Chapter 5  
The Colonial Abroad 1836-1839

During the week in which the Abel Gower sailed from Sydney both the
bishop and the governor sent off letters recommending Macarthur to
friends in England. The younger Richard Bourke, who was then living
in London, was informed by his father that Macarthur was 'very amiable
and ... well informed', and should be introduced 'anywhere that may be
agreeable to him'.

He is not violent in his politics [the governor wrote] and tho'
a tory has I believe no objection to my government. We have
always been on the best terms and I understand he made a point
that the tory petition shd. not say anything abusive tho' he
could not prevent indirect attack from Messrs. Jones, Walker
and others.

And he added, 'I wish you to give him to understand that I am sensible
of his good dispositions, but it shd. be known in Downing Street that
he is a Botany Bay tory'. ¹

Broughton does not seem to have been so confident about Macarthur's
opinions. He gave him letters of introduction to Edward Coleridge (a
master at Eton), John Keate (lately headmaster) and W.E. Gladstone, who
had just finished a short term as colonial under-secretary. At the same
time the bishop wrote longer letters to Coleridge and Gladstone describing
the colony's need for more clergy, churches and parish schools. In this

¹ Sir R. Bourke to R. Bourke jr., 21 July 1836, ML A1733.
connection and for other reasons, he said,

we attach some importance to [Macarthur's] proceedings, and I am most anxious, if possible, that he should have ... an opportunity of conversing with persons whose views are correct and likely to give a right turn to his.\(^2\)

He explained to Keate that he thought

much advantage may arise from his seeing our [English] public schools and other institutions in a favourable light; as his property and situation here give him much influence; and if he takes a right turn as to such matters while in England, he may import some notions which may [thus] ... take root and flourish here.\(^3\)

When Macarthur arrived at Portsmouth on 24 November 1836, he was thinking of a six months visit.\(^4\) In fact he remained in Europe until November 1838. The political business of the trip was compressed into two periods, two English winters and springs, the parliamentary sessions of 1836-7 and 1837-8. The first six months were the busiest, Macarthur's time being taken up with the petitions, and the publication of a book in their support. During May and June 1837 he was called four times to give evidence before a select committee on transportation, appointed by the house of commons. He afterwards went into the country and was away from London until October. On his return he attended to private financial matters, and to plans for a new constitution for the colony.\(^5\) In June 1838 he was married. Then once again the summer and autumn were spent

\(^2\) Broughton to Coleridge, 26 July 1836, Broughton papers, NL mfm; Broughton to Gladstone, 26 July 1836, BM Add. MSS 44355, ff.102-3. Both letters contain this passage.

\(^3\) Broughton to Keate, 26 July 1836, NL MSS 1731.

\(^4\) James Macarthur to W. Macarthur, 2 Jan., 8 July 1837, ML A2931.

\(^5\) The private financial business will be explained in chapter 6, below.
travelling and visiting, until he and his wife sailed for home at the end of the year.

From the point of view of constitutional reform, the achievements of the visit were small, owing mainly to vacillation in the colonial office. But it is a very interesting period for the biographer. Macarthur now appears as a patient and hard-working negotiator, willing if necessary to sink his own views in compromise, as long as it seemed workable. He also appears as much too modest for a professional politician; too careless about announcing and justifying his own point of view. He seems to have thought that a political leader should always be in a position to change his mind, as long as the question was only one of expediency. He often did so himself.6

Had compromise not been necessary, the events of this time show that Macarthur would have preferred that the colony keep its non-elective council for the time being. In other words, his announcement in 1833, about the need to give the legislature 'a more popular basis', should be seen as an effort to reach agreement with the colonial reformers, in spite of his own opinions.

The visit was more useful to Macarthur himself than to the colony. Besides raising money for the estates he made a few useful and flattering

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6 See his speech in the legislative council, 28 Sept. 1850, SMH, 3 Oct. 1850: 'under the altered circumstances of a young colony, to expect that we could maintain the same views from ten years to ten years, argued infinitely more of inconsistency and imbecility, than any rational change of opinion can involve.'
acquaintances. He formed confidential links with Lord Howick, the secretary at war, with James Stephen, permanent under-secretary at the colonial office, with Sir George Grey, parliamentary under-secretary, and with W.E. Gladstone. His dealings with Gladstone highlight his ideas on church-state relations, and their friendship suggests that they had a good deal in common. No doubt most important for Macarthur himself was his marriage, but the effects of this on his political life are hard to gauge.

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At first Macarthur lived with his brother Edward in his rooms behind Burlington House, Piccadilly. Within a few days of his arrival he had received numerous visitors, including his old employer, Charles Coles, and Sir Walter Farquhar and W.S. Davidson, grandson and nephew of his father's patron, the first Sir Walter. On Tuesday 6 December he and Edward called at the colonial office for an interview with Sir George Grey. Macarthur took this opportunity of suggesting that Grey should present their petition to the house of commons, and that the petition to the king might be submitted to Lord Glenelg, the secretary of state. The following day the London committee of 'gentlemen requested to undertake

7 James Macarthur to W. Macarthur, 28 Nov. 1836, ML A2931.
the management of the petitions' met, and decided to follow up these proposals with a formal submission.\(^9\)

The London committee was made up mainly of City businessmen with New South Wales interests, to whom Richard Jones had sent copies of the petitions.\(^10\) Their chairman was J.S. Brownrigg, M.P., deputy governor of the Australian Agricultural Company, and they met in his rooms. Other members included Davidson and J.W. Buckle (both directors of the company), Edward Macarthur, Stuart Donaldson (father of S.A. Donaldson), and William Walker (uncle of Thomas Walker). The elder Donaldson had originally acted as agent for Sir John Jamison in his work for constitutional reform. But having received several reprimands from his son about being associated with 'the worst portion of one of the worst populations in the world', he had gone over to the opposition.\(^11\) Buckle, Donaldson and Walker were all large importers of Australian wool.\(^12\) There were several other committeemen (apparently as many as five) who seem to have taken little interest in the campaign.\(^13\) In fact none of the issues

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9 Minutes of a meeting 'of the gentlemen requested to undertake the management of the petitions', 7 Dec. 1836, ML A284.
11 Ibid.
12 See the list of importers of Australian wool during 1836 (Sydney Herald, 22 June 1837).
13 Besides those named, Frederick Huth and John Masson were at the meeting on 7 December. The New South Wales Calendar and General Post Office Directory 1837, Sydney 1837, pp. 340-1, lists 10 members, omitting James and Edw. Macarthur, and including James P. Webber and Walter Buchanan (see S.A. Donaldson to S. Donaldson, 18 Apr. 1836, ML A728) and G.W. Norman. The Directory's 'Fredk. Rush' is presumably Frederick Huth. Masson and Buchanan were also importers of Australian wool.
raised by the petitions concerned the members very closely. In the end they, or rather Donaldson, merely took responsibility for the petition fund, leaving the day-to-day work to James Macarthur.  

The committee meeting was followed by another appointment with Grey, and on 13 December Macarthur also saw James Stephen. On the following day Macarthur, Buckle and Davidson were allowed 'a very gracious audience' by Lord Glenelg, who questioned them about the main points of their petitions. According to Macarthur's later memorandum, the future of the legislative council was one of the main points of discussion.

I said that nomination by the crown of an extended council embracing men of all parties who had never been convicts was in my opinion the best plan for seven or ten years.

But, asked Glenelg, if it was decided to replace the system with one of election, 'might not the emancipists have the elective franchise?'

To which I replied that many thought not, but that for myself I could not see any objection to its being granted under proper limitations and qualifications, provided the representation were confined to the magistracy and certain officers of the crown.

Glenelg and Grey soon afterwards agreed to take charge of the two petitions. But then the question arose as to whether the wording of

15 James Macarthur to W. Macarthur, 18 Dec. 1836, ML A2931.
16 Sir G. Grey to James Macarthur, draft dated 7 Dec. 1836 (afterwards altered), CO 201/258, ff.369-71. The final version, dated 28 Dec. 1836, is at CO 202/35, ff.118-20, and ML A284. This was to be a mixed blessing. Grey seems to have put off presenting the petition to the house of commons until he could make a firm statement of policy, and it was never presented at all.
the documents reflected on the conduct of the governor. James Mudie had arrived in London earlier in the year, 'vowing vengeance against Governor Bourke' and bringing with him the manuscript of his book.\footnote{17}

He informed James Macarthur that it was very libellous, and asked him to correct the press. 'I am', said he, 'an enemy of Bourke's' ... 'I shall assuredly do no such thing', said McA., 'and I beg you to remember that I am a personal friend of Sir R[ichard] Bourke's'.\footnote{18}

At the same time Mudie published a violent article about the governor in The Times, one of a series, which was answered in the Morning Chronicle by Bourke's son. It was this answer by the younger Bourke which drew the attention of Downing Street to the ambiguity of the petitions.\footnote{19}

Macarthur repeated the explanation he had made in Sydney six months before, which, as he pointed out, had never been contradicted.\footnote{20} The petitioners' remarks about the appointment of magistrates, he said, contained 'a verbal inaccuracy'. It was 'by no means their wish' that the executive council should have a veto in such matters.\footnote{21} Nor did they suggest that Bourke was responsible for the local surfeit of vice.

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\item\footnote{17} Sir P. Lindesay to T.L. Mitchell, 2 Sept. 1836, quoted in B.T. Dowd & Averill Fink, 'James Mudie, Harlequin of the Hunter', part II, JRAHS 55, 1969, p. 100.
\item\footnote{18} R. Bourke jr. to Sir R. Bourke, 26 Dec. 1836, ML A1739.
\item\footnote{19} The Times, 13 Dec. 1836; Morning Chronicle, 15 Dec. 1836; R. Bourke jr. to Sir R. Bourke, 29 Dec. 1836, ML A1739.
\item\footnote{20} Ibid.
\item\footnote{21} Macarthur to W. Grant (Glenelg's private secretary), 15 Dec. 1836, CO 201/258, f.373 (copy at ML A284).
\end{itemize}
and wickedness: 'the evils they describe have arisen, in a great
degree, out of the very nature and constitution of society in New South
Wales'. He told Grey that

There are no terms in which I can too strongly disclaim the
existence of any connexion whatever between the petitioners
and the articles reflecting upon the character and conduct of
Sir Richard Bourke ... lately published in ... the periodical
press.

The petitions had been inspired, he said, simply by the fact that the
terms of the present constitution was due to expire. The governor's
son thought it necessary to point out that this was clearly not the
attitude of most of the petitioners, but he did not press the point.

Glenelg was satisfied with Macarthur's statement, although he made it
clear that he could not commit the government to the full text of the
petitions.

Macarthur now prepared a report to the petition committee in Sydney.
His policy so far, he explained, had been to avoid saying anything
which might 'excite the bitterness of party or ... embarrass the government'.
It was extremely important, he said, that they do the same in the colony,
because this was the only way to ensure their opinions a fair hearing from
officials and members of parliament, whether whig or tory.

22 Macarthur to Sir G. Grey, 2 Jan. 1837, CO 201/267, ff. 503-6
(copy at ML A284).
23 R. Bourke jr. to Sir R. Bourke, 29 Dec. 1836, ML A1739.
25 Macarthur to the Sydney committee, 11 Jan. 1837, ibid.
He also drew the committee's attention to the uncertain future of convict assignment and the whole system of transportation. This was a question which had been debated in England with increasing warmth since 1832, when Richard Whately, archbishop of Dublin, had published his *Thoughts on Secondary Punishments*. Whately argued that as long as prisoners were assigned as labourers it was foolish to hope for an efficient system of punishment and reform. Whether masters were cruel or kind, he maintained that their interests could never agree with those of the penal system. In 1834 Edward Gibbon Wakefield had joined in the debate, describing assignment as a form of slavery. George Arthur, the lieutenant-governor of Van Diemen's Land, had also taken part, and had written two pamphlets in support of present methods.

Before his brother's arrival in England, Edward Macarthur had informed Grey of his own attitude to transportation. He was less concerned with the convicts themselves than with 'the moral effect upon the future character of the Australian colonies'. He did not believe, he said, that the obvious 'practical benefits' reaped by the settlers could 'counterbalance the moral objection', and he suggested that transportation should cease as soon as possible.

James Macarthur took the same approach, but he thought more about

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the present faults of the system than its long term effect on the colony. In his letter to the petition committee he argued that the settlers must prepare for the end of convict labour, at least on their own estates. He pointed out that if they were to use free labour at all, then it was only right to expect the end of the assignment system. The tone of argument shows that he did not expect the committee to take kindly to such change. But he was anxious that they should see it coming, and that the settlers should prepare 'to grapple with the difficulties connected with it'.

He appealed both to their pockets and to their sense of justice:

Is it practicable that free labor and convict labor should be carried on with advantage upon the same establishment?

Or is it justifiable to bring the labourer of unblemished character and conduct into competition with one who is expiating his crimes, thus subjecting innocence not only to the danger of contamination, but in some degree to the penalties of guilt, and taking from crime the just severity of punishment?

To these questions, it appears to me there can be but one answer.

Economic progress may be checked, he went on, but the community 'will, at all events, be less exposed to danger, and less subject to reproach'.

Besides, any ill effects would be short-lived and he was sure that

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29 To some extent Edward Macarthur's concern was that of a snobbish expatriate. He did not like the idea of coming from a convict colony.

30 Macarthur to the Sydney committee, 11 Jan. 1837, ML A284. See also James Macarthur to W. Macarthur, 9 Dec. 1836, ML A2931.

31 From an economic point of view, it was wiser to organise an estate to cater for free and bond labour at the same time. See Macarthur's evidence before the select committee on transportation (house of commons), 1837-8 (669) XXII, pp. 11-12 (5 Feb. 1838).
afterwards 'the advancement of the colony, both in rapidity and in all other respects, would infinitely surpass its progress at any antecedent time'.

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Within a fortnight of writing this report Macarthur turned his thoughts to the book which was to back up the petitions. He first found an assistant, Edward Edwards, a young man of 25 who was becoming well known as a pamphleteer and an authority on libraries and adult education. He was to help with the mechanics of writing, printing, and publishing. Their first meeting seems to have been on 21 January. Macarthur still had some other business to attend to, and he was also not very well about this time. But Edwards began work straightaway with the first draft of the introduction.

The full title of the book was New South Wales; its Present State and Future Prospects: being a Statement with Documentary Evidence, submitted in support of Petitions to His Majesty and Parliament. The statement consisted of an introduction followed by eight detailed chapters, covering altogether 275 pages and consisting of about 45,000 words. Except for the introduction, this was all Macarthur's work.

32 For Edwards, see Dictionary of National Biography VI; W.A. Munford, Edward Edwards 1812-1886: Portrait of a Librarian, London 1963. He was one of the founders of the free library movement.


34 For the controversy as to who wrote the book, see appendix 2, below.
followed a system whereby the original draft of each chapter was first sent to Edwards for revision. Some days later Edwards would return the revised script for Macarthur's approval. It was then given to the printers, except for the sections on legal subjects, which were sent for a second revision to Francis Barlow of Lincoln's Inn, whom the petition committee had engaged as counsel.  

On 2 March Macarthur gave Edwards the first draft of chapter I, a review of government policy in New South Wales. He had virtually finished chapter II, on transportation, by 28 March, and chapter III, on the jury system, by 12 April. The rest of the statement dealt with the law courts, the legislative council and possible legal reform, immigration, general resources, religion and education. As Macarthur had anticipated, the last six chapters were written relatively quickly, the subject matter being 'less difficult and confined within a narrower range, as well as more familiar' to him, than in the cases of chapters I and II. He and Edwards then went over the index together,

35 Letters no. 23, 31, 38, all n.d., Edward Edwards correspondence. Barlow had been secretary to Lord Lyndhurst, sometime lord chancellor and the younger John Macarthur's patron. See also the minutes of a meeting 'of the gentlemen requested to undertake the management of the petitions', 7 Dec. 1836, ML A284.
36 Macarthur to Edwards, 2 Mar. 1837, Edward Edwards correspondence.
38 Macarthur to Edwards, 18 Mar. 1837, ibid.
and the whole was published during the last week in June. For this work Edwards received £80 from the petition committee, plus a £10 gratuity from Macarthur himself.

The statement is compact, detailed and well balanced. Twenty-eight French, German, North American and British writers and several parliamentary reports are quoted to reinforce the argument. Macarthur relied for most of his general ideas on Alexis de Tocqueville, whose De la Démocratie en Amérique had appeared in Paris in 1834. He also made several references to the Memoirs and Correspondence of Thomas Jefferson, and to the recently published report of William Crawford, a commissioner who had been sent by the British government to investigate the working of United States penitentiaries.

The book cannot be called profound except where Macarthur makes some long term predictions. Here he shows his great sympathy with the thinking of de Tocqueville. He quotes de Tocqueville on the ideal government, 'essentially democratic', but more centralised than the United States because 'each citizen, exercising certain vested and defined rights' would be active within a limited sphere. Macarthur


40 Macarthur to Edwards, 29 June, 6 Nov. 1837, Edward Edwards correspondence.

41 See pp. 63-5, 111, 173, 279, 282.

42 For Jefferson, see pp. 111, 149, 241, 278, and for Crawford see pp. 120, 218, 230, 238. For Crawford's life and work, see Dictionary of National Biography V.
suggests that this ideal might be realised in Australia. 43

In another place he points out that, unlike America, Australia was a country which would only respond to steady, well directed toil:

There, nature of herself, produces absolutely nothing in the vegetable kingdom for the food of man; but, to honest and persevering labor, nowhere does she yield a more grateful return. 44

Now he argues that because of the uncertainty of the climate the Australian settler must be a prudent man, self-sufficient in every way and able to live sometimes on his capital.

This is a circumstance which may possibly exercise a powerful and permanent effect upon the future political institutions and character of Australian communities. It would appear not unlikely to have a tendency to modify the development of popular influences, and to give rise to institutions, which, although founded, like those of America, on British principles, may probably partake less of the attributes of American democracy. 45

There follows a paragraph which shows Macarthur's ignorance of Asia, but which also proves his idealism and imagination:

And may not this very difference render Australia, at some future period, a more efficient instrument for diffusing throughout the eastern hemisphere the spirit and principles of British liberty, by rendering them the less repulsive in their form and practice, to the habits and manners of the Oriental nations? 46

44 [Macarthur], op. cit., pp. 185-6.
46 Ibid., pp.281-2. Compare his opinion that one of the few advantages of bringing in Indian labourers to New South Wales was that it might be 'the means of introducing the habits of Europeans among the lower classes of Indians: for ... in this colony they would not come into contact with a slave population, but with men imbued with European feelings' (his speech in the legislative council, 8 Sept. 1842, Sydney Herald, 9 Sept. 1842).
These statements, particularly the reference to 'vested and defined rights', go to the heart of Macarthur's political thinking. He thought of the perfect constitution not as a medium for liberty, but as a system of guarantees, which even Asian despots might learn to maintain. In the 1850s, when New South Wales had both an elected legislature and responsible government, his ideal was still the centralised state incorporating in itself the 'vested and defined rights' of individuals and groups. In a private letter he then described the 'essential principle of our constitution' as

representation of interests, and not of mere numerical proportions - that is in fact the English, in contradistinction to the American principle.47

By this time his ideas had become more rigid, more defensive and more strictly Anglophile than they seem in his book, but there was no radical change.

Macarthur was anxious to get the book out as quickly as possible because it was expected that a bill reforming the colonial constitution would be brought in before the end of the current parliamentary session.48

The original term of the New South Wales Act of 1828 had expired the year before, and although it had since been extended the government was pledged to introduce an entirely new measure during 1837.49 The fourth chapter of the book was therefore devoted to the changes Macarthur thought necessary.

47 Macarthur to H. Oxley, 20 Oct. 1856, ML A2920.
48 [Macarthur], op. cit., p. 10.
49 PD third series, XXXIV c.1265 (5 July 1836).
The legal constitution must relate to the form of society, and the society of New South Wales was founded on the convict system. Macarthur therefore asked that change should begin with that system. The point made most strongly in his book was that the principles of penal administration in the colony had been faulty from the very beginning. Assigned convict labour, he wrote, had been

looked upon rather as a 'commodity' to be disposed of for the advantage of the colonists, than with reference to the punishment of crime, the true object to be attained.\(^{50}\)

This had led to the lack of any comprehensive system of convict management, which had not only been bad for penal reasons but had done great damage to the colony.\(^{51}\)

In his book he was less concerned with the ending of transportation than with the best way of using the system while it lasted.\(^{52}\) He wanted to see a number of changes. Its administration should first be taken out of the hands of the governor and entrusted to an official directly responsible to the home office, the department of state which looked after police and gaols.

The Governor would thus be released from a weight of responsibility, and from many irksome details, which seriously interfere with his other important duties. So great, indeed, is the dissimilarity between the Government of a free community of colonists, and the enforcement of the discipline essential to a penal settlement that a capacity for both is scarcely to be expected in the same individual.\(^{53}\)

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50 [Macarthur], op. cit., p. 54.
51 Compare his father's very similar ideas, John Macarthur to J.T. Bigge, 7 Feb. 1821, and John Macarthur's suggestions no. 1 [for Sir T. Brisbane, Dec. 1821?], ML A2897.
52 [Macarthur], op. cit., p. 277.
53 Ibid., p. 47.
Secondly, rules should be laid down for the proper employment of the convicts, and the council in Sydney should legislate to control 'the conduct of masters towards their assigned servants, with penalties for non-observance, to be levied summarily by justices in petty sessions'.

But better still, preparations should be made for the end of private assignment. This suggestion seems to have been the result of an interview Macarthur had had with Lord Glenelg. Macarthur had proposed to Glenelg that all convicts should be sent to remote private estates, away from the disturbing influence of the towns. The details of this scheme are not clear, but Glenelg's reply had debarred any new system of private assignment, because of the feeling which had grown up against it 'in the bosom of the British people'.

In his book, therefore, Macarthur outlined another plan. After a few years all prisoners should be employed only on public works, on clearing land for the use of settlers, on making roads, and on 'other operations requiring combination of labor', where they might work in gangs under the control of an official overseer. Macarthur thought that under this system convicts might be entitled, as usual, to a ticket of leave after a period of good conduct, and those who then continued orderly and industrious might have their sentences remitted. Finally, after becoming free, they might be gradually restored to the different

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54 Ibid., pp. 54-5.
56 Macarthur, op. cit., pp. 50, 55.
degrees of civil rights and political duties', as long as their behaviour justified it.\textsuperscript{57}

These 'civil rights and political duties' should include jury service and the electoral suffrage. With regard to juries, Macarthur recommended that in future the right to serve should not depend on property alone, which was the effect of recent local and imperial laws. Transported men who were already free and settled in the colony should not, he said, be deprived of rights which they had at present. But in future only pardoned convicts should have the same absolute rights. The others, the expirees, might become eligible for jury service only after a period of good behaviour as free men. In fact, it should be possible to disqualify for the time being anyone at all who seemed 'deficient in character, or otherwise unfit to be a juror'. Macarthur showed by various examples that this was the practice followed in several of the United States.\textsuperscript{58}

The right to sit on juries might carry with it the right to vote in council elections. In his book Macarthur conceded that the colony

\textsuperscript{57} Ibid., pp.57-8.

\textsuperscript{58} Ibid., pp. 112, 116-20. On another occasion Macarthur explained that under the present system ex-convicts could make political capital out of their right to sit on juries, 'and if any magistrate had taken on himself the responsibility of striking him off, he would very likely have been liable to an action at law' (his evidence before the select committee on transportation (house of commons), 1837 (518) XIX, p.224, and see also p.273 (26 May, 9 June 1837)). Sir G. Grey's question no. 3401 et seq. (ibid., pp.222-4) suggest that any such legal action would have been impossible.
might be ready for an elected legislature. He now wrote that 'the petitioners ... would recommend' a council of 30 or 35 members, with as many as two-thirds elected. Members should be chosen from among the magistrates, or from those 'of such standing in society as to be fully qualified for the magistracy'. The governor should no longer act as president of the council, and debates should be public. Macarthur thought that this would be the best way of preparing the colony for a normal bicameral system, which might follow in seven years or so.

This plan, like his suggestions for assignment, shows Macarthur's love of negotiation and compromise. Since his interview with Glenelg in December he must have seen or at least been told the details of Bourke's public despatch on constitutional reform. There the governor had asked for a council of 24 members, with two-thirds elected, the franchise to be limited to those eligible for jury service. Before writing this section of his book Macarthur had certainly had 'some unrestrained conversation' with one of Bourke's closest advisers, Chief Justice Forbes, who was then in England. His own suggestions show that

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59 [Macarthur], op. cit., pp. 133, 139.
60 Ibid., p. 133.
63 F. Forbes to J. Stephen, 31 Mar. 1837, CO 201/266, f. 468: 'I have had some unrestrained conversation with Mr. James Macarthur upon the subject of forming a legislature [etc.] ... we do not differ upon these ... points'. Forbes wanted the present council to be merely doubled, by the addition of 15 elected members. Macarthur apparently spent 'two or three days' with him, presumably at Cambridge, where Forbes was staying (Macarthur's speech in the legislative council, 12 July 1842, Sydney Herald. 13 July 1842).
he expected the governor's ideas to be followed in principle, but he hoped for some slight amendment. Only his proposals about overall numbers go further than Bourke's, aiming perhaps at a compromise with Wentworth, who had suggested a combined house of 50 members, with 40 elected.

Macarthur was quite unjustified in calling his plan something which the petitioners as a whole would approve. This is a good example of the indifference with which he sometimes treated his own supporters. When copies of his book arrived in Sydney the Herald remarked that it would 'surprise some people to learn that Mr. M'Arthur does not object to an Emancipist Juror, solely as an Emancipist'. The editor also disliked the conciliatory remarks Macarthur had made about Bourke. 64 At about the same time Macarthur heard that one of Alexander Macleay's English relations had 'expressed the dissatisfaction of his friends at the course I have taken with regard to the petitions.' But, he told William, he had followed his own honest judgement, which was all that concerned him: 'To please the ultras of N.S. Wales I never expected.' 65

To some extent the trouble Macarthur took to finish his statement was wasted. On 20 June, while he was putting the last touches to the index, the king died at Windsor, which meant the almost immediate dissolution of parliament. In the very week in which his book was published Sir George Grey informed the house of commons that in spite of

64 Sydney Herald, 9 Nov. 1837.
65 James Macarthur to W. Macarthur, 4 Oct. 1837 (first letter), ML A2931.
the government's pledge it would now be impossible during the present session to bring in a bill 'giving an elective council to the colony of New South Wales'. The matter was to be considered during the recess, and he promised that when parliament met again he would be prepared with 'a measure which would not only satisfy the colonists, but which would be well adapted to their peculiar situation'.

Macarthur accordingly put off his departure for home until the spring.

Macarthur's suggestions on convict management, on the other hand, were well timed. While he wrote, the transportation debate was reaching a crucial stage. On 23 March the home secretary, Lord John Russell, announced to the commons that the government meant to make changes in the whole system of criminal law. Transportation, among other penalties, would be examined and reformed, the government being convinced that 'the inequality of treatment' which followed from the assignment system made it 'a most uncertain mode of punishment'.

Macarthur finished the first draft of his chapter on transportation a few days after this announcement. Haste now seemed to him more essential than ever, if his own ideas on the subject were to have any effect on 'those who are likely to take it up before Ld. Jno. Russell's speech is out of recollection'.

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66 PD third series, XXXVIII c.1708 (30 June 1837). On 7 June Macarthur had expected the bill to 'be determined on during the ensuing week' (James Macarthur to W. Macarthur, 7 June 1837, ML A2931).
67 James Macarthur to W. Macarthur, 8 July 1837, ibid.
68 PD third series, XXXVII cc. 709-13.
69 Ibid., cc.726-7.
70 Macarthur to Edwards, 28 March 1837, Edward Edwards correspondence.
The first man to take up the subject publicly within the next few weeks was Sir William Molesworth, a radical member of parliament. On 8 April Molesworth secured the appointment of a select committee to inquire into the working of transportation. As was customary, Molesworth himself became chairman. The other members included Russell, Howick, Grey, Henry Lytton Bulwer - the agent of the Patriotic Association - and Charles Bulver, who was to be Bulwer's successor. 71

Macarthur was called before the committee on 19, 23 and 26 May and 9 June, and once more in February 1838 when it was reconvened after the recess. According to one observer, the ex-convict Edward Eagar, he gave his evidence carefully and sincerely: 'there was no swagger nor assumption in his manner, and it made a considerable impression on the Committee'. 72 Macarthur no doubt realised the importance of this inquiry, and took great care with his answers. During the 1837 interviews he was also supplying Molesworth with the proof sheets of his book as they came chapter by chapter from the press. 'The appendix' he told William, 'is a sort of text book in the committee.' 73 He was questioned on a wide range of subjects, covering most aspects of colonial affairs. Some of the answers he gave have been mentioned in different places above, and it is only necessary to say here what advice he offered on the future of transportation.

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71 Clark, op. cit., II pp. 331-44.
72 [Eagar] to the editor, 29 July 1837, Monitor, 3 Jan. 1838.
73 James Macarthur to W. Macarthur, 7 June 1837, ML A2931. In their report the committee made 5 references to material in the appendices of the book (report of the select committee on transportation (house of commons), 1837-8 (669) XXII, pp. 4, 7, 30).
As far as Molesworth was concerned the main aim of the inquiry was to prove that the present system of transportation should be replaced by penitentiaries, built on scientific principles. He therefore wanted facts which showed the inefficiency of the system and, if possible, its corrupting influence in Australia. Macarthur obligingly dwelt in detail on the various ill effects he had observed. In particular he argued that the incidence of crime had steadily increased, even compared with the growth of population, from the earliest years of the colony. He attributed this to the poor management of convicts, which had hindered good discipline and reform and which had become worse as settlement extended.\textsuperscript{74} The system of assignment was at fault because 'of course it is in the interest of the assignee to make his servant as comfortable as possible',' and comfort was not consistent with a penal regime.\textsuperscript{75}

He went on to say that free labourers were urgently needed, but he added that the most useful and respectable kind would not go out in large numbers as long as they had to compete with convicts. Nor was it right, he said, to have them working together.\textsuperscript{76} He admitted that many settlers would object strongly to the ending of assignment, and he agreed that it would 'produce very injurious effects' if it were done too quickly. But he thought the system might be 'gradually discontinued' as free labourers arrived to fill the gap.\textsuperscript{77}

\textsuperscript{74} Macarthur's evidence before the select committee on transportation, 1837, loc. cit., pp. 159-161 (19 May 1837).
\textsuperscript{75} Ibid., pp. 163-4 (19 May 1837).
\textsuperscript{76} Ibid., pp. 164-7 (19 May 1837).
\textsuperscript{77} Ibid., p. 173 (19 May 1837).
On 26 May, when he came before the committee for the third time, Macarthur was questioned on the employment of convict labour on public works. He repeated the ideas outlined in his book, and suggested that if the convicts were employed on roads and similar projects, it might possibly be found a sufficient punishment and ... would be also very likely to prove an aid to colonization; convicts so employed would become the pioneers to a better class of population.78

The committee's report, presented in 1838, relied heavily on Macarthur's evidence. His answers were used more than those of any other witness,79 the committee being convinced that they were 'worthy of the most attentive consideration' because of his local knowledge.80 The report also contained a careful description of the plan he had suggested.81 But this was meant to show beyond doubt that the only real solution was the ending of transportation itself. The report concluded with the argument that Macarthur's scheme, which was the only alternative, was too ambitious, and its effect might well be inhumane.82

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78 Ibid., p. 216 (26 May 1837). Compare E.G. Wakefield's suggestion, whereby convict gangs 'would act as pioneers to a future army of Emigrants ... preparing the settlement for the habitation of better men' (A Letter from Sydney, London 1829, p. 87).
79 The witnesses most often cited in the report were Macarthur (25 times), George Arthur (22 times), J.D. Lang (20 times), Forbes (19 times) and Murdie (16 times).
80 Report of the select committee on transportation, loc. cit., p. 38.
81 Ibid., pp. 39-40.
82 Ibid., p. 41, 46.
While he was attending to the petitions, his book and the transportation committee, Macarthur was also looking after matters close to the bishop's heart. In his letters to Coleridge and Gladstone, Broughton had suggested a campaign in England to gather money for the church in Australia (or the Church of Australia, as Macarthur called it\textsuperscript{83}). They not only needed more church buildings, clergy and parish schools, he said, but the means of supporting what they had.\textsuperscript{84} Within a month of Macarthur's arrival Coleridge called on him to propose a scheme for raising 'a very large sum of money' for the Australian church.\textsuperscript{85} Macarthur afterwards drew up an 'Appeal to the people of England', which he gave to Coleridge for polishing and publication.\textsuperscript{86} Within six months the appeal had raised £2254.\textsuperscript{87} This was an impressive sum, though short of the £10,000 which, apparently, Coleridge had first expected.\textsuperscript{88}

\textsuperscript{83} Macarthur to W.E. Gladstone, 24 Mar. 1838, Gladstone (Hawarden) papers.
\textsuperscript{84} Broughton to Coleridge, 26 July 1836, Broughton papers, NL mfm; Broughton to Gladstone, 26 July 1836, BM Add. MSS 44355, ff.100-1.
\textsuperscript{85} James Macarthur to W. Macarthur, 18 Dec. 1836 ML A2931.
\textsuperscript{86} James Macarthur to W. Macarthur, 2 Jan. 1837, ibid. For the final printed version, see 'An Appeal to the Friends of the Church of England, in behalf of their Brethren in Australia', CO 201/281, ff.309-10, which is the copy given by Macarthur to Lord Glenelg.
\textsuperscript{87} Sydney Herald, 6 Nov. 1837.
\textsuperscript{88} R. Bourke jr. to Sir R. Bourke, 26 Dec. 1836, ML A1739.
During the first months of 1837 Macarthur spent a good deal of time 'with private individuals of weight and influence' discussing the more general question of education in the colony. He also wrote on the subject to his friend Hobbes Scott, now rector of Whitfield in Northumberland. Scott answered with a letter of advice, and the assurance that 'You are welcome to any opinion or assistance I can give to your plans'.

Part of these plans appeared in Macarthur's book. In chapter VII he pointed out that there were now two superior colleges in Sydney, the Australian College, which was Presbyterian, and the Sydney College, which was non-demoninational. He suggested that there is still room for a third and yet more extensive establishment in immediate connection with the Church of England, based, however upon such comprehensive principles as would render its advantages available to persons of other denominations.

His ideal was apparently a college without religious tests, and yet Anglican in spirit like the English and Irish universities, and like William and Mary College in Virginia. In such a place young men might

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89 James Macarthur to W. Macarthur, 18 Mar. 1837, ML A2931.
90 Scott to Macarthur, 10 Mar. 1837, ML A2955.
91 [Macarthur], op. cit., pp. 239-40.
92 About March 1837 Macarthur lent Edwards the Memoirs and Correspondence of Thomas Jefferson (London 1829), Vol. I, as a source of material for the education chapter, and asked him to note the description on p.41 of the foundation of William and Mary College (see Macarthur to Edwards, letter no. 17, n.d., Edward Edwards correspondence; the notes in the copy of the Memoirs and Correspondence I, now at Camden Park; appendix 2, below). William and Mary College was founded by royal charter in 1693, and it had a divinity school for the training of Anglican clergy.
be trained for the priesthood of the Church of England, for 'other liberal professions' and for teaching in the schools.

Macarthur described the large land grants which had been made to the Anglican Church and Schools Corporation - which had been dissolved in 1833 - as an obvious source of funds for such an institution, particularly as they were on the point of being sold. 93 Elsewhere he explained that such grants should never have been made in the first place, as if to an established state body: 'such a mode of providing for the church is not only impolitic in other respects, but detrimental to the cause of religion'. But the church now had a fixed interest in the land which, as a matter of equity, the state had a duty to protect, it being 'unjust to take away that which has been granted whether the grant were politic or not.' 94

Soon after the publication of his book, and before he left London for the summer, Macarthur went with Scott to see W.E. Gladstone. 95 They

94 Macarthur to T. Macquoid & W. Cowper (secretaries to the diocesan committee, Sydney), 25 July 1839, ML A2995.
95 About 2 months earlier Macarthur had also had an interview with William Howley, archbishop of Canterbury, but apparently nothing important was discussed (Macarthur to Edwards, letter no. 27, n.d., Edward Edwards correspondence; Macarthur's speech in the legislative council, 1 Sept. 1840, Sydney Herald 2 Sept. 1840). No record of the interview survives at Lambeth (information kindly supplied by Mr E.G.W. Bill, librarian, Lambeth Palace (6 Aug. 1975)). Howley had old personal links with Scott (Scott to W. Ord, 18 Aug. 1813, Blackett-Ord (Whitfield) MSS A32).
had a long conversation on New South Wales, but the details are not recorded.\textsuperscript{96} Gladstone's diary shows that he and Macarthur had at least five other meetings during this and the following year.\textsuperscript{97} Several letters also passed between them, but for this period only Macarthur's notes to Gladstone survive. On 10 March 1838 they met for a discussion 'on [the] Church', and a fortnight afterwards Macarthur called on Gladstone for breakfast. The next day Gladstone wrote to him asking, apparently, that he take part, as 'the lay representative in England of the Australian diocese', in the revival of the National Society for Promoting the Education of Children of the Poor in the Principles of the Established Church. In reply Macarthur said that Gladstone was quite right in assuming that

\begin{quote}
I do indeed 'feel deeply the importance' of establishing throughout the empire a national system of education, based upon the principles of our national religion.
\end{quote}

But, he went on, circumstances - which he did not explain - prevented him from giving more than nominal support.\textsuperscript{98}

At this time Gladstone was 28 years old, and a passionate high church Anglican. His religious ideas were reaching a crucial stage, and

\textsuperscript{97} The others were on 29 June and 8 December 1837, and 10, 22 Mar. and 3 May 1838 (ibid., pp. 302, 328, 354, 356, 368). Between 3 and 13 Oct. 1837 Gladstone read Macarthur's book (ibid., pp. 316-7).
\textsuperscript{98} The Gladstone Diaries II, p. 356 (23 Mar. 1838: 'wrote to ... Macarthur'); Macarthur to Gladstone, 24 Mar. 1838, Gladstone (Hawarden) papers.
he was just about to publish an elaborate statement of faith. In this book, The State and Its Relations with the Church,99 Gladstone argued that the English nation, as a fragment of civilisation, was 'an institution manifestly divine', with 'a personality of its own, a collective power [and] a collective responsibility'. Its personality, he explained, was embodied in its national church. Thus, by its independence the Church of England does not renounce the communion of the Catholic body, but sympathising with all other nations and their churches, freely acknowledges the laws which are binding in common upon all.100

He extended the argument to the British colonies and referred among others to New South Wales, 'where vicious principles have recently assumed the form of a system, and obtained the sanction of law'.101 He meant Bourke's church acts. Such legislation, he said, could only be excused if it was the explicit choice of the inhabitants, for it must 'prevent their enjoying the benefit of the nationality of the church'.102

Macarthur and Gladstone shared an absorbing interest in grand moral questions. They both brought a type of self-conscious domestic virtue to public life, although in Macarthur's case the leading principles were more humanistic than religious. Macarthur took most of

99 Published in London, 1838.
100 Ibid., pp. 193-4.
101 Ibid., pp. 257, 270-2.
102 Ibid., p. 278.
his ideas on morality from the 18th century enlightenment and, unlike Gladstone, 'he was not wont to speak much upon religious subjects'.

Yet he must have admired Gladstone's strange and intense mixture of pragmatism and high principle, because he was himself driven by the same contradictory habits of mind.

To some extent they also agreed on the proper relationship of church and state. They were certainly working in different fields. Macarthur was concerned mainly with seeing that the Australian colonies did not become a new America, a place where, as de Tocqueville told him,

Le pauvre a gardé la plupart des préjugés de ses pères, sans leurs croyances ... et son égoïsme est aussi dépourvu de lumières que l'était jadis son dévouements.104

Thus, for Macarthur the formalities of church life were incidental. Gladstone, on the other hand, argued passionately, and usually at length, about the institutions of the established church and their links with the secular world.

All the same, their talks were no doubt useful to Gladstone in the writing of his book. It may be hard to see any lasting effect on Macarthur, but his contact with Gladstone and Broughton's other friends into his head fleeting ideas about the English church having unique claims in an English colony. His

103 H. Tongcombe, A Sermon preached in St. John's Church, Camden, on Sunday 28th April, 1867, on the occasion of the death of James Macarthur, Esq., Sydney 1867, p.10 (ML A2928).

104 De la Démocratie in Amerique, I p.xxiii. The last part of this passage is heavily marked in Macarthur's copy, now at Camden Park.
greatest weakness was his wish to be taken seriously by Englishmen of
rank, a weakness which may well have forced his romantic and tory
temperament into conflict with his rationalist upbringing. Unlike his
father, Macarthur did not believe that 'the only use of religion was for
political purposes'. But 'his mind ... [was] always occupied with
politics', or at least with secular social issues, and like Gladstone
he tended to think of religious feeling as something which grew out of
society, as a self-generated binding force. Although he was against
exclusive state aid, his dealings with Gladstone suggest that he too
liked the idea of a national religion, sanctioned by age and giving the
modern nation its own peculiar bent and constitution. But he stopped
short of Gladstone, or, in another sense, went beyond him. His writings
and speeches usually imply that the secular power was itself to be seen
as the final instrument of justice, and the authority dividing right
from wrong. This is in keeping with his wish to see government in
New South Wales well defined and centralised.

* * *

At the end of July 1837 Macarthur left London for the country.

105 Untitled paper with information, mainly from Rev. Henry Fulton,
about John Macarthur and Sgt. Whittle of the N.S.W. Corps, [1811?],
British war office papers 72/35.
107 See in particular his speech at an election meeting, 14 Jan. 1843,
Australian, 16 Jan. 1843: 'the basis of the happy and glorious
constitution under which they lived ... was the still more perfect
law of Christianity'. I am grateful to Dr. Deryck Schreuder for
ideas on Gladstone's religious thinking.
108 Macarthur to Edwards, 24 July 1837, Edward Edwards correspondence.
There is no exact record of his movements for the next two months, but he apparently spent a good deal of time with prospective emigrants to New South Wales. At one stage he was in Bristol to inspect a group of farm labourers going out under the government scheme, and to answer their questions about the colony. Afterwards, in September, he was in the western highlands of Scotland, where an emigration agent appointed by the New South Wales government was at work.

Macarthur returned to town on 1 October. In spite of its good intentions he found the government further than ever from a final decision on colonial reform, and early in the new year he became involved in fresh discussions. There is some evidence that he had taken part in similar talks soon after his first arrival. Among his papers there is the draft of a bill dating, apparently, from early 1837, and providing for a system of elected district authorities in the colony. These were to have replaced the existing legislature, leaving all general colonial business to the governor and executive council alone. The lesser bodies, called county courts, were to consist of between 6 and 12 members.

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109 Macarthur to Edwards, 6 Nov. 1837, ibid.
110 Macarthur's evidence before the select committee on transportation (house of commons), 1837-8 (669) XXII, p. 6 (5 Feb. 1838); T.F. Elliot to J. Stephen, 10 July 1837, HRA i, XIX p. 32. The emigrant ship Layton left Bristol on 8 September (Australian, 23 Jan. 1838).
111 James Macarthur to W. Macarthur, 4 Oct. 1837 (second letter), ML A2931; T.F. Elliot to J. Stephen, 10 July 1837, HRA i, XIX p. 32.
112 ML A2928. There is no date on the paper, but since it refers to 'the King-in-Council' it must have been written before the accession of Queen Victoria in June 1837.
elected for four years at a time. They were to legislate for county matters, particularly roads and education.

The name 'county courts' suggests that the new authorities were modelled, remotely, on the English courts of quarter sessions, which were county institutions composed of local magistrates and having both judicial and administrative powers. The scheme also recalls de Tocqueville's recent account of local government in the United States. In his *Democracy in America* de Tocqueville had dwelt at length on the nominated courts of sessions which played a central part in county administration in Massachusetts. 113

The first publication of de Tocqueville's work had coincided with a new concern about local government in both the home and colonial offices. The same year, 1835, saw the passing of the Municipal Corporations Act, which had replaced 178 English borough corporations with elected councils. During the following year a commission of enquiry, headed by Lord Gosford, had been at work in Lower Canada, and had suggested in a preliminary report that the province be divided into seven or more districts, each with its own elected legislature. These elected bodies were to send delegates to make up the provincial lower house. 114 Later, in December 1836, Stephen had made a counter-proposal, in which he had suggested the division of the province into three ridings, each having its own elected 'general court' whose responsibilities

114 Second report of the Canada commissioners (12 Mar. 1836), (house of commons), 1837 (50) XXIV, p. 91.
might be limited to local matters, the provincial assembly being elected by the population as a whole.\footnote{115}

At some stage Macarthur wrote in his copy of the New South Wales plan, 'Confidential not to be shewn to anyone'. But there was nothing very secret about the general idea. In May 1837 Bulwer reported to the Patriotic Association that he thought reform might be limited to 'some species of Municipal Government',\footnote{116} and Edward Eager, who sent regular reports of the negotiations of 1837-8 to Hall of the Monitor, gave a detailed and highly critical account of the plan in his letter of 30 August.\footnote{117} Macarthur's only recorded opinion was that he thought such a plethora of little parliaments would dislocate the work of the central power.\footnote{118}

In his letter to the association Bulwer suggested that such a system might easily be combined with an elected council for the colony as a whole. The result would have been something like that recommended for Lower Canada by the Gosford commission. In fact it seems that Stephen had made a similar proposal for New South Wales as early as October 1836.\footnote{119} It was reconsidered at the colonial office during the

\footnote{116} Bulwer to Hall, 30 May 1837, Monitor, 12 Feb. 1838. Hall was now secretary of the Patriotic Association.
\footnote{117} [Eager] to the editor, 30 Aug. 1837, ibid., 5 Jan. 1838.
\footnote{119} F. Forbes to J. Stephen, 13 Oct. 1836, CO 201/257, f.583.
session of 1837-8, although by then Bulwer had been replaced as an agent for the Patriotic Association by Charles Buller, M.P., also a radical.\footnote{Bulwer recommended Buller as his successor in his letter of resignation, 2 Dec. 1837 (Australian, 29 June 1838), and Buller's appointment was confirmed at an association meeting in May 1838 (ibid., 25 May 1838).} Buller took up his post in December 1837 and over the following weeks he looked at a number of plans which had been worked out at the colonial office. According to Eagar, the office wanted a bill which would satisfy all parties in New South Wales. In particular, they had suggested a system of municipal bodies linked with a partly elected council.\footnote{[Eagar] to the editor, 1 Feb. 1838, Monitor, 27 June 1838.} On 3 February 1838 Buller, in a letter to the Patriotic Association, reported that he was making good progress, having arrived at a solution which would meet with general support. He could not at present reveal the details, but, he said, he had described his ideas to Macarthur, who had given his approval, and he was now working them out further for Glenelg.\footnote{Buller to the committee of the Patriotic Association, 3 Feb. 1838, Australian, 3 July 1838. For a discussion of the evidence for these negotiations, see appendix 3, below.}

As with the earlier plan, a draft bill for a two-level system of government is among the Macarthur papers.\footnote{ML D185, ff. 49-85. This document is undated, but should be April 1835 (see below).} This was apparently one of a number of copies drawn up at the office by Stephen after Buller had sent in his recommendations.\footnote{[Eagar] to the editor, 13 Apr. 1838, Monitor, 27 Aug. 1838.} Unlike the earlier paper, it has several of Macarthur's own comments on it. These make it clear that
from his point of view the most important aspect of the plan was the
method of election to the council or, as the bill calls it, the
legislative assembly. The formation of district councils (the name of
county courts was now given up) made possible a system of double election,
for these were to act not only as administrative bodies but also as
electoral colleges for the assembly. The assembly was to have 35 members.
of these, 23 were to be chosen by the councils and the rest appointed
by the governor. The councillors themselves were to be elected by the
owners or occupiers of tenements worth £10 or more a year, which in
New South Wales meant virtually household suffrage.

