond of alluding to his father as the Australian Caxton and of comparing his achievements with those of Benjamin Franklin and, like the obituary in The Australian Magazine of 1821, he tended to emphasise his father's struggle against great difficulties in producing a newspaper. Contemporary magazines such as Murray's Austral-Asiatic Review of 1828 and The New South Wales Magazine of 1833 carried articles on the Press which reiterated the same view in rather uncritical terms. The romantic emphasis on Howe's struggle against adversity permeates modern writings such as Erdos' book and is symbolized by Ferguson's remark that Howe "was certainly a skilled tradesman, a most industrious citizen, and a man of strong will and purpose." 15.

The exception to this type of historiography is the work of H.M. Green whose close examination of the Gazette provoked him to write in the 1930s of Howe as "the absurd little hero." 16. In his History of Australian


Green placed Howe in his historical setting and implied that the printer with his convict origins in a colony run on authoritarian lines could not have been a vigorous and independent editor as were those of the papers of the late 'twenties. Despite his highly critical approach, Green nevertheless relied largely on the Gazette for his source material and thus tended to repeat what Howe himself said about his trials and tribulations. On writing about his financial problems, for instance, Green failed to note that financially Howe did not depend on the Gazette to support himself and his family.

Such an approach has arisen, because, apart from the Gazette itself, there exists very little evidence to reveal Howe's interests and beliefs. Born at St. Kitts in the West Indies in 1769 where he probably learnt his trade from his father, the government printer, Howe moved to Britain and worked for a while on The Times. Transferred for life for shoplifting, Howe received a conditional pardon in June 1803 and a full pardon in 1806. This meant that he no longer received the food and clothing due to any convict employed in government work. To offset the resultant "goading penury" he opened a stationery shop and advertised that he was prepared to teach

"The Grammar of the English Tongue upon the Principles of Drs Lowth, Johnson, Priestly and other celebrated

17. Green, History of Australian Literature, 1, p. 65 ff.
Writers who have united their efforts in improving the Grammatical structure of their own beautiful and comprehensive Language, which every Englishman ought to be acquainted with, but few attain that have not had the advantage of a classical education." 19.

Successful or not he appears to have abandoned his teaching activities and in 1810 Howe received a salary of £60 a year from Macquarie for his work as Government printer and in 1812 married a wealthy widow. 20. Howe's wife ran a general store which was licensed to sell liquor and, apart from the usual advertisements for stationery or clothes, the Gazette would occasionally advertise that at 96 George Street the public could buy "a Series of Original Views (of) New South Wales" or "Fine flavoured Bengal Rum, real French brandy and brown stout, double extra, of uncommon strength and most inviting flavour." 21. Their wealth was now such that in 1816 both Howe and his wife were able to contribute £5/5/- each for the relief of the sufferers of Waterloo. 22. Howe speculated in the sandalwood trade, once importing 37 tons, and was financially important enough to be included in the committee which drew up the rules and regulations for the establishment of the Bank of New South Wales. 23. In connection with the Bank, Bigge referred to him as "a retail dealer"

20. Ibid., 10 October 1812.
22. Ibid., 3 February 1816.
and Howe once told the Judge-Advocate that his "private business," not the Gazette, supported his family and himself. 24. He seems to have played little part in the Bank’s early existence but remained wealthy enough to die, at the age of 52, leaving £4000 with some of his estate comprising five blocks of land and one brick and one wooden house within their own land. 25.

Howe’s activities of a spiritual kind were marred by a weakness for alcohol. Clark has suggested that either in London or earlier in his career Howe came under the influence of the evangelicals possibly through their attitude towards slavery. 26. He became a member of the Benevolent and the Bible societies but appears to have done little for them. 27. To Howe commerce, industry and science did not clash with religion; part of a verse he wrote in 1813 ran

"Now Commerce her bosom expands to the gale,
And Science o’er darkness begins to prevail;
Religion’s pure dictates illumine the mind,
And a Friend in our Patron and Ruler we find
A Patron whose sympathy hails the decree,
That bids the lorn Exile "Amend, and be free" 28.

Apart from succinctly expressing the ideological alliance between the utilitarians and the evangelicals, the verse displayed Howe’s devotion to Macquarie and authority, a devotion that bordered on

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27. Sydney Gazette, 15 March 1817.
28. Quoted by Robert Howe, Ibid., 14 April 1825.
complete obsequiousness even in an age renowned for its deferential customs. In 1813 Howe sent this to Macquarie: "Confiding in the Kindness of your Attention to those who have the honour to occupy Situation under Your Excellency's Authority, the Necessity I feel has induced me to trouble Your Excellency with the foregoing representation and I very respectfully beg leave to submit a request to Your Excellency's Consideration, that I may be indulged with a Supply of One hundred Reams of first Class demy printing Paper." 29. But whatever his attitudes and ideals, Howe acquired in later life a taste for the strong drink sold in his wife's general store. Barron Field reported the proceedings of the Supreme Court to the Gazette because he refused to have his court disgraced by the printer's "drunken bombast." 30. On the day of Howe's death, George Allen, a recent convert to Methodism, was writing about the evils of drunkenness in his diary. 31. Some pages are missing and the existing entry begins

"Look at the drunkard. He says he enjoys his bottle - at night he appears happy - he appears so - but I am of (the) opinion that it is only appearance - but see him in the morning after spending the past night in rioting and drunkenness. What are his feelings - he is tormented with the headache and many other pains if not with tormented conscience - He is unfit for business - he is unfit to live but still more unfit to die...There is now in this town a person well-known

30. Field to Bigge, 15 June 1820, (B.T. Box 23).
and well respected if a drunkard can be respected - now in (I may say) the agonies of death - quite unprepared I fear to leave the world and still more unprepared to enter the other world - How many years has this man spent in dissipation (sic), vice, folly, iniquity and even blasphemy. In health he never thought of his God. May the Lord even now have mercy upon (him). May he even now ere the life shall ebb away pardon his crimson-dyed offences and speak peace to his soul. He is not too guilty for the son of God. I allude to the printer of the Sydney Gazette, Mr G-H:"

As the diarist finished his entry the shutters of the Gazette office were put up and a church bell tolled for the death of Mr. G.H. Clark has argued that the tone of early civilisation in New South Wales was fashioned by the clergy and the printer of the first newspaper, among others, but such evidence suggests that they were probably a mutual source of some embarrassment to each other. 32.

32. Clark, op. cit., pp. 109, 256.
When producing the Gazette, George Howe was confronted with a number of economic, technical and distributive problems. Much of the evidence about the economics of the Gazette is of doubtful value. In 1817 Howe drew up a type of profit and loss account and demonstrated that the Gazette was run at a heavy loss.¹ Matching wages against revenue from advertisements for a week, Howe showed that he lost £3/9/9 which, when added to the rent value of the office, and depreciation of materials, expanded to a total loss of £6/9/9 each week. On concluding the account, Howe noted that the printing of the Gazette was "far from lucrative," and that "without the liberal assistance" it received from the government "it could not be supported." The merchant Simeon Lord strongly disagreed with Howe and said that income from advertisements, subscriptions and job-printing gave Howe a profit of at least £10 a week.² With "all the advantages" Howe received from the government, this meant, Lord argued, that the printer's "gains" were between £800 and £1000 a year. Despite appearances, this evidence is not indicative of the Gazette's economic position. Howe had provoked Lord's anger by refusing to insert an advertisement which had arrived too late for a particular edition of the Gazette. Lord had then complained that

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¹ A Statement, Howe to the Judge-Advocate, 25 June 1817, Colonial Secretary In-Letters, 1817, (New South Wales State Archives, Sydney).
² S. Lord to the Judge-Advocate, Colonial Secretary In-Letters, 1817.
Howe's advertising rates were exorbitantly high. After making enquiries to the printer, however, the Judge-Advocate considered the whole matter unimportant and advised Macquarie to make no alteration to the rates. 3. Lord, moreover, could have known little of Howe's financial affairs. But the account Howe drew up failed to give a true picture of the Gazette's financial position. On the costs side, paper and ink were not included and the wages were those paid to men whose jobs entailed printing work other than that for the Gazette. On the revenue side, subscriptions and a proportion of Howe's salary appropriate to his work on the Gazette were excluded. To include an estimate for depreciation of materials in an account of what it cost to run the Gazette was misleading because Howe admitted in the account that the materials were "the property of the government." If Howe was not being deliberately obscure, he appears in fact to have drawn up the account on the basis of several different assumptions. The omissions and oddities suggest that Howe saw the Gazette partly as his own financial concern, partly as a government concern and partly as an extension of the total government printing operations. At the Campbell libel trial a few months later Howe made a remark in a similar vein when he said that the press and all the materials belonged to the government but that he worked the press and had "all the profits." 4. This

3. Wylde to Macquarie, 9 October 1818, Colonial Secretary In-
Letters, 1818.

4. Evidence of G. Howe, Report of the Judge-Advocate (on the
Marsden v Libel Trial, 1817). Encl. No. 2, Macquarie to
Bathurst, 20 March 1821, Historical Records of Australia, 1, 10,
p. 459.
possibly meant that on those occasions when receipts from subscriptions and advertisements rose above the costs of ink, paper and wages, Howe pocketed the difference.

The income derived from the Gazette was characterised by its sporadic nature. In 1817 the advertising rates in sterling money for retail goods were 3/6 for 12 lines for subscribers, 5/- for non-subscribers and 3d a line for both above 12 lines; for cattle impounded by the government 2/6 for each person's cattle advertised; for monetary claims 2/6 each; for men leaving the colony 1/- each; and for auctions 5/- for 12 lines. Over a three week period in 1817 advertisements at these rates brought Howe an average weekly income of £5/13/3. Of the advertisements, those about men leaving the colony had to be inserted, along with government orders, before all private advertisements and frequently men left without paying the printer. Howe also lost on the advertisements for cattle impounded because pound-keepers would leave 2/6 for each advertisement regardless of the number of cattle and owners involved. The distance of the pounds from Sydney made it impossible for Howe to check up on this evasion. Bad debts and, as Green has suggested, a general lack of familiarity among the business community with the uses of advertisements made advertisements an unreliable source of income. Similarly, with a circulation of 100, the income derived

from subscriptions, when paid, was very small. The price of the 
Gazette rose steadily. In 1803 it was 6d "currency" a copy sub-
scribed to on quarterly terms of 6/- a quarter. The scarcity of 
paper in March 1806 and the consequent use of a more expensive 
kind forced Howe to raise the price 1/- a quarter for Sydney sub-
scribers, 1/6 for those at Parramatta and 2/- for those in the 
Hawkesbury area. The last two figures were partly determined by 
the difficulty Howe experienced in collecting subscriptions from 
people outside Sydney. By 1813 the price had become 9d sterling 
or 1/- "currency" and in 1817 it was 1/- sterling. Whatever the 
price, subscribers seemed reluctant to pay Howe because the Gazette 
carried frequent appeals, sometimes pathetic, sometimes amusing, to 
"the generous public" to meet their subscriptions. To those in 
country areas who failed to pay, Howe occasionally threatened to 
stop sending the Gazettes or to begin court proceedings. Often 
there occurred a note of exasperation in his appeals as when he com-
plained in 1818 of the subscribers who were "ten or twelve years in 
arrears". Although arrangements were made for subscribers in 
rural areas to pay their debts in wheat to overcome the lack of 
specie, many did not pay probably because the Gazettes seldom

7. On the circulation see below, p. 67.
10. Ibid., 10 July 1813; Lord to the Judge-Advocate, Colonial 
Secretary In-Letters, 1817.
12. Ibid., 14 March 1812 and 15 May 1819.
13. Ibid., 14 February 1818.
reached their destination judging by the remarks of some magistrates in 1821.14.

By contrast with the receipts of the Gazette, the costs had always to be met. In the early years, paper was a major item of expense since the chronic shortage of any type of paper continually forced its price up. The cost of Spanish paper, for instance, rose 8/- a ream between 1803 and 1807, and once in 1806 Howe said that the failure of subscribers to pay had left him unable to buy paper.15. Although the government once gave the printer 100 reams of paper, in general he paid for this material himself.16. Labour costs were another large item of expense. At first, it appears that Howe managed to print the Gazette himself without any assistance, but by 1817 he was paying seven people for work connected with the printing office.17. Two men each received £2/10/- a week, two others £1/7/- each, an apprentice £1/-/- and two part-time assistants 6/- and 3/- each so that a week's wages came to a total of £9/3/-18. Simeon Lord complained that the wages were double those paid to any other mechanic in the colony and thought it "uncommonly liberal" of Mr. Howe to pay them, especially since he suffered "so much by such

14. By contrast, H.M. Green and E.M. Miller have debated whether or not free settlers refused to pay for the early newspapers because they regarded them as government affairs which ought not therefore to cost anything. Green, op. cit., I, p. 70, note. 4.
15. Sydney Gazette, 7 June 1807 and 2 March 1806.
liberality." Whatever the truth, George Howe appears not to have been troubled by the labour problems that plagued his son. In November 1821 an apprentice who harboured a grudge against Robert Howe tried to wreck the printing office, a clerk whom Howe had sacked was at one stage during 1822 suspected of trying to murder the printer, and in 1823 an employee was caught pilfering cash from the office. These problems all accentuated the difficulties the printer faced in running the Gazette.

Despite contradictory evidence, it seems clear that the economics of the newspaper industry to 1823 were such that it could only have survived as a government monopoly. In 1813 Howe said that for more than ten years he had "laboured under extreme difficulty in conducting the Government Press" and Macquarie obtained a salary for the printer because no allowance had been made for stationery expenses which were, Macquarie said, considerable. Howe’s salary of £60 a year was supplemented by the right to draw rations for himself from the government store. Printing presses, type and other articles such as composing sticks were supplied by the government from 1803 to 1823. Government ownership of the press and the salary made

19. Lord to the Judge-Advocate, Colonial Secretary In-Letters, 1817.
20. Sydney Gazette, 24 November 1821; Diary of G. Allen, 19 June 1822; Deposition of R. Howe, 17 April 1823, D. Wentworth, Correspondence 1785 - 1827, Wentworth Papers.
Howe an employee of the Government. When in 1819 Howe sent an account to a government official, the Deputy-Commissary told Macquarie that Howe's claim was unjust for the reasons that the printer received a salary and that the materials for printing the Gazette were the property of the government. Two years later, however, Robert Howe was paid for some job printing for various government departments. For printing for "H.M. Lumber Yard" he received £16/1/-, for the Dock Yard £4/9/6, and "for advertising public tolls" £1/10/-. For Robert Howe to be receiving a salary as government printer, these payments to him appear somewhat irregular. But, despite the salary, the Gazette was sometimes seen as the property of the printer. When in 1817 Howe said he took "all the profits", it seems possible that each individual copy of the Gazette was regarded as a piece of property from which revenue could be derived just as income accrues to a publisher of books for acting as an intermediary between author, printer and retailer. In 1821 Howe told Bigge that, among other things, he did "all the Government Printing free of expense." Here Howe appears to have implied that the government had granted him a monopoly of newspaper publishing in the colony in return for which he printed government notices in the

23. Drennan to Macquarie, 2 September, 1819, Colonial Secretary In-Letters, 1819.
Gazette without charge. This view was to be frequently and clearly put forward by Robert Howe in 1824. Thus in one narrow sense the Gazette was seen as the property of the Howes while, at the same time and in a broader economic, legal and political sense, the Gazette was also regarded as the government newspaper. Apart from printing the Gazette, Howe did general job work. Before 1812 he received little income from this type of work because the government would not allow him to print for "private persons." 26. Although the almanac he printed was unprofitable, Howe was by 1817 acquiring some revenue from printing hand bills, promissory notes, apprentices' indentures and powers of attorney. 27. In Britain the owners of provincial newspapers were printers first and journalists second with much of their income coming from job printing and general stationery work. 28. In New South Wales, the variety of Howe's interests indicate the poor financial state of the Gazette and seems to support Howe's remark that it was "a source of loss rather than of gain." 29. Moreover, if the government had not supplied the press and paid the printer a salary and if a competitor had started, all the evidence suggests that the Gazette in the form it appeared

27. Sydney Gazette, 4 December 1813; Lord to the Judge-Advocate, Colonial Secretary In-Letters, 1817.
between 1803 and 1823 would not have survived as an economic proposition.

As with the economics of the Gazette, Howe faced considerable technical problems which, to a large extent, contributed to the scruffy appearance of the paper. 30. Although The Times of London was run off a Köenig steam press from 1814, the printing trade was technologically behind most British industries and the hand press was not generally replaced by steam until the 1840s. 31. George Howe used a press off which each individual printed sheet had to be worked by hand before the next could be printed. In 1821 Robert Howe complained that it was too slow for the volume of printing he had to cope with and too small to print some public forms. Two years later he admitted that the press placed limitations on the size of the Gazette. 33. To enlarge the Gazette he needed a Columbian Press and this was to arrive in 1824. Type had to be brought out from Britain and since the same type was used for long periods it frequently became very worn. When the Gazette of 12 May 1804 noted the arrival of a complete set of type "sent by GOVERNMENT", the notice was ironically barely readable. This was accentuated by


33. Sydney Gazette, 13 July 1823.
the fact that all printing done by hand presses tended to smudge the type. Ink presented another problem. In the Gazette of 6 February 1823 Robert Howe apologised for "the illegibility of last week's Gazette" because he had been forced to make his own ink. Howe called his attempts "laborious and expensive" and two failures preceded the successful attempt. Composing under these conditions was arduous and it took a compositor about four hours to set up Campbell's Philo Free letter which was nearly 1250 words long. The length of time taken to set up the type for a Gazette did not seem to reduce the chances of errors appearing, many of which were due to carelessness. The year of the edition of 6 January 1816 appeared as "1815" with the 5 crossed out and the 6 inserted in ink, the Gazette of 5 May 1805 had the date "APRIL 28" crossed out with "May 5" written in by hand and on 6 October 1810 the court report was boldly headlined "BSNCH (sic) OF MAGISTRATES."

One of the greatest problems the printers had to face and one that accentuated the scruffiness of the Gazette was the lack of printing paper. A chronic shortage of any type of paper existed during King's governorship. Officials could not furnish accounts because of the shortage, the government store had very little and King once asked George Johnston to stop writing to him because the

34. Read, op. cit., p. 63.
Governor was on the point of being forced to reply on "brown paper" of which he had a very small stock. Howe regularly advertised for Spanish paper, rice paper or any type even if "damp or slight mildew" had made it unfit for writing and every so often he would apologise for the varying size, shape and colour of the Gazette. The shortage originated in Britain where it became severe during the Napoleonic wars, the price of paper doubling between 1793 and 1801.

The repercussions in New South Wales were aggravated by the irregular nature of communications with Britain. The Gazette in 1803 appeared as a four page newspaper, each page measuring $12\frac{1}{4}'' \times 8\frac{1}{2}''$ and comprising 3 columns $2\frac{1}{2}''$ each. From 1804 to 1805 the format stayed the same but the size of the pages varied from $10\frac{3}{4}'' \times 8\frac{1}{4}''$ to $12\frac{3}{4}'' \times 9\frac{1}{4}''$. In June 1805 it became a single sheet two page newspaper. From 12 January 1806 it appeared fortnightly instead of weekly, failed to appear altogether during much of February due to a lack of paper and then came out again in the middle of March as a four page weekly. Supplements had occasionally been published during this period, and, although the majority had been single sheets, one had been published on 29 September 1805 as a single column about 3'' wide. Throughout 1806 and 1807 shape and colour varied. The Gazette of 14 September 1806 was printed on coarse

36. Palmer to Piper, 1 March 1806, Piper Family Papers, A254, (Mitchell Library, Sydney); King to Johnston, 1 March 1803, H.R.N.S.W., 5, p.63.
37. Sydney Gazette, 26 June and 31 July 1803, 20 January 1805, 7 June 1807, 15 May 1808.
38. Altick, op. cit., p. 262.
39. Palmer to Piper, 1 March 1806, Piper Family Papers, A254; Sydney Gazette, 16 March 1806.
blue grocers' wrapping paper. In early 1807 it appeared as a single sheet 13 3/4" x 9 1/2" with three columns 2 3/4" wide but by the middle of the year it had shrunk to 12 1/4" x 7 5/4". Suspended from August 1807 until May 1808 when it came out still as a single sheet 14 3/4" x 10 1/2" with three 3" columns, it was enlarged during 1809 to 15 1/2" x 9 3/4". While the 1810 Gazettes were printed on a bluish paper, the overall format remained roughly the same until 1813 when the single sheet two page newspaper expanded from 16 1/2" x 10 1/2" with three 3 1/2" columns to 18 1/2" x 12 3/4" with four 2 3/4" columns. It remained unchanged, apart from some small variations in size, to 1817. At this time paper became more abundant with the ending of the European war and the Gazette returned to two sheets four pages, each measuring 15 1/2" x 9 3/4" with three 3" columns. It remained basically in this form until the end of 1823, although the printer occasionally reverted to the single sheet format. But, despite the appearance in the early 'twenties of a large number of supplements of various sizes, Robert Howe still experienced some problems because in 1823 he wrote of the difficulty of procuring China paper. Rice paper doubled the work of the printer since it could only be printed on one side and two sheets had to be stuck together to make a single sheet printed on both sides.

The difficulty of acquiring printing paper matched the problem of securing news for the Gazette. Locally George Howe had to go

40. Ibid., 20 February 1823.
out himself and collect material for the Gazette, although during Macquarie's governorship he was probably helped by assistants. There is no evidence of anyone acting in the capacity of a reporter and Howe would have had to rely on gossip and private letters for some news. Court reports figured prominently in the Gazette possibly because the courts supplied a stable source of news, whereas the relatively small amount of religious and agricultural essays was probably due to the spasmodic arrival of magazines from abroad. Between 1803 and 1823 a major source was, however, the newspapers from various parts of the world. The printer would quote papers from Boston, Paris, St. Petersburg, Penang, Java, Sierra Leone and in the Gazette of 2 July 1809 copied an article written in Lisbon on the activities of the French army in Spain from the Rio de Janeiro Gazette Extraordinary. But most of his papers came from Britain and India. News from Britain was particularly plentiful. On 15 December 1821, Robert Howe brought out an extra edition of the Gazette when he received some British papers from people arriving in Sydney. The supply, however, was irregular and in the Gazette of 22 May 1819 George Howe wrote

"Having no regular succession of the English papers, we are obliged to any friend to the Commonwealth of Lettres, who feels disposed to favour us with Communications, which...we should always value as a string of variegated gems, which we find pleasure in from their variety."

This remark suggests that, by any standards, Howe's style was verbose and pretentious. But this verbosity reflected in part the dearth of news available for use because, as Mayer has shown, expansion of the volume of news encouraged the development of conciseness of expression in newspapers. 42.

By any standards, the circulation of the Gazette was very small. Less than one hundred copies of the first edition were produced in 1803 and even by 1817 its circulation was only 100. 43. Bigge was, therefore, forced to give some thought to the problem of regularly publishing government orders, abbreviated orders were occasionally published in booklet form, and Macquarie once felt it necessary to have a government notice read in church to give it extra publicity. 44. There were a number of reasons why people did not buy the Gazette. Although the correspondence columns showed that some settlers read the Gazette, it was in the nineteenth


43. Sydney Gazette, 10 October 1825; Evidence of G. Williams, Report of the Judge-Advocate (on the Marsden v. Campbell Libel Trial, 1817), Encl. No. 2, Macquarie to Bathurst, 20 March 1821, H.R.A., 1, 10, p. 456. In the Gazette of 25 December 1819 Howe wrote "A paper in England, under 700 in number, is sensibly a losing concern; and what must be a paper here within half the number, and half of that unpaid for?" Some such as Green and Ferguson have taken this as a positive indication of the Gazette's circulation. But, as on most matters concerning the Gazette, Howe's remark, whatever it implies, is not reliable. Green, op. cit., 1, p. 70; J.A. Ferguson, "Introduction", The Sydney Gazette and New South Wales Advertiser, 1, 5 March 1803 to 26 February 1804 (Facsimile ed., Sydney, 1963), p. VIII.

century a common feature of an agricultural population that it rarely had the leisure time necessary for reading. Greenop has suggested that in prosperous periods when the demand for labour was high, long hours meant that even the literate public had little time to read and the illiterate no time for self-improvement. As in Britain and the United States, the single paper of New South Wales was bought largely by the affluent and one convict, a highly literate man for that time, said in 1819 that he could not afford the Gazette when the price was 1/- sterling a copy. Literacy appears to have been confined to a few because magistrates occasionally complained of the lack of education amongst "the lower classes" and of the general disinclination for books amongst the inhabitants. As in India where the early press was run exclusively by Britons for the European community, the Gazette appears to have been produced to aid the administration of the colony and one contemporary even wrote that because of the presence of government orders, it was immediately stamped with a degree of respectability which helped its

47. Read, op. cit., p. 201; Lee, op. cit., p. 163; J. Slater, A Description of Sydney, Parramatta, Newcastle. (Bridlesmith Gate, 1819), p.11.
circulation. But association with the government and a desire to acquire respectability were possibly not the main objects of a large proportion of the population and, for that very reason, many would probably have spurned the Gazette. In Britain, a single copy of a newspaper would generally have more than one reader because of the presence of newsrooms, the establishment of reading societies, the use of coffee houses as newsrooms, and the fact that newspapers were read aloud to groups in workshops and public houses.\textsuperscript{50}. There is no evidence that such institutions or customs operated in Sydney during the Gazette's early years. The first reading room was not established until 1820.\textsuperscript{51} In Britain, one function of a public house involved it acting as a meeting place for community entertainment whereas, apart from the occasional successful "inn", Sydney appears to have had few places functioning along those lines.\textsuperscript{52}

The circulation of the Gazette was naturally affected by what people thought of the paper and, although the evidence is slight and various, it does show a division between certain idealistic views related to utilitarian beliefs and some practical opinions related to the purpose which men thought the Gazette should possess. The utilitarians' view was succinctly expressed by Macquarie when

\begin{itemize}
\item Ellis, Macquarie, p. 323.
\item Clark, op. cit., p. 317.
\end{itemize}
replying to Marsden over the Free Settler letters. Apart from government notices, he said, the Gazette was to carry "such useful information" as the editor could collect so as to fill the pages and make them "at once useful and interesting." In Britain the various compilers of books on New South Wales also reflected this idealistic approach. Paterson in 1811 said that "the utility and interest" of the establishment of the Gazette during 1803 were "speedily and universally acknowledged." In a similar vein, O'Hara's History of New South Wales of 1818 noted that the Gazette, apart from being necessary for the promulgation of government notices, had been found "a great source of information and rational amusement to the settlers and other inhabitants."

