

WHAT PRICE RESPECTABILITY? ANOTHER LOOK AT THEFT IN NEW SOUTH WALES, 1788-1815

INTRODUCTION

DISCUSSION of crime in the early history of New South Wales has centred on the criminals themselves, the understanding ordinary people had of the law, the ramifications of crime in personal and gender relationships and on the more sensational types of crime such as bushranging, infanticide, homicide and drunkenness - with an occasional reference to bestiality to leaven the mix. Paula Byrne's analysis of the spoken word and the silences in the evidence presented in court, Michael Sturma's linkage of crime to environmental determinants and Alan Atkinson's description of the role of convict expectations of authority and convict expression of dissent based on such expectations all form valuable insights into the nature of the criminal and the formation of the law in early New South Wales.¹ Byrne's observation concerning the speed with which official philosophies of labour, convictism and the law were put into practice is an important one.² Any characterisation of early New South Wales needs to take into account this speed as well as the range of backgrounds of those contributing to changes in conceptions of institutional practice, not only of the law but also of government and business affairs.

However, there is still a gap in scholarship relating to crime in these years. This gap reflects the paucity of historical studies of practice in the less institutionalised but nonetheless rigorously controlled environment of business. Apart from the work of Margaret Stevens and Roger

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1 Byrne, *Criminal Law and Colonial Subject: New South Wales, 1810-1830* (Cambridge University Press, New York 1993); Sturma, *Vice in a Vicious Society: Crime and Convicts in Mid-Nineteenth Century New South Wales* (University of Queensland Press, St Lucia 1983); and Atkinson, "Four Patterns of Convict Protest" (1979) 37 *Labour History* 28.

2 Byrne, *Criminal Law and Colonial Subject: New South Wales, 1810-1830* p287.

Hainsworth,³ there have been few in-depth evaluations of the nature of business and its practice in the early colony. The volume of business done in clothing, both absolutely and relative to the composition of the population by 1815, underlines Byrne's point about the speed with which institutions adapted. In this case, it is clear that the convict and lower classes, in expressing their taste,⁴ were both the agents for this adaption in buying clothes, and the providers of the as yet unexamined criminal statistics in stealing them.⁵

Neither the dominance of the Australian male mateship myth nor the need to restore the historiographical balance from the point of view of gender-related issues have come to grips with the types of crimes committed, beyond discussion of the more sensational as noted above. I except here Byrne's notable contribution in relating crime and notions of criminality to the different expectations by authority of male and female labour both in terms of hours worked and space occupied. Yet historians from both these perspectives, writing about insolence, bushranging, drunkenness or homicide, have also documented the facts that first, theft of clothing and its component parts constituted at least fifty per cent of all theft, and second that drunkenness was negligible in comparison with the predominant misdemeanour of absconding as a percentage of offences of male convicts in government employ appearing before magistrates' benches from 1812 to 1828.⁶

3 Steven, *Merchant Campbell, 1796-1846: A Study of Colonial Trade* (Oxford University Press, Melbourne 1965); Hainsworth, *The Sydney Traders: Simeon Lord and His Contemporaries, 1788-1821* (Cassell Australia, Melbourne 1972).

4 Elliott, "Was there a Convict Dandy? Convict Consumer Interests in Sydney, 1788-1815" (1995) 26 *Australian Historical Studies* 373.

5 Lemire, "The Theft of Clothes and Popular Consumerism in Early Modern England" (1990) 24 *Journal of Social History* 255 sees in "the generalized theft of clothing ... the new ideas and ambitions of the men and women of this age": at 257. Sturma's observation that crime reflects environmental determinants points to the fact that the reasons for theft of clothing in early New South Wales were more various and more complex in the colony: Sturma, *Vice in a Vicious Society: Crime and Convicts in Mid-Nineteenth Century New South Wales* pp6-7.

6 Merritt, "Methodological and Theoretical Implications of the Study of Law and Crime" (1979) 37 *Labour History* 108 makes the point that unless information becomes part of an argument and is used in drawing conclusions, it can remain 'data' and does not become fact: at 110. Statistical tables which contain noticeable information such as those in Byrne, *Criminal Law and Colonial Subject: New South Wales, 1810-1830* pp32, 85 and Sturma, *Vice in a Vicious Society: Crime and Convicts in Mid-Nineteenth Century New South Wales* pp104, 106, 109 would seem to provide further illustrations of this phenomenon.

A study of the theft of clothing as opposed to other types of larceny or crime in general will amplify the points made by the historians mentioned above. As well, such a study will better characterise the values and ambitions of those making the statistics by stealing clothing so avidly in early New South Wales. While laudable attempts have been made to restore a balance by re-examining all aspects of Australian history in the light of issues arising from a concern with gender-balanced views, it is notable that the dominant category of larceny, theft of clothing, should go unremarked in an arena where bushranging, stock theft and crimes in connection with labour continue to be extensively discussed.

THE FREQUENCY OF CLOTHING THEFT

The number of instances of theft of clothing reported in the *Sydney Gazette* during the years to 1815, either in the form of court reports or as notices offering rewards for its recovery, exceeds any one other type of theft. So striking is it in terms of frequency and in terms of the invasion of private property by thieves in search of clothing, that it is impossible to consider the issue without asking the obvious question: Why should this be so? One reason why so much clothing was stolen from private homes or lodgings was that initially there were few shops in Sydney and those open for business were general stores containing little or no ready-made clothing. Another was quite simply that people wanted nice clothing themselves but still could not afford to buy it. A third reason was that clothing, apart from bedding and tools, was the sole moveable luxury item of property in most homes. The best two explanations of inordinate clothing theft were concurrent yet contradictory, namely a shortage of clothing and a poverty of consumer expectation which created a strong market for secondhand clothing and, secondly, a rising lower-class consumption of clothing that meant there was more clothing accessible in the community for thieves to steal.

A consideration of theft of clothing must also encompass an understanding of its social and economic value as an article of consumption. Clothing was the most widely desired consumer item to percolate down through society as a result of the Industrial Revolution. As such, it had a much greater secondhand value than it does today⁷ and people had a greater

7 The stress on fashion today causes the opposite to be the case; value is attached to clothing primarily because it is recognisable as new or in fashion. At times in the early history of Sydney and Melbourne, a secondhand garment could be worth more than its original value. This does not mean that people were not interested in fashion, rather that there were some sorts of constraints on their

personal physical relationship to their clothing, having been closely involved in its making, mending, alterations or re-making. In the *Sydney Gazette* of 22 June 1806, a certain Mrs Pearce was reported as recognising "a pair of pockets which she minutely described, and in the work of which were some very peculiar marks". The prisoner, Elizabeth Fielding,

called several witnesses to prove that the pockets sworn to were made by herself, but their testimony was insufficient to controvert that of Mrs Pearce, which described minutely the very quality of the thread with which they had been sewed.⁸

This last factor became very important in cases involving stolen clothing; men and women being able to recognise even individual buttons, garments when they had been re-made, or dyed, or stolen material when it had been made up into an article of clothing.⁹

Clothes, and to an even greater extent, material, were not only easily stolen, they were easily concealed and readily transformed for re-sale on the secondhand clothes market. Reports of stolen property, together with lists of property willed in deceased estates, provide evidence that slightly wealthier people bought large quantities of material in bolts for future use and as a security. Material as such could be bartered or it could even be returned to the store to discharge a debt.¹⁰ A bolt of cloth or a piece of material had a solid exchange value which at times for some people in the community during these years, equalled or exceeded the value of rum. All extant ledgers, diaries and account books covering the years to 1815 show that where they had a choice, there is relatively little evidence of

interest which do not apply today. It also means that incentives to steal clothing could not be measured by today's values, although recently expensive and highly desirable sports shoes have given rise to assaults with violence, young people having an overwhelming desire to own these potent symbols of contemporary Western culture.

8 *Sydney Gazette*, 22 June 1806.

9 See also *Sydney Gazette*, 22 January 1804 for the case of Charles Crump, the case of Hannibal Macquarie's stolen clothing as discussed below and the report of theft of cloth from Archibald Galloway in *Sydney Gazette*, 22 June 1806.