Macarthur believed that the system of double election had two
obvious advantages. First, it would check the entry of doubtful
characters into the assembly, because the district councillors must be
more cautious and responsible electors than their own constituents.
Secondly, he thought that this check might be so effective that there
would be no need for any peculiar system of legal disabilities in the
new constitution. In other words, he saw double election as the best
way proposed of 'getting rid of the emancipist question'. On the other
hand, if this advantage was not assured there could be no excuse for
such complexity and he thought it would be 'the wiser course to abandon
the proposed experiment'. 125

Never at any time had Macarthur demanded that anyone in the colony
should be deprived by law, and for life, of civil rights possessed by

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125 ML D185, ff. 61, 62.
other settlers. Nor does Buller seem to have suggested it. Nevertheless the draft bill produced by Stephen made expirees — those convicts who had served their whole term without pardon — into a distinct class needing unusual property qualifications for the franchise. A £20 qualification was to apply to those who had received a ticket of leave, with £30 for those who served their whole term without any dispensation. In his rough notes on the bill Macarthur suggested that to create such distinctions at any level was a 'very questionable' policy.

He knew, he said, that

to give the emancipated convicts such a degree of political power as should enable them to exercise a separate and preponderating influence on the govt. of the colony would be a fatal error; but if no legal distinction be made between them and the rest of the inhabitants, will they not soon cease to act separately — whereas on the other hand if such a distinction be kept up its natural effect will be to separate them from the other colonists and to form them into a discontented and dangerous faction.126

This comment has been quoted at length because it shows that historians have been wrong in treating Macarthur as an arch-'exclusive'. In fact, he was the only colonist before the end of transportation who ever considered, seriously and in detail, a constitution in which there might be no mention of ex-convicts at all. This point is important in the next chapter. Macarthur was much less concerned with legal barriers than with moral distinctions, which were always open to amendment.127

126 Ibid., ff. 59-61. Macarthur afterwards said that these opinions were recorded under his hand in Downing Street itself' (his speech at a public meeting, 4 Feb. 1841, Australian, 6 Feb. 1841). If so they must have been recorded in that volume of papers on constitutional reform which has since been lost from the archives of the colonial office (see appendix 3, below).

127 It could be argued that the flexibility of moral qualifications, as distinct from legal ones, left the rights of the subject much more dependent on arbitrary power. This objection would not have occurred to Macarthur, whose thinking rested on the assumption that rulers would be just.
After all, in New South Wales - as he once said in another context - there could be no such thing as a final settlement of anything'.

According to Eagar, Macarthur ensured that in the new constitution the governor would have the sole power of originating bills. In fact the draft in the Macarthur papers would have given this power to the assembly as well, and there is nothing on the paper to show that Macarthur wanted otherwise. He seems to have had only two suggestions to make which were not connected with the ex-convict issue. He thought that the assembly might be given control over half of the proceeds from crown lands, whereas the bill allowed for only a third. This in itself suggests that Eagar was wrong. He also proposed that the opportunity of a new act should be used to give the whole area south of the Murray River to South Australia, and also 'to adopt some less barbarous name' for each of the two older colonies. For example: 'V.D. Land might be named Tasmania. Cambria or Victoria have been suggested for N.S.W. Wales.'

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128 Macarthur to S.A. Donaldson, 12 July 1856, ML A731.
129 [Eagar] to the editor, 12 Mar. 1838, Monitor, 6 July 1838.
130 ML D185, f. 79.
131 Ibid., f. 49. Macarthur thought that to make such an extension to South Australia would prevent navigation disputes on the Murray. He afterwards said that he had made this suggestion to officials in Downing Street and to 'several members of parliament', and that if a new bill had been passed in 1838 such boundaries 'would have been fixed by it' (his speech in the legislative council, 9 Dec. 1840, Sydney Herald, 10 Dec. 1840).
Buller had submitted his recommendations to Lord Glenelg on 15 March, and the subsequent draft bill was prepared during the following three weeks. According to Eagar copies were sent to the various cabinet ministers on 5 April. This was probably when Macarthur received his. If so, during the next few days his thinking on the subject changed. His first notes on the draft are those quoted above, but they are followed by others which record his final opinion that the scheme would never work. On 9 April he reported this decision to the secretary of state. He still believed that the system of double election was the only one worth thinking about. But it was very complicated. He was afraid that communications in the colony were too slow and settlers had too little time to make it run smoothly. Forbes had objected in the same way to this 'very unwieldy piece of machinery' when it was first proposed in 1836. But Macarthur also argued that it was not the right time to bring in an experimental system, when the colony was undergoing rapid change. He told Glenelg that 'in a few years' the tone of society must be 'very much elevated and improved', thanks mainly to immigration. That would be the time for permanent reform, when exotic safeguards would be unnecessary.

He knew, he said, that his opinion would be unpopular in the colony, but it was well considered, and he would not 'shrink from any responsibility or odium that may attach to it'.

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132 See appendix 3, below.
133 [Eagar] to the editor, 13 Apr. 1838, Monitor, 27 Aug. 1838.
134 Macarthur to Glenelg, 10 Apr. 1838, CO 201/282, ff. 301-4.
As a temporary measure he thought that the numbers of the present council might be increased by 6 or 10, so as to 'include men of all parties' and so 'practically to represent the colonists at large'. Council debates should also be made open to the public.\textsuperscript{136} In another place he suggested that such a council might also be considered as a constituent body, with the power to devise 'some plan for conferring free institutions upon the colony'.\textsuperscript{137} He assured Sir George Grey at the same time that

I shall cheerfully acquiesce in whatever course may eventually be determined upon, and endeavour by every means in my power to promote the successful working of the new act in the colony.\textsuperscript{138}

But there was no new act. At first Glenelg approved of his ideas, and on 16 April Macarthur, in a letter to Gladstone, referred to them as official policy.\textsuperscript{139} Buller also wrote to the Patriotic Association on 21 April to announce that as a provisional measure the present council was to have some 'liberal' gentlemen added to its number, and that there was to be a more thorough reform in three years time.\textsuperscript{140} By the end of the month, however, the colonial office had returned to a state of indecision.\textsuperscript{141} By July Glenelg had made up his mind to continue the

\begin{footnotes}
\textsuperscript{136} Macarthur to Glenelg, 10 Apr. 1838, CO 201/282, ff.301-5. This letter was the record of an interview between Macarthur and Glenelg earlier on the same day. In another place Macarthur said that he had advised Glenelg to appoint Wentworth and Bland to the council (his speech at an election meeting, 27 June 1843, \textit{Australian}, 28 June 1843).

\textsuperscript{137} Macarthur's minute, draft bill for the government of N.S.W. and V.D.L., ML D185, f.85.

\textsuperscript{138} Macarthur to Grey, 10 Apr. 1838, CO 201/282, f.307.

\textsuperscript{139} Macarthur to Gladstone, 16 Apr. 1838, Gladstone (Hawarden) papers.

\textsuperscript{140} Buller to the committee of the Patriotic Association, 21 Apr. 1838, \textit{Australian}, 20 Oct. 1838.

\end{footnotes}
present act unchanged for one year more.\textsuperscript{142} In the end it was renewed annually until 1842, when an elective system was finally introduced.

The government's failure to bring in an elective system in 1838 was no doubt partly due to its own extraordinary vacillation. But it can also be put down, in part, to the influence of Macarthur. According to Eagar the transportation committee's unflattering account of colonial morals, based partly on Macarthur's evidence, had had a powerful effect on the minds of ministers. Their natural conclusion was that an authoritarian system should be continued in New South Wales for the time being.\textsuperscript{143} Those ministers who talked privately with Macarthur must also have been impressed with his doubts about reform. Macarthur had explained these to Glenelg on his arrival, and they were always there in spite of his efforts to reach a compromise with the ideas of Bourke, Wentworth and Buller. Grey and Howick may have been particularly susceptible because they both became Macarthur's personal friends.\textsuperscript{144} Howick was apparently one of the strongest opponents of change, and his attitude may have been decisive.\textsuperscript{145}

\textsuperscript{142} Eagar to Sir G. Grey, 18 July 1838, and colonial office minute, CO 201/281, f.434.

\textsuperscript{143} [Eagar] to the editor, 31 Mar. 1838, \textit{Monitor}, 15 Aug. 1838.

\textsuperscript{144} Grey and Howick (afterwards 3rd Earl Grey) were cousins. The Macarthurs had entertained Howick's brother Frederick Grey, a naval officer, at Parramatta in 1826-7, which was apparently their first connection with the family (Mrs. Macarthur to E. Kingdon, Mar. 1827, in Sibella Macarthur-Onslow (ed.), \textit{Some Early Records of the Macarthurs of Camden}, Sydney 1914, pp. 457-8; James Macarthur to W. Macarthur, 9 Dec. 1836, 7 June 1837, ML A2931, and 1 Jan. 1855, ML A2932; Howick to Macarthur, 3 Feb. 1840, ML A2932; Macarthur to 3rd Earl Grey, 17 May 1861, Grey papers).

\textsuperscript{145} [Eagar] to the editor, 13, 18 Apr. 1838, \textit{Monitor}, 27 Aug. 1838. Howick had once (1830-33) been colonial under-secretary and, according to the London \textit{Spectator}, 29 June 1839, 'when any Colonial question comes before the Cabinet, it is really decided by Lord Howick's voice', because of his experience and energy (quoted in Peter Burroughs, \textit{Britain and Australia 1831-1855}, Oxford 1967, p.208).
Macarthur also left his mark in other, less elevated places. A more interesting aspect of his work in England was his easy co-operation with men like Molesworth and Buller, liberals and radicals whom the emancipist party saw as its own natural allies. This group lived in a state of uneasy union with the government, its main supporters within the whig party proper being Howick and his brother-in-law, Lord Durham. Their politeness surprised Macarthur himself, and it was a source of annoyance to Eagar and those colonists who saw themselves as liberals and the Macarthurs as incorrigible tories. Macarthur afterwards recalled that when he gave Buller a proper account of politics, Buller 'took him by the hand, and said that if that was Australian toryism, he did not know what liberality was.'

Macarthur would have been less surprised had he known more about English party principles. His earlier letters give the impression that he thought of radicals as sheikhs, atheists and levellers. In fact, he shared with men like Molesworth and Buller a certain radical optimism, a wish to improve on a large scale, and a belief that the condition of society must depend more on administrative methods than on personal wealth and opportunity. But he was unclear - as they were - how far these methods should be part of an imposed plan, and how far they should simply evolve. The problem arose from the central fault of utilitarian

146 See, for example, his interchange with Molesworth and Buller while giving evidence before the select committee on transportation 1837-8, loc. cit., pp.6-13 (5 Feb. 1838).
147 James Macarthur to W. Macarthur, 7 June 1837, ML A2931; [Eagar] to the editor, 12 Mar. 1838 (two letters), Monitor, 29 June, 6 July 1838.
148 Macarthur's speech at an election meeting, 26 Mar. 1856, SMH, 28 Mar. 1856.
149 For example, James Macarthur to John Macarthur jr., 6-11 June 1827, ML A2931.
thinking which, being based on psychological theory, sometimes aimed to balance opposite needs and sometimes to reinforce absolute ones. The ideas of the radicals depended on two more or less contradictory principles: the one in virtue of which the science of the legislator must intervene to identify interests which are naturally divergent; the other in virtue of which the social order is realised spontaneously, by the harmony of egoisms.

Both principles appear in the colonial policy which the group adopted in the 1830s. In the first place they believed in organised emigration and the careful building up of new settlements by the imperial power; and in the second place they wanted to see these settlements independent of the mother country, working out their own millenium.

With regard to New South Wales, the radicals thought that transported convicts should be immediately replaced by free emigrants, and Buller for one argued that the settlers could not expect a normal representative system while transportation continued. Macarthur tended to agree, but both his temperament and his experience led him to give much less attention to general theory and much more to local circumstances. They also agreed, however, that as soon as possible the Sydney government should have some constitutional link with local opinion, one result of this agreement being the unusual idea of double election.

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151 Ibid., p. 508.
153 Buller to the committee of the Patriotic Association, 3 Feb. 1838, Australian, 3 July 1838; Macarthur's evidence before the select committee on transportation, 1837-8, loc. cit., pp. 6-13 (5 Feb. 1838).
Mačarthur had planned to leave for home early in 1838 but he was delayed once again, this time by a personal matter. Early in May he announced his engagement, and he was married on 14 June at St. Pancras church in Bloomsbury. He was 39 years old. There had been some idea that he might marry in England, and letters had been sent from Governor Bourke's family to their London relations asking 'that our Australian friend be provided with a becoming partner'. His wife was Emily Stone, second daughter of Henry Stone, a City banker who lived in Tavistock Square. Emily seems to have disliked the 'formality' of her father's house, which meant that Macarthur married not so much into the Stone family as into the family of her sister Sibella, the wife of George Warde Norman, a director of the Bank of England. Macarthur and Norman had apparently been introduced as early as 1828 by Hobbes Scott.

154 C. Coles to Macarthur, 12 May 1838, ML A2922.
155 His wife was 32. She was born in Calcutta (where her father was in the H.E.I.C. service) on 26 Feb. 1806, and died at Camden on 27 Nov. 1880 (see the family gravestone at Camden Park). She brought a dowry of £3000 (James Macarthur's marriage settlement, 13 June 1838, ML A2929).
156 Sir R. Bourke to R. Bourke jr., 21 July 1836, ML A1733.
158 S. Norman to G.W. Norman, 15 June 1838, Norman MSS C138. G.W. Norman (1793-1882) came from a newer but ultimately better known banking family than the Stones. For his life, see Dictionary of National Biography XIV. He was a committed liberal and a man of wide learning and interests, and was famous as a writer on finance.
an intimate friend of the Norman family, and it was Scott who officiated at the wedding. It was a thoroughly successful marriage. Sibella Norman rightly predicted that 'he will fill up the place of sister as well as husband, he seems to enter so completely into all her feelings'. From the other point of view, Emily's new mother-in-law soon found that she was devoted both 'to his interests, and those of the family generally'. It has been called an 'unromantic but most useful match' on the grounds that it gave the Macarthur family new contacts with the liberal whigs and enabled James to increase his London overdraft. But the Normans and their relations had had connections with the Macarthurs for nearly 20 years, so that this was a strengthening of old ties. Nor were they a political family, although the Stones were

159 Scott to G.W. Norman, 27 Dec. 1827, 28 Feb., 27 June, 17 Sept. 1828, Norman MSS C36; Scott to Mrs. Macarthur, 14 June 1838, ML A2955.
160 See Macarthur's letters to his wife, 1838-65, ML A4341, A4342, A4343, especially [13 Nov. 1851], 2 Dec. 1857, A4343; Emily Macarthur to James, 11 Dec. 1852, ML A2960.
161 S. Norman to G.W. Norman, 15 June 1838, Norman MSS C138.
162 Mrs. Macarthur to Edw. Macarthur, Jan. 1842, ML A2907. For proof that she was enthusiastically devoted, see her letter to Macarthur, 29 June 1843, ML A4344, an account of electioneering at Parramatta.
163 ADB II, p. 151.
164 John Macarthur jr. had known Edward Barnard, agent for N.S.W. and Norman's first cousin, since at least 1819, and Norman was an original director of the A.A. Co. (John Macarthur sr. to John Macarthur jr., 20 Feb. 1820, ML A2899; A.A. Co., list of proposed directors, [1824], CO 280/2, f.15). See also John Macarthur jr. to James Macarthur, 21 Nov. 1825, ML A2911.
related to Sir George Grey, through that other banking clan, the Barings. The suggestion that Macarthur might have married for an overdraft seems to be random, and wrong.

After the wedding the Macarthur's left London. They were invited to stay for a week at Sir George Grey's country house, but declined for lack of time. Instead they travelled to Edinburgh, to Aberdeenshire, and then to Northumberland, where they spend several days with Scott. Then after some time in the west country, they returned to town about the end of August. In November they sailed from Portsmouth aboard the emigrant ship Royal George, with 'a large party of friends and relatives, and ... a considerable number of emigrant labourers and tenants for the Camden estate'. They reached home in March 1839.

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164 James Macarthur to W. Macarthur, 1 Jan. 1855, ML A2932.
165 Macarthur's London bankers were Herries, Farquhar and Co., close family friends since 1802. There is no evidence that he had a standing overdraft. The Bank of Australasia had just been formed in London, with G.W.Norman's brother Richard as a director, but Macarthur did not see it as a good thing (James Macarthur to Edw. Macarthur, 30 July 1838, ML A2931). It was not until 1842 that he was forced to take out a mortgage with the latter bank (James Macarthur's statement for the information of Edw. Macarthur, 25 Feb. 1858, ML A2928).
166 James Macarthur to W. Macarthur, 1 Jan. 1855, ML A2932.
167 James Macarthur to Edw. Macarthur, 30 July 1838, ML A2931; W. Leslie to Mrs. Leslie of Warthill, 6 Sept. 1839, Leslie papers.
168 Sydney Gazette, 13 Dec. 1838. The labourers and tenants for Camden were apparently 6 families from Dorset and 6 from Kent (Edw. Macarthur to W. Macarthur, 11 June 1838, ML A2914). There were 102 immigrants altogether (Sydney Herald, 11 Mar. 1839).
169 They left London on 11 November, and the Cape on 26 January, and reached Sydney on 10 March (ibid.).
Emily, Elizabeth, William, two unidentified friends, and James Macarthur.
Photograph by William Macarthur

The Macarthurs in the 1850s

Edward Macarthur
Photograph by Fauchery
The Legislative Council Chamber 1843-1856, afterwards the Assembly Chamber
From a water-colour by Janssen, 1844

The First Ministry under Responsible Government, 1856
(with Macarthur absent; left to right, Holt, Manning, Donaldson, Darvall, Nichols)
from a photograph by Freeman
William Charles Wentworth

Sir Edward Deas Thomson

Sir Charles Cowper

Sir Charles Nicholson
PART II

Chapter 6
The Cicero of the Cowpastures 1 1839-1842

In 1839 the government of New South Wales was carried on in several two-story buildings situated within a quarter acre at the head of Sydney Cove. Five or six hundred yards away, at the top of a hill, was another collection of official buildings, more elegant though less important, namely St. James's church, the prisoners' barracks, the court house and the hospital. In a town like Sydney these were distinguished structures, monuments to the fine taste of Governor Macquarie. The hospital was especially grand, if size is any test, because it filled most of Macquarie Street with a double colonade of white pillars, brilliant under a strong sun and a blue sky. 2 One wing of the hospital had the distinction of housing that small but august body, the legislative council of New South Wales. 3

The council now numbered 15. Its president was the governor, and the governor at this time was Sir George Gipps, who had arrived as successor to Sir Richard Bourke in February 1838. Gipp's appointment had been mainly due to the ability he had shown in 1836, as a member of Lord Gosford's commission to Lower Canada. There he had displayed all

1 This epithet was applied to Macarthur by the Sydney Herald, in an abusive editorial, 24 July 1841. The Cowpastures was the area by the Nepean River which included Camden Park.

2 Macquarie Street has now been continued beyond Bent Street to the water, and the main part of the old hospital building has been pulled down.

the administrative sense and liberal spirit which the Sydney government seemed to require. Most important, his ideas had been founded on a keen awareness of the rights of public opinion, as expressed through the local legislature. This awareness was to be very obvious in New South Wales, together with another aspect of Gipps's character, his unlucky knack of making good policies unpopular. During his term of office it sometimes seemed that, in spite of his ability, Gipps let himself 'be governed by the colony, instead of governing it'.

His period in North America had given the governor a good understanding of the traditional type of colonial constitution. But the New South Wales system was relatively primitive and ambiguous, with all the different elements mixed together. Instead of two chambers, quite apart from the executive, with the lower one representing the people, he found a single nominated house, whose members sat behind closed doors with the governor himself in the chair. Gipps had the power to make only one change, namely the admission of strangers to the gallery. He did this soon after his first meeting with the council in May 1838, although the seating was very cramped. From 6 June debates were published in the local press, and no doubt members began to give more attention than they had done to feeling outside.

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4 See, for example, Gipps's memorandum, 5 May 1836, with the third report of the Canada commissioners (3 May 1836), 1837 (50) XXIV, p.120.
5 Lord J. Russell's minute, 5 July 1841, on the despatch Gipps to Russell, 1 Feb. 1841, CO 201/307, f.8.
6 Sydney Herald, 4 June 1838.
7 Ibid., 7 June 1838. The session of 1838 was much longer than previous ones, presumably because members tended to have one eye on public opinion, to make more careful and elaborate speeches, and to examine government measures more closely.
Besides the governor, the council consisted of the chief justice, the Anglican bishop and the commander of the forces, four senior officials and seven leading settlers. The four officials were the colonial secretary, Edward Deas Thomson, the attorney-general, Hubert Plunkett, the collector of customs and the auditor-general. Of the seven private gentlemen most had belonged to the council since Darling's time, and one, Robert Campbell of Duntroon, survived from the original board of 1825. The most energetic of the seven was Bourke's old adversary, Richard Jones, who still prided himself on his independence from the government, especially as that government was whiggish. Jones's chief supporters were Hannibal Macarthur (James's cousin) and Campbell, and he could usually rely on Alexander Berry, a merchant with large estates on the Shoalhaven.

So-called liberal opinion in the colony was represented by Sir John Jamison, whom Bourke had appointed in 1837, and John Blaxland, but neither took a very active part in debates. These two may be seen as a third party in the chamber, in so far as controversial issues often depended on whether they voted with Jones or the government. The seventh non-official member when Gipps arrived was

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8 The chief justice was Sir James Dowling, the bishop, Dr. Broughton, and the commander of the forces, Major-Gen. Sir Maurice O'Connell. The collector of customs was Col. J.G.N. Gibbes and the auditor-general was William Lithgow. All members are listed in ADB I and II.

9 However Jones liked Gipps much better than Bourke, and went so far as to say in 1840 that 'he did not believe that there ever existed a more correct set of gentlemen, both in their private and public characters, than the government officers of New South Wales' (his speech in council, 10 Dec. 1840, Sydney Herald, 12 Dec. 1840).

10 When Jamison died in 1844 George Allen noted that 'for many years he has been quite imbecile and an object of pity' (Allen's diary, 3 July 1844, ML uncat. MSS 477). Blaxland was also old and ill.

11 See appendix 5, below.
Edward Charles Close, who came from the Hunter valley and who was, at 48, the youngest of the seven. But Close resigned his seat later in the same year.

The vacancy was at first filled by Capt. Phillip King, Hannibal Macarthur's brother-in-law. Early in 1839, however, King was appointed resident commissioner for the Australian Agricultural Company, at Port Stephens. Anticipating that this would probably disqualify him from the council, Gipps wrote to Whitehall suggesting that either James Macarthur or William Charles Wentworth be named in his place. He added that he preferred Wentworth because he wanted to make the council as far as possible a vehicle of public opinion. 'Mr. James Macarthur', he explained, 'was lately engaged in England as the agent of that political party which already has a great majority in the unofficial part of the council.' Wentworth on the other hand was popular, rich and able, and in spite of his past was no longer a violent politician.

Gipps's despatch was examined at the colonial office in October, several weeks after Lord John Russell had succeeded as secretary of state. It seems to have been quickly dealt with. Stephen's dislike for the Australian Agricultural Company put an end to any doubts about King's membership, and a more general prejudice against Wentworth left

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12 Otherwise only Gipps (47), Thomson (38) and Plunkett (36) were under 50 years of age in 1838. Of the remainder Dowling was 51, Broughton 50, O'Connell 70, Gibbes 51, Lithgow 54, Campbell 69, Berry 57, Jones 52, Blaxland 69, Hannibal Macarthur 50 and Jamison 62.

13 Gipps to Glenelg, 3 Apr. 1839, HRA i, XX pp.81-2.
Macarthur holding the field. He took his seat when council met for the following session, in the winter of 1840.

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It was then two years since Gipps's first address to the chamber: more than enough time for members to adapt themselves to their new president, and to the scribbling of reporters in the gallery above their heads. It is clear that these changes had had their effect. The debates published for the period show members falling more and more clearly into government and opposition. In theory the ex-officio members had independent views on most matters, although Gipps expected the support of his four officials 'where a great issue of imperial policy is to be maintained'. In fact, these officers rarely voted against him on any point, and only the auditor-general ventured to make speeches in opposition.

The most controversial matter of Gipps's first session, that of 1838, was a bill designed to transfer crown land and buildings used by the military to the formal possession of the ordnance office in London. This was seen by the colonists as an attempt to divest them of their own common property and the non-official members became the agents of a distinct and unanimous public opinion. Such thorough opposition was
something new. Plunkett, the attorney-general, was taken aback, remarking that 'I should be sorry to see the Colonists for the first time shew an unreasonable attitude to Government arrangements'.

This 'unreasonable attitude' was to become more and more common among the non-official members, and the attorney-general was to suffer from it most. The issue was partly personal. Plunkett was the chief heir of the political tradition established by Bourke, and was therefore distrusted by Jones, Campbell and Hannibal Macarthur. This difference was heightened by the fact that Plunkett was a Catholic, these three being keen Anglicans.

But the main trouble arose from the fact that the attorney-general was responsible for the details of most official policy, and particularly law reform. Plunkett himself believed that his was 'the most important department under the Government', and this seems to have been true. Had the system been one where the final authority rested with a popular electorate of taxpayers, perhaps the treasury would been the central agency of the state. But where the crown is the whole source of power the precedence of departments must tend to be different. The

17 Plunkett's speech in council, 20 June 1838, ibid., 21 June 1838.
18 See, for example, the editorial in the Sydney Herald, 4 July, 1838.
19 Plunkett and Roger Therry, who acted as attorney-general 1841-3, were Irishmen as well as Catholics. For their relationship with Bourke, see Hazel King, Richard Bourke, Melbourne 1971, pp.23-31. See also Therry to Bourke, 27 Feb. 1840, ML A1738.
main obstacles to government action must then perhaps be legal rather than financial. This was certainly true in New South Wales, where constant change and reform were taken for granted, and where the chief power outside the government lay with the country benches.

Antagonism on legal matters was very obvious during the 1839 session. During the debates on the estimates Jones, Hannibal Macarthur and Blaxland made a more or less successful attack on Plunkett's appointment of a second crown solicitor in his department. In September Jones and Macarthur were also able to block an effort, by Plunkett, to force magistrates to choose only barristers as their chairmen during quarter sessions. However, in a later division, on the question of abolishing the option of military juries in criminal cases, Plunkett was able to split the non-official members: the votes of Jamison and Blaxland gave him a majority of two.

The religious issue was broached during a debate on 27 August, on educational reform. The discussion centred on a series of resolutions proposed by the governor as a test of opinion inside and outside the council. Gipps wanted, ideally, a unified school structure comprehending all classes and sects, like the Irish national system. But since feeling had been so strongly against it in 1836, he had suggested a scheme whereby every school undertaken in future by the state would be

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22 Debate of 10 Sept. 1839, ibid., 11 Sept. 1839.
run on the principles of the British and Foreign School Society, a body catering for various shades of Protestant opinion. The Catholics were to receive special grants to enable them to maintain their own schools at an equal standard.  

Bishop Broughton led the opposition to this scheme, arguing that while his church was to compromise its doctrines with those of other Protestants, the Catholics were to teach theirs as strictly as they liked. Comments of the same kind were made by Jones, Hannibal Macarthur and King, and also by Blaxland and Dowling, the chief justice. The main speech on the other side, apart from the governor's, came from Plunkett, who liked the plan as an approximation to the Irish system. There were several other statements in support, and Gipps said afterwards that all but one of the 'friends of Sir Richard Bourke' had agreed with his ideas.  

But he did not bring the debate to a division because he thought that the speeches on the other side reflected the general feeling in the colony: 'the government wish to lead the public opinion,' he said, 'not drag it'.

During the following month leading Anglicans, including James Macarthur, drew together to strengthen their parish schools against

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24 *Sydney Herald*, 2 Sept. 1839.

25 Gipps to Lord Normanby, 9 Dec. 1839, HRA i, XX p.428. Gipps concluded that he would have had a majority. The one exception among Bourke's 'friends' was presumably Dowling. Besides Plunkett, only Jamison, Thomson and Gibbes spoke in favour of the scheme, but Gipps may have talked to others before the debate. See also his speech in council, 30 Aug. 1839, *Sydney Herald*, 4 Sept. 1839.

26 Ibid.
future attack. The part taken by Macarthur at this point was strangely at odds with his evidence before the transportation committee of 1837, when he approved of a suggestion very like that of Gipps. His work for education was full of such contradictions: he once explained that he would support any scheme which seemed to suit 'the opinions and even the prejudices' of the people, as long as it had some distinct religious content. But events late in the 1840s show that, other things being equal, he liked the Irish system best.

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Council convened for the 1840 session on 28 May, and Macarthur took his seat on 2 June. At this time the members sat around a single long table in strict order of precedence, with the governor at the head, the chief justice and the bishop on his right and left, then the other ex-officio members, and the seven non-officials arranged

28 Macarthur's evidence before the select committee on transportation (house of commons), 1837 (518) XIX, pp.176-7 (19 May 1837).
29 Macarthur to H. Oxley, 20 Oct. 1856, ML A2897.
30 See chapter 8, below.
31 Sydney Herald, 29 May, 3 June 1840. Macarthur probably missed the formalities of the first sitting because his wife had just given birth to their first (and only) child, on 8 May (Macarthur to G.W. Norman, 8 May 1840, Norman MSS C182). This was Elizabeth, afterwards Mrs. Macarthur-Onslow. Macarthur said a 'few words' on 2 June, the day of his swearing in, and 'was not at all nervous' (Macarthur to his wife, [3 June 1840], ML A4341).
further off according to the date of their appointment.  

This meant that Macarthur sat at the bottom of the table on the governor's left, beside his cousin, Jones and Campbell, and facing Berry, Blaxland and Jamison. The chamber was so small and the table so large that Macarthur sat directly under the gallery and he tended to look away from it while speaking. The remote position of 'the honourable member at the bottom of the table' might have given some dramatic effect to his confrontations with the governor, except that he was invisible, and often hard to hear, from the gallery. All the same, by the end of his first session Macarthur was able to boast, privately, that he had become 'a leader of the independent party'.

From the very beginning of the session Macarthur showed some skill in untangling controversial points and bringing debates to a consensus. This was his first real opportunity to apply the political principles which marked his whole career. He had declared at the beginning of the 1830s that the problems of the colony were 'only to be cured by patient efforts upon the spot', and that its future must depend on there being 'a spirit of unanimity' among the different sections of the population. In 1848 he was to say again that the local people, or their leaders, must be allowed to determine for themselves all

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32 Debate of 3 July 1838, Sydney Herald, 6 July 1838.
33 Macarthur to G.W. Norman, 5 Sept. 1840, Norman MSS Cl82.
34 Ibid.
35 See, for example, debates of 2, 17 June 1840, Sydney Herald, 5, 19 June 1840.
36 Macarthur to his father, 11 July 1829, ML A2931.
37 Macarthur's speech at a public meeting, 28 Nov. 1831, Sydney Gazette, 1 Dec. 1831.
issues which were 'governed ... by the internal circumstances of the colony'. For, he said,

in all matters relating to themselves
they are the right persons to judge of
what is best for them.38

This was the practical aspect of Macarthur's patriotism. As a corollary he argued that the method of choosing leaders - always the main point for Wentworth - must be incidental. He thought that such things were 'matters of expediency', which depended on the state of the community, and which might be left to common sense. He was not perfectly happy with the council as it existed in 1840, because he thought that it was not varied enough to represent the whole people.39

But, within certain strict limits, it provided a forum for that type of discussion on which the credit and welfare of the colony seemed to depend. He was usually much less concerned with final decisions than with the way in which they were reached. His ideal was cool debate, unselfish compromise and, eventually, a businesslike unanimity. Thus, by 'the discussion of conflicting opinions the truth might in the end be elicited'.40

The most crucial questions to confront the council during Macarthur's first three sessions arose from the rapid spread of settlement during the 1830s. The community was now divided not only by social class and


39 See chapter 5, above.

40 Macarthur's speech at the declaration of the poll for Cumberland, 6 July 1843, Australian, 10 July 1843.
economic interest, but also more and more distinctly by geography. This led to new problems of administration, and in particular Gipps was keen to see elected local authorities set up throughout the territory. He turned his mind to this question during the winter of 1839, considering each body in the first instance as a money-raising institution, 'whether it be for public works, for the maintenance of Police, or for any purpose of a local nature.'

The fiscal arrangements of the colony were still relatively straightforward. The local public revenue was of two kinds, the first arising from indirect taxes and duties, controlled by the legislative council, and the second arising from the sale and lease of crown land, which since 1832 had been appropriated by the British treasury. Expenditure was divided in the same way. Since 1826 the whole civil government had been paid for by the settlers. Since 1834 they had also financed their police and gaols, required by the convict system, under a reciprocal arrangement whereby the crown applied the land revenue strictly to local purposes. The most important of these local purposes was assisted immigration, but there were always a number of smaller charges which the governor was obliged to make on the land fund.

The settlers had two objections to this system. In the first place they argued that the land fund should be spent only on immigration.

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41 For partial evidence, compare the number of country post offices on the mainland in 1832 and in 1840, namely 16 and 47 (The New South Wales Calendar and General Post Office Directory 1832, Sydney 1852, p.178; Tegg's New South Wales Pocket Almanac, and Remembrancer 1840, Sydney 1840, pp.90-1). See also appendix 1, below.

42 Governor's financial statement, read in council 23 July 1839, Sydney Herald, 24 July 1839.
There was a growing shortage of labour during the 1830s, and it was widely urged that the depression which began late in 1840 was at least partly due to an imbalance of labour and capital, or in other words to the past 'misappropriation' of the land fund. In that year Gipps in fact declared in council that he would 'never again put his hand to a warrant to take from the fund, except to defray emigration expenses'. But this was a promise which could not be kept.

In the second place, the settlers complained of having to pay the whole cost of police and gaols. They argued that transportation was at least as useful to Britain as it was to the colony, and that they were entitled to a subsidy from the treasury at home. This charge was certainly a great burden on the local treasury, amounting to at least a quarter of the annual expenditure. Feeling became unusually strong whenever the settlers could convince themselves that the convict system was being maintained out of the land fund. In fact it could be argued that this was always happening as long as the land revenue was used for anything but immigration, because its application to other purposes made more local money available for police and gaols.

Gipps's idea on administrative reform brought this controversy into perfect focus, and they were first proposed in such a way as to do him the least good. Macarthur's appointment to the council was also an unlucky coincidence. For one thing, Macarthur brought with

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43 Governor's speech in council, 4 June 1840, ibid., 5 June 1840.
44 See appendix 6, below.
him all the keenness of a young beginner, angry at long-standing abuses and eager to make a name for himself. He also understood the complexities of the issue, which was unusual. Thirdly he had some direct contacts with Whitehall, which could be the source of useful information. Only a little before the opening of the session he received an important letter from his brother Edward, in London, warning him that the British government meant to press for everything they could get:

> Whatever you do, consent to no direct taxation, call for return[s] of all moneys abstracted ... from the land fund, let men of all parties unite in a firm remonstrance to parliament and providence will not desert you.46

This advice was very apt, and it corresponded closely with the course James Macarthur followed over the next three years.

The governor's annual financial minute always showed how the land fund was being applied, but Macarthur moved for detailed returns in 1840 and 1842.47 Moreover, in 1840 and 1841 he divided the council on the question of whether the police and gaols expenditure should be cut by half, which he thought was as much as the colony should bear. His arguments were conciliatory at first, but in 1841 he quoted Edmund Burke's description of the links 'strong as iron' but 'light as air' which should bind British communities together, and he warned, in what was then very extreme language, that they 'might be turned to iron for other purposes'. On both occasions the government had a majority of

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seven to five. As the following pages show, Macarthur also made a
special effort in council to block any measures of direct taxation,
particularly if the money was to pay for the presence of convicts.

These were cases when he felt strongly enough to forget the
niceties of debate and his ideal of unanimity. That ideal, after all,
assumed a certain dedication to the welfare of the community, a
rational desire for the common good. The present controversy went much
further. According to Macarthur, it tested the assumption itself.
Nothing less could justify the very strong language he used in 1841 and
1842.

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During the first week of the 1840 session Gipps laid on the
council table two new bills which, taken together, were to provide the
colony with a comprehensive system of local government. The first,
brought in on 28 May, was a municipal corporations bill, which was to
allow for the incorporation by charter of any town which could be
shown to have a certain minimum number of people. As a corporate body
the citizens, through their elected council, were to make by-laws,
appoint officers, conduct markets, and provide for the management of
streets, sewerage, lighting and water. The second bill, the commissioners

48 Debates of 27 Aug. 1840 and 3 Aug. 1841, ibid., 28 Aug. 1840, 4
Aug. 1841. On 7 Oct. 1840 Macarthur proposed a set of resolutions
condemning the fiscal arrangements with regard to police and gaols,
which passed the council unanimously (ibid., 8 Oct. 1840, and
Gipps to Russell, 8 Oct. 1840, HRA i, XXI pp. 40-1).
49 Sydney Herald, 29 May 1840.
of police and public works bill, was introduced on 4 June. It was to authorise the election of boards in the various rural police districts. These were to build and maintain roads, bridges and similar works.  

Both types of authority were also designed to raise money, through local rates, for the administration of their own areas. In both cases the money was to be used partly for the items listed above. But the town councillors and the commissioners were also to finance, as a first priority, their local police and gaols, and over these they were to have no control. Gipps explained in introducing the second bill that up to this time the colonial treasury had been able to finance the whole police and gaols establishment according to the arrangement of 1834. But the expense was now very large and, since he was no longer free to use the land fund for anything but immigration, some other source of revenue had to be found.  

He was not prepared to let the local authorities control their police and gaols - although they were to pay for them - because of the special problems of law and order which were integral to the colony as a penal settlement. Thus, as far as this item of expenditure was concerned, local rates were to finance an imperial responsibility. Gipps could not prevent the bills from confirming and extending an arrangement which the settlers considered anomalous and unfair.

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50 Ibid., 5 June 1840.
51 Ibid.
For the time being, however, the public reaction to both bills was restrained, probably because they were not fully understood. No petitions were presented against either of them. The main Sydney newspapers acquiesced in the corporations bill as something appropriate to a British colony, but they disliked the prospect of rates and the fact that the town councils were to have no control over their police, as was normal in England. With the exception of the Monitor, they were totally against the police and public works bill, which had none of the saving features of the corporations bill, and which became known simply as 'the taxing bill'.

Macarthur was opposed to both bills. His main objection arose from his belief that, with the present constitution, they would give the government an unlimited power over the levying and spending of rates, or, as he called them, taxes. Normally the people were able to keep a check on such matters through their elected representatives. But here they could elect only local councillors and commissioners, men forming small and disparate bodies which would be unable, and perhaps unwilling, to resist the central power. He foresaw that it would be possible for them [the local authorities] under any tyrannical Governor to tax the people to any extent they might think proper, and no redress would be found.

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52 Ibid., 23 Mar., 15 June 1840; Australian, 8 Aug. 1840; Monitor, 25 May, 1, 5 June 1840.
53 Sydney Herald, 15 July 1840; Australian, 16 July 1840; Monitor, 23 July, 1840.
54 Macarthur's speech at an election meeting, 14 Jan. 1843, Australian, 16 Jan. 1843. See also his speech at a public meeting, 29 Jan. 1848, SMH, 31 Jan. 1848.
The police and gaols issue gave a special point to this argument.

Also, Macarthur said, he 'was doubtful how far an irresponsible [that is, a nominated] body like the existing Council had the power to pass such Bills.'\textsuperscript{55} He used various technical arguments in support of this idea, but the underlying thrust of his objection was that the new system was to be imposed indiscriminately, by a non-elective council and without reference to local wishes. Non-official members of all parties had, at some time, joined in campaigns during the 1830s, and had signed petitions stating at least that the present council was not fully representative.

How then could they pass such a measure as this [the corporations bill] in the face of such a declaration?\textsuperscript{56} 'All he asked', as he explained later, was that the colony should be permitted to 'have municipal institutions in the same shape, created in the same way, as they were in Great Britain.'\textsuperscript{57} That is, charters of incorporation should be issued only on demand, and after specific debate by a representative body. Both his objections told particularly against the proposed rural boards, which were held to be mere taxing bodies with no precedent in England.

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\textsuperscript{55} His speech at an election meeting, 14 Jan. 1843, \textit{Australian}, 16 Jan. 1843.

\textsuperscript{56} Macarthur's speech in council, 6 Aug. 1840, \textit{Sydney Herald}, 10 Aug. 1840. Even the \textit{Herald} petition of 1836 asked for reform of some kind (see chapter 4, above).

\textsuperscript{57} Macarthur's speech at a public meeting, 7 Feb. 1848, \textit{SMH}, 9 Feb. 1848.
The governor was anxious to have the police and public works bill - the 'taxing bill' - dealt with before the corporations bill, because he was not very confident that the former would pass and he thought its fate should be known before they went on with the other. But he could not persuade the council to begin detailed consideration of the 'taxing bill' until 14 July, by which time the non-official members were fully prepared to make sure that it was thrown out. By that time their ill-feeling had also lessened the chances of the corporations bill. This was an early example of Gipps's political ineptitude. He had a type of honesty which was so spontaneous that in some circumstances it seems like sheer bravado. Thus, in cases where reform had an uneven appeal he tended to push for the least popular parts first, which usually went a long way to combine public opinion against the scheme as a whole.

In opening the debate on the second reading of the 'taxing bill' Gipps made a full statement in its justification. He explained that the reform was not only necessary in order to increase revenue. It would also be an important first step in the introduction of self-government at the regional level, an ideal which had been recommended for British North America by the Gosford commission in 1836 and more recently by Lord Durham in his well known report. He was not hopeful

58 Governor's comments in council, 4, 25 June 1840, Sydney Herald, 5, 29 June 1840.


60 Compare his management of the squatting regulations of 1844 (K. Buckley, 'Gipps and the Graziers of New South Wales 1841-1846', Historical Studies: Selected Articles first series, Melbourne 1967, pp.82-95.
of the present bill passing, but he asked members to think of the colony's financial difficulties and, if they would not have this solution, at least to suggest some other.

Macarthur answered with a vigorous speech, setting out his various objections to the bill. The rural boards, he said, would not work well because, unlike the Canadas, this was a pastoral colony, whose population was scattered and transitory. Therefore, if such boards were formed, their stability and their revenue must depend on a few settled freeholders, which would be unfair, inefficient, and likely to increase the tendency to squatting.

After making a few other points, Macarthur turned to his main argument, which rested on the principle of taxation with representation. The bill, he said, would authorise a system of direct taxes, which must be illegal unless sanctioned by an elected local legislature or a clear act of parliament. No such legislature or act existed. The imperial statute of 1828, the New South Wales Act, which had set up the present council, only authorised it to raise taxes for local purposes.

He could not imagine upon what principle the enormous sum, which the Council was called upon to extract from the pockets of the people, could be said to be necessary for local purposes.

The question was therefore one of principle, and 'he would rather lay down his life than sanction the sacrifice of that great constitutional principle he was advocating'. He moved that the bill be rejected.

Jamison, Berry, Hannibal Macarthur and Lithgow the auditor-general took the same line, and only Plunkett and Gibbes, the collector of
customs, had the courage to speak in favour of the obnoxious bill. It was lost six votes to five.  

Macarthur now took a characteristic step, which was no doubt meant to show that his arguments had not been merely fractious and irresponsible. As soon as members had resumed their seats after the division he announced his intention of moving that the bill be brought in again on another day. But, he said, the police clauses should be dropped. The new commissioners were simply to look after the highways and, as Macarthur later explained, they were to raise money by tolls rather than a general system of rates. The question was afterwards put down for discussion on 4 August.

But at the head of the notice paper for that day, and therefore taking precedence, were three much more important resolutions. These had also been brought forward by Macarthur, and were meant to delay for as long as possible the passing of the corporations bill. During his address on these resolutions, on 4 August, Macarthur argued that the whole matter should be put off until the following session, because he believed that 'there is nothing in the New South Wales Act to authorise the Council to pass such a Bill'. The power of incorporation in cases like this appeared to rest with the crown, or with parliament.

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61 Debate of 14 July 1840, Sydney Herald, 17 July 1840.
62 Macarthur's speech in council, 12 Aug. 1840, ibid., 14 Aug. 1840. See also the debate of 8 June 1842, ibid., 9 June 1842.
as the agent of the crown. Whatever the case in law, the question seemed to him a 'very delicate' one, and he thought it would be wise not to hurry the bill through, simply to have it disallowed by the crown law officers at home.

When he came to moving his resolutions, at the end of his speech, Macarthur mentioned that the wording on the notice paper had been partly changed. The main point of the original wording, which members had all seen, had been explained in his speech. That is, reform should be put off until the new corporations could receive the official sanction of the queen. But members were now asked to decide on two additional points which had not appeared on the notice paper, and which, strangely, he had also not explained. In the first place, the new motion suggested that the councils should control

So much of the Police in each municipality (independently of the Police required for the coercion and discipline of British and other transported Criminals) as may be justly considered local.

Secondly, the same authorities should have the power to levy rates for the financing of all business under their control. Taken with the first point, this clearly implied that the money was not to be spent on British convicts.

There had been no hint of these additions in Macarthur's speech, but they made a crucial difference to the question being debated. The

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63 They also proposed a census of the colony, so that the local government reforms might be based on adequate information. In fact the government was apparently already considering such a measure, and a census bill was brought in later in the session.
governor protested that he was in fact moving new resolutions altogether, for which the council had not received proper notice. The debate was therefore put off for two days. 64

Macarthur seems to have brought forward his revised resolutions in this strange way because he hoped Gipps might abandon the corporations bill before it became necessary to take up the extreme arguments which his new motion foreshadowed. In fact he had good grounds for thinking the governor would do so. Gipps had already told members that this was not a vital bill: it was much less important than the 'taxing bill' - now defunct - and had been meant 'partly as a sweetener [sic] to the other measure'. 65

Macarthur moved his revised resolutions for the second time on 6 August, in a short speech which included no mention of their wording. But his convoluted strategy was too much for the council, and, more important, it had quite baffled some of the private gentlemen who sat with him at the bottom of the table. He tried to rally them at the end of the debate by explaining that the bill contained all the main faults of the 'taxing bill';

and this was one of the strongest reasons, although he had not before mentioned it, which had induced him to wish that the course he proposed should be adopted. 66

64 Sydney Herald, 5 Aug. 1840.
65 Governor's speech in council, 21 July 1840, ibid., 22 July 1840.
66 Sydney Herald, 10 Aug. 1840
The private members who sat beside him, on the governor's left, seem
to have taken the point. But as usual the three who sat opposite,
Jamison, Blaxland and Berry, proved less manageable. The resolutions
were lost eight votes to six, as Macarthur informed his wife, 'Sir
J.J. and Mr. Berry having as they say in Parliament ratted.' 67

The council then agreed to consider a roads bills such as
Macarthur had suggested on the defeat of the 'taxing bill'. But the
details were eventually put off until after the corporations bill could
be dealt with. 68

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It was now the middle of August, and the corporations bill was
better understood outside the chamber than it had been at first. There
was still a general acquiescence in the bill as a whole, but there
had been some trouble about clauses 5 and 30, which dealt with the
qualifications of voters and town councillors. Here the emancipist
question, which had been dormant for some years, once again raised
raised its ugly head. Clause 5 stipulated that ex-convicts who had
served their whole term without pardon - the expirees - could not vote

67 Macarthur to his wife, 7 Aug. 1840, ML A4341. Apparently Berry's
was a recent desertion, but it had been clear on 4 August that
Jamison was 'flinching from his guns' (Macarthur to his wife,
4 Aug. 1840, ibid.). Blaxland was staunch. Campbell was
apparently sick, as usual.

68 Sydney Herald, 14 Aug. 1840.
in council elections until they had been free for at least three years. Clause 30 prevented them from becoming councillors until they had been free for at least seven.\(^6\)

On 23 June, three weeks after the first reading of the bill, a petition was laid on the table from about 400 ex-convicts objecting to these provisions. The petitioners also asked that they or their counsel be heard at the bar of the chamber. Jamison and Hannibal Macarthur both argued in support of this appeal, and three counsel were accordingly heard.\(^7\) As far as the voting franchise was concerned they seem to have made their case. When clause 5 came to be debated, on 6 August, members agreed unanimously that all reference to ex-convicts should be left out.\(^8\)

Clause 30, dealing with the eligibility of town councillors, caused more trouble. There was a case for disqualifying recent expirees, because of the possibility that councillors, or aldermen at least, would be ex-officio magistrates, whose integrity should be unimpeachable. On the other hand the election of expirees was very unlikely, and hardly worth any special provision. This was Macarthur's opinion. His attitude agreed with that which he had taken in 1838, with reference to Charles Buller's constitution bill, and which he

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\(^6\) According to Gipps, clause 30 had originally 'excluded the same persons altogether from being elected; but before the Bill was laid before the Council, though after it was printed, I allowed some words (in manuscript) to be added to the Clause, making them eligible, provided they had been free of their sentences for seven years' (Gipps to Russell, 26 Aug. 1840, HRA i, XX p.778). For his explanation about the original drafting of the bill, see the debate of 18 Aug. 1840, Sydney Herald, 19 Aug. 1840.