Others, however, thought of the Gazette in more practical terms. Anyone connected with the government of the colony found the paper essential for administrative purposes. After the first few copies were sent to Britain, the Colonial Office ordered a regular supply of twelve copies of each edition and when, in the early 'twenties, these were not sent, both Bathurst and his secretary complained to Brisbane that they had been put to "great inconvenience" by having to go to "private individuals", not the Gazette, for any

53. Macquarie to Marsden, 13 April 1814, (Bigge Appendix, B.T. Box 13).
information connected with the colony. 56. Similarly magistrates in the interior stressed in 1821 how necessary it was for the Gazettes to be regularly forwarded to them. The Gazettes, they said, sometimes contained "information of the highest importance to magistrates up the country" and were necessary for the guidance of the bench on administering government orders. 57. As a paper which presented news, however defined, to a literate public, the Gazette appears to have been generally disliked. The emancipist merchant Simeon Lord hinted that George Howe usually appeared desperate for material and that the Gazette contained "anything he (could) lay his hands on." 58. Where Lord merely implied that the Gazette lacked any quality, Edward Eager, as editor of Wentworth's book, explicitly complained that it seldom contained "any interesting matter, except the public acts of local government." 59. A subscriber also told the printer, Robert Howe once admitted, that the Gazette had "nought worth reading but Government Orders." 60. George Allen, before his conversion to Methodism and his friendship with Robert Howe, had a similar opinion of the Gazette. As an articled clerk in a solicitors' office, Allen was for a time in the habit of copying into his

56. Chapman to King, 16 October 1804, H.R.N.S.W., 5, p. 479; Bathurst to Brisbane, 31 May 1824 and Horton to Brisbane, 26 June 1824, H.R.A., 1, 11, pp. 264, 301.
57. Jamison and Fulton to Goulburn, 16 June 1821, Moore to Goulburn, 20 June 1821, Colonial Secretary In-Letters, 1821.
58. Lord to the Judge-Advocate, 1817, Colonial Secretary In-Letters, 1817.
60. Sydney Gazette, 30 October 1823.
diary bits of news from the Gazette comprising court reports, government orders, ship news, market prices and advertisements about people leaving the colony. On three occasions, however, he irritably wrote that the Gazette contained "no news whatever" and the three issues to which he referred were in fact typical editions of the paper of 1820.61. At this time Allen was so desperate for newspapers that he asked his brother in Britain to send out some English papers because they were "a great rarity" in the colony.62. The only exception to this apparent dislike of the Gazette was W.H. Chapman who in 1804 wrote that the Gazettes were "in very great repute and looked upon as great curiosities."63. But Chapman was Governor King’s secretary and he merely reflected the curiosity many people show on the first appearance of a newspaper. Thus, with the exception of government officials who probably did not pay for their Gazettes, it seems that many people in New South Wales did not subscribe to the paper because for them it held little interest.

Others did not buy the Gazette because outside Sydney it was often impossible to obtain a copy and the difficulties of distributing the Gazette throughout the colony reflected generally the poor state of communications. In May 1821 four Liverpool magistrates asked the Colonial Secretary, Goulburn, to regulate the delivery of the Gazettes.64. One official at Liverpool told Goulburn

61. Diary of G. Allen, 13 and 20 February and 23 April 1820.
63. Chapman to King, 16 October 1804, H.R.N.S.W., 5, p. 479.
64. Liverpool Magistrates to Goulburn, 26 May 1821, Colonial Secretary In-Letters, 1821.
that he had not received the Gazette for the last three months and another at Windsor that the Gazettes were sometimes up to six to eight weeks late and sometimes never arrived. Each magistrate in the interior suggested that a constable should take the Gazettes to the boundaries of one district where another man would collect and then deliver them to the officials and constables of other districts further away. As a result of these suggestions, the Gazettes were sent off every Saturday morning and carried to the interior by a police officer so that, according to Robert Howe, where once they had occasionally taken a week to arrive, they now took less than a day. One magistrate had even suggested combining this arrangement with what postal service existed to achieve "the desired end of having a weekly packet of letters conveyed between the capital and Windsor." In November 1821 a correspondent calling himself "A Bardo-Narrang Settler" complained to the Gazette of the lack of postal arrangements for the inland settlers. This letter and Howe's comments on the inefficiency of the postal officers involved the printer in a libel action brought by the postmaster. But little appears to have been done and by July 1823 the Gazette was still sent by "the government courier" since there existed no "Inland Post." A similar situation had existed earlier. In the

65. Moore to Goulburn, 20 June 1821 and W. Howe to Goulburn, 3 March 1821, Colonial Secretary In-Letters, 1821.
66. Sydney Gazette, 6 December 1822.
67. Coxin to Goulburn, 10 June 1821, Colonial Secretary In-Letters, 1821.
68. Sydney Gazette, 24 November 1821.
69. Ibid., 6 December 1822.
70. Ibid., 24 July 1823.
Gazette of 19 August 1815 George Howe had said that the Gazette were sent to Parramatta either by "common courier" or by a "passage boat". Other related problems of distribution would sometimes arise and affect the Gazette's circulation. In 1820 an owner of one passage boat was charging sixpence for taking a letter from Sydney to Parramatta when the charge had been officially fixed by an order of Governor King at twopence "currency". In 1812 the Gazette were simply lost on their way to Parramatta and in 1821 copies of the Australian Magazine were either lost or stolen on a boat trip to Windsor. One Windsor magistrate, moreover, told Goulburn in 1821 that the constable who received the Gazette for his district would have an appropriate cover to keep the papers dry. The environment clearly played some role in determining whether or not the country subscribers could read the Gazette even when they were lucky enough to receive them. Within Sydney, the problem seldom arose because the printer and his assistant would themselves deliver the Gazette to subscribers. The size and the appearance of the Gazette, therefore, were determined by a variety of problems of an economic and technical nature.

71. Diary of G. Allen, 16 October 1820.
72. Sydney Gazette, 14 March 1812, 5 May 1821 and 9 June 1821.
73. Coxin to Goulburn, 10 June 1821, Colonial Secretary In-Letters, 1821.
CHAPTER 4 - ROBERT HOWE and the END OF THE CENSORSHIP,
1821 - 24.

After George Howe's death several changes occurred in the Gazette when Robert Howe, at the age of 26, took control. The loose alliance between utilitarian and evangelical ideas was largely abandoned as the printer propagated more forcibly than his father the beliefs of the evangelicals. The concessions to the utilitarian tradition were slight. On 19 May 1821 Howe called the Gazette "a vast utility"; he included in the edition of 11 August 1821 an article on "Mr. M'Adam's improved system of constructing roads" and on 8 September 1821 an article on tobacco growing. Throughout 1822 there were comments and letters on the colony's financial problems and in the Gazette of 12 June 1823 Howe quoted Lord John Russell's remarks in the House of Commons about "the dissemination of instruction and the improvement of knowledge." But these were exceptions and in general the Gazette was deeply involved in a militant religion in both content and tone. The Gazette of 2 January 1823 symbolised the whole period. Some news from Howe's missionary friends among the natives of Tonga, a regular feature, was prefaced by the remark "The SET TIME is certainly and gloriously come for the evangelization of those myriads of fellow creatures." The news columns also contained a note on the sudden death of a woman through intoxication and a wife murdered by a husband because of her adultery. Was not this a signal example of God's vengeance upon drunkards and
adulterers, Howe asked. Similarly he called a story "well-worth reading" which told how two emancipists on their way to Britain robbed a Catholic Church in Rio de Janeiro of "some images", were caught just as their ship was about to leave, tried the following morning and on the same day executed. In an editorial of the same edition he expressed the cornerstone of Protestantism, the innate sinfulness of man, when he argued that the law of the land had been established to counteract "the otherwise boundless rapacity of man." Howe ostensibly spurned material things in his fervour. In the same column he roundly cursed "the parsimonious few" who had not paid their subscriptions, but apologised for bringing up financial matters which were "worthy of indifference." Howe ended the editorial by wishing his readers future happiness which "an adherence to Religion, 'pure and undefiled', alone could bestow."

The secular side of the Gazette revealed the emergence of a number of peculiarities associated with Howe's personality. One trait, an overbearing conceit and a profound belief in himself and the efficacy of his causes, was clearly evident. On 6 March 1823 Howe called the present colonial Press, of which the Gazette was the sole representative, the greatest favour that had been conferred upon Australasia since she had been a British dominion. After a man had attempted to murder Howe, the writer of the Gazette's report of the incident pleaded that Mr. Howe's character was "too just and inoffensive to have given any reasonable cause for so diabolic a passion" in the assailant. 1. Another element was the

Gazette's opposition to reason and its anti-intellectualism. On 22 March 1822, the Gazette reported a murder and noted a disagreement between two doctors about the cause of death, Howe adding that this was mentioned "for the express purpose of preventing persons from being egregiously and perhaps fatally deceived, by such impudent and wretched professionals." A viciousness, bolstered by sarcasm, now pervaded the Gazette and, unlike his father, Robert Howe indulged in cutting personal attacks. After Howe had changed the Gazette's publication day, there appeared on 18 January 1822 this comment:

"We have only been honored with one resignation in the List of Subscribers to this Gazette, in consequence of the late alteration. We do not attribute the liberal observations consequent upon the unavoidable retirement of one of our once heartiest well-wishers so much to the amazing thickness of skull, as to the now publicly avowed impurity of heart."

The following week a correspondent complained that the Gazette had made "an insidious attack" on his character. The most subtle attack of these years was directed against Edward Eager, a prominent emancipist, when throughout a long article in the Gazette of 16 June 1821, Howe used the word "Eager" as an adjective. It was, from the exclusives' point of view, a portrayal of Eager's character and began with the words "Eager is every human being in the pursuit of happiness". George Allen, a close friend of Howe's, noted in his diary that the article "excited a great deal of interest" and that it caused much amusement, many approving of it and only a few
disapproving. Yet, despite personal attacks couched in obscure phrases, the general approach of the Gazette was more forthright than ever it had been under George Howe. Robert Howe would frequently declare that it was impossible to please everyone, although such a declaration usually carried some emotive proviso to the effect that he sought the approbation of "the liberal and the intelligent" and not that of "the mushroom of a day." But the stands Howe took on various subjects were too often marred by a lack of clarity and sometimes his attempts descended to bathos. In one dispute with a correspondent, Howe wrote in the Gazette of 23 August 1822:

"We are not to be frightened out of a public duty in consequence of a threatened prosecution... Who can be silent when barbarity is exercised in the present day? It is the duty of journalists, in such cases, to PUBLISH THE TRUTH, THE WHOLE TRUTH, BUT NOTHING EXCEPT THE TRUTH."

The following week the correspondent, a lawyer, corrected Howe's version of the oath.

The changes in the religious and secular tone of the Gazette were paralleled by developments in its politics. With Macquarie's departure the political complexion of the colony changed and the exclusives previously out of favour in the governor's immediate circle rose to power, a change reflected in the Gazette. In his report, Commissioner Bigge criticised Macquarie and his emancipist

2. Diary of G. Allen, 18 and 19 June 1821.
policy, criticism in keeping with Bigge's friendship with some ex-
cclusives. When Howe reviewed part of the report in the Gazette of
13 December 1822, he expressed approval of Bigge's view of
Macquarie's policy. He wrote of Bigge's "benign eye" and argued
that those who felt their characters attacked by Bigge should remem-
ber that such "a dignified character," meaning a commissioner, was
not bound by the common laws of criticism. In giving vent to his
own feelings and to those of his friends, Howe needled the emancip-
ist s generally by innuendo. When he advertised in the Gazette of
9 January 1823 for a "pressman of honest, sober and industrious
habits," he made it clear that he wanted a "free man" and George
Allen saw Howe's article on Edward Eager as "just". 4.

Another development in the politics of the Gazette occurred on
2 January 1823 when Howe announced that the paper was to branch into
"Parliamentary intelligence." The decision to remove the ban on
politics in the Gazette, a ban instituted on its first appearance,
appears to have been made by Governor Brisbane so that he could
have his currency reforms publicly discussed. 5. The New South Wales
Magazine of 1833 called the decision "spontaneous" and cited it as
another example of Brisbane's liberalism. But the removal of the
ban reflected a major characteristic of the Brisbane administration,

the lack of contact the Governor had with the day to day running of
the colony and the consequent usurpation of power by many of his
subordinate officials.6. Quite apart from his innuendoes about eman-
cipists, Howe had openly discussed political affairs when he chose
to review the Bigge report in December 1822. Brisbane’s attempt to
promote discussion of the colony’s financial problems was hardly nec-
essary because from May to September 1822 the correspondence columns
of the Gazette had been filled with letters on the subject. A woman
who signed herself "Lydia Languish" wrote on 13 September that the
Gazette used to be very amusing with its accounts of balls, marri-
ages, dinner-parties, poetry and other agreeable matters but that,
of late, it had been filled with nothing but letters about dollars,
bank-notes, circulating medium and such nonsense, which was, she de-
clared, enough to give one the vapours. The arguments about the
local currency became quite acrimonious at times and S.J. Butlin has
shown that the letters can be grouped into supporters and opponents
of government policy.7. In the Gazette of 2 August 1822 one govern-
ment supporter even referred, perhaps with tongue in cheek, to "the
liberal and enlightened policy" by which they were allowed to in-
dulge in "legitimate discussion". Thus Howe had allowed politics to
appear in the Gazette before the ban was removed. The only result
of the change was the occasional inclusion of reports of debates in

6. For instance, the Colonial Secretary and the Commissary-General,
rather than the Governor, instituted the currency reforms. See
Butlin, op. cit., p. 143 ff.
7. Ibid., p. 149.
the Houses of Parliament taken from the British Press. Howe himself rarely discussed any politics in terms of principle but instead tended to report political gossip. According to the Gazette of 23 October 1823, it was rumoured among respectable circles that important alterations were almost immediately to take place in "some of the principal and many of the subordinate situations under the Crown", a reference to the imminent implementation of the New South Wales Act of 1823. Both in allegiance and content, Robert Howe and the Gazette displayed no major change in politics from May 1821 to December 1823.

There exists a little more evidence about Robert Howe than about his father and most of it concerns his conversion to Methodism in his mid-twenties. One missionary referred to Howe as once being "an abominable profligate" and another man noted in his diary during 1819 that Howe was supposed to be a little deranged in the mind. Although a marginal note in the diary said "false report", there did appear to be some foundation for believing Howe to be a little disturbed because in early 1819 he appeared before the magistrates on a charge of assault. But a year later Howe was, in his own words, "wonderfully and mercifully" visited by his God and "snatched from infamy in this world and hell in the next." Whatever the reason for his conversion he now embraced the Methodist

8. Supplement to Sydney Gazette, 10 July 1823.
9. Carvosso to Wesleyan Missionary Committee, 20 November 1822, (B.T. Box 52); Diary of G. Allen, 7 November 1819.
10. Ibid., 16 March 1819.
faith with a fervour he appears to have devoted earlier to loose living. To one Methodist, he became one of the most worthy men attached to their cause, and was said to be filled with "much genuine piety." 12. Appointed a "public exhorter", Howe also became secretary to the Wesleyan Sydney Sunday School Teachers Committee and the Sydney Bethel Institution which held meetings in the Gazette office. 13. Shortly after his conversion, he went to Van Diemen's Land, found it to be a "Sodom and Gomorrah" 14. Despite rebuffs his ardour remained undiminished and two years later Howe proposed to a friend that a letter he had written to a cleric should be copied and forwarded to others of the Wesleyan Mission "to our own mutual satisfaction and to the glory of our common Lord and Saviour Jesus Christ whose absence I cannot but mourn but by and by I hope to rejoice." 15. But Howe's faith was sectarian in spirit. He refused to print the catechism for the Catholic priest, Therry, and referred him to the governor for permission because he, Howe, was only a servant of that government which, he added with characteristic vindictiveness, supported "the established church in its purity." 16. Protestantism displayed a preoccupation with death and in Robert Howe this was reinforced by the violence that marked his life and the passion that

15. Howe to Lawry, 25 July 1820, (B.T. Box 51).
16. Howe to Therry, 17 July 1821, Colonial Secretary In-Letters, 1821.
permeated his character. In 1822 a man who mistakenly thought he had been slighted in the Gazette tried to murder Howe. When he was thrown from his horse a few months later, Howe commented in his diary "nearly killed again." Shortly afterwards his life was threatened by Dr. Halloran and while preparing his affairs he consoled himself with the hope that sudden death, if he should meet with it, would be attended with sudden glory and that the wrath of man should ever be made to praise God. Halloran he dismissed with the remark "a clergyman too! but one of old Nick's tribe."

Howe's religious beliefs appeared to turn him away from material matters while in fact he was very much preoccupied with money and position. He once wished that he had never taken up shopkeeping and called it "a horrid life to be ever trafficking with the wicked." But he was very upset when he had to pay £100 for a libel in the Gazette and felt then that his was "a miserable situation." On 4 October 1822 he was delighted to have the honour of occupying a seat in the Governor's court and asked the Lord to give him humility. Later he saw himself as accepted as a member of the ruling establishment because, as he wrote in his diary, "the great" were his friends. By comparison with his father, Robert Howe had greater wit, intellect, and conviction, but his wit was tempered with malice, his intellect with passion and his

17. Sydney Gazette, 4 October 1822.
18. Diary of R. Howe, 23 January 1823.
19. Ibid., 2 April 1823.
20. Ibid., 21 November 1822.
21. Ibid., 28 December 1822.
22. Ibid., 4 October 1822.
23. Ibid., 28 December 1822.
conviction with a lack of charity.

Howe's beliefs left him open to pressure from the clergy in his management of the Gazette. After his father's death, Howe printed the Gazette as usual on Saturday but delivered it on Monday and not Sunday as his father had done. After a month, however, the Reverend William Cowper, an Anglican cleric, advised him to deliver it again on the Sabbath because of "the great outcry among the inhabitants of Sydney." Cowper considered that since it was a government paper, Howe should not alter the day without the sanction of the Governor. He approved of Howe's motives for bringing it out on the Monday, but because of its relation with the government, he argued, "the sin did not rest upon" Howe. George Allen, by now another fervent convert to Methodism, remarked that much credit was due to Mr. Howe for his attempts to prevent the breaking of the Sabbath because he had not been discouraged by several people cancelling their subscriptions. As a result of Cowper's pressure Howe again delivered the Gazette on Sunday. By 29 December 1821, though, Howe had secured the Governor's agreement to print the Gazette on Friday and deliver it on Saturday.

Howe's convictions also nearly brought him to abandon the Gazette and establish a press for the Wesleyan Mission in New South Wales. Shortly before his father died in 1821 he urged the Methodists to import a press for him to manage. In a letter

25. Ibid.
marked more for its zeal than its clarity of mind, Howe wrote "I can, will, and do resign all Pretensions to the Situation of Government Printer of New South Wales, as that I may become, among other endearing titles, printer to Immanuel"; he wanted the press to be "a vast machine in the hands of God." To Howe the Press could influence men's minds because he was worried lest someone else, not having "the cause of our Master at heart" would bring out the appropriate materials. This would not only prevent his plan and their wish to stem "the torrents of iniquity" but would also "draw the affections of the multitude wholly away from those religious pursuits" in which they might have been engaged. The Mission Press, Howe suggested, would be a means of bringing civilization to the natives and of arousing apathetic Europeans to mission work. It could print periodicals and newspapers which were to contain no politics and could do other local work which was much in demand. Howe said it would be profitable and warned the Methodists that if they did not embrace this opportunity someone else would seize the profits, thus depriving them of "the never fading Laurels" that were to be acquired. He added, however, that it was not his wish, nor would God allow him, "to horde up filthy lucre."

He estimated the expenses to be about £250 sterling, excluding shipment, and expected this to be returned "into the Divine Treasury" in two or

27. Ibid.
three years. Although the local Methodists were impressed and forwarded Howe's letter to the Wesleyan Mission Committee in London, nothing came of the proposal.

In October 1824 a complex development occurred in the Gazette's relationship with the government. Referring to Brisbane's "silly measure" of ending the censorship, Barron Field exclaimed "the idea of the freedom of the press in a vast penitentiary!" One might as well have allowed, he added, "a radical newspaper to be published in Newgate." The first official news the Colonial Office received of these events appeared in one of Brisbane's dispatches.

"Shortly after the promulgation of the new Charter of Justice", Brisbane remarked, the Australian was published by R. Wardell and W.C. Wentworth. They never solicited his permission to publish their paper and, because the Crown Law Officers' opinion and his own coincided in believing that "there existed no power to interpose to prevent it without going to Council," Brisbane considered it "most expedient to try the experiment of the full latitude of the freedom of the Press."

"The Government Printer, Mr. Howe, finding a Paper published without a censorship, soon applied for the removal of that restraint from His Paper, "The Sydney Gazette," and since Brisbane "considered the same opinion alike applied to both, the

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30. Ibid.
censorship was removed." "Several months enjoyment of this privilege to the Editor" had impressed Brisbane that the measure had produced "more benefit than disadvantage to the Public."\(^{31}\). The only change was that now the printer's work for the government had to be paid for, whereas earlier "the exclusive privilege of publishing" the Gazette had enabled the editor to remunerate himself for such work. Brisbane ended by declining to make any comments on the effects of the Australian.\(^{32}\). To Field and Brisbane two things had occurred. The Australian had been established with, unknown to Field, Brisbane possessing no power to prevent it, and the censorship of the Gazette, the convention whereby proofs were forwarded to Colonial Secretary's office before publication, had been abandoned. An explanation of these events and a review of the subsequent attitude of some contemporaries towards them show a divergence between what seemed to have happened and what did in fact happen, between myth and reality.

The Australian first appeared on 14 October 1824 and a number of conditions made it difficult for the Governor to prevent its appearance. What Brisbane meant by referring to the Charter of Justice, which had been promulgated on 17 May 1824,\(^ {33}\) is not clear. By setting up a Supreme Court with a Chief Justice it was merely giving effect to the judicial intentions of the New South Wales Act of 1823.\(^ {34}\). The act formerly established English law in the colony.

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31. Ibid.
32. Ibid.
and under that law anyone could print and publish a newspaper. The act, then, was more relevant than the charter. The implications of the act and of English law had emerged in an anonymous letter to the *Gazette* of 15 May 1823. The writer noted that the people wanted another newspaper and called a free Press their "brother-right as Englishmen." "The Mother Country" would allow no censorship over his property were he to send for a press and print and publish on his own types and paper. He mentioned that he had only to obtain a license from a magistrate before printing, an allusion not to the existence of licenses but to the necessity of registering printing presses. The Press, he declared, had "ever been free in this Colony" and "the government press" was "public property". In reply, Robert Howe ignored the points about the press always being free in the colony and about his press being public property but pointed out that no magistrate, in granting a license, "would exercise his authority in contravention to that Power from which his own was derived." The views of Wentworth and Wardell, who arrived in Sydney at the end of July 1824, may well have coincided with those of the letter writer. In the month following their arrival, E.H. Thomas persuaded Brisbane that Andrew Bent owned the Hobart Town Gazette and Chief Justice Forbes convinced the Governor that he had no power to enact licensing restrictions on the Press.

Forbes later asserted that it was Brisbane's habit to delay answering correspondence until he had forgotten the subject. On replying to Governor Arthur's request for licensing restrictions, Brisbane had said that such restrictions were contrary to the laws of England, and not, as Forbes had advised, that the Governor had no power to promulgate laws because the Legislative Council had not yet been called into existence. Thus by an odd combination of circumstances involving the emphasis on English law, the confirmation of a privately owned newspaper in Tasmania and the lack of a Legislative Council, nothing could legally have prevented the establishment of the Australian. Instead, therefore, of requesting Brisbane's permission, Wardell and Wentworth seem to have simply notified him of their intention by asking that government notices might be inserted in their paper to make it "as useful as possible."

The removal of the censorship from the Gazette had rather different origins. On 1 October 1824 Robert Howe, who had long been expecting competition, asked the Governor to remove the censorship because, according to Forbes, "it injured the public effect of his paper, to be considered under a censorship, while his adversary was free." Brisbane sought the advice of Saxe Bannister, but not Forbes, and was told by the Attorney-General that the safety of the colony would not be endangered by a free Press. On 15 October,

40. Ibid.
41. Sydney Gazette, 14 October 1824.
42. Ibid., 27 November 1823.
44. Bannister to Darling, 17 June 1826, Encl. 1, Bannister to Bathurst, 27 June 1826, C.O. 201/178, Reel 150, ff. 179.
the day after the Australian first appeared, the Colonial Secretary on Brisbane's instructions told Howe that he was to consider the censorship as "no longer existing." In removing a censorship from the Press, Brisbane believed he was following the precedent established in 1818 by the Marquess of Hastings, Governor of India, and apart from a causal connection, there exists a striking parallel between the actions of the two men. In India, Wellesley's regulations of 1799 had been gradually relaxed towards the end of the Napoleonic wars, just as politics and controversy had been aired in the Gazette before 1824. The Indian regulations applied to the newspapers of Europeans and, like Brisbane with the Australian, Hastings was confronted in 1818 with a paper edited by a native of India of mixed blood who fell outside the scope of the regulations. There were suggestions that the Press should be subject to English law operating in India and Hastings, as with Brisbane, was a man of liberal opinions who regarded the freedom of publication "as a natural right" of his fellow subjects. A specific incident of the type that faced Brisbane with Bent's newspaper was paralleled by the repercussions in India of the Marsden v. Campbell libel trial of 1817 in New South Wales. Looking only at the criminal, not the

45. Sydney Gazette, 21 October 1824.  
48. Ibid., p. 89.  
49. Ibid., p. 93.
civil, action in this case, Hastings believed that the decision showed that the censor appeared responsible for libel and that, by an undesirable implication, the censor gave the contents of a paper the appearance of government sanction. Thus both Brisbane and Hastings were confronted by a situation to which no existing regulation could be applied, which had a number of general precedents, which was in accord with their own personal beliefs and which only a resort to extra-legal measures could remedy.

The reaction of the Sydney Gazette revealed that at the time Howe was aware that two distinct events had occurred. On the day of the appearance of the Australian, the 14 October, an editorial in the Gazette remarked that its readers would be surprised at seeing government notices "obtaining publicity through channels of public intelligence" other than the Gazette, "the Official Newspaper!" It venomously remarked that the Australian's proprietors had applied to Brisbane for a copy of general orders "for the sake of giving importance to their typographical vehicle". Then Howe put forward the monopoly view of the proprietorship of the Gazette. The Gazette was now to be paid for all the work which before the establishment of the Australian had been done "gratis, in return for the use of the Press and types, formerly found by Government." It now that a Competitor had entered the market - now that we no longer singly enjoyed the field - now that we found our own Press, Types,

50. Ibid., p. 91.  51. Sydney Gazette, 14 October 1824.
and Paper," the Gazette's editorial continued, justice demanded that they "should most unquestionably be remunerated from the public coffers of the Colony." But, quite apart from the annual salary of £60, Howe had been compelled to find his own printing materials much earlier. When his father died in 1821, he had asked Macquarie for type and a press, but the request was not met by the Colonial Office. 52. Howe was thus forced to ask his London agent to send the materials which cost, he later said, "some hundreds of pounds." 53. After much delay, the new printing press arrived a few days before the appearance of the Australian and, on 14 October, the Gazette in a paragraph separate from the editorial said that it hoped to have the press working "in the ensuing week." Therefore Howe was in fact asking for the payment for government orders, not because he now had to buy his own materials, but because the Australian was being paid and because he had lost his monopoly of printing the orders. It was not because the whole monopoly arrangement had been swept aside but because, after a gradual whittling away of the arrangement regarding the purchase of materials, the last aspect of the monopoly had been broken. The press on which the Gazette was printed up to October 1824 was government property and, although worth very little, it was taken with Robert Howe's approval by George Terry Howe when he went to Tasmania in December 1824. 54. The editorial of the Gazette of 14 October made a few puffs

52. Ibid., 9 December 1826. 53. Ibid. 54. Ibid.
and then said that it was "on the eve of being relieved of the Censorship". This remark was made less than four months after it had been argued in a libel case involving Robert Howe that the press and the Gazette were owned by the government and Forbes had said that the laws of England knew no censorship. Clearly Howe was less concerned with the legal niceties of the situation than with the advertising value of appearing to acquire freedom.