10 See the *Account Book of William Mansell, 1809-1812* (Mitchell Library manuscript no A2111), in which various customers brought the following items to the store to discharge debts: superfine cloth, 5 pairs of shoes, 10 pieces of nankeen, 6 pieces handkerchiefs, a bonnet and a gown, shirts, etc.

employees being paid in rum and a great deal of evidence of their soliciting payment in material, thread and other items of haberdashery.¹¹

For the lower classes in England, secondhand clothing was an accepted fact of life. There were also a number of legitimate sources of secondhand clothing in the colony of New South Wales. Clothing was an important part of deceased estates and unless specifically willed otherwise, was sold on behalf of or by the inheritors of those estates either to secondhand clothing dealers or to private individuals.¹² Clothing was also passed through the extended family or re-made for younger members of the family. As well, secondhand clothing was brought from England for sale in the colony¹³ and it had a very good resale value. It was certainly the case in England, even into the 1870s, that many members of the agricultural and industrial working class could never hope to own new clothing, even slop clothing, and had to content themselves with the purchase of a new ribbon, piece of lace, buttons or buckles - all of which items were in consequence proportionately valued by their owners.¹⁴

Against this background of fairly low expectations in terms of dress, two factors operated to facilitate clothing thefts in the colony: social acceptance of secondhand clothing as being the norm from which working-class people were already aspiring to graduate; and secondly, the economic possibility for people lower on the social scale to own more and finer clothing. A survey of reported thefts shows a large percentage of them being of property belonging to people of the lower or the convict classes. As the property of the early colonists was limited and as clothing constituted a greater proportion of consumer items in an individual's property, the lower he or she was on the economic scale,¹⁵ the variety and

11 See Elliott, "Was there a Convict Dandy? Convict Consumer Interests in Sydney, 1788-1815" (1995) 26 *Australian Historical Studies* 373 at 380-385.

12 *Sydney Gazette*, 24 April 1803: David Bevan auctioned the effects of William Cox, the list of which - primarily clothing and haberdashery - illustrates the extent of property held in material by wealthy people or businessmen in the colony. For further examples see *Sydney Gazette*, 6 July 1806, 30 March 1807.

13 *Sydney Gazette*, 8 May 1804, 18 November 1804: John Waldron's advertisements for men's second-hand clothing.

14 Thompson, *Lark Rise to Candleford: a Trilogy* (Penguin, Harmondsworth 1973) pp102-104; English folk song, "Johnny's So Long at the Fair"; *Sydney Gazette*, 26 November 1803: a reward was offered for the return of one gold sleeve button.

15 Evidence for this statement can be found by an examination of burglary notices in combination with a study of wills and notices of sale of the effects of deceased estates. Wealthier people had furniture and household accessories and

number of thefts of wearing apparel and the rewards offered for stolen clothing provide important evidence of its proliferation among the convict and lower classes. As an extension of Byrne's work in which she demonstrates how the system of exchange "shaped the way in which people used their houses, how they lived in them and their perception of their environment",¹⁶ the implications of the volume of theft of clothing should be considered. Such theft, arising not merely out of necessity but out of a perception of the desirability, indeed the right, to be seen to look respectable, if not well-dressed, can be interpreted as having distinctive consequences for the public appearance of individuals as well as for the accuracy of assumptions about the class origins of people in public space.¹⁷

CLOTHING THEFT IN THE COURTS

Reports of court proceedings in the *Sydney Gazette* and, earlier, the minutes of proceedings of the Bench of Magistrates at Sydney, testify to the amount of property in clothing owned by members of the convict and labouring classes. The three unusual facts about these cases are first, the high proportion of them involving convicts both as plaintiff and defendant; secondly, the existence of cases brought by convicts against members of the middle class; and thirdly, the value of the disputed property. In Britain, cases involving disputed or stolen property normally followed the pattern that a shopkeeper or a member of the middle or upper class accused a member of the working class of stealing the clothing. It was almost axiomatic that, at a time when pawn shops were full of secondhand clothing, wearing apparel and bedding being the sole moveable property of members of the working classes, they could not be stealing it from each other. Their coats and their petticoats were either on their backs or in the

the wealthiest also had jewellery, carriages and other equestrian trappings to bequeath. Poorer people had their clothing and perhaps a few utensils or tools.

16 Byrne, "The Use of Space in a Port Town: Sydney 1810-1850" (1992) 30 *The Push: a Journal of Early Australian Social History* 8 at 14.

17 Maynard, *Fashioned From Penury: Dress as Cultural Practice in Colonial Australia* (Cambridge University Press, Oakleigh, Victoria 1994) p18 quotes John Steven in his evidence before the Committee on Secondary Punishment in 1832: "I have been present when the magistrates have ordered the long coat of a convict to be cut off." This is a striking use of legal procedure to enforce a world-view in which the external signs of social class were to be kept inviolate thereby making a personal assault on the owner of the coat arguably as offensive to many as the infliction of corporal punishment.

pawn shops.¹⁸ The work of the pioneer social scientist Henry Mayhew abounds with examples of the daily (and nightly) deprivations of the poor as a result of owning insufficient clothing.¹⁹ In his book *Saving and Spending*, Paul Johnson meticulously documents the shifts of English housewives at a later date juggling cash, Sunday suits, and other temporarily disposable items through the pawn shops in order to keep up a respectable appearance.²⁰

When larceny cases came to court, it was natural that, in point of language and sympathy, a judge or a magistrate could better hear someone of his own class. Unintentionally or otherwise he found himself listening to the person whose language was closer to his own understanding. In New South Wales the problem was that very often neither of the litigants nor any of the witnesses spoke a form of language anywhere near that of the magistrates. So they were obliged to try to cross considerable class barriers in an attempt to penetrate the facts of a case, decipher them and make a judgment. Richard Atkins wrote of his difficulties:

I find it requires a great deal of patience and perseverance to persist in doing what I think I am bound to do in my Judicial capacity ... to execute justice impartially ... The difficulties, almost insurmountable, of getting at truth among a sett [sic] of people used to every species of vice and Newgate chicanery is [sic] amazing; nothing but perseverance with a firm resolution of getting at it, if attainable can operate.²¹

To give an example of what Atkins and magistrates in the colony had to deal with in terms of complexity of evidence, reversal of roles in court from the normal English pattern and confusion on the part of both plaintiff and defendant about the property in dispute, it is worth describing some of the cases which came before the Bench in Sydney in the 1790s.

18 Thompson, *The Making of the English Working Class* (Gollancz, London 1963) pp286-289.

19 See Humphreys (ed), *Henry Mayhew: Voices of the Poor. Selections from the Morning Chronicle "Labour and the Poor" (1849-1857)* (Frank Cass & Co, London 1971).

20 Johnson, *Saving & Spending: The Working Class Economy in Britain, 1870-1939* (Oxford University Press, Oxford 1985).

21 *Journal of Richard Atkins, 1792-1810* (Mitchell Library microfilm FM 3585) p21.

It quite often happened that convicts or ex-convicts took each other to court in disputes over property, almost always clothing, in which it was eventually established that both sides were well aware of whose was what and the court generally dismissed these cases as "too trifling to bear any serious construct".²² Let us examine two illustrations of this type of case. In 1789, James Campbell was charged with stealing a shirt belonging to a certain McDeed. Campbell claimed that the shirt was one which Mr White (the surgeon) had got for him to replace one that had been used by an Aboriginal. Mr White confirmed Campbell's statement and he was discharged.²³ Similarly, in January 1799, Anne Wilson, the commissary's housekeeper, charged Mr Alt's housekeeper with having stolen two odd stockings but there was "more of Rancour, Malice than any strict regard to justice" in the matter and the case was dismissed.²⁴

In both these cases, the immediate question arising is: Why did the plaintiff bring them to court? These and many other similar examples²⁵ show three things: first, that the lower class people in question had property in clothing which they valued; second, that they were using the machinery of the law in the context of this property to further personal differences; and third, considering that the overwhelming majority of larceny cases involved clothing, we may view these as a partial explanation for Byrne's observation that, in general, women more easily resorted to and were more familiar with the processes of law. There were social repercussions of these points in the colony as decisions involving convicts as both plaintiffs and defendants began forming legal precedent.

Another unusual feature of colonial litigation involving disputes over clothing was the existence of cases in which convicts sued members of the middle class. One such case came before the Bench in Sydney in January 1797. Hudson, a shoemaker, complained that Captain Wilkinson had refused to pay him for a pair of boots. Captain Wilkinson alleged that Hudson had stolen some of the leather he had been given to make the boots. Shoemakers were called to give evidence for both sides who all said that there had been the normal wastage of cuttings and that "the

22 The case of *Anne Wilson: Minutes and Proceedings of the Bench of Magistrates at Sydney, 8 December 1798 - 5 March 1800* (NSW State Archives number COD77) 11 January 1799.