\(^7\) Sydney Herald, 24 June 1840. When speaking of this affair later (at an election meeting at Parramatta, 27 June 1843), Macarthur is reported to have said that he himself advised the ex-convicts to petition (Australian, 28 June 1843), but this was an inaccurate report (compare SMH, 28 June 1843).

\(^8\) Sydney Herald, 10 Aug. 1840.
had explained at the time in his rough memoranda on the bill. 72 In other words he thought that Gipps should not have brought the matter up by his drafting of the two disqualification clauses. As he said later, 'it was unwise to refer to it at all.' 73

It appears that he said as much at the time, privately, to Deas Thomson, the colonial secretary. 74 But in public he was careful to make no explicit statement one way or the other. 75 His silence, or at least the behaviour which followed from it, shows a type of political energy and cunning which he rarely resorted to. Because he was uncommitted in public, he was able to take whatever side was most useful to him as a means of defeating the corporations bill as a whole.

Clause 30 was to be debated on 11 August. It was clear beforehand that although Gipps had drafted the clause himself, 76 the government would vote for its amendment so as to give full rights to expires. 77

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72 ML D185, ff.59-61. See chapter 5, above.
73 Macarthur's speech in council, 8 June 1842, Sydney Herald, 9 June 1842.
74 See Macarthur to his wife, 13 Aug. 1840, ML A4341; and his speech at an election meeting, 27 June 1843, SMH, 28 June 1843, where he explained that 'He had stated to His Excellency's confidential adviser [Thomson], that if the Bill were introduced without any allusion to the emancipists he would support it'.
75 That is, he meant to make no such statement (see his speech in council, 8 June 1842, Sydney Herald, 9 June 1842, stating that he had 'very carefully guarded himself against expressing any sentiments of his own'; and his speech at an election meeting, 27 June 1843, Australian, 28 June 1843). But the report of his speech in council, 18 Aug. 1840, Sydney Herald, 19 Aug. 1840, is at least ambiguous.
76 Gipps to Russell, 26 Aug. 1840, HRA i, XX p.778.
77 Governor's speech in council, 21 July 1840, Sydney Herald, 22 July 1840.
If the controversy were to amount to anything it was therefore necessary for Macarthur to find support for the opposite point of view. The cooperation of Jones and his cousin was apparently secure, so that the balance of power lay, as usual, with the non-official members who sat on the governor's right. Macarthur seems to have done some canvassing among those gentlemen in an effort to win support for the clause as it stood.\textsuperscript{78}

But when council assembled on 11th it must have been clear that such efforts had so far been futile. Jones and Hannibal Macarthur immediately tried to have the debate postponed, 'in order that members might have more time to make up their minds upon the different clauses'. The vote went against them at first, but before the discussion could reach clause 30 it was decided after all to leave the rest of the bill until the following week.\textsuperscript{79}

Macarthur and his friends made the best use of this time. Next day, Wednesday 12th, they began to make hasty arrangements for a petition praying for the retention of the clause as it stood.\textsuperscript{80} The paper was sent out for signatures on Friday, and both James and William Macarthur were active in procuring the largest possible number of names, their total being 485.\textsuperscript{81} According to James, all the signatures had been received 'in a day and a half'.\textsuperscript{82} Thus the petition was ready for presentation when the council turned to the subject again on 18 August.

\begin{itemize}
\item \textsuperscript{78} Macarthur to his wife, 10 Aug. 1840, MLA A4341.
\item \textsuperscript{79} Sydney Herald, 12 Aug. 1840.
\item \textsuperscript{80} Macarthur to his wife, 12 Aug. 1840, MLA A4341.
\item \textsuperscript{81} Macarthur to his wife, 12, 15 Aug. 1840, ibid.
\item \textsuperscript{82} Macarthur's speech in council, 18 Aug. 1840, Sydney Herald, 19 Aug. 1840.
\end{itemize}
The obvious aim of this petition was to get popular backing for clause 30. But the organisers also hoped to broaden the issue so as to bring in a majority of the council, not only in favour of the clause, but, indirectly, against the government on the question of the whole measure. Thus the petition made two points besides its argument in favour of the clause. First, it asked as a matter of equal justice - since the case against the clause had been argued at the bar - that the case for it should also be heard. And secondly, it complained, without going into detail, that the provisions in the bill 'for levying taxes and assessments' were 'a violation of the great fundamental principle of taxation by representation'.

In other words, although the new petition can be seen partly as an end in itself, it was mainly an episode in a war of attrition against the corporations bill as a whole, a war in which Macarthur was anxious to avoid any wholesale patriotic attack on the government. When the petition was presented the attorney-general remarked that no doubt its reference to taxation 'had ... caused many persons to sign', and the governor began his comments by assuming that it was really directed against the whole bill.83 The assumption is not surprising, because Thomson must almost certainly have told him Macarthur's true position.

But the debate on 18 August ended with a division on the simple question as to whether counsel should be heard in favour of clause 30, a mere matter of equity. This meant that Plunkett, Berry and the

83 Debate of 18 Aug. 1840, ibid.
auditor-general, who were all against the clause, voted on Macarthur's side, giving him a majority of seven votes to six. But Gipps had had enough. For some time, he said, he had perceived, 'he would not say opposition, but a great disinclination to go on with the Bill'. The present vote had driven him to the conclusion that he should probably abandon it altogether, particularly as further discussion would stir up the old bitterness of the emancipist question. He gave notice that he would announce his decision next day.

On the following day, 19 August, the corporations bill was withdrawn. The governor remarked that he thought the campaign against expirees was invidious and unrealistic, but he could not ignore the more general opposition. Macarthur's highways bill was due to be debated next, but as it had the same qualification clauses it too was withdrawn.

The whole affair is partly interesting as an illustration of the way Gipps tended to court defeat. He played directly into the hands of Macarthur and his allies by bringing in the 'taxing bill' before the corporations bill. This put both in jeopardy, because instead of the corporations bill being 'a sweetener to the other measure', the other measure poisoned the appeal of the corporations bill. He managed to stress the faults of his programme rather than the strong points. It is also arguable that Gipps caused unnecessary trouble for the corporations bill by his drafting of clauses 5 and 30, and in this way, finally, lost the whole campaign.

84 *Sydney Herald*, 21 Aug. 1840.
The part played by Macarthur also has a wider significance. He knew that he and his family were commonly thought, however wrongly, to regard ex-convicts as beyond the pale, socially, politically and irredeemably. He was careful to make no public statement about clause 30, but he must have realised that very few people would see that he had not committed himself. He must have understood that his popularity and his political future depended on the common impression being refuted, in words and actions, as soon as possible. And yet he was prepared, as he said, 'to bear the odium ... until a proper time should arrive, when he might clear himself of the charge.' \(^{85}\) This is a very good illustration of Macarthur's pride, and his fundamental reliance on his own 'sense of right' whatever the demands of politics.

His behaviour also shows another, more profound characteristic: a certain moral blind-spot, a disregard for means when the end in view seemed noble and urgent, but too abstruse to be popular. Minds which travel 'through strange seas of Thought, alone', must often be tempted to take short cuts; Macarthur's duplicity in the affair of clause 30 was a doubtful short cut to a more worthy end. The same impatience seems to have moved him in 1826, in the Broadbears' case, and in 1837, during the writing of his book, when he referred to some of his most unusual and generous ideas as being such as the Herald petitioners as a whole would recommend. \(^{86}\) This is the dark side of Macarthur's intricate, stylised virtue.

\(^{85}\) Macarthur's speech at a public meeting, 4 Feb. 1841, Australian, 6 Feb. 1841.

\(^{86}\) See chapters 2 and 5, above.
Gipps now made a full report to the secretary of state, asking for instructions as to whether his two bills should be reintroduced and, if so, what changes should be made in them. No answer reached Sydney until the very end of the following session, which meant that nothing could be done until the session of 1842. But in his reply Lord John Russell commended the governor's attempts at reform and, in spite of Macarthur, he assured Gipps that the council certainly had the power to incorporate towns. He instructed him to bring in both bills again, with the corporations bill only altered so as to apply to particular towns.

The council was called together earlier than usual in 1842, so that these instructions might be carried out. At its first meeting on 10 May Gipps laid on the table three new local government bills, namely a police and public works bill (barely changed since 1840), a bill to incorporate Sydney, and another to incorporate Melbourne. Gipps wisely arranged for the Sydney corporation bill to be considered in detail first, as its merits were obvious. Its second reading was put down for 31 May. The Melbourne bill was never a subject of controversy in its own right.

Macarthur's fundamental position had not altered since 1840. As long as the legislative council remained non-elective, or 'irresponsible', his basic objections to the local government reforms could be sustained.

87 Gipps to Russell, 2 depatches, both 26 Aug. 1840, HRA i, XX pp. 777–83.
88 Russell to Gipps, 21 July 1841, HRA i, XXI pp. 440–2.
89 The short title of the bill was changed from 'commissioners of police and public works bill' to 'directors of police and public works bill' to emphasise the fact that these officials were to be elected (governor's speech in council, 10 May 1842, Sydney Herald, 11 May 1842).
In his view the new bodies were meant to raise money which was to be applied, not only to their own local works, but also to police matters which were the sole responsibility of the governor. As long as the council had no constitutional links with the ratepayers - that is, as long as it was non-elective - it could not hope to have any effective control of the governor's use of rates. Therefore, Macarthur argued, local government reform should be delayed until the council itself should have a broader and more popular foundation. In 1842 this more important change seemed imminent.

But although the logic of his objections was identical in 1840 and 1842, their impact was not the same. This was especially true for the Sydney corporation bill. In the first place, Russell's despatch forced Macarthur to give up his argument about the exclusive right of the sovereign to incorporate towns. He was ready by 10 June to admit that 'he had been led into an erroneous opinion' on that point. Also, under the new bill only the mayor was to have magisterial powers, which put an end to all disquiet about expirees. Thirdly, transportation to the colony had ceased late in 1840, which reduced the chance that the governor might spend much of the local rates on British convicts. Finally, it became clear during the discussion of the Sydney bill that the governor meant to subsidise the policing of the city, which did a good deal to make the measure more attractive.

90 Sydney Herald, 11 June 1842.
91 Gipps to C.J. La Trobe, 25 June 1842, Gipps-La Trobe correspondence: 'It has been agreed by all parties that neither in the provisions of the Sydney bill, nor in the discussion of it shall any allusion whatsoever be made to convicts or emancipists'.
92 Governor's speech in council, 17 May 1842, ibid., 18 May 1842. Gipps gave this change the widest possible publicity by a notice in the press 'for general information' (ibid., 15 June 1842).
These changes meant that Macarthur was forced to use a curious and tenuous argument to maintain his position. In both 1840 and 1842 he argued from the principle of no taxation without representation, which, he said, was so fundamental that it could not be set aside unless by explicit act of parliament. But in 1840 he had insisted that the council had no power to raise taxes for anything but local purposes. The ending of transportation made that point useless. He was now forced to argue that the New South Wales Act gave the council no authority to delegate taxing powers to an inferior body, namely the Sydney corporation. And since the council was non-elective, he said, there should be some special provision in the act, even though the corporation itself was to be elected and the money was to remain largely under its control.  

The Sydney Herald, which was now strongly in favour of incorporation, found this argument impossible to follow; no doubt there were few who could understand it. But the paper was prepared to allow its author 'the purity of Don Quixote's motives'.

However, in politics the quality of the logic is less important than the number of people who want to agree with the argument. The period since 1840 had brought certain appealing changes to Gipps's scheme, but it had also made the whole question much more familiar to the public. While the advantages of reform were better understood, those settlers who thought they might suffer from it were also better

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93 Macarthur's speeches in council, 31 May, 8, 9, 10 June 1842, ibid., 1, 9, 10, 11 June 1842.

94 Sydney Herald, 12 July 1842. The Herald's opinion was very significant, if we can believe its claim that its circulation now exceeded that of all the other Sydney newspapers put together (ibid., 31 Mar. 1841).
organised. Campaigns aiming at the defeat or amendment of the bills were therefore under way very early, both in Sydney and in the country. On 8 June two petitions from the people of Sydney were presented to council, one praying for the rejection and the other for the amendment of the corporation bill. Each carried more than a thousand signatures. The first had been proposed at a public meeting on 31 May by Wentworth. It objected to the bill in toto, arguing that it was a measure of direct taxation which the council could not contemplate as long as its members were non-elective. The petition was entrusted to Macarthur, who said on presenting it that he agreed with its prayer but not its argument. He thought that parliament might have given the council full taxing powers, although of course it had not done so.

The second petition had been adopted at a meeting called several days after Wentworth's. Some of the organisers had helped to convene the first meeting, but they had not agreed with Wentworth's wholesale rejection of the bill. Their petition asked only that it be amended so that the town authorities might be endowed with enough incidental sources of revenue, particularly land, to allow them a good minimal income.

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95 Macarthur to J. Piper, 1 June 1842, ML A255; Sydney Herald, 17, 22 June 1842.
96 Ibid., 9 June 1842. For the text of the petitions, see ibid., 31 May, 7 June 1842.
97 For the requisition lists for the two meetings, see ibid., 28 May, 2 June 1842, and for the proceedings, see ibid., 31 May, 7 June 1842. The second petition was presented to council by Jones, who gave it his tacit support.
It was assumed by all concerned that the two petitions came from two opposing interests in the town. The Herald described Wentworth and his colleagues as

a new and very powerful class of alarmists - the Sydney aristocracy ... the landlords of Sydney ... who grind down the citizens with hard labour to meet their exorbitant demands of rent.98

Wentworth himself said frankly that his petition was signed mainly by town property holders, 'the very persons who, if the Bill pass into law, will have to be rated - will have to fork out.' He called the supporters of the other petition 'mere rabble'. One of his allies commented sadly on the attempt of their rivals 'to separate the interests of tenant and landlord', because 'it would always be the interest of a landlord to assist his tenant'.99

Council spent 8 and 9 June discussing the general principle of the bill. They then left the main question for the time being, partly to allow for a clearer statement of public opinion. Macarthur said that

He still had doubts as to the power of taxation; but if it was the wish of the people of Sydney that the Bill should pass, he would not oppose it on that ground, but that wish should be directly expressed.100

Meanwhile they went on with the bill in committee, which took up the rest of the month. Macarthur was usually absent, or else silent,

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98 Ibid., 2 July 1842.
99 Speeches of Wentworth and M. Gannon at a public meeting, 29 June 1842, ibid., 30 June 1842.
100 Macarthur's speech in council, 9 June 1842, ibid., 10 June 1842.
apparently because he did not want to commit himself to the measure as a whole, even by implication. His restraint was a boon to the governor, because it left the opposition without a leader. Macarthur's colleagues were not prepared to use his complex and tenuous arguments and could only bring forward minor points of criticism, which Gipps met or ignored as he liked.

By the end of the month then, Macarthur stood more or less alone in council. But his position outside was now particularly strong. On 28 June he announced at the council table that he had had news from England which made it quite certain that parliament was on the point of giving them a new constitution. Therefore, he said, nothing would be lost by leaving the present bill to the elected legislature which they could now expect to have within a year. This argument had no effect in council, but it almost certainly added to the reputation Macarthur was beginning to acquire as a champion of the elective principle.

By this time Macarthur had also become the centre of a campaign against the new police and public works bill, which was due for its second reading on 5 July. The life of this bill was short and

101 This did not prevent him from suggesting amendments, although 'many ... did not come from him personally, but were conveyed in another way', particularly through his cousin Hannibal (Macarthur's speech at an election meeting at Liverpool, 14 Jan. 1843, Australian, 16 Jan. 1843; compare the debate of 30 June 1842, Sydney Herald, 1 July 1842, with Macarthur's speech in council, 12 July 1842, ibid., 13 July 1842). He explicitly refused to vote on the franchise clause, 29 June 1842 (ibid., 30 June 1842).

102 See particularly the debate of 30 June 1842, ibid., 1 July 1842.

103 Sydney Herald, 29 June 1842.
and inglorious. On 5th petitions against it were presented from most of the important country districts, the bulk having been entrusted to Macarthur. At the end of the debate it was thrown out. The voting figures are not recorded. The only members who made speeches against it were Berry, Macarthur and his cousin. Macarthur explained that 'All the objections that he had urged to the sister Bill applied also to this one'. But the main argument used against it was to the effect that in most of the rural districts the small householders would control the local boards, by force of numbers, while the landowners would pay the most substantial rates.

Finally, the opposition to the Sydney bill had moved into its last stage. On 29 June Wentworth called a third public meeting, to which he proposed a new petition. This was a terse and straightforward document, with a simple argument designed to appeal to all the earlier petitioners. It pointed out that during the debate on the bill the council had in fact set aside no source of revenue for the city, apart from rates, and it therefore asked that the measure be abandoned. This petition, which carried 5079 signatures, was presented to council by Macarthur on 6 July.

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104 Of the seven petitions against the bill, five (from Bathurst, Argyle, Liverpool, the Cowpastures and Parramatta) were entrusted to Macarthur (ibid., 6 July 1842).
105 Ibid.
106 For the requisition for this meeting, see Sydney Herald, 27 June 1842, and for the proceedings, ibid., 30 June 1842.
107 For the text of the petition, see the debate of 6 July 1842, ibid., 7 July 1842.
108 Ibid.
The climax of the whole local government issue came on 12 July, when Macarthur moved the rejection of the Sydney corporation bill. Macarthur's cause had lately suffered from the appearance of a fourth petition, signed by 1500 Sydney working-class men, who liked the bill and only asked that the franchise be lowered.\footnote{Debate of 6 July 1842, ibid. This petition was presented by the governor. The franchise was in fact lowered as a result, from the occupants of houses worth £40 p.a. to those worth £25 p.a. (debate of 12 July 1842, ibid., 13 July 1842).} What is more, an examination of the signatures attached to Wentworth's last petition had suggested that many belonged to people living outside Sydney, and that some at least were bogus.\footnote{Plunkett's speech in council, ibid. Wentworth's own house, at Vaucluse, was well outside the proposed city limits.} But most members had already made up their minds on the question. When it came to a division, Macarthur's motion was lost by seven votes to four. Jamison and Campbell now came out against the bill, but Jones sided with the government, Berry refused to vote, and Blaxland stayed away.\footnote{Ibid.} On 20 July the corporation bill passed its third reading and was safe.\footnote{Sydney Herald, 21 July 1842.}

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Macarthur had now become a very substantial political figure. To some observers it seemed that his principles had changed in the process. The \underline{Herald}, for example, described him as a

unique specimen of senatorial zoology ... \[in\] a transition state from the courtly to the popular genus.\footnote{Ibid., 2 June 1842. See also Therry's comment in council, 3 Jan. 1842, ibid., 4 Jan. 1842.}
There can be no doubt that he was much more widely known and more popular than he had ever been before. Two of the country meetings called in June to petition against the police and public works bill had also passed resolutions thanking him for upholding the great principle of taxation with representation.\textsuperscript{114} More thorough-going gestures were made in Sydney and Parramatta, where subscription lists were opened with the intention of making him a present.\textsuperscript{115}

These lists stayed open for several years. Some of the organisers had second thoughts because of Macarthur's part in the general election of 1843.\textsuperscript{116} Then Macarthur himself refused to take anything, on the grounds that his work had been 'somewhat unduly estimated'.\textsuperscript{117} Finally, in 1847 he was presented with a silver tea service.\textsuperscript{118} But the intervening period had shown as clearly as possible that in fact his principles had not changed. He was still relatively detached, and prepared to be unpopular if his own 'sense of right' seemed to justify it.

The only difference with the period 1840 to 1842 was circumstantial. Macarthur happened to be the man for the hour. He had said in 1838

\textsuperscript{114} Reports of meetings at Queanbeyan, 10 June 1842 (ibid., 22 June 1842), and Parramatta, 27 June 1842 (Australian, 2 July 1842).
\textsuperscript{115} Reports of meetings of 'the friends of Mr. James Macarthur' at Sydney, 1 Aug. 1842, and at Parramatta, 27 Aug. 1842, SMH, 6, 30 Aug. 1842. The bulk of those involved seem to have been young native-born men.
\textsuperscript{116} J. Byrnes's speech at a meeting of the Parramatta subscription committee, 8 June 1846, Australian, 11 June 1846. See chapter 7, below.
\textsuperscript{117} Macarthur to J. Byrnes, 26 June 1846, ML A4342. Macarthur suggested that the money collected be given to the Parramatta Benevolent Society.
\textsuperscript{118} Australian, 16 Jan. 1847.
that he thought the colony would be ready for an elected legislature 'in a few years'.\(^{119}\) In 1841 he believed the time was ripe, and as a member of council he was in a position to make his opinions and his public spirit well understood. Also the stolid reputation of the council and Wentworth's temporary quietness gave him an appeal he would not have had on a more crowded stage.

Finally, Macarthur had a very good opportunity in the summer of 1840-41 to put into practice his old ideas on corporate self-government. Here it is possible to see him playing again, and much more effectively, the part he had taken against the Ripon regulations nine years before. In both cases he tried to combine local feeling of all shades against an imperial measure foolish enough to justify a total, well-considered and detailed rebuttal.

On both occasions the enemy seemed to be the spirit of Wakefieldism, and the controversy involved the administration of crown lands. Late in November 1840 rumours began to circulate in Sydney that the colony was to be divided in three, with new governments at Moreton Bay and Port Phillip.\(^{120}\) This story was apparently confirmed a fortnight later, when the settlers heard of a bill which had been brought before parliament in July, and which authorised the queen to form new colonies south of the Murrumbidgee and north of the Hunter valley.\(^{121}\) This was, however, incidental to the main point of the bill, which was to continue the New South Wales Act for another year.

\(^{119}\) Macarthur to Lord Glenelg, 10 Apr. 1838, CO 201/282, f.305. See chapter 5, above.

\(^{120}\) Sydney Herald, 24 Nov. 1840.

\(^{121}\) Ibid., 5 Dec. 1840.
The settlers were right to fear another onslaught of Wakefieldism, which was now the panacea of Downing Street. According to Macarthur, Wakefield's theory required that 'the Colonists occupy as little land as possible.' This was not strictly true, but it was certainly vital to the theory that the area of settlement be compact and well-defined. At present New South Wales covered a space which seemed limitless. The official attitude deemed it far better to divide the territory into distinct provinces, each of which might be a field for the operation of the theory. The precise boundaries were not important. The imperial government thought, momentarily at least, that the proper limits of the old colony should be the original 19 counties, together with the lands to the west. Perhaps, as Edward Macarthur alleged, this seemed a wise and progressive policy simply because 'the more recent the map of Australia, the more glowing the tints of the London topographer by which those limits are defined.'

For the time being, however, the change was to affect nothing more than land administration. Henceforth all land south of the Murrumbidgee was to be sold at a fixed price of £1 an acre, so that as soon as it was surveyed it might go to the first applicant. It was also intended, eventually, to do the same with land north of the Hunter valley. Gipps received instructions to this effect in November 1840. However

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122 Burroughs, op. cit., pp.231-6.
123 Macarthur's speech at a public meeting, 7 Jan. 1841, Sydney Herald, 8 Jan. 1841.
125 Russell to Gipps, 31 May 1840, HRA i, XX pp.641-8.
he was so firmly convinced that chaos would follow that he declined to obey them, explaining with two despatches and a long memorandum to the secretary of state, which together set out in conclusive detail the case against any system of fixed prices.  

At the same time the legislative council condemned by unanimous resolution any plan to confine the colony, at least within the limits of New England and the Murray. Outside the chamber a public meeting was arranged for 7 January. Meanwhile, however, news reached Sydney that the bill to continue the New South Wales Act had been amended before being passed, so as to include no reference to the division of the territory. The amendment was due to Edward Macarthur, who had enlisted the aid of Sir Robert Peel, leader of the opposition.

The general view in New South Wales was that their final ruin had only been postponed, and that a strong demonstration of opinion was still necessary. The chief concern of the leading settlers seems to

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126 Gipps to Russell, two despatches and a 'Memorandum on the disposal of Lands in the Australian Provinces', all dated 19 Dec. 1840, HRA i, XXI pp.111-34; Burroughs, op.cit., pp.236-45.
128 The meeting was at first planned for 22 December, and later put off to 7 January, partly 'to enable residents in the country to attend' (ibid., 16 Dec. 1840).
129 Ibid., 19 Dec. 1840.
130 Peel to Edw. Macarthur (copy), 28 July 1840, CO 201/315, f.77; Edw. Macarthur to Peel (draft), n.d. [c.29 July 1840], ML A2915; C. Buller to the committee of the Patriotic Association, 31 Aug. 1840, Australian, 21 Jan. 1841.
have been that their property beyond the 19 counties would be jeopardised by any reformed system of land sales. They were mainly disturbed by the fixed price idea, and the prospect of their squatting runs being under the control of new and remote governments. They also feared that the change would bring an end to their land fund, because there was not much valuable crown land left for sale within the proposed middle district. But the issue touched more than merely squatters and men of property. The radical Henry Macdermott, who wanted to see the colony populated with small farmers, was equally concerned.\textsuperscript{132} No doubt most men agreed with Bishop Broughton, when he declared in council that he 'was anxious to retain what he would call such a scantling that we may in time be a first rate nation.'\textsuperscript{133}

Therefore the meeting on 7 January went ahead, and very large numbers turned up. The central figures were Richard Jones and Macarthur, and it was Macarthur who explained what had been done so far and the course the organisers meant to follow. A brief petition to the queen had already been drawn up, and this was approved by the meeting. A committee was then appointed, which was entrusted with the drafting of a detailed memorandum, 'containing at full length the views of the colonists upon the measure'. This was to be sent to England for the information of those concerned. According to Macarthur,

\textsuperscript{132} Speeches delivered and petition adopted at a public meeting, 7 Jan. 1841, Australian, 9 Jan. 1841.
\textsuperscript{133} Broughton's speech in council, 10 Dec. 1840, Sydney Herald, 12 Dec. 1840. However there were movements in support of division in New England (Australian, 12 Jan. 1840), and at Port Phillip (Stephen's minute, 11 Sept. 1841, on Edw. Macarthur to Stanley, 3 Sept. 1841, CO 201/315, f.72.).
every person [here] would [thus] have an opportunity of expressing his opinion either to the Committee or through the medium of the public press, and furnish [sic] much better arguments in support of the cause which they had undertaken, than could possibly be done in the limited discussion of a public meeting.134

The committee went to work during the following weeks. Macarthur was a member, but he spent most of the time at Camden and had 'little or nothing to do' with its decisions.135

On 4 February a second meeting was called, the committee having agreed that parliament should be petitioned as well as the queen. The meeting also discussed and approved the committee's memorandum. By now the feeling of urgency had largely evaporated, and this gave Macarthur an excuse for talking about matters which were near to his heart, though not strictly related to the main point. At the earlier meeting he had given a brief summary of the delusions of 'the theorists of Adelphi-terrace', that is the Wakefieldians. He now described the best way, as he saw it, of meeting the danger they posed to the colony: namely by calm and concerted action. He hoped, he said, that the present meeting would come to 'a wise and unanimous conclusion', for this would prove that they were ready for an elective legislature, something which was now of 'absolute necessity'.

The occasion, he thought, was one where the opinions of all the people, in their various groups and interests, must be gathered together

134 Australian, 9 Jan. 1841.
135 Macarthur's speech at a public meeting, 4 Feb. 1841, ibid., 6 Feb. 1841. This restraint was perhaps meant to counter rumours that the campaign was being run by 'the friends of Messrs. Macarthur, &c' (Sydney Herald, 3 Feb. 1841).
and distilled; 'for', as he said at another time, 'it was only by taking the opinions of all classes that the truth in all its majesty could be made known'.

For himself, he said, he was prepared to join with anyone in a conference on constitutional reform, and 'he would not flinch from any point in its discussion.'

He made a special appeal to those for whom reform meant the end of a system which bore particularly hard on ex-convicts:

With regard to what was usually termed the emancipist question, his firm opinion was that the more advisable course would be to allow it to die away, so that in future years it might be altogether forgotten that such a stain had ever rested on the colony.

He explained that this had always been his view, in spite of what had been commonly thought. As he had said in 1838, in private, so he said now, 'that it would be unwise, in the new bill, to have any clause whatever upon the subject.'

This speech has been strangely interpreted by scholars. The Australian Dictionary of Biography may be cited as an example:

In 1842 [sic] Macarthur announced that he no longer opposed the constitutional aspirations of those emancipists whose industry had won them wealth and respectability.

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136 Macarthur's speech in council, 21 Sept. 1854, SMH, 22 Sept. 1854. The occasion was a debate on Cowper's motion of no confidence in the government, with Macarthur supporting the government.

137 He made an exception of the £10 occupancy franchise, for, he said, 'he felt convinced that there was no such qualification in the colony'.


139 This phrase appears only in the Herald report.
Taking the common view, the Dictionary explains that Macarthur was building a coalition with 'men of similar capitalistic interests', like Wentworth. These men, the Dictionary says, now forgot their 'personal differences' in order to defend themselves against the rising tide of democracy. 140

It is certainly true that the speech marked an important epoch in the political life of the colony. But it should not therefore be twisted to serve a faulty construction, a view of the period which rests mainly on some large assumptions about class conflict. Macarthur certainly wanted to work in harmony with Wentworth, but it has been seen in earlier chapters that he also wanted to do so in 1831, 1833 and 1838. 141 There is no evidence that Wentworth wanted to work with Macarthur, and except for a few months in 1842 he actually made no overtures of any kind before 1848. 142 As for Macarthur's ideas about ex-convicts, he was telling the truth when he said that 'they were such opinions as he had always held'. 143

The real significance of the speech lies in the fact that Macarthur was now prepared to make more thorough commitments in public. His nomination to the council had at last given him a political stage, and had made him a well known public figure. Also the changing tone of society now enabled him to make statements which, according to his own

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141 See chapters 3, 4 and 5, above.
142 See chapter 8, below.
143 Australian, 6 Feb. 1841.
lights, it would have been rash to make at any earlier time. Perhaps his experience as a council member had also made him a keener politician, more eager to take responsibility. But the most important point is that he was now ready to do whatever he could to make his ideal of corporate self-government a permanent reality, by working for an elective council.

The meeting of 4 February was a clear demonstration of public opinion, no-one dissenting from the new petitions except on points of detail. They were afterwards sent to Edward Macarthur, who received them in September and straightaway secured an interview with Lord Stanley, the new secretary of state. Stanley promised him that the colony would remain intact, at least within the boundaries described by the legislative council. The fixed price system had already been abandoned, after the arrival of Gipps's memorandum in May. With these hazards out of the way the settlers were ready to turn their minds to the question of constitutional reform, as Macarthur wanted.

144 Edw. Macarthur to Stanley, 2 Sept. 1841, CO 201/315, ff.54-72, and 4 Sept. 1841, papers of 14th Earl of Derby, box 135/5.

145 Edw. Macarthur to James & W. Macarthur, 18 Sept. 1841, ML A2915. The interview was the day before, 17 September. The boundaries are roughly those of New South Wales at present.

146 Burroughs, op. cit., p.247.
Chapter 7
The Tussle for Cumberland 1842-1847

Between the spring of 1838 and the spring of 1841 little rain fell in New South Wales.¹ As a result much of the harvest failed, and there was a great scarcity of food and water for livestock. It was the first serious drought for more than 10 years. At first the farmers suffered more than the pastoralists, for although many cattle and sheep died there was still a steady growth in their total numbers, which continued into the 1840s.² This was no doubt because, for the time being, graziers were able to move their stock about in search of moisture. But there was also an economic difference. Unlike the farmer, whose fortunes depended wholly on local markets, the grazier, or at least the sheep owner, still looked to the mother country as the guarantor of his income. Great Britain was not only the site of the wool market, it was also the source of new capital, which determined the demand for young stock produced in the colony.³ The grazier depended less on Providence than on the lords of Lombard Street and the Exchange.

During the mid-1830s the price of wool in London had reached an unprecedented peak. This was part of the reason for the enormous confidence in the colony as a land of promise, and for the great pastoral expansion

¹ Gipps to Glenelg, 8 Apr. 1839, HRA i, XX pp.107-8; Sydney Herald, 15 Oct. 1841.
of those years. After 1836, however, the price began to fall, until in 1844 it was less than half what it had been during the boom. At the same time British investors became more cautious, partly because of this decline, and perhaps partly because of a general tightness of credit at home.\(^4\) Meanwhile, in October 1840, the long continued shortage of grain led to several failures among the great millowners of Sydney.\(^5\) This was the first crumbling before an unprecedented economic landslide. The flow of capital from home largely ceased in the following year, and by 1843 the price of sheep was a fraction what it had been in the late 1830s.\(^6\) Crown land sales, having reached an all-time maximum of £316,626 in 1840, had sunk by 1842 to 4.6 per cent of that figure.\(^7\) At the same time there was a severe shortage of labour, which was not helped by the ending of transportation in 1840 and by the failure of funds to pay for free immigrants.\(^8\)

When these troubles began Macarthur and his brothers had their capital widely deployed. Between 1835 and 1838 their freehold property at Taralga, in Argyle, originally 13,000 acres, was nearly doubled, at an

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5 Butlin, op. cit., p. 230.

6 According to one estimate the average price of sheep dropped from 60s. a head in the boom, to less than 6s. in 1843 (Stephen H. Roberts, *The Squatting Age in Australia 1835-1847*, Melbourne 1964, pp. 203-4). But 60s. is probably too high (compare W. Macarthur to Edw. Macarthur, 20 Jan. 1858, ML A2933).

7 See appendix 6, below. Investment in the pastoral industry, as distinct from land alone, changed in a complex way because, while land sales fell off dramatically, the number of licensed squating stations beyond the settled district (not counting Port Phillip) rose from 694 (July-Dec. 1839) to 907 (Jan.-June 1843) (V&G 1843, p.474).

8 Butlin, op. cit., p. 317.
outlay of about £3,000. In the years after 1837 they also held another 10,000 acres there on crown lease. In 1840 most of their sheep - 25,000 head - were kept on this very ample estate. However, by then, for reasons which no-one understood, the quality of pasture had begun to deteriorate, so that within a few years it had become 'one of the most unhealthy in New South Wales'. In 1845 a good part of the sheep were moved to Nangus, a squatting run of 75,000 acres on the Murrumbidgee, which James and William had taken up in 1838.

Expansion and improvements were financed from two sources, not counting normal income. One was Emily's dowry of £3,000, which was spent on the laying out of Camden village and on the vineyard, cellar and dairy at Camden Park. The other was a loan of £10,000 which Macarthur had secured in England in 1838, at 7 per cent. This was a partnership loan, undertaken by the three brothers together, following their agreement that all the family property should be a common concern. Half of it was used in Argyle, and half was spent at Camden on housing immigrants, and on the purchase of Belmont, 2,000 acres which had been a de facto part of the Camden estate since 1807.

10 Ibid., 31 May 1837, 20 Apr. 1839.
11 Return of sheep at Richlands for week ending 16 May 1840, ML A2967.
13 James Macarthur 'Statement of expenditure from 1834 to 1854', 20 Jan. 1858, ML A2928.
15 James Macarthur,'Statement of expenditure from 1834 to 1854', 20 Jan. 1858, ML A2928.
In 1840 the family interests were large and magnificent. But the liabilities were also heavy. Labour was now very costly, the interest on the loan called for £700 a year, and there were two households to be kept up, at Camden and at Parramatta, where old Mrs. Macarthur lived with her two unmarried daughters. Soon after the first sign of a fall in sheep prices Macarthur and his brother William begun to cast about for new means to support the partnership. They cut up 2,000 acres at Camden into small farms, but no buyers were forthcoming. They advertised for sale 50 stud horses, but also with no success. In 1841, however, they managed to sell a number of allotments in their new village. They also borrowed £8,500 from the Bank of Australasia, as a partnership debt. To this was added, on their own personal account, £4,000 from the same source and, in 1842, £2,000 from Herries, Farquhar and Co., their old London bank.

The depression brought new liabilities. During 1841 Macarthur took out a mortgage on the Australian newspaper to the extent, apparently, of £1,500, which was later increased, and never repaid. His connection

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16 In 1841 they began for the first time to advertise for workmen (Sydney Herald, 3 July 1841 to 8 Jan. 1842).
18 Ibid.; Sydney Herald, 2 June 1840.
21 James Macarthur, 'Statement of expenditure from 1834 to 1854', 20 Jan. 1858, ML A2928.
with the paper will be explained below. In the winter of 1842 his brother-in-law, James Bowman, became virtually bankrupt. The Macarthurs undertook to rescue Bowman's estate, which cost them much trouble, and an immediate outlay of £6,000. Other failures at this time involved losses of roughly £7,000. In 1845 old Mrs. Macarthur explained to Edward that although they could produce at Camden most of the necessities of life, together with wine, fruit and dairy products, 'still there is the lack of money to pay wages and to purchase tea, sugar and cloathing.'

On top of this trouble the family was riven with quarrels and discontent. In 1839 Edward began to make it clear that he regretted ever joining the partnership. Then the second of the three sisters, Mary Bowman—'whose lofty spirit can ill brook reverses'—succeeded to her husband's disgrace and became a melancholy invalid. In the end she went slightly mad. In April 1842, Elizabeth, the oldest and most able of the three, died at the age of 49, which left a sad gap in the family counsels. Finally, Emmeline, the youngest, 'entangled herself' with

22 Bowman's receipt to James Macarthur, 17 Feb. 1842, ML A425.
24 Mrs. Macarthur to Edw. Macarthur, 17 Oct. 1845, ML A2907. By 1845 'cloathing' was a distinctly old-fashioned spelling.
26 Mrs. Macarthur to Edw. Macarthur, 28 August 1842 (second letter), and see also 4 March 1843, both ML A2907.
27 W. Macarthur to Edw. Macarthur, 6 May 1848, ML A2933/B.
Henry Watson Parker, private secretary to the governor. Their engagement was frowned on by her mother and by James, and 'all visiting at govt. house ... ceased in consequence' until late in 1843, when the wedding took place. This feud no doubt explains the bitterness which often entered into exchanges between Gipps and Macarthur during the council debates of 1842.

Clearly these were times quite different from the buoyant 1830s, when the Macarthurs were unified, cheerful and rich. William afterwards said that he would rather die than pass again through that 'gulph of difficulty', the 10 years which followed 1841, years which left James looking constantly 'worn and anxious'. This chapter covers the earlier part of that period, and it concentrates mainly on the campaign for a new constitution, in 1842, and the first general elections of 1843.

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28 Mrs. Macarthur to Edw. Macarthur, 28 August 1842 (second letter), ML A2907. Mrs. Macarthur said she thought Parker was 'bad-tempered, penurious, and narrow minded' (ibid). There seems to have been great ill feeling between Emily and Emmeline (Emmeline to Edw. Macarthur, 9 Sept. 1844, ML A2959). Edward took Emmeline's side, pointing out to James that she was old enough to please herself (she was 34) (Edw. Macarthur to James Macarthur, 15 May 1843, ML A2915).

29 Mrs. Macarthur to Edw. Macarthur, 28 Aug. 1842 (second letter), and see also 19 Nov. 1843, ML A2907.

30 Mrs. Macarthur to Edw. Macarthur, 29 Nov. 1843, ibid. The wedding took place on 21 Nov. 1843.

31 The best example is 12 July 1842, when Macarthur accused Gipps of partiality as president of the council (Sydney Herald, 13 July 1842).

The old reform movement, fired by Wentworth, mended by Jamison and polished, in an intellectual way, by William Bland, had reached its state of final perfection as the Patriotic Association, and had since crumbled. No revival had followed the disappointment of 1837-8, when Glenelg decided to postpone reform, because the postponement was afterwards continued from year to year, and there was always an idea that change might come during the next parliamentary session. No new movement began until July 1841, when a number of southern landowners met at Goulburn, the county town of Argyle, and adopted a petition to the house of commons praying for an elected legislature.\footnote{Sydney Herald, 7 August 1841. The meeting was on 18 July.}

The Argyle settlers hoped that other counties would quickly follow their example, but the next flicker of life appeared in Sydney, six months later. On 27 and 31 January a small number of gentlemen met there privately under the chairmanship of George Macleay.\footnote{Australian, 1, 3 Feb. 1842.} There were apparently 26 altogether. They were mainly professional men from Sydney, but they included a number of settlers from remote parts, especially the south country.\footnote{Signatures to a requisition to the sheriff, 4 Feb. 1842, asking him to call a public meeting (ibid., 8 Feb. 1842). The Herald, 8 Feb. 1842, has the same list, less accurately spelt, but with one name (Archibald Walker) omitted by the Australian. This makes a total of 28. Of these only one had belonged to the Patriotic Association, 12 had been among the Herald petitioners of 1836 (see chapter 4 above), and 15 were current members of the select Australian Club (see minutes of the committee of the Australian Club, 24 May 1838 - 24 Dec. 1841, ML 1836/3).} One representative figure was Capt. Maurice O'Connell,
a native of the colony, and son and secretary to the commander of the forces. At 30 years of age, O'Connell was a rising man. He had presided at the Australia Day dinner on 26 January, and was called the most perfect orator the colony had produced. His popularity arose partly from a growing sense of political awareness and solidarity among the educated men of his generation, a movement bound together by a type of sober, law-abiding patriotism. It was something quite distinct from the enthusiasm of Wentworth's old following, which the young men identified with a selfish love of money.

The group of 28 drafted petitions to the queen and both houses of parliament, and also organised a public meeting for 16 February. They decided to ask James Macarthur - who was not one of them - to open the meeting with a resolution declaring the need for petitions. As it turned out the occasion looked like an effort of the native-born. Macarthur

36 Capt. Maurice Charles O'Connell was born in Sydney in 1812. His father was a kinsman of Daniel O'Connell, Ireland's Liberator, and his mother was a daughter of Govr. Bligh. For his life, see ADB V.
37 Australian, 27 Jan. 1842.
38 Sydney Herald, 8 Jan., 5 Feb., 1841, 2 Mar. 1842.
39 See, for example, 'A Citizen' to the electors of the colony, SMH, 12 June 1843; and J. Normington-Rawling, Charles Harpur, an Australian, Sydney 1962, pp. 66, 107-8. There are some similarities between this phenomenon and the contemporary Young England and Young Ireland movements.
40 Australian, 8 Feb. 1842.
made a special appeal to his 'countrymen', meaning the natives, urging their co-operation. In moving the second resolution O'Connell said that he hoped the meeting would show 'how the minor shades of party and opinion had sunk in virtuous and high-minded consideration of what was due from us towards our country'. He was seconded by Charles Campbell, also a native and son of Campbell of Duntroon.  

O'Connell's hopes were destroyed by Henry Macdermott, a Sydney tradesman and an earnest radical. Macdermott was in favour of reform, but he did not like the way the petition concentrated on the colony's wealth and size. He claimed political franchise merely 'as an Englishman'. He added that the present effort had the same origin as the double-election plan of 1838, namely Macarthur and the magnates of the colony. Macarthur came to his feet at once to deny that he had been the author of the 1838 plan. Great uproar and confusion followed, which rose to a pitch when the meeting was asked to decide between O'Connell's petition and another proposed by Macdermott. The chairman's voice was soon lost in the mêlée and the meeting was abandoned.

Within a few days O'Connell, Campbell and some others organised a new meeting, taking care beforehand to give their campaign a broader

42 Australian, 17 Feb. 1842.
43 For Macdermott's life, see ADB II.
44 He apparently meant a householder, a citizen of good repute with a settled place in the national community (H. Macdermott to the editors, 8 Mar. 1842, Sydney Herald, 8 Mar. 1842).
45 See appendix 3, below.
46 Sydney Herald, 18 Feb. 1842.
appeal. Macarthur lent his aid. One of the resolutions to be moved was that certain gentlemen should form a committee to manage the petitions and to decide on the details of the new constitution. Macarthur suggested to O'Connell and Campbell that the names of Wentworth and Bland be added to the list, and this was done. No doubt they were left out in the first place because both had more or less retired from public life.

Manning Clark and others have argued that Macarthur's effort to bring in Wentworth was meant to forge a coalition of the employing classes against a new radical feeling represented by Macdermott. The timing of Macarthur's appeal does make this theory plausible, and given the traditional view of Macarthur, as a narrow conservative, the alliance certainly looks forced. Even contemporaries thought it 'not a little singular to find Messrs. Bland and Wentworth sailing in the same craft with the great Lion of the Tory party.'

But contemporary ideas about Macarthur were seldom right, and the view taken by historians also needs correction. It has already been pointed out that Macarthur joined easily enough with Wentworth in the campaign against the Ripon regulations, and that he tried to bring in the radical E.S. Hall as well. In 1833 he attempted to find a way

47 O'Connell and Campbell head the list of 43 signatories to a requisition to the sheriff, 19 Feb. 1842, asking him to call a public meeting (Sydney Herald, 22 Feb. 1842).
48 Macarthur's speech at a public meeting, 26 Feb. 1842, ibid., 28 Feb. 1842. The Australian's account of the speech (1 Mar. 1842) is not clear on this point.
49 Australian, 18 Jan. 1842: 'Mr. Wentworth ... was an influential man. His day has gone by.'
51 Sydney Gazette, 14 Apr. 1832.
52 Macarthur's speech at a public meeting, 18 Jan. 1832, Sydney Gazette, 21 Jan. 1832. See chapter 2, above.
of working with Wentworth and Jamison for constitutional reform.\(^{53}\) He did his best in 1836 to see that the Herald petition was not a mere product of 'factious motives'.\(^{54}\) He apparently also suggested to Glenelg in 1838 that Wentworth and Bland be appointed to the legislative council, so that it might 'include men of all parties'.\(^{55}\) He had hoped too that the council might then become a constituent assembly.\(^{56}\) It was mentioned in the last chapter that in 1841 he suggested a conference on reform where all points of view would be welcome. This new invitation, of 1842, was therefore perfectly consistent with his past principles, and with his great ideal, corporate self-government. What Macarthur wanted on each occasion was the means of bringing together all major interests in the colony, in the hope of reaching a formal consensus, which, he thought, was the only way to make public opinion a worthy and effective force.

Nevertheless, Macdermott did represent a threat to Macarthur's aims. These aims assumed a type of independence in the community as a whole, arising from its social and economic unity. According to this view the corporate interests of the people were to be managed by those who took the lead in its everyday life. Macdermott was more concerned with the independence of each citizen, his political power, which must be

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54 Ibid., p. 12. See chapter 3, above.

55 Macarthur's speech at an election meeting at Parramatta, 27 June 1843, Australian, 28 June 1843; Macarthur to Glenelg, 10 Apr. 1838, CO 201/282, f. 305. See chapter 5, above.

56 Macarthur's notes on the draft bill of 1838, ML D185, f. 62.
incidental to the community he happened to live in. Unfortunately for Macdermott, this independence had no basis in the law of the time. Macarthur's ideas, on the other hand, had a solid foundation in law and fact. The colony was already a legal entity, and it was easy to point out its common interests and to expect that they would be recognised by parliament. Also, the rights of property and of social pre-eminence were integral to any British type of constitution.

The second reform meeting, held on 26 February, was treated as a continuation of the first, so that the text of the petitions was the first thing to be considered. Some of the wording - but not the general argument - had already been altered, after consultation with Macdermott, and met with little opposition. Wentworth then moved for the appointment of a committee. It had been planned to read out a list of 25 names, which were to be approved as a whole. This list included Wentworth, Bland, Hall, Macarthur and Macdermott. But Macarthur had told the organisers that he would not sit in committee with Macdermott, and this raised a particular point for debate. The names were therefore approved seriatim, until Wentworth reached Macdermott's.\(^\text{57}\)

After some angry discussion Macarthur rose to his feet. He explained that Macdermott's ideas could never carry any weight at home because of his denial that all civil rights were defined and limited by explicit law. More profoundly, Macdermott was opposed to 'the high

\(^{57}\) *Australian*, 1 Mar. 1842.
and holy principles of constitutional freedom', which meant that no understanding with him could be of any use. His ideas contradicted the whole basis of discussion.