In the years following these events, there developed a myth quite unrelated to what actually happened. According to Forbes, Brisbane later took the credit for giving Australia the freedom of the Press and removing the censorship. 55. Early in 1825 the Governor came to know of the attacks on him in the London Morning Chronicle and wrote to Bathurst in an effort to clear his name. 56. On the removal of the censorship, Brisbane considered it the act of a man who had nothing to fear. Did that action, he asked Bathurst, savour of "a person who had evil deeds he dreaded being brought before the Public Eye or that there was anything rotten in the state of Denmark." 57. He also wrote

"I felt full well, that wherever there was deformity in the Constitution or where Public abuses existed, the press would discover them." 58.

He, Sir Thomas Brisbane, had given the colony "this inestimable

56. Brisbane to Bathurst, 13 May 1825, Brisbane Papers, (National Library, Canberra).
57. Ibid.
58. Ibid.
privilege," a free Press. Again a few months later he told Arthur that giving the Press its freedom was not the action of a man fearing "the exposure" of his deeds. 59. Throughout 1825, the Gazette praised Brisbane for giving the colony a free Press and for removing the censorship, and at a public dinner given on Brisbane's departure, Robert Howe thanked him for bestowing the Freedom of the Press on Australia. 60. One of the addresses, usually sent by various inhabitants of the colony to a departing governor, referred to Brisbane's "liberal and enlightened" conduct in submitting the acts of government to the scrutiny of a free Press. 61. In the Gazette of 29 January 1827, Howe was still remarking that Brisbane "at one blow destroyed every rascally barrier to the liberty of discussion, and gave Australia the Freedom of the Press."

But a few weeks earlier, in the Gazette of 11 January 1827, Howe had oddly mentioned that it had not been in Brisbane's power to have withheld the freedom of the Press. In May 1827 Forbes outlined the whole affair in a letter to R. Wilmot-Horton at the Colonial Office. 62. Forbes believed that Howe should have been relieved of the control of what he, Howe, had called a censorship but not because it "injured the public effect of his paper, to be considered under a censorship", while the Australian was free. Howe should have been allowed "to publish what he pleased upon his own

60. Sydney Gazette, 10 November 1825.
61. Address to Brisbane, 28 October 1825, Brisbane Papers.
responsibility" for a different reason. During the libel trial before the Chief Justice in June 1824, it had appeared to Forbes that "the government was considered in the light of a proprietor of the Gazette, and in consequence answerable to the public, and every private individual for whatever might be published in it." 63. This to Forbes should not have been so and he thought Brisbane "acted wisely in relieving the government from such a responsibility." But, he added, "it was anything but removing a censorship from the free press of the colony: no such censorship ever existed." 64. Archdeacon Scott's reaction may not be typical but his remarks show that a lack of thought made for an acceptance of the myth. Sir Thomas Brisbane, he wrote in a letter to Horton,

"Told me and he thinks it (that) he gave the liberty of the Press here, and without considering it for a moment I thought he had until Forbes explained it to me; that the Govt. Editor this Mr. Howe...attempted to show there was a censorship, but Mr. Forbes...declared from the Bench that the law of England which prevailed here knew no censorship & then Sir T. takes the merit to himself because he proclaimed the Charter." 65.

More of the myth than the reality became incorporated into Australian history.

Between 1803 and 1824 a loose relationship existed between "the censor" and the printer of the Gazette. Throughout the period the proofs of the Gazette were sent to the governor's secretary who checked, initialled and returned them to the printer for publication.

63. Ibid.
64. Ibid.
66. King to Hobart, 4 May 1803, H.R.A., 1, 4, p. 85; Evidence of Griffin at Macarthur's trial, H.R.A., 1, 6, p. 323;
The Reverend Ralph Mansfield in his *New South Wales Magazine* of 1833 remembered what George Howe had told him some years earlier about the importance of this arrangement.

"We can bear testimony, from personal knowledge, to the havock made by the censor in its proof-sheets. Well do we remember with what pathos its editor, when conversing with his friends, would descant on the hardships he had to endure. With the tears rolling down his cheeks, has the hoary veteran detailed to us the horrors he was often and often doomed to feel on receiving back his inspected sheets. Sentences altered, till he could scarcely recognize a fraction of their original import - paragraphs struck out, which, were vital to the sense and consistency of his article - and sometimes whole columns amputated at one remorseless blow - were the sweet rewards of his editorial toils. Oh! the blessings of a censorship." 67.

This has been quoted by H.M. Green to show that the censorship was far from nominal. 68. But the tenor of the article is quite uncritical and George Howe, judging by his remarks in the *Gazette*, seldom minimized the difficulties he faced. In fact, less suspect evidence points to the reverse being the case. At the Campbell libel trial in 1817 Howe said that the censor troubled himself very little with "the private part of the paper", implying that the colonial secretary was more concerned with government notices than with the


68. Green, op. cit., 1, p. 69.
Four years later Howe told Bigge that any papers sent to him for insertion in the Gazette were only shown to the Secretary if they were of "a ridiculous or absurd nature."\textsuperscript{70} Apart from government notices, he said, much was left to his own discretion. The secretary's duties were such that reviewing the proofs of the Gazette must have been a minor part of his work. Moreover, George Howe's interests and beliefs coincided with those of the colony's governing class for most of the time which made it likely that strict supervision of the Gazette was unnecessary. Under Brisbane, the same relationship existed. Occasionally Robert Howe would remark that a paper sent for insertion in the Gazette had been delivered to "the censor".\textsuperscript{71} But as with his father, common interests and beliefs united Robert Howe and the Brisbane administration. From 1803 to 1824 the colonial secretary intermittently decided what was to be printed in the Gazette before the type was set up but there are no suggestions in contemporary evidence and no blank spaces in any Gazette to indicate that the proofs were returned from the secretary's office in an altered form. After the libel case in June 1824, Robert Howe made a clear statement about the Gazette's relations with the official censor.\textsuperscript{72} For some time he had been inserting all letters, even those attacking the Gazette, that

\textsuperscript{70} Evidence of G. Howe to Bigge, 23 January 1821, H.R.A., IV, 1, p. 848.
\textsuperscript{71} Sydney Gazette. 8 January 1824.
\textsuperscript{72} Ibid., 6 May and 8 July 1824.
passed the censor, and he considered himself "the first editor in the world that ever permitted himself to be attacked in his own Paper." But it turned out, he said, that the censorship of the Press only extended to protecting the interests of the government. On other matters Howe himself was vested with "the discretionary power of admission or rejection."

The trial which prompted these remarks showed the rather peculiar relationship the Gazette had maintained with the government since 1803. Howe was found guilty for being responsible for the libel despite the defence's plea that the government, not the printer, was the proprietor of the Gazette and therefore answerable to the public and every private individual for whatever appeared in it. For twenty years the Gazette was regarded as a government paper and in this sense government censorship, which generally means government control over something belonging to a private individual, did not exist. Contemporaries by their continual use of the term "censor" clearly thought it did and such an attitude was occasionally reinforced by the impression the printers themselves gave that they owned the Gazette. By remarking that he took "all the profits" of the Gazette at the Campbell libel trial, George Howe hinted at this situation and on appealing to subscribers to pay their bills, 

he mentioned in the *Gazette* of 20 March 1819 not "the printer" or "the editor", as had often happened, but "the publisher". The idea was encouraged by the knowledge of a censorship in India, its relaxation in 1818 and, after a sharp fight between some newspaper proprietors and the East India Company, its reimposition in 1823.  

At times, however, a censorship did exist in New South Wales but in a potential rather than an actual form. Early in 1823 Robert Howe heard a rumour that "the public" were trying to acquire another press "by subscription". On approaching the Governor, the representatives of the subscribers had been told that, although permission might be granted, another newspaper had to be "subject to the Censor". Brisbane also said, Robert Howe wrote in his diary, that as long as Mr. Howe was government printer and "behaved himself as he had done...nothing should militate against him." Howe obliquely referred to this in the *Gazette* of 2 January 1823. Some felt, according to Howe, that the time had arrived for what was known as an "Opposition Press." But he ventured "to express a contrary opinion" because he argued, some were opposed enough to what was "equitable", and "if an unrestrained Press were afforded such folk, they would become outrageous". Thus the *Gazette* was seen to be under the restraint of a censorship which would, if another newspaper was started, be extended. In fact the relationship between

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75. Supplement to *Sydney Gazette*, 8 May 1823 and *Sydney Gazette* and Supplement 15 May 1823.  
76. Diary of R. Howe, 4 January 1823.  
77. *Ibid*.  
78. *Sydney Gazette*, 2 January 1823.
"the censor" and the Howes when the Gazette was seen as a government paper, was one between a publisher with certain editorial functions and an editor who also printed the paper.
CHAPTER 5 - POLITICS AND THE PRESS, 1824 - MARCH 1827.

During 1824 the pace of change quickened in New South Wales and many features associated with its origins as a gaol were being replaced by others more fitting for a colony of free men. The power of the Governor, for instance, was limited by the act of 1823 which set up a Legislative Council and a Supreme Court; both were formerly established in the colony during 1824. From this time on the administrators faced innumerable problems which stemmed from attempts to reconcile measures intended for a gaol and those designed for a free colony. The development of the relationship between the Government and the independent Press after the *Australian*’s appearance in 1824 highlighted the difficulty. Until Brisbane’s departure at the end of 1825, the colony’s two papers were caught up in complex political manoeuvrings. The apparent lack of logic in the politics continued into the first nine months of Ralph Darling’s administration. The editor of the *Australian* who had earlier displayed liberal leanings, hobnobbed with the Governor’s party, men brought up within military traditions and of a decidedly conservative turn of mind. The exclusives lead by John Macarthur frequently tried to break up this arrangement but, much to their chagrin, Darling spurned them throughout most of 1826. It was the third major newspaper, the *Monitor*, which largely broke the relative peace of Darling’s early months. Along with some unrelated moves by the Attorney-General and the editor of the *Australian*, the *Monitor*
succeeded in forcing Darling during October 1826 to turn to a dispatch instructing him to legislate against the Press which he had brought with him on arrival. An analysis of the dispatch shows that much of the tumult caused by attempts to implement its proposals in April and May 1827 was the result of the incompetence of James Stephen. Unfamiliar with the press laws of his own country and lacking adequate knowledge of the colony, Stephen at the Colonial Office drew up a dispatch whose substance ignored the New South Wales Act of 1823. As the politics of the colony polarised into a conflict between the government and the exclusives on the one hand and the emancipists on the other, the legislation proposed by the dispatch gradually forced the issue to become one between the Governor and the Chief Justice. Before this occurred in April 1827, however, Darling was induced by circumstances beyond his control to do nothing about the dispatch until October 1826; during the next few months, he was prevented by similar uncontrollable circumstances from implementing its proposals.

The policies of the Australian were outlined in the first issue of 14 October 1824. In the expanding conditions of New South Wales, it noted, little doubt could be entertained of "the utility and efficacy of an Independent Newspaper". Expanding wealth brought about an increase in the power of individuals, and where no check existed on the growth of influence,

"A free Press is the most legitimate, and at the same time, the most powerful weapon that can be
employed to annihilate such influence, frustrate the designs of tyranny, and restrain the arm of oppression." 1.

In such vague terms did the new paper warn the exclusives. The Australian also aimed at being something more than a mere compilation of events or miscellany of news; by becoming the medium of communication between the people of the colony, it hoped to concentrate "public opinion" and to give "a tone and direction to public feeling". 2. Although this seems to imply support for a particular group, the emancipists, with whom the editors of the Australian agreed, the statement of aims then went on to say that the paper would not limit itself "to any precise line of politics." It was not long, however, in coming down firmly on the side of the emancipists and during its first year the Australian promoted their aims of extending civil liberties. In so doing the paper criticised quite severely the Brisbane government. But towards the end of 1825 the retiring governor suddenly embraced the views of the emancipists and the Australian, just as suddenly, found itself a supporter of the government.

The politics of the Australian were closely connected with the background and ambitions of its originators, W.C. Wentworth and Robert Wardell. In his youth, Wentworth had seen the indignities suffered by his father at the hands of the exclusives and, as he

1. Australian, 14 October 1824. 2. Ibid.
had responded then by making pipes attacking the offenders, so in 1822 had he decided to establish a newspaper to voice the aspirations of the emancipists against the group which financially and politically controlled the colony. Educated to the bar, Wentworth's politics had also been fashioned by the ferment in Britain after 1817. His letters from 1817 to 1823 show an intellectual commitment to the liberal reform movement and a horror of the Tories who supported the magistrates at Peterloo and who passed the "Six Acts." Woven into his feeling for "the people" were Wentworth's immense pride in Australia and ambition to serve his country. Wentworth's liberalism, moreover, was nourished by the leading paper of the reform movement, The Times, to which he subscribed in 1819.3

Robert Wardell was the ideal man for Wentworth's purpose. Also trained in the law, Wardell at the time of meeting Wentworth, 1822, was the owner of two newspapers, The Statesman and The Constitution. Neither the first, an evening daily paper, nor the second, a Sunday paper, made much money and Wardell, by espousing the cause of reform in the editorials of the Statesman came into sharp conflict with such conservative organisations as The Constitutional Association. Wardell's fortunes received a setback when the association prosecuted him for libel and, although not brought to judgement, Wardell had to enter into recognizances and to pay costs sometime in 1822.4

In the same year William Cobbett became part proprietor of the *Statesman* and wrote the editorials and parliamentary reports until a disagreement with Wardell forced him to leave the paper in May 1823.\(^5\) Wardell went to Cambridge, took a Doctor of Laws degree and again met Wentworth who probably persuaded him to try his luck in New South Wales. In early 1823 both men applied for the newly created position of Attorney-General of the colony,\(^6\) but were thwarted by the exclusives' London representative, John Macarthur junior, who secured the job for Saxe Bannister. Thus it was hardly surprising that, when they arrived in the colony and set up the *Australian*, the policies of the paper should have been in favour of liberalism and the emancipists. In its first year, Wentworth financed the paper and also wrote articles but, as soon as it was securely established towards the end of 1825, he gave Wardell his share and control of the policies. Without Wentworth, the paper's nationalism became less militant. Its criticism of the government also mellowed just before Darling arrived because the new Governor's private secretary Henry Dumaresq, realising the political position of the *Australian*, had won the editor over to the Governor's cause.

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In material terms, Wardell spotted the advantages of such a connection, obtained a choice grant of land, and in early 1826 held hopes of securing the government's printing work. 7.

The new Governor, Ralph Darling, experienced a quiet, if exhausting, start to his administration. From a military background, Darling had none of the qualities required to successfully manage the government of New South Wales in a period when the gaol was giving way to a colony of free men. James Stephen noted that he possessed "little reach of thought or variety of knowledge, (was) inexorably stiff in his manners & ... a great formalist in business & a perfect martinet in military discipline." 8 Such a man could not have been suited to dealing with people or politics but was superbly equipped for organising and administering. Right from the start Darling vigorously launched himself into the task of reorganising the colonial civil service. 9 He established a committee to enquire into the ways of producing a government gazette which would contain only official orders; unlike his other reforms, this project failed to materialise despite many attempts up to 1831 because the issue of the government gazette was bound up with the political life of the colony. From the outset, Darling directed his energies towards administration, and, as a sort of psychological concomitant, tried

7. Sydney Gazette, 5 July 1826.
to keep aloof from local politics. In January 1826 he told Arthur that he would not adopt any party and would have no adherents, and in March refused to intervene when Archdeacon Scott was attacked in the Australian. Similarly in April he told Macarthur that his quarrel with the Gazette was no concern of the government's. But Darling failed to realise that such an action put him, in the eyes of Macarthur and Scott, in the emancipists' camp, a fact confirmed by Dumaresq's friendship with Wardell and the Australian's quiet attitude towards the government. Darling's impatience with the exclusives, moreover, was thinly disguised. From the moment of his arrival Darling had unwittingly formed a third "party" in the colony; with him were the Dumaresq brothers, Henry the private secretary who was also appointed clerk of the Executive Council and William appointed a civil engineer. The newly appointed Colonial Secretary Alexander Macleay, a man of administrative talents and a mental makeup similar to Darling's own, was another member of the government party. Years before Macleay had helped George Howe and the Colonial Secretary's connection with Robert Howe was yet another thread linking the government with the warring factions.

16. Ibid., p. 558.
Thus despite his intentions Darling and the government were closely involved in the colony's political life.

As during the Brisbane administration, the policy of the Sydney Gazette in the early months of Darling's governorship possessed much the same features. Devotion to the Governor and the executive was most prominent. In a leader on 16 January 1826, the Gazette noted that, although Darling had only been in the colony for a short time, his aptitude for business and impartiality had shown itself to an extent that "so far from proving a stranger to our interests, he actually comports Himself in His public measures in so dignified and masterly a way, that He must of necessity, if He continues to pursue such a line of conduct, become the most popular Governor that ever adorned the Supreme Government of these Colonies". Elsewhere in the same issue, the Gazette went on to comment on his unpopularity in his previous post at Mauritius and praised him for trying to stamp out the slave trade, the cause of that unpopularity. By 4 March, the Gazette was saying:

"Every day that passes over our heads presents this Colony in a more interesting and important point of view than the preceding. Our internal improvements, proceeding from the Executive, are of no despicable character."

In local politics, the Gazette continued to support the emancipists and curse the exclusives. After Wentworth pleaded for trial by jury and a house of assembly at the emancipist meeting of 12 January, the Gazette lavished praise on his speech. 17. By May, Howe was urging

the colonists to petition Parliament for an extension of their civil liberties in the form of trial by jury and a house of assembly. Earlier in the year, the Gazette had criticised Macarthur's opposition to such proposals and had said that the opponents were afraid of allowing "a respectable portion of the Community to be raised to equal importance in the State with themselves." Although in April Howe let Macarthur write in his paper, the Gazette's opposition to the exclusives was almost as consistent as its attacks on the Australian. Again displaying his uneasiness, Howe continued to harp on Wardell's professional qualifications and to criticise his style as that of a school boy. Verses lampooning Wardell and the Australian were inserted in the Gazette and name-calling continued to be pronounced. After the Australian had called the Australian Agricultural Company "a monster", the Gazette of 8 April referred to the editor of its contemporary as "the biped - monster-monger". On one occasion, Howe was writing

"The Australian is again throwing his shot, and his shells, and his fireballs, but without producing anything like the effect intended. They are like so many air-bubbles that burst as soon as they are blown without doing injury, and thus our contemporary, poor fellow, tortures his brain to discover faults where none exist." 23.

The Australian's policy from January to September 1826 was a curious contrast to that of its early period. Much support was given

18. Ibid., 6 May 1826. 19. Ibid., 5 January 1826.
22. Ibid., 15 March 1826. 23. Ibid., 11 March 1826.
to the Government. On 7 June the Australian noted that

"The Government Order ... relative to prisoners, and to the holding out of gratuities and rewards, reflects much credit on the feelings of those from whom the order has emanated."

In its earlier support of horse-racing, the Australian had congratulated Darling and Dumaresq for taking such a keen interest in the successful promotion of the races. When the government currency measures saved the Bank of New South Wales from insolvency, the Australian of 24 May warmly commended the Government. The Bank was largely financed and controlled by the emancipists and the Australian's damning criticism of its directors for allowing bankruptcy to approach reflected the paper's general coolness towards the emancipists. Moreover, while the great debate on a house of assembly was being conducted by the emancipists in January and February, the Australian remained silent. The criticism that did appear was of a general nature where the government was concerned and only specific where Macarthur and the exclusives loomed large.

On 5 January, the Australian declared itself against the setting up of the Executive Council because some members of the Executive were also on the Legislative Council and because the new council might too greatly limit the power of the governor. On attacking the system of assigning prisoners to settlers, the Australian of 2 February argued that, because prisoners were sometimes badly provided for by the settlers, it caused an increase in bushranging, and that it

encouraged inequality of wealth and influence "to the great prejudice of the people at large." The *Australian*’s sharpest barbs were reserved for Macarthur and Scott. In an article which mentioned Macarthur’s Bank of Australia occurred a reference to "the arch-fiend". And Macarthur’s membership of the Legislative Council was attacked in the *Australian* of 12 January. The paper carried on a persistent campaign against the Australian Agricultural Company.  

When it reviewed the directors’ report on 1 April, the *Australian* spoke of "the merciless rapacity" which marked the company’s proceedings and pitied Brisbane for his lack of foresight in aiding the Company. The article sarcastically congratulated the company for obtaining the finest land yet discovered, for receiving preferences where assigned servants were concerned and for being allowed to sell its lands. All such news in the directors’ report was bound to please all new settlers but, the *Australian* ended, "too much joy like too much grief, is very injurious; we will not, therefore, overload our Readers with any more exhilarating doses."  

Scott received similar treatment and, when he publicly cursed the licentious press, the *Australian* of 16 June commented on his liberality of mind and extensive knowledge.

Meanwhile, the exclusives were trying to force the government to dissociate itself from the Press. Their most conspicuous success

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26. Ibid., 17 May 1826.  
27. Ibid., 1 and 12 April and 26 July 1826.  
28. Ibid., 1 April 1826.
in the early months of Darling's governorship lay in the removal of
the words "Published by Authority" from the *Gazette*. Pressure on
the government and Robert Howe for the removal of these words had
been building up towards the end of 1825. Emanating predominantly
from exclusives whom Howe belaboured, the first apparently concerted
move came from Samuel Marsden and Hannibal Macarthur. Both were
magistrates involved in the Douglass affair which had thrown the
colony into turmoil. On 16 September, Marsden expressed his regret
and indignation to Attorney-General Bannister that the *Gazette*,
which was published by authority should continue to be the medium
of scandal and abuse. Making a reference to the "Government
Gazette", Marsden continued

"It is the public conviction that the Gazette is pub-
lished under the authority of the Crown, and it is this
alone which arms it with all its poison arrows. It is
the real or apparent public sanction that enables it to
wound so deeply...Mr. Howe does not forget to remind
the public that he is the 'King's Printer', that
Government have a Journal of their own etc. etc. I
would ask why does he do this? but to impress the
public mind, that the all powerful arm of government
will shield him from every danger." 30.

Bannister attempted to placate Marsden by saying that it was not the
paper of the government "except for official documents." 31. In
charges of libel laid before him, Bannister had never considered it
as such and he mentioned the 1824 case of F.E. Forbes v. Howe when

29. Marsden to Bannister, 16 September 1825, Encl. 3, Marsden to
Bathurst, 4 October 1825, New South Wales Governor's Despatches,
1823 - 26, (Mitchell Library, Sydney).
30. Ibid.
31. Bannister to Marsden, 17 September 1825, Encl. 4, Ibid.
the defence, arguing that the paper belonged to the government, failed. The words "Published by Authority" did not to Bannister give "their true present meaning with sufficient explicitness", but he was sure they could not protect the printer if he broke the law. Thus Bannister echoed Macquarie's reply to Marsden over the "Free Settler" letters of 1814. At the time of Marsden's move, Hannibal Macarthur attacked the Gazette in the Australian for using "Published by Authority" and forced Howe to reply in the Gazette of 22 September 1825. Howe's first argument was that every proprietor of an official paper had the right to use the words "without the interference of the Crown" because, if he omitted them, he might as well surrender his title and patronage. If the words were deleted at Macarthur's suggestion, the Gazette would not be the organ of the government. Howe's second point examined the position of gazettes overseas. He agreed that the London Gazette only contained official publications and no comment, but this was not a peculiarity of all gazettes for, with the exception of the Dublin Gazette, every other gazette was free to discuss the news and particularly to defend the government. During his third point Howe unwittingly revealed the reason for his concern. The government might relieve Howe of its patronage if he departed from his principles but, as for reducing the value and importance of his paper at the instigation of Macarthur, the printer would never calmly submit to that. Finally, Howe

32. Ibid. 33. Sydney Gazette, 22 September 1825.
remarked that, although the **Gazette** was a government journal, the government did not interfere nor did it participate in editorial work; its only control extended to making official orders public by giving them to the **Gazette** to print.  

In the next few months, Howe's enemies increased the pressure. Archdeacon Scott wrote several times to the Colonial Office about Howe's position. In October, he objected to the libels in "this official Gazette", to the benefits Howe received from the government and to the result of the Gazette's libels putting the government in a poor light because of the close association between the two. In November he again used the same arguments in a letter to Bathurst. During January he spoke of his dislike of being attacked in a paper "published by authority". When Howe criticised Francis Short, a man of exclusive bent, Short took the printer to court, and on being unsuccessful sent a memorial to the government about Howe's use of "Published by Authority". The opponents of Howe continued their campaign by mentioning Howe's position in a letter to *The Times* of London. Dated 26 January 1826, the anonymous writer referred to the row over the Female Orphan School and Barnet Levey;

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34. Ibid.
38. *Australian*, 26 January 1826.
a series of "impudent letters" to Lord Bathurst had been published in the Gazette and, the correspondent went on,

"Those letters are published with the sanction of the Government and contain the grossest libels on every man of character or consideration connected in any way with the colony. To prosecute the authors or publisher, would be to place individual means in competition with the colonial fund." 40.

Clearly to Howe's detractors "Published by Authority" was just a symbol representing his close connection with the government; what they were really objecting to were his attacks on themselves.

On 10 May 1826 the Gazette appeared without the words "Published by Authority", a direct result of the pressure of Scott and, possibly, Wardell. Complaining about the Gazette's "false and malicious libels", Scott wrote at the end of April an official letter to Darling to enquire how far His Majesty's Government would sanction the privilege the paper assumed of styling itself "Published by Authority." 41. At the same time, Wardell was angling for the government printing contract and, through his friend Dumaresq, might well have said something about a move which would result in the partial loosening of ties between the government and the Gazette. A very different story, however, appeared in the Gazette. Howe said that he had written to Macleay a letter, reproduced in the paper, asking for permission to remove the words.

40. The Times, 18 September 1826, (B.T. Box 68).
42. Sydney Gazette, 10 May 1826.
In two different issues of the paper, he gave two main reasons for this request: first, without the words the Gazette's political discussions would not be "under the shadow of influence" and, second, many people had been putting pressure on the government. In his editorials, Howe made it look as if the decision had been his alone. However, after his death, Howe's executors mentioned that he had in fact remonstrated against the removal of "Published by Authority".

Nine days after this change in the Gazette's appearance, there emerged on 19 May a new paper, the Monitor, edited by Edward Smith Hall and the "prospectus" published in the first issue outlined its proposed policy. Taking as its text a remark by Caley, the Monitor declared

"The real foundation of our right to our property, and of all our rights, is the Law of the Land.' All therefore that the laws of England inflict on her banished offending sons, let the same be inflicted. But let 'no vigour beyond the law' be introduced in the infliction."

From protecting the convicts from harsh treatment, the Monitor's prospectus moved on to declare its support for the aims of the emancipists. Unlike the Gazette, the Monitor would neither support nor oppose the government but would treat and comment on each measure according to its merits. On the governor, the Monitor spoke of its respect for the representative of the Crown and said it would attribute his errors to the councils; his person was considered "too

43. Ibid., 6 and 10 May 1826.
44. Jones and Mansfield to Darling, 28 May 1831, Colonial Secretary In-Letters, 1830, (State Archives of N.S.W., Sydney).
sacred, at all events, to become liable to the rude and familiar attacks of a Newspaper". 45.