23 Copley, *Sydney Cove, 1789-1790* (Angus & Robertson, Sydney 1963) p81.

24 The case of *Anne Wilson: Minutes and Proceedings of the Bench of Magistrates at Sydney, 8 December 1798 - 5 March 1800* 11 January 1799.

25 As above: see, eg, *Francis Tyrall v James Lacy* 28 December 1798, regarding a shirt and a handkerchief, and the case of *William Davis v John Randall* heard the same day regarding a waistcoat bought secondhand at a cost of sixteen shillings.

matter was compromised by Captain Wilkinson's agreeing to pay for the Boots".²⁶ In England, tradespeople bore the cost of middle-class credit as a matter of course and many a butcher, tailor, grocer or hatter had customers whose accounts were outstanding for months, if not years.²⁷ In the colony, if a shoemaker wanted to recoup the cost of his own labour at his own convenience rather than that of his patron, he could conceive of the option of taking his unwilling client to court. Furthermore, the fact of Hudson having won his case must have been widely known in a small isolated community noted both for its avidity for gossip and its relative dearth of scandalous subject matter. The repercussions of this for other tradespeople, particularly the shoemakers called as witnesses and their patrons in the colony, can only be surmised; that there were none is unlikely.

A third feature of colonial cases was their apparent complexity, revealing the wheels within wheels of lower class experience of life. This complexity was the result of differences in class language, culture and perception rather than an inherent difficulty. Such differences were brought to light in the colony by the unusual facts of members of the lower class owning material possessions normally the prerogative of the classes above them and of their using social institutions, such as the law, as active equals if not aggressors rather than as the helpless, wretched recipients of its operations that they had been so recently in England. In July 1799 Alexander Major was sentenced to one hundred lashes for drunkenness and abusive language. He said that "if his Corporal Punishment was remitted he could make some Discovery of a part of the property which had been stolen from Mr Dole". Major said he had accidentally seen a new silk handkerchief by the bedside on a visit to John Wild. Wild "voluntarily confessed that he had in his possession at home three new silk handkerchiefs, an apron made out of a shirt, two pairs of Cotton Stockings and an old silk handkerchief". John Wild said he bought the things for two pounds from Joseph Wild who had asked three pounds for them. Joseph Wild said his dog had found the things under a rock near Cockle Bay one day when they were out shooting. From Alexander Major's free use of his tongue in his cups, via some silk handkerchiefs, to the activities of a dog

26 As above: the case of *Hudson v Captain Wilkinson* 5 January 1799.

27 In Thackeray, *Vanity Fair: a Novel Without a Hero* (King, London 1848) Becky and her Captain Rawlings decamped leaving many such accounts unpaid. See Adburgham, *Shopping in Style: London from the Restoration to Edwardian Elegance* (Thames & Hudson, London 1979) p42.

near Cockle Bay is indeed a long chain but not one impossible to unravel.²⁸

What made such cases difficult for colonial magistrates in these early years was that many of their personal frames of reference in terms of lower class experience and reality were irrelevant in the colonial context. In the England they had known, for example, the upper classes were constructing ethics of work and leisure such that it was not the norm for members of the lower classes to have the leisure, the right or the means to go shooting. Shooting parties were the prerogative of the upper classes.²⁹ In the England left so recently by all protagonists, members of the lower class simply did not have two pounds put by, let alone earmarked for frivolous spending on silk handkerchiefs. There is, however, overwhelming evidence from various sources to indicate that in the colony it was quite common for a member of the lower classes to spend three or four times more than he³⁰ needed to obtain luxury items of clothing. This is the sort of evidence that historians have failed to consider, even when conscious of the class bias of literary observers of the early colonial world, thus reiterating the very middle-class observations about working-class spending patterns which they had pointed to as dubious evidence.³¹

It was these sorts of discrepancies between England and the colony that contributed to the complexities perceived as such by magistrates. It was no longer so evident when a witness was lying in such a case; the colonial

28 *Minutes and Proceedings of the Bench of Magistrates at Sydney, 8 December 1798 - 5 March 1800* 23 July 1799.

29 Cobby, *Sydney Cove, 1788* (Hodder & Stoughton, London 1962) p140, 14 May 1788. When Worgan, the First Fleet Surgeon indulged himself with a shooting excursion, it took on the colours of a ramble in Arcadie as Gainsborough might have depicted it: "[H]ad a most delightful excursion today with Captain Hunter and Lieutenant Bradley ... [On our return] to the place where we landed, and after regaling ourselves with a cold kangaroo pie, and a plum pudding, a bottle of wine, etc, all which comforts we brought from the ships with us, we returned." Similar accounts of vice-regal excursions bespattered the columns of the *Sydney Gazette* couched in flowery graciousness and providing a marked contrast to the tongue-in-cheek tone of pique used to describe the amusements of the lower classes. By the 1850s the *Sydney Morning Herald* still acted as a spoke sheet for those of the employer class who believed that the lower classes should not aspire to dress above their station. See Sturma, *Vice in a Vicious Society: Crime and Convicts in Mid-Nineteenth Century New South Wales* p107.

30 The gender specific is deliberate here. See Elliott, "Was there a Convict Dandy? Convict Consumer Interests in Sydney, 1788-1815" (1995) 26 *Australian Historical Studies* 373 at 375.

31 Sturma, *Vice in a Vicious Society: Crime and Convicts in Mid-Nineteenth Century New South Wales* p3.

reality meant that he could have been speaking the truth. The relatively greater leisure, economic independence and the possibility of gratifying their luxury consumer interests by legal means, meant that the working classes in the colony had some kinds of social freedoms which obliged magistrates to listen carefully to their evidence in order to unravel some justice from the matters at hand. Furthermore this greater economic independence and leisure expressed in terms of clothing as property to be stolen, disputed and recovered, gave the lower classes of New South Wales a very different social character and dignity from that ascribed to them by their middle-class contemporaries and many subsequent historians. Mrs Ann Hordern, the founder of the well-known firm Anthony Hordern's, arrived in Sydney in February 1825 when decent clothing for the overwhelming majority of people in the colony was the norm.³² She was shocked at the condition of the English working classes when she returned home. Such was her indignation and the state of her own *amour propre* earned by her successes in Sydney and Melbourne, that she conceived it as her right and her duty to correspond with the Earl of Shaftesbury on the matter.³³ Mrs Hordern was influenced by a society created as much by the legal initiatives of McDeed, Wilson and Hudson, the purchasing power of John Wild and the sporting inclinations of Joseph Wild, as the genetic innovations of John Macarthur and Samuel Marsden.

THE CIRCUMSTANCES SURROUNDING CLOTHING THEFT

Turning to the mechanics of clothing theft, the time clothing was most vulnerable to theft, apart from the obvious prime occasions of night time³⁴ or in the absence of the owner, was washing day. On the First Fleet some stockings allegedly went missing overboard while in the hands of the laundress.³⁵ Worn by women under petticoats and shifts, stockings were not readily detectable items of clothing and those stockings were never found. However, a strong suspicion fell on the women convicts. Laundresses, whether convict or not, were particularly vulnerable to

32 Hordern, *Children of One Family: The Story of Anthony and Ann Hordern and Their Descendants in Australia, 1825-1925* (Retford Press, Sydney 1985) p23.

33 As above p46.

34 Copley, *Sydney Cove, 1789-1790* pp134-136. Governor Phillip instituted a night watch of twelve convict men and in a letter to Lord Sydney of 1 February 1790 he observed that nothing had been stolen at night for three months, thanks to the watch. However, Phillip's scheme foundered on Major Ross's delicacy, which could not stomach the thought of convicts stopping soldiers and questioning them on any suspicious nocturnal activities.