I tell him that the doctrine he puts forth is the doctrine of deceit and dissimulation: that the claim to free institutions on the doctrine of the abstract rights of man is hollow and unsound. That man has his abstract rights I am not one to deny, but in the economy which governs our social system according to the British Constitution, those rights are limited and restrained by certain qualifications, and until these are attained, those rights remain (as the lawyers say) in abeyance. 58

Mac Dermott had in fact never made any claims on the basis of 'the abstract rights of man'. 59 But the logic of his ideas was alarming, and at the earlier meeting he had certainly shown that violent lack of respect which was the cloven hoof of the Jacobin. Macarthur now carried the day, and Mac Dermott's name was rejected by a good majority. 60

The committee afterwards met five times to consider a detailed scheme of reform. 61 Macarthur turned up only twice, but his ideas were the main basis for discussion and it was he who made final agreement possible. The first question was whether the legislature should have one

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58 According to the Herald, 2 Mar. 1842, 'He spoke plainly, boldly, vehemently, eloquently. His countenance glowed with the intensity of his zeal for the honour of his native land; his eyes flashed fire at the Jacobin attempts to sully that honour; he waved his arms, and stamped his feet, and flung all the energies of body and soul into his noble cause'. Having been a windmill in February, he was to be a Quixote in July (ibid., 12 July 1842; see chapter 5, above).

59 See Mac Dermott to the editors, 8 Mar. 1842, ibid., 8 Mar. 1842.

60 The vote was 476 to 340 (Australian, 1 Mar. 1842).

61 They also had two preliminary meetings, on 10 and 22 March, and some later ones on 15 and 29 April, to receive reports about the petitions (Sydney Herald, 21, 24 Mar., 16, 30 Apr. 1842). See also ibid., 20, 22 June 1842.
or two chambers. This was not a vital point, because it was agreed that even in a bicameral system they should not keep too closely to the Westminster pattern. In particular the lower house, or assembly, should have some nominated members, so that government officials might sit with the representatives of the people. Macarthur argued that some officials might be elected, but neither he nor Wentworth thought of the possibility that members might be appointed to official posts after election.

Some committeemen, including Macarthur, thought that there should be a small upper house or council, half nominated and half elected by the assembly. They argued that it was normal for colonies to have two houses, and that such a system would 'tend to prevent collision between the Legislative [sic] and Executive Government'. But they were overruled, and it was decided to ask for a single mixed chamber, with 10 nominated members and 30 elected.

The next question was the franchise. On 28 March Macarthur submitted a plan in which he proposed that country voters should own freehold, leasehold or squatting licences worth £20 per annum, and that town voters should own freehold worth £20 per annum, or occupy a dwelling with a yearly rental value of £30. It was objected that this would be too exclusive. Macarthur eventually agreed that in the country £10 would be high enough, and that the town occupancy rate should be £25.

62 Macarthur afterwards seems to have thought that the troubles of the later 1840s were due to the absence of an upper chamber between the executive and the popular house (Macarthur to C. Throsby, 27 Dec. 1844, Australian, 7 Jan. 1845; his speech at a public meeting, 7 Feb. 1848, SMH, 9 Feb. 1848).
63 Report of meeting on 28 March, Australian, 29 Mar. 1842.
in Sydney and Melbourne, and £10 elsewhere. Some committeemen thought that there should be some personal as well as real property franchise. But Macarthur and others pointed out that this would mean votes for salaried employees, who would have to be protected by the secret ballot. Everyone agreed that this would be undesirable.\footnote{64}

The final point, and the most hotly contested, was the distribution of electorates. Macarthur recommended that, of the 30 elected members, 21 should represent counties and nine should represent towns. This was afterwards changed to a strict two-to-one division.\footnote{65} The main question was the relative weight to be given to Sydney and the county of Cumberland, which together accounted for nearly half the population of the colony.\footnote{66} The details of the question were discussed in Macarthur's absence. Committeemen with property in remote parts thought that Cumberland, including Sydney, should have no more than a sixth of the elected members, while others argued that even Macarthur's plan, which had given the county 11 members out of 30 (including four for Sydney), did not go far enough.\footnote{67} The debate had reached an impasse when a message was brought in from Macarthur, including a new plan which, however, repeated his original ideas for Cumberland and Sydney. The committee was thus brought back to a compromise, which they felt obliged to accept.\footnote{68}

\footnote{64}{Ibid.}
\footnote{65}{Report of meeting on 1 April, ibid., 2 Apr. 1842.}
\footnote{66}{See appendix 1, below.}
\footnote{67}{Those against a high representation for Cumberland were led by Henry O'Brien of Yass and Charles Nicholson, a Sydney physician with property at Port Phillip. Those on the other side were Wentworth and Bland. All are listed in ADB I and II.}
\footnote{68}{Reports of meetings on 8 and 12 April, Australian, 9, 14 Apr. 1842.
These debates are a notable example of an early constitution-making, and have been sadly ignored by historians of the period. They are also interesting in so far as they show that Macarthur was now held in unique respect: the comments in committee prove that all acknowledged the fairness of his point of view. But the effort was wasted. At the end of June news reached Sydney that a bill had already been drawn up at the colonial office giving New South Wales an elective legislature. The bill had in fact been introduced into the commons by Stanley on 26 May, and it was given the royal assent on 30 July. The suggestions of the petition committee apparently did not reach England until October.

But the new act was not radically different from the committee's plan. There was to be a single chamber with 36 members, 12 nominated and 24 elected. The constituencies were not defined, but it was enacted that the city of Sydney should have only two members, while Port Phillip was to have six. The main difference otherwise was that the act provided for no rural leasehold or squating franchise. All electors were either to own freehold worth £200, or occupy a house worth £20 per annum. Other details were left to the present council.

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69 They are not mentioned in Melbourne, op. cit., the classic account of the colonial constitutions. They are mentioned in passing by Roe, op. cit., pp. 45, 83 and by C.M.H. Clark, op. cit., III (an inaccurate account), pp. 189-90.

70 The first source of information was a letter to James Macarthur, received at the end of June, presumably from Edward (Macarthur's speech in council, 28 June 1842, Sydney Herald, 29 June 1842). Edward had been consulted on the drafting of the bill during February (index to miscellaneous in-letters, colonial office, 1842, CO 201/330, ff.575, referring to a letter from Edw. Macarthur, 25 Feb. 1842, in a separate volume, now lost; see appendix 3, below).

71 PD third series, LXIII c.880, LXV c.871. This was the New South Wales Constitution Act, 1842.

72 Gladstone to James Macarthur, 25 Oct. 1842, ML A2922. In this letter Gladstone acknowledged a letter from Macarthur (now lost) dated 14 Apr. 1842. A report of the petition committee, dated 2 April, had also been sent to him, and to Buller, P.M. Stewart, M.P., and Edw. Macarthur (Australian, 7 Apr. 1842).

73 Melbourne, op. cit., pp. 269-76; Stanley to Gipps, 5 Sept. 1842, HRA i, XXII pp. 238-43.
The council met for its last session on 24 January 1843, when a bill was introduced defining constituencies, allotting members, and laying down electoral procedure.\textsuperscript{74} The committal of the bill took place on 7 February. But on the same day Macarthur presented an alternative plan for the representation of the counties, and gave notice that on 14th he would move its adoption.\textsuperscript{75} He afterwards explained that he did this only 'to delay the consideration' of the bill.\textsuperscript{76} He probably wanted to consult opinion outside. Later in the week his cousin Hannibal laid on the table another more detailed set of proposals, which he said had been 'assented to by his honorable relative Mr. James Macarthur'. Macarthur agreed that he liked this plan better than his earlier one.\textsuperscript{77} It may be that he was the author of both, and that in the second case Hannibal was brought forward for deliberate political reasons, as a man of honesty and common sense and one of the mere gentlemen of the colony.\textsuperscript{78} Thus Macarthur appeared to give up his own plan in favour of one which was better considered and more widely acceptable. This was one of his typical habits and a part he loved to play, because it seemed to show off the essence of cool unselfish patriotism. It meant sacrificing personal kudos for the general good, and in the process attaining that 'Moral Freedom, which alone makes a man his own master'.

\textsuperscript{74} SMH, 25 Jan. 1843.
\textsuperscript{75} Ibid., 9 Feb. 1843.
\textsuperscript{76} Macarthur's speech in council, 10 Feb. 1843, ibid., 11 Feb. 1843.
\textsuperscript{77} Debate on 10 Feb. 1843, ibid.
\textsuperscript{78} James had used Hannibal at his mouthpiece before. See, for example, his method of suggesting amendments to the Sydney corporation bill of 1842, chapter 5, above.
The last plan was approved without dissent, and almost without discussion, on 14th, the bill passed on 23rd, and council then adjourned sine die.\textsuperscript{79} It was generally thought that their successors would meet about July.

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The plan approved by council gave only two members to the county electorate of Cumberland, with two to Sydney, one to Parramatta, and one to the smaller towns in the county, the 'Cumberland boroughs', as a single constituency.\textsuperscript{80} The imperial act allowed such narrow latitude for the distribution of members that this was more or less inevitable. In fact, within a fortnight of 7 December - when the act first reached the colony - the two members for the county had been more or less agreed on.\textsuperscript{81} Formal requisitions were signed at the end of the month.\textsuperscript{82}

No one seems to have thought that there was any special advantage in giving the voters a choice. The ideal seems to have been that there should be no contest, so that each elected member might represent all his constituents to an equal extent. Moreover, parties and sectional interests had not yet learned to organise themselves, and all but a few settlers

\textsuperscript{79} SMH, 24 Feb. 1843. \textit{This was the electoral act, 1843.}

\textsuperscript{80} This meant that in the county (as in the electorate of Sydney) every elector had two votes, and it was open to him to distribute them, or else to 'plump', to use one only.

\textsuperscript{81} According to Macarthur, he was first asked to stand for Cumberland 'after the publication of Mr. Hustler's first address to the electors of Sydney' (for which, see SMH, 9 Dec. 1842) and before 10 December (his election speech at Camden, 6 Feb. 1843, \textit{Australian}, 8 Feb. 1843).

\textsuperscript{82} SMH, 31 Dec. 1842. Macarthur's answer to the requisition is dated 7 December, but this is clearly a mistake for 7 January (\textit{Australian}, 9 Jan. 1843).
were untried as politicians. Candidates were therefore expected to have little more than local influence, and a general knowledge of affairs. 83 In some cases this meant that the head of an eminent local family might be the only possible representative of his area, his politics being irrelevant. As the Herald said in one instance, such a man might claim the votes of his neighbours 'almost as a prescriptive right'. 84

The two men chosen by the electors of Cumberland during December were James Macarthur and William Lawson, of Veteran Hall near Prospect. Lawson's claims were clear. He had lived in the heart of the county for 30 years, and was a very wealthy man. He had been linked with Wentworth and his reform movement since 1825, so that he had a settled political reputation. On the other hand he had never been a very prominent politician, he was a fumbling orator, and he was nearly 70 years of age. 85

Macarthur's qualifications were different, because his home and most of his property were in the county of Camden, on the other side of the Nepean. If he had any natural right to stand with Lawson it was because Cumberland was the metropolitan county, the original centre of New South Wales, and thus a suitable pedestal for a man whose eminence related to the whole colony. In England the members of the house of commons took an informal precedence from their electorates, which made it a high

83 This partly explains the very vague statements of policy by candidates (compare A.W. Powell, 'The Political Career of Charles Cowper 1843-1870', Ph.D. thesis, La Trobe University 1974, p. 23).
84 SMH, 3 Feb. 1843. This was said of James Macarthur and the county of Camden.
85 For Lawson's life, see ADB II. See also the journal of George Allen, 18 June 1850, ML uncat. MSS 477: 'he [Lawson] was by no means a man of education nor was he very polished in his manners'.
honour to sit for the great counties. Like Cumberland, these were the
stronghold of the landed interest, the magnates and ancient families of
the country. It would have been fitting then if the senior member for
Cumberland in the new council had been a man of Macarthur's background
and authority. He himself explained that he stood for Cumberland 'because
he thought that in the proud position of representative of the
Metropolitan County ... he should be of more service to his country'.

The candidature of Macarthur and Lawson seems to have been arranged
partly by John Blaxland, the real patriarch of the county, and like
Lawson an old reformer. The co-operation of these three looks like an
alliance of great men working together for a single end, all sinking
their own views for the general good. The situation and the idea are
reminiscent of the programme of 'broad bottom', inspired by the tory
Bolingbroke in the time of George II and briefly effected in 1744 by
Henry Pelham. With such a scheme partial views must be trimmed to fit
a single pattern, and far-sighted policies would meet with general support
because 'the reign of virtue precluded the necessity of ... Opposition'.

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86 His speech at an election meeting at Sydney, 30 June 1843, Australian,
1 July 1843. Roe (op. cit., p. 45) suggests that Macarthur stood
for Cumberland because he wanted to be a 'true leader of the people,
including Roman Catholics and moderate liberals'; but he had agreed
to stand before being involved with Therry, his Catholic candidate
in Camden.

87 Blaxland's name is at the head of the list of requisitionists to
Macarthur and Lawson (ibid., 9 Jan. 1843).

88 Archiblad S. Foord, His Majesty's Opposition 1714-1830, Oxford 1964,

89 Ibid., p. 150.
As in England a hundred years before, events in New South Wales made it seem wrong to encourage the rise of parties. It was a time of economic crisis, but more important, they were laying the foundations of a popular legislative system. For the time being the constitution was a delicate machine, and not a battle ground. Tolerance — what Macarthur called charity — and self-restraint were therefore vital. As Macarthur himself said,

he was anxious to see men of intelligence and experience, — of various shades of opinion in the Council, in order that by the discussion of conflicting opinions, the truth might in the end be elicited.90

During December Wentworth and Bland had offered themselves as allied candidates for Sydney, and Macarthur clearly hoped that these two, with himself and Lawson, would provide a rallying point for sober and high-minded patriots in the new council. Thus he made an effort to have Wentworth appear with himself and Lawson during their first canvass of Cumberland. Unfortunately Wentworth was not forthcoming.91

Parties pretending to 'broad bottom' must be not only popular, but also loyal to the interests of the sovereign. Macarthur thought it would be wise to avoid if possible any clear division in the new council between elected and nominated members, as the agents respectively of the people and the crown.

90 Macarthur's speech at the declaration of the poll for Cumberland, 6 July 1843, Australian, 10 July 1843. Compare the confidence of his teacher, Dr. Lindsay, in free discussion, which 'must eventually elicit and confirm the truth, on what ever side it may be found' (A Sermon on the Advances in Knowledge, Freedom and Morals, from the Reformation to the Present Times, London 1818, p. 33).

91 Macarthur's speech at an election meeting at Parramatta, 11 Jan. 1843, SMH, 12 Jan. 1843. See also his letter to the editors, 13 Jan. 1843, Ibid., 16 Jan. 1843. Powell (op. cit., p.27) argues that there was a secret compact between Macarthur and Wentworth from the beginning of the campaign, but the evidence he cites is completely silent on this point.
This danger would be most likely to be lessened [he argued], if not altogether avoided, by the election of a few Government officers of known moderation, experience, and ability. The Government would then feel that there was a sufficient degree of confidence between them and the colonists to enable them to select more independent men as Nominees of the Crown than they might otherwise. In this way, the separative properties of the different component parts, would be weakened, and the Council would become blended and amalgamated together as one body, exercising its conjoint energies for the general good.92

These ideas seem eccentric compared with recent trends at Westminster, which had led to a profound distrust of crown placemen in politics. The Reform Act of 1832 and the bed-chamber crisis of 1839 both partly reflected this feeling.93 But such trends could have little effect on Macarthur. He was open to the sort of new ideas which looked forward to social harmony, but for him even these must concentrate on the refinement of motives rather than aims, and must therefore be tightly interwoven with present circumstance. In 1843 he put his faith absolutely in the 'known moderation, experience, and ability' of 'a few Government officers', and the public spirit of Gipps himself.

The distrust and hints of corruption which might disturb the British parliament could have nothing whatever to do with the good work to be done here.

92 Footnote to Macarthur's speech, The Speeches of James Macarthur and Roger Therry, Esquires, with a report of the proceedings at a meeting of the electors of Camden, held at Camden, February 6, 1843, Sydney 1843, pp. 25-6. The footnote was composed within a fortnight of the meeting (Macarthur's speech at the declaration of the poll for Cumberland, 6 July 1843, Australian, 10 July 1843).

But Macarthur's aims were also out of place in New South Wales. He did not reckon on the strength of local prejudice. Colonial whiggery, in particular, took the ancient and vigorous form lately defined by Newman, the future cardinal:

opposition for its own sake, striving against the truth, because it happens to be commanded us; as if wisdom were less wise because it is powerful. 94

Governor Gipps was not the truth incarnate, but he did represent a pervasive authority, and this local opposition was its counterpart. In England the prevailing distrust of crown patronage was something more modern: it was the result of an inchoate feeling that party conflict was proper, but that the sovereign should be above it. In New South Wales, it was still of the old-fashioned type. That is to say, the authority of the crown was still pitted against that of the people, the people's cause being managed by an amorphous set of gentlemen, aspiring politicians whose resentment was determined, though slightly confused.

In his attempts to soften this encounter Macarthur was aiming at a system where the executive would be totally identified with local interests. But this was not a very realistic ambition as long as the governor remained active in politics, and was clearly the agent of Whitehall. Moreover, the times were hard, the governor had already been called upon to make several unpopular decisions, and Gipps's manner tended to encourage bitterness.

In his effort to see some officials elected Macarthur looked to his own home county of Camden. Camden had been given one member and

Macarthur had some right to say who that member should be, since he himself, 'the hereditary father of his county', was standing elsewhere. The county was roughly divided into two. The western part, containing the villages of Camden, Picton and Berrima, was inhabited mainly by large well-established landowners, with some small farming around Camden village. The eastern part, the district of Illawarra, was dominated by a class of small and middling farmers, with interests of their own. This area was also unusual in having a good number of Catholics qualified to vote.

At about the time that Macarthur was first considered for Cumberland, some of the electors of Illawarra approached the acting attorney-general, Roger Therry, the colony's leading Catholic layman, and asked him to stand as their representative. Therry was at first unwilling, realising, no doubt, that whatever his strength in the east he would still have the more populous part of the county to contend with. But at the end of December Macarthur called on him to say that he had heard of the suggestion that he should stand, and that if he did so he would have the whole support of the Macarthur family interest. This gave Therry a good foothold in both east and west. On 2 January he made up his mind to come forward.

95 SMH, 3 Feb. 1843.
97 Therry himself had property at Illawarra, at Keira Vale, near Wollongong.
98 Therry's speech at an election meeting at Wollongong, 14 Jan. 1843, SMH, 17 Jan. 1843; Macarthur's speech at an election meeting at Camden, 6 Feb. 1843, Australian, 8 Feb. 1843.
Macarthur's decision to support Therry was, and is, the most controversial aspect of the 1843 elections. It was not a sudden decision. He and his brother William had already spoken to several possible candidates, among them Charles Cowper, a young grazier who lived near Camden, and whom they thought a promising man. But for the time being no-one would move. It was not until the last week of December that James Macarthur, then in Sydney, heard that Therry had been asked to stand. He had already spoken of the attorney-general as one of those officials who might expect to be elected. He now wrote to William describing him as a 'very fit' candidate, and, he said, 'the opportunity would be a good one to show the Roman Catholics that moderate Protestants had no desire to exclude them from the representation.'

On 28 December William Macarthur had another talk with Charles Cowper. According to his own account he, William, asked Cowper whether he was still unwilling to come forward, and if so whether he would join in support for Therry. Cowper's reply was vague. He told William that, as for the first question,

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101 Statement by W. Macarthur, 6 Feb. 1843, read at an election meeting at Camden on that day, ibid., 8 Feb. 1843.
to succeed would require much exertion on the part of himself
and his friends - that he did not feel himself in a position to
make that exertion - [and] that he had no expectation that others
would make the necessary stir in his favour.

With regard to Therry, Cowper said,

in the event of his being so influential at Illawarra as you
suppose, I think he would be (or perhaps he would be) the best
man to support; but I should like to consider the matter over;
and I will give you an answer in a day or two.102

Cowper's biographer says that at this stage Cowper was making an
indirect appeal to the Macarthurs for support.103 In other words, he
wanted an explicit request that he should put himself forward before he
did so. The alternative would have seemed too much like asking permission,
and might have seriously jeopardised his independence in council. His
later career shows how careful Cowper was with such details.

Macarthur, no doubt, was too keenly aware of his own good intentions
to see the difficulty of Cowper's position. His family thought of
themselves not as partial leaders, but as the patrons and arbiters of
the county, aiming at the representation of all interests. This was a
constant aspect of Macarthur's career. He was often too proud to run with
the hares, as a politician committed to a party view. But, in spite of

102 Ibid. This account, given some time after the event, is confirmed
by a letter written by William to James within hours of the
conversation, and before there was any controversy about it
(ML A2934). In this letter William added that Cowper thought of
supporting Therry in the hope of 'obtaining the influence of his
[Therry's] friends ... for some other place'. Cowper himself
alleged that during this conversation William made him an explicit
offer of support at Camden, leaving him time to accept (his speech
at an election meeting at Berrima, 21 June 1843, SMH, 1 July 1843),
but this was clearly untrue, and in fact contradicts another speech

103 Powell, op. cit., p. 29. This is as far as Powell's argument goes.
his pride, he did not always have the authority to hunt with the hounds, uniting a host of sectional interests. On the one hand his family so much dominated the western part of the electorate that their neighbours naturally waited for them to take the lead. They themselves, on the other hand, wanted to be detached, and looked out for a man who already had some public support. Thus the electors of western Camden, and Cowper, waited for a sign from Camden Park, while Camden Park waited for someone to claim their patronage. Meanwhile the electors of Illawarra made their own arrangements with Therry.

Immediately after his conversation with Cowper, William Macarthur reported to his brother. He wrote that Cowper would probably not come forward, but that he, Cowper, did not believe that Therry would be acceptable to the county as a whole; 'and [he] agrees with me that it wd. be premature to commit yourself by any pledge to him as yet'.\(^{104}\) However, three days after writing this letter William heard from James that the die was cast, that he had given Therry his word, and that he was only waiting for an answer.

It was never explained why Macarthur decided to go ahead in spite of his brother's advice. But it was soon clear that, in his 'extreme eagerness' for good causes, he had made a bad blunder.\(^{105}\) Therry was by no means acceptable to many of the pastoralists in western Camden. He was obnoxious to them as a Catholic, as a former protegé of Sir Richard

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\(^{104}\) W. Macarthur to James Macarthur, 28 Dec. 1843, ML A2934.
\(^{105}\) G. Cox to W. Macarthur, 1 July 1843, ML A2936.
Bourke, and as an official whose political independence must be doubtful. 106

Within a few days of Macarthur's decision a reaction had set in among some of the leading men of the district, led by Major Henry Antill of Jarvisfield, near Picton. As a contemporary songster put it:

Uprose, at a word, like an Anthill that's stirr'd,
The Cowpastures, and all county Camden!107

During the first week of January canvassing began for Cowper,108 but he himself made no announcement to the press until 11th.109

It was apparently Cowper's hope at this stage that Macarthur would realise his mistake and withdraw support from Therry. Before issuing his statement to the newspapers he, Cowper, had joined in a supplementary requisition pledging support for Macarthur in Cumberland.110 As late as 3 February the Herald, which was partly owned and edited by Cowper's close friend, Charles Kemp, carried a leader supporting Macarthur's campaign and, in apologetic terms, denying that 'Mr. Cowper [would] ever have dreamt of seeking' the Camden seat, 'had not his friend abandoned it'.

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106 This is to be gathered from Cowper's election meetings at Wollongong, 14 Jan., Picton, 24 Jan., Berrima, 30 Jan. and 8 May, and Dapto, 23 Mar. 1843, SMH, 20, 28 Jan., 7 Feb., 28 Mar., 15 May 1843. See also the diary of Thomas Callaghan, 20 June 1843. Fears about Therry's independence seem to have been confirmed by his voting in council because in every division where the government members voted as a body he voted with them (see the division lists 1843, 1844, V&P).

107 'Snug little Camden', a ballad, SMH, 13 Feb. 1843. For the details of this event, see 'A member of Mr. Therry's committee' to the editor, Australian, 15 Feb. 1843.

108 Macarthur's speech at an election meeting at Camden, 6 Feb. 1843, ibid., 8 Feb. 1843.

109 SMH, 14 Jan. 1843.

110 Australian, 13 Jan. 1843. This requisition is undated, but it must have been signed before Cowper went to Wollongong, where he issued his press announcement on 11th.
But now Macarthur was committed to Therry. He afterwards explained
that, since Cowper had questioned the need for perfect religious equality,
it had become his own clear duty to see that Therry won. 111 It probably
would have meant little to him had he known that some leading Catholics
rather resented his patronage and Therry's 'subserviency'. 112 Believing
at this stage that all the elections would be held at the same time,
Macarthur decided that on polling day he would keep, 'at his own cost,
relays of horses on the road, to establish a communication between
Cumberland and Camden, in order to give Mr. Therry more effectual
success'. 113

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Macarthur's own campaign began well, and he spent the first weeks
of 1843 in a glare of splendid popularity. For the time being no-one
else came forward for the Cumberland seat. He and Lawson met with little
open opposition and, as the Herald said, 'the only objection raised
against Mr. Macarthur has been, his unfortunate coalition with Mr
Therry'. 114 On 7 January a notice was issued from the headquarters he
shared with Lawson at Parramatta, announcing that they would meet their

111 His speech at the declaration of the poll for Cumberland, 6 July 1843,
ibid., 10 July 1843.
112 Chronicle, 14 Jan. 1843; diary of Thomas Callaghan, 12 Feb. 1843.
Callaghan thought Therry's subserviency was only in 'his manner'.
113 His speech at an election meeting at Parramatta, 27 June 1843,
Australian, 28 June 1843.
114 SMH, 17 Jan. 1843. Even the Australian disliked Macarthur's
connection with Therry (ibid., 20 Jan. 1843).
electors at seven places in the western part of the county during the next fortnight. Their progress through the district began at Parramatta on 11th, Macarthur being greeted there with 'loud and universal cheers'. At Windsor he quite satisfied those who 'were disposed at first to disagree with him'. The campaign then became a triumphal procession for them both. On the afternoon of 12th their carriages entered Richmond among 'a large and gay cavalcade', with 'about fifty gentlemen on horseback' and followed by

Carriages of well-dressed ladies, and vehicles of almost every description ... all animated it appeared, with the most anxious desire to shew how warm they could make their welcome to their respected candidates.

A 'brilliant and unanimous' meeting followed in the market place. There were later similar receptions at Penrith, Liverpool, Campbelltown and Narellan.

The point of beginning so early was no doubt to stake a firm claim to the electorate, and to discourage intruders. If so Macarthur and Lawson were not completely successful. Like Camden, the Cumberland electorate was divided into distinct parts. The western area, extending from Windsor to Campbelltown, consisted mainly of small-farming communities among large estates. This was also true of the north shore of Port

115 SMH, 10 Jan. 1843.
116 Australian, 13 Jan. 1843.
117 Ibid., 16 Jan. 1843. The success of the campaign is confirmed by the Herald (17 Jan. 1843), a more impartial source.
118 Australian, 16, 18 Jan. 1843.
Jackson. But the villages south of the harbour - Newtown, Balmain, Surry Hills and Botany - were more closely linked with Sydney, and were almost suburbs. What is more, the voters of this district made up more than a third of the total electorate. 119

It was mid-February before Macarthur and Lawson visited the eastern parts of Cumberland. Meanwhile a third candidate, George Robert Nichols, came forward for the county. Nichols, the son of a convict, had been educated in England and had practised as an attorney in Sydney since 1833. As a young man he had been an avid supporter of Wentworth and reform, but he had lately grown critical of the old cause. 120 He was a complex idealist, humane and slightly eccentric. 121 He now canvassed for himself and Macarthur, who, he said, 'had pledged himself to support the principle of equal laws for all men'. 122 They appeared together with Therry at Camden on 6 February, but there was never any mutual agreement because Macarthur made it clear that he was committed to Lawson. 123 The situation

119 In the final poll a total of 1,731 votes were cast in the electorate, including 655 (37.8%) in this area (ibid., 5 July 1843).
120 Nichols led the opposition to Wentworth during the debate in Sydney in 1842, about the need for incorporation (Sydney Herald, 31 May, 7 June 1842). For his life, see ADB V.
121 He was a strong opponent of capital punishment, and was also keenly interested in the welfare of the aborigines (see, for example his speeches in the legislative council, 29 Aug. 1849, 30 Sept. 1850, SMH, 30 Aug. 1849, 4 Oct. 1850).
122 Nichols's speech at an election meeting at Newtown, 8 Mar. 1843, Australian, 10 Mar. 1843.
123 Ibid. See also The Speeches of James Macarthur and Roger Therry, Esquires ..., p. 53. For some idea of the relationship between Nichols and Macarthur, see Macarthur to Nichols, 4 July 1843, and Nichols to Macarthur, 5 July 1843, Australian, 12 July 1843.
in Cumberland was further complicated a week later by the announcement of a fourth candidate, John Ryan Brenan, a junior police magistrate at Sydney who, like Nichols, put himself forward as an alternative to Lawson. Brenan's influence did not extend much beyond the city and north shore.

On 16 February Macarthur and Lawson began a tour of the remaining part of their electorate. They met with troublesome opposition at Balmain and Newtown, mainly from Brenan and his supporters. The meeting at Newtown was unusually violent, and in the end they had to suffer the humiliation of being formally rejected, by an audience which they themselves had called together.

By this time a profoundly important issue had emerged in the central electorates, although it may be that only the leading antagonists - Wentworth and Macarthur - clearly understood what was at stake. On the one hand, there was the idealistic scheme of 'broad bottom', a movement aiming at the co-operation of all interests for the general good. On the other, there was a deep-seated resentment of government officers as such, linked with sectarianism both economic and religious,

124 For his life, see ADB I. For his attitude to Macarthur and Lawson, see report of an election meeting at Kissing Point, 6 Mar. 1843, Australian, 8 Mar. 1843.
125 See the final voting figures, ibid., 5 July 1843.
126 For their itinerary, see SMH, 17, 22 Feb., 2 Mar. 1843. For the reports of meetings, see ibid., 17 Feb. (Balmain, 16 Feb.), 20 Feb. 1843 (Lane Cove, 18 Feb.), Australian, 8 Mar. (Kissing Point, 6 Mar.), and 10 Mar. 1843 (Newtown, 8 Mar.).
127 At this meeting a duel was arranged between Lawson and Brenan, at sunrise next morning, but both withdrew (ibid.).
128 See, for example, Macarthur's speech at the declaration of the poll for Cumberland, 6 July 1843, ibid., 10 July 1843. Compare the following account with Irving (op. cit., p. 284).
and with the idea that politics must be seen in terms of conflict and competition. It is safe to say that the mass of voters understood the second point much better than the first, which met the imagery of battle with tedious talk about compromise, harmony and peace.

At Sydney there were five candidates, the three foremost being Wentworth, Bland and O'Connell. Wentworth and Bland were in firm alliance. They had been associated in politics for many years, during a time of official tyranny, according to Wentworth, when 'no man could form an adequate conception of the danger which every man had in fighting the battles of the country'. Wentworth foresaw more battles in the new council, particularly over the civil list and the administration of squatting districts. Therefore, he said, they must have a good majority of anti-government members, and no 'doubtful men', 'lukewarm and half-and-half fellows', who would 'deliver the country, bound hand and foot, to the Governor and his minions.'

Wentworth described O'Connell as one such doubtful man, because he was a paid officer of the government. O'Connell himself said he was certainly 'not prepared to run a muck against all the measures which Government may propose'. He thought of the local administration as one engaged in working out 'a great principle in the science of civilization', a science which involved the careful patronage of various interests.

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129 His speech at an election meeting at Sydney, 13 June 1843, SMH, 14 June 1843.
130 His speech at an election meeting at Bathurst, 3 Apr. 1843, SMH, 11 Apr. 1843.
131 His speech at an election meeting at Sydney, 13 June 1843, ibid., 14 June 1843. See also the report in the Australian, same date.
O'Connell's 'lukewarm and half-and-half' attitude was confirmed by the
fact that his chief supporter was Roger Therry. This connection also
made O'Connell suspect on religious grounds. It was well known that he was
related to the great Daniel O'Connell, and it was rumoured that he was
secretly a Catholic himself. 132 Wentworth and Bland took no notice of
this rumour, but their supporters used it to advantage. 133

In Camden Therry was opposed on both essential points, as a govern-
ment officer and as a Catholic. In fact Cowper made some attempts to
link his own cause with that of Wentworth and the anti-government party,
'whose interests' he told his supporters, 'are identical with ours'. 134
The last days of the campaign were to show that this was an astute move.

The polarisation of issues wrecked Macarthur's patriotic scheme,
and it also strained the alliance between himself and Lawson. Macarthur
was definitely a 'science of civilization' and 'broad-bottom' man,
whereas Lawson's politics were narrow and immediate. The future of their
alliance depended on the evolving strategy of Wentworth, Lawson's old

132 Reports of meetings at Sydney, 9, 13 June 1843, ibid., 10, 14
June 1843. See also the diary of Thomas Callaghan, 20 June 1843.
Therry was himself a relation and friend of Daniel O'Connell
(his Reminiscences of Thirty Years' Residence in New South Wales
and Victoria, London 1863, p. 434).
133 SMH, 15, 16 June 1843.
134 His speech at an election meeting at Berrima, 8 May 1843, ibid.,
15 May 1843.
mentor and principal, who had already regained much of the influence he had enjoyed 10 years earlier. The new regime seems to have brought out all his political skill: he had quickly gathered the main flood of public opinion behind him, conjuring great forces out of nothing. Meanwhile Macarthur, in spite of recent triumphs, was left high and dry. Brenan, who was now opposed to both Macarthur and Lawson, made an effort about the beginning of May to link his own cause with Wentworth's, but it was soon clear that Wentworth had other ideas.  

At the end of May the polling days were announced, most of them being in the last part of June. The electors of Camden voted on Saturday 24 June. The results were published in Sydney on the following Monday, when it appeared that Therry had won the seat, with a margin of 10 out of a total of 282 votes cast. Most of his support came from Wollongong, but he also had a majority at the Macarthur's village of Camden.  

The next day, Tuesday 27th, was nomination day for Cumberland, polling day being 3 July. Meanwhile the unlikely rumour reached Sydney that Charles Cowper, having lost Camden, would stand for Cumberland instead. On the Tuesday morning this story was confirmed by the Herald, and some hours later Cowper appeared with his proposer and seconder

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135 At an election meeting at Windsor on 22 April, Brenan spoke of 'the interests of the squatters requiring additional laws for their protection' (Australian, 28 Apr. 1843). He was also at least partly responsible for organising a public meeting at Sydney on 8 May, to discuss the state of the colony, and for bringing in Wentworth as the main speaker (SMH, 9 May 1843).

136 Ibid., 30 May 1843.

137 See appendix 7, below.

138 Australian, 26 June 1843.
on the hustings at Parramatta. For Macarthur this day must have been full of bitterness and consternation. It was clear that Cowper's party had worked very quickly, and that they had already managed to spread throughout the electorate 'the disgust they felt at the conduct of Mr. James Macarthur in Camden'. Cowper's seconder was Richard Sadleir, who had been one of Macarthur's leading supporters, and who now informed the meeting that 'a great portion of the poor who had signed the requisition for Mr. Macarthur' had already moved to Cowper's camp.

Macarthur was suddenly surrounded by those who aimed at his defeat. Wentworth, lately elected for Sydney, was also on the platform, as Lawson's proposer, and it must have been clear that he had come to end the alliance. In his speech he suggested, ominously, that it was up to Macarthur to explain how far he had abandoned the exclusive and authoritarian ideas for which he was well known, in favour of Lawson's liberal principles. Macarthur was now in a position where precise explanation was useless. Forced onto the defensive, with an excited audience before him, his 'broad bottom' ideas became sheer sophisticated

139 SMH, 27 June 1843. For the impact of this 'disgust' at Windsor, see ibid., 5 July 1843. Two letters which together give a good account of the conscientious opposition Macarthur had to meet with are G. Cox to W. Macarthur, 1 July 1843, ML A2936, and C. Tompson to the editors, 10 July 1843, SMH, 18 July 1843.

140 Australian, 28 July 1843. Sadleir had proposed Macarthur's candidature at Liverpool on 14 January, and had even then expressed reservations about Therry (ibid., 16 Jan. 1843).

141 According to Macarthur, Wentworth came out against him because he, Wentworth, hoped to be elected speaker in the new council and feared Macarthur's opposition (Macarthur's speech at the declaration of the poll for Cumberland, 6 July 1843, ibid., 10 July 1843). On the question of Wentworth and the speakership, see Melbourne, op. cit., p. 290.
cant. He could only say that he was not a high tory as Wentworth had suggested:

he had always been and still was a moderate Conservative. And he defied Mr. Wentworth to state any fact that he could not explain, wherein he could prove contrarily ... He had been accused of inconsistency. But in what was he inconsistent?

He had always wanted a constitution, he said, in which all parties would be equally represented, and had even tried to have Wentworth and Bland appointed to the old council. But all this only made his politics more tangled. The crowd managed some loud cheers, but the show of hands at the end of the day favoured Lawson and Nichols.

The rest of the week was full of panic. Next morning the papers carried Cowper's new requisition and answer, which showed his close involvement with William Bland.\(^{142}\) Macarthur, who stayed in town during the whole period, realised that Lawson's 'most powerful supporters at Sydney' were now actively against him.\(^{143}\) Even Lawson himself apparently intended 'not only to vote, but to use all his influence for Mr. Cowper.'\(^{144}\) On the Thursday Macarthur tried to communicate with Lawson in order to clarify the situation. But meanwhile he received a note from Wentworth which was meant to be the last blow to the alliance.

\(^{142}\) SMH, 28 June 1843. The list of signatures to the requisition was omitted, but the answer was addressed to Bland and the mayor of Sydney, as the most important signatories.

\(^{143}\) Macarthur to Lawson, 1 July 1843, Australian, 12 July 1843.

\(^{144}\) Macarthur to Wentworth, 29 June 1843, ibid., 1 July 1843. See also Emily Macarthur to James Macarthur, 29 June 1843, ML A4344. Lawson and Cowper were apparently allied to the extent of having a joint election committee (notice to 'the friends and supporters of Mr. Cowper and Mr. Lawson', signed 'Geo. Crawley, Hon. Sec.', SMH, 5 July 1843).
Wentworth had apparently been going through the reports of Macarthur's election speeches, and had found one which seemed to him to imply that, as he said, 'you would not give your vote to Mr, Lawson'. Macarthur answered that such an interpretation was nonsense, as he had no vote in Cumberland. But this did not satisfy Wentworth, who was now, in his own opinion, free to work for Macarthur's defeat. 145

It was now a week since Therry's triumph, and a bare two days before the electors of Cumberland were to go to the polls. Macarthur made a last strenuous effort to save himself. He seems to have thought that he was mainly threatened in the Sydney district, the centre of Wentworth's power. He therefore called two meetings, at Sydney and at Woolloomooloo, in order to make a final appeal to the good sense of the electorate. He again explained his link with Therry, and he also dealt, as far as possible, with a charge that he had used undue influence at Camden village to secure Therry's return. 146 At the same time he seems to have clung to the old alliance with Lawson. According to his own story, on polling day 'no less than twenty-five of his Parramatta friends' split their votes between Lawson and himself. 147

But a far more serious threat came from his other flank. Cowper had appealed to Anglican piety, and had called into action a type of

145 Wentworth to Macarthur, 29, 30 June 1843, Macarthur to Wentworth, 29, 30 June 1843, Australian, 1 July 1843.

146 Ibid., 1, 3 July 1843. The Australian Dictionary of Biography (II, p. 152) assumes that he did use such influence, but there is no evidence for it. See appendix 7, below.

147 His speech at the declaration of the poll for Cumberland, 6 July 1843, Australian, 10 July 1843.
sectarian feeling which was normally concealed and which Macarthur had no doubt underestimated. In March Dr. Polding had landed in Sydney as the colony's first Catholic archbishop, a title overshadowing that of the Anglican Bishop Broughton. This had caused a considerable stir. Therry's election in Camden was therefore seen by some as another step in a sudden attempt at papal domination, such as every Protestant was bound to guard against. 148 Apparently 'many of the simple voters, some of them new to the colony', even believed that Macarthur himself was a Catholic. 149 The strength of sectarian feeling is perhaps indicated by the fact that on election day, Monday 3 July, Cowper, a man quite new to politics, received 30 per cent of the votes, and easily topped the poll.

The support for Cowper varied a good deal throughout the electorate. In Parramatta, the headquarters of the Macarthur family, he polled less than 10 per cent and, other things being equal, old connections in that district would have been enough to ensure Macarthur's election as overall runner up. But Parramatta was also the home town of the Lawson family. This fact, plus strong support in Penrith, gave Lawson a margin of 11 votes over Macarthur, who thus came in

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148 Powell, op. cit., p. 38. See also Cowper's speech at an election dinner at Wollongong, 13 March 1843, SMH, 28 March 1843.

149 Mrs. Macarthur to Edw. Macarthur, 15 - 20 August 1843, ML A2907.
third. \textsuperscript{150}

The declaration of the poll for the county took place at Parramatta on 6 July. Macarthur spoke at length, driven by a type of nervous anger which was unusual in him and which might have been more characteristic of his father. \textsuperscript{151} But his speech was a very powerful one, with better imagery and fewer platitudes than usual. \textsuperscript{152} He made a special point of denouncing the Anglican clergy who, he said, had worked actively for his defeat:

when the day for the contest for the County arrived, when the dogs of war were let slip, and all was strife and contention, who were to be seen foremost inciting and cheering on their chosen battalions of angry and deluded voters to the charge? who but the black band that thronged the Hustings, whose duty should rather have been to have set an example of quiet and peace.

He warned his listeners that the cause of treachery and selfishness could never have any permanence. 'He did not fear to throw himself on

\textsuperscript{150} Ibid., 5 July 1843 (These were provisional figures but they were no doubt very close to the final count):

\begin{tabular}{|c|c|c|c|}
\hline
 & Sydney & St Leonards & 'P'matta & Campbellt'n \\
\hline
Cowper & 215(33\%) & 50(39\%) & 35(10\%) & 53(3\%) \\
Lawson & 103(16\%) & 12(9\%) & 148(41\%) & 9(5\%) \\
Macarthur & 125(19\%) & 23(18\%) & 122(34\%) & 66(38\%) \\
Nichols & 144(22\%) & 26(20\%) & 39(11\%) & 34(20\%) \\
Brenan & 68(10\%) & 16(13\%) & 14(4\%) & 11(6\%) \\
\hline
Liverpool & Windsor & Penrith & Total & \\
18(27\%) & 72(33\%) & 60(46\%) & 503(29\%) \\
10(15\%) & 42(19\%) & 57(43\%) & 381(22\%) \\
18(27\%) & 12(6\%) & 5(4\%) & 371(21\%) \\
18(27\%) & 69(32\%) & 9(7\%) & 339(20\%) \\
3(5\%) & 24(11\%) & 1(1\%) & 137(8\%) \\
\hline
\end{tabular}

Final totals were Cowper 504 (30\%), Lawson 383 (22\%), Macarthur 372 (22\%), Nichols 334 (19\%) and Brenan 134 (8\%) (ibid., 10 July 1843). For the situation in Penrith, see 'Nepean' to the editors, 28 June 1843, \textit{SMH}, 28 June 1843; and ibid., 4 July 1843.

\textsuperscript{151} Even three weeks later his mother expressed a hope that he would soon 'quiet himself down' (Mrs. Macarthur to Edw. Macarthur, 30 July 1843, ML A2907).

\textsuperscript{152} It is possible that the Australian's report of his speech was corrected by Macarthur, as it was not published for several days after the event.
the good sense of the people; [for] the battle of Conservatism and true Constitutional principles was yet to be fought'. He explained those principles, contrasting them with the shabby slogans of the opposition, and finished with some scornful remarks about 'the deep and well planned plot which had been played off against him'. Its authors he now left 'to their inward thoughts'.

There were many faithful Macarthurites in the crowd, and as the candidates stepped from the hustings the shouts of these topped all others.

A large party of Mr. Macarthur's friends took the horses out of his carriage, and dragged him triumphantly through the town, and thus ended the declaration of the Poll.153

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The rest of this chapter is devoted to the most important of Macarthur's political activities during the lifetime of the first elected council, 1843 to 1848. In these years the Australian was his voice in the wilderness, but since the wilderness was remote - either Camden or Argyle - it was impossible for him to control the paper's editorial policy in detail, and he did not try to do so.154

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153 Australian, 10 July 1843. For a less polished, but occasionally more detailed, account, see SMH, 7 July 1843.

154 For example, Macarthur agreed with some aspects of the local government system set up by the imperial act of 1842, while the Australian argued strongly against it, continuing to do so even after Macarthur had expressed his disappointment at the line the paper had taken (Australian, 2, 27 July, 14 Aug. 1844; Macarthur to Statham & Forster, 9 Aug. 1844, and Statham & Forster to Macarthur, 13 Aug. 1844, ML A2927). See also Australian, 10 June 1845.
During the late 1830s the Australian had been owned and officially edited by G.R. Nichols. But from about October 1839 the real editor was W.M. Hesketh, who, in July 1841, bought the whole concern in partnership with its printer George Moss. The purchase was apparently financed by Macarthur, but the details are obscure. It was certainly during the second half of 1841 that the paper began to show interest in Macarthur as a public figure, and at least by December it seems to have been common knowledge that there was some financial connection.

By early 1843, at the latest, Macarthur held a mortgage on the paper to the extent of £1,500. Its columns had already been of some use to him politically, but by the middle of the year he was preparing to foreclose. He was only prevented from doing so by the interference of a young lawyer, Joseph Compton Pott, who had lately arrived from England with letters of introduction from Emily's friends. Pott wanted to try to rescue the paper, so Macarthur lent him enough money to buy Moss's share, and Hesketh's was taken over by trustees. Pott then became manager of the office. This arrangement was effective from the week after the Cumberland election, but it had been decided on beforehand.

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155 For the change in ownership, compare Australian, 10 and 13 July 1841. For Hesketh's career as editor, see ibid., 17 May 1843.
156 Ibid., 2 Sept. 1841.
158 Macarthur to Charles Pott, 18 Mar. 1844, ML A2927.
159 Australian, 4, 13 Jan., 22 Feb., 5 Apr. 1842, 13 Jan., 20 Feb., 30 June 1843, etc.
160 Macarthur to Charles Pott, 18 Mar. 1844, ML A2927.
161 J.C. Pott to Macarthur, 28 June 1843, ibid. The transfer of ownership, between 10-12 July 1843 (see Australian of those dates), took effect exactly 2 years after the purchase by Hesketh and Moss, which suggests that this was also the term of Macarthur's mortgage.
It soon became clear that Pott's honesty and finances were both suspect, and in September Macarthur persuaded him to leave the country. The management was then taken over by E.H. Statham, a friend of the Macarthur family. From 1 January 1844 Statham and one Thomas Forster, who had replaced Moss as printer, were the joint proprietors, but they were completely dependent on Macarthur's backing.

The next few months were relatively prosperous. On 1 March the paper changed from a thrice-weekly to a daily, and soon afterwards adopted a new type face. The proprietors then began to publish a broad-sheet with commercial news, as a weekly supplement. But apparently there was no room in the colony for two dailies, and the Herald was so well established as the paper of the educated and conservative classes that the Australian made slow progress. During 1844 its circulation crept up from about 750 to about 1,000, but such figures fell far short of the Herald's secure 3,000. On 1 February 1845 it went back to being a

163 The partnership lasted until Feb. 1847, when Statham retired (Australian, 25, 27 Feb. 1847).
164 Ibid., 1, 7 Mar. 1844.
165 Ibid., 1 Apr. 1844.
166 On 1 Feb. 1845 the paper announced that its subscription had increased by 33% since 1 Mar. 1844, and in a letter dated 30 Dec. 1844 (ML A2927) Statham and Forster informed Macarthur that new subscriptions during the whole of 1844 totalled 244.
167 In 1843 the Herald's circulation was more than 3,000 (ibid., 2 Jan. 1843), and by the end of 1853 it was nearly 6,000 (ibid., 2 Jan. 1854). See also A Century of Journalism: The Sydney Morning Herald, and its Record of Australian life 1831-1931, Sydney 1931, p. 717.
thrice-weekly. At length new economic troubles in the colony, beginning late in 1847, forced it to cut publication first to twice, and finally to once a week.\(^{168}\) No issues appeared after 28 September 1848, and the establishment was broken up and sold early in 1850.\(^{169}\) During its last year of publication the paper seems to have been partly supported by the great entrepreneur Benjamin Boyd, but Macarthur was always the chief creditor.\(^{170}\)

On 14 August 1843, following the takeover by Macarthur and Pott, the paper published a statement of the political line it meant to follow. It seems likely that this was written by Macarthur, and it certainly must have been approved by him.\(^{171}\) It explained that in general the paper would support

the principles of true Conservatism, or in other words those of the Peel and Stanley Administration, so far as they are applicable in this Colony.