In the thick of controversy three months later, Hall clarified his position. After the Monitor had attacked some magistrates, Hall printed a letter critical of the Monitor and his reply to the letter. 46. The anonymous correspondent believed that, since the governor was bound to protect the members of his administration, to attack the magistrates was to attack the governor and the government; such attacks incapacitated all government. In reply, Hall argued that the governor was the servant of the people, appointed by the monarch, for their sake. As the governor could not do all the work, agents were appointed who were not necessarily of his own choice, and who perhaps did not view their office as for the benefit of the people. The governor’s honour was best maintained by employing conscientious officers. But, where the officers were the reverse, press criticism became important because it kept an administration healthy by rooting out evil. The correspondent’s second main point was that the laws and restrictions on the lower classes were necessary to restrain their vices. A paper should not condemn the laws because it thus became “the patron and friend of the most depraved” and not of the higher classes who, possessing superior knowledge, had a right to rule. The Monitor, however, pointed out that the higher classes were just as prone to vice, if

45. Monitor, 19 May 1826. 46. Ibid., 11 August 1826.
only of a more refined sort, as were the lower classes. The Monitor judged men not by the vulgarity of their vices but by their heinousness in the sight of God. The lower classes, not being educated, sinned not against knowledge and light as did the higher classes. Like the Author of Christianity, the Monitor pitied vicious publicans and harlots more than "vicious men of rank" for the former would reach the kingdom of God before the latter. The Monitor's critic, the letter continued, accepted the enactments of the government because they originated in the government's desire to advance the well-being of the country, protect public property and preserve peace. The correspondent's support of the government arose from being taught since childhood to revere the constitution on which the government was based. But the Monitor's editor had also been taught to revere the constitution, and, when he was old enough to form his own judgment and to compare the constitution with others, he accepted it as the best. Reverence for the laws and principles of the constitution, however, did not mean approval had to be given to the perversion of the principles and to maladministration; English law, "the perfection of reason", was not to be perverted. The Monitor then remarked that

"Just as in proportion to our admiration of those grand principles of civil and religious liberty, on which the constitution of England is bottomed, is our detestation of tyranny." 47.

47. Ibid.
From the beginning, the Monitor pursued its objectives with varying results, and by September was starting to cause the apparent quiet of the colony to crack. Ironically, Hall appeared to want harmony, not strife. Reaffirming his faith in the house of assembly and trial by jury, Hall wrote in the Monitor on 2 June that their introduction in the colony would lead to a "harmonious community" and an end to "all public jarrings and political discord" and that "a good understanding would take place between man and man." By the end of July, however, the Monitor's views on a house comprising 90 to 100 members had been modified; although the emancipists comprised two-thirds of the total population, the paper pointed out that in fact the group could only furnish about 20 members. At the same time Hall was aligning the paper with Scott against the Australian and Darling on the contentious issue of horse racing. Racing was attacked because of its association with gambling "a vice destructive in all communities, ... a vice, whose tendency is to break up the foundations of society, and to root out Christianity itself; for the Bible and the practice of this odious habit, cannot endure together." By September the paper was laying about the colony's magistrates with Biblical gusto. When the Monitor severely chastised the government in July and August, Darling became irritated enough to start proceedings against the editor.

The Monitor's appearance triggered off an intensification of

48. Ibid., 28 July 1826. 49. Ibid., 9 and 16 June 1826. 50. Ibid., 22 September 1826.
the newspaper battle and by September new depths of abuse and new pitches of tone were reached. The Monitor took swipes at the Australian’s articles on political economy and finance for their "wordiness and sophistry". On berating the editor of the Australian for his switch of policy on a house of assembly, the Monitor of 29 September argued that the earlier support for a house was only designed to build up the Australian, and that now with security achieved, its advocacy no longer mattered. The Australian, however, was a silent combatant in this fight and the paper did not mention the Monitor once, perhaps the highest insult it could have handed to Hall. At first, a sort of friendly parent-child relationship existed between the Gazette and the Monitor. Although Howe frequently referred to "His Monitory Eminence" or the "Orator-Editor" he adopted in the main a patronizing tone towards the paper. After criticising one of Hall’s articles the Gazette hoped "that he would behave himself with greater proprietory" in future; the Gazette was not going to spare the rod that the child might be spoiled. The Monitor responded with such remarks as "Our tottering old friend." In the atmosphere of New South Wales the uneasy friendship could not last. The Monitor in August and September roundly criticised the accuracy of the Gazette’s court reports and

51. Ibid., 25 August 1826.
52. Sydney Gazette, 7, 17 and 21 June 1826.
53. Ibid., 7 June 1826.
54. Monitor, 23 June 1826.
55. Ibid., 25 August and 15 September 1826.
on 1 September Hall wrote

"The remark in the Gazette on the impolicy of our giving critiques on the decisions of our up-country benches of justice convinces us of their expediency. Whatever the Gazette condemns, we always consider a strong presumption in favour of our conduct."

The Gazette began to shout about the Monitor stirring up the convicts and "the most notorious bad characters" and believed that in politics, in social order and in religion, the new paper was fast becoming a strong opponent of "the peace, safety, and good Government of the Colony." "The man is downright mad", shrieked Howe.

An evangelical who said he had seen the light after reading the works of William Cobbett, Edward Smith Hall had arrived in the colony in 1812 as a free settler with recommendations from Robert Peel and William Wilberforce. Having tried his hand at a number of tasks, Hall became closely associated under Macquarie's rule with the Benevolent Society, the Bank of New South Wales and the emancipists generally. In the 1820s a transformation occurred and, apart from deliberately holding Cobbett as his model and quoting his works in the Monitor, Hall's life and outlook held at this time a striking resemblance to those of Cobbett. Both men had a conservative background, Hall a banking family and Cobbett a rural family; both retained their religious convictions, Hall as a broad Calvinist and Cobbett as a high Anglican; both in their respective weekly papers

turned critic of the institutions and people to whom they had once been close; both looked back romantically to "a golden age", Hall in the 1820s to the age of Macquarie and Cobbett to a rural England unmarked by industrialization; both looked to the law in defence of the individual's rights and neither advocated revolution to redress grievances, although both used language which to the frightened or confused was synonymous with revolution; both espoused the cause of the weak against the strong and the poor against the wealthy, Hall's paper watching for injustices done to the convicts and Cobbett's for those suffered by the working classes; both wrote to their readers as people of intellect rather than down to them as did many of the contemporary pamphlets and papers affected by evangelism and notions of a ruling class; and, in the main, both were part of the tide of history in that their beliefs rather than those of their opponents came to be accepted. Hall's feeling for Australia was never as strong as Wentworth's, but although he once said he despised the country, Hall was aware that others had different feelings and that Australia was the country of his children.

The Monitor became involved in the exclusives' moves to force a separation between Darling and the Australian. The first attempt by Saxe Bannister, friend of Macarthur, in June 1826 was singularly unsuccessful. The Press, Bannister told Darling was in the hands of a party, and, no matter what party, anyone criticised by it would believe that the Governor agreed with it if he was friendly
towards the editors. As0. Asked to be specific by Darling, Bannister mentioned the Australian's attacks on many people connected with the government and objected to the governor receiving Wardell at his table.61. A number of editions of the Australian had libelled Scott and the clergy, Macarthur and the Australian Agricultural Company, the magistracy, Governor Arthur and Chief Justice Pedder since the start of 1826.62. Because these individuals were entitled to the Governor's support, it was due to them that he should not receive at his table anyone who attempted to degrade them. Darling was furious. Bannister had exceeded the bounds of his duty, the Governor replied, in commenting on his, Darling's, impropriety of admitting certain people to his table.63. The Attorney-General was not intended to possess authority over the Governor; when Darling required his legal advice he would ask for it, otherwise Bannister had "no right to interfere".64. Although Bannister believed any Attorney-General had the constitutional right to advise the Government, it made no impression on the Governor and the matter was referred to the Colonial Office. In his letter to Bathurst, Darling pointed out that Wardell had accepted an invitation to a

62. Australian, 21 January, 9 and 16 February, 15 April, 6 and 31 May, and 10 June 1826.
63. Darling to Bannister, 21 June 1826, Encl. No. 4, Darling to Bathurst, 24 July 1826, H.R.A., 1, 12, p.443.
64. Ibid.
public dinner given by Darling for Forbes; a similar invitation had been turned down by Bannister when he had discovered Wardell's acceptance. 65.

In July, the Attorney-General's second attempt to force a wedge between Darling and Wardell emerged during plans to prosecute Hall. Some paragraphs in the Monitor of 14 July appeared to have "a seditious tendency", according to Darling, and he asked Bannister what course should be pursued. 66. Bannister promptly agreed that the paragraphs were "seditious libel", that proceeding against Hall would not be complicated but that the legal facilities in England for proving publication had not yet been introduced in the colony. 67. Rushing to the defence of Hall, Bannister's letter emphasised that the prosecution of a new paper would bring discredit on the government especially when an established paper, conducted by a man more capable of his own legal defence than Hall, was publishing "very mischievous libels on public men". However, if Darling agreed, the Attorney-General would proceed against Hall. The Governor replied that Bannister should persevere in the prosecution. 69. No copies of this correspondence were sent to the Colonial Office by Darling; in the light of the next exchange of letters on the same subject, it made the Governor appear vacillating and less than just

65. Darling to Bathurst, 24 July 1826, Ibid., p. 437.
68. Ibid.
69. Ibid., Marginal Note.
towards Bannister.

It is also clear that another letter pertinent to Hall's prosecution was not sent to Britain by Darling and that the correspondence forwarded showed the usual development of the dispute over the particular issue of the prosecution into something more general involving the public positions of the Governor and the Attorney-General. Darling included as well one of Bannister's letters which he called "so completely visionary" as to need no comment and which had nothing to do with the current dispute; the obvious intention was to load the dice against the Attorney-General. Moreover, one of Darling's letters in which he asked Bannister not to proceed with the prosecution did not reach its destination until after Bannister had committed himself in another long rash letter. In this letter, Bannister again argued against prosecuting Hall because the government would not succeed in making an example of the editor or in creating amongst the public a general disapproval of his conduct; the reason for such probable failure would be the government's close relationship with the *Australian*. Unprejudiced people, according to Bannister, believed the government to be afraid of the *Australian*. Again Darling's anger rose and he told the Colonial Office that Bannister merely represented his friends who were

70. Note reference in Darling to Bannister, 14 August 1826, Encl. No. 2, Darling to Bathurst, 4 September 1826, H.R.A., 1, 12, p. 528.
71. Bannister to Darling, 29 June 1826, Encl. No. 5, Ibid., p. 534.
72. Darling to Bathurst, 4 September 1826, Ibid., p. 529.
73. Bannister to Darling, 19 August 1826, Encl. No. 1, Ibid., p. 530.
attacked by the Australian and that, while the Australian's comments were purely personal, those of the Monitor were seditious. From here the protagonists moved into a row about their respective positions, a row ended by Darling's refusal to enter into further correspondence with the Attorney-General except on strictly official business. Although Bannister failed to force Darling to dissociate himself publicly from the Australian by initiating a prosecution, he did manage to persuade Darling not to prosecute Hall, an indication of which is gained from the different reasons the Governor gave for abandoning his original plan. In one place Darling said that he noted what Bannister had said about the prosecution and that he hoped Hall would stop publishing articles; in his official letter to Bathurst, however, Darling remarked that it would be inconsistent with the character of the government "to enter into a contest with a newswriter", especially as the recent conduct of a public prosecution would make the result "very doubtful". A few days later Darling then wrote to the Colonial Office that the original prosecution was abandoned because Hall had in fact stopped writing seditious articles. However, the Monitor's editor had reverted to his former practice on 8 September and Darling, as a result, had again decided to continue with the prosecution, only to allow

75. Darling to Bathurst, 4 September 1826, Ibid., p. 529.
77. Darling to Bathurst, 4 September 1826, Ibid., p. 529.
78. Darling to Hay, 12 September 1826, Ibid., p. 579.
79. Ibid.
himself to be persuaded from such a course by the Executive Council in early October.  

By now Darling was beginning to look into the instructions he had received from the Colonial Office about the Press. The instructions, signed by Bathurst but drawn up by his legal adviser James Stephen, suggested a number of legislative restraints. It is not surprising that Bathurst referred the problem of restraints to Stephen, a man of firm opinions about the press. The Colonial Secretary was very much aware of the difficulties entailed in restraining the Press in the colonies. In 1824 Bathurst mediated between George Greig and Lord Somerset, Governor of the Cape Colony, who had deprived Greig of his license to publish a paper. Although he found Greig to be a man with "a strong disposition to be troublesome", Bathurst nevertheless ordered Somerset to grant a license.  

Analysing the situation in a private letter to Horton, Bathurst assumed that the Press should be under some restraint at the Cape and that, when allowing the freedom of publication "the internal safety of the colony" should be the most important consideration. But he was unable to decide who, in the colony, should resolve the perennial problem of fixing the point liberty became licence. If it should be a judge, then he became "the Censor", if a jury, then the

80. Darling to Hay, 4 December 1826, Ibid., p. 726.
Press would be "as free as in England". The question always returned to whether the Chief Justice or the Governor should exercise control. Not apparently worried by such problems, Stephen's views appeared in a reply to the complaints about the Tasmanian Press from his close friend, George Arthur. If it had been in Stephen's power, Arthur would never have been "subjected to the monstrous absurdity of being under the dominion of any low minded vagabond" who could turn a paragraph and get possession of paper and type. That species of tyranny, Stephen continued, would have been intolerable even in Britain where the Press was exposed to checks and counteractions. "But in a colony set apart for the discipline and reformation of the scowerings of our Gaols", the evils of what was called a free Press seemed to be overwhelming.

Stephen had just read a book on America, "that land of freedom gone mad", where the convicts were not allowed to speak, to have "the freedom of the Tongue", let alone the freedom of the Press. "We, in our wisdom," he concluded sarcastically, had set "all the convict fingers writing, and all the convict tongues talking upon every subject the most inflammatory, and the best adapted to divert their attention from their own crimes and disgrace, to the supposed misconduct of their rulers." Unlike Bathurst, it was the end and not the means that concerned Stephen.

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84. Ibid.  
85. Ibid.  
86. Stephen to Arthur, 24 August 1824, Correspondence with James Stephen, 1823-54, Arthur Papers.  
87. Ibid.  
88. Ibid.
Partly influenced then by Arthur's opinions, Stephen drafted a dispatch to remedy the evil. After acknowledging another dispatch of 15 January 1825, in which Brisbane first mentioned the abolition of restrictions on the Press, Stephen remarked that "the entire exemption of the Publishers from all restraint of local Government must be highly dangerous in a Society of so peculiar description". But although convicts outnumbered free settlers, Stephen declared himself unwilling to subject the editors "to restrictions at variance with the spirit of the law in force in the Mother Country". But even in England no-one enjoyed the absolute freedom such as was claimed by the newspapers Brisbane had sent with his dispatch. Restraints on this liberty had been imposed by the Acts of Parliament, 38 Geo. III, c. 78 of 1798 and 60. Geo. III & I Geo. IV, c. 9 of 1819. By these acts, the names of the printers, publishers and proprietors had to be delivered on oath to the Stamp Office and printed in every successive newspaper, and the publishers had to enter into a recognizance with two sureties for the payment of any fine resulting from a libel conviction. The acts did not extend to New South Wales but Stephen saw no reason

90. Ibid.
91. In the H.R.A. copy of this dispatch, H.R.A., I, 12, pp. 16-17, there is an important misprint. "c.9" in the original becomes "e.g." in H.R.A. In the statute book, C. 9 is preceded by 60 Geo. III & I Geo. IV, c.8, another act referring to the Press. J. Raithby, The Statutes of the United Kingdoms of Great Britain and Ireland, 8, 1819-1822, (London, 1822), p. 16.
why Darling should not "promulgate a Law to the same effect, and
extending somewhat further the principles which those Acts of
Parliament have sanctioned". He went on

"You will therefore avail yourself of the earliest
opportunity of proposing to the Legislative Council the
enactment of a Law founded in general upon the provi-
sions of the Statutes to which I have referred. You
will further propose it to be enacted that no Newspaper
be without a license to be applied for to the Governor;
but such license should in no case be made to continue
in force for more than one year from its date; and that
it be made resumable before the expiration of the year,
if an order to that effect be issued by the Governor
with the advice of his Executive Council, the reason
for every such order of resumption being first duly
entered on the Minutes of the Council and transmitted
for His Majesty's information through one of His prin-
cipal Secretaries of State by the first opportunity.
You will further propose that every such license should
be, ipso facto, forfeited upon the conviction of the
Publisher, Printer, or Proprietor for any blasphemous
or seditious libel. The license ought, as in England,
to bear a Stamp; but, as it is resumable, with a Duty
not exceeding one Pound, and each number of each suc-
cessive Newspaper ought also to be subjected to a Stamp
Duty. The produce of the duty, thus to be raised, would
most properly be declared applicable to the defraying
the charges of printing public Acts, Proclamations, and
Orders. The Colonial Treasury might thus be relieved
from the charge, unexpectedly thrown upon it, by the
Government Printer having been deprived of the exclusive
right of publishing a Colonial Newspaper, in considera-
tion of which he was formerly content to execute this
branch of the public Service without a direct pecuniary
compensation. In fixing the amount of the Stamps, you
will therefore so regulate the scale of the duty, that
the produce of it may be adequate to provide for this
change." 93.

As Darling, Arthur and their legal advisers came to interpret
this dispatch, it contained three central ideas. First, proof of

93. Ibid. (My emphasis - see below p. 137).
publication and punishment if convicted for libel should be ensured; second, a license should be necessary to print and publish a newspaper; and third, a stamp duty should be paid on each copy of a paper.

As to the first notion, it was logical for Stephen to have taken one of the "Six Acts" of 1819, 60 Geo. III & I Geo. IV, c.9, which aimed at crushing the cheap radical Press in Britain. To ensure punishment for libel, one of its clauses stipulated that a publisher of a newspaper had to enter into a recognizance. By the use of affidavits sworn on oath and the publication of the names of the printers, publishers and proprietors in each paper, the act of 1798, 38 Geo. III, c.78, made it easier to obtain libel convictions where earlier people had encountered the technical difficulty of proving a man responsible for the publication of a particular copy of a newspaper. The implementation of the act of 1819 depended on the effectiveness of that of 1798.

The idea of licensing the Press, the second element in the dispatch, had a number of precedents but specifically originated in a suggestion by George Arthur. An act of 1662 imposed a system of

licensing which, as A.V. Dicey has pointed out, was a censorship under another name; the act was allowed to expire in 1695 not through a love of liberty on the part of the legislators but through their awareness that the act posed too many administrative problems to be workable. Over the next century a matter of expediency became transmuted into one of principle and in 1804 Lord Chief Justice Ellenborough remarked

"The law of England is a law of liberty, and consistently with this liberty we have not what is called an imprimatur; there is no such preliminary license necessary; but if a man publish a paper, he is exposed to the penal consequences, as he is in every other act, if it be illegal." 98.

Thus it had evolved that "the liberty of the Press", a phrase which had little currency in law, came to mean the application of a general principle, that no man was punishable except for a distinct breach of the law. In 1819 the British government considered the idea of reintroducing a censorship or licensing system but abandoned the proposal as inconsistent with the liberty of the Press. However, anyone with an imperfect knowledge of the law might, by glancing at some of the contemporary radical papers, have gained the impression that a licensing system existed. Cobbett's

97. Ibid.; Aspinall, op. cit., p. 34.
98. The King V. Cobbett (1804) quoted in Dicey, op. cit., p. 248 and see Aspinall, op. cit., p. 34.
99. Dicey, op. cit., p. 239.
100. Ibid., p. 248. Recognizances ran counter to this principle because they assumed that a man was going to break the law.
paper used to declare itself "licensed by authority", but this only meant that it was registered at the Stamp Office as a pamphlet. The Stamp Office had no power to refuse such registration, the power of acceptance or refusal being the essence of any licensing system. But even if a man did not need a license to print a newspaper or pamphlet, the government and local authorities could still use licensing measures to attack the Press indirectly. As in New South Wales, the publicans of Britain needed licenses which, if they subscribed to the radical papers, were likely to be resumed by the local magistrates. The owners of reading rooms and coffee houses were in a similar position. By act of Parliament hawkers required a license and, in the years after 1815, the government attempted to make their licenses resumable on being found selling radical pamphlets or papers. Unlike Britain, a system of licensing the Press existed at the Cape Colony and, in India, regulations similar to those promulgated by Wellesley in 1799 had been reintroduced during 1823. Since, therefore, the Press was controlled indirectly in Britain and directly in some colonies by means of licenses, any suggestion to extend these measures to the Australian colonies would probably have seemed not unreasonable. Apparently the original suggestion came in a private letter from Arthur to James

Stephen in 1824. In the middle of that year, Arthur sent to Brisbane a draft of a proclamation prohibiting any person from publishing a newspaper without first obtaining a license from the Governor, under penalty of £500. Brisbane, on Forbes' advice, rejected it because the Legislative Council had not yet been called into existence and the Governor by himself had no power to make laws. Although Arthur again considered the idea in June 1825, nothing came of it. Arthur made no detailed complaint about the Tasmanian Press at an official level until September 1825, and it was only after he had done so did he receive towards the end of 1826 a duplicate of the dispatch Stephen had drafted for Darling.

The final idea in the dispatch, that of a stamp duty, arose less from any intentions of repression than from pecuniary motives. When the Australian started, Brisbane agreed that the Sydney Gazette should be paid for inserting government notices where earlier they had been printed free of charge. The Gazette's editorial of 14 October 1824 discussed the change at length and a Colonial Office memorandum dated 23 February 1825 suggests that someone, on seeing the Gazette, was immediately alarmed by the financial implications for the colonial treasury. General Darling was to be acquainted

108. Ibid.
that it was intended, the memorandum said, "that a Stamp Duty of
four Pence should be imposed on each newspaper to defray the expense
of advertisements which were formerly inserted in the Govt. Gazette."  

Brisbane's dispatch which first noted the change did not arrive at
the Colonial Office until June 1825, some four months after the
writing of the memorandum.  

At the same time, however, Stephen
was also possibly influenced by the repressive act of 1819, 60 Geo.
III & I Geo. IV, c. 9, to which he referred early in the dispatch.

By redefining news and newspapers, the act had extended the current
fourpenny duty on newspapers to radical papers and pamphlets which
had previously escaped it.  

Certainly the view of the dispatch's
purpose held by under-secretary Hay, who arrived at the Colonial
Office in July 1825, euphemistically suggests that the original
motive was other than financial. In 1826 he told Darling that the
dispatch referred mainly "to the tranquillity in the Colony, and not
to the pecuniary advantage which might arise from an insignificant
Tax."  

With such diverse origins it is not surprising that the dis-
patch displayed a number of contradictions which were to prove
embarrassing to the Governors who attempted to implement its sugges-
tions. The main contradiction concerned the desire to keep leg-
islation within the spirit of British law and the aim of implementing

112. Unsigned Memorandum, (? Horton), 23 February 1825, C.O.
201/161, Reel 140, ff 21.  
113. Brisbane to Bathurst, 15 January 1825, C.O. 201/161,
Reel 140, ff. 9.  
115. Hay to Darling, 31 October 1826, C.O. 324/85, Reel 1202, ff. 77.
proposals unknown to that law. By the New South Wales Act of 1823, any proposed law was not to be "repugnant...to the laws of England, but...consistent with such laws so far as the circumstances of the said colony (would) admit. 116. In the dispatch, Stephen stressed at the outset that even though the convicts were numerically larger than the free settlers he was unwilling to subject the editors of the papers "to restrictions at variance with the spirit of the law in force in the Mother Country." But Stephen then suggested a licensing system which did not legally exist in Britain. By remarking that "the license ought as in England to bear a Stamp" he seems to imply that such a system did exist. The act of 1823 appears to contain a loop hole in the phrase "so far as the circumstances of the said colony will admit" since it implies that, because New South Wales was a convict colony, legislation contrary to British law might be enacted. But if Stephen hoped to have the licensing regulations passed by means of the loop hole, why then did he mention the aim of keeping to the spirit of the law in Britain even though convicts outnumbered free settlers. The second peculiarity of the dispatch involves the stamp duty. By the act of 1823, the purposes of any tax imposed by colonial legislation had to be "distinctly and particularly stated in the body of every ordinance imposing every such tax or duty." 117. According to the dispatch a stamp duty on the newspapers was intended to defray the cost of

117. Ibid., p. 99.
The sale colony (Mont) supplied.

The object of this measure was to supply the outlying districts with local laws to serve as the instruments of the law of England.

The靛蓝 society, the indenture of 1829, on the subject of the sale of land in the new colony, was not to be "important...to the law of England," and the other society of the same date was to be "important...to the law of England." In the absence of the sale society, the practice of the court was not to be "important...to the law of England."
government printing operations. But by citing one of the "Six Acts", 60 Geo. III & I Geo. IV., c. 9, which used a stamp duty to repressive ends, the dispatch clearly suggests a second purpose which if not stated in the body of a law, would run contrary to the 1823 act. Indeed the way the subject is introduced in the dispatch - in one sentence Stephen moves from a license to a stamp duty on the license to a stamp duty on each copy of a newspaper - suggests a certain lack of clarity and foresight on the subject. The idea of "extending somewhat further the principles" of the act of 1819, moreover, is strange because the act proved repressive enough in itself by putting a legal end to the cheap radical papers in Britain. 118. Overall, it seems clear that Stephen the man took second place to Stephen the lawyer. Intent on putting down a factious Press which troubled his friend George Arthur, Stephen failed to pay much attention to the legal and administrative difficulties involved. In the event, the dispatch came to illustrate the central problem confronting the London administrators of the Australian colonies. Lacking detailed knowledge of the colonies and possessing, in the case of the Press, less than perfect knowledge of the laws of their own country, the administrators had to reconcile measures intended for Britain with conditions found in the

colonies. Inevitably, the result was government by muddle.

Contrary to the Colonial Office's instructions, Darling did nothing about the dispatch from January to September, 1826. Reviewing those months, it can be seen that the reasons for Darling's inactivity were many and various; they suggest that Darling was very much a victim of circumstances beyond his control. When Scott and Macarthur demanded he act against the Press, Darling resisted partly because he did not want to involve the government in their affairs, and partly because he disliked the two men. His resistance to Arthur's demands for legislative action against the Press sprang mainly from his preoccupation with administrative reforms which, he said, had left him little time for looking into Bathurst's dispatch. Darling was also unwilling to risk the favourable reports of the *Australian* and *Sydney Gazette* by imposing a tax on newspapers. Dumaresq was friendly with Wardell who frequently visited Government House. The Governor, moreover, was on very good terms with the Chief Justice, both writing favourably about each other in their letters, and Forbes advised that if legislative action had to be taken, it would be better for Parliament to handle it rather than the government of the colony. In the complicated

dispute with Bannister, he vacillated partly on account of Bannister's suggestion that he should prosecute the Australian. As well as acting for the exclusives in their attempt to drive a wedge between the governor and the Australian, Bannister was loathe to prosecute the editor of a paper, The Monitor, which spoke of the Attorney General in a favourable manner. Both Bannister and Hall had humanitarian leanings and both were concerned with the lot of the aborigines. Lacking imagination or, as Stephen put it, any "reach of thought", Darling failed to connect in his dispatches to the Colonial Office the two possible purposes of the proposed stamp duty, the suppression of newspapers criticism and the defraying of government's printing costs. In the midst of the row with Bannister over the Monitor's seditious articles, Darling discussed the establishment of a government gazette and Howe's printing charges in a dispatch to Bathurst; he wrote

"Should the expence of Printing the Forms, etc., required by different Departments, prove considerable as is probable from the increased business of the Government, I shall in that case submit a Bill to the Legislative Council for imposing a Tax on the Newspapers, in order to cover the expense. I have not hitherto done so, as the expense did not appear of sufficient magnitude to render an object, and the Council is restrained from passing any Money Bills except for specific purposes." 124.