35 *Journal of Ralph Clark* (Mitchell Library microfilm CY584) p51.

suspicion if clothing went missing while in their care. Constant vigilance was required in order to preserve their good reputations.³⁶

On 19 February 1788, Mary Jackson was charged with detaining a shirt, a pair of trousers, a new frock³⁷ and a pair of stockings, the property of Edward Deane, a seaman, from the *Lady Penrhyn*. Deane said he gave the wearing apparel to Jackson on 12 February to wash, "some soap to wash [it] with, and a pound of tea for her trouble". A pound of tea was a considerable reward for the trouble of washing four items of clothing, representing as it did then more than a man's wage for a week's unskilled labour. When Deane came on shore on 16 February, Jackson said that the clothing had been lost and that she would not give it back.³⁸ Men were sent to force her to give it up but she had already cut up the frock and said that Deane had given her the shirt. She alleged that Deane had told her she could have the frock to be used as a shirt if she would bleach it (presumably to prevent its being readily recognised as Government issue), and the trousers to mend her stays. She told him that in return she would do his mending. She alleged that Deane had asked her for a canvas petticoat which would make him a good pair of trousers. Further, she said that he gave her the stockings in exchange for a pair of her own warm ones that he had worn in the cold weather. Lastly she said that Deane often asked her to go on board, one night bringing a hat and a greatcoat to take her off in disguise, but she refused to go with him. In consequence of this refusal, Deane came to demand his things from her. Jackson was

36 *Sydney Gazette*, 31 August 1806: John Stephens was charged with having stolen some linen apparel from D Wentworth's garden on "the 7th of June last" (1806). "In support of the charge Mrs M Ainsley deposed, that on the day stated she had laid the articles enumerated in the indictment to bleach, & in the evening discovered that they had been stolen ... sometime afterwards [she had] received information of the things being in [Stephens'] box at his own place of residence; whereupon she applied for a search warrant, & the whole of the property was found in his possession."

37 Fletcher, *Costume in Australia, 1788-1901* (Oxford University Press, Melbourne 1984) p29: "The frock, a type of coat previously worn only in the country became universally popular, as it had a certain informality that was in the taste of the time, brought about by social change." That is, against the background of the French Revolution, English gentlefolk felt it possible, if a little risqué at first, to play at dressing up like peasants.

38 There were also examples of women who would rather suffer severe punishment than reveal where they had hidden an item of clothing: see Bladen (ed), *Historical Records of New South Wales Vol 2* (Government Printer, Sydney 1893) p636, 30 August 1789: "At 1 pm punished Ann Coombs, female convict, with 100 lashes for stealing two cheque shirts from Francis Mee, private marine, which she hid and refused to produce them."

reprimanded for not giving the clothes up when ordered to do so by Major Ross, but as Deane had cohabited with her on the passage, giving her the articles and demanding them only on her refusal to go on board ship with him, she was discharged.³⁹

This case has been quoted in full for a number of reasons. Clearly it is not a straightforward case of theft of wearing apparel at the laundry. It is in fact a good example of the physical exteriorisation of male-female relationships⁴⁰ and one of many cases in which the courts or magistrates concerned showed a degree of real sympathy for the woman's case, even to the extent of acquitting her or securing for her the return of disputed property.⁴¹ If men were going to give women their washing, they had to trust them.⁴² If men had personal relations of any kind with the women to whom they entrusted their clothing, such relations were better cordial than otherwise.⁴³

The most interesting aspect of the evidence in the Jackson-Deane case is that which shows the versatility of the clothing itself and the level of skill in the community for making, re-making, mending or virtually re-designing clothing. Such skill was not confined to women and is a logical concomitant of an age before the mass retail of ready-made clothing and

39 Copley, *Sydney Cove, 1788* p80.

40 The case of William Smith who cohabited with Ann Bryan and after a quarrel took some shoes back from her box which he had previously given her is another example: see Copley, *Sydney Cove, 1791-1792* (Angus & Robertson, Sydney 1965) p72. See also the case of *Thomas Grainger v Margaret Clarke: Minutes and Proceedings of the Bench of Magistrates at Sydney, 8 December 1798 - 5 March 1800* 13 April 1799. In general, as far as I have read the evidence for this period, there is a remarkable tendency on behalf of the magistrates to give women and their evidence a fair and reasonable hearing. For one interesting explanation of this, see Byrne, "Women and Criminal Law in Sydney: 1810-1821" (paper presented at the Third Law and History Conference, La Trobe University 20 May 1984).

41 *Stewart v Hopley*: Copley, *Sydney Cove, 1788* p130; *William Riley v Mary Dourand: Minutes and Proceedings of the Bench of Magistrates at Sydney, 8 December 1798 - 5 March 1800* 5 January 1799.

42 See Byrne, *Criminal Law and Colonial Subject: New South Wales, 1810-1830* p208 for a discussion of community and pp81, 84 for a discussion of suspicion and Judge Burton's perception of suspicion as an "odious" manifestation of working-class character, quoted in Sturma, *Vice in a Vicious Society: Crime and Convicts in Mid-Nineteenth Century New South Wales* p28.

43 See the *Journal of Ralph Clark* p51. Clark was a man whose language expressed his fear and hatred of convict women when he had to be involved with them in matters concerning clothing. See Elliott, *The Colonies Clothed* (unpublished Ph D thesis, Adelaide University 1991) pp26-27.

footwear. The Jackson-Deane case also shows that even the harsh realities of carving out a settlement in the Australian bush could not quench the vanities of aspiring hearts. The convict woman, Mary Jackson, was interested enough in her own appearance to want to wear stays and skilled enough with a needle to be able to make them out of a pair of trousers. There were many cases involving disputes between men and women over clothing. An interesting point about these was the readiness with which clothing for the one sex could be converted to suitable wearing apparel for the opposite sex in an era when there were apparently great differences between the clothing of men and women. There were also disputes over possession of clothing between people of the same sex, and the interesting aspect of these was the high degree of accuracy in naming the suspect, reflecting both the size of the community and the nature of relationships between people.⁴⁴

To return to a couple of more straightforward thefts of clothing in that vulnerable state between dirty and clean: laundresses were open to charges of theft because theirs was a skill which was exercised on a valuable commodity. Given the state of the settlement at Port Jackson and the number of thefts of linen while it was being washed, dried, ironed or returned to its owner, it is evident that, in order to keep her good character and reputation, a laundress had to secure her premises much as a jeweller did a little later in the history of the colony.

At one o'Clock on Friday morning the 6th instant, an Out-house belonging to Mrs Cummings, laundress, was broken into and robbed of divers articles of wet linen.⁴⁵

A Complaint was exhibited by Ann Fox against R Hempton, to whose charge, she had committed some washed linen, upon going from home, until she should return, a part of which, viz two shirts valued at 16s had been stolen.⁴⁶

The week before last a quantity of wet linen was stolen out of the garden of Wm Chapman near the wharf, which had been hung to dry [sic]; diligent search and enquiry were made after the articles, which were numerous, but to no

44 Byrne, *Criminal Law and Colonial Subject: New South Wales, 1810-1830* p81.

45 *Sydney Gazette*, 15 May 1803.

46 *Sydney Gazette*, 22 January 1804.

purpose, until [2 April], when some part of it was found [in a boat on Garden Island].⁴⁷

There are two notable aspects in the Fox-Hempton case. First, finding that Fox was determined to make a complaint against him to the magistrates, Hempton tried to make her accept six bushels of wheat in compensation. A bushel of wheat was worth ten shillings at this time.⁴⁸ So Hempton was offering Fox nearly four times the value of the shirts. Second, the Bench decided to order the prisoner to pay the exact amount of the loss as a fine "in order to discourage as much as possible a mode of private adjustment too frequently resorted to".⁴⁹ Here is evidence that people were accustomed to reaching mutual agreement in cases involving theft without needing or wanting to involve the machinery of the law. In an economy operating even partially by barter, mechanisms for concluding mutually profitable transactions were more highly developed and involved different orders of knowledge of others' characters and different communicating skills from those evolved at the Bench.⁵⁰ In this case Hempton could never have hoped that Fox would fail to notice the missing shirts. Perhaps he judged that six bushels of wheat would be sufficient compensation for the loss of the shirts and possible loss of her character *vis à vis* their owner; in any case, his gamble did not come off.

Women who took in washing were also excellent witnesses in cases involving stolen wearing apparel and often recognised clothing reported as

47 *Sydney Gazette*, 2 April 1803.

48 *Sydney Gazette*, 4 September 1803.

49 *Sydney Gazette*, 2 April 1803. See the case involving Cole and Monaghan in Byrne, *Criminal Law and Colonial Subject: New South Wales, 1810-1830* p80.