This, according to the notice, meant the advocacy of 'equal laws and equal rights to all', particularly in religious matters. It meant a concentration on the needs of agriculture, as the country's main source

\(^{168}\) The twice-weekly began on 20 Aug. 1847, and the weekly on 1 Jan. 1848.
\(^{169}\) Forster to Macarthur, 12 Apr. 1850, ML A2927.
\(^{170}\) Boyd seems to have made his first financial contribution to the paper in October 1847 (Australian, 29 Oct., 2 Nov. 1847), and afterwards its columns were largely devoted to his interests. But see Forster to Macarthur, 21 Mar. 1848 ('It will be for you to dictate the terms upon which I should sell'), and 2 Aug. 1849, ML A2927.
\(^{171}\) At this stage the paper was still edited by Hesketh, so that new guidelines must have come from either Macarthur or Pott, and Pott scarcely had the necessary authority.
of food and employment, but it also meant that the general good would be kept strictly in view. In fiscal matters the paper would argue that public revenue should be derived as far as possible from import duties, but these must be adjusted so as not to strain the economic fabric of society, nor 'to infringe upon the just rights of any class'. In other words the state was to find a balance between all established interests, social, religious and economic. Except for the idea of perfect religious equality, these were very roughly the principles of Sir Robert Peel's administration, then in power. In both cases there was a concentration on the corporate unity of the state, and the harmonising of various bodies of opinion.

The editorial policy was generally in line with Macarthur's 'true Constitutional principles', which he had mentioned at the declaration of the poll for Cumberland. He thought of these as following directly from the social habits and 'the good sense of the people'. They were founded on kindliness in all senses of the word, on compromise and self-restraint, and so on 'that first ingredient of Christianity, perfect charity ... the spirit which would do unto others as it would they should do unto it'. He believed that this was the true basis of 'the happy and

172 Macarthur was always strongly opposed to the income tax as a source of revenue (see, for example, his speech in council, 27 July 1854, SMH, 28 July 1854).
174 Macarthur's speech at the declaration of the poll for Cumberland, 6 July 1843, Australian, 10 July 1843. See also his speech, [30 August 1853], in E.K. Silvester (ed.), The Speeches, in the Legislative Council of New South Wales, on the second reading of the Bill for framing a New Constitution for the Colony, Sydney 1853, p.143.
glorious constitution under which they lived', and that all acts of state should approximate to it. 175

The first intentions of the Australian were more or less vindicated. The leading articles sometimes show touches of Protestant bigotry, but in its consideration of state aid for schools the paper certainly insisted on impartiality, even to Jews. 176 It also approved of equal rights for masters and employees, arguing that both were entitled to combine in order to enforce legal demands, or to see that agreements were carried out. 177 Macarthur’s attitude to labour relations was roughly the same. For example, he had been responsible for a clause in the hired servants act, a local statute of 1840, which made masters and servants equally liable to imprisonment if they broke the contract of employment. 178

It was not so easy for the editor to concentrate on the needs of the agricultural class. In order to increase circulation it was also necessary to appeal to the city merchants, 179 but at least to begin with the paper gave a good deal of space to the farmers. During 1844 it argued against any thorough system of free trade, and local grain in particular it thought should be protected. 180 This was not exactly Macarthur’s

175 Macarthur’s speech at an election meeting, 14 Jan. 1843, ibid., 16 Jan. 1843.
176 Ibid., 28 Oct. 1845.
177 Ibid., 25 Aug. 1846.
178 Debate in council, 29 Sept. 1840, Chronicle, 1 Oct. 1840. See also Macarthur’s speech at an election meeting, 16 Jan. 1843, Australian, 18 Jan. 1843. This was the masters and servants act, 1840.
179 Statham & Forster to Macarthur, 1 Nov. 1844, ML A2927.
180 Australian, 2, 6 Apr. 1844, and see the numerous letters to the editor from ‘Robin Goodfellow’ about this time. For a discussion of the local corn law controversy, see Irving, op. cit., pp. 66-73.
opinion, because he wanted - if possible - 'a system of free intercourse with all the ports of the world'.\textsuperscript{181} As for grain duties, he thought that they were certainly not needed in a new country, where the farmers had not yet done all they could 'in turning the advantages of the soil to the best account'.\textsuperscript{182}

In 1846 the British conservatives, whose principles the \textit{Australian} had promised to follow, split in two over the repeal of the corn laws. Early in the same year the leading articles of the paper were entrusted to E.S. Hall, late of the \textit{Monitor}, and still a clear and energetic writer at 60 years of age.\textsuperscript{183} Without him the \textit{Australian} might have had some difficulty choosing between Peel and Stanley, who resigned as colonial secretary when Peel decided to lift all protective duties on the import of grain. Hall, who had been a disciple of William Cobbett in his youth, was sure that the decision was right and that landowners needed no

\textsuperscript{181} Macarthur's speech at an election meeting, 8 Mar. 1843, \textit{Australian}, 10 Mar. 1843.

\textsuperscript{182} Macarthur's speech in council 31 Aug. 1841, \textit{Sydney Herald}, 1 Sept. 1841.

\textsuperscript{183} The paper published a long article by Hall on the claims of the squatters, 8-25 Mar. 1845, and his name appeared as editor 2 Apr. 1846 - 29 June 1847. Two other radicals of the same kind, James McEachern and W.A. Duncan, had already been considered as editors, (Statham to Macarthur, 13 Oct. 1843, and Macarthur to Statham & Forster, 9 Aug. 1844 (draft, afterwards altered), ML A2927). See Barrie Dystyk, 'The Fate of Colonial Conservatism on the Eve of Gold-Rush', \textit{JRAHS} 54, 1968, and his suggestion (p.339) that 'responsible conservatives and responsible radicals might be more akin in temper each to each than they were to other elements in the population'.
protection. Repeal would do them good, he wrote. They would now spend
more time at home, making the most of their land, and carrying out
their natural duties as masters and magistrates.\textsuperscript{184}

Macarthur, who always liked the idea of natural duty, no doubt
agreed. Perhaps he also felt some sympathy with Peel, who had wrecked
his career on this issue. Macarthur was certainly proud of comparing
his own defeat in 1843 with Peel's loss of Oxford University in 1829,
both campaigns having turned on the question of equal rights for
Catholics.\textsuperscript{185} Their politics and their personalities were very much
alike. As with Peel among the tories, Macarthur was a commanding intellect
in Sydney - 'the eagle of his tribe' - an austere politician with his
own unique horizons. Like Peel, he was 'pre-eminently a man of his own
counsels', who never saw the value of slogans and was shy of parties
founded on doctrine.\textsuperscript{186} Both found it hard to keep in touch with their
followers, who tended to accuse them of perversity, and even treachery.
Both believed that in the last resort civic freedom depended not on the
working out of theories but on the wise use of authority from day to day.

\textsuperscript{184} Australian, 5 Nov. 1846.
\textsuperscript{185} Macarthur's speech at the declaration of the poll for Cumberland,
6 July 1843, ibid., 10 July 1843. See also his admiring account
of the way Peel had arrived at his decision to repeal the corn laws:
'little by little, step by step, inch by inch, he was led on ... by
the honest convictions of his heart' (Macarthur's speech in council,
19 July 1855, SMH, 20 July 1855).
and on the maintenance of certain impartial rules. These were Macarthur's 'true Constitutional principles', which gave every man and every group of men a certain sphere of action, and which were to be mirrored in the complex integrity of national leaders. The ideal was not sheer pragmatism. For Macarthur at least it depended on a romantic and rather old-fashioned faith in honest, unselfish motives, as the sole and fundamental source of good in human affairs.

Macarthur usually called himself 'a moderate Conservative', adding on one occasion that 'his principles verged upon those of a Whig'.

This was supposed to explain not only his approach to particular questions, but also his attitude to the executive. It accounts for his slight divergencies from Peelite conservatism, whose chief aim was to strengthen the executive, irrespective of its party basis. The touch of Whig meant that Macarthur did not see his duty in such extreme terms. No doubt it was hard for him to do so when the authority of the government usually did not depend on local opinion. 'He would support the Government as far as he could do so honestly and conscientiously,' he said in 1843, 'but not one whit further'. This attitude was very clear during the political troubles of the mid-1840s, which centred on the squatters, their influence as landholders, and their relationship with the crown.

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188 Macarthur's speech at an election meeting, 6 Mar. 1843, Australian, 8 Mar. 1843.
190 Macarthur's speech at an election meeting, 6 Mar. 1843, Australian, 8 Mar. 1843.
At this time the area in which it was possible to own land freehold was still limited to the surveyed territory about 100 miles around Sydney, the 20 settled counties. Beyond the line stock might be kept by licence, on squatting runs, and under the supervision of crown commissioners. This arrangement was meant to be temporary, but by the middle of the decade it accounted for 55 per cent of the sheep in the colony, and 60 per cent of the cattle, not counting those at Port Phillip. For the year 1843-44 the number of licences issued was 618, each of which, in theory, covered a separate run. Every licence cost £10, no account being taken of the area used by the licensee.

The question of squatters' tenure had been discussed in the old legislative council in September 1842. Bishop Broughton had then proposed a scheme whereby squatters might become freeholders by the purchase of their runs on extended credit. Each run, he said, might be limited to a certain area, and the land should be offered at a certain minimum price per acre. Macarthur had pointed out that the principle was the same as that urged in 1831, as an alternative to the Ripon regulations. In both cases the purchaser was to be left with as much capital as possible for the improvement of his land. Unfortunately in 1842 a system of deferred payments would have infringed the Australian Land Sales Act, passed by parliament earlier that year.

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191 On the last day of 1844 the number of sheep within the limits was 1,714,285 and outside 2,029,447, and the number of cattle within was 372,847 and outside 589,712 (both excluding Port Phillip) (V&P 1845, p. 401).


193 Debate in council, 8, 9 Sept. 1842, SMH, 9, 10 Sept. 1842.
In autumn 1844, however, Gipps devised a scheme with the same advantages as the bishop's proposal. Every squatting run was to be limited to 20 square miles, and was to be cut up into sections measuring 320 acres each. The squatter was to purchase these sections one by one, at intervals of eight years, and at a minimum price of £1 per acre. His title to the whole run was to remain undisturbed as long as he continued to purchase. Gipps hoped that this system might become effective in July 1845, and meanwhile he sent an account of it to the secretary of state for approval. 194

On 2 April, when the scheme was not yet fully worked out, the governor issued a public notice announcing his intention to limit the size of squatting runs. 195 For the time being nothing more of his plan was published. This was a very serious blunder, because the settlers assumed that the whole aim was to force the squatters to take out more licences, as a means of increasing revenue. 196 As one historian says, the outcry was 'immediate, general and vociferous', because colonists of all sorts were concerned with the welfare of the squatters. The reform seemed particularly unwise because the depression had left many squatters still heavily in debt. 197

194 Gipps to Stanley, 16 Apr., 1, 17 May 1844, HRA i, XXIII pp. 545-9, 558-9, 602-4.
195 Government Gazette, 2 Apr. 1844.
196 This assumption was true as far as it went (see Gipps to C.J. La Trobe, 13 Apr. 1844, Gipps-La Trobe correspondence: 'the chief object of the recent notice was to make squatters pay for crown land in proportion to what they occupy. ')
197 Barrie Dyster, 'Support for the Squatters, 1844', JRAHS 51, 1965, pp. 41-3. See also the comments of George Allen, an intelligent and impartial witness, in his journal, 10, 11 Apr. 1844, ML uncat. MSS 477.
Several public meetings were held in protest, the most important being in Sydney on 9 April, when Wentworth spoke in strong terms about the tyranny of arbitrary taxation. Macarthur, who was in Argyle at the time, joined in the clamour. At a meeting at Goulburn on 24 April he said that the proposals were 'ill-timed, impolitic, and of most injurious tendency'. It would have been better, he added, if they had been like the bishop's scheme of 1842. At Camden village, a fortnight later, he spoke with more restraint, but he still insisted that the plan was 'arbitrary in the extreme'. He was mainly offended by the fact that the governor had not bothered to consult local opinion, or even the legislature, before making his intentions known.

The other parts of the governor's plan had now been finalised, and Gipps arranged for their publication on 11 May. This made some difference to public opinion. Taken altogether, the plan was very suitable for those squatters who wanted small and permanent estates. But the additions did nothing to reconcile the big squatters, such as Wentworth and Benjamin Boyd. For such men, investment solely in land would have been far too expensive and long-term. For the present, however, the

198 SMH, 10 Apr. 1844.
199 Ibid., 1 May 1844.
200 Report of a public meeting, 7 May 1844, Australian, 9 May 1844.
201 G.W. Rusden (History of Australia, Melbourne 1897, II pp.252-3) says that this was the general attitude. K. Buckley ('Gipps and the Graziers of New South Wales, 1841-1846', Historical Studies: Selected Articles first series, Melbourne 1967, passim) argues that the protests arose from a general dislike of the system of land administration. These interpretations complement that of Dyster, given above, which nevertheless seems the most convincing. See also Peter Burroughs, Britain and Australia 1831-1855, Oxford 1967, pp.307-12.
202 Australian, 13 May 1844.
203 Buckley, op. cit., pp. 90-4.
issue was confused, and it was some time before it was fully understood that the small squatter had nothing to complain about.

Council was in recess, but it met late in May. Cowper, who had been a leading protestor, immediately moved for an inquiry into 'crown land grievances', and a committee sat during the following weeks. Macarthur was interviewed on 3 July, and his answers show that he, like most moderate men, was now better satisfied. He thought that Gipps's plan was in general a good one, but, he said, the minimum price of £1 an acre was 'absurdly' high, and there were other details which seemed to make the purchase of crown land altogether too difficult.

Macarthur suggested that the crown lands should be managed so as to ensure a true balance between all the authorities. He had argued earlier that the governor should not have the power to draw up land regulations on his own initiative. He explained to the select committee that 'The imperial and local legislatures should lay down certain general rules, on which the Executive should act'. In day to day matters the governor should be responsible, but the general rules should be founded on expert opinion and careful public debate.

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204 Compare Australian, 14 May 1844 with E.S. Hall to the editor, ibid., 8 Mar. 1845, and Statham & Forster to Macarthur 27 Jan. 1846, ML A2927.
205 SMH, 31 May 1844; Powell, op. cit., pp. 87-8.
206 Macarthur's evidence before the select committee on crown land grievances, V&F 1844, II pp. 205, 209.
207 Ibid., pp. 205-6.
Discussion was not very careful at the time, and council itself was the centre of the storm. Gipps had never been a very popular ruler and since 1843 the opposition members, led by Wentworth, had gone 'from rudeness to rudeness'. The report of Cowper's committee shows how violent and personal the conflict had become. It was an uncompromising attack of official policy, and even inferred dishonesty on the part of the authorities here and at home. It was nevertheless approved by council by 13 votes to 7.

Macarthur now made a brief sally into public life. He immediately drew up an address to the governor, condemning the language of the report and especially those parts which accuse Glenelg, the late secretary of state, of 'disingenuousness', and which cast doubt on 'the honor and intentions' of Gipps himself. He managed to find 210 settlers willing to sign this document: a significant show of public opinion, though it hardly matched the strength of the squatters.

In January 1845 Therry resigned his seat for the county of Camden, following his appointment as a judge at Port Phillip. This gave Macarthur an even better chance of showing how much he disapproved of the behaviour of the opposition in council. After the strife of 1843 the leading men of west Camden hesitated about asking him to stand at the by-election. They first called on William, and only when he declined did they

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209 V&P 1844, II pp.121-38.
210 Debate of 17 Sept. 1844, SMH, 18 Sept. 1844.
211 HRAi, XXIV pp.116-7; SMH, 27, 30 Sept. 1844.
212 Ibid., 3 Dec. 1844.
suggest that his brother should come forward. James also refused.

He had no wish, he said,

to subject to the certainty of defeat and contumely in the Council Chamber, those plain, practical, and monarchical — not republican and oligarchical — principles which I have been taught to revere as the principles of English liberty.

He would not seek to represent the people until they disowned the selfish and disloyal policies which, he said, seemed to inform debates at present.

As it turned out, the people were not ready to comply: in February they elected John Wild, a close friend of Cowper's, as member for the county.

Macarthur made another brief assertion of principle in the winter of 1846, when the long reign of Governor Gipps came to an end. An address of farewell was got up by some of the people of Sydney, praising the governor's energy and wisdom, and a memorial was also planned. Instead he and small number of others drew up their own farewell address, in which they recorded their honest dissent from much of Gipps's policy, their respect for the governor himself, and their regret that he had been so violently abused.

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215 James Macarthur to Throsby, 27 Dec. 1844, ibid.
216 Ibid., 4 Mar. 1845. Wild contested the seat with Alick Osborne, of Illawarra, to whom Macarthur had publicly given his support (Macarthur to Osborne, 21 Feb. 1845, ibid., 25 Feb. 1845). See appendix 7, below.
217 Ibid., 2, 11 July 1846.
218 Macarthur to Rev. H.G. Gregory, 29 June 1846, ML A4342; Macarthur to J. Bowman, 2 July 1846, ML A4252; Mrs. Macarthur to Edw. Macarthur, 30 July 1846, ML A2907.
219 Australian, 14 July 1846.
The *Australian* backed up Macarthur during the period 1845 to 1847. The editor could be critical of the governor, but he also wrote at length against 'our bullying Land Squatocracy [sic]'. He once suggested that the day might come when 'the humbler classes of this community' might look to the executive, here and at home, 'as the aegis of their liberty', and as their sole defence against 'a selfish and overbearing Oligarchy'. Michael Roe has called the *Australian* 'a shadow of the *Herald* in this period, but he is wrong. Except for the *Weekly Register*, which ceased publication in December 1845, the *Australian* was the only paper to oppose the big squatters, and it argued with vigour.

Macarthur not only disliked the methods of the leading squatters; he also disapproved of their aims. He thought that they were entitled to secure tenure of whatever pasture they really needed, but that they should have no permanent right to the vast runs they now occupied. The government should see that the squatters were no more than pioneers in the more fertile parts of the territory. Others must come after them, he said, who would enrich the colony by the more thorough cultivation of its soil. For the time being New South Wales was best suited to grazing, but 'he denied, in the most emphatic manner, the assertion so

220 Ibid., 14 May 1844, 2 July 1846.
221 Ibid., 22 Feb. 1845.
222 Ibid., 3 Feb. 1845.
223 Roe, op. cit., p. 33.
224 Macarthur's evidence before the select committee on immigration (legislative council), *V&P* 1847, pp. 313-4, 315 (7 July 1847).
frequently made, that it could never be made an agricultural country!'.

He therefore disagreed with the home government's solution of the squatting question, as embodied in the Australian Lands Act, 1846, and a subsequent order-in-council. This was an almost total victory for the squatters, and was to have a crucial affect on the settlement of the inland. The order allowed for 14 year leases in the greater part of the squatting districts. The land was to be available for purchase at the termination of each lease, at a minimum cost of £1 an acre, but the tenant was to have right of pre-emption. The cost of each lease was to depend on the carrying capacity of the run.

Macarthur believed that this system would seriously hinder the purchase and improvement of freehold estates. It would perhaps raise up on the ruin of the proprietary class, another class, whose chief object will be, that their flocks and herds should roam over vast tracts of country, to the exclusion of all permanent improvement, with no other object than personal advantage and aggrandizement, careless of the injurious consequences to the community at large.

Once more he seems to have blamed Wakefieldism, partly on the assumption that Wakefield had argued for a high minimum price, which was in fact untrue.

225 Macarthur's speech at a public dinner, 2 July 1844, Australian, 4 July 1844.
227 Macarthur's evidence before the select committee on immigration (legislative council), V&P 1847, p. 315 (7 July 1847).
228 Therry to Macarthur, [25 Mar. 1862], ML A2930. This letter refers to Macarthur's idea 'that the democratic influence in Australia is traceable to the mischievous theories of Wakefield'. Compare his earlier belief that the squatting districts, without any settled 'proprietary class', would eventually become strongholds of democracy and republicanism (James Macarthur to W. Macarthur, 18 Sept. 1855, ML A2932). See also Therry, op. cit., p. 253.
But according to Macarthur's lights the arrangement certainly had that glib, facile and absolute character which pervaded all Wakefield's schemes. It was a mere deed of conveyance, he said, 'as if the question involved no interests but of the selfish and pecuniary kind'. Once again a solution had been imposed on the colony which took no account of its 'moral and social character', which largely ignored local opinion, and which was therefore not founded on 'the good sense of the people'.

229 Macarthur's evidence before the select committee on immigration (legislative council), V&EP 1847, p. 315.
Chapter 8

Loosening the Screws \textsuperscript{1} 1848-1853

During the term of the first elected council, from 1843 to 1848, some
distinct groups had emerged among the members. The six officers of the
executive - who were all nominees - were of course the clearest and most
permanent. They voted together on all matters touching imperial policy,
and the prerogative of the local government. Their leading men were
still the colonial secretary, Edward Deas Thomson, who was the governor's
chief spokesman, and the attorney-general, Hubert Plunkett. The six other
nominees, all private gentlemen, varied in their loyalty, though they
tended to favour the government. During the whole period there was
also an active squadron of opposition members, usually led by Wentworth,
and totalling 12 in its heyday.

The heyday of the opposition was Gipps's time, when the unpopularity
of the governor meant that even moderate members would join the out-and-
out party during crucial divisions. When feeling was most bitter, late
in 1844, and 25 members, or more, were turning up to debates, the government
could usually muster no more than 11 votes. But at length Gipps was
glad to retire from the field. In July 1846 he was succeeded by Sir
Charles FitzRoy, a much more tactful, urbane and unobtrusive ruler. At
the same time the original squatting question, so far the main bone of
contention, was replaced by issues which tended to divide the opposition,

\textsuperscript{1} Empire, 28 May 1851: 'The screws of society are loosened' (a reference
to the first rush for gold).
and to draw pressure away from what Wentworth called 'the treasury
benches'.

These new issues are the background for the events of 1848 to 1853,
the years covered by this chapter. They also illustrate the rise of a new
political party, or massing of opinion, partly liberal and partly radical,
which aimed at a thorough change in the old system of power. For the time
being the chief liberals were Charles Cowper and Robert Lowe. The only
radical to become very influential during these years was John Dunmore
Lang, who was a member of council during the first part of the period.

James Macarthur, who entered council once again in 1848, tended at
first to vote with the liberals. He agreed with them on several important
matters, and socially he had more in common with Cowper, who was his
neighbour and brother magistrate at Camden, than he had with most other
members. Among themselves the Macarths called Cowper 'candid Charley'
and heartily despised 'the littleness of his nature', but a superficial
friendliness was kept up.

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2 See appendix B, below.
3 In 1848 Macarthur acted as Cowper's second in a controverted with
Benjamin Boyd, refusing however to have any part in a duel (Australian,
17 Aug. 1848). In 1855 he was one of the main speakers at the wedding
of Cowper's son (A.W. Powell, 'The Political Career of Charles Cowper
Emily Macarthur's diary, 21 Apr., 16 May, 8 July 1851, ML A4351-2/6;
and Macarthur to his wife, [12 Nov. 1857], ML A4343.
4 Macarthur to his wife, [Dec.? 1851, 18 Aug. 1857], ibid. See also
Macarthur's comment on Cowper in 1856, 'He is a useful man, if he can
only be kept straight' (James Macarthur to W. Macarthur, 5 Jan. 1856,
ML A2932). For an excellent example of Macarthur's politeness in
the midst of political conflict, see his letter to Cowper on the case
of Plunkett's dismissal from the national schools board, Friday
[9 July 1858], NSWSA 4/7176.1.
Macarthur was less cordial with Wentworth, whom he did not see very much in society. In 1846 they were 'on civil terms of intercourse on those public matters in which we are brought together', but nothing more. 5 Nevertheless there was a more profound respect between them than either could muster for Cowper. Moreover, as the liberals became more popular and extreme there was a tendency for non-liberals of various kinds to unite against them, which meant that by 1853 Wentworth had become Macarthur's chief ally.

One important matter which divided opinion at the end of the first council followed directly from the settlement of the squatting question in 1846-47. It led to the co-operation of those members who thought (as Macarthur did) that the secretary of state had conceded too much to the squatters. It now appeared that the future of the great squatting leaseholds depended at least partly on the price at which land was to be made available to purchasers, and with the present minimum price fixed by law at £1 an acre the squatters were safe for years to come. 6 In this period Macarthur rarely lost an opportunity to denounce the 'absurdity' of such a figure. 7

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5 Macarthur to his wife, [1 Feb. 1846?], ML A4342. See also ibid., 3 Sept. 1846.
6 Peter Burroughs, Britain and Australia 1831-1855, Oxford 1967, pp. 325-7; W. Macarthur to W. Campbell, 19 Oct. 1847, ML A2933/B.
7 See, for example, the address presented by Macarthur and others to Gipps, 11 July 1846, SMH, 14 July 1846; and Macarthur's evidence before the select committee on immigration (legislative council), V&P 1847, pp. 313-5 (7 July 1847).
The liberals in council were equally persistent. During the three sessions 1846 to 1848 Lowe and a small group of supporters tried to secure the passage of resolutions condemning the high price. The other members of the group were Cowper, Richard Windeyer, Terence Murray, W.H. Suttor and John Lamb, the last a nominee. The party on the other side of the question consisted of Wentworth and three or four other elected members whose chief interest was squatting. Hannibal Macarthur, member for Parramatta, usually voted with them when he was present, which was not often. There were also two nominees who supported the high price, one being Henry Watson Parker, James Macarthur's brother-in-law, now a settler with freehold property. Government members usually stayed away from these debates, except for Thomson, who voted with the liberals.

Two other issues helped to define parties during this period. One was the question of the revival of transportation, which had been mooted by the colonial office in April 1846. The liberal and anti-transportation

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8 The most consistent members of this group were Wentworth, J.P. Robinson, J.F.L. Foster and Henry Dangar.
9 Parker's motives for voting this way are not clear. The other such nominee was J.B. Darvall, a lawyer with various financial interests.
10 W. Macarthur to W. Campbell, 19 Oct. 1847, ML A2933/B: 'No man can be more strongly opposed to this system [of the big squatting runs] than the colonial secretary'. The main divisions on this question occurred on 25 Sept. 1846, 21 June 1847, 28 Apr. and 12 May 1848 (V&P for those dates). See also Ruth Knight, Liberal Liberal, Melbourne 1966, pp. 176-7.
11 W.E. Gladstone to FitzRoy, 30 Apr. 1846, HRA i, XXV, pp. 34-7.
movement was led by Cowper, backed by Lamb, Murray and George Allen, a
nominee. In this issue Parker voted on the liberal side. Those in
favour of revival included Wentworth and several others, mainly squatters. 12
The transportation question is central to this chapter, and will be
dealt with more fully below.

The third point of division was the reform of elementary schools.
This adds another dimension to the idea of colonial liberalism. It was
government policy under both Gipps and FitzRoy to introduce the Irish
national system as soon as public opinion was ready for it, in order to
supplement the work of the denominational schools. During the 1840s
the matter was periodically raised in council, when it appeared that
Thomson, Plunkett and the leading squatters, including Wentworth, were
in favour of reform. 13 At first a certain number of the liberal members
stood in the way, but by 1847 opposition was limited to Cowper and a few
backbenchers, and as a result FitzRoy decided that he would be justified
in asking council to vote the necessary funds. 14 Macarthur seems to have
taken an active part in promoting this reform. 15

Most of the liberals in council, and particularly Cowper, Sutton,
Murray and William Bowman, were wealthy men living on freehold estates

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12 The divisions on this question occurred on 23 Oct. 1846 and 14 Sept.
1847 (V&P for those dates).

13 The main divisions on this question occurred on 10 Oct. 1844, 17
Dec. 1844 and 9 Oct. 1846 (V&P for those dates). See also Powell,
op. cit., pp. 69-75.

14 The vote was carried without a division on 26 Aug. 1847, SMH, 28
Aug. 1847. See Kelvin Grose, '1847: The Educational Compromise
of the Lord Bishop of Australia', Journal of Religious History 1,

15 G.W. Rusden, History of Australia, Melbourne 1897, II p. 372;
report of a meeting called to found a national school at Camâens,
27 Aug. 1849, SMH, 31 Aug. 1849; Macarthur's speech in parliament
23 Apr. 1858, Ibid., 24 Apr. 1858.
within the 20 counties. But the movement found its numbers and its
day-to-day organisers among the urban middle classes. The immigration
of the last 15 years had filled Sydney with a mass of middle-class people,
shopkeepers, artisans and teachers, who had no personal connection with
the ancient magnates of the colony, but did know something of liberal
and radical politics in England. These men were very different from the
old reformers of Sydney, Wentworth's followers of the 1820s and '30s,
whose outlook was comparatively parochial, personal and short-term. The
new reformers moved on a more abstract plane. They argued more broadly,
they were more confident of their own private virtue, and their ideals were
much more ambitious.¹⁶

In particular, as T.H. Irving says, by 1848

there was a tentative, growing awareness that reform of the land
system was the key to the establishment of middle class standards
in the colony's future development.¹⁷

William Macarthur agreed (in 1847) that 'Opinion is now settling in most
strongly against the squatters, or rather the system', meaning the
political system on which the power of the squatters depended.¹⁸ But
William did not think of this simply as a middle-class phenomenon and
the support given by his own family and other large freeholders confirms
his point of view.¹⁹ Irving's 'land system' in fact had two aspects, which

¹⁶ T.H. Irving, 'The Development of Liberal Politics in New South
Wales, 1843-1855', Ph.D thesis, University of Sydney 1967, pp.320-5,
367; Powell, op. cit., pp. 140-3.
¹⁷ Irving, op. cit., p.145.
¹⁸ W. Macarthur to W. Campbell, 19 Oct. 1847, NL A2933/B.
¹⁹ See, in particular, the report of a dinner for landowners at Goulburn,
25 July 1848, after the election of Nicholson as a member for
Argyle, when Wentworth was given three groans because of his
attitude to transportation, while Lowe and Cowper were toasted
(Goulburn Herald, 29 July, 5 Aug. 1848).
he does not distinguish very clearly: first the squatting system which William referred to, and secondly, a more secure and pervasive system, the social structure of the colony, which the Macarthur's still took for granted and which gave them their own power, as landowners and country gentlemen. In 1848 only the squatting system was threatened, and the controversy centred on the price of crown land. At first the transportation issue was of the same kind: the great squatting stations could only be run with cheap labour. But by 1850 this debate had been worked up into an attack on the 'land system' as a whole.

The debate on education reform shows that the liberals stood not only for new ideals but also for new political methods. The liberal members of council worked mainly as the champions of popular feeling, and most saw themselves, unconsciously at least, as delegates from the people rather than their trusted free agents. Here, especially, several of the leaders in council parted company with men like Macarthur. Some, such as Cowper, sincerely shared the antipathy for non-demoninational 'godless' schools, which was at that time an important element in liberal thinking. But in the final analysis most liberal policy, including ideas on education, came from below. Liberal leaders could even justify new ideals, as Cowper apparently did, with the apology, 'when I found my constituency did not agree with me, was it not time for me to change my opinions?'

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20 Compare Lang's speech in council ('they were assembled at present ... to ascertain whether the colonists generally would consent to have transportation resumed on any terms or under any form') with that of James Martin ('They were sent to that House not as the ambassadors - the delegates - the agents of their constituents; but as their representatives. It was not their duty to collect the opinions of the constituencies'), debate of 27 Sept. 1850, SMH, 3 Oct. 1850.

21 Quoted in Rusden, op. cit., II p. 467.
At first sight this was not very different from Macarthur's practice of working for almost any school system which seemed to meet 'the opinions and even the prejudices' of the people. \footnote{22} But unlike Cowper, Macarthur did not change his own views for political reasons. The prejudices of the majority were still prejudices to him, although he thought they should be treated with respect. \footnote{23} Macarthur's attitude was that of a man who was perfectly sure of his own social and moral position, a settled aristocrat, conscientious, benign and detached. He was the epitome of that class which the radicals and extreme liberals aimed to banish from the political life of the country.

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During the years 1843 to 1848 there were at least three occasions on which Macarthur might have become a member of council, had he wished to do so. First, within a few days of his defeat in 1843 Gipps offered him a nominated seat. \footnote{24} Macarthur immediately turned it down: since he had been barred from the council by popular vote, he did not think he could sit as a nominee 'either with advantage to the public, or satisfaction to myself.' \footnote{25} No doubt he might have been easily returned for Camden in 1845, and he probably might have gone in at a by-election in 1846 as member for the county of Argyle. \footnote{26}

\footnote{22} Macarthur to H. Oxley, 20 Oct. 1856, ML A2920.  
\footnote{23} Macarthur's speech in council 28 Sept. 1850, SMH, 3 Oct. 1850: 'The unthinking multitude might misunderstand him; he would not call them a mob or a rabble; God forbid that any honorable member should deliberately term them so'.  
\footnote{24} Gipps to Macarthur, 5 July 1843, Australian, 7 July 1843.  
\footnote{25} Macarthur to Gipps, 5 July 1843, ibid.  
\footnote{26} Some of the electors of Argyle tried to bring William Macarthur forward as a candidate at the by-election, so that presumably James could have offered himself had he wanted to do so (W. Macarthur to F.N. Rossi, 9 June 1846, ML A2933/B).
He stood back each time, apparently because he was waiting to enter council in a way which would make his views effective. His programme in 1843 had obviously been too ambitious, but the alternatives offered to him afterwards would have ruined his credit altogether. Macarthur was always ready to take a long-term view of politics. A mere nominated seat was unthinkable after his great campaign. An elective one in 1845-46, when most members were fully committed, would have given him no real influence in council. Either way the loss of dignity, besides being galling, would have done him permanent damage.  

The term of the first council expired in July 1848, and in the new general elections Macarthur tried to enter council as one of a squadron to be reckoned with. From circumstantial evidence it seems that he tried to gather about him a small number of gentlemen like himself, moderates who would act, not as a narrow pressure group, but as the council's conscience. In particular, they were to encourage the house to 'lay by all feelings of distrust or prejudice against either the local Executive or the home Government'. But they were to be independent of both government and opposition. They were to defend the authorities from unreasonable abuse out of regard for the general good. As Macarthur said in another context, no man could honestly 'separate the interest of the Government from the interests of the people', because it was impossible for 'a good Government to have interests alien to those of the community'.

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28 Macarthur's speech at the opening of the debates on the estimates, 1 Aug. 1849, *SMH*, 3 Aug. 1849. See also appendix 9, below.
29 E. Hamilton to Macarthur, 5 Apr. 1849, ML A2923.
30 Macarthur's evidence before the select committee on crown land grievances (legislative council), *V&P* 1844, II p. 205 (3 July 1844).
The main principles of the group seem to have been rather like Macarthur's broad-bottom ideas of 1843, but now, apparently, he hoped to comprehend no more than a fraction of the council, a mere five or six among a total of 36 members. His mother, writing to Edward Macarthur in the following year, explained that it was only necessary 'for some admixture of well informed country gentlemen to aid, and direct some of their measures'. 31 The group was informal and ill-defined, but it may be that Macarthur meant it to be so.

Macarthur made sure of his own election by standing for the county of Camden. The former member, John Wild, gave up the seat without a murmur and Macarthur was returned unopposed. There is no record of any election meetings, but the candidate did spend several days visiting the main villages in his constituency and talking to the more important electors. 32

Unfortunately Macarthur could not hope for support in the approaching council from his oldest ally, his cousin, because in June 1848 Hannibal Macarthur suddenly went bankrupt. His mansion at Parramatta was sold, together with the accumulated finery of 30 years, and he retired to his son-in-law's house near Braidwood. 33 William Macarthur was quickly brought forward as the new member for Parramatta, in time for the general elections. 34 However, the electors were not inclined to let the borough

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31 Mrs. Macarthur to Edw. Macarthur, 1 Aug. 1849, ML A2907.
32 SMH, 6 July 1848; Macarthur to his wife, 11, 15 July 1848 (written from Wollongong), ML A4342; Macarthur's speech at the nomination meeting at Berrima, 25 July 1848, SMH, 28 July 1848.
33 Mrs. Macarthur to Edw. Macarthur, 3 July, 2 Sept. 1848, ML A2907.
34 W. Macarthur to M. Anderson, 28 June 1848, ML A2936; SMH, 20 July 1848.
be 'a sort of heirloom in the family of the Macarthsurs', and after an angry contest the seat was won by George Oakes, a local man and later an important liberal.35 William then sought election as one of the five members for Port Phillip. He failed at first, but was brought in at a by-election in March 1849. He was therefore present at the opening of the new council in May.36

Edward Hamilton, whose home was in the upper Hunter valley, made up a third member of the Macarthurite cluster. Hamilton was a grandson of Sir Walter Farquhar, John Macarthur's old friend and patron, and was therefore almost a member of the Camden family.37 He sat as a nominee from 1843 to 1846 and was reappointed in 1848. He had been a loyal supporter of Sir George Gipps, particularly during 1844, when he had argued against the extreme claims of the big squatters.38 In March 1849 Macarthur wrote to Hamilton explaining in some detail his plans for the new council.39 Hamilton answered that he was ready to help if possible:

35 Oakes's speech at the nomination meeting at Parramatta, 25 July 1848, ibid., 26 July 1848. See also Macarthur to his wife, [28 July 1848], ML A4342, pp. 259-63: 'The great majority on Oakes's side was caused by drunkenness and by the cowardice of the more respectable portion of the inhabitants who would not vote at all'.

36 According to George Allen, William Macarthur 'though a perfect gentleman seldom took any part in the business of the council and was by no means punctual in his attendance' (Allen's diary, 2 Jan. 1854, ML uncat. MSS 477). However he sat on a large number of select committees.

37 C. Hamilton to W. Macarthur, 28 Sept. 1839, ML A2936; E. Hamilton to Emily Macarthur, 7 Aug. 1844, ML A4346. Hamilton was one of the very small number of men outside the Macarthur and King families who called James and William by their Christian names.

38 Hamilton to the editors, 15 Apr. 1844, SMH, 23 Apr. 1844; Hamilton to Macarthur, 5 Apr. 1849, ML A2923.

39 This letter, clearly a very important one, has been lost, but it was dated 29 Mar. 1849 (Hamilton to Macarthur, 1 May 1849, ibid.).
It will give me great pleasure to cooperate with you and William in the council. My intention is not to identify myself with the government at all, and my hope is to give them on most occasions an honest and cordial support, and if this can be done in concert with the moderate party of the representative members, all the better.

But he added that he would be bound by no general pledge to anyone, and that he must be allowed to follow 'the path which my own sense of honesty and expediency for the general weal points out'. \(^{40}\) Probably Macarthur expected no more. \(^{41}\)

In spite of Hamilton's reference to a 'party among the representative members' the only elected member of the group, apart from the Macarthurs, seems to have been Charles Nicholson. Nicholson had been a member for Port Phillip since 1843, and speaker of the council since 1846. He was well known for his work with the Sydney Mechanics Institute, and was one of the most cultivated men in the colony. \(^{42}\) He had supported the squatting party in Gipps's time, but like the liberals and Macarthur he had since come out against the high minimum price of crown land. \(^{43}\) In 1848 Macarthur took part in Nicholson's campaign for the county of Argyle, where he was returned unopposed. \(^{44}\) They had been on good terms for some time, and afterwards became very close friends. \(^{45}\)

\(^{40}\) Hamilton to Macarthur, 5 Apr. 1849, ML A2923.

\(^{41}\) See his comment on party alliances, in his speech in council, 18 August 1852, SMH, 19 August 1852.

\(^{42}\) D.I. McDonald, 'The Diffusion of Scientific and Other Useful Knowledge', JRAHS 54, 1968, pp. 183, 184, 188; ADB II, pp. 284-5.

\(^{43}\) Nicholson's speech at his nomination meeting at Goulburn, 22 July 1848, SMH, 26 July 1848.

\(^{44}\) Report of the nomination meeting, ibid.

\(^{45}\) Macarthur to his wife, [11 July 1846], ML A4342, pp. 67-70; Nicholson to Sir W. Macarthur, 24 June 1867, ML A2928, on James's death: 'I assure you I loved your brother. No one I believe beyond yourself, and his very nearest relations, had a more sincere affection for him than I had'.

We do not know what other members Macarthur consulted before the opening of the new council. He no doubt hoped for some co-operation from Parker, his brother-in-law, who was to continue in council as a nominee. But they were never very intimate, and they seem to have disagreed in their attitude to the squatters. Another possible member of the group was Thomas Icely, a Bathurst landowner and a nominee, whom Hamilton once described as 'the best gentleman of the old settlers ... a good citizen in the highest sense'.\(^46\) Icely's views on the squatting 'system' seem to have been the same as Macarthur's.\(^47\)

Central to Macarthur's ambitions was his belief that the key posts in the management of the council should be held by men who shared his idea of political propriety. In fact it was easy enough for him to control the choice of the two most important officers, the speaker and the chairman of committees of the whole house.

No-one was sure for some months after the general election whether Nicholson would be speaker again in the new council. The squatting party were not happy with him, presumably because of his liberal sympathies, and because he had begun to show a bias towards the government.\(^48\) They apparently believed that they could hope for more from Macarthur himself.

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46 Hamilton to E. Deas Thomson, 10 Mar. 1851, ML A1531-3.
47 The views of Parker and Icely on squatting are deduced from their votes in council, 25 Sept. 1846, 21 June 1847 and 12 May 1848 (see V&P for those dates, and for Icely see also ADB II, p.1). On 22 May 1849 Icely seconded Macarthur's notion in the debate on transportation, one of the council's first important debates (SMH, 23 May 1849).
48 Nicholson had originally been nominated in 1846, by Cowper and Murray (ibid., 20 May 1846); ibid., 2 Oct. 1851; Wentworth's speech in council, 14 Oct. 1851, ibid., 15 Oct. 1851.
It is not clear where this idea originated, but soon after the last polling day Wentworth promised to help with his influence if Macarthur should stand. After some hesitation Macarthur declined, mainly for financial reasons, the speaker being expected to live in town and entertain with some magnificence. Apparently Wentworth was anxious to narrow the gap between Macarthur and himself, because he had already come out in support of William Macarthur at Parramatta.

Macarthur also blocked an effort to make Hamilton speaker. Instead, he worked for Nicholson's re-election, in union with both the government and the bulk of the liberals. At the last moment the squatters proposed one of their own number, but they were easily defeated, by 18 votes to 7.

There was no trouble at first with the chairmanship of committees, because Parker, who had held the post since 1846, was re-elected without a division. But later in the year he was sick and out of action. Macarthur, after consultation with Thomson and Cowper, proposed as chairman John Foster, from Port Phillip. Wentworth and the squatters again came out against the nomination, but they could muster only 11 votes against Macarthur's 15.

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49 Macarthur to his wife, 24 Aug. 1848, ML A4342.
51 Requisition to W. Macarthur from the electors of Parramatta (including Wentworth, who had property there), 6 July 1848, SMH, 10 July 1848.
52 Macarthur to Hamilton, 7 May 1849, ML A2920.
53 Ibid.; Hamilton to Macarthur, 5 Apr. 1849, ML A2923; Macarthur's speech at the election of the speaker, 15 May 1849, SMH, 16 May 1849. Nicholson's proposer and seconder were Suttor and Bowman, both liberals. The only liberal to vote on the other side was Lowe.
55 Debate of 8 Aug. 1849, ibid., 9 Aug. 1849. Foster was afterwards colonial secretary of Victoria.
Such issues are revealing in so far as they prove that Macarthur did not reckon his permanent influence according to the number of votes he could demand. The chairman of committees had no vote while the house was in committee, except when it was equally divided, and with a similar exception, the speaker had no vote at any time. It seems that Macarthur was more concerned with the general procedure of the house than with the outcome of particular issues. In other words he wanted to see that those who controlled its day-to-day business did so according to the ideas of his group, giving the government all the support they could while maintaining the certain rights of the council. In Nicholson's case a 'leaning to Government' was only too obvious, and altogether it is not surprising that Macarthur's strategy should have been supported by the officials, and opposed by the squatters, who had no wish to strengthen the government's hand. The co-operation of the liberals can be explained by the fact that they were usually more anxious to counter the influence of the squatters than that of the government members.

Other divisions on similar matters during this session seem to confirm that the government, Macarthur's and liberals saw themselves as having a common long-term cause opposed to that of the squatting party. The only exception took place over the membership of the court for disputed returns. The liberals and the squatters both argued that only elective members should be appointed, because the government should have nothing to do, even indirectly, with electoral matters. In a rather thin

56 SMH, 2 Oct. 1851.
57 See the division on the status of committees of the whole house, 30 May, and the division in James Martin's case, 31 May 1849, (ibid., 31 May, 1 June 1849).
house Macarthur and his brother were the only elected members to vote with the officials and other nominees. 58

The debates on the estimates are also interesting from this point of view, in so far as they were a ritual in which members might form themselves into an automatic opposition. During 1849 the liberals and squatters invariably worked together in a time-honoured campaign to cut down official salaries and perquisites, slashing at items which ranged from six police magistrates to the daily ration of the governor's private secretary's horse. Here the Macarthurs followed no consistent line, voting sometimes for and sometimes against the government. 59

During the following session there were no outstanding occasions on which different groups can be seen manoeuvring for power, or affirming their influence, as groups, within the council itself. 60 The debates on the estimates during 1850 also went off with very few divisions at all. 61 It was the same during the first session of 1851, before the general election of that year. The squatters and some of the liberals combined only once to defend the privileges of the house against the executive, much as they had done in earlier days. One of the squatting party accused the governor of withholding information from council, but he was overruled by a combined vote of the nominees (except for Lamb). 61

58 Debate of 17 May 1849, ibid., 18 May 1849.
59 See the 28 divisions between 1 Aug. and 13 Sept. 1849, ibid., 2 Aug. - 14 Sept. 1849; appendix 9, below.
60 A possible exception was Alderman Thurlow's case, where the squatters voted alone, 30 July 1850, ibid., 1 Aug. 1850.
61 The SMH recorded only four divisions on the estimates, ibid., 19 July, 1, 8 Aug. 1850. See also Macarthur to his wife, [19 June 1850], ML A4342, written from the council chamber: 'The govr's financial minute is being read wh. gives promise of a short session. Jubilate!!'
the Macarthur's and several new unattached members. 62

One vital aspect of this council was the way in which members began to pay less attention to such small matters as these: to manoeuvres within the chamber, to assertions of privilege and to wrangles over finance. As Irving points out, 'The political conflicts of the early 'fifties differed from those of the 'forties by being much more concerned with perspectives of colonial development.' 63 Not only did the council begin to take a greater initiative in such matters. Members were now forced to look beyond their whitewashed pilasters, and to take account of radical and liberal pressure groups which were being organised outside, almost in spite of them. 64 The formation of these groups brought into existence a new class of political middle-men, each committed to a certain nostrum and a certain body of citizens, and thus able to initiate constant political action outside the chamber. The phenomenon was not absolutely new, but it was now far more important than before.

This had a significant effect on the business of the house. Among other things, members who had always been willing to work in harness with 'the people' now began to believe that 'the people' were taking the whip hand. Many feared the ending of a mutual respect which was fundamental to public life as they knew it. Before the council opened

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62 Debates of 16, 29 Apr. 1851, SMH, 17, 30 Apr. 1851. The estimates of this year were dealt with after the general election.
63 Irving, op. cit., p. 367.
64 For example, the Constitutional Association, founded in 1848, the Association for Preventing the Revival of Transportation, founded in 1850, and the Constitution Committee of 1853. See P. Loveday, "Democracy" in New South Wales: The Constitution Committee of 1853', JRAHS 42, 1956-7, pp. 194-6 and passim.
Hamilton made the point in one of his letters to Macarthur:

The expediency of political changes depends so much on the spirit in which they are introduced that my vote will in some measure depend on the temper, tone and strength of the radical party. 65

Later events show that Macarthur's attitude was the same.