No mention is made here, as before of the effect of the stamp duty on the Press. Because of the political positioning of the various individuals interested in the Press and because Darling was sure

124. Darling to Bathurst, 8 September 1826, H.R.A., 1, 12, p. 549.
the instructions had been framed in the legal department of the Colonial Office, he troubled himself little with their actual form or ramifications. Forbes later remarked that Darling did nothing about the instructions because, knowing he possessed the power to silence the Press at any time he wished, he could afford to ignore them until necessary. Darling neither had nor could have had a firm policy towards the Press until events forced him in late September to formulate one.

Darling was finally forced to make a major decision on the Press in early October 1826. While the lines of the political groupings were being redrawn in September, Darling was gradually relieved of two pressures acting against his doing something about the Press. After resigning in May, Bannister was by the end of September preparing to leave the colony. There exists plausible suggestions that Wardell at the same time wanted Bannister's job or the Solicitor General's position. A lack of success probably resulted in a cooling off between Dumaresq and Wardell and a perceptible change in the Australian's policy. On 13 September, a leader in the Australian denounced some new land regulations in a manner strong enough to force Darling to defend the regulations against the criticism in a dispatch to the Colonial Office. Thus Darling

127. Darling to Bathurst, 6 May 1826, H.R.A., 1, 12, p. 271.
was being left without Bannister to defend the Monitor and criticize the Australian and without the Australian to support the government and thereby inhibit action against the whole Press. On 6 October 1826, the Executive Council comprising Darling, Stewart, Macleay and Forbes met. 130. Darling drew the Council's attention to a series of articles in the Monitor between July and September, but was dissuaded from prosecuting Hall because the editor was said to have seen "the impropriety" of his style and because they did not wish to turn him into a martyr. Darling then introduced Bathurst's instructions on the Press and, after some discussion, it was agreed to leave the issue until the meeting of 1 November. 131. At this meeting the same people agreed that a bill should be drawn up "conformably with the suggestions" contained in Bathurst's dispatch. The minutes show that Forbes had warned Darling in a private letter that the bill had to conform with the laws of England. 133. In looking for the reasons behind Darling's attempts to legislate against the Press in April and May 1827, historians have occasionally fallen into the trap of a post hoc ergo propter hoc fallacy. At the end of November a major row known as the Sudds and Thompson affair disturbed the colony; for several weeks, the Australian and the Monitor lashed the governor and the government for their part in the affair and continued to do so on this and other subjects well into 1827. Now since Darling attempted to promulgate the Press legislation in

130. Minutes of the Executive Council, 6 October 1826. 131. Ibid. 132. Ibid., 1 November 1826. 133. Ibid.
April 1827, historians have suggested a connection between the two events. Because one followed the other, a causal connection is seen to exist. But, as the minutes of the Executive Council show, the decision to draw up legislation had been taken several weeks before the Sudds and Thompson row developed.

Between December 1826 and January 1827 Darling was subjected to a host of conflicting pressures and circumstances where the proposed legislation was concerned. Surrounded by incompetent men, a general characteristic of his administration, Darling could find no one to draw up the proposed bills and the matter lay in abeyance until sometime in December. Arthur received a copy of Bathurst’s instructions direct from the Colonial Office in November, immediately had two bills prepared and certified by Chief Justice Pedder, and sent them in December in a secret dispatch to Darling so that they might act in concert. Meanwhile, the Sudds and Thompson affair had burst upon Sydney. Wentworth turned it into a political stick with which to beat the Governor and further his own plans for the colony. The Australian was used to this end and, from the early weeks of December to the latter weeks of January, the papers attacked the government and urged liberal reforms. Even though Darling realised Wentworth’s intentions, the criticisms in the Australian stung nevertheless. The Monitor followed the Australian but the Gazette, much to many people’s disgust, supported the

134. For example, see A.D.B., 1, p. 285 and C.M.H. Clark, A Short History of Australia. (Sydney, 1963), pp. 65-66.
Governor. But the plan Darling had of silencing the Press was hindered by Forbes who, at the very time the Sudds and Thompson affair broke, told the Governor again in a private letter that the proposed legislation was repugnant to the laws of England. Darling reluctantly accepted Forbes' advice and urged the Colonial Office to legislate in Parliament. Disliking controversy, Forbes moved away from Darling in the early weeks of December partly because of the Press issue but largely because of the Chief Justice's declaration that the Governor's actions in the Sudds and Thompson affair had been illegal. Hence the government of the colony devolved increasingly on Darling, Macleay and Dumaresq. As Forbes retreated from the counsels of government and the tempo of newspaper criticism increased, Darling became more inclined towards the views of Scott and Macarthur. At the beginning of January, Wardell's attacks on the Church had reduced Scott to writing letters, couched in hysterical language, on an official level to the Governor. A Gazette report of a court action, in which he was involved, exacerbated Scott's loathing for the Press. John Macarthur suffered much frustration because his plans to establish a paper had been thwarted by a fall in wool and land prices and a consequent dissipation of the financial support he required. Hence Macarthur resolved to crush the existing Press.

137. J. Macarthur to his son, John, 27 May 1827, Macarthur Papers, Vol. 3.
In February and much of March 1827 the same pattern emerged with Darling still dithering between various choices of action. Early in February Darling again wrote to the Colonial Office urging them to legislate. 138. Forbes had again told the Governor of his opposition to the bills, particularly the licensing sections, and had pointed out a recent decision, reported in the local papers, of some judges at Bombay. Their arguments coincided with those of Forbes and ran directly counter to Pedder's opinions. At the same time Forbes was writing privately to Horton and pressing him to initiate legislation in parliament. 139. A few days later, Darling sent a long dispatch with comments on the emancipists' petition for liberal reforms. Again and again Darling returned to the subject of the Press in the dispatch, thus showing the depth of his concern. 140. Letters from Hay who had seen the Monitors of 1826 began to arrive urging Darling to implement Bathurst's instructions. 141. The papers heard of the impending legislation, carried articles on the freedom of the Press and contained extracts from papers reporting the conflicts between governors and the Press in Canada, Demarara and the Cape, conflicts in which the governor, according to the reports, always seemed to come off worst. The Times' strictures on Arthur's handling of Bent were reprinted in the Sydney papers in March. 142.

139. Forbes to Horton, 6 February 1827, Ibid., IV, I, p. 681 ff.
140. Darling to Hay, 9 February 1827, Ibid., I, 13, p. 96 ff.
141. Hay to Darling, 31 October 1826, C.O. 324/85, Reel 1,202, ff. 77.
142. Australian, 3 March 1827.
Unlike Arthur, Darling sought popularity which made him susceptible to this type of pressure.

Then on 18 March occurred a crucial event, Dumaresq's duel with Wardell. With his sense of humour deserting him, Dumaresq challenged Wardell after an article critical of the Private Secretary appeared in the *Australian*. Even with three shots the duellists failed to inflict any damage on each other, an extraordinary feat since Dumaresq was a military officer, and one that can only be explained by a reluctance, prompted by second thoughts about the consequences of success, to hit each other. With some hilarity, the *Monitor* berated both men and said it was a pity neither was killed for his folly. Wentworth, who had been Wardell's second, sent a letter to the *Gazette* correcting Howe's account of the episode. Dumaresq, acutely embarrassed by the affair, wrote to Wentworth and intimated that it was unfortunate that it had not been kept quiet. 143. The Governor, then, was probably under strong pressure from his secretary to silence a Press that accentuated his embarrassment. Meanwhile, Darling completely broke with the judiciary. When Scott remonstrated with Darling about the inaccuracy of a court report in the Press, Darling fell out with the Supreme Court Judge, John Stephen, by demanding information from him about the case. 144. To the Governor it was clear that the judiciary was determined to embarrass him. To the judges it was

equally clear that the Governor had little knowledge of the law, proceedings of the courts or the respect the Executive should show the judiciary. At the same time Darling was sending to England a veritable clutch of dispatches about the Press. On 23 March Darling wrote at length on an article in the *Monitor* and sent a separate enclosure answering each of Hall's 24 charges of maladministration. On 24 March he again mentioned that Forbes would not certify the Press legislation. On 26 March Darling again reviewed the Press and the editors. On 27 March another long dispatch, "written in great haste", linked the judiciary and the Press. Darling was working under an immense strain. Then, three libel trials in the last days of March ended in fiasco; each defendant, an editor, got off lightly through the brilliance of the defence or the incompetence of the prosecution. In one aspect, proof of publication, the law had been shown to be inadequate. Darling saw his opportunity. After months of indecision, the Governor decided to take the law into his own hands and to attempt to crash the legislation past the opposition of the Chief Justice.


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CHAPTER 6 - OPPONENTS OF THE PRESS.

By March 1827, then, the government and the exclusives were being forced into the alliance by the vehemence of newspaper criticism. The alliance possessed certain ideological overtones and the comments on the Press put forward by the members of the alliance were rooted in their vision of men and society. Broadly speaking, two types of critic of newspapers exists, conservative and progressive. As Mayer has shown, the progressive attacks the Press for bolstering up the status quo and for corrupting the natural goodness of man. ¹ Whereas in the twentieth century this charge is levelled from the political left at a Press seen as politically right, in the early nineteenth century the Australian progressives were identified with the Press; some of them owned newspapers which they used to promote ideas of change. Hence it is not surprising that in the 1820's the great bulk of the criticism of the Press stemmed from the conservatives who saw it as helping to undermine existing traditions and to cause a fall in religious and moral standards. ² Partly from this belief arose the impulse to silence the Press. While local conditions gave the attitude of the Australian critics of the Press a particular flavour, the same general criticisms were being made in the early nineteenth century

2. Ibid.
overseas. Reading between the lines of the conservatives' criticisms of the Press, it is possible to see their overall view of the world. Basic to their vision were a love of the status quo against change, of order against disorder, the idea of a ruling class against democracy, the concept of a hierarchical society in which men accepted rather than criticised, the belief that church and state were one, that people should possess respectability and character and, above all, that reason failed because of man's fallability. In the Australian colonies, the main exponents of this view were the governors Darling and Arthur, Darling's private secretary Henry Dumaresq, the Macarthur family and Archdeacon Scott. When they contemplated imposing legislative restrictions on the Press early in 1827, they tended to speak with one voice and their remarks show that even before they allied politically, the groups headed by Darling, on the one hand, and by John Macarthur, on the other, held the same approach to newspaper criticism. The most perceptive spokesman of the conservatives was Dumaresq. Just after Darling had failed to legislate against the Press in May 1827, he sent Dumaresq to London. Away from the highly charged atmosphere of New South Wales, Dumaresq sent some carefully thought-out remarks.

about five and a half thousand words in length, to the colonial office on the political state of the colony.  Because Darling was somewhat harried before the Press legislation, his dispatches lack the clarity and cogency of Dumaresq's submission. Just over half of this document is devoted to the condition of the Press and the reasons for the desirability of suppressing it in the colony. Although Dumaresq was running, as he was well aware, against the tide of contemporary opinion, his arguments comprise the most penetrating analysis of the position of the Press in early Australian society.

Dumaresq began by outlining his basic assumptions. He assumed "as an Axiom in Civil Polity" that no country was fitted for the free institutions of England where there were people whose rights were unequal. In New South Wales the same laws could not be applicable to convicts and free men and, therefore, the larger part of the community had to be governed by regulations especially designed for felons. As for the idea of "the Rights of Englishmen", Dumaresq argued that these had been forfeited by the convicts and emancipists and that the emigrants voluntarily surrendered them for the advantages they gained. Because the emigrants had placed themselves under the protection of a government whose measures were framed principally "to control and reform Criminals," they had no cause for complaint. "The inapplicability of Popular Institutions of the


5. Ibid.
Mother Country to the Colony" held good, in Dumaresq's opinion, "with peculiar force, as regards the Freedom of the Press." In New South Wales there were certain questions which it was dangerous to discuss and a spirit "kindled by licentious publications" would become unsafe unless it was checked. Obstructions could be set up against the operation of a government which possessed and deserved "the fullest confidence of the Community at large" and the Press could be employed directly in encouraging those obstructions. But the opposition papers in New South Wales did not confine their strictures to government measures. They interfered in "the most ordinary details of the Public Departments" by espousing the cause of every officer or clerk who had been reprimanded for remissness or dismissed for malversation. The advocates of a free Press argued that criticism of a government ensured the goodness of that government and that discontent with a government was good in that it might encourage the removal of the real cause of dissatisfaction. But, he argued, from "a principle inherent in the structure of the Colony", a large proportion considered the government as "a Task Master and Oppressor" and could "not be expected to feel content with it or to be satisfied with Regulations, framed almost wholly with the view of restraining their favourite, but vicious propensities." This natural cause of dissatisfaction was accentuated by the circumstance of the service of government being held before the convicts "in terrorem";

6. Ibid.  7. Ibid.
a recalcitrant convict would be "menaced by his Master with being
'returned to Government employ.'" Dumaresq thought this feeling
necessary to aid "the difficult and irksome task of exacting invol-
unarily labour from Persons, so averse to habits of industry."
Therefore with such an "inflamed state of mind" was it surprising
that publications could excite convicts to disturb the state of the
colony. Then Dumaresq mentioned the gloomy forebodings of those
who had seen the change in "the Deportment of the Convicts" and
"the progress of their pretentions." 8 While these men were irrit-
able because of "their sense of moral and political degradation,"
a nice discretion would be needed "to expose with safety, even in-
stances of unnecessary rigor." "But what must be the state of
things" when imaginary evils were perpetually held up to their de-
testation and when they were "constantly exhorted to resistance
through the medium of the Press." Dumaresq then reached the crux
of the conservatives' view of the relationship between the Press and
the convicts:

"The safety of New South Wales depends on the separation
and disunion of the Convicts, and no resistance to the
Government can be effectual, unless it is general: to be
general it must spring from a general Conformity of
opinion, and a general knowledge of that Conformity.
The convicts being for the most part, widely distributed
and remote from each other, this effect can only be
produced, and an impulse given to it, by means of a
prostituted Press - or a Journal such as the Monitor
which is emphatically, and appropriately termed, 'a
Convict Newspaper' - by such means only, can any very
extensive Communion of sentiment, or unity of purpose
be obtained." 9

According to Dumaresq, the military as well as the prisoners
were "constantly seen reading the Opposition Papers." 10 He had

8. Ibid.  9. Ibid.  10. Ibid.
been assured by settlers that it was impossible to prevent their assigned servants from going, some of them four or five miles, on the evenings the Monitor arrived in the neighbourhood to obtain the paper. Dumaresq did not believe that it was necessary to provide illustrations of "the dangers to be apprehended from the feelings of the Convicts being imbibed and participated by the Soldiers." Such dangers were too apparent but he noted the increase of "a greater disposition to improper intimacies" amongst the soldiers which was "inconsistent with discipline or the Military character."

In his final remarks on the relationship between the military and the Press, Dumaresq touched on an attitude widely found amongst conservatives; he wrote:

"Now Government, like anything else to be preserved, must be beloved, and what can be expected from soldiers, or others, who are thus in the habit of hearing and seeing the Government reviled; its Public Officers spoken of with insulting disrespect, and alluded to, with the utmost rudeness of Personal reflexion?"  

Moving onto the relationship between the general public and the Press, Dumaresq continued in a rhetorical vein. What good, he asked, could be effected if "Public esteem and Confidence" were undermined by unremitting efforts "to degrade and lessen authority" in a community where passions were much more readily transmitted than virtues. Dumaresq then told of a common trick of the editors of the opposition papers. They would announce that certain obnoxious measures were contemplated by the government and their comments on these intentions were, according to Dumaresq, "calculated to

11. Ibid.  
12. Ibid.
excite distrust and alarm." The public would, for some time, be kept "in a state of suspense and uneasiness." Then, when it suited their purpose, the editors would assert, with the utmost effrontery, that the proposed measures had been abandoned as a result of their criticisms, and the government would be "assiduously complimented for Yielding to Public Opinion." There followed a statement indicating the conservative distrust of reason and disbelief that all men of good faith would seek the truth.

"I am aware, it may be said, that passionate Language and distorted facts, will only have the power of creating momentary warmth; but that permanent opinion, must depend on the real state of the Facts. This is supposing that truth will be sought by the unhappy men, who form the great Mass of the population of New South Wales; and assuming that their reason is as accessible as their Passions - a fallacious expectation, and a presumption, which experience contradicts." 13.

Fully conscious that he was going against public opinion in Britain, Dumaresq looked to the peculiar state of society in New South Wales to support his argument for restricting the Press. The unrestricted liberty of the Press was, at that time, "so much insisted on as a Palladium against every abuse" and this doctrine was "so universally popular", that he, Dumaresq, felt "the utmost apprehension in hazarding opinions" which could militate against its continuance even in New South Wales. 14. But his earlier arguments which arose from considering the colony's "penal character" were strengthened, he believed, by looking at "the circumscribed limits and anomalous description of society." To show this he distinguished

nicely between the causes and consequences of vitriolic journalism. "Public Officers and Individuals in the higher Ranks" were less insulated than elsewhere from "the People", and those who were attacked in the Press were in immediate contact with the persons by whom they were assailed, while both were known to the whole community. The Press would always be used "as a means of giving vent to spleen" and no-one was "secure from insult and provocation." This type of assault, if not carried out "by direct scurrility," then by innuendo or inference impossible to be misunderstood, would not give sufficient grounds to justify legal action but would "occasion the utmost irritation and annoyance." Such feelings were increased by an individual's realisation that he was "personally known and pointed at, as the Person alluded to, and as the subject of ridicule, or perhaps of reproach." Dumaresq went on

"The vulgar rudeness with which the highest authorities are spoken of and addressed, must have the effect of depreciating them in the opinion of the Public; and a strong tendency to bring them into dis-esteem. This result is in some degree facilitated, by the almost familiar intercourse which necessarily exists in so confined a Community, and experience teaches us, that such familiarity has ever been found to lessen distinction." 15.

He therefore felt it important that "Persons in Authority" should be protected from "acrimonious invectives". Against this proposition Dumaresq thought it could be argued that a knowledge of the facts would work against invectives and, moreover, would excite "an unfavourable opinion of him who had thus displayed his intemperance."

15. Ibid.
But, he pointed out, it was "not always easy or convenient to expose fallacies" and truth was to be found no nearer the surface in the colony than elsewhere.

Then Dumaresq defended Darling. "The indecent personalities and abusive epithets, applied to the Governor" had been, he said, the subject of animadversion even by the editors of opposition papers. Each editor had reproached the other "with being the Author of seditious and Libellous Attacks." The papers accused him of the "commission of Arbitrary Acts, the effects of a Military education" and of "intemperate interference in matters of Justice, the result of passionate ignorance and a hasty temperament." But these assertions, Dumaresq argued, were not borne out "either by the tenor of his administration or by the character of his proceedings." The records of his government and his deportment in private life refuted the charges. Going on to the theoretical position of the governor, Dumaresq remarked that no-one would deny that "Power, vested in the hands of one person," might be "capriciously employed." But the real abuse of power in the colony could never be formidable, and it did not need "the control of Hireling News Writers, Men unrestrained by principle and ready to abandon every honourable motive in their eagerness for pecuniary advantages." 17. "Independent of such Censors", there would always exist the means of bringing an offending governor "before the great Moral Tribunal of Public

16. Ibid. 17. Ibid.
Opinion in England." He continued "No anxiety need therefore be felt, as to the placing of obstacles in opposition to the possible exercise of Arbitrary power; while on the other hand, it is essential to the society of New South Wales and to the Maintenance of subordination there that the measures of Government be characterized by vigor and decision - to this end, the Administration must be ably supported and the authority of the Governor firmly upheld. If he exercises this authority indiscreetly, or fails to merit, the utmost confidence, remove him; for unless he acts with assurance his measures will be tainted with irresolution and timidity, and the sagacity of our Modern 'Romuli' will not be tardy in discovering the cause, or in taking advantage of its effects." 18.

Dumaresq then discussed the support for restricting the Press. The papers argued that to place restrictions on the Press would be "a triumph of Power over Public Opinion." But whatever might be the merits of such a policy elsewhere, Dumaresq was sure that there existed "no Person of respectability", who feeling "alarmed at the Power and Characters of the present Editors", did not desire their suppression. Dumaresq said that those who opposed such a policy were men whose views were "selfish or dishonest" and whose principles were "corrupt."

Moving on to the relationship between the immigrant settlers and the Press, he again tried to prove "the mischievous tendency of the Sydney Papers." 20. Nearly every individual who arrived to become a settler experienced some difficulty for which he was unprepared; and difficulties arose from "circumstances peculiar to all new countries" and, particularly, from "the imperfect knowledge" of New South Wales. However much he was aided, the settler would

18. Ibid. 19. Ibid. 20. Ibid.
sooner or later have some cause for complaint and believe that his particular interests had been considered less than their importance merited. The settler did not know of the numerous claims from people in a similar situation and, even if he did so, Dumaresq suggested that he would not measure them "by a very just standard". The settler was "apt to ascribe every little failure in his Plans, or perplexity in their accomplishment, to needless obstructions, or a want of proper consideration." 21. This situation would always exist while government assistance fell short of "the often times unreasonable expectations of the Emigrants." Such "feelings of disappointment and irritation, not perhaps very clearly perceived, or accurately defined" would have been effaced by industry or knowledge of the facilities available for "getting forward in this highly favoured country", were it not for the newspapers. Summarizing the psychology of the settlers, he went on

"The temper of these Papers, ministers to the morbid sensibilities of Persons so affected, and serves to fasten and augment their discontent; Feelings have thus been engendered, which have manifested themselves in insolent and unbecoming communications addressed to the Government and a spirit of uneasiness has been excited in every Class. The Settlers are persuaded that their wants are unattended to - and Maxims of equity are Construed into rigour whilst proper rules of action are regarded as unnecessary restraints; they are unable to perceive that they are unduly influenced by Persons who have made an Act of finding, in what has naturally a good meaning, all the bad meaning, which minds accustomed to false reasoning can discover, and they are disposed to adopt without enquiry, opinions which appear to accord and sympathize with their imaginary grievances." 22.

21. Ibid.  22. Ibid.
Such was Henry Dumaresq's analysis of the role of the Press in New South Wales.

As with Dumaresq, the conservative critics of the Press stressed the penal character of the colony and, because of this, deplored the newspaper attacks on the government. When talking of New South Wales, the most popular word used by these men was "peculiar" and its variants. "The Press, formidable everywhere", Darling told Hay, was "from the peculiar Composition of this Community, extremely dangerous here." 23. James Macarthur thought that the Press subverted every principle by which "a Community so peculiarly constituted had hitherto been kept under legitimate restraint." 24. Similar logic appeared in Hay's remark that there was no other British settlement where "the licentiousness of the Press would be attended with such prejudicial effects as in New South Wales." 25. So "peculiar" were the Australian colonies that it was natural for Arthur to argue for the uselessness of trying to graft "the free Constitution of England" on a convict colony. 26. It seemed to him to follow that a "free constitution should precede a free Press." 27. Indeed, as for an unrestrained Press, the thought

23. Darling to Hay, 6 February 1827, Historical Records of Australia, 1, 13, p. 97.
25. Hay to Darling, 31 October 1826, C.O. 324/85, Reel 1202, ff.77.
thoroughly alarmed Arthur and he defied "the Home Government to retain the Colonies and suffer it to continue." Darling never believed that the papers would be instrumental in creating a North or South American revolution in the Antipodes but he did think the press talked a lot of rubbish about "the Rights of Englishmen." Many had forgotten their actual condition, he argued, and colonial society had no similarity with that of Britain. Like Dumaresq, conservatives deplored attacks on the government. Darling spoke of the papers' "Mischievous endeavours to bring the Government into hatred and Contempt." The safety of the colony was at stake.

"In the present state of the Press, the tranquility of the Colony" could not be preserved, said Darling. The great alarmist, Archdeacon Scott, saw the press as inciting the convicts and native-born to "open Rebellion against the Government" and as carrying out "a systematic attack on the Religion of the Colony and her authorized Ministers." He spoke of the Government, the Church and Religion being "assailed daily" by a licentious Press "quite free from restraints." Scott disliked this situation partly because the population was composed, in his own words, "of the worst and  

most malignant convicts and of free people little better."

Such attitudes gave rise to a notion, popular amongst conservative critics overseas, that the Press abused its freedom. Conservatives would declare their faith in a free Press and the liberty of discussion but, after a certain ill-defined and indefinable point where to them liberty became licence, they would attack the Press. Hay expressed the idea in a nutshell when he told Darling that "the abuse of the liberty of the Press" was a serious evil. Even Scott remarked that the freedom of the Press was "amongst the greatest of God's blessings on mankind." But, he went on,

"How far the promulgation of blasphemy, resistance to the Government, and countenancing all the lowest vices of mankind, even to the justification of adultery, with a ridicule on our religion and its Ministers, can be construed into the benefits of a free press, I confess, with all my veneration for freedom of discussion and expression of opinions, I am unable to understand. It may be answered that the good sense and judgement of the people will oppose this; but unfortunately too many of those people of a better informed understanding, mindful of their own selfish views and immediate interests, instead of the general welfare, give their countenance and support to such persons who have been convicts (now free) sent hither for Crime; but who have received a better education than the common Thief, and abusing their state of freedom, inflame the Convicts to discontent, and excite in the mind of the common Settler imaginary grievances and oppressions." 37.

In trying to show how and why the Press abused its freedom, Scott

34. Ibid.
35. Hay to Darling, 26 December 1826, C.O. 324/85, Reel 1202, ff. 89.
37. Ibid.
uses arguments and language which have a striking similarity to
Dumaresq's analysis written nearly two years later. 38. When pressed
to clarify their concept of liberty, conservatives would tend to
qualify it with the adjective "rational". Thus James Macarthur
called himself "no enemy to rational liberty". 39. At the height of
the Press legislation crisis, James Macarthur could see a change
 occurring in the colony, a change to "anarchy or despotism", and
he declared that "the radicals" would break down "morals in order
to establish liberty." "God defend us", he thought, from such lib-
erty of which the liberty of the Press was "a pretty specimen." 40.
Such liberty seemed to him to be "taken for a liberty to publish
every indecency of any kind against the most respectable persons
and the highest characters." Of such strength was this action,
that a libeller was no sooner prosecuted than a cry was immediately
raised that the liberty of the Press was endangered. But if the
liberty of the Press consisted of defamation, as he put it, they
would be much better off without such liberty. Referring to the
liberty to defame all and sundry, he quoted a legal authority to
the effect that "the Laws and Constitution of England" knew of no
such liberty, "for that would be a liberty destructive of all laws
and all constitutions." 42. He continued

"Whenever any attempt is made to crush this licentious
spirit they raise the cry of an infringement upon the

38. H. Dumaresq, Reflections ..., 6 November 1827, C.O. 201/187,
Reel 156, ff. 432.
39. James Macarthur to his brother, John, 9 June 1827, Macarthur
Papers, Vol. 35.
40. Ibid.  41. Ibid.  42. Ibid.
Something to be preserved was being attacked. To the Macarthurs it was a way of life, to Scott a religion and to Dumaresq and Darling a government, all of which were threatened because the Press abused its liberty.

With these views it is not surprising that the conservatives disliked the effects the Press had on various groups in the colony. The enforcement of the law was in jeopardy. Everyone was "threatened with destruction by Wentworth and Wardell in the Australian", according to Scott, if he transgressed the law and all the magistrates were "in terror of actions." 44. Darling also mentioned that the Monitor troubled the magistrates. 45. The Australian and the Monitor, Darling thought, were trying to raise the troops "into opposition and hostility" as well. 46. Government officials suffered.