50 Such transactions could have unpredictable outcomes: see Byrne, *Criminal Law and Colonial Subject: New South Wales, 1810-1830* p82. Although Byrne wrote that "The concept of commerce does not have the narrow modern meaning of trade, but was linked to emotion, love, friendship and deceit" (p2), more work needs to be done on the social worlds of working and middle class people in these interesting years in the Australian colonies. An unpredictable economy, the prevalence of barter and the readiness of courts to hear all cases before them are elements of a social world involving relationships which are worth describing, being so different from those we know today. Byrne, "The Use of Space in a Port Town: Sydney 1810-1850" (1992) 30 *The Push: a Journal of Early Australian Social History* 8 at 14 takes the social issues arising from a barter economy a little further. The notion of what constituted a proper exchange is a helpful one to bear in mind when considering community and judicial attitudes to the point at which exchange of clothing became theft. Historical circumstances reflected in judicial decisions at this time show a range of interpretation on this issue which would not be possible in any contemporary monetary economy.

stolen in another customer's wash or being worn by someone other than its owner. Mrs Clayfield, Sergeant William Clayfield's wife, did Mr Brown's washing on board the *Borrowdale* before its departure from England. Sergeant Clayfield thought he saw a missing shirt being used as a bed gown by Elizabeth Mason and when his wife saw the shirt, she recognised Mr Brown's mark. The details of the case do not reveal which regulations permitted Sergeant Clayfield to get such a detailed look at Elizabeth Mason in her bed gown, nor with what resources of delicacy he conveyed his suspicions to his wife. Accused of the theft, Elizabeth Mason said she had bought the shirt for three pints of rum from Elizabeth Clark. She later told Clayfield that she would return the shirt and give him an extra one if he would say nothing of the matter, but to no avail. She was committed for trial by the criminal court.⁵¹ As an article of barter, clothing was immensely valuable and much coveted. In this instance a shirt was considered worth three pints of rum. Among others, a pair of trousers went for three and a half pounds of rice,⁵² and two women agreed to sleep the night with two corporals in return for a shirt each.⁵³ There were also other cases in which, like Hempton and Mason, people caught stealing clothes offered valuable bribes for concealing their crime.⁵⁴ The shortage of clothing and the volume of theft meant that the authorities were very harsh when punishing proven offenders.

RECOVERING STOLEN CLOTHING

In a small community, washerwomen were not the only ones to recognise an article of clothing on the wrong back. From the earliest issues of the *Sydney Gazette* many detailed advertisements offering rewards for stolen

51 Copley, *Sydney Cove, 1788* p202.

52 As above p93.

53 As above p262. This was perhaps an isolated case but an interesting one in view of the debate concerning women as prostitutes in the early colony: see Dixon, *The Real Matilda: Women and Identity in Australia, 1788-1975* (Pelican Books, Melbourne 1976); Perrott, *A Tolerable Good Success: Economic Opportunities for Women in New South Wales, 1788-1830* (Hale & Iremonger, Sydney 1983) p83; Alford, *Production or Reproduction? An Economic History of Women in Australia, 1788-1850* (Oxford University Press, Melbourne 1984); Robinson, *The Hatch and Brood of Time: A Study of the First Generation of Native-Born White Australians, 1788-1828* (Oxford University Press, Melbourne 1985) p17; and Byrne, "The Use of Space in a Port Town: Sydney 1810-1850" (1992) 30 *The Push: a Journal of Early Australian Social History* 8 at 14-15.

54 On 6 September 1788, T Martin was accused of stealing a pair of trousers from J Ferguson. Ferguson said that he saw Martin enter his hut. Later, Martin took Ferguson to the place where he had hidden the trousers and offered him a frock or a pair of trousers if he would not complain: Copley, *Sydney Cove, 1788* p222.

clothing achieved high rates of success by publicising the loss of particular items. Where the thieves could not organise a well-known receiver⁵⁵ (punishments for receivers of stolen clothing were, from the earliest days of the colony, as heavy if not heavier than for the theft⁵⁶) they often used to bury it in gardens or under the floors of huts, to secrete it in the roofs of huts, and very commonly in and around The Rocks area. When searches were organised for stolen wearing apparel, sometimes even involving Aboriginal expertise, old caches long-since buried and already disintegrating were occasionally discovered. The searchers had to be very sharp-eyed and quick-witted. Great coats were found concealed in a sack of bran and there was one instance of a watch being discovered in a pumpkin.⁵⁷

The knowledge that detailed descriptions of stolen garments had been published in the *Sydney Gazette* and the fact that the garment itself might be sufficiently distinctive to draw comment acted as a deterrent to some buyers. An example of an advertisement for such a garment (down to the detail of ink spots on the shirt sleeves) was when I Smith, overseer at the hospital, advertised a one guinea reward for the return of a fine Irish linen shirt or five guineas leading to the conviction of the thief if it had been stolen.⁵⁸ In some cases the thieves or the receivers were able to re-make the clothing. Certainly they were able to disguise rolls of material, a common anonymous cash form in early New South Wales.

55 In small communities, specialists in this field were quickly recognised and in the planning stages of robberies as re-created in evidence before magistrates, the earliest detail to be assured before further steps could be taken was the organisation of a receiver. See the evidence concerning the robbery at Elizabeth Jones' place in The Rocks in *Sydney Gazette*, 26 May 1805. John Kelly, a convict, became known on the voyage out as a receiver of stolen clothing. He paid for it in food: Cobley, *Sydney Cove, 1788* p160.

56 On 23 January 1789, T Prior was given 300 lashes for buying a shirt, a pair of trousers and a pair of shoes from William Radford and a pair of shoes from J Trace. Trace got 50 lashes for selling the shoes and Radford was pardoned because he informed. The back-to-front approach of this judgment continued through the period, the authorities conceiving that this would be an effective deterrent. The increasing volume of theft of clothing did not prove their solution to be a workable one: Cobley, *Sydney Cove, 1789-1790* p8.

57 I do not agree with Mark Finnane's assessment of Byrne's comment that hiding stolen goods was "ritualistic": see Finnane, "Review" (1994) 26 *Australian Historical Studies* 307 at 307-308. Far from being "banal" as Finnane would have it, Byrne's use of the word "ritualistic" in the contexts she cites, although it could be amplified, contains some element of the atmosphere of the pattern of theft, accusation, search, recovery, indictment, trial and conviction which her book does so much to reveal.

58 *Sydney Gazette*, 6 April 1806.

One of the most detailed advertisements of a burglary was that made as to Sergeant Rickett's property in the *Sydney Gazette* of 22 May 1808. The apparel in question included

two gown pieces, seven yards in each piece; an olive ground, with red round spotted edge, with small white specks round the red, and small white specks in the ground, with a black stalk to the red; the other blue, black and white checqu'd [sic] with four black specks between the bars ... a red cross bar silk handkerchief hemm'd with pink silk ... a gold handkerchief pin.

A reward of three pounds was offered for recovery of this property, a considerable one for a sergeant in the British Army at the time. This reward may have been claimed by Mr Austen the jeweller, owing to his vigilance in recognising the handkerchief pin from the advertisement. The *Sydney Gazette* of 29 May 1808 reported that one John Carney (who was eventually found not guilty) was before the magistrates for the Rickett burglary.

The report of the trial of George and William Rouse in the Court of Criminal Jurisdiction in 1820 corroborates the generalisations made so far about the mechanics of stealing and recovering clothing in early Sydney. The Rouses were charged with breaking and entering the premises of Governor Macquarie's aide, himself called Macquarie. J Richards and T Carpenter were charged as accessories for receiving. Some of the clothing and parts thereof were recovered and Macquarie identified some buttons "as there is a bruise on one from my having trodden on [it]", and the waistcoats "from the make and the stuff they are made of - I brought them from India". A certain Charles Linton who lived in The Rocks near the Rouses looked after the swag of clothing for a few days after the robbery, and being the entire contents of Macquarie's chest it was a considerable quantity. Linton became nervous and told Rouse that "if he did not fetch them away I would throw them on the rocks". As compensation Linton and a fellow-lodger, John Neale, who was also involved, were given part of the swag. George Rouse gave Linton two coats, one partly ripped up "saying it would make me and Neale a Jacket for minding the things till he called for them". John Neale said in his evidence that "Linton gave me a yellow handkerchief to change with Thomas Rushton for another handkerchief nine or ten days after we looked into the kegs". Linton also alleged that he heard Rouse say "that he should

plant the other things (in two kegs or casks, only one of which had yet been opened) in the Garden".

The disposal of the clothing was still a problem. The evidence does not give details of how John Richards came to be involved, and whether or not he was a known receiver, but evidence was given in his defence as to his good character. Richards allegedly approached Thomas Ward, a convict hairdresser, and showed him the gold epaulettes from Macquarie's coat, asking Ward whether he knew someone who wanted to buy them. Ward said that he did not and also that at the time he thought they were Mr Macquarie's epaulettes which he had seen advertised as stolen and which he had seen Mr Macquarie wear in the barracks when he was a servant there. Richards allegedly told Ward that "he had some genteel things that would suit me and I agreed to call in the Evening". Carpenter also came that night to look at the things. Ward alleged that Carpenter "said that his Old Woman ... would be very angry if he had not a shirt - and he took one himself". Ward said in evidence that

I told the prisoners that I did not want the things because I expected the long brown coat was Mr Macquarie's from having repeatedly seen him riding and walking in the street.