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This point of view is very obvious in the controversy over the return to transportation. The home government proposal of 1846 had led to a council committee report later in the same year, which agreed that convicts should once more be sent to the colony. The committee was dominated by squatters, and chaired by Wentworth, who clearly hoped to ease the demand for labour in the country districts. A majority of the council later condemned the report, but early in 1848 they decided in favour of a new proposal from Whitehall. Earl Grey, who had succeeded Gladstone as secretary of state, suggested that, instead of convicts, the British government might send out 'exiles', prisoners who had served part of their term, and who were to live in the colony as free men on probation. In its verdict on this scheme the council insisted that equal numbers of free immigrants should be sent with the exiles. As it turned out Grey found he could not fulfil this condition, but he decided to send out the exiles notwithstanding. 66

Meanwhile local feeling had increased against receiving prisoners of any sort, and the question had been one of the main issues of the 1848

65 Hamilton to Macarthur, 5 Apr. 1849, ML A2923.
elections. In his nomination speech at Berrima Macarthur had 'expressed his determined opposition' to the system, including apparently the compromise which had just been approved by council. He went out of his way to compare 'the present [healthy] condition of the colony ... with the state it was in whilst transportation ... was in force'. As usual, there is no good reason to doubt Macarthur's sincerity: in this case, being unopposed on the hustings, he had no need to give his opinion at all. On the other hand, it is clear that he did not pledge himself to oppose transportation in any circumstances. He thought it wrong for a politician to commit himself on any mere hypothetical issue. He later explained that in a debate like this the feelings of the people should have 'due weight';

But the very importance of the question rendered it more imperative on him to decide upon it according to his own conviction and his own judgement.

He therefore referred to the matter as it stood at present, and he made no promise as to how he would act in any future crisis.

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67 Irving, op. cit., p. 291.
68 In 1850 Macarthur said that he would have opposed the 1848 offer had he been in council at the time, as being less than the colony was entitled to expect from Whitehall (his speech in council, 28 Sept. 1850, SMH, 3 Oct. 1850).
69 Ibid., 28 July 1848.
70 As early as 1846 William Macarthur had noticed a very great improvement in the habits of the working people through immigration, and since the ending of transportation (W. Macarthur [to K. von Hugel?], 10 Apr. 1846, ML A2933/A).
71 Macarthur's speech in council, 28 Sept. 1850, SMH, 3 Oct. 1850.
72 Macarthur's position on transportation had always been slightly ambiguous. In 1843, for example, he regretted that it had been stopped so suddenly, with no reference whatever to the needs of the colony, but he was optimistic in the long term about the advantages which would ensue (his speech at a public dinner, 19 July 1843, Australian, 21 July 1843).
Earl Grey's latest intentions were published in Sydney in February 1849, and the first shipload of exiles arrived five months later. As a result the early months of the year saw a number of public meetings, in the capital and throughout the country, at which the new transportation was denounced as an act of tyranny and a breach of faith. The gatherings in Sydney were organised by well known liberals, such as Cowper and Lowe, but some radicals, such as Lang, also took a leading part. So did G.R. Nichols, now a member of council, who called himself 'a party of his own'.

The new council met on 16 May, and members soon became involved in the controversy. On 22nd Cowper moved that no exiles meant for Port Phillip should be sent on from there, and that those landed in Sydney should be kept in the city under close supervision. He intended to follow this in a few days, as he said, with a motion rejecting Grey's proposal altogether. Macarthur made the main speech in answer, condemning the present debate on the grounds that it would split the council in such a way to prejudge the more important question. He would only commit himself at present so far as to say that he preferred Cowper's point of view to Wentworth's. Several other members apparently agreed with his logic, and in the end the motion was lost.

74 The ship was the Hashemy (SMH, 12 June 1849).
75 Ibid., 2, 7, 10, 15 Mar., 12, 19 June 1849; Nichols's speech at an election meeting, 21 Mar. 1849, ibid., 23 Mar. 1849.
76 Debate of 22 May 1849, ibid., 23 May 1849. The division was on Macarthur's movement of the previous question. Thomson's speech confirms the above interpretation of the result.
Cowper afterwards gave notice that on 29 May he would move for the appointment of a select committee, 'to prepare resolutions deprecating the revival of transportation to this colony upon any terms or conditions whatever'. However, on the day appointed he replaced this motion with another. The council was now to vote for the immediate rejection of Grey's proposal, to protest 'strongly ... against the adoption of any measure by which the Colony would be degraded into a Penal Settlement', and to ask for the annulment of the privy council order which authorised transportation to the territory. The new motion was put down for 1 June, when it passed without any opposition at all.

The motion was unopposed apparently because its final wording was a compromise, more businesslike, a little less emotional, and so, perhaps, a little less rigid in tone than the one it replaced. Some pressure had clearly been applied behind the scenes. Wentworth's explanation, later in the month, is that of an observer:

The origin of the alteration ... was, he believed, to be traced to the expression of opinion of a number of honorable members who had called on ... [Cowper], and who had persuaded him of the propriety of the amendment they proposed.

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77 Debate of 23 May 1849, ibid., 24 May 1849. This motion replaced one for a committee which was simply 'to prepare resolutions on the proposed resumption of transportation'.
78 Ibid., 30 May 1849.
79 Ibid., 2 June 1849.
80 Wentworth's speech in council, 12 June 1849, ibid., 13 June 1849.
Just before the motion came on for debate Wentworth himself had asked for a more thorough change. He thought they should reject Grey's offer, but leave the main question open. But Cowper refused to go so far, and in view of the result it was clearly unnecessary for him to do so.

The responsibility for the successful amendment probably lies with Macarthur. He had already expressed some agreement with Cowper's position, while his influence and the fact that he was not firmly committed to either side must have made it easy for him to act as a bridge between the two extremes. What is more, the final settlement was exactly typical of his ideal. The wording of the original motion would have only encouraged division. Had a committee been appointed under the terms proposed its report would probably have included remarks offensive to the home government, and unacceptable to most of the council. The only outcome would have been added bitterness, within the chamber and outside. The new motion, on the other hand, made it possible for all members to combine, giving up extreme positions for the sake of unanimity: a distinct and practical result in which no-one, ostensibly at least, gave way to pressure from outside the house. The actual opinion on which they agreed was also important, and in line with Macarthur's thinking, but no doubt it was less vital than the way in which agreement was reached.

In spite of the amendment, the final wording of Cowper's motion was so explicit that this should have been the end of the question. But the council had changed its mind before, and Grey was prepared to believe

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81 Lowe's speech in council, ibid.
82 Compare Powell's explanation of these events (op. cit., pp. 147-8), in which he fails to distinguish between the two efforts to change Cowper's motion.
that it might do so again. He put a stop to the transportation of
exiles, but he allowed the enabling order to stand for the time being,
until the council should affirm, 'as its final conclusion, a determination
that no more convicts ought, under any conditions, to be sent to any part
of the colony'. The council proceeded to do this in August 1850,
having received Grey's answer in early June. The delay was no doubt
partly due to the fact that since 1849 both Lowe and Cowper, the most
powerful and active enemies of transportation, had given up their seats
in the chamber. Lowe had gone home to England, and Cowper was apparently
in financial trouble. This left the other liberal members in disarray,
but eventually Lamb and Allen, both nominees, brought forward a resolution
rejecting transportation 'under any conditions', and asking once again
for the repeal of the order-in-council.

The resolution was moved on 30 August. Wentworth immediately asked
for a month's adjournment. He was supported not only by the other
squatters, but also by all the non-liberals who were generally opposed
to transportation, such as Nichols and the two Macarthurs. The matter
was therefore postponed, or, as Macarthur put it, 'the rabid anti-transport-
ionists' were 'staved off for a month'. Nichols hoped that in the
interval there would be an uncompromising expression of public opinion.
Macarthur on the other hand, wanted time to find a formula which might

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83 Grey to FitzRoy, 16 Nov. 1849, SMH, 12 June 1850.
84 Ibid., 30 August 1850.
85 Powell, op. cit., p.149.
87 Ibid., 31 Aug. 1850: 'In my opinion this was a mere scheme of the
protransportationists to gain time to see if they could either gain
over some of the members or in hope that some of their opponents
might not then be in attendance.'
88 SMH, 31 Aug. 1850.
89 Macarthur to his wife, [30 Aug. 1850], ML A4342.
90 Nichols's speech in council, 30 Sept. 1850, SMH, 4 Oct. 1850
lead to a vote like that of 1849, one which called on the sober patriotism of each member. During September he began a series of intricate moves in preparation for the adjourned debate, on 27th.

Since 1849 the question had been complicated by the fact that a number of settlers at Moreton Bay had asked for convicts to ease their shortage of labour. The demand had been strong enough to make Sydney people think that if the council should reject transportation out of hand Lord Grey might well set up an independent penal settlement in the north. 91 Some settlers felt that the future of the colony must be affected by such a loss, but others, including several members of council, were much more intent on the old and immediate battle, and thought only of the way transportation would endanger the society they knew. 92 The part taken by Macarthur shows that for him the Moreton Bay problem was itself a moral issue, and one of paramount importance, because it called for a combination of local loyalty with political detachment, the ability to prefer the colony's long-term interests to any passing emergency. 93

The ideal of political detachment was to be the pivot on which this controversy turned. By now the violent character of the debate had begun to influence even those, like Macarthur, who prided themselves on their cool and self-contained logic. The prospect of convicts in

New South Wales conjured up for the mass of the people, in Sydney at least, a vision of feudal estates, slavery, and a society controlled by a selfish aristocracy. The radical arguments seem to have reflected a genuine fear among the working classes that the exile scheme was meant to lower wages, which was at least partly true. But most of the anti-transportation speeches seem to have been aimed at middle or lower middle-class audiences, and dwelt on moral rather than economic issues. This led to some high-flown rhetoric, and common sense often went by the board. One radical paper, for example, described those who showed any leaning towards convicts as 'the enemies of freedom', who wanted 'to enforce their claims for slave labour on the attention of the home government'. In fact, there was no chance of convicts being employed as bondsmen on private estates, as in former years. Grey's exiles were to be, in effect, free men.

There was also exaggeration in the argument that exiles would lower the general moral standards of the colony. But such statements did help to focus on the selfishness of those who seemed to think solely of their own need for labour, ignoring the clear verdict of the people. There is even a hint in some of the speeches that all settlers who, as big employers, might have longed after convicts, should straightaway clear themselves before the bar of public opinion.

94 People's Advocate, 5 Oct. 1850.
95 See, for example, Lang's speech in council, 30 Sept. 1850, SMH, 7 Oct. 1850: 'The letting in of these exiles at the present time would be like the removal of a flood-gate - the tide of vice and immorality would, like the water, overflow the land and spread contamination among the rising families of its immigrant population.' This was the effect a few shiploads were to have on a population of nearly 200,000.
In other words, the transportation debate had become, partly at least, a trial of strength between the established political system, the system of the country gentleman, and the new popular idealism. Lamb showed this very clearly when he declared at the height of the debate that the colony was in more danger from the aristocratic element within it than from the democratic. The arrogance of the first had become intolerable: their utter selfishness and disregard of the interests of all others had disgusted the middle and lower orders.

The gentlemen of New South Wales, he said, had ceased to understand progress: 'on the contrary, during the last five years, a spirit of subserviency had been gaining ground more and more amongst them.'96 His speech is remarkable for its silent assumption that the ancient rulers of the territory should justify their existence to the rest of the people, who now set the vital standards of usefulness and virtue. It was especially alarming that Lamb spoke at the crisis of a great debate, and at the moment of his own victory. 97

This is the background to Macarthur's negotiations during September 1850. His main aim was to find a way of working in unison with the liberals, showing that on such important occasions the council was prepared to act more or less as a single body, loyal to local interests, but above any popular tumult, and on cordial terms with Whitehall. The liberal members were anxious to have his support, but without Cowper

96 Lamb's speech in council, 1 Oct. 1850, ibid.
97 Macarthur understood the importance of the question before the debate, describing Lamb and his friends, privately, as 'this mad-brained set who are driving us into the vortex of socialism and general disorganisation' (Macarthur to his wife, [31 Aug. 1850], ML A4342).
they found it hard to arrange an alliance. Cowper in fact called on Macarthur to discuss the matter, but he could speak only as the leader of the movement outside the chamber. 98 This was not good enough for Macarthur:

upon consulting with his friends, they considered that under all the circumstances, it would not be advisable to open negotiations on such a footing. 99

Lamb seems to have been less willing to approach Macarthur 'cap in hand', as he called it. 100 Matters were even more tangled after 16 September, when a monster anti-transportation meeting was held near Circular Quay. The liberal members took a more determined stand following this great pageant of opinion. Macarthur had expected, or so he said, that the liberals would do their best to counter the 'tyrannical and overbearing spirit' which was growing up outside the chamber. Instead he found that they now 'seemed to think all concessions were to be in their favour.' 101

There was thus no coalition between Macarthur and the liberals.

In itself this was not a serious setback, because it was still possible for Macarthur to move supplementary resolutions after Lamb had moved his, adding detail to the bald demand for the ending of transportation. As long as the supplementary motion did not contradict Lamb's, both might receive that solid majority vote which Macarthur wanted as a final expression.

98 This is emphasised in the corrected version of Macarthur's speech (Speeches of James Macarthur and W.C. Wentworth, Esquires, in the Legislative Council of New South Wales, September 28th and 30th, 1850, on the question of the Resumption of Transportation, Sydney 1850, p. 13). At this stage Lamb and Cowper were not on good terms (Powell, op. cit., pp. 163, 174).

99 Macarthur's speech in council, 28 Sept. 1850, SMH, 3 Oct. 1850.

100 Lamb's speech in council, 1 Oct. 1850, ibid., 7 Oct. 1850.

of the council's point of view.

On Tuesday 24 September Macarthur placed on the notice paper three new resolutions which were to be added to those which Lamb had proposed. These stated that although the council was against any revival of transportation, they would also protest against any move to detach Moreton Bay from the Sydney government with a view to making it a penal settlement. Unfortunately, by Thursday it had become clear that Lamb's party would not accept this addition, which they apparently thought would weaken their own motion. Macarthur therefore decided to give up all hope of uniting the council on any detailed expression of opinion. He apparently took it for granted that members would vote solidly for Lamb's resolutions, and on this assumption he and his allies arranged for two sets of supplementary resolutions which, instead of unifying opinion, would allow for diversity on everything but the main point. Thus the debate was to proceed 'upon the broad ground of truth' with every member going into the camp which suited him best.

Macarthur's underlying motive seems to have been a wish to save members from being marshalled into two contending bodies. Unanimity was the ideal, but failing this an honest variety of opinion was to be second-best. At the same time he and his friends were planning that the whole debate should be published, by authority of the house. In other

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102 Macarthur to his wife, [25 Sept. 1850], ML A4342; SMH, 26 Sept. 1850.
103 Macarthur to his wife, [26 Sept. 1850], ML A4342; Lamb's speech in council, 1 Oct. 1850, SMH, 7 Oct. 1850.
104 Macarthur's speech in council, 28 Sept. 1850, ibid., 3 Oct. 1850.
105 James & W. Macarthur to Emily Macarthur, [30 Sept. 1850], ML A4342; Macarthur's speech in council, 1 Oct. 1850, SMH, 7 Oct. 1850; Martin's comment in council, 1 Oct. 1850, ibid., 2 Oct. 1850, referring to the plan as 'an arrangement already come to in the House'.

words the council's position was to be recorded not only by the final vote in favour of Lamb's motion, but by the various incidental statements of different members.

Macarthur's group was itself divided on points of detail, and they now brought this division into the open. The resolutions which Macarthur had proposed were taken over by Parker, his brother-in-law, who changed the wording and put them down in his own name. 106 Macarthur himself drew up a new motion altogether, which he moved on Saturday, the second day of the debate. He now proposed that the council should agree to receive exiles. But he demanded very strict and rather extraordinary terms from Lord Grey. The British government was to pay for all special police provisions, they were to send out and maintain another regiment in the colony, and they were to finance the passage of three free immigrants for every exile who arrived here. All exiles were to be men. Also, parliament was to transfer the control of crown lands from the governor to the legislative council. 107

The motion was proposed as a supplement to Lamb's, although it was inconsistent with Lamb's request for the revoking of the order-in-council. Macarthur saw the fault but, with a characteristic disregard for his public, he made no attempt to explain it. 108 He also realised that the terms he proposed were much more rigorous than those which Grey had already failed to meet. But it hardly matters that his motion lacked logic

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106 Ibid., 27 Sept. 1850. However Macarthur's motion was not withdrawn, so that he kept his position, before Parker, in the debate, his last resolutions being brought forward without notice as a 'technical alteration' to his first ones (his comment in council, 27 Sept. 1850, ibid., 28 Sept. 1850).


108 In private he referred to his new resolutions as 'a direct amendment on ... [those moved by] Lamb' (Macarthur to his wife, [26 Sept. 1850], ML A4342).
and practicability, because he knew equally well that it had no chance of passing.\textsuperscript{109} It was brought forward simply so that he might state his own conscientious opinion and, in doing so, urge upon the council 'a broad statesmanlike imperial view', which would balance the demands of Whitehall with those of Circular Quay.\textsuperscript{110} All the same, this is one of those times when Macarthur's high-mindedness seems even more eccentric than usual, when his ideals seem less noble than peculiar. His motion was strongly supported by Wentworth, but it was not pressed to a division, and was declared lost on Monday night.\textsuperscript{111}

Parker's motion, which repeated Macarthur's protest about Moreton Bay, received a better hearing. But Macarthur had been right in thinking that Lamb's friends were against any addition at all. Also the fury of the debate, now four days old, had alienated several members who would otherwise have supported the protest.\textsuperscript{112} It was rejected late on Tuesday, and the original motion was passed forthwith. Afterwards a remnant of exhausted members vetoed Macarthur's plan to publish the whole debate.\textsuperscript{113} He and Wentworth later made their own arrangements for a pamphlet, but their public spirit did not extend to the inclusion of any speeches besides their own.\textsuperscript{114}

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\textsuperscript{110} Macarthur's speech in council, 1 Oct. 1850, ibid., 7 Oct. 1850.
\textsuperscript{111} Ibid., Macarthur's motion was seconded by Wentworth, which is evidence of prior consultation, and in fact part of the motion (the demand for free immigrants) is foreshadowed by Wentworth's speech on 27 September (ibid., 3 Oct. 1850).
\textsuperscript{112} Sutor, Bowman and Donaldson would have voted for Macarthur's original motion but nevertheless voted against Parker's (see their speeches, 28, 30 Sept. 1850, ibid., 4, 7 Oct. 1850). See also Lamb's speech, 1 Oct. 1850, ibid., 7 Oct. 1850.
\textsuperscript{113} Debate of 1 Oct. 1850, ibid., 2 Oct. 1850.
\textsuperscript{114} Op. cit.
The transportation debate of 1850 was an important milestone in the road towards government by parties in New South Wales. Generally speaking there were now four centres of initiative in the council, namely the executive, Macarthur, Wentworth and the liberals, the last usually represented by Cowper. Each stood for a certain political attitude, if not a certain set of policies. Each seems to have been the focus of a small group, four to six gentlemen who were in the habit of talking over important matters, appealing together for the votes of unattached members, and coalescing where possible with other groups. Each might be called a faction.

During the period 1848 to 1853 Macarthur and his friends worked as closely as possible with the government. In the first part of it they were usually able to co-operate as well with the liberals. Thus Macarthur found himself voting with a solid majority on the more important questions, and he was sometimes responsible for bringing that majority together. This had an important effect on the government of the country, in so far as FitzRoy had allowed the council to take a good deal of the initiative in policy making. 115

The failure of this strategy in September 1850 had been partly due to Cowper's absence from the council: Lamb, his deputy, had less authority in the house and less friendship for Macarthur. 116 But no

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115 See SMH, 13 July 1855: 'Fitzroy] followed the feeling of the House, and rarely initiated a measure ... From this circumstance the members of the House acquired an idea of authority which it would be difficult to abate.'

116 For a good illustration of Lamb's intense dislike for Macarthur, see his speech in council, 19 Aug. 1852, ibid., 20 August 1852. Macarthur never seems to have made any similar counter-attack.
doubt more important was the growth of the liberal movement outside the chamber, which had not only raised the sights of the liberal members, but also reduced their power to compromise with other groups. Thus the liberals took the place of the squatters as the most isolated group in the house. But while the squatting members were the remnant of a lost hegemony, the liberals were the embryo of a new one. 117

The period following the great debate saw the evolution of new habits, in so far as the leading non-liberals, Thomson, Macarthur and Wentworth, tended to act together in spite of the liberal members. The radicals and more extreme liberals always argued as if these three had formed a standing alliance, and were frightened men acting in self-defence. 118 But independent evidence tells a different story. In fact, the liberals were beginning to adopt political methods which the other members often found strange and impracticable. They ceased to be a self-contained group capable of co-operating with other groups. Instead they began to devote themselves to causes which seemed popular rather than practical, and to make commitments which left no room for compromise. Not only their policies, but their manner now made it hard for Thomson and Macarthur to co-operate with them as before. Instead, the government majorities began to depend on Wentworth, who thus regained some of the political weight he had enjoyed during Gipps's last years.

The process is illustrated very well by the next important matter to confront the house, namely the electoral bill of 1851, which was to

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118 See below. See also Connolly, op.cit., p.10.
clear the way for the detachment of Port Phillip from the Sydney government, in July that year. In March the council met for a short session to arrange for the election of new legislatures in both colonies. At the same time it was decided to add to the number of members who were to sit in future in New South Wales. Among other changes, the squatting districts were now to be represented for the first time.

All the details were worked out by Deas Thomson, who was already referred to, unofficially, as the 'head of the cabinet'. Thomson drew up a bill which increased the elected members from 18 to 32, with eight new squatting electorates and four new groups of country towns, all returning one member each. Sydney's representation was increased from two to three. As a result, the urban and village electorates, which had formerly returned five members, were now to have 10, a relative as well as an absolute increase. The counties were to have 14, an addition of only one.

The bill met with a mixed reception. The liberals were unhappy that the squatting districts were to have so many members - eight for a population of 30,000 - compared with Sydney's three for 44,000. Many said that the new council would be dominated by the squatters and their friends, who might reverse the recent vote on transportation. It was

119 speeches in council by J. Dickson, 11 Apr., and Plunkett, 16 Apr. 1851, SMH, 12, 18 Apr. 1851.
120 The council had formerly numbered 36, of whom 12 were nominees and 6 were returned from Port Phillip. The imperial act of 1850 continued the provision of 1842 that one-third of the council were to be nominees, whatever the overall membership (Melbourne, op. cit., pp. 270, 376).
121 'Proposed Electoral Districts', SMH, 17 Apr. 1851.
122 See, for example, the speeches in council by Lamb and J. Dickson, 11 Apr. 1851, ibid., 12 Apr. 1851.
even put about that Thomson was conspiring with the squatters 'to bolster up one particular interest, as opposed to all others'. In fact, given that the squatting districts had to be represented somehow, Thomson's bill had a distinct tendency to strengthen the forces opposed to the rural magnates.

The debates on the bill show that the liberals were now very badly led. The most urgent question for them was the representation of Sydney, but they failed to unite behind any amendment to Thomson's scheme. Their so-called enemies did much better. Soon after the committal of the bill Macarthur announced a series of amendments, which were to make the total elected membership 36 instead of 32. He had already secured Wentworth's co-operation, and the government also supported him during the debate. This gave him a solid bloc of 15 members, when the division lists numbered 29 or less.

123 Lang's speech in council, 15 Apr. 1851, ibid., 17 Apr. 1851.
124 The system of forming a number of scattered towns into single electorates meant that new seats, mostly voting liberal, were created in the midst of conservative county electorates, instead of being merged with them and swamped ('Proposed Electoral Districts', ibid., 17 Apr. 1851; Irving op. cit., p. 387). In particular Thomson's plan (abandoned in committee) to make Camden village one of the 'Midland Boroughs' would have severely reduced Macarthur's influence in his county electorate, while providing a complete counterpoise to his authority in the village (see appendix 7). Compare P. Loveday, 'The Development of Parliamentary Government in New South Wales, 1856-1870', Ph.D. thesis, Sydney University 1962, pp.21-7.
125 Nichols, not strictly a liberal, wanted 4 members for Sydney and Lang wanted 6 (debate of 17 Apr. 1851, SMH, 18 Apr. 1851). See also Lamb's speech, ibid.
126 This is clear from the debate, which also shows a previous arrangement with James Martin, member for Cook and Westmoreland, who moved several of the amendments following from Macarthur's scheme (ibid.).
Macarthur's most important changes gave an extra member to the county of Durham, divided the county of Camden into two, east and west, and formed a new electorate out of the villages at Moreton Bay. The last amendment was no doubt meant to provide a foil to the Moreton Bay squatters, who were thought to want transportation and, if necessary, a government of their own. Altogether Macarthur's scheme increased, though slightly, the political weight of the small farmers and country townspeople. Except for the Camden electorate these tended to vote liberal. But Macarthur apparently thought that rural liberalism was a better type than that of Sydney, which fed on class and religious bitterness. Certainly his friend Nicholson hoped that from now on the liberal members of council would concentrate on bringing down the price of crown land, forgetting such exciting issues as transportation.

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127 Ibid. Other amendments detached some of the smallest villages from Thomson's county borough groups.

128 It meant dividing the closely settled part of Moreton Bay into two small electorates, namely Stanley county and boroughs (total population 4000), while the squatting district had only one member. See James Macarthur to Sir W. Macarthur, 25 Sept. 1856, ML A2932, which shows his continuing anxiety that the majority at Moreton Bay, whom he thought were against separation, were to be overruled by 'a few selfish people'.


130 Durham had hitherto been represented by R. Windeyer (1843-7), a liberal, and S.A. Donaldson (1847-51), who called himself a liberal conservative (ADB II, pp.616-7, IV p.85). The new members for Durham were Donaldson and Cowper (who resigned). J. Richardson and R. Jones both liberals, were returned for Stanley county and boroughs (SMH, 5 June 1851; Irving, op. cit., p.392). See also ibid., pp.387, 391.

131 Macarthur's speech at an election meeting, 19 Sept. 1851, SMH, 22 Sept. 1851. He was pleased with the subsequent election results (R. Therry to Macarthur, 26 Sept. 1851, ML A2930), although they increased the number of liberal members representing country electorates.

132 Nicholson's speech at an election meeting, 15 Sept. 1851, SMH, 19 Sept. 1851.
Elections were held for the reformed council during September. Macarthur was returned for West Camden, and his brother for the squatting district of Lachlan and Lower Darling.\textsuperscript{133} Both Cowper and Lamb were also elected, and they brought with them a considerable group of supporters. In crises the liberals could now muster nine, which equalled the government's voting power, there being nine officials in the new house.\textsuperscript{134} But the liberals were still a long way from having control of the chamber, because the combined prestige of Thomson, Macarthur and Wentworth still gave them an overwhelming authority. During the following three sessions, 1851 to 1853, the success or failure of the government always depended on the last two, who together seem to have swayed the loyalty of the unattached members.\textsuperscript{135}

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The rest of this chapter deals mainly with three important measures which highlight political attitudes in council during the period 1849 to 1853. These were the Sydney University act of 1850, and the tariff act and the goldfields administration act of 1852. They were all reforms of consequence, and they show very clearly the conservative ideals which Macarthur and a few others hoped to see realised in New South Wales. Altogether it seems that these years of Thomson's 'premiership' were the Indian summer of the old constitution, when a more or less conservative government made a generous - and sadly forgotten - impact on the country. The reform of the constitution, the most urgent matter of all, will be dealt with in the next chapter.

\textsuperscript{133} James Macarthur defeated W. Sherwin, a Sydney liberal, who received 29% of the votes (see appendix 7, below). William was unopposed.

\textsuperscript{134} The chief members of the liberal group were Cowper, Lamb, Oakes, T.W. Smart, E. Flood and R. Campbell (see appendix 9 below).

\textsuperscript{135} Ibid.
Another point which emerges below is that conservatism and liberalism are not to be seen as clearly distinct bodies of opinion. In fact the only liberal policies which Macarthur opposed were those, which according to his lights, were really sectarian and selfish. As the next chapter shows, these included measures which he thought must pave the way for the unthinking, heartless rule of 'unrestrained democracy'.

The division lists throughout the period show that all three non-liberal leaders agreed on the vital duty of the state to promote education. Unlike Cowper and a section of the liberals, who favoured church schools, their efforts were normally directed towards the elementary national structure. They also co-operated in the founding of a university 'conforming as far as possible to the national system'. The idea was first discussed in council in September 1849, when Wentworth moved for a committee to draw up a plan. His aim was that the university should have no divinity school, and impose no religious tests: 'it should be open to all, though influenced by none'. Cowper and Lamb both argued for the teaching of divinity, as at Oxford and Cambridge, but the motion itself was unopposed. Macarthur remarked during the debate that their best model would be the new University of London, a non-sectarian body linked with denominational colleges. During a later discussion he pointed out that such an institution must promote charity among Christian

136 See, for example, the debates of 27 Nov., 2 Dec. 1851, SMH, 29 Nov., 4 Dec. 1851; Macarthur to his wife, [13], 27 Nov., [? Dec.] 1851, ML A4343.
137 Parker's speech in council, 11 Sept. 1850, SMH, 12 Sept. 1850.
sects, and thus spread 'the highest and best principles of religion throughout the community.'

The debate in September suggests very clearly that Wentworth and Macarthur, and possibly Nichols, had already talked over the main points of the scheme. The select committee included these three, and also Thomson, who was a vital link with the government. Their report was presented a mere fortnight later, and a university bill was immediately drawn up. However, the bill quickly perished in committee, mainly because of disputes about the composition of the senate. The idea was therefore abandoned until the following session. Meanwhile there was some agitation among churchmen, especially Anglicans, who thought that

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139 His speech in council, 4 Oct. 1849, ibid., 5 Oct. 1849.
140 The Methodist lawyer George Allen, a nominee, was also no doubt involved, because he seconded Wentworth's motion for a committee (ibid., 7 Sept. 1849). See also F.L.S. Merewether, 'University of Sydney: Reminiscences of an original Fellow of the Senate, subsequently Vice-Chancellor, Acting Chancellor and Chancellor', printed for private distribution, Sydney 1898, pp. 1-2.
141 See Wentworth's comment in council, on the help which the committee had received from Thomson, 26 Sept. 1849, SMH, 27 Sept. 1849. The other members of the committee were Cowper, Lowe, Nicholson and Plunkett.
142 The report was presented on 21 September, and the bill was laid on the table on 28 September (ibid., 22, 29 Sept. 1849).
143 Debates of 10, 11 Oct. 1849, ibid., 11, 12 Oct. 1849. The bill named the original fellows, and among them Wentworth's friend William Bland. Robert Lowe refused to accept a seat himself if Bland, an ex-convict, were chosen. Macarthur supported Lowe (see the corrected report of his speech, 10 Oct. 1849, ibid., 12 Oct. 1849). The 1850 bill left the nominations to the government.
the university should have a divinity school. There were also complaints about so much money being spent on an academy for the local elite: even lavish scholarships could not prevent the university from being anything else. In the end both Anglican churchmen and leading liberals played a conspicuously small part in the foundation. But there was little argument in council over the second bill, and it passed without difficulty in September 1850. Hamilton was chosen provost of the university and Nicholson vice-provost. Thomson, Plunkett, Wentworth and Macarthur were all original members of the senate. 

The tariff bill of 1852 produced a different set of alliances. Hitherto a protective system of tariffs had prevailed throughout the empire, involving ad valorem duties on all non-British imports, but the Australian Colonies Government Act, which had made Port Phillip independent, had also given the six governments power to legislate for tariff reform.

144 H.E. Barff, A Short Historical Account of the University of Sydney, Sydney 1902, pp. 8-9.
148 The most active members of the senate during its first two years were the Methodist and Catholic clergymen (W.B. Boyce and Bishop Davis), Donaldson, Merewether and Nicholson. Macarthur took very little initiative in the university's early organisation. See senate minute books, 1851-2.
149 J.A. La Nauze, 'Australian Tariffs and Imperial Control', Economic Record 24, 1948, passim.
Deas Thomson was anxious to see a more thorough system of free trade, and he had the support of the Sydney merchant community. He first aimed merely to end restrictions between the Australian colonies, while imposing a 5 per cent duty on imports from outside. But this did not go far enough to meet local merchant opinion. Lamb, who was president of the Sydney chamber of commerce, induced him instead to adopt a scheme lately devised by the Melbourne chamber and approved by the new Victorian government. In July 1852 Thomson laid before the legislative council a bill which imposed customs duties on only eight articles, of which the most controversial were beer, spirits, tea, sugar and tobacco.

During the debates on the bill only two members, Wentworth and James Martin, called themselves protectionists rather than free-traders. But the speeches show that the schools of opinion were not so clearly defined, and that the labels hide a more important distinction. On the one hand there were the extreme free-traders, who saw tariffs as nothing more or less than a source of revenue. This was Thomson's view. He had made the measure as simple as possible and, he said, his only other concern had been to find 'the best means of equalising the payments of all classes to the expenses of the Government'. To attempt to do more would be to impose on the rights of private property, and to hinder the exercise of rational self-interest. It would be counter-productive and

151 SMH, 8 July 1852. The other articles were coffee, chocolate and cocoa, dried fruits and wine.
152 Alexander Berry was also a protectionist, but he did not speak during the debates (Michael Roe, Quest for Authority in Eastern Australia 1835-1851, Melbourne 1965, p. 49).
and little different from robbery. This was exactly Lamb's position. It was also shared by most of the other merchants in council, and on the whole by Cowper. But this was not the sort of popular issue on which the liberals tended to unite against all comers. Most of the liberals were enthusiastic, but mainly because they were also ardent free-traders.

On the other hand there were those who saw tariffs as a means of affecting the form of society. Most have usually been called conservatives, but they were conservatives of a paternalistic type, and were not merely reactionary. Martin stood at the extreme. He believed that economic measures should aim at protection, so as to ensure 'the proper distribution of the wealth of a country'. Free trade, on the contrary, must force down the wages of working men. He argued that if these new principles took root here wages would soon sink to the European level. Wentworth and Macarthur both occupied the middle ground. Wentworth argued for protection in principle: 'a system which afforded employment to the residents of a country was no system of robbery'. But he thought it


154 Lamb's speech in council, 7 July 1852, SMH, 8 July 1852.

155 Two of Lamb's strongest supporters were the liberal conservative Donaldson, a squatter and merchant, and M.H. Marsh, member for New England, a squatter (division lists during debates in committee on the tariff bill, 28 July 1852, V&P 1852, I pp. 389-95).

156 Martin's speech in council, 21 July 1852, SMH, 22 July 1852.
unnecessary here. Macarthur called himself a free-trader, but by free trade he meant free intercourse in all things, as far as was consistent with the general interest of the community at large.

Protection of industry was futile but, if possible, tariffs should be arranged with a positive tendency to 'protect the morals and health of the public'. They must also, he said, try to safeguard the interests of their neighbours, 'the other colonies which would hereafter compose the great Australian Commonwealth'.

During the committee stages of the bill Macarthur and Lamb represented the two main points of view. Macarthur did his best to secure lighter duties on tea and sugar, which he thought were wholesome and common necessities for the people, but he was in a clear minority, most of the free-traders supporting the government. They apparently thought these a fair source of revenue. On the other hand Macarthur voted for the proposed duties on beer and spirits, against the efforts of the more extreme free-traders to bring them down. Alcohol, as he later explained, was the cause of much crime and domestic happiness in the colony. The majority were with him in preventing any reduction in the rate for whisky and rum, and also in raising the duty on wine.

157 Wentworth's speech in council, ibid.
158 Macarthur's speech in council, ibid. This was perhaps the first use of the word 'Commonwealth' to apply to the group of colonies (see J.A. La Nauze, 'The Name of the Commonwealth of Australia', Historical Studies 15, 1971-73, p. 64).
159 In fact he seconded a motion by Wentworth to raise the proposed duty on beer, but the motion failed (debate of 28 July 1852, ibid., 29 July 1852).
160 His speech in council, 19 July 1855, ibid., 20 July 1855.
161 Division lists during debates in committee on the tariff bill, 28 July 1852, V&P 1852, I pp. 389-95.
Much the same conflict occurred during an attempt in 1854 (when Thomson was on leave in Europe) to limit the interest charged by pawnbrokers, a reform which was meant to undercut the 'cold-blooded calculations of the advocates of free-trade'. Macarthur lent his support, because he thought that the 'protecting shield of the law' ought to be available to those ruined through sickness or misfortune. But other members were apathetic, or unwilling, as they had been on the tariff question, to 'set up as "uncle" for the people'. The project breathed its last in the hands of a select committee.

Members were more willing to set up as uncle in the field of public health. In 1852 and 1853, for example, private members' bills were introduced, regulating the sale of opium and poisonous drugs in one case, and making small-pox vaccination compulsory in another. Both passed with the support of the government and Macarthur, and in spite of the opposition or apathy of most of the liberals.

The discovery of gold near Bathurst in May 1851 led to another instance of policy making in which laissez-faire ideas reigned supreme. As with the tariff bill, Thomson's thinking on the question was at odds with that of Wentworth and Macarthur. The minerals of the territory were

162 Darvall's speech in council, 12 July 1854, SMH, 15 July 1854. The instigator of the move, A.T. Holroyd, had joined Macarthur on the tea and sugar tariff question, and it was opposed mainly by M.H. Marsh, Lamb's keenest supporter.
163 Macarthur's speech in council, ibid.
164 M.H. Marsh's speech in council, ibid.
165 The drugs bill was introduced by Nichols. It was supported by all the leading conservatives, and opposed by all the liberals except Lamb and Darvall (debate of 20 July 1852, ibid., 21 July 1852). The vaccination bill was introduced by Douglass, a medical practitioner and leading conservative. The conservatives divided on it, and no prominent liberals voted (debate of 21 Sept. 1853, ibid., 22 Sept. 1853).
the property of the crown, and the government therefore took sole responsibility for the goldfields, without reference to the legislative council. However this did not prevent members from offering advice. Within a fortnight of the discovery Macarthur wrote to Thomson urging more direct control of the mining, for otherwise, he thought, they could expect the total disintegration of 'our social system'. He wanted to see all digging stopped, by martial law if necessary, until the regulations could be put on a less haphazard basis.166

Macarthur had clear ideas of his own, which he later discovered were in line with Wentworth's.167 In particular he disliked Thomson's system of issuing licences to individual miners. This, he said, must encourage the worst aspects of gold-digging,

its gambling and utterly selfish spirit, its breaking down of all proper distinctions and right motives, and occasioning the abandonment of the duties of life.

He wanted to see licences given to parties of men, who would work in co-operative groups.168 In June he submitted a plan to the governor whereby every digging party was to have a recognised head, who might be commissioned as a constable. The members were also to be 'mutually responsible for each other' in matters of law and order, but it is not clear what the responsibility would have amounted to.169

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166 Macarthur to Thomson, 29 May, 1851, ML A1531-3.
167 Macarthur to his wife, [18 June 1851], ML A4343.
168 Macarthur to Thomson, 29 May 1851, ML A1531-3.
169 Macarthur to FitzRoy, 27 June 1851, and his 'Suggestions for the regulation of the issue of licences to work for gold ore on the crown lands of Australia' (draft of a paper which was apparently to have been enclosed with the letter), ML A2920, pp.102-8, 178-88.
These ideas made no impression on the government. Thomson answered that he certainly meant to control the worst excesses of the gold rush, but he thought that it would be foolish to try to stop it. He also thought, as a matter of principle, that the government had no right to make the regulations which Macarthur had suggested. As he explained to FitzRoy, he was 
decidedly opposed to any interference with the manner in which the masses of the people may choose to employ their industry. And in this case he thought that 'the government should do nothing until put in motion by the parties interested'.

It soon became clear that the gold rush was causing much less trouble than had been feared. It was not until September 1852 that a select committee of council was formed to inquire into the administration of the goldfields. Most of the committee work was done by Macarthur as chairman, and by Wentworth who acted for part of the time as his deputy. The council as a whole was not much interested.

170 Thomson to Macarthur, 30 May 1851, ibid.
172 See, for example, Macarthur to G.W. Norman, 6 Mar. 1852, Norman MSS C182.
173 The committee was appointed, on Macarthur's motion, on 7 Sept. 1852, SMH, 8 Sept. 1852.
174 On 9 November Macarthur fell from his horse, fracturing his wrist (SMH, 12 Nov. 1852). Wentworth acted as chairman of the committee from 10 to 26 November, after which Macarthur resumed the chair (VSP 1852, II pp. 673-812). See also Macarthur to Wentworth, [9 Nov. 1852], ML A2920.
175 See, for example, debate of 2 Dec. 1851, SMH, 4 Dec. 1851.
himself could see no point in the inquiry, but he accepted a place on the committee and attended most of the meetings. As it turned out the committee was very useful, because a few days after its appointment FitzRoy received orders from the secretary of state to hand over to the council all responsibility for the goldfields. The committee therefore gave most of its attention to a bill which was to give Thomson's mining regulations the force of law.  

The purpose of the bill, as Thomson saw it, was 'to enable the Government to exact certain license fees'. As far as he was concerned the income from the licences was simply to cover the cost of administering the goldfields. Macarthur was far more ambitious. He thought of the fees as an important new source of general revenue, which should be used as 'the incentive to the rapid population and civilisation of this country, and the neighbouring islands of the Pacific'. The discovery would thus be 'the means of establishing this colony as a magnificent nation'. It followed that the new bill should make the licence fee as high as possible, and provide stringent measures for its collection.

176 Sir J. Pakington to FitzRoy, 2 June 1852, with enclosure, V&PC 1852, I pp. 541-4; SMH, 11 Sept. 1852.
177 The committee presented 3 progress reports, 14, 17 and 22 Dec. 1852. The most significant was the second, recommending the bill (V&PC 1852, II p. 665). The first dealt with the office of chief goldfields commissioner, and the third consisted only of the evidence taken.
179 Macarthur to G.W. Norman, 6 Mar. 1852, Norman MSS C182.
180 Macarthur's speech in council, 7 Sept. 1852, SMH, 8 Sept. 1852; Macarthur to Wentworth, [9 Nov. 1852], ML A2920.
He also thought of the bill as a means of replacing the morality of 'the mere gold-grabber' with something more worthy.\textsuperscript{181} He now admitted that the system of individual licences had 'worked infinitely less mischief ... than anyone could have anticipated'.\textsuperscript{182} But he was still concerned at the number of foreigners on the goldfields, many of them old hands from California, who had brought with them an alien love of violence. He especially wanted to outlaw the carrying of the bowie knife, an 'odious and abominable practice ... subversive of all order and morality ... [and] repugnant to all British feeling'.\textsuperscript{183}

Wherever the bill varied from the old regulations Macarthur's concern for 'proper distinctions and right motives' can be seen at work. In an effort to increase revenue, and to give the authorities more complete control on the goldfields, all men living there, whether diggers or not, were now required to take out licences.\textsuperscript{184} Macarthur had hoped to have a clause inserted requiring that very detailed information be given by every licensee as to his previous home and employment, but this idea came to nothing.\textsuperscript{185} Nor was he able to have the licence fee raised. In fact it was reduced from 30s. to 10s. a month, a measure forced on the committee by the adoption of 10s. in Victoria, 'and from no other cause'.\textsuperscript{186} However the final bill did make it necessary for foreigners

\begin{footnotesize}
\begin{enumerate}
\item Macarthur's speech in council, 7 Sept. 1852, SMH, 8 Sept. 1852.
\item Macarthur to G.W. Norman, 6 Mar. 1852, Norman MSS C182.
\item Macarthur's speech in council, 7 Sept. 1852, SMH, 8 Sept. 1852.
\item Clause 4 of the act; compare Macarthur to Wentworth, [9 Nov. 1852], ML A2920.
\item Ibid.
\item Report of the 1853 select committee on the management of the goldfields, V&P 1853, II p. 431.
\item Clause 8 of the act; Thomson's comments in council, 22 Dec. 1852, SMH, 23 Dec. 1852.
\end{enumerate}
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to pay twice this sum. Thomson thought several of Macarthur's suggestions could never work in practice, and he especially disliked such discrimination.\(^{187}\) The very small number of liberals who came to the debates on the bill were also against it.\(^{188}\) But the clause was passed by council. The bill said nothing about bowie knives, the committee having been persuaded that they were part of the digger's tools of trade, used for getting gold out of cracks.\(^{189}\)

The bill became law before council broke up in December 1852, and quickly became very unpopular. It was commonly thought that it was meant to keep digging to a minimum, and to discourage men from leaving their employment, especially on the squatting runs.\(^{190}\) Rumour had it that Wentworth, Macarthur and Thomson had 'concocted' the reform 'to benefit the squatters at the expense of the golddiggers'.\(^{191}\) Its unpopularity and its thoroughness made it very difficult to work, as Thomson had predicted. In 1853, no doubt much to his relief, the council approved an amendment bill repealing most of those parts of the act which had been Macarthur's special contribution.\(^{192}\)

This brief outline of the council's work in 1849-53 suggests that to some extent the government held the balance between liberal and conservative opinion in the chamber. Thomson can be called a conservative in so far as he thought social and economic reform was possible without any thorough change in the political status quo. But he would have nothing

\(^{188}\) Division lists during the debate in committee on the goldfields administration bill, 22 Dec. 1852 (V&P 1852, I p. 414).

\(^{189}\) See the evidence of J.R. Hardy and H. Harpur before the select committee, V&P 1852, II pp. 682, 703.

\(^{190}\) SMH, 5, 9 Mar. 1853. This was probably true of Wentworth at least (see his comments in council, 22 Dec. 1852, ibid., 23 Dec. 1852).

\(^{191}\) Article by 'Observer', ibid., 2 Apr. 1853.

\(^{192}\) Debate of 22 Sept. 1853, ibid., 23 Sept. 1853.
to do with the positive paternalistic schemes of Macarthur, which jarred with his ideals of free trade and laissez-faire administration. Fortunately for the government few members approached Macarthur's 'radical' conservatism, and when he was persistent - which was seldom - Thomson could always appeal to the laissez-faire ardour of the liberals. During famous issues, when the liberal members became the agents for popular feeling, Thomson and Macarthur tended to join in a defensive alliance with Wentworth. Perhaps in doing so they both betrayed a failure of nerve or imagination. But if so, and in spite of ruptures now and then, they also shared a diligent idealism which can only be admired.
Chapter 9

The Illusory Triumph 1848-1857

'I cannot conceive a good government to have interests alien to those of the community', said Macarthur once, summing up his reasons for giving great power to the state, 'I cannot separate the general interest of the Government from the interests of the people.'

But the unity of interest depended on two preconditions. First, the government must be made up of men who understood the limits of their authority, or else there had to be some means of enforcing those limits. Macarthur's plan for the goldfields shows that even he was not very clear on this point. Secondly, the government must govern a single people. Macarthur never seems to have come to terms with the difficulty of ruling an empire, where the authorities had to meet the needs of various communities, most of them remote. His ideal, from 1829 onwards, was that Whitehall should lay down broad principles to be followed up in detail by local legislators. But when the principles were unworkable the system failed, and in fact this happened often.

From 1846 to 1852 the secretary of state for the colonies was the third Earl Grey. Grey was an energetic minister, and among his ambitions

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1 His evidence before the select committee on crown land grievances (legislative council), V&P 1844, II p. 205 (3 July 1844).
2 See his 'Suggestions relative to the appropriation of crown lands in Australia', n.d. (enclosed with Macarthur to H. Twiss, 10 Jan. 1829), CO 201/297, f.212.
was the reform of the New South Wales constitution. Within a year of taking office he had worked out a complex federal scheme which would have set up a single assembly for all the Australian colonies, although each was to have its own law-making body as well. The local legislatures were to be bicameral. The upper house was to be nominated by the crown and the lower elected by district councils, which were to be established throughout the whole territory and which were themselves to be chosen by the people.\(^3\)

Grey's proposal was received with consternation in New South Wales, and especially his plan for the election of the lower house.\(^4\) There was only one view, that this 'gross piece of political quackery', this 'political Holloway's pill',\(^5\) would enfeeble the electorate by ending all contact between the voter and his representative in Sydney. A great meeting was held in the capital, and there were several elsewhere. Macarthur spoke at Sydney, Parramatta and Camden against 'this abominable system of double election'.\(^6\) 'It filled him with indignation', he said, 'to see an attempt at speculative legislation ... attempted to be foisted on this colony'.\(^7\) Numerous petitions were drawn up denouncing the idea, and Grey quickly abandoned it. After some uncertainty he decided to give each colony the power to establish its own bicameral system, and to go no further for the time being. As far as New South Wales was concerned, this, and the separation of Port Phillip, were the

\(^3\) Grey to FitzRoy, 31 July 1847, HRA i, XXV pp.698.
\(^6\) Macarthur's speech at the Camden meeting, 7 Feb. 1848, ibid., 9 Feb. 1848.
\(^7\) His speech at the Sydney meeting, 19 Jan. 1848, ibid., 21 Jan. 1848. See also his speech at the Parramatta meeting, 29 Jan. 1848, ibid., 31 Jan. 1848.
main provisions of the Australian Colonies Government Act, passed by parliament in August 1850.  