Bent persistently attempted, according to Arthur, "to degrade the public Functionaries ... and to scandalize the Government" of

43. Ibid.
Tasmania. When the Australian attacked Darling's administrative reforms, the Governor was sure its aim was "to detach certain Persons from the Government, who had evinced a readiness to afford their Assistance." The resignation of a member of one of the boards Darling created seemed to him to prove his point. The clergy also received their share and Scott wondered what chance they, the clergy, had "with the lower orders" before whom they appeared daily, if they were continually "held up to scorn and ridicule." Like Darling events seemed to prove him right. In one district, the chaplain told him that "the Protestant Convicts refused to attend Church on a Sunday notwithstanding the Governor's order and actually preferred being marched towards the Gaol with which the Magistrates threatened them." In another district a chaplain had been "threatened to his face with being 'Posted in the Gazette!'" As with Dumaresq, Darling saw the papers working on disappointed free settlers by attributing their difficulties to "harsh and unnecessary restrictions." The Press to the conservatives had a deleterious effect on the family and on youth, vaguely but frequently referred to as "the rising generation." If the Protestant clergy's attitude to horse-racing had not been attacked

49. Ibid.
52. Ibid.
by the Australian, according to Scott, the effects of racing which had been "notoriously fatal to the peace and happiness of many families and persons" might have been avoided. Scott predicted that "the inflammatory and demoralizing principles and habits" of the papers would be "the cause of irreparable injury to the rising generation." As for the papers' effects on the emancipists, the convicts and "the lower orders" generally, the conservatives were appalled. Darling told Hay that the emancipists, who felt "the degradation of their situation", were "easily excited and inflamed" by the Press. Arthur found that "the Submission of the Convict Population to the constituted Authorities" had been shaken by "the licentious attacks of a radical Paper, edited by a time expired Convict and printed and published by an emancipated Felon." Referring to the "firebrand newspapers" in a letter to one of his sons, old John Macarthur said

"You can have no idea of their operation upon the common people, and everyone not connected with the convict interest admits that the most dangerous consequences are to be dreaded. Their present most apparent effect is discontent, determined idleness, and in many cases insubordinate and open contempt towards their Masters and the Magistracy." Another son, James, echoed his father when remarking that people had seen licentiousness gradually extending "among all classes and

producing a spirit of imitation amongst the convicts and emancipists, dangerous in itself; and the more so as in proportion to the increase of this unhappy spirit, was the decrease of right feeling towards the upper classes, and the weakening of those bonds whether of actual restraint or of opinion which had hitherto held the society together."

Naturally, conservatives held a low opinion of the newspapers and anyone connected with them. The accusation that the papers indulged in misrepresentation and included misstatements of fact frequently appeared and John Macarthur, Senior, even went so far as to say once that "All the statements in the newspapers are scandalously false." It seemed to follow that ignorance characterized the editors and Darling found that there were "No persons less informed on the state of the Colony" than Wardell and Hall. Abusive epithets were used to describe the papers and their editors. To John Macarthur, they were "all desperate radicals alike, shameless and ill-principled." The Australian, to Scott, was "the

59. James Macarthur to his brother, John, 9 June 1827, Macarthur Papers, Vol. 35.
60. Darling to Hay, 9 February 1827, H.R.A., 1, 13, p. 98; Scott to the Bishop of London, 9 January 1826, B.T. Box 53; Minutes of the Executive Council, 8 December 1826, (State Archives of New South Wales, Sydney); Scott to Darling, 8 January 1827, Letter Book of T.H. Scott, Vol. 1.
61. J. Macarthur to his son, John, 27 May 1827, Macarthur Papers, Vol. 3.
63. J. Macarthur to his son, John, 27 May 1827, Macarthur Papers, Vol. 3.
avowed paper of the most depraved and abandoned of emancipated convicts." To him, the Sydney Gazette uttered "more baneful and licentious doctrines than were ever diffused in England by Cobbett" and upheld "under the mask of religion, the most demoralizing principles." Scott also believed that Hall indulged in "frauds, treachery, blasphemy, and love of anarchy" while the Monitor's printer, who also ran a hotel, was "the keeper of one of the most notorious brothels in Sydney." In a revealing phrase, Dumaresq called the Monitor "a most rascally, democratic Journal "whose editor was "a beast." To Darling at one stage, Hall's main object was to attack duties and taxes; the second was "to excite a spirit of discontent among the Convicts and bring the Government into disrepute with the People". From the start the Monitor had been "seditious and inflammatory in the highest degree." It had not, as Hay once hoped, remained "steady to the cause of order and good Government." Conservative critics had a vision of what values should

64. Scott to the Bishop of London, 9 January 1826, B.T. Box 53.
65. Ibid.
71. Hay to Darling, 31 October 1826, C.O. 324/85, Reel 1202, ff. 77.
predominate in society and of their place in that society. They strongly resented any criticism. Central to their view were the ideas of respectability and of character. Since the papers were devoted to the emancipist party, Scott deplored that no opening of self defence was left "for any respectable person." 72 When the conservatives were attempting to remedy this problem by starting their own paper, John Macarthur, Junior, indicated that it was supported by "the respectable inhabitants." 73 James, his brother, spoke of the calumnies in the Press "against persons of respectability" and his father disliked the attacks on "the old established respectable inhabitants." 74 Darling, who also maintained the "respectability" view, spoke of Wardell and Hall not being known "in Society" because the respectable part of the population very justly estimated "their merit and their character." 77 If a man were respectable, then he had "character." The Press, according to James Macarthur, aimed at "the destruction of character." 78 "No man of character could hope to maintain his ground," wrote Darling, if the papers were allowed "to write him down." 79 The notion could

72. Scott to the Bishop of London, 17 January 1826, B.T. Box 53.
73. J. Macarthur, Jnr., to Horton, 11 July 1826, C.O. 201/179, Reel 150, ff. 218.
74. James Macarthur to his brother, John, 6 June 1827, Macarthur Papers, Vol. 35.
75. John Macarthur to his son, John, 4 August 1827, Macarthur Papers, Vol. 3.
78. James Macarthur to his brother, John, 6 June 1827, Macarthur Papers, Vol. 35.
be turned into an epithet when applied to the opposition. Thus Wardell, Wentworth and their friends were to John Macarthur, Senior, men of the "most profligate and low characters."\(^8^0\). Similarly, when his enemies particularly the editors, called him "an intriguer and the head of a faction", he defended himself by saying that it only meant that he carefully avoided "all society with bad and doubtful characters."\(^8^1\). Coupled with these ideas of respectability and character was an attitude amongst the conservatives that men should conduct themselves with decorum and like gentlemen. As Darling put it, the papers were "so totally regardless of all decorum."\(^8^2\). It was sufficient according to Scott, "to have the feelings of a gentleman, to live like a gentleman and to act like one, to be the object of scorn and derision and insult."\(^8^3\). Conversely whoever was "very violently applauded" by the Press was, John Macarthur assured his son, certain to be "utterly abandoned."\(^8^4\). When Scott raised the hypothetical question that he should reply to his critics, he asked if he could descend to become "a scribbler in the newspapers."\(^8^5\). Thus the ideas of respectability and of character when connected with the attitude of gentlemen encouraged the conservatives to keep

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80. J. Macarthur to his son, John, 16 May 1827, Macarthur Papers, Vol. 3.
81. Ibid.
82. Darling to Horton, 26 March 1827, H.R.A., 1, 13, p. 190.
84. J. Macarthur to his son, John, 27 May 1827, Macarthur Papers, Vol. 3.
apart from much of the society of the colony.

To these critics society was composed of rigidly defined classes in which the great Law of Subordination was immutable. The emancipist party, which included the editors and was supposedly headed by Forbes, was full according to James Macarthur of "radicals." The objects of this party, furthered by the Press, were "the amalgamation of all classes, and the breaking down of all moral distinctions." Forbes, who wanted the ending of all party distinction, that was "when all should be rogues alike", was believed by Arthur to have religious and moral views which "must be destructive in such a colony." When the stamp duty crisis was at its height, old John Macarthur met in the street two "radicals", the merchants Thomas Raine and Prosper de Mestre; against their defence of the Press, he expressed in one breath a summary of the conservative view of the papers and, by implication, of society.

"I told them I was surprised to hear two men, fathers of young families, openly avowing themselves the advocates of a Press that made it a practice to mislead and to create disorder, disobedience and a mutinous spirit amongst the convicts and labouring people by publishing the most infamous falsehoods, knowing them to be false, and where study of it was to level all distinction in Society and to spread universal disorder."  

86. James Macarthur to his brother, John, 6 June 1827, Macarthur Papers, Vol. 35.
87. Ibid.
88. J. Macarthur to his son, John, 27 May 1827, Macarthur Papers, Vol. 3.
90. J. Macarthur to his son, John, 27 May 1827, Macarthur Papers, Vol. 3.
If "character" was important to them in social life, it assumed a greater importance in public life and the questioning of a man's integrity or criticism of his actions as a public officer deeply irked the conservatives. Their response would often be a written or printed defence of their activities and an attack on their critics. Marsden's pamphlet of 1826 was intended, for instance, to be a vindication of his "Character" and he sought redress for the charges brought against him in the 1824 edition of Wentworth's book because of "the rank and situation" he held in the colony.91 Such an action was not confined to conservatives of public standing; in Tasmania, Gellibrand resorted to print when he was dismissed.92 But it was particularly noticeable among the conservative critics of the Press because they held a preponderance of power and position and resented criticism. Scott, according to Marsden, was very annoyed when "most scandalously libelled in the public papers."93 Darling disliked "abuse", a thinly disguised synonym for criticism, and in dispatch after dispatch was forced to defend himself against the papers' charges of mal-administration. When once the Monitor made 24 criticisms, Darling answered at length each point and told Hay that he would have ignored the attack if it had not been possible for the article to have found "its way into the English

Papers." 95. Here, then, lay the essence of the conservatives' opposition to the Press. They wished to put down, in Darling's words, "a system" whose object was "the defamation of public and private character." 96.


Newspaper Regulating bill, providing for proof of publication in libel cases, became law. The licensing clauses which the bill contained were disallowed by Forbes. The bill imposing a stamp duty on newspapers was published and accepted by many as law until a few days before it was due to come into effect when the Chief Justice pointed out the legal irregularities involved in its promulgation. The legislation threw the colony into a turmoil similar to that produced by the Sudds and Thompson affair and did much to deepen people's animosity towards the government. In retrospect the issue was the first part of what was to prove Darling's campaign against the Press.

The final struggle between Darling and Forbes over the legislation began in the early days of April 1827. On 2 April Darling wrote privately to Forbes saying that the result of a trial for libel, which had occurred in the previous week, had induced him to think that measures for restraining the Press could not "with safety
CHAPTER 7. LEGISLATION AND THE PRESS, APRIL - MAY. 1827.

By early April 1827, the issue of a free Press and newspaper criticism polarised into a struggle between Darling and Forbes. The proposed Press legislation was the particular point of conflict. While Darling tried to hustle Forbes into agreeing to the legislation, the Chief Justice resolutely stuck to his judicial position and the law of the colony. Of the main legislation only the Newspaper Regulating bill, providing for proof of publication in libel cases, became law. The licensing clauses which the bill contained were disallowed by Forbes. The bill imposing a stamp duty on newspapers was published and accepted by many as law until a few days before it was due to come into effect when the Chief Justice pointed out the legal irregularities involved in its promulgation. The legislation threw the colony into a turmoil similar to that produced by the Sudds and Thompson affair and did much to deepen people's animosity towards the government. In retrospect the issue was the first part of what was to prove Darling's campaign against the Press.

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to the Colony" be delayed. The trial had shown Darling that there were individuals who paid no regard to the sacred nature of an oath and that therefore it was difficult, if not impossible, to identify the editors with their papers. Of the three libel actions heard in the last week of March, the judges in two of them both commented on the lack of proof of the defendant's responsibility for the libel. By a letter written in early May, Darling appears to have been referring to Bannister v. Wardell. The period during which Forbes had advised avoiding legislation because of its possible repercussions on Parliament's consideration of the New South Wales Act had long since passed, Darling continued his letter to Forbes; and he emphasised that the tone of the papers had "increased to a dangerous, if not to an alarming degree." Darling wanted Forbes to give the subject further consideration and to let him, Darling, know how far he, Forbes, felt himself at liberty to sanction a bill for carrying Bathurst's instructions into effect. Darling then proposed to have a bill prepared and submitted to the Executive Council. It was a vague, testy letter designed to sound Forbes out. But the Chief Justice merely answered in kind. Replying on the same day, Forbes said he was "quite ready to certify any ordinance," which Darling might have prepared, so far as he, Forbes, was "authorized

1. Darling to Forbes, 2 April 1827, Encl. No. 1, Darling to Bathurst, 8 May 1827, Historical Records of Australia, 1, 13, p. 279.
2. Darling to Bathurst, 8 May 1827, Ibid., p. 278.
3. Darling to Forbes, 2 April 1827, Encl. No. 1, Ibid., p. 279.
by Law." He was worn out after two months continuous work in the Supreme Court, was going to the country to restore his health, and would therefore be unable to attend Council after 3 April.

On 11 April, the Executive Council attended by Darling, Stewart, Scott and Macleay, met and discussed the Press in their capacity as members of that body for the first time since 8 December 1826. Darling introduced two bills on account of "the Licentious state of the Public Press and the violent and inflammatory nature of the various articles recently published in the News Papers of the Colony." The Council agreed and, on the same day, Darling sent the bills to Forbes. In his brief note to Forbes, Darling said he proposed bringing the bills before the Legislative Council with as little delay as possible after they had been certified by the Chief Justice, according to the 29th section of the New South Wales Act. It was the quiet beginning of what became Darling's major tactic, the hustling of Forbes.

From Emu Plains, Forbes replied the following day, 12 April. He said it would be necessary for him to go into the legal reasons for refusing to certify the six clauses relating to the license

4. Forbes to Darling, 2 April 1827, Encl. No. 2, Ibid.
5. Minutes of the Executive Council, 11 April 1827, (State Archives of New South Wales, Sydney).
6. Ibid.
8. Ibid., p. 280.
resumable at the Governor's pleasure. Reminding Darling what he, Forbes, had said many months earlier on this subject, he repeated his suggestion that it would have been better for the matter to have been sent to the Colonial Office for further consideration and for the licensing clauses to have perhaps been incorporated into the New South Wales Act, then about to be considered by Parliament. Forbes was loathe to certify a measure, recommended by the Secretary of State, as repugnant to the Laws of England, and wanted to learn "the opinion of His Majesty's Law Officers upon a question much too large and momentous to place upon the undivided responsibility of so humble a Functionary in the Administration of the Laws of an Empire" as himself. 10. Apart from suggesting that they should wait until they had heard from the Colonial Office, Forbes ended by saying there was no objection to the adoption of so much of the statute law of England as facilitated the proof of publication in cases of libel and inflicted additional penalties on conviction of blasphemous and seditious libel. With this almost self-effacing letter, Forbes returned the bills uncertified.

When Darling replied on 14 April, his bludgeoning approach to the Chief Justice came into the open. Darling recollected perfectly what had passed when the subject was previously raised. 11. "Had not the Papers persevered in their mischievous endeavours to bring the

10. Ibid.
Government into hatred and Contempt, and in fact succeeded in exciting a strong spirit of discontent amongst the Prisoners", he should not have thought it necessary to bring the question up. But the safety of the colony was endangered and he considered it inconsistent with his duty to await news from the British Government which could not be received for several months. It rested with Forbes to judge whether the proposed bills were consistent with the laws of England so far as, he added with heavy emphasis, the circumstances of the colony would admit. The bills appeared to Darling "to be fully justified by present circumstances." The Secretary of State was of that opinion two years ago and Bathurst's instructions, as Forbes was aware, were imperative on him. He, Darling, concurred in the expediency of the measures and could not abstain from using his best endeavours to carry them into effect. It was his duty. It would be "a painful one" if it imposed on Forbes the necessity of an ungracious act, but delay was pregnant with danger and private feelings had to yield to the exigencies of the times. Darling returned the bills so that Forbes might certify them, or if not, that he might furnish Darling with his objections. Darling then enumerated the three reasons which caused him to ask Forbes for his objections. First, the proposed measure was to him essential to the tranquillity of the colony; secondly, that

12. Ibid.  13. Ibid.
His Majesty's Government had directed these measures which Forbes as Chief Justice was "required to sanction", and, thirdly, the Chief Justice of Tasmania had certified the bills in similar circumstances.

To such a letter with its extraordinary tailpiece threatening the independence of the judiciary, Forbes replied immediately and at length. He reiterated his view that it would have been better not to press the objectionable parts of the bill until a reply had been received from the British government, but in the meantime to have tried "the effect of a local Act, framed in Conformity with the English statutes, and a vigorous enforcement of the laws in being." Forbes had no doubts about the success of such a course. "The Laws of England have been declared to be sufficient by the ablest Judges in England to restrain the Licentiousness of the Press", he went on, and, until they were fairly tried, it was impossible to assume that they would not be equally efficacious in the colony, where the jury was composed of military officers, appointed by the Governor and not likely to be swayed by "any erroneous notion of the Liberty of the Press." Forbes said that he had certified the two bills as far as he could and then discussed the functions and the duty of

14. Forbes to Darling, 16 April 1827, Encl. No. 6, Ibid., pp. 282 - 284.
15. Ibid.
the Chief Justice. His duty he regarded as "too sacred to be compromised at the requisition of any power on earth." When Parliament had discussed the New South Wales Act and had given the power of legislating to five individuals, it has been distinctly said that "in the judgement and honor of a professional judge, there would be found a safe guarantee against any incroachment on the Laws of the land." Because Darling had misunderstood the Chief Justice's duty where the phrase "so far as the circumstances will admit" was concerned, he outlined his legal position. Forbes started from the assumption that the laws of England were the laws of her colonies so far as they could be applied, that, where they could not, there was no law to meet the unforeseen circumstances of a distant colony, and that legislatures were created with the power of passing local ordinances not repugnant to the laws of England. This he called a "restriction" which had existed since the time of the foundation of the first colonial legislature and had been much discussed before New South Wales had even been discovered. If the legislature had passed the proposed bills it would still have been open to the Supreme Court to judge their legality, and its duty to disallow them, if they appeared repugnant to English law. It was to avoid this inconvenience that the clause, requiring the Chief Justice to certify a bill before it was laid before the Legislative Council, was introduced in the New South Wales Act. In

16. Ibid.  17. Ibid.
originally framing this clause, Forbes pointed out that the first words of limitation "not repugnant to the Laws of England" were not at first thought to be sufficiently restrictive, and that, therefore, the second words "but consistent with such Laws" were added. The first duty of a Chief Justice, then, was to see that any proposed law was not repugnant to the laws of England, and secondly that it was nearly consistent with or conformable to such law, as the local differences of the parent state and the colony might admit. At first sight, therefore, it seems that, as Darling thought, there was a chance for laws unknown to British law to be passed in the colony by means of the "so far as the circumstances of the colony will admit" phrase. But, as Forbes showed, such a phrase was merely an attachment to the "consistency" phrase, itself a secondary limitation after the "non-repugnancy" phrase which in turn had a long history in imperial law. Forbes ended his letter by emphasising that Parliament was the only effectual way of legalizing an act, which aimed to restrain a "recognized right of a British subject, the right of freely discussing all matters in which his private or public interest are concerned." Forbes, in his capacity as Chief Justice, had nothing to do with the expediency of restraining such a right; it was merely his duty to say whether or not it was repugnant to the laws of England. He would, however, outline his reasons for rejecting the licensing clauses in a letter to Bathurst.

18. Ibid. 19. Ibid.
On 8 May Darling wrote a bitter letter to Bathurst about Forbes' action. He outlined the course of events and reiterated his reasons for wanting to impose restrictions on the Press. Because of his lack of legal advisers, Darling spoke of the embarrassment he felt on receiving Forbes' letter of 2 April in which the Chief Justice had not committed himself. He, Darling, had tried to carry Bathurst's orders into effect; the newspapers proved this necessary. Against Forbes' charge that there had been no prosecutions for libel by the Attorney-General, Darling argued that this was because he had followed the advice of Forbes himself. Forbes had urged him, Darling, to allow the papers to commit themselves in such a way as would convince Parliament of "the necessity of more than the ordinary restrictions on the Press." If prosecutions had been started, the papers would have been more circumspect.

When Darling had seen the result of Bannister V. Wardell, he had decided to act. He had thought it important to prevent the failure of a prosecution for lack of proof because the government had just given directions for the prosecution of the Australian for a libel on the Chairman of the Quarter Sessions. Under Bathurst's instructions he, Darling, wanted the law on this point made "clear and effectual."

The first bill Forbes certified was the Newspaper Regulating Act, 8 Geo IV, No. 2, whose origins lay in the British law of 1796, 25 Geo III, c. 70. The title proclaimed it to be "A brief and simple measure to prevent the publishing of blasphemous and seditious libels." A brief and simple measure, it was said, had been delivered to the Colonial Secretary. The affidavit was to be made on oath. Every editor, printer, publisher, or proprietor had to sign the affidavit and be punished for falsity of statements. The Colonial Secretary was to be informed of any such newspaper that was published. The affidavit was to be made on oath. Every editor, printer, publisher, or proprietor had to sign the affidavit and be punished for falsity of statements. The Colonial Secretary was to be informed of any such newspaper that was published. Every editor, printer, publisher, or proprietor had to sign the affidavit and be punished for falsity of statements. The Colonial Secretary was to be informed of any such newspaper that was published.

20. Darling to Bathurst, 8 May 1827, Ibid., pp. 277 - 278.
21. Ibid.
22. Ibid.
Act, 8 Geo. IV, No. 2, whose origins lay in the British law of 1798, 38 Geo. III, c. 78. The title proclaimed it to be "An Act for preventing the Mischiefs arising from the printing and publishing of Newspapers and Papers of a like nature by persons not known and for regulating the printing and publication of such papers in other respects and also for restraining the Abuses arising from the publication of Blasphemous and Seditious Libels." A brief preamble simply said it was "expedient that regulations should be provided touching the publication of Newspapers and other papers in this Colony." By the first clause no person from 1 May 1827 was to print or publish any newspaper until after an affidavit or affirmation had been delivered to the Colonial Secretary. The affidavit had to set forth the names and places of abode of the editors, printers, publishers and proprietors of any newspaper and the place where such newspaper was published. The affidavit was to be made or taken in writing before the Colonial Secretary who might take it on oath. Every editor, printer, publisher and proprietor had to sign the affidavit and the penalty for not observing these stipulations was £100. The Colonial Secretary was to keep all affidavits and, if produced in criminal or civil proceedings, they were to be regarded as "conclusive evidence of the truth of all such matters" as were therein stated. By the ninth clause, the names of the editor, printer, publisher and proprietor had to be printed in some

part of every newspaper under penalty of £100. The evidence of
the purchase of any newspaper at the house shop or office of a
defendant on trial was dispensed with and a copy of an affidavit,
furnished by the Colonial Secretary, was to be regarded as conclus-
ive evidence. From 1 May 1827, one copy of every newspaper had to
be delivered to the Colonial Secretary who was to pay the ordinary
price for the paper and who could produce the paper as evidence in
any legal proceedings within two years of publication. Penalty for
failure to deliver a copy of every newspaper was £100. By the
sixteenth clause editors, printers and publishers had to enter into
a recognizance of £300 with two or three sureties to the same
amount under penalty of £20. The twentieth clause stated that
persons convicted for a blasphemous or seditious libel were to be
punished, on the second occasion, as for a high misdemeanor or ban-
ished from the colony.

Before it became law, the bill contained at the beginning six
clauses relating to licenses which the Chief Justice disallowed.
In the bill stage, it had been known as "An Act to regulate the
Printing and Publishing of Newspapers and Papers of a like nature,
Printed to be dispersed and made Public, and for the prevention of
Blasphemous and Seditious Libels." The original preamble had been

24. Ibid.
25. Ibid.
26. "An Act to Regulate the Press", Encl. No. 8, Darling to Bathurst,
more explicit.

"Whereas matters tending to bring the Government of this Territory and the Administration thereof into hatred and Contempt have been frequently printed and Published within the said Territory; For prevention whereof and of the mischiefs, which may arise from the Printing and Publishing of News Papers and Papers of a like nature by Persons unknown, and for the prevention of the Printing and Publishing of blasphemous and Seditious Libels."

No person, the first clause declared, was to publish a newspaper without having obtained a license. Every license was to be in writing and granted by the governor. The license was to remain in force for twelve months provided that the holder, during this period, was not convicted of a blasphemous or seditious libel, in which case the license immediately became null and void. The Governor, with the advice of the Executive Council, might revoke any license before it expired and the reasons for every revocation were to be entered in the minutes of the Council and sent to the British government. The fifth clause concerned the penalty for publishing without a license. By the final clause, any person applying for a license had to make out an affidavit as defined in the Newspaper Regulating Act.

The second act, 8 Geo. IV, No. 3, which was to be suspended before it came into operation, was entitled "An Act for imposing a Duty upon all Newspapers and Papers of a like nature printed to be dispersed and made public." The preamble of the Stamp Act, as it

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27. Ibid.
28. Ibid.
29. 8 Geo. IV, No. 3, The Public General Statutes of New South Wales, p. 56 ff.
was commonly called, read

"Whereas it is expedient to provide a fund for defraying the charge of printing the public Acts, Proclamations, Orders and Notices of the Government of this Colony by means of some Stamp Duty upon all Newspapers and other Papers containing public news or intelligence or serving the purpose of a Newspaper printed within the Colony of New South Wales or any of the Dependencies thereof to be disposed of and made public." 30.

With the first clause, the act declared that from 1 June 1827 four pence sterling was to be paid to the government on every newspaper printed in New South Wales. The Collector of Internal Revenue was to have the care and management of such duties and to provide the stamps. Every sheet or other piece of paper on which a newspaper was intended to be printed had to be marked and stamped, the duty first being paid. Penalty for not printing a newspaper upon stamped paper was £20 and any person who kept or received an unstamped paper was also to be fined £20. By the eighth clause, a separate account was to be kept of the duty which was to be applied to the payment of the costs of printing public notices and the surplus, if any, was "to defray the expenses of the Colonial Police." 31.

A third act, 8 Geo. IV, No. 5, which was largely based on 39 Geo. III, c. 79 of 1799, imposed a system of registration on the printers of books and papers for much the same reasons as the Newspaper Regulating Act was passed. Called "An Act for preventing the printing and publishing of Books and Papers by persons not

30. Ibid.
31. Ibid.
known", its preamble declared that all persons printing or publish-
ing any papers or writings were "by law answerable for the contents thereof," and that therefore it was highly important to the public peace that printers of all books and papers should be known." 33.

From 10 May every person having a printing press and type should give notice thereof to the Colonial Secretary and obtain a certif-
icate from him for having done so under penalty of £20. The name of the printer was to be printed on every book and paper intended for publication. Every person who should print any paper for hire or for profit, according to the third clause, was to keep one copy for six months afterwards on which should be printed or written the name and abode of the person by whom it was printed. Anyone selling or distributing printed papers without the printer's name or abode or having a fictitious name or abode printed on them might be seized and detained. The act excepted documents and papers used in ordinary commercial and legal practice. The final clause gave the Justices of the Peace, if they suspected a press was being used contrary to the act, the power to direct a search and, were a press discovered, have it seized and carried away. 34. In the outcry over the Newspaper Regulating Act and the Stamp Act which appeared at almost the same time, this act received little attention from the Governor, the Chief Justice, the Legislative Council, the Press or the public.