After they had a drink together, Carpenter allegedly said to Ward: "Tom why don't you nap that Swag - I said because neither I had no money and believe it would be a hanging job if it were found out." George and William Rouse were found guilty and sentenced to death and Richards and Carpenter were sentenced to fourteen years penal servitude at Newcastle.⁵⁹

EVIDENCE FOR PROLIFERATION OF CLOTHING IN THE COLONY

Given the difficulties of disposing of stolen clothing, and the fact that increasing quantities of materials and ready-made clothing were coming into the colony from 1802 onwards, the number of thefts of clothing testify to its economic value and social desirability. Instances of shoplifting began after the establishment of general stores in Port Jackson in the early 1800s. (There were no permanent shops in the 1790s - masters of vessels occupied huts temporarily to sell off their private speculations.) Most of the big Sydney store owners, Lord, the Packers, Mansell and Chapman, were robbed at some time or other as were Rowland Hassall and Andrew

Thompson at Parramatta, but the main brunt of theft of clothing was borne by private individuals.

Although private enterprise activity ended the physical shortage of clothing, and although there was a group of convicts and emancipists who availed themselves of the opportunity to earn money which many of them spent on clothing,⁶⁰ the early history of the colony was one of recurrent scarcity followed by over-supply of every commodity. When there was no material or clothing for sale or being issued from the Government Store,⁶¹ the only way to obtain some was to barter for it or to steal it. There were indeed many newly-arrived convicts still badly short of clothing, as were some who had been emancipated and could not get work. Such people became potential thieves of clothing or illegal traffickers in Government issue slops, either to cover themselves or to sell for food and drink. Buyers of secondhand clothes could be found among settlers in country areas.

The advertisements in the *Sydney Gazette* for the recovery of stolen clothing also provide detailed evidence of the extent of the victims' wardrobes. The house of Joseph Prosser, "a labouring inhabitant of The Rocks", was broken into on the night of 29 March 1804, and the notice below appeared in the paper on 1 April:

STOLEN ... the following Articles of Wearing Apparel, which are requested to be stopped if offered for Sale, together with the Person or Persons by whom tendered, and Information thereof made to a Magistrate:-

A Black Mode Cloak
 A " " Scarf
 A striped Cotton and a Dark do Gown
 A new Punjum Petticoat
 1 Pair of White Cotton and 1 ditto Black Worsted
 Women's Stockings

60 See Elliott, "Was there a Convict Dandy? Convict Consumer Interests in Sydney, 1788-1815" (1995) 26 *Australian Historical Studies* 373 at 385-386.

61 This was a problem for convicts and settlers right up to 1820. It also continued to be a problem for soldiers: "If ships do not arrive soon our parade will cut but a shabby appearance, as we have now near two years' cloathing (sic) due, and you may easily judge their present cloathing looks very rusty": Major Johnston to Captain Piper, 20 August 1805, cited in Eldershaw, *The Life and Times of Captain John Piper* (Ure Smith in association with the National Trust of Australia (NSW), Sydney 1973) p70.

4 caps, one laced, 1 shirt and 2 shifts
 1 Black Mode Bonnet and 1 laced bonnet
 2 Remnants of Ribband, pink and straw coloured.
 And sundry other Articles.

It is obvious that Mrs Prosser's chest was the immediate target and that it held more than the bare minimum of clothing as the list contains four separate possible outfits. A conservative valuation of the list excluding the "sundry other articles" based on prices for similar articles in the *Gazette* would come to between nine and ten pounds. An editorial comment in the *Gazette* described the robbery as "peculiarly criminal and distressing" because it had deprived the Prossers of their all. But their all was quite considerable: a black fashionable silk cloak with matching scarf and lace-trimmed bonnet to cover a selection of gowns and shifts when walking out was no mean attire for a labourer's wife. Mrs Prosser was getting on in years - the editorial described her as "an aged woman, deprived by a rheumatic affliction of the use of both hands"⁶² - so her husband was not likely to have been a young man. An outstanding feature of the harshness of social conditions for the working-class in England at this time was the deprivations suffered by the very old and the very young. Apart from the pangs of her rheumatism, old Mrs Prosser was certainly not suffering the indignities of being poorly clad until that catastrophic autumn day. The editorial continued with advice to the public to guard "against every species of negligence and inadvertency" which could result in their being similarly despoiled. Yet such advice was in vain in the climate of Sydney Town as almost every issue of its paper contained court news of someone being indicted for theft, news of a theft, or rewards offered for recovery of stolen clothing.⁶³

The number of cases involving stolen clothing in which one or more of the people involved gave The Rocks as their address is notable. The Rocks was known as a slum area of ill-repute and harrowing descriptions of the degrading poverty, drunkenness and degeneracy prevailing there were given by contemporaries. Many convicted robbers or receivers came from The Rocks and there are numerous instances of people who lived in The

62 *Sydney Gazette*, 8 April 1804.

63 An example of a good haul from the house of Joseph Hatton, a settler at Kissing Point at the end of December 1804 gave similar evidence as to the amount of property possessed by a settler and his family in wearing apparel: *Sydney Gazette*, 30 December 1804. Other examples of property expressed in terms of clothes or material are the notices of burglary at Peter Hodge's house on 7 August 1808, Mary Skinner's on 24 July 1808, and H William's on 6 July 1806.

Rocks buying clothing from the receivers. To attempt to evaluate living standards, we should note the numbers of people who were robbed of clothing from their homes in The Rocks, the amount and type of clothing stolen, and the reward offered, if any.

In May 1805 Elizabeth Jones' house in The Rocks was robbed of "property in cash and good wearing apparel".⁶⁴ On 19 July 1807 an impressive list of clothing was advertised as having been stolen from Elizabeth Crouch in The Rocks. She was prepared to offer a reward of ten guineas for its recovery.⁶⁵ At a time when many agricultural labourers and domestic servants in England were earning barely £20 a year and some of that paid in kind,⁶⁶ ten guineas was a handsome reward for an inhabitant of a gruesome slum area to be offering to get her clothes back. Perhaps all the people living in The Rocks were not as well off as Elizabeth Crouch but the balance of the evidence does suggest that while there were undoubtedly instances of wretchedness and misery, people like the Prossers provided a reasonable indication of an average standard of living insofar as any such generalisation can be made.

THE RELATIVE VALUE PLACED ON CLOTHING IN THE COLONY

One way of arriving at an understanding of the relative economic and social value of clothing is by a study of advertisements offering consumer goods for sale. Advertisements for clothing and accessories in the *Sydney Gazette* exceed all other advertisements for material property such as livestock, furniture or books.⁶⁷ Another way of arriving at an understanding of its relative value is by a study of the rewards offered for lost or stolen clothing and a comparison of these with the rewards offered for other valuable property such as livestock. First, some rewards offered for missing clothing, all taken from the *Sydney Gazette*, of the date given.

14 October 1803	£2	for two yards of snuff-coloured mixture cloth
25 April 1805	5 guineas	for two greatcoats
30 March 1806	10 shillings	for a man's hat

64 *Sydney Gazette*, 26 May 1805.

65 *Sydney Gazette*, 19 July 1807.

66 Hartwell, "The British Background" in Abbott & Nairn (eds), *Economic Growth of Australia, 1788-1821* (Melbourne University Press, Carlton 1969) p36.

67 See Elliott, *The Colonies Clothed* p152, fig6. See the private enterprise in the colony advertisements in the *Sydney Gazette*, 1803-1815.

26 June 1808	5 guineas	for ten pieces of Company's nankeen and eight yards of coarse check
17 March 1810	£1	for an olive-coloured flushing coat
26 February 1804	£10	for a big robbery of clothing and haberdashery from Rowland Hassall's place (Hassall was a storekeeper)
21 August 1808	50 guineas	for a big robbery at Sergeant Packer's place (the Packers had a haberdashery business)
9 October 1808	£100	for a big robbery from Simeon Lord's warehouse

In the case of all garments, the rewards offered were as much as or more than what might be regarded today as a reasonable price for a secondhand item given a certain amount of undeniable depreciation. This reflected the shortage of clothing, the personal value it had for its owner and its economic replacement value. In some cases, however, such as that of the olive-coloured flushing coat, the wording of the advertisement suggested what one might suspect to have occurred sometimes: that relatively large rewards in themselves could provide an incentive to theft. The coat in question was part of the property of Sarah Packer, one of a small group of businesswomen in the colony, who outlasted several husbands while continuing her business. Mrs Packer declared that "No greater Reward will be offered", in contrast to Isaac Nichols who had lost the two greatcoats earlier in 1805 and increased the reward over three advertisements. Anyone who had Mrs Packer's coat in the expectation that she would offer a greater reward in her anxiety to recover it reckoned without her experience of Sydney Town.