Meanwhile, the colonists had made some effort to define their own needs. They had several long-standing grievances, but the most urgent involved the control of their local revenue. They, or at least the elected members of council, thought it wrong that the proceeds from crown lands should belong to the imperial treasury, even though the money was normally applied by the governor to local purposes. They also objected to the schedules of the Constitution Act of 1842, which placed beyond their control a certain amount of the ordinary revenue to be used for the most vital parts of the administration. Most of the government's expenses were charged to the estimates which the council voted each year, but the land revenue and the schedules made the executive independent in the last resort.  

The control of the revenue had been one of the main issues on which the council, led by Wentworth, had clashed with Sir George Gipps. Soon after the opening of the new council in 1849 Macarthur made it clear that he was prepared to join the patriotic side of the question:

Till they possessed this power [he said] they were not really a representative institution, but ... to a very considerable extent ... a debating club.  

Early in 1850 Macarthur and J.B. Darvall, member for Cumberland, drew up a memorial to the secretary of state asking that all revenue 'be placed  

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8 Ward, op. cit., pp. 107-16.
10 His speech in council at the beginning of the debates on estimates, 1 Aug. 1849, SMH, 3 Aug. 1849.
under the control of the Colonial Legislature, which in return should make provision for a reasonable civil list.\textsuperscript{11} Council was in recess, but other members were consulted,\textsuperscript{12} and the paper was signed by 'a large number' of settlers.\textsuperscript{13}

The memorial included a plan for the reform of the constitution on a bicameral basis. There should be a 'House of Assembly' elected by the people and a nominated upper house or council, three quarters of the councillors being appointed for life and the rest holding their seats ex-officio.\textsuperscript{14} No doubt the ex-officio councillors were to include those members of the 'cabinet' who sat as nominees under the present regime, because there was no suggestion that the governor should choose his ministers from among the members of the assembly. Nevertheless, the memorial also 'strongly urged' that all government offices be filled up 'as far as conveniently may be ... from amongst the inhabitants of the colony.'\textsuperscript{15}

Macarthur had always liked the idea of an upper house. The history of the empire proved to him that these bodies did much for stability, by modifying the claims of the people's chamber and the executive.\textsuperscript{16}

\textsuperscript{11} Ibid., 21 Feb. 1850. For the authorship of the memorial, see ibid., 15 Aug. 1853; Macarthur's speech, [30 Aug. 1835], in E.K. Silvester (ed.), The Speeches, in the Legislative Council of New South Wales, on the second reading of the Bill for Framing a New Constitution for the Colony, Sydney 1853, p.113. The signatures of Macarthur, his brother and Darvall are at the head of the list on the original paper (CO 201/428, f.170).

\textsuperscript{12} Bell's Life of Sydney, 9 Feb. 1850; SMH, 22 Feb. 1850.

\textsuperscript{13} FitzRoy to Grey, 12 Apr. 1850, CO 201/428, f.156. FitzRoy explained that the memorial was a response to Grey's despatch of 18 Aug. 1849, announcing his intentions for the Australian Colonies Government Act, 1850, (see Ward, op. cit., p.114).

\textsuperscript{14} Herman Merivale, permanent under-secretary in the colonial office, assumed that this was Macarthur's idea, but it is not clear why (his minute, 10 Sept. 1850, on FitzRoy to Grey, 12 Apr. 1850, CO 201/428, f.169).

\textsuperscript{15} SMH, 21 Feb. 1850.

\textsuperscript{16} Report of a meeting of the petition committee, 28 Mar. 1842, Australian 29 Mar. 1842; Macarthur's speech at a public meeting at Parramatta, 29 Jan. 1848, SMH, 31 Jan. 1848.
normally assumed that the members would be nominees for life, which would make them politically independent, and which, he always thought, was 'the nearest approach' they could look for to the system in England.\textsuperscript{17} Since 1848 he had been convinced that members could be found for such a body, a conviction which shows in the 1850 memorial.\textsuperscript{18} At the same time he seems to have been willing to consider some method of election to the upper house, although he felt sure that it must, 'in the first instance, at all events, ... be partly composed of Nominees, so as to admit the appointment of official members.'\textsuperscript{19}

These ideas differed significantly from those of Wentworth, who was the central figure during all debates on constitutional reform. Wentworth had always preferred a single house.\textsuperscript{20} In 1848 he spoke of the valuable 'collisions' which must ensue when the government was fully exposed to the wrath of the people's representatives,\textsuperscript{21} and as late as June 1852 he showed little interest in the idea of a second chamber. At that stage he seems to have assumed, as Macarthur had lately done, that the members of the executive would continue to be nominees, and that as such they would belong to the upper rather than the lower house. Under such a system the representatives of the people would have nothing to do but veto the measures sent down from the government, which would be particularly futile if they did not have control of the revenue.\textsuperscript{22}

\textsuperscript{17} His speech at a public meeting at Camden, 7 Feb. 1848, ibid., 9 Feb. 1848. For his ideas on an hereditary system, see below.
\textsuperscript{18} Ibid.
\textsuperscript{19} Macarthur's speech at an election meeting, 19 Sept. 1851, SMH, 22 Sept. 1851. In 1842 he had supported a plan for an upper house of 10, half nominated and half elected by the lower house (Australian, 29 Mar.1842).
\textsuperscript{20} Report of a meeting of the petition committee, 28 Mar. 1842, ibid.
\textsuperscript{21} Wentworth's speech in council, 3 May 1848, SMH, 5 May 1848.
\textsuperscript{22} Wentworth's speech in council, 16 June 1852, ibid., 17 June 1852.
In other words, Wentworth did not look forward to immediate responsible government, a system where most if not all ministers would be chosen from among the elected members of the lower house, with each cabinet taking office and retiring according to the voting behaviour of that house. At this stage he seems to have envisaged a cabinet of nominees, ex-officio members of the upper house, as a provisional arrangement at least. In August 1852 he spoke of responsible government as something which would come soon enough, the immediate issue being the control of the revenue:

The other rights they claimed must inevitably follow from this. They must be concluded. And why should they not? Responsible government had been conceded [in Canada] ... and why should it not be conceded here?23

Wentworth had been much more adventurous in former days. In Gipps's time he had asked for responsible government straightaway, and in the fullest sense.24 But circumstances had changed. At that period there had been a tightly knit opposition in the house led by Wentworth himself. Now Thomson was in easy control, and no group of elected men had anything like his influence and ability.25 The only threat came from the democratic forces outside the chamber, which Wentworth had no wish to encourage.26

Macarthur's thinking seems to have been slightly ahead of Wentworth's. In December 1851 he was still convinced that responsible government could

25 For evidence of Thomson's popularity in the house, see the debate on increasing his salary, 3 Aug. 1852, SMH, 5 Aug. 1852.
not work in practice: 'There might perhaps be men in the colony fitted to form one Government, but not two'. During the following year, however, his mind became more open. Soon after council met in 1852 a select committee was appointed to work out a plan for a bicameral system, in accordance with Grey's meagre bounty, the Australian Colonies Government Act. Wentworth was chairman, but he thought of the work as secondary to his idée fixe, the campaign for control of the revenue. Macarthur, who was also a member, showed more imagination. He saw this institutional change as a Trojan horse, with which the council might win for itself not only the revenue, but 'the fullest measure of political power which it was capable of exercising.'

In June Wentworth set about drawing up a constitution in the form required by the 1850 act, as a local statute subject to the assent of the queen. He had an idea to begin with that he should put in a clause 'asserting that whenever the territorial revenues were made over to the Council, a civil list would be provided.' The new constitution would

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27 Macarthur's speech in council, 18 Dec. 1851, ibid., 19 Dec. 1851.
28 In August 1853 he said that he wanted responsible government now, but had not done so 'a year or two since' (his speech, [30 Aug. 1853], in Silvester, op. cit., p. 136). See also SMH, 28 Aug. 1852, with an editorial demanding only 'unfettered control of all our own revenues, and plenary powers of legislation on subjects purely colonial.'
29 Wentworth's speech in council, 16 June 1852, ibid., 17 June 1852.
31 Wentworth's speech in council, 16 June 1852, ibid., 17 June 1852. See also his interruption to Holroyd's speech, 18 Aug. 1852, ibid., 19 Aug. 1852 ('Parliament will have nothing to do with it'); and his speech, 25 Aug. 1852, ibid., 26 Aug. 1852, where he still referred to the constitution bill as requiring only the assent of the queen.
then be waste paper, unless the acts relating to their revenue were repealed. But soon afterwards he thought of a more radical plan, which would have meant postponing the committee. In August, at the beginning of the yearly debates on the estimates, he moved that no supply should be voted until their demands for the revenue were met. Eight months earlier members had approved a strong remonstrance on the subject, which had been sent to the queen. Wentworth now argued that council should stand prorogued until December, when he thought an answer should have arrived. This would have meant the end of the session, and, incidentally, the dissolution of his committee. According to Macarthur, the stopping of supply would have also led to 'an embarrassment and confusion which would in fact be the first step towards civil war'. But the move was defeated, by 28 votes to 17.

During the debate on 'Mr. Wentworth's ... coup d'état' Macarthur described his own strategy for reform. For some time it had been his opinion that the 1850 act was the answer to all their grievances, for these 'depended materially upon the form of government, whether ... one or two Houses of Legislature should be recommended'. It would achieve nothing to make supply contingent on reform. 'The first thing to be done, was to place themselves absolutely in the right'. The select committee should

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32 Wentworth's speech in council, 16 June 1852, ibid., 17 June 1852.
33 Debate of 18 Aug. 1852, ibid., 19 Aug. 1852. The bulk of the liberals voted with Wentworth and his 'tail'. It is unlikely that the governor would have prorogued the council whatever the result, but there must have been a deadlock of some sort had Wentworth won.
34 SMH, 20 Aug. 1852.
devise a constitution based on the provisions of the 1850 act, but including essential details which would require not only the queen's assent, but a new enabling act. This scheme would very likely succeed because 'it was quite possible ... that the transcendental power of Parliament should be exercised for their benefit.'\footnote{35}

In his speech Macarthur did not explain how a bicameral structure would solve their problems. But his logic seems obvious. The formation of two houses would have meant the end of a system in which crown nominees sat among the representatives of the people. The lower house, at least, must be entirely elective, and such a body would be unmanageable if the majority of its members were not satisfied with their power.\footnote{36} In other words, an elected house must control the revenue, and the efficiency of the whole system would depend on the co-operation of that house with the executive. Some ministers, no doubt, might be government nominees holding seats ex-officio in the upper house. But it now seemed reasonable that at least part of the cabinet should be members of the elective chamber, which must in practice amount to responsible government. This exact means of co-operation would depend on the leading men, such as Macarthur himself. His memorial of 1850 would have allowed for the same system, but he had then taken it for granted that ministers would be chosen absolutely by the governor, and would all have seats in the upper house.

\footnote{35} Ibid., 19 Aug. 1852. This must have seemed particularly likely in that a privy council report had recommended concessions before the passing of the Australian Colonies Government Act (Melbourne, op. cit., pp. 366-70).

\footnote{36} Wentworth had already pointed this out (his speech in council, 16 June 1852, ibid., 17 June 1852), but his solution was to secure the revenue first, and then set up the two houses. Macarthur wanted to do both at once, in a single comprehensive scheme.
His latest ideas are evident in the report of Wentworth's committee presented three weeks after the debate on supply.\textsuperscript{37} The new constitution was to have a council of nominees and an assembly of elected members. The council was to exercise 'revising, deliberative and conservative functions', which clearly implied that the main initiative power was to lie with the assembly. On the other hand, while two-thirds of the councillors were to be appointed for life, the rest - seven or more - were to sit 'during pleasure'.\textsuperscript{38} This was no doubt meant to allow for the nomination of ministers during their terms of office.\textsuperscript{39} It was fundamental to the whole plan that the lower house should control all the local revenue. The committee explained that the 1850 act had not given them power 'to frame a Constitution suited to the present wants of the Colony without the further intervention of Parliament'.\textsuperscript{40} Their report therefore included a draft bill with which parliament might authorize the queen's assent to this last vital part of their proposal.

Public opinion was divided on the report, and so were members of the committee.\textsuperscript{41} Therefore, to allow for fuller discussion the matter was put off until the next session of council. Meanwhile a despatch arrived

\textsuperscript{37} The report was presented on 17 September, but the main points had been finalised within a few days of the debate on supply (ibid., 21, 28 Aug. 1852).

\textsuperscript{38} Report from the select committee on the proposed new constitution, V&P 1852, I p. 477. The members of the council were to number 20 or more. The life members were to be gentlemen already elected at some time by popular vote.

\textsuperscript{39} See Wentworth's speech in council, 7 Dec. 1853, SMH, 8 Dec. 1853, where he refers to the 1853 bill. At this stage he hoped to have one-seventh of the councillors appointed in this way, who 'would go out with the Ministry of which they would form component parts'.

\textsuperscript{40} Report from the select committee, loc. cit., p. 477.

\textsuperscript{41} Wentworth's speech in council, 10 Dec. 1852, SMH, 12 Dec. 1852. However, no minority report was presented.
from Grey's successor in Downing Street, Sir John Pakington, which at long last promised them their revenue. 42 This put the whole issue on a better foundation. In May 1853 another committee was formed, again under Wentworth's chairmanship, and a new bill was drawn up. In it Wentworth made more careful provision for responsible government, which now seems to have been better understood. 43 Another change since 1852 was the provision for a local peerage, which was apparently Wentworth's idea. 44 Nominees to the upper house were to be eligible for hereditary titles, defined so that when the number of peers reached 50 they would form an electorate choosing members of the house from among themselves. The chamber was to consist of 20 members elected in this way, but all the original grantees were to sit there by right. It is not clear what would happen if there were, say, 45 original grantees and five heirs in possession.

Macarthur gave this scheme very lukewarm support: 'he never was hearty for the adoption of the [hereditary] clauses'. 45 He had no objection to titular honours. But a chamber of hereditary law-makers

43 Irving, op. cit., pp.202-3. Some of the 1852 committee had even argued that the single mixed chamber should be continued (Wentworth's speech in council, 10 Dec. 1852, SMH, 12 Dec. 1852).
44 Macarthur's speech at an election meeting, 25 Mar. 1856, Empire, 27 Mar. 1856.
45 Ibid. See also his speech in parliament, 7 May 1858, SMH, 8 May 1858. The statement in ADB II, p.152, that 'Macarthur had been toying with this idea since the late 1830s' is inconsistent with any evidence discovered so far.
'he looked upon from the first as belonging to a by-gone state of civilization.' In public he was prepared to argue that these parts of the bill might allow for 'a very happy adaptation' of the English system, but he pointed out at the same time that 'for all immediate and practical objects, the measure would be as good without them.' Their vagueness shows that they must have been very carelessly drawn up, and in fact they were abandoned before the bill was committed.

A small group of liberals in council, led by Cowper, were unhappy even with a nominated upper house. This was by far the most widely discussed part of the scheme, and public feeling was generally in favour of making both houses elective. The main argument was that the legislature would then take more notice of opinion outside, and so act as a more effective check on the executive power. This shows that there was still doubt and confusion about the coming regime: in fact, with responsible government the formation of the executive itself was to depend on the assembly, and so, ultimately, on public opinion. Therefore, although an elected upper house might be a vehicle for public opinion a nominated one would be its creature. But those who wanted an elected council disagreed as to how it might be chosen in such a way as to

46 Empire, 5 May 1856. The source is an article on Macarthur's life and opinions partly written for the Empire by Cowper (H. Parkes to Macarthur, 27 Mar., 3, 7 Apr. 1856, ML A2923; Macarthur to Parkes, 5 Apr. 1856, ML A69, 8 Apr. 1856, ML A2923; Cowper to Parkes, 8, 10, Apr. 1856, ML A876). Cowper was certainly not biased in Macarthur's favour, and he was in a good position to know his real views, especially as they were both on the 1853 select committee.

47 Macarthur's speech in council, [30 Aug. 1853], in Silvester, op. cit., p.146.

48 Even two years later the Herald doubted 'Whether the population of a colony so small can exhibit any appreciable tendencies, or offer any basis for a political system of any recognised description' (ibid., 7 Dec. 1855).
serve a distinct and worthy purpose. The same liberal members opposed the new electoral arrangements, which confirmed those of 1851, with the provision that any change after the passing of the act must have the consent of half the council and two-thirds of the assembly. However these and the other main points of Wentworth's scheme had the support of a good majority. The constitution bill passed its third reading in December 1853, and was then despatched to England for the assent of queen and parliament.

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During the following months both Thomson and Wentworth left the colony. Thomson was abroad on leave until January 1856, and Wentworth never returned as an active politician. The impressive system of power which had distinguished FitzRoy's reign was suddenly


50 P. Loveday, 'The Development of Parliamentary Government in New South Wales, 1856-1870', Ph.D. thesis, Sydney University 1962, pp. 21-7. Changes to the constitution of the upper house had to have the support of two-thirds of both chambers.

51 Divisions on the constitution bill in committee, 27 May-28 July 1853, SMH, 13 Aug. 1853.


53 Thomson left on 25 January and Wentworth on 20 March 1854.
dissolved, leaving Macarthur to fend for himself in a political no-man's land, 'an isthmus between the continent of rock and bog behind, and the verdant regions before'. Nearly two years passed before the new constitution could be proclaimed in Sydney, and it took longer to establish a responsible ministry. Meanwhile the only real source of excitement was the outbreak of war in the Crimea, and 'the insidious designs of Russia upon the British Empire in Asia.' The council gave much thought to local defence, with Macarthur often taking the lead. Like many others, he invested the issue with a splendid moral purpose. The Crimean war was for him a holy and a Christian cause, 'the war of civilization and the arts, against barbarism, and the lust for conquest'. He also saw it as a good excuse for forming a local militia:

He did not believe the Russians would invade the colony, but that was no reason why the operation of right principle which pervaded the public mind, should be set aside. It was necessary that there should be in every rightly constituted community, the power of self-defence, whether such power was required to be called into immediate exercise or not.

In the same year, 1854, Macarthur tried to arrange the formation of a local government bank, which would have meant 'the abolition of all issues of notes by private companies'. The idea was in line with his

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54 SMH, 17 Oct. 1855.
55 Ibid., 29 Apr. 1854.
belief that private enterprise should be clearly subject to the state, but he was also acting under the influence of his brother-in-law, George Warde Norman, a famous exponent of centralised note issue. Norman's advice had been taken during the preparation of Peel's Bank Charter Act, 1844, by which the Bank of England had been made the main bank of issue in England. 59 But the idea met with little support in New South Wales, and Macarthur abandoned it. 60 He was 50 years ahead of his time. 61

During 1854 and 1855 political divisions in council were confused. The government lost much of its influence with Thomson gone, and it even became unpopular in 1855, when FitzRoy was succeeded as governor, and nominal governor-general, by Sir William Denison, a far more obtrusive ruler. 63 On the other hand there was no clear leader of the opposition, a role which Wentworth might have filled. 64 Such a nebulous firmament seemed to foreshadow new stars. In 1854 the liberals were joined by Henry Parkes, editor of the Empire and Wentworth's successor in the Sydney seat. Parkes became Cowper's close ally, and he brought a good deal of vitality

59 Sir John Clapham, The Bank of England, Cambridge 1945, II pp.172-81. Macarthur followed Norman's logic when he attributed the 1840-43 depression partly to the fact that 'too much paper has been issued by our banks' (Macarthur to Norman, 5 Sept. 1840, Norman MSS C182).

60 His motion was postponed several times, before being given up (SMH, 22, 27 Sept., 4, 11, 21 Oct. 1854). The Herald was strongly against the idea (ibid., 22 Sept., 7, 11 Oct. 1854).


62 Thomson's deputy was C.D. Riddell, the colonial treasurer, altogether a sluggish minister. See also SMH, 13 July 1855: Denison 'has ... returned to the position which his predecessor concealed (or abandoned), and has provided for the country a scheme of policy comprehending almost every thing which the House has lately been permitted to originate.'

63 Cowper to Parkes, 22 Dec. 1854, ML A876.

64 See, for example, Donaldson's speech in council, 22 July 1852, SMH, 23 July 1852.
and intellect to the liberal cause. He was also an organiser, and he helped to consolidate the party's links with opinion outside the chamber.

If Parkes was a recruit on the left wing of the liberal group, in 1855 it received a powerful counter-balance on the right, namely Stuart Donaldson. Donaldson had been a member of council from 1848 to 1853, when he had been more or less one of Wentworth's party. He was a wealthy merchant with some interest in squatting, and in council he was an authority on financial matters. He was a good speaker, but he was vain, and as a political organiser he lacked energy and imagination. Macarthur disliked him personally, more than he did most members: he described him once as 'a pert, flippant, careless man'. Everything he did seemed 'too inflated'. Donaldson was abroad during 1853 and 1854, but on his return he was immediately elected member for Sydney Hamlets, with the active support of Parkes.

During the 1855 session some clear alignments began to emerge. The main political questions of that year centred on the governor's financial message to council and the subsequent debates on the estimates. The financial message informed members that the governor was prepared to give

64 See, for example, Donaldson's speech in council, 22 July 1852, SMH, 23 July 1852.
65 Macarthur to his wife, 17 July 1850, ML A4342.
66 Macarthur to his wife, [11 Nov. 1851], ibid. See also Macarthur's comment on Donaldson in 1860: 'It is a pity he is so insufferably vain, for he has more than ordinary abilities, and might be really a useful man, if he would but exercise ordinary self-respect and modesty' (James Macarthur to Sir W. Macarthur, 25-26 July 1860, ML A2932.
67 Powell, op. cit., p. 213.
them complete control over the items listed in the schedules of 1842,
and the disposal of the land fund. This caused some surprise. Although
the concession was promised by the new constitution, it was clearly
forbidden by the current act of parliament. The council had been seeking
it for years but, as the *Herald* pointed out, there was a very good
argument against taking it as a boon from Sir William Denison, namely
*that it is illegal.*[68] Several leading members took this point of view,
including Macarthur, Cowper, Donaldson, Parker and Martin. Macarthur
argued in ominous language about the importance of keeping the law, one
of the great concerns of his life:

What would be the consequence if they were not particular in
the observance of this great principle ... The multitude who
observe daily their actions would say if the House could violate
the law why should not they also violate it ... Why it would
[also] be a precedent for some future Governor-General to attack
some other provision of our Acts ... and deliberately set it
aside ... or being swayed by some principle or other be led on
to make inroads into the Constitution.[69]

But the great bulk of the elected members supported Denison's 'small
revolution', and the government won a division on the question with a
majority of 32 to 10.[70] For Macarthur this result was profoundly depressing,
because it struck at the root of all his ideas about political responsibility.
It was one of those rare moments when 'utter disgust' led him to give
up hope for the colony, even in the long term.[71]

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[68] *SMII*, 27 July 1855, See also ibid., 2 Aug. 1855.
[69] Debate of 1 Aug. 1855, ibid., 2 Aug. 1855.
[70] Debate of 26 July 1855, ibid., 27 July 1855.
[71] Macarthur to his wife, [27 July 1855], ML A4343.
The debates on the estimates, during the following month, saw the first example of 'parliamentary' obstruction in New South Wales. Those responsible were Cowper, Donaldson, Parkes, Nichols and four others, who on one occasion kept the council sitting through an entire night over a single item of expenditure. Macarthur thought they did serious damage to the reputation of the house, and he characterised Donaldson as a soap bubble blown about by Cowper and Parkes, only not half so pleasing to the eye and most distressingly noisy.

These tactics are a good sign of the energy some members were beginning to devote to council, but they do not reflect long-term party solidarity. Beneath the unity of 'the obstinate eight' there was some disquiet about an issue which was soon to return to a central place in politics, namely squatting.

In the last four years the crown lands question had become more complicated than ever. In the first place the influx of wealth and population with the gold rush had made the statutory minimum price of £1 an acre seem more reasonable to those who had opposed it, including Macarthur. Secondly, part of the system governing squatting tenure had been changed. The 1847 order-in-council was to have allowed squatters to convert their licensed runs into 8 or 14 year lease-holds, with a limited pre-emptive right, but very few had done so, mainly because the

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72 Debate of 15-16 Aug. 1855, SMH, 16 Aug. 1855. There were 34 divisions between the first proposal (for the financing of an artillery corps) and the final vote (V&P 1855, I pp. 463-76).

73 James Macarthur to W. Macarthur, 17 Aug. 1855, ML A2932.

74 SMH, 23 Sept. 1851. For Macarthur, see his speech at an election meeting, 24 Mar. 1856, Empire, 27 Mar. 1856.
government had not yet carried out the necessary surveys. However, in 1851 new regulations gave them a total pre-emptive right over the land they might have leased, and in 1854 their licences, which had hitherto been annual, were extended to 8 or 14 year terms. Macarthur heartily disapproved of these new concessions, which he thought must lead to bitter contests between farmers and pastoralists. It would have been far better, he said, to have kept strictly to 'the original policy of this country', by which it was clearly understood that the rights of the grazier on crown land were to be limited to allow for the future extension of agriculture.

Both Cowper and Donaldson took the same line as Macarthur, as far as the new regulations were concerned. But the period 1854-55 saw the birth of a more extreme liberal policy, namely that the government should undertake to modify squatting leases already current, and the privileges which went with them. The squatters defended themselves with the argument that this would involve a clear breach of faith. Cowper was prepared to admit that 'The faith of the Crown pledged to the squatters was certainly to be regarded, but', he added, 'even this consideration


76 His speech in council, 19 June 1855, SMH, 20 June 1855.

77 See the divisions on the various resolutions of J.W. Bligh, a liberal, 11 Sept. 1855, V&P 1855 I.
might be carried too far.' In contrast Donaldson argued that 'it was the duty of the Government, even if a mistake had been made [in the original granting of leases], that the faith of their promises should be kept.' \footnote{Debate in council, 19 June 1855, \textit{SMH}, 20 June 1855.} A vital debate was to turn on this difference of priority. Macarthur agreed with Donaldson that good policy must include a strict regard for contracts and 'the maintenance of the public faith'. \footnote{Macarthur to H.M. Oxley, 20 Oct. 1856, ML A2920.} This idea was closely linked with his concern for keeping the law, and it was crucial to the conservative ideal, as opposed to what Macarthur called the 'revolutionary' one. \footnote{Macarthur's speech in council, 22 July 1852, \textit{SMH}, 23 July 1852.} Both Macarthur and Donaldson referred to themselves during this period as liberal conservatives, with this distinction apparently in view. \footnote{For Macarthur, see his speech at an election meeting, 24 Mar. 1856, \textit{Empire}, 27 Mar. 1856. For Donaldson, see his letter to Macarthur, 4 Apr. 1856, ML A2923.}

The division on the land question was manifest in council during September and October 1855. At the same time Macarthur's neighbour at Camden, George Macleay, of Brownlow Hill, became briefly eminent as a politician. Macleay and his brother William, of Elizabeth Bay House, were both members of council, and represented squatting electorates. They were the most active of a small number in the house who were interested in doing what they could for the squatters. \footnote{These seem to have included Daniel Egan and Charles Finch, who both represented squatting districts, George Bowman and William Dumaresq (see the divisions on 11 Sept. and 11 Oct. 1855, \textit{SMH}, 12 Sept., 12 Oct. 1855). Several of the members for squatting electorates were rarely at debates.} Donaldson seems
to have been on close terms with the Macleays, and although he was not
an out-and-out champion of the squatters his ideas on the crown's duty
to keep faith meant that he agreed with them on the most vital issue.
Cowper was right in thinking that

Jas. McArthur, Geo. McLeay and the Club [the Australian Club, a
stronghold of squatters] ... look to him as a great authority
against our side. 83

In September Donaldson and the Macleays helped the government to defeat
a liberal motion in favour of setting aside current leases. 84 Later they
also voted together against a bill reimposing a levy on sheep and cattle
in the squatting districts. But in this case the government and the
liberals combined in a majority against them. 85

Donaldson and George Macleay stand for a harder and narrower
conservatism than the type which had flourished briefly under FitzRoy,
and which was Macarthur's ideal. They represent the bankruptcy of that
ideal in New South Wales, a failure of will and moral purpose which
coincided with the end of the old political order. Donaldson was chiefly
a businessman interested in the mechanics of finance and government,
and although his laissez-faire point of view made him seem liberal at times,
his main concern was with smoothness and style. Macleay was a mere country
gentleman, who liked to collect powerful friends, tenants and livestock.

83 Cowper to Parkes, 22 Dec. 1854, ML A876.
84 Debate of 11 Sept. 1855, SMH, 12 Sept. 1855.
Neither shared Macarthur's profound optimism, his concern for the local people, and what that laissez-faire journal the Herald called his 'fidgetty desire to be at something'. From this period both Donaldson and Macleay were leading men in the conservative, or liberal conservative movement, but their conservatism was founded mainly on social arrogance, an unthinking concern for the established order and a small imagination. The end of the old tradition, such as it was, marked an epoch in Macarthur's career. He was absent from Sydney during this pivotal time, the spring of 1855, having suffered a riding accident, but he was glad to be away because, as he said, 'I agree with neither the govt. party nor the opposition.' His holiday also left him uncommitted to any emerging groups, so that at the end of the year he was well placed as an arbiter. But this was now the only constructive work left to him.

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The Constitution Act was passed by the imperial parliament during their 1855 session, and was received in the colony at the end of

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86 SMH, 11 Oct. 1854.
87 This is clear not only from what each did in politics, but also from what each failed to do, or say. But compare Donaldson to his father, 18 May 1838, ML A728, (referring to 'the utter beastliness of the mass of the people' in the colony), with Cowper to Parkes, 22 Dec. 1854, ML A876: 'Donaldson has never shown any sympathy with the people, in reference to any great question'. For Macleay, see James Macarthur to W. Macarthur, 1 June, 18,21 Sept. 1855, ML A2932.
88 James Macarthur to W. Macarthur, 21 St. 1855, ibid. By 'govt. party' Macarthur presumably meant the executive, Donaldson and the Macleays, and by the opposition, Cowper, Parkes and their supporters.
October.  But the local politicians had already begun to prepare for the new order. Macarthur had considered making the current session his last, and his friends assumed that he would now retire to the upper house. He had not been thoroughly well since 1848, and had become more and more unwilling to undertake heavy political work. But by mid-October he had decided that it was his duty to stand again: he could not resist joining in the vital work of the coming months. His ambition now was 'to see things in train in the government, and at this place [Camden] and [then] to take a run to Europe for a couple of years'.

Council broke up for the last time on the morning of 19 December. Afterwards the governor took the oath required by his new commission, as the head of state in a new political system. The termination of his old commission also put an end to his executive council, and later in the day Denison summoned Macarthur, Nicholson, the speaker, and Parker, the

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89 SMH, 1 Nov. 1855.
90 Therry to Macarthur, 1 Nov. 1855, ML A2930.
92 Macarthur to his wife, [26 Sept. 1850], ML A4342. See also Macarthur to his wife, 14 Sept. 1850, ibid.; James Macarthur to W. Macarthur, 31 Mar. 1855, ML A2932; Emily Macarthur to W. Macarthur, 4 Dec. 1855, ML A 4344. See also the marked change in Macarthur's handwriting, which periodically became very shaky from about May 1850, in his letters to his wife, ML A4342, A4343. By late 1857, however, his health seemed 'better than it has been for some years past' (Emily Macarthur to Sir W. Macarthur, 30 Oct. 1857, ML A2932).
94 James Macarthur to W. Macarthur, 4 Dec. 1855, ML A2932.
95 It was prorogued in the first instance, and formally dissolved on 29 Feb. 1856.
chairman of committees, to Government House to ask that they join an
interim executive. 96 None was very willing - Parker declined to come
at all - and Macarthur consented only on the understanding that he
would have no departmental work to do. 97 But he also pointed out that
there was no pressing need for a council, so that appointments might be
put off until Deas Thomson's return to the colony which was expected
within the next few weeks. 98

The governor took this advice and nothing more was done until early
January, when Thomson arrived back. 99 Both Denison and Macarthur were
anxious that Thomson should form the first cabinet, and thus preside over
the launching of the new system. West Camden was to have two members in
parliament, and Macarthur had already arranged that he and Thomson should
stand together, so that Thomson might take his seat as premier in the
lower house. 'My object', he told his brother, 'is to keep our interest
[in the electorate] together, and to try to form an effective conservative
govt.' 100 The electors of West Camden were willing to vote as they were
asked, 101 but soon after his arrival Thomson decided that he was too ill

96 Denison to W.M. Manning, 19 Dec. 1855, ML uncat. MSS 1107; Empire,
19 Dec. 1855. Plunkett, the attorney-general, Manning, the
solicitor-general, and Riddell, the acting colonial secretary, were
also present (James Macarthur to W. Macarthur, 26 Jan. 1856, ML A2932).
See also Melbourne, op. cit., p. 431.

97 James Macarthur to W. Macarthur, 26 Jan. 1856, ML A2932; Macarthur
to Denison, 30 Jan. 1856, ML A2920.

98 Macarthur's speech at an election meeting, 24 Mar. 1856, Empire, 27
Mar. 1856; his speech in parliament, 26 May 1856, SMH, 27 May 1856.

99 Denison to his mother, 30 Dec. 1855, in Sir William Denison, Varieties
of Vice-Regal Life, London 1870, p. 326. Thomson returned on
6 January.

100 James Macarthur to W. Macarthur, 4 Dec. 1855, ML A2932.

appendix 7, below.
to stand. He and the governor held their first talks on the assumption that he would rule from the upper house.

By 21 January, however, Thomson had decided that cabinet-building was also too much for him. In the meantime Macarthur had advised the governor to add William Macleay to his list of provisional councillors. The advantage of having Macleay no doubt lay in his friendship with Stuart Donaldson, and he was certainly able to give the governor a full account of Donaldson's views and intentions. Donaldson was first considered as Thomson's lieutenant, with the position of treasurer and leader in the lower house. But when it became clear that Thomson could not form a government he became an obvious candidate for the premiership. The governor had already decided that if Thomson failed he must aim for 'a sort of coalition ministry', and as a liberal conservative Donaldson might be expected to bridge most ideological gaps. The governor first

104 SMH, 22 Jan. 1856; Empire, 23 Jan. 1856. However Denison's formal commission to Thomson was written on 21 January, and only declined on 24 January (CO 201/493, ff. 258-62).
105 James Macarthur to W. Macarthur, 26 Jan. 1856, ML A2932.
107 Ibid.
108 Denison to his mother, 30 Dec. 1855, in Denison, op. cit., p. 326.
109 See SMH, 2 Feb. 1856: 'Mr. Donaldson's qualifications to conduct the Government are based mainly in his reputation as an able financier, together with a general turn of liberality in his political tenets and associations.'
consulted Macarthur as to whether he should send for Donaldson or Cowper. Macarthur suggested Donaldson, and Thomson's advice was apparently the same. On 22 January Donaldson was asked to form a coalition cabinet. There were to be five ministers, and his original plan was to include, with himself, Cowper, two moderates (Nichols and Daniel Cooper), and Manning, the present solicitor-general.

Cowper was afterwards told by Macarthur and Nicholson that he had been passed over as premier because of his attitude to the new constitution: they feared that he would 'nominate members to the upper house who would be pledged to overthrow it at once.' Cowper was extremely disappointed, and he refused to take office under Donaldson, in spite of being offered the highest salary in the cabinet. He warned Parkes that they must prepare for a conflict 'precisely similar' to the Camden election of 1843, when, he said, 'James McArthur [sic] began by arranging the whole legislative council as he is now doing the responsible government.'

110 James Macarthur to W. Macarthur, 26 Jan. 1856, ML A2932.
111 Denison to Sir G. Grey (secretary of state), 19 Feb. 1856, CO 201/493, f. 252.
112 SMH, 23 Jan. 1856; Empire, 23 Jan. 1856; Emily Macarthur to W. Macarthur, 25 Jan. 1856, ML A2960.
113 Empire, 28 Jan. 1856. See also Donaldson's speech in parliament, 26 May 1856, SMH, 27 May 1856.
115 Ibid.; Empire, 28 Jan. 1856. Donaldson was to have been premier and treasurer, with Cowper as colonial secretary.
Late in January Denison decided that he could not go on without a properly constituted executive council. Macarthur, Nicholson and Macleay were therefore sworn in, together with Colonel Bloomfield, the senior officer commanding at Sydney. They were afterwards joined by Thomson and Riddell, the colonial treasurer. Meanwhile Donaldson's efforts had borne very meagre fruit. By 12 February it was agreed that nothing more should be done until after the elections, which were planned for March or April. Donaldson's commission therefore lapsed.

Macarthur was anxious to see the right sort of government formed, but he was unwilling to take on political or official commitments. He therefore used this interval to visit his brother Edward, who was currently acting governor of Victoria. During his absence the first

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116 Denison to Macarthur, 29 Jan. 1856, ML A2920.
117 SMH, 31 Jan., 27 Feb. 1856. The commissions of the first four dated from 30 January, and those of Thomson and Riddell from 21 February. On 21 March they were joined by F.L.S. Merewether, the auditor-general.
118 Denison had also discovered that, because of the phrasing of the Constitution Act, the present heads of departments might lose their pensions if they gave up office before the composition of the new parliament was known (Denison to Donaldson, 12 Feb. 1856, SMH, 27 May 1856; Denison to Sir G. Grey, 19 Feb. 1856, CO 201/495, ff. 252-4).
119 He first took his seat in the executive council on 5 February, and attended only 3 other meetings, out of 13, before the formation of the first responsible government in April (executive council minutes, NSWSA 4/1533).
120 Edward had returned to Australia as deputy adjutant-general in 1851. He had later moved from Sydney to Melbourne, with the transferring of headquarters, had succeeded to the command on the death of Major-Gen. Nickle, and to the governorship on the death of Sir Charles Hotham (31 Dec. 1855). These were famous months for the Macarthurs: at the same time William, who was commissioner for N.S.W. at the Paris exhibition, was knighted and made chevalier de la légion d'honneur.
elections were held, for the city of Sydney, and four liberals, including Cowper and Parkes, were returned. These were the celebrated 'bunch'. Their campaign was very well organised, and included much abuse of the conservatives, the nominated upper house, and Plunkett, the much respected attorney-general, who was a fifth candidate for the seat.  
Parkes saw the whole effort as an important step in the building of 'the first great political party that ever existed in this country'. Macarthur also recognised its importance, but he refused to see it as the origin of a fixed party system, which he thought they could not have until 'many years hence'.

Macarthur's ideas on party government were equivocal at this stage. In 1853, during the debates on the constitution bill, he had ridiculed the idea 'that the colonial parliament could suddenly, and at once, jump into two great contending parties'. They could not look for 'two parties of the "ins and the outs", as in England'. He predicted instead that for the time being the cabinet would consist of 'the active business talent of both houses', and that 'unless on some extraordinary occasion', the ministers would be appointed and would resign as individuals. By early 1856, however, his ideas had become more practical. He now envisaged a cabinet whose policy would have the support of the lower house, or else, he said, 'they must resign their seats to another set of men'. In theory

121 Powell, op. cit., pp. 216-221.
122 Quoted ibid., p. 221.
123 Macarthur's speech at an election meeting, 24 Mar. 1856, Empire, 27 Mar. 1856.
he was still against party warfare, and he went so far as to predict that with the refinement of politics it would become obsolete even in England.  

He always disliked any such system of commitments, which he thought must stultify the intellect and conscience of members. But the problems of 1856 were forcing him to become a party man. The tone of the Sydney election, in particular, drove a wedge between himself and the 'bunchmen':

He would not go into office with any of those gentlemen ... he could not support them, because he felt that in doing so he would be deceiving them, or they him, and both the country.

By the end of the year he had been forced to the conclusion that it was useless for public men to eschew party discipline. They could do no good, he said, but must become 'isolated political atoms, floating about in the general confusion, without value, without weight'.

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The elections were all over by the middle of April. There was no contest in West Camden, but there was a good deal of indecision as to who should stand with Macarthur. Before leaving for Melbourne, on 13 February,

125 His speech at an election meeting, 24 Mar. 1856, Empire, 27 Mar. 1856.
126 See, for example, his speech in council, 18 Aug. 1852, SMH, 19 Aug. 1852, where he cited the example of Peel, whose 'sense of duty to his country was superior to any pledges which he might have given either to his party or to his constituents'; Macarthur to J. Martin, 2 Aug. 1858, ML A2920.
127 His speech at an election meeting, 24 Mar. 1856, Empire, 27 Mar. 1856.
128 Macarthur to H.M. Oxley, 20 Oct. 1856, ML A2920.
Macarthur had arranged that his colleague should be Thomas Barker, a Sydney conservative who had been a nominee in the old council. During his absence, however, a local man, John Oxley, came forward and Barker withdrew in his favour. Oxley called himself a conservative, but as it turned out he was not a reliable one. 129

On 4 April, a fortnight after Macarthur's return, Donaldson wrote to him at Camden, to say that he expected very soon to receive another summons from the governor. He pointed out that already the election results were

most unquestionably in favour of the liberal conservative party to which both you and I, I think, belong.

The letter shows that Donaldson had already been conferring with Macarthur, and that he had even been invited to stay at Camden Park. He now suggested that, if he should form a government, Macarthur might take office under him as treasurer, 'the best I have'. 130 Macarthur's answer was apparently non-committal. He was still the governor's expert impartial adviser, and he was soon afterwards called to town in that capacity. 131

129 See appendix 7, below. Oxley was a son of the explorer.
130 Donaldson to Macarthur, 4 Apr. 1856, ML A2923. The underlining perhaps shows that Donaldson's style was indeed 'too inflated', as Macarthur once suggested (see above).
131 Denison to Macarthur, 8 Apr. 1856, ibid.
Macarthur spent the middle part of April helping where he could to get a cabinet together. Donaldson was right in thinking that most of the new assemblymen tended to be conservative, but it was another question whether Donaldson himself would be able to control the house as prime minister. As Macarthur said, he lacked 'ballast': neither his personal prestige nor the strength of party feeling were enough to keep him upright and afloat. No doubt this was why Donaldson had tried to bring in Macarthur as his treasurer. But for Macarthur himself and for Denison a more obvious solution was to make Thomson prime minister. Unfortunately, Macarthur was never on confidential terms with Thomson: in writing to his brother William, now in England, he could only say that he hoped he and Thomson were 'pulling together'. Fortunately, he added, he had a good friend in Manning, the solicitor-general, and together he thought they would be able to maintain a strong ruling party under Thomson. Donaldson was to be leader in the assembly, unless Thomson could be persuaded to find a seat there, as Macarthur hoped he would.133

Macarthur's own future was unclear. He told William that he could have been prime minister himself and, he said,

I ... may yet be compelled to take office, but I shall try to avoid it on public as well as on personal grounds. I think I can strengthen the govt. more out of office than in.134

But he soon found that there would be no conservative government at all

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132 Ibid.; Denison to H. Labouchere (secretary of state), 18 Apr. 1856, in Denison, op. cit., p. 346; Cowper to Parkes, 23 Apr. 1856, ML A876.
133 James Macarthur to Sir W. Macarthur, 16 Apr. 1856, ML A2932. It had been Manning's idea that Macarthur should be asked to join the interim executive council, in December 1855 (Denison to Manning, 19 Dec. 1855, ML uncat. MSS 1107).
134 Ibid. It is not clear why Macarthur thought he would be more useful out of office, but presumably he thought he would be able to set an example to the other 'independent' members.
unless he was prepared to take part in it. On 20 April Thomson gave up his second attempt to form a ministry, and next day the governor sent once more for Donaldson. Donaldson hoped at this stage to have the support of all the old officials, and he therefore offered places in his cabinet not only to Thomson, but also to Plunkett, the attorney-general, and to Manning, both of whom had been elected to the assembly. But all declined to join. Thomson and Plunkett thought it beneath them to have Donaldson as their chief. Manning apparently felt that the government could not stand without Thomson, and he also disliked Donaldson's politics. Within a few days, however, Manning talked the matter over with Macarthur, and as a result they decided that 'it would be possible for them to work together' if both took office. Manning expected that Macarthur's presence in the cabinet would have an important effect on its policies, and would also 'give it strength, and tend to win the confidence of the people'. For his part Macarthur now saw it as his duty to join, in order 'to keep things straight and to keep the radicals out'.

Donaldson drew up his list of ministers on 25 April, and next day it was approved by the governor. Macarthur was named as treasurer, with

135 Thomson's speech in parliament, 6 June 1856, SMH, 7 June 1856, Foster, op. cit., pp. 389-90.
136 Plunkett's speech in parliament, 29 May 1856, SMH, 30 May 1856; Thomson's speech in parliament, 6 June 1856, ibid., 7 June 1856. Plunkett had been elected for two other seats after losing at Sydney, and he finally represented Argyle.
137 Manning's speech in parliament, 27 May 1856, ibid., 28 May 1856; Manning to Macarthur, 12 June 1856, ML A2923.
138 James Macarthur to Sir W. Macarthur, 10 August 1856, ML A2932.
139 A. Jenner (governor's private secretary) to Donaldson, 26 Apr. 1856, ML A2923.
Manning as attorney-general and J.B. Darvall solicitor-general. Nichols was also included, and given the provisional title of auditor-general until the division of labour could be properly worked out.140 The cabinet was essentially a coalition, and the main point of difference between ministers was the future of the upper house. The constitution bill sent home for approval in 1853 had included two clauses which were to provide for future amendments. Clause 17 specified that any changes in the electorates laid down must be approved by a two-thirds vote in the assembly, and clause 40 said that any changes affecting the upper house must be approved by two-thirds in both chambers. But the imperial government had introduced another provision stating that either of these clauses might themselves be repealed by simple majorities, in the normal way.141 Macarthur was quite willing to give up clause 17. He thought it 'disfigured' the act, and 'he could not recollect exactly' why it had been put in in the first place.142 But both he and Manning were anxious to keep clause 40, because its repeal opened the way for an elected upper house. Donaldson and Darvall, on the other hand, agreed with the liberals that the upper house should be elected. As a compromise it was decided to repeal both clauses, on the understanding that there should be no further change, for the time being at least.143

140 On 4 August it was decided that he should be secretary for lands and public works (executive council minutes, NSWSA 4/1533), but the government fell before this could take effect. See Dickey, op. cit., pp. 232-3.
141 Melbourne, op. cit., p. 423.
142 Macarthur's speech at a post-election meeting at Berrima, 29 Mar. 1856, Empire, 2 Apr. 1856.
143 James Macarthur to Sir W. Macarthur, 21 May 1856, ML A2932; Manning to Macarthur, 12 June 1856, ML A2923.
The Donaldson ministry planned to enact several measures, of which this was one. They also meant to bring in a bill to regulate the tenure of land in the squatting districts. The details of their land policy were never fully worked out. According to Macarthur they meant to allow the squatters 'the full benefit of their leases', but they also hoped to arrange for 'a system of surveys that will place the quantity of land prepared for sale ahead of the demand', so as to encourage the purchase of farms. 144 However, the ministry fell before all this could be done.

Their educational policy was Macarthur's special interest. In a sense it was the last flourish of Macarthurite conservatism, and its chances of success depended on his own prospects as a minister. He and his colleagues took office as executive councillors on 29 April, but they were not appointed to their departments for the time being, because under the constitution this would have made it necessary for them to resign their places in the assembly and seek re-election. Therefore Macarthur was only treasurer-elect, until after the government had finished its most pressing work. 145 Meanwhile it was understood that Donaldson would look about for someone to take his place, because Macarthur dreaded the prospect of the treasury:

I was not ... well versed in arithmetic [he explained], or sufficiently acquainted with the routine of such an office as Colonial Treasurer. I could not pore over ledgers and books of account every day of my life, and therefore I felt I was not the right man in the right place. 146

144 Macarthur's speech at an election meeting, 16 June 1856, SMH, 18 June 1856.

145 Their most urgent work was the choice of members for the legislative council, and the drawing up of the governor's speech for the opening of parliament.