33. 8 Geo. IV, No. 5, The Public General Statutes of New South Wales, p. 62 ff.
34. Ibid.
When rejecting the licensing clauses of the Regulating Act, Forbes made the law quite clear. Forbes began by outlining the constitutional position of the Governor and the Chief Justice and their legislative duties. The 24th section of the New South Wales Act instituted a council "with authority to pass local laws or ordinances for the peace, welfare and good government of the Colony, such laws not being repugnant to that act, nor to any charter or order in Council issued in pursuance thereof, nor to the laws of England, but consistent with such laws, so far as the circumstances of the said Colony will admit." 35. By the 29th section, any law was required to be laid before the Chief Justice and certified by him to the same effect before being submitted to the Council. Both clauses required a law to meet two conditions "precedent to the certificate of the Chief Justice": that a proposed law was "not repugnant to the laws of England" and that it was "consistent with such laws as local circumstances" of the colony would admit. "The repugnancy of any two laws" was "a fact". 36. It could not be, Forbes implied, a matter of opinion or a linguistic quibble. But, instead of continuing this line of argument, he switched to the general principles of law and the context in which the New South Wales Act was framed. Reaching the very basis of his constitutional beliefs,

36. Ibid.
Forbes remarked

"The laws of England are an exhaustless fund of legislative wisdom from which enough may always be drawn to satisfy the exigencies of a small community; the power of selecting and modifying according to the circumstances is committed to the subordinate legislatures of the colonies; but they are not allowed to alter the fundamental laws of the land. 'Allegiance', it has been held, 'must be according to the laws of England, and ex consequenti the protection and rule ought to be by the same laws, for they are mutual and reciprocal unum trahit alterum! This great constitutional principle is deeply laid in the foundations of Colonial legislation. From the communion of laws and institutions are derived those lasting habits, feelings and sentiments, which form the best safeguard of national allegiance." 37.

The New South Wales Act was framed "in conformity with this great principle of the law." Its policy was to preserve "uniformity in the laws of the British empire". The act, he said, did not delegate to the governor and council in the colony "the same unlimited authority" which belonged to Parliament. They were restrained "within definite bounds" and could not pass any law which in their opinion the political exigencies of the colony might require. To avoid any misconstruction of their powers, they were obliged to submit their ordinances to the Chief Justice. "In the exercise of this very delicate function," Forbes had never felt himself at liberty "to enter into the policy or expediency of proposed measure of legislation;" that province belonged "exclusively to the Governor and Council in subordination only to the paramount laws of England." 38. From such assumptions, Forbes then proceeded to outline

37. Ibid. 38. Ibid.
his reasons for refusing to certify the clauses relating to licences.

His first objection was that the previous restraint, which was imposed by a license on printing and publishing, operated "as a monopoly upon a common trade" and was "repugnant to the freedom of the press as by law established." The right of printing and publishing was a common right of all Englishmen and could be exercised like "any other trade or occupation." As for being the means of "communicating intelligence and expressing opinion" it was regarded as "a constitutional right" and "one of the privileges of a British subject." Forbes then quoted Blackstone's opinion to the effect that "the liberty of the press" consisted in laying no previous restraint on publication and that every free man had "an undoubted right" to lay what sentiments he pleased before the public - to have forbidden this was "to destroy the freedom of the press." To subject the press to the restrictive power of a licenser was "to subject all freedom of sentiment to the prejudices of one man, and to make him the arbitrary and infallible judge of all controverted points in learning, religion and government." Forbes went on to next quote Ellenborough's decision at a libel trial about the law of England being a law of liberty which did not make a license a necessary preliminary to publication. Referring again to Ellenborough, Forbes quoted a passage from one of his books.

39. Ibid.  40. Ibid.  41. Ibid.
which analysed the relationship between the legal and rhetorical or political idea of the liberty of the Press,

"There is nothing upon which Englishmen are justly more sensible than upon whatever has the appearance of affecting the liberty of the press. But popular writers have certainly extended the notion of this liberty beyond what in reason it will bear. They have converted it into a native, an aboriginal, a primitive right, instead of considering it only as a right derivative and deductive from the joint rights of opinion and of speaking. This, including an exemption from the control of a licenser, and upon all previous restraint upon the mere suspicion of abuse, is the proper notion of the liberty of the press." 42.

Forbes argued that the imposition of a licensing system was worse even than that of a direct imprimatur because the effect would not be merely to confine "the right of publishing within partial bounds" but would be to establish "a monopoly in favour of particular principles and opinions, to destroy the press as the privilege of the subject, and to preserve it only as an instrument of government." With great force and clarity he summed up his argument by saying

"By the laws of England, then, every free man has the right of using the common trade of printing and publishing newspapers; by the proposed bill, this right is confined to such persons as the Governor may deem proper. By the laws of England, the liberty of the press is regarded as a constitutional privilege which consists of exemption from previous restraint; by the proposed bill, a preliminary license is required, which is to destroy the freedom of the press, and to place it at the discretion of the government." 43.

Forbes' second objection to the licensing clauses was that the

42. Ibid.  
43. Ibid.
discretionary powers, vested in the governor of revoking a license, were repugnant to the principle and practice of English law. By the laws of England, "founded in the law of nature," every man enjoyed the right of being heard before he could be condemned. There had to be some complaint, some tribunal before which he could appear, some examination under the sanction of an oath, some definite course of proceeding, some previously known law, by which he might be judged. The clauses did not contain one of those "essential principles". A man could be deprived of his trade without knowing what might be the charge against him, who might be his accuser, upon what evidence he was tried and for what violation of the law he was condemned. The governor and the council might be "both complainants and Judges at the same time, and in their own cause." There was no precedent in Forbes' experience for "the accuser and the Judge", to be associated in the same person. On the contrary, for a Judge to determine his own cause was, by the laws of England, "held to be corruption and punished as a misdemeanor." 45.

Up to this point, Forbes had looked at the clauses within the limits laid down for him by the New South Wales Act. He had not discussed the political angle or "considerations of state necessity." 46. But if it was objected that he had taken "too confined a view of the duty" imposed on him and that "the political circumstances of the Colony" should have been considered, then even on the grounds of expediency, the clauses were open to "many serious objections." The implication of this approach was that the Chief

44. Ibid.  45. Ibid.  46. Ibid.
Justice would, had he certified the clauses, have altered the laws of England, and in this particular instance no case had been made out for altering laws already applicable to the Press. It was "a maxim of the English constitution 'that no liberty of the subject, either in itself, or in any instrument, by which it may be exercised, shall be repealed, restricted or abridged, unless the Magistrate shall show, upon his part, a full and sufficient reason for such diminution!'"\(^{47}\). It might be admitted that the Press of the Colony was "licentious", but that did not "prove the necessity of altering the laws". The laws "for restraining the abuses of the press" had not been used; not one \textit{ex officio} prosecution for libel had been instituted by the Attorney-General. If, therefore, the laws of England had never been tried in New South Wales, it would be impossible to find them insufficient and ineffectual.

Finally, Forbes showed how the clauses, instead of correcting the abuses they were meant to remedy, would "materially impede the course of Justice."

\(^{48}\). First, it was not clear in the bill whether the license was to be "demandable of common right", or was to be granted to such persons only as the governor might deem fit. Unless it was made clearer, the Colonial Secretary might be exposed to a writ of \textit{mandamus} from the Supreme Court. Secondly, Forbes assumed for the sake of argument that the clauses were made more explicit and that the granting of a license was confined to "the discretion

\(^{47}\) Ibid.  \(^{48}\) Ibid.
of the Governor - a most invidious discretion the consequences of which cannot have been foreseen." He asked "under what rules would the Governor exercise this discretion? under what limitations would a license be granted? within what bounds would discussion of public measures be allowed, the bounds established by law or the governor? who are to judge of any act of violation?" It could not be the Chief Justice, asserted Forbes, because he might be called upon to try the case. And he went on

"The natural effect of a censorship on the press is in some measure to identify the censor with the publisher; and, by an easy chain of consequences, every person, who may feel aggrieved by matter contained in a licensed paper, will immediately complain to the Governor and expect his complaint to be redressed. To guard against the charge of favour and partiality, or perhaps participation, the governor must lay down some general rules for his guidance; he must interfere in every private case, or in none; assuming then, as is probable, that the government would interpose its authority in those cases only, which more immediately affected itself, it then becomes at once the accuser, the Judge, and the law." 51.

Forbes' third objection on the grounds of expediency concerned the petition which had recently been sent to Parliament. In that petition "some of the principal inhabitants of the colony" gratefully acknowledged the advantages which they supposed themselves "to have derived from the freedom of the press." Whatever the merits of the petition, it at least would be "listened to with patience and answered with courtesy." The subject of the colony's press might be brought up in Parliament. Under such circumstances,
the present time was not "the most expedient for passing a local ordinance in opposition to the declared opinion of the people, and possibly at variance with the sentiments of Parliament." Forbes ended this argument by carefully guarding his position. He had not offered any opinion on the abstract question of "how far, in a mixed population like that of New South Wales, it may be proper to allow the same unrestrained freedom of the press, as by law is established in England." The duty imposed on him was "sufficiently responsible under the most limited interpretation", and it became him to be "especially cautious not to extend it by construction."

Even after Darling had received this long document from the Chief Justice, he continued to argue with Forbes over the licensing clauses. Such action is perhaps, an indication of Darling's determination and the pressure he was under to stifle criticism. In going over some of the same ground already covered in the Forbes' document, the correspondence also suggests Darling's inability to grasp the legal issues involved.

After the Newspaper Regulating Act without the licensing clauses had been passed by the Legislative Council on 25 April and printed in the Sydney Gazette of 27 April, the Australian and Monitor gave it a critical reception. In a long editorial, the

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52. Ibid.
53. Ibid.
55. Ibid.
56. Minutes of the Legislative Council, 25 April 1827.
Australian of 2 May declared it repugnant to the laws of England. The argument stemmed from a set of assumptions common to the liberals and, with much clarity, Wardell wrote

"Restrictions on the liberty of the Press, are restrictions on the natural liberty of man, and restrictions on the natural liberty of man are only justifiable on the principle and precisely to the extent, that society requires them, and no further, and because order, tranquillity, peace, happiness and good government cannot be ensured without them. Restrictions are meant for protection, and sanctioned only by circumstances, and ought never to be imposed but when it is palpably expedient and necessary that they should be imposed." 57.

What conditions therefore, the Australian asked, made restrictions necessary in New South Wales. The preamble, it noted, was the same as that of 38 Geo. III, c. 78 of 1798. It was a legal maxim that the preamble was the key to the understanding to an act. In New South Wales, however, the circumstances which had apparently necessitated the Regulating Act were not the same as those leading to the act of 1798 in Britain. Why, it queried, had not the legislators explained the act more fully instead of just repeating the preamble of the act of 1798. In Britain a population of 11 million made it difficult to discover who were the editors, printers, and proprietors of newspapers; was New South Wales so populous and replete with newspapers that no-one knew who owned or edited them.

Thus, although the local act repeated the clauses of the British act, the Australian claimed that, because of different circumstances,
it was repugnant to the laws of England. If the legislators' approach was valid in this instance, any act could be reproduced verbatim from the British statute book and made applicable to New South Wales. Wardell's second line of attack took a similar course. To restrain "abuses arising from the publication of blasphemous and seditious libels" was unnecessary because no evidence had been produced to show that these libels were published in the colony. No prosecutions had ever been attempted. The circumstances of the troubled year of 1819 had not been repeated in the colony and the "Six Acts" had remained a dead letter in England. The preambles of two of the relevant "Six Acts" could not be repeated because the legislators would be accused of proclaiming an untruth. The preamble of 60 Geo. III, c. 8 said that it was expedient to make more effectual provision for the punishment of blasphemous and seditious libels and that of 60 Geo. III, c. 9 read

"Whereas pamphlets and printed Papers containing Observations upon public Events and Occurrences, tending to excite Hatred and Contempt of the Government and Constitution as by Law established, and also vilifying our holy Religion, have lately been published in great Numbers, and at very small prices; and it is expedient that the same should be restrained."

To support his reasoning that such a situation as expressed by these

58. Ibid.
preambles did not exist in the colony, Wardell then quoted the recent decision of the Chief Justice of Bombay when rejecting similar measures for similar reasons in India. When finishing his review of the act, Wardell laughed at the clause providing for the banishment from Botany Bay for the writers of libellous articles. "Ha! Ha! Ha!... O my sides," how the English editors and members of Parliament would chuckle at that joke. 60. Wardell's editorial had a major weakness. Circumstances did require the legislation for proof of publication. The libel trials of late March had shown this and, at the time, Wardell himself had even commented on such a legal oddity. 61. But the weakness disguised two important strengths in his reasoning. First, as he pointed out, the preamble did not explain the intention of the act. Although Wardell was probably unaware of it, this seems to have resulted from a very short preamble being substituted for the original after Forbes had disallowed the licensing clauses. Wardell's second strong point concerned the different general circumstances in Britain and New South Wales. The events of 1798 and 1819 were not reproduced in the colony in 1827. Such reasoning, disguised as it was, came to play a major part in the Press' and the Chief Justice's consideration of the Stamp Act.

The Monitor of 4 May approached the Newspaper Regulating Act largely from a political standpoint. Why stifle the Press, Hall

60. Australian, 2 May 1827.
61. Ibid.
asked, in New South Wales where very few liberties such as Trial by Jury and Taxation by Representation existed; where comments in the Press were "so circumspect and SO TRUE" that the Attorney-General could find no cause for filing ex-officio informations for libel; where no charges of sedition had been brought; where private libels were rare; where there existed three religious societies and "more profession", whatever "the real spirit", of devotion than in any other colony; where two editors, apparently meaning Howe and himself, were very religious; and where a third editor, referring to Wardell, was a British barrister. Having a none too subtle dig at Macarthur and his role in the Rum Rebellion, Hall declared that he, as editor of the "most religious paper in Christendom", had not revolted against the monarch's representative or accepted a position in an insurgent government. Like Wardell, Hall mentioned the different circumstances of Britain in 1819 and New South Wales in 1827 and said that the "Six Acts" had been aimed at Richard Carlisle, who had been advocating rebellion to secure redress of grievances and whom even William Cobbett had denounced. In another part of the same edition of the Monitor, Hall reprinted Cobbett's open letter to a man imprisoned under the "Six Acts" and which dealt with the suicide of "a smiling elegant tyrant", Castlereagh, the originator of the acts. In the editorial, Hall felt rather than clearly perceived the injustice of the recognizance clause of the Regulating
Act and how it ran counter to the principle that no man was punishable except for a distinct breach of the law. Why compel men to give bail, he asked, who have committed no fault. It was contrary to Magna Charta. He predicted that the recognizances and the sureties would operate on the minds of the editors to destroy "the energies of free discussion." Most of the editorial had been in a low key but, in the final paragraph, Hall produced one of his finer pieces of rhetoric. Suitable more for the platform, or perhaps the pulpit, than a newspaper, Hall's remarks combined an Australian nationalism with a reverence for British traditions and an evangelical fervour with an acute argument. Treating his readers as men of intellect rather than inferior beings and using archaic yet simple language, Hall shouted

"AUSTRALIANS by birth or adoption! be not too much cast down! we acknowledge that though mild and plausible in terms, the new law is fraught with everything which ought to make an Englishman grow pale! We admit, that it is the frown of divine providence; for be assured Christian patriots, noble Australian men, God never smiles where he permits freedom of speech to be restrained! Yet, ye are as wise O Australians! fully as wise as your Rulers! Ye know much better, ye that have been born in the land, or who have been sojourners therein during the prime of your intellect more years than General Darling has months, what is best for the Colony! The press had begun to be the organ of your sentiments! It was your House of Assembly! It was your Trial by Jury! It was your Taxation by Representation! It was your Bill of Rights! It was your MAGNA CHARTA!!! But now, O Australians Your Rulers who have been here a few months, have restrained your voice! - you shall no longer be heard with freedom! with the prospect of confiscation and the dungeon before your eyes (for your Editors are your proxy) in future you must be
content to stammer forth your groans and sighs in broken accents and confused hints! Nevertheless, be patient! call a public Meeting of the people! assemble with your English Sheriff at your head! approach the Throne of your Gracious Sovereign, the kind-hearted George the Fourth! - lay your grievances before him! - tell him of all the wrongs you have done to you by the laws passed in the present administration! - address also the two August Houses of Parliament! - let the three Estates of your Mother Country see that you feel! - that you comprehend! - that you have intellect! - that you have moral feeling! - that you are Christians! - and therefore free men! - that you are, in fact, the descendants of HAMPDEN, SYDNEY, and RUSSELL! Do not give yourselves up to a selfish apathy, 0 Colonists of New South Wales! - let not a voluptuous climate enervate your moral energies! but act - and act WORTHY OF YOUR FOREFATHERS!!! 65.

When people used the notion of "the public interest" in promoting the particular cause with which they were deeply concerned, seldom in the 1820s did they express themselves as did Edward Smith Hall. The language and the clarity and the arguments of Robert Howe were the exact reverse of those of Hall. The Gleaner, a new paper just published by L.H. Halloran, followed the Gazette but Halloran's comments appeared too late in May to add anything to the initial controversy. On 30 April, the Gazette said that the act was the result of "the idiocy of some of our contemporaries" in going to such lengths to attack people while "meanly shielding themselves under the impracticability of proving" the responsibility of the editors. The Legislative Council had acted as it did, the Gazette wrote on 4 May, because of "the quibbling and abhorrent
ingenuity introduced in the last Supreme Court." Apart from ensuring proof of publication, according to the Gazette of 30 April, the act had been demanded by public justice, peace and good government. Too long had the government "quietly submitted to the most gross and uncalled-for obliques". A free Press had bad effects, the Gazette said on 4 May, when a misrepresented administration had "no means of stemming those torrents of political and seditious invective." According to the Gazette, it did not matter, as the Australian had argued, that the act was based on English legislation passed seven years earlier; it was still the law of England.

Where the Australian believed that the lack of any blasphemous or seditious libels undermined the validity of the act, the Gazette pointed to the libel trials of March 1827, to the way the government and the Church had been "scandalized and brought into contempt" and to 1826, a year "prolific with the melancholy abuses consequent upon a licentious Free Press." The act could not be repugnant to the laws of England because the Chief Justice had certified it. The Gleaner of 10 May argued along the same lines and both papers believed that it was "better to prevent than punish crime."

During the passage of the legislation, and particularly the Stamp Act, there is some evidence to suggest that Archdeacon Scott and John Macarthur acted in a concerted attempt to force Darling to

66. Sydney Gazette, 30 April 1827.
67. Ibid., 4 May 1827.
68. Ibid.
69. Ibid.; Gleaner, 10 May 1827.
go further than he wished. When James Macarthur related the whole affair to his brother, he remarked that the Press had grown more and more licentious over the months until "at length upon the suggestion of my Father & the Archdeacon the Registry & Stamp Acts were had recourse to." The remark is a likely exaggeration because Darling with Bathurst's instructions before him was probably more influenced by the libel trials, by the receipt of the Tasmanian bills certified by Pedder, by his dislike of criticism and by his secretary's duel with Wardell. What the remark does indicate is the extent of the pressure Scott and Macarthur brought to bear on Darling. Scott attended all the meetings of the Executive and Legislative Councils at which the Press was discussed. The Monitor, although far from reliable on this subject, later said that Scott had played the all important role in the debates and that his influence over Darling's mind had been "crucial." The minutes of the two councils give little indication of what occurred except when the Stamp Act was considered at the Legislative Council meeting of 2 May. Forbes had certified the Stamp Act with a blank left for the actual amount of the duty, four pence being written only in pencil in the margin. The act was considered at the

71. Minutes of the Executive Council, 11 April and 31 May 1827; Minutes of the Legislative Council, 24 and 25 April, 2, 3 and 31 May 1827.
72. Monitor, 10 July 1827.
Legislative Council meetings of 24 and 25 April which Forbes attended, but no decision was reached. On 2 and 3 May with Forbes absent and his place now taken by Macarthur, the bill was again discussed. On 2 May Scott moved with the support of Macarthur that six pence be inserted in the blank.\footnote{Minutes of the Legislative Council, 2 May 1827.} They had doubted, Macarthur later said, whether four pence was sufficient "to prevent the papers being bought by the prisoners."\footnote{John Macarthur to his son, John, 27 May 1827, John Macarthur, Letters to His Sons, 1815-32, Macarthur Papers, Vol. 3.} The motion was lost and Macleay and Stewart obtained the Council's agreement to four pence. The following day the Stamp Act was passed and on 4 May printed on the front page of the \textit{Sydney Gazette}.

When Forbes and the Press raised legal objections to the Stamp Act towards the end of May and it looked as if Darling would have to withdraw it, Macarthur appears to have come to fore. One major criticism of the act from Forbes and the Press was that the preamble expressed one intention, to impose a stamp duty to defray government printing costs, while the actual effect of the duty would be to carry out another intention, to restrain or crush the Press. On hearing of this, Macarthur thought that it would have been better to have declared that a seditious and licentious Press had made it necessary to increase the strength of the police for the preservation of the peace of the colony and that a Stamp Duty was laid in to provide for the expense."\footnote{John Macarthur to his son, John, 27 May 1827, Macarthur Papers, Vol. 3.} Macarthur wanted to replace the
original preamble with that of 60 Geo. III, c. 9 which expressly stated that it was expedient to restrain the Press and which used a tax to that end. James Macarthur had heard that Forbes "in conversation" said that "had such a preamble been adopted he must have certified." 78. When looking at Forbes' criticisms of the act, it can be seen that the remark James Macarthur heard contains much substance. Darling, however, had thought John Macarthur's suggestion "too bold." 79. Macarthur, on the other hand, said that they should have acted openly rather than have resorted to what would be called "an odious measure to put down the Press." 80. Had Darling bowed to Macarthur's plan, therefore, they probably would have achieved the end they both desired, the implementation of the Stamp Act and the suppression of newspaper criticism.

To obtain unanimity in the Legislative Council on the Stamp Act, Darling resorted to trickery and bribery. At the council meeting of 3 May all three independent members, J. Macarthur, C. Throsby and R. Campbell, were present and voted for the Stamp Act. Robert Campbell had been the only member to resist the bill. 81. Before the meeting Macleay saw Forbes who was presiding in the Supreme Court. When he appeared in the council room, Macleay said

77. James Macarthur to his brother, John, 9 June 1827, Macarthur Papers, Vol. 35.
78. Ibid.
79. Ibid.; John Macarthur to his son, John, 27 May 1827, Macarthur Papers, Vol. 3.
80. Ibid.
that Forbes had agreed to the stamp duty of four pence. 82. Campbell, thereupon, dropped his opposition and supported the bill. 83.

In the bitter wrangling at the end of May, Macleay's action acquired some notoriety, with Darling supporting Macleay's claim that Forbes had agreed to the amount of the duty and Forbes strenuously denying it. As a later consideration of the issue shows, there is a strong suggestion in the evidence that Macleay attempted, and nearly succeeded in tricking Campbell and Forbes into supporting the act.

Although it was not unusual for Darling to dispense favours amongst his dependants and supporters, Throsby was carefully bribed into voting for the act. The story is told by Forbes who, as Chief Justice, knew well the value of reliable evidence and who said that, in Throsby's case, the facts came from "the most accurate sources of information." 84. Charles Throsby was a grazier. Early in March, the Commissary advertised in the usual manner for tenders for the supply of 100 tons of salted beef and pork, the tenders to be sealed and opened on 27 April. Many offers were received, a schedule prepared and the lowest recommended to the government by the officers of the Commissariat. No tender from Throsby was received, but on 1 May he forwarded one "in private form." 85. The stamp bill was considered on 2 May. Throsby voted for it on 3 May and, two days later, "he had the good fortune to find his tender had been approved by the government." 86. What, to Forbes, rendered the

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82. Ibid. 83. Ibid., p. 739. 84. Ibid., p. 738. 85. Ibid. 86. Ibid.
transaction "more remarkable" was that the advertisement was for salted meat, deliverable at Sydney and that tenders for more than the required amount had actually been approved before Throsby's tender was received; his, however, was "for fresh beef, deliverable near his own residence at Liverpool, which the government were to be at the expense of salting and conveying to Sydney."

Throsby's terms were, moreover, higher than some of the rejected tenders. In such a way did Darling secure Throsby's support.

When Wardell and Hall saw the Stamp Act, they subjected it to a barrage of criticism. Even Halloran's Gleaner, a defender of the Regulating Act, now swung to the attack. The Australian and the Monitor had barely finished their long editorials on the Regulating Act when the new legislation was published in the Gazette of 4 May. Hall had no time to consider it but just managed to insert in the Monitor's front page of 4 May the headline

"MORE DISASTROUS INTELLIGENCE"

ANOTHER BLOW AT THE PRESS OF AUSTRALIA"

All three papers devoted long editorials to the act, the Monitor's running into three pages. Their main arguments came from a legal

87. Ibid.
88. Monitor, 11 May 1827; Australian, 9 May 1827; Gleaner, 10 May 1827.
and political approach. It was inequitable to tax a very small minority of the population. The Council was a substitute for a "National Assembly", argued the Australian, and was bound by honour, by conscience and by the sacred obligation of an oath "to legislate as the British Parliament"; "Would BRITONS and men glorifying in having BRITISH BLOOD IN THEIR VEINS, in national conclave assembled, elected by the people", would they have taxed three people and only three people in the state. The Australian apparently considered either the Gleaner as too small to count or the Gazette, because of its government connections, as an exception. The Gleaner of 10 May also called the act oppressive because of its partial nature in bearing on the interests of a few, and for the same reason the Monitor of 11 May declared it contrary to the New South Wales Act and, therefore, to the laws of England. For three people to pay an estimated £800 a year each, the Monitor continued, and for the government then to disburse the proceeds to some inefficient public servant was indeed inequitable. A tax should be necessary, the papers argued. Men were to be taxed "out of necessity", to meet the demands of the state and not, according to the Australian, out of caprice or resentment. The Gleaner made a similar point and Hall pointed to the 21st section of the New South Wales Act which stated, in effect, that a tax was only to be levied when necessary

89. Australian, 9 May 1827.
90. Ibid.
91. Gleaner, 10 May 1827.
for local purposes. The preamble of the bill mentioned one intention of the tax, the newspapers complained, while the terms of the act clearly betrayed another. The Australian of 9 May found it difficult to believe that the legislators could assign one reason for the act while being influenced by another. A week later, it quoted the Gazette as saying that government notices were printed free and that approximately £100 for the half-yearly summaries of government notices was the only cost incurred. When the act would raise £3,000, the reason for the act as expressed in the preamble clearly failed. And when the reason failed, according to the legal authorities the Australian quoted, the law itself became a dead letter. If the intention of a tax was not stated in the body of the law as stipulated by the 21st section of the New South Wales Act, the Monitor of 11 May pointed out, the act was unconstitutional. Because it was obvious that the tax, despite the preamble, was intended to crush the Press, the Monitor went on to suggest an alternative preamble which would have contained words such as "prevention" and "restrain". Thus, on the subject of the preamble, a curious alliance between Hall and Macarthur seems to have unwittingly emerged. All three papers agreed that the act was contrary to the laws of England. If it was unlawful to impose a censorship and directly control the Press, Wardell argued,
it was also unlawful to do so indirectly by means of a tax.