In the same year of 1806, when ten shillings reward was offered for the recovery of a man's hat, twenty shillings was offered in July for news of six lost, stolen or strayed pigs. A new superfine man's beaver hat could be worth at most £3/10/- in the colony. Hats in the middle price range cost 17/-. The flood of the Hawkesbury in March destroyed many pigs and necessitated their wholesale slaughtering⁶⁸ so in that year pigs could be expected to have been more valuable than the two pound per head set on

68 Fletcher, *Landed Enterprise and Penal Society: A History of Farming and Grazing in New South Wales Before 1821* (Sydney University Press, Sydney 1976) p45.

the Government stock by Governor King.⁶⁹ Furthermore, a hog on the hoof, unless in times of drought, could not be said to depreciate in the same way as a hat. Supposing the hat in question to have been at the top of the price range, in offering a ten shilling reward its owner was offering 14% of its value when new. Supposing the pigs to have been worth two pound each, their owner was offering 8% of their value. If, as is more likely, they were worth three pound each, the twenty shilling reward constituted 5% of their value. In today's world, of course, it is impossible that one should in any way consider the value of a man's hat and a pig on anything like equal terms. But in these early years in New South Wales stock was also regarded as valuable and many colonial observers were horrified at the prices asked for livestock.

In the same month of July 1806, two pounds sterling was offered for news of fourteen ewes and two wethers, or if the animals were held after the appearance of the notice, five guineas was offered. Sheep were worth two pound a head according to King.⁷⁰ So again the percentage of their value as reward offered was far less at 5% than what was commonly being offered for clothing. On 17 August 1806 a reward of five guineas was offered by a settler called Davelin at Rose Hill for some articles of clothing listed which could not have been worth more than five or six pound at the most when new. On 3 August 1806 a reward of one guinea was offered for two strayed bullocks. The value placed on clothing relative to livestock, which was an essential part of the economy of the colony in this early period, is remarkable.

RISK-TAKING IN CLOTHING THEFT

It has been shown that clothing was extraordinarily vulnerable to theft and that in proportion to its perceived economic and social value, people were anxious to retrieve their property and advertised accordingly. Turning to the robberies we will see the degree of risk thieves were prepared to take in stealing clothes and the extent to which they were prepared to resort to violence. There was a connection between such risk and violence and the value and/or scarcity of the property in question. Increasingly from about 1805 onwards, reports of stolen wearing apparel describe its being taken from chests together with specified amounts of cash or bills. Chests being

69 As above; see also p46, fn20. King estimated that each Government horse was worth £80, each cow £38, and each sheep and hog £2. There was talk in the colony that Government stock was worth less than that held by private individuals because it was not as well cared for.

70 As above p45.

the equivalent of today's wardrobes and the habit of banking or investment as we know it being as yet a foreign one to people of the lower classes, such reports provide evidence of wealth not only in clothing but in savings. As such they disprove contemporary middle-class assertions that the labouring classes had little or no understanding of the value of money and the benefits of saving. They also testify to the earning power of labour in the colony as the value of the stolen clothing plus the bills or money stolen from chests was generally greater than £10. What attests to the value of material or clothing apart from the frequency of theft is that people were even assaulted in the streets, on the roads or outnumbered by three or four thieves in their own homes.

One of the early examples of assault with intent to rob occurred, as would be expected, in the period of the greatest scarcity of clothing in the colony. Collins quotes the case of a woman who was stopped at night in the street in March 1796 and forcibly robbed of a piece of calico.⁷¹ In December 1805 James Cox and I Eirs were brought before the Bench and accused of violently assaulting a woman and taking from her sundry articles of wearing apparel. As reported in the *Sydney Gazette*, they were sentenced to three years Government labour. In the local column of the same issue, there was news of a robbery at the Wrights' house at Parramatta. Only Mrs Wright was home,

who immediately gave the alarm - but they had the temerity to persist until they were compelled to consult their own security, and in the precipitancy of their flight left the major part of their collected spoil behind.⁷²

This was not an isolated example. Places were broken into by two or more men while the owners were at home. In May 1806 the Pearce family of Seven Hills were at home when they were robbed of their clothing by a gang of three men. One man stood over Mr Pearce while he was sitting by his fireside and when he attempted to get up, the man threatened to blow his brains out. Meanwhile Mrs Pearce

went to the door of the bedroom, and there seeing a man employed in ransacking her boxes, she entreated them [sic] to spare her cloathing [sic] and content themselves with all

71 Collins, *An Account of the English Colony in New South Wales: with Remarks on the Disposition, Customs, Manners etc of the Native Inhabitants of that Country* Vol 1 (T Cadell, London 1798) p467.

72 *Sydney Gazette*, 5 January 1806.

the grain or whatsoever else they pleased: but in reply to this request she was commanded to be silent, though she pointed to six bushels of wheat, none of which they took.⁷³

All these cases and others like them illustrate very clearly the value of clothing as a desirable consumer item with a ready resale value great enough for people to take such risks to steal it. Even with the difficulties of disposing of stolen haberdashery and wearing apparel, enhanced as has been shown by the detailed reward notices following burglaries, people were still prepared to risk breaking and entering and even assaulting their victims to obtain clothing. When given the choice of wheat, a totally anonymous item easily disposed of, they still preferred clothing. This is a clear indication of the perceived value of even secondhand clothing at this time. The advertisements for clothing on sale in the colony, coupled with burglary notices, show it to have occupied a similar place in the economic and social life of the colony as, say, electronic equipment today; that is, it constituted the single most widely desired luxury consumer item.

THE COLONY'S ATTEMPTS AT PROTECTING ITSELF AGAINST CLOTHING THEFT

With this in mind, we may ask the question: How did society protect itself against theft of property such as clothing or haberdashery? One method has already been referred to: that of advertising for stolen goods. A second was to institute a constabulary. Early in the history of the colony Governor Phillip discovered the need for a police force, and a constabulary was in action throughout the early days at Sydney and Parramatta. Its members showed a great deal of acumen in tracking down stolen property⁷⁴ and were often assisted by the victim's suppositions concerning the robbery, or alerted by the notice in the paper.⁷⁵

Apart from the use of the general public or specific individuals to keep property secure, English society had a finely developed notion of

73 *Sydney Gazette*, 18 May 1806.

74 D'Arcy Wentworth, Superintendent of Police, had the following notice inserted in the *Sydney Gazette*: "Stopped on a suspicious Person now in Custody, a small quantity of Blue Cloth and several striped and white shirts - Also, a Blue Jacket and Pair of Duck Trowsers [sic] - Any Person having lost such Articles are [sic] desired to apply at my office": *Sydney Gazette*, 23 March 1871.

75 See the report of a case in which John Russell, constable at Castle Hill, was involved: *Sydney Gazette*, 27 July 1806. The case was reported again in the *Sydney Gazette*, 26 October 1806.

"character" which was quite tangible in this context. On 16 September 1805, the *Sydney Gazette* held forth on the nature of "character":

Character is as essential in civil society as is morality to true Religion. As we are studious of preserving it, so must we expect to rank in the esteem of the world, and though credit may be impaired and even annihilated by misfortune, yet it may maintain its independence amid surrounding difficulties ... Upon character depends every social comfort to the subordinate; it forms his very treasure, bereft of which he must be 'poor indeed'.

In delivering judgments, magistrates and judges commented on character and knowledge of others' characters and circumstances as a factor in criminal cases. In the case of Michael Cassidy who was charged with receiving five pairs of shoes known to be stolen,

The Judge-Advocate expressed the deepest regret that a man who had for a length of time supported a fair character, should at length plunge himself into crime ... [His crime was all the worse as] he had received from an unthinking boy a property which it was not possible he should honestly become possessed of: he knew the boy, and was consequently too thoroughly acquainted with his means to be *unwillingly* imposed on.⁷⁶

According to William Charles Wentworth, good character was worth more in Australia "because it was more difficult to be met with".⁷⁷ Significant are the verbs associated with "character". It was something to be given, to be borne, to be supported and certainly not to be lost. An individual was responsible to herself and to the community to deal with others on the basis of their known character while continuing to behave in a manner consistent with her own. This in turn meant that a certain degree of

76 *Sydney Gazette*, 22 June 1805. Emphasis added. See also the lengthy quotation of the judgment in an English court taken from an English paper in which the judge discoursed on the moral and legal responsibility of employers to give characters to servants: *Sydney Gazette*, 18 September 1808. For a wry judicial comment on the value of character in an embezzlement case at a later period, see Mayhew, *London Characters: Illustrations of the Humour, Pathos, and Peculiarities of London Life* (Chatto & Windus, London 1874) pp11-12.