146 Macarthur's speech at an election meeting, 16 June 1856, SMH, 18 June 1856. See also James Macarthur to Sir W. Macarthur, 21 May 1856, ML A2932; Macarthur to Donaldson, 2 June 1856, ML A731.
Consequently after some trouble, Thomas Holt, a new member, was persuaded to take the job instead.

The ministers entered into their departmental duties on 6 June. During the following week there was much discussion about the way the work was to be shared between them. Macarthur remained a member of the cabinet, and the main question was whether a department should be created specially for him. Macarthur himself believed that there should be a ministry of public instruction, and he was prepared to take charge of it if necessary. He was well suited for it, in so far as he had a very thorough knowledge of the books and teaching methods of the national schools. But he would certainly not have made a good minister, because even in this field he would soon have been nonplussed with limitless mechanical duties. His enthusiasm, such as it was, came from his wife.

Anyway or other [he once told her] my educational ardour evaporates in the wish unless you are on the spot to give it shape and purpose.

Apparently he only offered to take on the ministry because he thought there should be one, and 'lest I should seem to be shrinking from my share of departmental responsibility'.

At this stage Macarthur looked forward to the creation of a single system of elementary schools, modelled on the Irish national system, but

147 See, for example, the report of a meeting at Camden to found a national school, 29 Aug. 1849, SMH, 31 Aug. 1849; Macarthur's speech in council, 27 Nov. 1851, ibid., 29 Nov. 1851; Macarthur to his wife, [24 June 1854], ML A4343.

148 In January his wife said how glad she was that he would not take office, because 'his mind would never rest day or night with such employment' (Emily Macarthur to W. Macarthur, 25 Jan. 1856, ML A2960.

149 Macarthur to his wife, [13 Nov. 1851], ML A4343.

150 Macarthur to Donaldson, 14 June 1856, ML A731.
with some other name in order to counter prejudice. This reform was desirable partly because it would be much cheaper than the present dual structure, and partly because he thought that the Irish system was essentially good. It embodied, he said,

the comprehensive views of Christian principle in which the various persuasions agree, omitting the matters (quite beyond the comprehension of children) in which they are at all at issue.

He also thought that it would be necessary to give the reform a distinct statutory basis, so as to ensure uniformity. On the other hand, each school should be partly supported by local rates, which would ensure that it became a centre of local interest. He no doubt hoped to see facsimiles of 'our school' at Camden scattered over the country, each 'diffusing the love of truth and sound principle in its limited sphere'.

This was the ideal. But there were a number of obstacles. Macarthur himself was inclined to think that the central 'bureau' should be entirely non-political, with a permanent head, which would have made him ineligible. There was also a general feeling in the cabinet that they ought not to create a new ministry, and particularly such a controversial one, until parliament had a chance to discuss it. They were still

151 Macarthur to Donaldson, 2 July 1856, ibid.
152 Macarthur to his wife, [17 Sept. 1850], ML A4342.
153 Macarthur to Donaldson, 12, 30 June 1856, ML A731. It was probably not very realistic, in a 19th century responsible government system, to hope that a public undertaking might be free from the control of a responsible minister (see John N. Molony, An Architect of Freedom, Canberra 1973, p.255).
154 Manning to Macarthur, 12 June 1856, ML A2923; Macarthur to Donaldson, 12, 14 June 1856, ML A731; Darvall to Donaldson, 12 June 1856, ibid.; Donaldson to Macarthur, 13 June 1856, ML A2923.
suffering 'a sort of numbed fear of responsibility,'\textsuperscript{155} and Donaldson was very anxious not to take on more problems than he had already. It was characteristic of Macarthur that his scheme could only be realised by a government absolutely certain of its strength and moral purpose. In discussing the matter with Donaldson he admitted that reform must come slowly. But he saw the prejudice of the clergy and the scarcity of good teachers as the main problems. He thought they might certainly set up training schools, and for the time being they might also do a great deal with the existing structure, 'above all by an effectual system of inspection, which has hitherto never been attempted'.\textsuperscript{156} But Donaldson would only commit himself to a parliamentary inquiry, which he promised during the current session.\textsuperscript{157}

Macarthur therefore remained minister without portfolio, and in fact his period with the cabinet itself was shortlived. Parliament met again on 5 August, after two months adjournment in which the departmental arrangements had been worked out and the annual estimates drawn up. In spite of Donaldson's hopes for a large majority the house was not solidly behind him. The total membership was 54. Of these 25 apparently supported his premiership, 21 were in favour of Cowper, one was the speaker and the remaining seven were, at least in effect, cross-benchers. The existence

\textsuperscript{155} Denison to Labouchere, 21 July 1856, NL MSS 1957/1.
\textsuperscript{156} Macarthur to Donaldson, 2 July 1856, ML A731.
\textsuperscript{157} Donaldson to Macarthur, 4 July 1856, ML A2923.
of the government therefore depended partly on the voting of the cross-
benchers and partly on the willingness of its own supporters to turn up
during crucial divisions. During August there were four divisions on what
were virtually no-confidence motions by the opposition. The first two
were won easily by the government, 22 to 16 and 29 to 14. But the others
were much closer, one being 22 to 23 - a defeat - and the other 23 to 22. 158

The last division was a great disappointment for Donaldson and his
colleagues, because they had looked forward to it as final proof that they
had the support of a good majority in the house and in the country. 159
After several days of doubt they decided that the best idea in the long
term would be to resign, a move which was apparently meant as an assertion
of principle which would bring the chamber to heel. 160 The decision was
announced on 21 August, and 'was received by the Opposition with spasmodic
exultation and livid joy'. 161 A cabinet led by Cowper immediately took
office, and parliament was adjourned once again, for six weeks.

The career of the new ministry proved that Donaldson and his
colleagues had been wise to resign. When parliament met again the
conservatives were ready with a no-confidence motion, and assurances of

158 See appendix 10, below, for a discussion of the voting patterns.
160 Ibid., 22, 23 Aug. 1856; Darvall to Donaldson, 23, 26 Aug. 1856,
ML A731.
161 SMH, 22 Aug. 1856.
support from the cross benches. Their motion took up the first six
days of debate, during which the liberals suffered three defeats, 25 to 23,
26 to 23 and 24 to 23, of which the first two were on questions of
adjournment and the last was the main issue. Cowper first sought a
dissolution from the governor, but when this was refused he gave up. By
1 October the conservatives were back in the saddle. 162

On Cowper's resignation Henry Watson Parker, Macarthur's brother-
in-law and the former chairman of committees, was summoned to Government
House. Parker was a conservative, but he was a more amiable and even
tempered man than Donaldson, and the governor had some reason to hope that
his own original plan, a broad-based coalition, might be possible under
Parker's premiership. 163 He therefore asked Parker, if possible, to
include both Donaldson and Cowper in his cabinet. 164 But Cowper refused
to join, and as a result the third responsible government was largely a
reshuffle of the first. Nichols was replaced by John Hay, a new member,
but the law officers were the same, and Donaldson was treasurer. Thomson
was brought in, as leader in the upper house, providing the same 'ballast'
for the new government as Macarthur had done for Donaldson's. 165 In spite
of his large schemes Macarthur himself was no doubt glad to be left out.

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162 Powell, op. cit., pp. 229-36.
163 Parker was widely respected by all parties. See, for example,
Empire, 23 Oct. 1855, commending 'his ability, concise style, and
urbane manner as a debater'.
164 SMH, 2, 4 Oct. 1856; Parker's speech in parliament, 28 Oct. 1856,
ibid., 29 Oct. 1856.
165 The liberals had tried very hard to persuade Plunkett, the former
attorney-general, to join them in government (ibid., 12 Sept. 1856),
which would no doubt have given them enough of the same sort of
'ballast'.
The new regime was called 'a family compact' by the liberals, the most obvious family link being Macarthur's relationship with the prime minister. But the relationship might as well not have existed: although they were brothers-in-law for nearly 25 years not a single confidential letter from one to the other survives. Macarthur did not like Parker, Parker did not want to be dominated, and their respective wives were too much at loggerheads for the situation ever to change. Moreover, Macarthur was now able to revert to the role which he always preferred to play, as an independent member, supporting the government as far as his conscience allowed him, 'but not one whit further'.

Yet another adjournment was necessary on Parker's taking office, and it was November before parliament got down to the essential work of voting supply. This was to occupy them for the remainder of the session, which lasted through to the following March. Parker had intended to carry out most of the reforms promised by Donaldson, but the opposition succeeded in delaying business so much that these were put off for the

166 Cowper to Parkes, 11 May 1857, ML A920.
167 See chapter 7, above; Emmeline Parker to Edw. Macarthur, 9 Sept. 1844, ML A2959; Macarthur to his wife, 18 Oct. 1848, ML A4342; Parker to Edw. Macarthur, n.d. [Mar. 1850], ML A2959; Macarthur to his wife, [12 Nov. 1857], ML A4343; Emmeline Parker to Sir W. Macarthur, 21 Sept. 1861, ML A2959; James Macarthur to Sir W. Macarthur, 26 July 1864, ML A2932.
168 Macarthur's speech at an election meeting, 6 Mar. 1843, Australian, 8 Mar. 1843. He was conspicuously absent from a banquet given for Parker and the government at Parramatta on 22 Apr. 1857, SMH, 24 Apr. 1857.
time being, with only two exceptions, namely a bill repealing the two-thirds clauses, and another reinstating the city corporation, which had been suspended since FitzRoy's time. 170

Parker's government crumbled bit by bit during 1857. They suffered badly by the loss of three eminent supporters: Manning, who resigned the attorney-generalship in April, due to sickness, and sailed for England; Nichols, who was also sick; and Plunkett, who had supported the government from the cross benches, but who resigned on appointment to the upper house. Moreover, four by-elections all favoured the liberals, and two of the new members, Deniehy and Dalley, added much vitality to the opposition. 171 Macarthur, writing to his brother in June, predicted that the ministry would fall when parliament met again, which was to be in August, and he expected a general election to follow. 172

The government managed to weather the first attack of the new session, an implicit vote of no confidence, but they lost several later divisions on matters which were supposed to be of secondary importance. 173 Parker decided to carry on, and prepared to bring in one of the main bills of the session, which was to reform the lower house. The number of members which was to be increased to 104, almost double the existing figure,

170 They also hoped to carry out Macarthur's educational ideas (see Manning's speech in parliament, 11 Feb. 1857, ibid., 12 Feb. 1857).

171 Powell, op. cit., pp. 244-5. A third new member was James Byrnes, formerly a protegé and strong supporter of the Macarthur family (Byrnes to Edw. Macarthur, 29 Nov. 1856, ML A2917). The fourth, John Campbell, was returned during the by-election following Parker's accession. See SMH, 10 Aug. 1857; appendix 10, below.

172 James Macarthur to Sir W. Macarthur, 17 June 1857 (third letter), ML A2932.

173 Debates of 19, 27 Aug. 1857, SMH, 20, 28 Aug. 1857. The first and most important vote was won by the government 23 to 18, due to the poor attendance of the liberals. See also the debate and vote on adjournment (won by the government 22 to 21), 2 Sept. 1857, ibid., 3 Sept. 1857.
with the idea that this would make majorities on one side or the other
more decisive. It was also proposed to introduce the secret ballot, in
order to counter the effect which liberal party organisation was supposed
to be having on voters. 174

Except for publishing the bill three weeks before it was due for
debate, the government did nothing to smooth the way for its passage
through the assembly. Their supporters, including Macarthur, were not
consulted at any stage beforehand. 175 Hay explained that this was not
done on principle: he and his colleagues were the men entrusted with
the government, and it was for them alone to decide how it should be
carried on. 176 But had there been more determination to stay in office
the principle might have been forgotten. It was certainly an
unlucky one. The second reading of the bill was moved on 2 September, and
it soon became clear that several of the keenest conservatives were opposed
to the main points of reform. However, with two exceptions, these members
said that they would vote for the bill as a whole and hope for extensive
changes in committee. 177

The two exceptions were Macarthur and Arthur Tod Holroyd, a conservative
whose thinking, like Macarthur's, tended to be paternalistic and high-
minded. 178 Macarthur had two great objections to the bill. He disliked

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174 Speeches of Parker, Darvall and Donaldson, 2 and 3 Sept. 1857,
ibid., 3, 4 Sept. 1857.
175 Ibid.; Sutter's speech, 3 Sept. 1857, ibid., 4 Sept. 1857. For evidence
that Macarthur was not consulted, see Hay's speech, ibid. See also
G.S. Lang to Donaldson, 29 Aug. 1857, ML A731, complaining that the
government was 'trying to lead us like a flock of sheep'.
176 Hay's speech, 3 Sept. 1857, SMH, 4 Sept. 1857.
177 Debates of 2 and 3 Sept. 1857, ibid., 3, 4 Sept. 1857.
178 Holroyd was one of a very small number who voted with Macarthur during
the debates on the tariff in 1852 (see chapter 8, above). For his
life, see ADB IV.
the secret ballot, because he thought it was a 'cowardly' method of voting, 'only calculated to encourage the worst qualities of our nature'. He also objected to the addition of so many new members to the assembly: 'a most tremendous mistake'. More were certainly needed in various places, to make up for 'glaring inequalities', but such a large increase he thought must lead to a 'degeneracy in the whole character of the Legislature.' However, the underlying thrust of his argument was that the government had outstayed its welcome, and must resign:

He cared little what Ministry might succeed, provided that it was constructed on principles in accordance with the spirit of the British Constitution. To such a Ministry he would give his most cordial support.179

Holroyd had originally meant to vote for the second reading, but Macarthur's speech changed his mind. He now agreed that the ministry must 'resign or dissolve', because at present 'they were only playing with the country'.180

Macarthur's speech caused consternation on both sides of the house. It was 'just as unexpected as would be a somerset performed by a Bishop', said the Herald.181 He was roundly praised by the opposition, who for the first time noticed his nobility and high standing in the colony.182

179 Macarthur's speech in parliament, 3 Sept. 1857, SMH, 4 Sept. 1857.
180 Holroyd's speech, ibid. Compare his speech of the day before, ibid., 3 Sept. 1857.
181 Ibid., 4 Sept. 1857.
182 See the speeches of Robertson and Dalley, 3 Sept. 1857, ibid.
His former allies were the ones who now accused him of double-dealing. Donaldson, of all people, called him 'the king-maker ... the Warwick of the House', who had waited quietly at home, 'until seeing the balance was turning, he came down to vote on the preponderating side'. Darvall likened him to a bat:

belonging to no party, seemingly hovering over both and knowing not where to alight ... an object of pity ... [who would be found] by and bye clinging by his heels to the roof, having no place to rest on the floor of the House. 183

But they could not prevent the final vote, which was 26 to 23 against them, with Macarthur and Holroyd tipping the scale. Parker immediately announced that he meant to resign. 184

Macarthur's part in this debate is the best proof of his political detachment and his optimism, which was so profound that even the collapse of his own allies seemed to him a secondary matter. He had been anxious in 1856 that a conservative government should hold office first, because he was afraid that the liberals would 'nominate members to the upper house who would be pledged to overthrow it at once'. 185 But with that crisis past he was prepared to take a more long-term view. The methods of the liberals annoyed him, but he was certain that all would be right in the end:

I always looked upon it [responsible government] as sure to produce a plentiful crop of troubles ere the benefit could be reaped. 186

183 Macarthur answered that he 'did not know that he bore any similitude to that animal,'
184 Debate of 3 Sept. 1857, ibid.
185 Cowper to Parkes, 7 Feb. 1856, ML A676.
It was fundamental to his thinking that 'nature delights in redressing the balance', so that the inevitable result of excess must be movement in the opposite direction. Meanwhile one had to do one's duty, and the equivocal state of Parker's ministry, as he saw it, called for 'a conscientious declaration of my opinions and an honest straightforward vote'.

The fall of Parker's government was due to various causes. The ruling party had been unlucky in losing so many influential men from its ranks during 1857, an exodus more crucial in its way than the departure of Wentworth and Thomson in 1854. But the ministers themselves lacked the will to survive, much less to rally what support they had in the house and in the country. The liberals, on the other hand, had gone from strength to strength. They were far ahead of their opponents in vigour and organisation, which meant that they had good reason to expect numbers as well. The result of the debate was decisive, however close. It is not important that three government supporters who should have been in the house were not there. One of them, George Macleay, was pacing

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187 Macarthur to G.W. Norman, 6 Mar. 1852, Norman MSS C182.

188 Macarthur to his wife, [4 Sept. 1857], ML A4343. Loveday and Martin say that Macarthur's vote was due to his belief that Parker had broken the understanding by which he and Manning had entered Donaldson's government, namely that there should be no changes in the constitution following the repeal of the two-thirds clauses (P. Loveday & A.W. Martin, Parliament, Factions and Parties, Melbourne 1966, p. 171). But the understanding must have lapsed since both had left the cabinet, and in fact the evidence cited (Macarthur to Martin, 2 Aug. 1858, ML A2920) does not imply such a clear cause-effect relationship.

189 These were Nichols, G.W. Lord and George Macleay. See appendix 10, below.
the deck of a steamer on his way home from a funeral: it might have been the funeral of conservatism in New South Wales.

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190 SMH, 5 Sept. 1857.
Chapter 10

The Dream Dispersed 1857-1867

This thesis has had two main aims. First, it is meant to be a portrait of Macarthur, 'the actual man underneath', showing the political aspect of his life and personality. There might have been more detailed reference to those British events and ideas which inspired him, and which he used to justify his conclusions. But the aim has been to show how his politics evolved on the spot, shaped by a certain education and background, and applied to certain issues. As far as possible I have avoided the kind of history which describes ideas moving across the water from the mother country like disembodied spirits. ¹ The situation itself, including the individual character, has generally been treated as the mainspring of ideas, however much those ideas were formalised to fit some well known British model.

The second aim has been to use his career as a type of filter, a means of distilling some of the best aspects of colonial life in pre-industrial times. It might be argued that before Australia was linked to Europe with steamships and cables society here passed through a generation which was mainly self-sufficient; that ideas in that period often had a characteristic subtlety which saved them from being gimcrack and second-hand. I have assumed this to be true, and have tried to show Macarthur partly as an exemplar, and partly as 'the eagle of his tribe'.

¹ Compare the preface to Manning Clark's first volume, where he describes his subject as 'the mighty theme of the coming of European civilisation to Australia' (C.M.H. Clark, A History of Australia I, Melbourne 1963, p.vii).
During the last years of his life Macarthur remained a man of great influence, but his ideas no longer had any generating power. On Parker's resignation Cowper returned to the premiership, and there was a confused interval of three months before the next general election. According to Macarthur he could have made himself 'the most powerful man in the house' during this time, had he wished to do so.\(^2\) This may or may not be true. But he certainly lacked the energy to try and, more important, parliament lacked members who might have agreed with him on any long term programme of government. He took some delight in his 'position of independence',\(^3\) but, to use Darvall's metaphor, it was the independence of a bat hovering over both parties.

Macarthur had been limiting his responsibilities more and more during the last seven years. This was partly an effort to reduce the debts which had accumulated during the 1840s, but it was also a result of his sickness and advancing age: he now recognised the need to 'draw one's affairs into such a compass as admits of easy control'.\(^4\) In 1856 he and William sold their squatting run on the Murrumbidgee, together with the 15,000 sheep running on it - 'the wasted residue of our flocks' - and in the following year the last of their debts had been paid.\(^5\) Soon afterwards the partnership with Edward was dissolved and he, Edward, resumed the

\(^2\) Macarthur to his wife, n.d. [Sept.-Nov. 1857], ML A4343.
\(^3\) Ibid.
\(^4\) Macarthur to his wife, n.d. (postmarked 17 Jan. 1850), ML A4342.
Argyle property, which was his part of the joint estate. By 1858 then, Macarthur and his younger brother were living on the proceeds of Camden Park, now an agricultural concern with some dairying and wine-making. Their income seems to have depended mainly on their tenant farmers.  

During these years Macarthur also cut down on his official duties. He was still a member of the university senate, but he is never listed as being present at the ceremonies there. He took on only one post in Sydney, and relinquished it as soon as possible: he was founding president of the Union Club, a body organised at the end of 1856 as a splinter from the old Australian Club. A fundamental rule of the new club was that, unlike the Australian, there was to be no secret ballot for members, and therefore no black-balling. The original members were mostly conservative city gentlemen, and some at least no doubt saw their new foundation as a means of breaking with the 'ultra-squatting' group which had come to be identified with the Australian Club. According to Macarthur this group was largely responsible for the fact that the colony was falling into the hands of an 'absolute democracy', because their 'selfish arrogance and extreme violence' had naturally provoked the people to destroy the entire status quo.

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6 Ibid. In 1852 the tenants numbered 120 (Edw. Macarthur to G.W. Norman, 1 Jan. 1852, Norman MSS C126), each of whom seems to have paid about £30 a year (the statements of 2 Camden tenants to Caroline Chisholm in 1846, SMH, 6 June 1848 and Monteagle papers, National Library of Ireland, MSS 13400).

7 His presidency of the Union Club was terminated at his own request in January 1859 (Macarthur to the vice-president and committee, 19 Jan. 1859, ML A2924).

8 J.A. Dowling, Notes on the Genesis and Progress of the Union Club, Sydney, Sydney 1924, pp. 3-4.

9 SMH, 29 Dec. 1856. New members were to be chosen by the management committee, which was to have a membership of not less than 17.

10 James Macarthur to Sir W. Macarthur, 26 Mar. 1861, ML A2932. For the original membership of the club, see Dowling, op. cit., pp. 4-5.

11 James Macarthur to Sir W. Macarthur, 26 Mar. 1861, ML A2932.
Macarthur was also anxious to give up his seat in the legislative assembly. In December 1857 the first parliament was dissolved and Cowper went to the country in the hope of providing a better foundation for his government. Macarthur at first declined to stand again, but he consented to do so when no other acceptable candidate came forward. However this was his final parliament. It lasted for only two sessions, and broke up in April 1859. Cowper had a majority during the whole period, although his supporters tended to jar with each other. Macarthur did not come down to the house very often, especially during the second session, but he does seem to have been present for all the most controversial business. In spite of his recent 'position of independence', he was soon acting once more with his old allies, and sitting with them on the opposition benches.

However, the issue on which he concentrated most energy was not meant to be a party one. This was the dismissal of Plunkett from the presidency of the national schools board. The board administered those elementary schools which were run according to the principles of the Irish national system, as distinct from the church schools. In December 1857 the members of the board drew up regulations to provide for their taking control of schools which were currently outside both categories. However Cowper refused to allow these rules to be promulgated, partly because they

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12 See appendix 10, below.
14 He obtained leave of absence twice in 1858, on 10 August and 16 December, SMH, 11 Aug., 17 Dec. 1858.
15 He joined in a vote of no confidence in the government on 22 Apr. 1858 (ibid., 23 Apr. 1858). See also his defence of the opposition, 15 July, and attack on the government, 21 July 1858, ibid., 16, 22 July 1858.
involved a radical and costly extension of the national school system, but also no doubt because he disliked non-sectarian education on principle.\footnote{Cowper's speech in parliament, 23 Apr. 1858, ibid., 24 Apr. 1858.} As a result Plunkett - a man of 'high sensitive feeling ... the model of the old school of Irish gentlemen'\footnote{John N. Molony, \textit{An Architect of Freedom}, Canberra 1973, pp. 253-7.} - first sent the prime minister two indignant letters and then gave the correspondence to the press. On 5 February he was summarily dismissed.\footnote{Their friendship dated back to Governor Bourke's time, when Macarthur had thought of marrying Plunkett's sister (G.K. Holden to R. Bourke jr., 1 May 1836, ML A1738; Sir R. Bourke to R. Bourke jr., 21 July 1836, ML A1733; R. Bourke jr. to his father, 29 Dec. 1836, ML A1739).} 

Macarthur was in town when Plunkett heard of his dismissal. He, Macarthur, was keenly interested on the work of the national schools, and there was a good deal of mutual respect between himself and Plunkett.\footnote{Macarthur to his wife, [6, 8 Feb. 1858], ML A4343.} They immediately conferred together and, as Plunkett was a popular public servant, Macarthur became the centre of a great reaction in his favour.\footnote{SMH, 16 Feb. 1858.} 

On 15 February he chaired a meeting of 3,000 people in Hyde Park, who received him with enormous enthusiasm and passed resolutions expressing sympathy for Plunkett. On leaving the platform afterwards Macarthur was immediately seized, placed on a chair ... [and] hoisted in a moment on the shoulders of some of the strongest and most sympathising, who carried him along Macquarie-street amid continuous cheering, and deposited him in the hall of Mr. Plunkett's residence.\footnote{SMH, 16 Feb. 1858.}
Such treatment was unfamiliar, but thrilling. While borne aloft Macarthur thought how useful 'a little previous experience in fox hunting or kangaroo hunting' was on these occasions, 'in giving one a firm seat.'

Macarthur hoped that Plunkett's cause would be equally well founded: he meant to take it up, if possible, 'on broad public and not merely party and political grounds'. He thought, in the first place, that a gentleman of Plunkett's character and position should have been treated with more restraint by the government. But, more important, he thought that Plunkett had been right to demand that Cowper should give effect to the board's new regulations. As a cabinet minister himself, in 1856, he had maintained that the administration of the schools should be perfectly secure against the ebb and flow of party politics. This idea had then led him to suggest that if an education department were created its head should be a non-political figure. It was now his justification for arguing that the government had no right to interfere with the rules worked out by the national schools board, especially when they were motivated by prejudice, as he thought Cowper was.

Fundamental to Macarthur's point of view was the belief that the system of education in a country was at the bottom of everything; on it depended the quality of their legislation ... and on that account it ought to be kept free of all interference from political influences.

22 Macarthur to his wife, [15 Feb. 1858], ML A4343, pp. 531-4.
23 Macarthur to his wife, [8 Feb. 1858], ML A4343.
24 Macarthur's speech in parliament, 23 Apr. 1858, SMH, 24 Apr. 1858.
The present issue was also, ideally, to be worked out without any reference to party politics, according to 'the great cardinal principle of justice'.\(^{25}\) Parliament was not currently in session, but it met at the end of March and soon afterwards Macarthur drew up resolutions asking for Plunkett's reinstatement, and declaring that he had not overstepped his authority as president of the board. According to Macarthur this motion was meant to give the government room to retract. He was seconded by Terence Murray, lately one of Cowper's ministers, who agreed that the motion did not involve a direct censure on the government.\(^{26}\)

The debate went on for three days. To some extent it became a party battle, but there were several liberal members who disagreed with the government, and these saved the day. Macarthur's resolutions were lost, but amendments were carried which said substantially the same thing.\(^{27}\) One of the amendments, moved by Parkes, repeated Macarthur's request that Plunkett be reinstated. With such a verdict Macarthur was confident that the whole battle was won.\(^{28}\) But feeling between Plunkett and Cowper was so embittered that Plunkett's reinstatement was now impossible.\(^{29}\) Macarthur did not give up straightaway. He and Murray went to a great deal of trouble to reconcile the parties,\(^ {30}\) and when this

\(^{25}\) Ibid.

\(^{26}\) Debate of 23 Apr. 1858, ibid.

\(^{27}\) Debate of 28 Apr. 1858, ibid., 29 Apr. 1858; and see the corrected division list, ibid., 30 Apr. 1858.

\(^{28}\) Macarthur to Rev. J. West, 1 May 1858, ML A2983.

\(^{29}\) Therry to Macarthur, 4 May 1858, ibid.

\(^{30}\) These negotiations lasted until early July (Macarthur to Cowper, 10 July 1858, NSWSA 4/7176.1). See also Molony, op. cit., p. 259; and the papers on this question, among the Macarthur papers, ML A2893 passim.
failed he prepared to move new resolutions in parliament, condemning Cowper's inaction. But after several postponements, due to his being sick, he gave up, fearing that his motion would only result in a futile party battle.\textsuperscript{31}

The other great issue of this session was the government's electoral reform bill. The main features of this bill were the redistribution of seats, so as to give less weight to rural districts, and the introduction of manhood suffrage and the secret ballot. Except for Plunkett's case, the suffrage reform was the only issue on which Macarthur spoke at any length in this parliament.\textsuperscript{32} He was entirely against it. He could not understand the logic of it. He maintained that the franchise should at least have depended on education. In fact, he said, 'He would be glad to admit the principle of universal suffrage, if education to the fullest extent were afforded to the people.' But if the government wanted to go further, why did they not include single women as well?\textsuperscript{33} Even at this crisis, when all the evidence was against him, Macarthur's keen optimism showed itself, together with an almost childlike faith in the good sense of the people. He thought that if the measure was as bad as he believed then the government would never make the people accept it: 'There was something in the character of Britons that was antagonistic to, and would always prevent the triumph of, such false principles as these.'\textsuperscript{34} On the other hand, he admitted that the principle might not be false.

\textsuperscript{31} Debate of 27 Aug. 1858, SMH, 28 Aug. 1858.
\textsuperscript{32} Debate of 7 May 1858, ibid., 8 May 1858.
\textsuperscript{33} Macarthur's speech, ibid.
\textsuperscript{34} Macarthur's speech in parliament, 21 July 1858, ibid., 22 July 1858.
But in that case there was no point in forcing the measure through, in such a way as to 'revolutionize the country'. He believed that a good part of the people saw the reform as he did.

But if Manhood suffrage be a true principle, there was no necessity to rush to its adoption until conviction came ... They could do no mischief by delaying the discussion until conviction came.35

But the government saw this conviction in about the same light as the conversion of the Jews.

Macarthur also tried to secure the co-operation of the government in a reform which he thought might do something to curb the worst effects of the new franchise. On 7 May he moved that the second reading of the bill be put off until they were able to reform the upper house as well. He now thought that since there were to be no restrictions on the franchise for the lower house, then it would be unsafe for the upper house to continue as a nominated chamber, with its membership entirely in the hands of the government. There could never be 'any class of aristocracy' here, but, he said, there were men of property and their rights must be protected. The lower house would now be subject to every passing prejudice. Therefore he thought that the upper house should be elected as well,

... upon a broad, and yet a high rate of suffrage, so as to make that House a safeguard and defence against the outbursts of popular feeling which would take place in all communities.36

Macarthur possibly hoped that if the reform of the lower house could be delayed, then there would be time for the people to show their disapproval

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35 Macarthur's speech in parliament, 5 Nov. 1858, ibid., 6 Nov. 1858.
36 Macarthur's speech in parliament, 7 May 1858, ibid., 8 May 1858.
of manhood suffrage. But his amendment was treated as a motion rejecting the whole bill. It was defeated by a majority of 36 to 14, the voting being exactly the same as that which approved the second reading.37

These two issues, Plunkett's dismissal and the 1858 electoral bill, provide material for a fair summing up of Macarthur's politics. Since the beginning of his active political career, in 1831, his ideals had shown a remarkable consistency. During the whole period he put his faith in corporate self-government, believing that the united views of the local people, brought together in a spirit of patriotism and mutual compromise, were the only correct reference point for official policy. It followed that there was a corporate conscience in the nation which might be brought to bear in any great issue, provided that the machinery of government allowed the people, in their various groups and interests, to act according to their own honest feelings: 'for it was only by taking the opinions of all classes that the truth in all its majesty could be made known.'38

The only change in Macarthur's ideals during his life was his growing interest in education. This was no doubt partly due to the influence of his wife. But it was probably also a result of his political experience. His first adventures in politics, in the 1830s, seem to have been undertaken with a naive faith in the good intentions of all men. With experience he became more realistic, more skilful and more willing

37 Debate of 11 May 1858, ibid., 12 May 1858.
38 His speech in council, 21 Sept. 1854, ibid., 22 Sept. 1854.
to take a long-term view. If honesty and tolerance were not the order of the day at present, they must ensure that they were in future, and this was to be done through education; 'the system of education in a country was at the bottom of everything'. 39

The Australian Dictionary of Biography says that Macarthur spent his final years in despair, because 'his whole life seemed wasted'. 40 But this idea rests on a total misunderstanding of his buoyant personality and his absolute confidence in the people, present and future. It is this misunderstanding which is behind the prevailing view of his career. In the last year of his life he predicted that the unique glory of the country would be the character of their schools. With good schools, he said,

although they were excluded from the great triumphs of Europe and America, which were often stained with blood, they would, at all events, have a wide field open to them, unpolluted by blood and uncontaminated by any cause of sorrow. 41

The Dictionary says that Macarthur's career was 'unsuccessful judged by the standards he set himself'. 42 But this peroration - his last in parliament - is the best sign of the standards he set himself and, whether rightly or not, he still thought failure was impossible.

39 His speech in parliament, 23 Apr. 1858, ibid., 24 Apr. 1858.
41 Macarthur's speech in parliament, 21 Nov. 1866, SMH, 22 Nov. 1866.
42 ADB II, p. 153.
At the end of 1858 Macarthur spoke at a synod meeting for the Sydney diocese of the Church of England. It seems to have been the first church meeting he had attended in town since the 1843 general elections, when his behaviour had angered most of the clergy. At this synod the question under discussion was precisely the kind he understood best and felt most strongly about. As he saw it, it was a straightforward question of liberty, namely whether the bishop should have a veto on the decisions of the synod. Macarthur's speech against the veto was vigorous, and almost violent. He pointed out that the church here was not 'a State Church', as in England. Not only were all sects equal, but 'the Church possessed the inherent right of self-government in the management of its affairs', and it was for the members, lay and cleric, to decide on policy. The veto was 'a ridiculous proposition', inconsistent with 'popular liberty' and calculated to give the clergy far too much power. 'He told them emphatically, if they were to have a system of Church Government, it must be a popular system.'

This short speech encapsulates several of Macarthur's most important ideas. He had inherited from his father a rationalist view of authority, and mysteries such as the apostolic succession had no place in his thinking. He always liked to give the benefit of the doubt to those in

43 Macarthur to his wife, 3 Feb. 1846, ML A4342: 'I cannot but feel satisfaction that I so completely threw off the trammels they wish[ed] to impose, in the Camden and Cumberland elections'.

44 Debate in the synod, 1 Dec. 1858, SMH, 2 Dec. 1858. The division, on the following day, was in favour of the veto, most of the majority being clergy (ibid., 3 Dec. 1858).

45 See Emily Macarthur to Mrs. Martin (her aunt), 5 Aug. 1851, ML A4344: 'The tractarians are surely more to be feared than all the popes or Cardinal Wisemans.'
power, both lay and religious, but his attitude to them was essentially pragmatic. In 1850 he expressed great annoyance at a statement of J.D. Lang's, that the queen had got her crown 'by accident'. But this was only because of the implication that she had no certain right to it. He clearly believed that, although prescriptive right might not be enough by itself, nevertheless it was meaningless and wicked to question an old title which still had the support of the people.

Great as it was, Macarthur's respect for established power stopped short of unquestioning loyalty. The only area where he would admit a regime of absolutes was the conscience of the individual man: 'if you are to achieve true greatness', he once told a young politician, 'you must worship truth, almost to idolatry'. His view of authority was consistent with his usual attitude to the link between Great Britain and Australia. He always put great stress on at least the moral authority of the empire. Moreover there were times, especially towards the end of his life, when his reverence for British institutions verged on the irrational, and once, in 1858, he even referred to the inherent superiority of the British as a race. But he appealed more often to their 'great intellectual prestige', which left him room to argue that there was nothing final and inevitable about British achievements.

46 Macarthur's speech in council, 12 Sept. 1850, SMH, 13 Sept. 1850.
47 Macarthur to James Martin, 2 Aug. 1858, ML A2920.
48 His speech in parliament, 18 June 1858 (a debate on Chinese immigration), SMH, 19 June 1858.
49 His speech in council, 19 July 1855, ibid., 20 July 1855.
Just as 'popular liberty' was to inform the colonial church, so the achievements of the local people were to depend on their own intellectual character, and their corporate initiative. Religion was one area in which he thought they had improved on the British model. He also hoped that class relationships would be more fluid and generous here, where there could be no formal aristocracy. Those settlers who cherished 'aristocratic feelings' he thought should go to England, 'where distinctions founded on these bases were obtainable'.

He lived up to this last ideal himself in 1859, when he refused a knighthood. In his letter declining the title he explained to the governor that he thought it should be awarded to civilians only 'for some official or specific service'. The grounds on which it was offered to him, namely his 'conduct, character and social preeminence', he did not think were proper ones.

Since the last days of the old council Macarthur had been looking forward to the time when he might 'take a run to Europe for a couple of years'. By late 1857 he had decided that this was the only way he could free himself from Sydney politics, which were now too much for him: 'the tiny evidence of good I can accomplish here is purchased at too large a sacrifice'. He was also anxious to go for health reasons, to visit relatives and old friends, and to give his daughter Elizabeth, now nearly 20, a chance 'of seeing different countries and forming her judgement'.

50 His speech in parliament, 7 May 1858, ibid., 8 May 1858.
51 Macarthur to Sir W. Denison, 4 June 1859, ML A2924. See also Denison to Macarthur, 30 May 1859, ibid.
52 James Macarthur to W. Macarthur, 4 Dec. 1855, ML A2932.
53 Macarthur to his wife, 2 Dec. 1857, ML A4343.
54 James Macarthur to Sir W. Macarthur, 10-11 May 1861, ML A2932.
By early 1860 all was ready, and they sailed in April. They had originally planned to be away for two years, but in the end it was three and a half. On arriving in June they took a house in Sydenham, moving afterwards to Knightsbridge - 'a neighbourhood in which ladies walk alone without remark' - and finally to Mayfair. But a good deal of the time they spent staying with Emily's relations in Kent, Shropshire and Berwickshire. They made one excursion to the continent, in the summer of 1861, when they visited France, Switzerland, Italy, Belgium and Germany. In Italy Macarthur was very impressed with the 'sober, practical views of freedom' which were in evidence in the risorgimento, 'very different from the theoretical abstract notions which have worked so mischievously in France and Germany'. In June 1862 they were joined by William, who stayed until the end of 1863. During 1863 they toured Wales, where Macarthur and Charles Nicholson climbed Mount Caradon together and afterwards they saw the west of Scotland. Their final excursion, in May 1864, was to the English west country, where James, Emily and Elizabeth visited the places John Macarthur had known as a young man.

There were many other important colonists, or former colonists, living in England, including Wentworth, Donaldson, Nicholson, Hamilton and Therry.

55 Sir W. Macarthur to James Macarthur, 19 May 1864, ML A2934.
56 James Macarthur to Sir W. Macarthur, 26 Nov. 1860, ML A2932.
57 These relations were, in the same order, Emily's two sisters, Sibella, Mrs. George Norman, and Mary, wife of George Egerton, rector of Middle, and her nephew Sir John Majoribanks, bt.
58 Macarthur to Nicholson, 19 Sept. 1861, ML A2920.
59 See James Macarthur to Sir W. Macarthur, 24 June 1860 to 26 Aug. 1864, ML A2932, and 12 August 1863, ML A4348.
Very soon after his arrival Macarthur joined with Donaldson and Hamilton as joint commissioner for New South Wales at the International Statistical Congress. This was his most important work on behalf of the colony, and it earned him an interview with the Prince Consort.\(^{60}\) He and the other Australians often mixed with official people and, in so far as pressure groups were appropriate for a self-governing colony, they seem to have been very influential.\(^{61}\) During 1863, for example, Macarthur was twice in contact with Gladstone, now chancellor of the exchequer, about the Sydney mint as a source of imperial specie, and about the postal service to Australia by Panama.\(^{62}\) But these were dull matters. He no doubt enjoyed himself much more visiting schools in England and Scotland. He was particularly impressed with the ragged schools founded in Edinburgh by Thomas Guthrie.\(^{63}\)

In the first half of 1861 Macarthur wrote several long letters to his brother William, in New South Wales, which provide a useful last comment on his political life. Since his departure there had been another general election, in which Cowper had been returned as prime minister, and in which their own interest at Camden had made a poor showing. William was depressed at the result. He felt that the liberals now posed a severe

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\(^{60}\) James Macarthur to Sir W. Macarthur, 25-26 July 1860, ML A2932.


\(^{62}\) Macarthur to J.F. Stuart Wortley, 20 Feb. 1863, Gladstone (Hawarden) papers; Hamilton to Macarthur, 1 May 1863, ML A2925.

\(^{63}\) Macarthur's speech in parliament, 15 Aug. 1866 (debate on the reformatory schools bill), SMH, 16 Aug. 1866. This is the only specific record of Macarthur interest in ragged schools.
threat to landed property, and that their own family influence, and that of their class, was gone for ever. He suggested selling up the estate and leaving the colony altogether, a move which was encouraged by Macarthur's friends in England. 64

Macarthur never gave much serious thought to the idea. He realised, he said, that they could still anticipate 'several years of great political confusion and disquiet'. 65 Having seen something of England he also understood that their troubles were part of an enormous and radical change which never could be reversed:

The political influence of the landed gentry is diminishing greatly in this country ... Wealth (monied) and self-interest are the great moving powers of modern society, but these are restrained and modified and humanised in their operation by the softening influences of religion, and a high state of refinement and civilisation ... Force is now all in the hands of the ignorant, but it is susceptible of influence, and it is our duty to do all we can to make the influence good. 66

He talked over these matters with Gladstone and others, and learnt what he could from 'that portion of the English aristocracy who do their duty'. 67 These provided him with cogent excuses for returning to a quiet careful life in New South Wales. He was sure that the present anger and uneasiness would die away, 'unless stimulated by unwise and noisy opposition': 68

After its first violence had passed, the froth and infirmities being carried off, may we not hope the community will subside into good sense and sobriety of conduct, returning to their

64 James Macarthur to Sir W. Macarthur, 10-11 May 1861, ML A2932. See also Nicholson to Macarthur, Oct. 1861, ML A2924; Therry to Macarthur, [Jan. 1862], ML A2930.
66 James Macarthur to Sir W. Macarthur, 26 Mar. 1861, ibid.
67 James Macarthur to Sir W. Macarthur, 10-11 May 1861, ibid.
68 James Macarthur to Sir W. Macarthur, 26 Mar. 1861, ibid.
natural leaders, if those leaders are in their places to guide and regulate the stream of events ... [The middle classes] are little by little 'pushing the gentry from their stools'. But the working classes hate them and will rally round the gentry by and by, if they will but be true to themselves and conform to the altered circumstances of the age. 69

These ideas fitted well into Macarthur's old habits of thought, his optimism, his flexibility of mind and his scheme for a national community in which selfishness and sheer ambition could have no permanent place. But most of all they prove his love of country. They really represent, not a programme for the future, but a good justification for going home, as he and his family meant to do anyway. 70 Macarthur was a keen politician - 'his mind ... [was] always occupied with politics' 71 - but he was from first to last a dilettante. He was never so committed to the wrangling in Macquarie Street that he would let it change his way of life.

This was the frame of mind in which Macarthur greeted the passing of John Robertson's Land Acts, which were designed to end the complete dominion of the squatters in the pastoral districts. When the principle of free selection was first proposed, several years before, Macarthur had been thoroughly against it. He then saw it partly as a means of giving land to disreputable men, 'cattle stealers, horse stealers, sly grog sellers', who would cover the country 'like a swarm of locusts ...

69 James Macarthur to Sir W. Macarthur, 10-11 May 1861, ibid.
70 For Emily, see her letter to Sir W. Macarthur, 19 Feb. 1861, ML A4344. For Elizabeth, see her letter to Sir W. Macarthur, 25 Dec. 1860, ML A2932; Nicholson to Macarthur, Oct. 1861, ML A2924.
71 J.C. Bidwill to P.P. King, 4 Nov. 1844, ML A1980-3.
settling themselves down in the most convenient corners'. Or else it would be a gift to the squatters:

If there were no auction anybody with fifteen or twenty thousand pounds could easily get substitutes to act for him, and pick the eyes out of the country, and then laugh at the people, and make them pay for it.  

But he made no objection to the principle as embodied in Robertson's acts. Presumably he thought that the stipulations about selectors being resident would meet all the main difficulties.

He did object very strongly to the way in which the government had tried to force the bills through a reluctant upper house in May 1861. This he thought 'a monstrous act of petty tyranny', no doubt relying on information from William to the effect that the council had been quite ready to co-operate under certain conditions. But in Macarthur's opinion everything had 'ended well': 'there is a providence that shapes our ends, rough hew them as we may'. He soon afterwards remarked to Hamilton that he thought 'the political affairs of the colony are assuming a new or rather their old character', which was altogether to the good.

72 Macarthur's speech at an election meeting, 26 June 1859, SMH, 27 June 1859.
73 No explicit record of Macarthur's view of the Land Acts has survived, but it seems fair to assume that he agreed with the statement in Roger Therry, Reminiscences of Thirty Years' Residence in New South Wales and Victoria, London 1863, pp. 473-4: 'The main object which the Act aims at accomplishing - the settlement of the country - is unquestionably good; and if, by its present provisions, that object be not secured, future legislation must interpose to render that settlement a prudent and not a precipitate arrangement'. Therry had no decided views on the question himself, and he was constantly asking Macarthur's advice while writing this part of his book (Therry to Macarthur, 24, 26 Feb., 20, [23] Mar. 1862, ML A2930).
75 Macarthur to Hamilton, 19 Aug. 1861, ML A2924.
76 Ibid.
The Macarthur's sailed from England on board the Duncan Dunbar in August 1864, and reached home in December. For 18 months Macarthur took no part in politics. However, in January 1866 Cowper's third ministry fell to a part-conservative coalition headed by James Martin, with Parkes as colonial secretary. In May Macarthur was offered, and accepted, a seat in the legislative council. It was understood on both sides that he was to act in 'perfect independence' of all parties, but he nevertheless sat on the government benches. Moreover, he came down to the house mainly to help with measures he wanted to see passsed. These included bills to deal with disease in livestock, a bill to set up a reformatory school in Sydney and, most important, Parkes's public schools bill. Macarthur was consulted privately by the government on this last reform. In general he approved of it, because it was designed to carry out his great ideal, a single system of elementary schools, founded on a statutory basis and governed according to the model of the Irish national system.

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77 Martin to Macarthur, 10 May 1866, ibid.; Macarthur to Martin, 11 May 1866, ibid.
78 SMH, 25 July 1866.
79 For the reformatory schools bill, see debate of 16 Aug. 1866, and for the diseases in livestock bills, see debates of 16, 29 Aug., 10 Oct. 1866, ibid., 17, 30 Aug., 11 Oct. 1866.
80 Macarthur to Parkes, 4 Nov. 1866, ML A2924; Macarthur to Martin, 1 Dec. 1866, ML A2920.
Macarthur's first session in the upper house ended in December. It was also to be his last. For the last 15 years he had been suffering 'spasms of the chest', and although his stay in Europe had made him stronger his heart was still a constant worry. However his death, when it came, seemed out of season for a man so fresh in all his feelings, so warm in all his sympathies for those around him, so hopeful for the future.

Since his return to the colony he had been thinking about the records at Camden Park house, and in the autumn of 1867 he bought a notebook with which to prepare some for publication. His daughter Elizabeth was to do the work under his supervision, and on Easter Day, 21 April, they agreed that they should sit down on the following morning and begin. 'The sun arose on that day to find his family mourning for their great loss'. Soon after going to bed his heart failed, and within minutes, 'without recognition of those around him or symptoms of agony he breathed his last'.

So died 'the great James Macarthur'. No doubt many of his friends and enemies were more in touch with local prejudice, and some, including Wentworth, were more brilliant public men. But few others of his time could equal the breadth and complex integrity of his mind. Besides the positive work described above his example must have had a strong effect

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82 James Macarthur to Sir W. Macarthur, 26 Nov. 1860, ML A2932.
83 G. Macleay to Sir W. Macarthur, 26 May 1867, ML A2954. See also Wentworth to Sir W. Macarthur, 25 June 1867, ML A2938.
85 SMH, 24 Apr. 1867.
86 So called by W.S. Mitchell, in an election speech at Camden, 26 Mar. 1856, ibid., 28 Mar. 1856.
on those who understood his 'kindness of heart and bland manner'. His genius was one of the bright aspects of the pre-industrial age, before the country was overrun with railways, and before the rush for gold.

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87 W.S. Davidson to Sir W. Macarthur, 25 June 1867, ML A2938. See also W.C. Windeyer to Macarthur, 18 Apr. 1860, ML A2924.