The other arguments the papers used stemmed from philosophical considerations, from an examination of the situation overseas and from the effects the tax would have on their income. As the Gleaner noted, the tax was impolitic because it would tend to check "the diffusion of knowledge and useful information." "Would a Colonial House of Commons or any House of Commons have taxed the mind - have taxed learning, have taxed understanding, - have taxed information," asked the Australian of 9 May. The idea of a newspaper tax being a tax on knowledge was widespread in Britain. The Monitor of 4 May printed an extract from a Parliamentary debate on a motion on the reduction of the British newspaper tax, the aim of the reduction being to allow the papers to be read "more generally by the lower orders of Society." If the tax extinguished the Press, the effects on children would be damaging, Hall argued. Compared with Britain and the other colonies, the tax in New South Wales was grossly inequitable. The Australian of 9 May pointed out that the British Press was originally taxed out of necessity and that the proprietors were a numerous and wealthy group whose profits were large. Such was not the case in New South Wales. The British tax, moreover, was subject to a discount and in effect was only 3 1/2d, not 4d; the tax on the Irish Press was lower still, being not even 2d.

97. Australian, 9 May 1827.
98. Gleaner, 10 and 26 May 1827.
100. Australian, 9 and 16 May 1827.
Britain, said the Monitor of 11 May, one newspaper would have a circulation of about 20,000 whereas, in New South Wales, the total weekly circulation of all papers was about 1,600; in Britain, moreover, printing costs were half as much as in the colony. The British Press, therefore, could bear a tax where the Australian Press could not. Nowhere else in the empire, claimed the Australian and the Gleaner, was there anything like a tax on newspapers, not even at the Cape or Demarara where the clashes between the authorities and the Press had been sharpest. The British House of Commons, Wardell warned the government, would find this strange indeed. Financially, the tax would ruin the papers. Hall saw an end to his profits approaching since he would have to pay out £800 a year. He would have to charge his subscribers an extra 17/4 a year because he could not pay it. Hall pointed out the implications of another course of action, the sale of his paper. It would have to be sold to a supporter of the government who, according to the Monitor of 11 May, might be paid by the government and who would misrepresent the acts of government to the British authorities. Similarly, Halloran's first reaction was to throw in the sponge and declare the tax would be the end of the Gleaner. But it was Hall who made the most perspicacious

102. Australian, 9 May 1827; Gleaner, 10 May 1827.
103. Australian, 9 May 1827.
104. Monitor, 11 May 1827.
105. Ibid.
106. Gleaner, 10 May 1827.
criticism. Attacking the government's heavy-handed methods, he suggested that at first it should have imposed a very small, instead of a large, tax and then gradually increased it. From a legal, political and financial standpoint, Darling might, as the case turned out, have done worse than have accepted Hall's advice.

The attitude of the Sydney Gazette towards the Stamp Act was characterized by reversals of policy. On the first appearance of the act, the Gazette briefly noted that the freedom of the Press remained "still sacred" in the colony as it did in England. After four days and a little thought, however, Robert Howe produced an editorial on the act headed

"HUMBLE REMONSTRANCE
OF
ROBERT HOWE
ON THE
ACT OF COUNCIL, NO. III."

In the "Remonstrance", Howe set out to demonstrate that the government was very much in his debt and that, therefore, it should ameliorate the ruin the act might otherwise cause him. After outlining the history of the Gazette, Howe noted that both his father and himself as government printers had been "devoted to the interests of Government." Because he had believed that nothing could

108. Sydney Gazette, 4 May 1827.
109. Ibid., 9 May 1827.
have blighted his prospects, Robert Howe had sunk all his assets in the printing business. For two or three years, he said, he had been expecting the imposition of a stamp duty on the Press, but mainly for the purpose of financing the Inland Post. Government notices were printed free in the Gazette, but, with the half-yearly summary of the notices and the other jobs he performed for the government, Howe conceded that some duty was necessary. But this act, he declared, with its four pence duty was "pregnant with immediate serious injury and ultimate ruin" to his affairs.

Robert Howe then enumerated seven points to back up his statement. First, the act would have caused him to publish only twice, instead of three times, a week which with the tax would have led to a loss of £2,200 a year; this sum was made up of £1,200, a loss resulting from the reduced frequency of appearance of the Gazette, and £1,000 for the tax. Secondly, because the public would have refused to pay above the present price of 9d. a copy, half of Howe's income would have been lost. With most of his capital in the paper, Howe foresaw ruin unless the Gazette was abandoned. Thirdly, the cost of running the printing business was £1,500 a year; raising the suspected expense to him of the duty, he said, would cost £1,650 and as it was payable in advance, his total costs would have been £3,150. Because it was difficult enough obtaining in advance of revenue £30 to pay a week's wages to his men, he believed

110. Ibid.
112. Ibid.
113. Ibid.
it would have been an impossibility to have raised a larger sum. His fourth point was that, with the loss of subscribers resulting from a stamp duty, his loss would have been raised to £1,500 a year. Howe then pointed to the differences between New South Wales and Britain. With the higher price of paper, the lower frequency of publication and the lower circulation of papers in the colony, there was no comparison between the two. Since subscribers paid their accounts on a casual basis, it would have been impossible, he next remarked, to acquire enough cash to pay for the duty in advance. Drawing close to Hall's argument, Howe finally indicated that 2d would have been better as a duty because then both the public and the proprietors of newspapers could have shared the cost. At present, the public seemed to Howe "resolved on compelling the Proprietors of the Papers to pay the whole duty." He ended with the complaint that, whatever the real or ostensible purpose of the act, it had the effect of placing the Gazette on a par with the opposition papers.

Two days later, in the Gazette of 11 May, Howe switched to a defence of the act. Following the example of Wardell and Hall in arguing along legal lines, Robert Howe's defence had the merits of ingenuity rather than accuracy. By the 24th section of the New South Wales Act, the Governor, with the advice of the Legislative Council, had the power to make laws "for the peace, welfare, and

114. Ibid. 11 May 1827. 115. Ibid.
good government of the Colony" or, as Howe put it, "in extra-
ordinary cases of emergency." But the governor's powers were
wider than this because, by section 25, he had the power to enact
laws, without the agreement of the Legislative Council, if "in the
judgment of the Governor", rebellion were about to break out.
Howe's implication, though not stated, was obvious. He then quoted
sections 28 and 29 about the governor's powers of taxation and the
repugnancy or otherwise of local acts to the laws of England, and
concluded that any act, passed by the governor with the consent of
the Legislative Council and certified by the Chief Justice, was
legal. Up to this point, the basic fallacy of Howe's argument was
that he assumed what it was that he had to prove. As Howe saw it,
the act had been passed according to the provisions of the New South
Wales Act and was therefore legal; he had not proved that the legis-
lators had passed the bill in conformity with certain principles of
English law. Howe tried to do this in the next part of his argu-
ment when he quoted part of 55 Geo. II c. 185 of 1815, an act which
raised the British stamp duty on newspapers from 3\(\frac{1}{2}\)d to 4d and
allowed 20% discount on all monies paid in advance. 117. But the act,
Howe said, did not make it imperative that money should be paid in
advance and that therefore the discount arose from mere convention.
Thus, to the view that 3\(\frac{1}{4}\)d not 4d was the amount of the British
duty, Howe argued that it had no legal basis. Apart from heavily

116. Ibid., 11 May 1827. 117. Ibid.
emphasising again that the local Stamp Act could not have been repugnant to English law because the Chief Justice had certified it and pointing out that a small stamp duty existed in India and the Cape. Robert Howe rested his defence on such arguments for the rest of May.

While the reaction of three of the papers was highly critical and that of the fourth ambivalent, the Stamp Act generally threw the colony into a state of turmoil. People had been conditioned into an alarmed state of mind by the wild rumours of a convict uprising which gained currency in April and May. Under the heading "Raising the Wind", the Gazette of 4 May reported the case of a convict who had falsely told various prominent businessmen that a gang was going to plunder their houses. In a state of great alarm, the businessmen told the constabulary and, with their families, spent several sleepless nights fearing the worst. Parties of constables patrolled the streets looking for the robbers. The story developed and once the military were ordered out to surround the prisoners' barracks "under an apprehension", as the Monitor later put it, "of a rising amongst the prisoners." The convict who originated the alarm had sought a reward for his timely warning but, when brought to justice for the fraud, received not cash but 100 lashes. The stories, however, persisted and Robert Howe

118. Ibid. 119. Ibid., 21 May 1827. 120. Ibid., 25 April 1827; Monitor Magazine, 1 (1), 18 May 1827, pp. 26 - 27. 121. Monitor, 12 June 1827; Sydney Gazette, 18 June 1827. 122. Ibid., 4 May 1827.
encouraged the situation by running a special column in the Gazette devoted to rumours. The Gazette of 14 May mentioned the rumours about Hall comparing himself to St. Paul, about the Australian becoming a magazine, and about "a certain old man", presumably Macarthur, relating "with great glee and entire satisfaction, that he and he alone" had destroyed the Gazette. Towards the end of the month, word flashed round that the Legislative Council had been split on the Stamp Act and that some members were now disclaiming responsibility.

A few days after the publication of the act, the Australian said that it had "created perturbation and discontent throughout the colony" and a greater sensation than the Sudds and Thompson affair. The people paraded up and down the streets, met in groups and cried "MONSTROUS!" Stumping around Sydney, old John Macarthur met, and had a short furious argument with, two merchants Thomas Raine and Prosper de Mestre who "complained loudly of the oppression of the Act." In early June, Robert Howe told Forbes of the universal outcry and uniform expression of disapprobation that had greeted the act. Letters flowed into the papers. One correspondent called himself "an Enemy of the Four-Penny Stamp"

123. Gleaner, 26 May 1827; Australian, 18 and 25 May 1827.
124. Ibid., 9 May 1827.
125. Ibid.
126. John Macarthur to his son, John, 27 May 1827, Macarthur Papers, Vol. 3.
129. Australian, 23 May 1827.
and another, who thought the name of Darling Harbour "really disgusting", suggested in a complex pun that it should instead be called "Press-gag Harbour." 130. Towards the end of May, Macarthur told his son of the colony's "most extraordinary state of perplexity and confusion." 131. Ten days later, James Macarthur wrote of the "perplexity" the act had occasioned the government and the "ill-feeling" towards the authorities it had caused. People said that they would flatly refuse to pay the duty on any of their newspapers and would have nothing to do with a stamped paper.

Robert Howe made inquiries and, in June, said that the colonists had determined so far as he could judge, "to the extent of one and all, upon not allowing a newspaper of any kind, bearing a stamp, to enter their houses." 133. Hall had discovered a similar reaction. 134. Meanwhile, the turmoil into which the general public was thrown by the act's publication, was accentuated by the different courses of action taken by the four newspaper proprietors. The changing plans of each individual in his preparation to meet the act at the end of May illustrates the indecision and uncertainty it created. According to the Monitor, it was rumoured that Robert Howe was to receive a salary equal to the amount he would have to pay for the stamp duty. 135. At the time the act was due to take

130. Ibid., 18 May 1827.
132. James Macarthur to his brother, John, 6 June 1827, Macarthur Papers, Vol. 35.
effect, the Monitor commented on Howe's change of heart after his initial "Remonstrance" when the act was first published and noted the cheerfulness of the Gazette's proprietor when taking a cart-load of paper to be stamped. This evidence clearly suggests that some promise of compensation had been made to Howe by the government, a promise which would account for Howe's change in policy. Some stamps were actually bought but the money returned after the act's suspension. A copy of the Gleaner of 2 June 1827 bears the stamp. Although Halloran had earlier foreseen the end of the Gleaner, he announced on 26 May that the price would be raised from 9d to 1/- and asked subscribers for half-yearly or quarterly payments in advance.

Wardell, on the other hand, decided to fight the act. To avoid the duty, he had first toyed with the idea of turning the Australian into a magazine of 48 large octavo pages which would have been a "Register of News and a Literary Journal", published weekly at 1/6 a copy. Like an English magazine, it would have all the ingredients of a newspaper but would not be liable to the stamp duty. But, as Robert Howe pointed out in the Gazette of 18 May, by the terms of the act, the duty was applicable to newspapers and "other papers serving the purpose of a newspaper." Abandoning the idea, Wardell bought no stamps at the end of the month.

136. Monitor, 1 June 1827.
137. Australian, 1 June 1827.
138. Gleaner, 2 June 1826, (Public Library of New South Wales, Sydney).
139. Australian, 11 May 1827.
140. Ibid., 16 May 1827.
141. Ibid., 1 June 1827.
and decided to wait until the act could be tested in the Supreme Court.

For two successive weeks, the Monitor actually appeared in magazine form under the title The Monitor Magazine. Hall's first reaction had been to abandon his plan for publishing the Monitor twice weekly, a plan not put into effect until the middle of June. But, probably acting on Wardell's idea and following a similar device used by William Cobbett to avoid stamp duty, Hall published a pamphlet of 48 octavo pages, stitched together, at a weekly price of 1/6 on 18 and 25 May. In the first issue Hall emphasised that because it was stitched, the magazine was not subject to the duty. A triumphant editorial proclaimed that the authorities were "DONE" and "fairly BEAT" and Hall urged them to throw away their swords and seize the olive branch. Hall's argument was that the magazine was a book, that the Stamp Act referred only to a sheet or piece of paper being stamped and that the English acts from which the Stamp Act was derived specifically excluded all magazines or other bound periodicals above a certain size. But when he realised the fallacious nature of the argument and heard of Wardell's decision to challenge the act in the courts,

143. Ibid., 4 May 1827.
144. Ibid., 15 June 1827.
147. Ibid., 1 (2), 25 May 1827.
Hall then announced in the *Monitor Magazine* of 25 May that he was suspending publication until a decision had been reached. Clearly a change of mind occurred shortly afterwards because the *Monitor* newspaper reappeared on 2 June bearing a stamp.\(^{148}\) When the magazine had first appeared, Hall failed to send a copy to the Colonial Secretary's office in accordance with the Regulating Act, was asked why by W.H. Moore, the Government's solicitor, and replied that the magazine fell outside the scope of that act.\(^{149}\) Moore's letter, reprinted in the *Monitor Magazine* of 25 May, reveals the uneasiness in government circles evoked by the general response to the legislation. Moore had, he wrote, been directed to proceed against Hall for recovery of the penalty to which the proprietor had subjected himself by omitting to send a copy of the magazine. But had it occurred "from any accidental neglect" on Hall's part, Moore would not proceed against him unless he gave some explanation of whether or not it had been done "intentionally or inadvertently"; if the latter were so, Hall's furnishing a copy "without delay" would be sufficient.\(^{150}\) The issue came to be argued in the courts later in the year.

Apart from their criticisms of the act, the papers meanwhile debated the role of the Chief Justice in a rather puzzled fashion. How could the Chief Justice, a lover of liberty, certify an act

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150. Ibid.
that would destroy the Press, the papers seem to have asked. On referring to Forbes' "impartial and uncompromising character", the Gazette could only argue that, if the Stamp Act had been repugnant to the laws of England, the Chief Justice would have suffered himself to be decapitated "ere he would have certified to a document which was at variance with the principles of law". 151. The Monitor passed some friendly strictures on Forbes' role. Had there been any doubt about the act, it thought, Forbes would have "incurred a little risk in favour of the liberty of the subject." 152. The Monitor found it difficult to believe that the Chief Justice would "ever sign away the liberty of our colonial press with so much sang froid - so much as a matter of course." Hall had not heard Forbes' view of the matter and therefore had to continue "to live by faith" if his exalted opinion of Forbes was to be retained. 153. In another part of the same edition of the Monitor, Hall then proceeded to praise Forbes whom he erroneously believed due to leave for Britain. He urged Forbes to take with him the grievances of the colonists, present them to the House of Commons and plead for a free Press, Trial by Jury and Taxation by Representation. 154. The article ended with the words

"Yes, Chief Justice Forbes! return to England! be our Representative and Delegate! in you we can trust! to you we are willing to confide the dearest interests of English colonists! because we know your personal integrity - your fidelity to the Constitution - and your loyalty to your King!" 155.

151. Sydney Gazette, 11 May 1827.
153. Ibid.
155. Ibid.
By 25 May, the Australian was beginning to understand how the Bill came to receive the Chief Justice's certificate. After receiving information probably from H.G. Douglass, clerk of the Legislative Council, Wardell mentioned the rumours about the members disclaiming responsibility for the legislation and about the bill being submitted, duly certified by Forbes, to the Council with a blank left for the duty. 156. The Council had no power to alter the bill after it had been certified by the Chief Justice, the Australian argued; if an alteration had been made, if the blank had been filled in, the act was not law. 157. His pride in his job and anxiety to maintain the judiciary's integrity in the public eye left Forbes open to these pressures. The Australian's remarks appeared on 25 May. Two days later Forbes told Macleay of his serious doubts about the legality of the Stamp Act.

The final events in the affair can be briefly sketched. Macleay told Darling about Forbes' objections to the act. A sharp exchange of letters ensued with Forbes using roughly the same arguments put forward by the papers. 158. The Stamp Act, as a result, was suspended on 31 May, the day before it was due to come into

156. Australian, 25 May 1827.
157. Ibid.
operation. At the same time Darling and Forbes sent a host of letters to the Colonial Office defending their actions; Forbes continued to write about the affair until September 1827. Darling's central criticism of Forbes was that he had failed to tell the Governor earlier of his objections. Forbes, on the other hand, saw Darling as a victim of unscrupulous men who were determined to trick the Chief Justice into silencing the Press. The correspondence provoked much discussion at the Colonial Office. James Stephen sent the bills and the letters to the British Attorney-General and Solicitor-General. They vindicated Forbes' action over the licensing clauses, arguing that a license would have acted as a restriction on trade, but found that there was nothing illegal about the principle of a tax on newspapers. The law officers failed to consider that the tax would have had precisely the same effect as a license. However, they added a rider that Forbes may have come to his opinion honestly in the case of the Stamp Act and hence agreed to disallow the Stamp Act and the licensing clauses. Stephen prepared a memorandum on the legal and political aspects of the affair and distributed praise and blame in equal proportion.


between Forbes and Darling. He also incorporated the licensing clauses into a draft of the New South Wales Act which was to be considered in 1828. However the clauses were dropped partly because they were inimical to the liberal spirit of the time. The arguments in favour of legislating against the Press in Parliament, arguments put forward with such clarity by Henry Dumaresq, had a convincing ring about them and fitted in with the views of the Colonial Office. However, Dumaresq's submission to the Colonial Office in November 1827 contained two basic difficulties. First, the detailed and subtle argument would not have been easy to use in the rhetoric of Parliamentary debate. Second, Dumaresq's and Darling's assumptions about New South Wales being a gaol were wrong in point of fact; however much some may have regarded the colony as a gaol, others could with as much conviction point to the free elements in the colony. Thus the administrators were faced with a standard problem. The newly appointed Secretary for the Colonies, Sir George Murray, came down on the side of a free Press and sent a diplomatic dispatch to Darling, reprimanding both him and the Chief Justice and urging them to co-operate in future.

Meanwhile, the reaction of many in New South Wales to the Stamp Act's suspension was one of great pleasure. Only once since his arrival had Hall seen Sydney "in such an uproar." From Parramatta, Windsor and Liverpool came reports of the inhabitants'
feelings of "unbounded joy." At Campbelltown, a small settlement 32 miles west of Sydney, celebrations went well into the night. Not large enough to merit separate notice in the 1825 muster or the 1828 census, Campbelltown's size is indicated by the correspondent to the Monitor who remarked that by standing next to the Church he could see 22 houses standing close to each other. According to one of the correspondent's letters, the suspension of the act "gladdened all hearts." When the newspapers arrived at Campbelltown on 2 June, "the Subscribers, or their Servants, were in a bustle who should get served first." On the evening of the same day, the inhabitants "most splendidly illumined their houses" with lanterns. Guns were fired in celebration. "To testify their unfeigned regard for their King and their Representatives", the people then repaired to one of the licensed houses where "harmony and conviviality reigned until a late hour." In a series of toasts, they drank to George IV and the health and happiness of Governor Darling and his family, wished the editor of the Monitor long life, "Prosperity and Commerce to Australia," prosperity to Bob Howe, Bob Wardell and W.C. Wentworth, "the Patriot of Australia." At the end of this jubilant evening, the national anthem was sung "in masterly style." But while people made merry, the

165. Ibid. 166. Monitor, 21 June 1827.
167. Ibid., 8 June 1827. 168. Ibid., 12 June 1827.
169. Ibid. 170. Ibid.
171. Ibid. 172. Ibid. Robert Howe later asserted that the letters were hoaxes and that there was barely anyone at Campbelltown
protagonists made ready for the next part of the struggle; for the fate of the Stamp Act only ended the first round in Darling's battle with the Press.

From 1827 to the time of his departure in 1831, Darling tried a variety of ways to silence the Press. He attempted to remove their papers and gave encouragement to the owner of the Gazette; he intimated that all government departments and anyone connected with the government should have their printing done at the Gazette office rather than at those of the Monitor or the Australian; and he again tried to legislate against his newspaper critics in 1830. The pattern of events is very much clearer after 1827. Before then, the various groups appear to have been positioning themselves for the struggle which developed in April and May 1827. The victory for the newspapers was, at bottom, a victory for the rule of law over the rule of power. The New South Wales Act had curbed the powers of the governor and had provided a constitutional base for the separation of the executive from the judiciary. The fate of the Press legislation confirmed the position.

Before 1824 it had been impossible in New South Wales to discuss such issues in print because the government owned and controlled the colony's only printing press. The rights and wrongs of Macquarie's tussle with Bent, a forerunner of the Darling-Forbes conflict, was not mentioned in the Sydney Gazette. From 1803 to
CONCLUSION.

From 1827 to the time of his departure in 1831, Darling tried a variety of ways to silence the Press. He attempted to remove the newspaper proprietors' assigned servants at a time when skilled labour for printing was scarce; he instituted one libel action after another; he hindered the proprietors' attempts to distribute their papers and gave encouragement to the owner of the Gazette; he intimated that all government departments and anyone connected with the government should have their printing done at the Gazette office rather than at those of the Monitor or the Australian; and he again tried to legislate against his newspaper critics in 1830. The pattern of events is very much clearer after 1827. Before then, the various groups appear to have been positioning themselves for the struggle which developed in April and May 1827. The victory for the newspapers was, at bottom, a victory for the rule of law over the rule of power. The New South Wales Act had curbed the powers of the governor and had provided a constitutional base for the separation of the executive from the judiciary. The fate of the Press legislation confirmed the position.

Before 1824 it had been impossible in New South Wales to discuss such issues in print because the government owned and controlled the colony's only printing press. The rights and wrongs of Macquarie's tussle with Bent, a forerunner of the Darling-Forbes conflict, was not mentioned in the Sydney Gazette. From 1803 to
1824, the relationship between the government and the Sydney Gazette was one of some complexity. In law, a censorship did not exist yet the sending of the Gazettes to the Colonial Secretary before publication indicated the motions of a working censorship. In fact the Secretary seems to have paid little attention to the news columns of the Gazette and to have merely checked the accuracy of the government orders. The Secretary must have known that the printer realised his livelihood depended upon him not offending the government. The fate of George Williams, dismissed in 1817 for criticizing Macquarie, would have made clear to George Howe and everyone else in the colony that the government printer's job depended on an avoidance of criticism. Moreover, the printer's beliefs in the efficacy of the governors' emancipist policies and in the utilitarian and evangelical ideas placed him intellectually close to the governors. In this respect, it was fortuitous for Robert Howe and the government that his father's death coincided with a change in government. Between 1821 and 1824 the harmony which had earlier characterized the Gazette's relations with the government was thus maintained. From 1803 to 1824 the Gazette furthered the policies and views of the men who governed New South Wales, a situation which tends to be disguised by notions of censorship.
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<table>
<thead>
<tr>
<th>Author</th>
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<tbody>
<tr>
<td>Atkinson, J.</td>
<td>An Account of the State of Agriculture and Grazing in New South Wales; including Observations on the Soils and General Appearance of the Country, and some of its most useful natural productions; with an account of the various methods of clearing and improving lands, breeding and grazing live stock, erecting buildings, the system of employing convicts, and expense of Labour generally; the mode of applying for grants of land; with other information important to those who are about to emigrate to that Country; the result of several years residence and practical experience in those matters in the Colony, London, 1826.</td>
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<td>Bannister, S.</td>
<td>Statements and Documents relating to Proceedings in New South Wales, in 1824, 1825 and 1826, Intended to Support an Appeal to the King by the Attorney General of the Colony, Cape Town, 1827.</td>
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<tr>
<td>Barrington, G.</td>
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<td>Bennet, H.G.</td>
<td>A Letter to Earl Bathurst, Secretary of State for the Colonial Department, on the condition of the colonies in New South Wales and Van Diemen's Land, as set forth in the evidence taken before the Prison Committee in 1819, London, 1820.</td>
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<td>Cunningham, P.</td>
<td>Two Years in New South Wales; comprising Sketches of the Actual State of Society in that Colony; of its Peculiar Advantages to Emigrants; of its Topography, Natural History, etc. etc., 2 Vols., London, 1828.</td>
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<tr>
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<tr>
<td>Dixon, J.</td>
<td>Narrative of the Voyage to New South Wales, and Van Dieman's Land, in The Ship Skelton, during the year 1820. With observations on the state of these colonies, and the variety of information, calculated to be useful to emigrants, London, 1822.</td>
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<td>Gellibrand, J.T.</td>
<td>The Proceedings in the Case of His Majesty's Attorney-General, J.T. Gellibrand, Esq., as well in the Supreme Court of Van Diemen's Land, as upon the late Private Investigation, including the correspondence with His Excellency Lieutenant Governor Arthur, and the Honourable Chief Justice Fedder, and all the other Documents connected with this most important Case, in Two Parts, Hobart, 1826.</td>
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<td>Johnston, G.</td>
<td>Proceedings of A General Court-Martial, held at Chelsea Hospital, Which commenced on Tuesday, May 7, 1811, and continued by Adjournment to Wednesday, 5th June following, for the Trial of Lieut.Col. Geo. Johnston, Major of the 102d Regiment, late of the New South Wales Corps, on a Charge of Mutiny (While Major George Johnston, Captain of the said Corps, then under his Command, and doing Duty at Sydney in the Colony of New South Wales;) exhibited against him by the Crown, for deposing On the 26th January, 1808, William Bligh, Esq., F.R.S. then Captain in His Majesty's Navy, (and since appointed Rear-Admiral of the Blue,) Captain-General and Governor-in-Chief in and over the said territory of New South Wales and its dependences, London 1811.</td>
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<tr>
<td>(Macarthur, J.?)</td>
<td>To the Right Honourable Viscount Castlereagh, His Majesty's Principal Secretary of State for Colonial Affairs, London, 1808. (There is no title page to the copy at the Mitchell Library).</td>
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Mann, D.D. The Present Picture of New South Wales; illustrated with four large coloured views, from drawings taken on the spot, of Sydney, the seat of Government: with A Plan of the Colony, taken from actual survey by public authority. Including the present state of agriculture and trade, prices of provision and labour, internal regulations, state of society and manners, late discoveries in Natural History, And other interesting Subjects; with Hints for the further improvement of the Settlement, London 1811.

Marsden, S. Statement, including A Correspondence between the Commissioners of the Court of Enquiry, and the Rev. Samuel Marsden, relative to A Charge of Illegal Punishment preferred against Doctor Douglass, Held at Parramatta, in July 1825. By Order of Lord Bathurst. Together with some Observations on the Bill of Indemnity, Sydney, 1828.


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The History of New South Wales: with an account of Van Dieman's Land (Tasmania), New Zealand, Port Phillip (Victoria), Moreton Bay, and other Australian Settlements. Comprising a complete view of the Progress and Prospect of Gold Mining in Australia. The Whole Compiled from official and other authentic and original sources, 2 Vols., London, 1862.

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<td>Melbourne, A.C.V.</td>
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<td>Steinberg, S.H.</td>
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### 7. Theses and Unpublished Works

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