77 Wentworth, *A Statistical Account of the British Settlements in Australia: Including the Colonies of New South Wales and Van Diemen's Land* Vol 2 (Whittaker, London, 3rd ed 1824) p63.

information about other people and their affairs was deemed obligatory and may be seen to be a logical concomitant of a vigorous market operating largely without cash. Judgments reflecting the prevailing accepted notions on this matter showed that judges or magistrates could and did modify or aggravate their decisions according to their own notion of the characters of the people involved, as well as community-held knowledge presented as evidence by witnesses of the accuseds' characters. The preservation of one's character and accurate knowledge of others' was essential in the business world for access to credit at all levels. In a *Sydney Gazette* of 1808 there was a report of a customer who said he would take some articles if the shopkeeper would take wheat - a standard form of exchange in the colony at the time.⁷⁸ On the shopkeeper's agreeing, the customer began to select his purchases. A third party came into the shop who knew the customer and drew the shopkeeper aside to tell him that his client was totally uncreditworthy and would not be able to repay him with anything, least of all wheat.

The *Sydney Gazette* set itself up through the selection of such stories, apocryphal or not, as well as editorial comment, as the spoke sheet for status quo values as they were meant to operate.⁷⁹ Failure to act on one's knowledge of someone's character deepened one's crime in the eyes of the law and in business took one to bankruptcy. The difference between English and colonial society was that in England, the character of members of the working or convict classes was of very limited consequence and interest, and insignificant socially, legally and financially. In the colony, legal judgments and economic activity as they touched these classes showed them to be, relatively, of increasing importance.

To deal with theft then, British society transplanted to New South Wales employed newspaper advertising, a nascent police force, communal social pressure to make people conform to such a type as would give them a good character and, as well, the range of punishments offered by the English penal code. Once again, the degree of punishment inflicted on

78 *Sydney Gazette*, 11 September 1808. See also the evidence in the trial of *Fergus Gallagher*: *Sydney Gazette*, 30 September 1804.

79 See Byrne, *Criminal Law and Colonial Subject: New South Wales, 1810-1830* p275. She quotes the *Sydney Gazette*, 12 January 1830: "A knowledge of character which is acquitted by gentlemen residing on the spot, who are called to serve the office of Jurors is obviously of the greatest benefit in the administration of Justice. In this Colony, where unfortunately for the character of the lower orders of society, witnesses can be obtained to swear anything that may be required of them this local knowledge is of utmost importance."

those proven guilty⁸⁰ of stealing clothing reflects in its severity on the value attached by that society to property and indirectly, to the work ethic which led to its acquisition. The differences between British and colonial society was that a wider cross-section of colonial society owned property and therefore made a real contribution to the process of judicial decisions and their social basis and that wage-earners were able to acquire valuable and desirable items of clothing legitimately.

A number of people were sentenced to death in the colony for stealing clothes; also, secondary transportation to Newcastle for seven or fourteen years, or for life, was common for this crime as were any number of lashes up to 5,000. In order to put these sentences in the context operating on their contemporary givers, it must be understood that the clothing in question - even a handkerchief which was an important and useful item of clothing that could be worth up to eighteen shillings, or nearly two weeks' wages - was a highly valued consumer item which retained its value in a way it does not today. As such, the colony's judges and its newspaper did their best to protect it. It is difficult to assess how effective these various measures were. Theft of clothing remained at a constant high into the 1830s, rather like the theft of computers, television sets or video equipment does today, but there were indications that fear of being caught with over-notorious garments in concert with opportunities to get steady work had some effect in reducing this form of crime. Theft of convict clothing and the sale of convict and soldiers' clothing constituted a separate area of crime. The problem of preventing the convicts from selling their clothes, which persisted into Macquarie's time, highlights

80 Despite the arguments of Shaw, *Heroes and Villains in History* (Sydney University Press, Sydney 1966) and Currey, *The Brothers Bent* (Sydney University Press, Sydney 1968), the courts of early New South Wales showed an interest in justice or its technicalities and niceties. This was done when they gave verdicts of insufficient evidence in cases involving stolen clothing even when some of it was found in the possession of an individual or in circumstances pointing equally directly to someone's guilt. For example, see the case of *William Watkin*, 19 July 1791, cited in Copley, *Sydney Cove, 1791-1792* p92; *William Thompson and John Creswell: Sydney Gazette*, 22 June 1806; *Dowdan and Keenan: Sydney Gazette*, 31 August 1806; *James Driver: Sydney Gazette*, 14 September 1806; John Carney in the *Ricketts* case: *Sydney Gazette*, 22 May 1808. At a later date a middle class contemporary saw this as a demonstration of the ease with which criminals could manipulate the Australian courts. "It was no very extraordinary spectacle ... to see ... receivers of stolen goods driving up to court to receive sentence in their carriages with livery servants": Cunningham, *Two Years in New South Wales: Comprising Sketches of the Actual State of Society in that Colony; of its Peculiar Advantages to Emigrants; of its Topography, Natural History, etc etc* (H Colburn, London 1827) pp320-330.

their economic and social value in an economy dominated not by rum but by scarcity. Even this poor quality, coarse, badly-fitting clothing could find a buyer whose economic position and social self-esteem did not prevent her or him from wearing convict clothing, if only while working during the first few years in the colony.⁸¹

CONCLUSION

In this paper, we have seen that the widespread and continual theft of clothing provides evidence of the standard of living of the working and convict classes in early New South Wales. Furthermore, court cases indicate that ownership of clothing gave members of the lower classes some power in determining acceptable business practices through their legal initiatives. As well, many of the cases involving theft of clothing corroborate Paula Byrne's analysis of the nature of personal relationships and give further insight into her observations regarding the familiarity women showed with court proceedings. Lastly, in demonstrating the economic value and social desirability of clothing, constant theft and even robbery with violence indicates that, for many, clothing and a respectable appearance were as desirable as the consumption of alcohol, if not more so.

It is an interesting observation regarding the preoccupations of historians of early Australia that such overwhelming evidence of material culture as it emerges in contemporary legal documents and subsequent statistics concerning crime can have been ignored entirely. Male mateship and its expression through a drink culture, crimes involving violence against the person or crimes against the employer have all been extensively analysed. However, it is my contention that any evaluation of the standard of living and way of life of the inhabitants of New South Wales must include some discussion of the legal and illegal initiatives taken to gratify consumer desires. Any such discussion originating from the standpoint of material culture would then necessarily have to evaluate the outstanding predominance of theft of clothing and its component parts which continued into the 1850s in the colony of New South Wales.⁸²

81 See Byrne, "The Use of Space in a Port Town: Sydney 1810-1850" (1992) 30 *The Push: a Journal of Early Australian Social History* 8 at 12-13.

82 See Sturma, *Vice in a Vicious Society: Crime and Convicts in Mid-Nineteenth Century New South Wales* p106, table 9: "Property Stolen in Offences Against Property Tried Before the Supreme Courts of New South Wales, 1841 and 1851".

To conclude, we have seen that the circumstances surrounding the theft of clothing indicate more about its value than pointing to an endemic dishonesty inherent in the population of Port Jackson. In fact, alongside notices of robberies in the *Sydney Gazette* were inserted found notices concerning the same easily forgettable items, the loss of which plagues people today - parasols, handkerchiefs, hats, pocket watches, etc⁸³ - testifying to a general community concern for others' property. There were undoubtedly dishonest people and professional thieves in the colony. However a study of the theft of clothing from the aspects discussed above - frequency, resale value, large rewards for recovery, violence, socio-economic class of victims, and punishment - also shows it to have been a desirable and highly-valued consumer item coveted and owned by a wide cross-section of the colony from the Macarthurs and the Marsdens to the Pearces and the Prossers.

83 For example, *Sydney Gazette*, 12 May 1805: "Lately found on the Parramatta Road, a small green parasol - the owner may have it by applying to George Howe ... & defraying the advertisement."

