

## *Exploring the Concept of 'Thick Description' of the Religio-Moral Economy of Penal Transportation: a Micro-study of a Vandemonian Moment, 1821*

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### ABSTRACT

This article explores the metaphor 'thick Description' in a micro-study of the execution of ten convicts on April 28, 1821, in Hobart, Van Diemen's Land. 'Thick description,' contrasted with 'thin,' is a metaphor promoted by the English philosopher Gilbert Ryle, and applied by American ethnographer Clifford Geertz, as interpretatively helpful, in a witty 1973 anthropological and historical study of certain individual and collective actions in North Africa in 1912. Thickening the description of individual and collective actions, as actions, moves, in Geertz's hands, beyond describing them as actions done or not, to interpreting them by reference to ends or values, *as* actions. Geertz, like Ryle, describes this, allusively or metaphorically, as moving from 'thin' to 'thick' description. What is only *metaphorically* alluded to here is the non-metaphorical factual question of what would make non-thin descriptions unequivocally true, as descriptions. That question is, however, posed at the close of this paper, and a *non*-metaphorical answer suggested: command assumptions.

### INTRODUCTION

This is a micro-study, but with a conceptual flourish at the close.<sup>1</sup> Its core challenge is understanding a *very* particular event — the well-documented execution of ten men in Hobart, Van

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1. As far as I can tell, micro-studies of the kind represented by this paper are not specially fashionable. 'Fashionable' could, however, be applied to two impressively conceived and well-funded *macro*-studies of penal transportation. These are now interestingly linked. The earlier, 'Founders and Survivors: Australian Life courses in Historical Context, 1803-1920' is an Australian project begun in 2007. Its subject is the 66,000 convicts sentenced to penal transportation to Van Diemen's Land/Tasmania. It involves many mostly Australian history and associated researchers, 22 in all. Up to 2013 this project received \$1.2 million in Australian Research Council grants. Links have recently been established with what is called — with playful Benthamite echoes — 'The Digital Panopticon' project. In this, an international team of researchers is led by researchers from Universities of Liverpool, Sheffield, Tasmania and Oxford. The Tasmanian link is Associate Professor Maxwell-Stewart, and clearly Australian and English projects are intended to be symbiotic. The 'Panopticon' project aims to explore impacts of different types of punishment on the lives of 90,000 sentenced at the Old Bailey between 1780 and 1875. Hopes for each project are great but the challenge of leaping from categories to *individualities*, such as in the 1821 Van Diemen's Land events reflected on in this paper, may well be formidable.

These reflections must be generalised, but a few particularisations can be noted. The author recently attended a seminar at the University of Melbourne conducted by two participants in the Founders and Survivors Life Course Project. They offered an interesting insider slant to the above, rather general, description of their project. Speakers were Professor Janet McCalman and Dr Rebecca Kippin, both of the University of Melbourne. Their paper had a challenging title with, perhaps not intended, a phrenological ring: "'The brain is the seat of pain — very dreadful': the life courses of convicts transported to Van Diemen's Land, 1812-1852." What we were told was, however, straightforward. A core theme was project efforts to escape reliance on conventional evidence: court records, indents, conduct sheets, muster records, and such like. In a word, their problem was deference *hitherto* to written records recently

Diemen's Land, on the morning of April 28, 1821. The paper's aim is to develop a micro-study of this event, and of complex associated circumstances — before, during and after the event.

### EXPLORING THE GEERTZIAN PARADIGM

Behind this paper lies the challenge of exploring and evaluating, in this *very* particularist study of the religio-moral economy of penal transportation to Van Diemen's Land, an interpretative metaphor which the ethnographer Clifford Geertz borrowed from philosopher Gilbert Ryle, and then applied in 1973<sup>2</sup> to a case study of 'an interpretative theory of culture.' The main metaphor he borrowed was 'thick description.' Metaphors are tricky, but they can facilitate both individual and collective descriptive understanding.

The challenge for Geertz in his 1973 essay was to *ethnographically* interpret an incident in Morocco in 1912, which he first learned about during a 1968 North African ethnographic research project. The project had a significant historical dimension. The Imperial French government, he discovered, was in 1912 only partly in control of this territory.

Descend to an ethnographic-historical 1912 micro level. Sheep were stolen that year from a Jewish merchant, Cohen. Under the trade-pact-system, which the French hoped to abolish, Cohen was entitled to four or five times the value of the sheep in compensation. The French still let him try. Some North Africans supported Cohen's claim; thieves were intimidated; and, to cut a complex story short, Cohen received his 'Ar-ie' — many more sheep than were stolen! However, the French *now* took a hard line, confiscating Cohen's sheep, but letting Cohen himself go. Cohen, the source, told Geertz about this in 1968. How should one interpret Cohen's *initial* success? The answer, says Geertz as an ethnographer, is 'thick description' of local customs.

'Thick description'? Thus, absent reference to the trade-pact system, description of

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meticulously made publicly available by the Archives Office of Tasmania — the 'AOT' to insiders. In the words of the lecture summary: The hope 'in the age of digital scholarship,' was to trace convicts *outside* the 'paper panopticon'. Glimpses of more complex realities were to be sought through, for instance, 'non-penal records, vital registrations, and newspapers.' An 'online workstation', to this end, was using the labour of 'more than 60 volunteer genealogists.'

How far the English end of this project — relating to sending out convicts not disposed of by the gallows — accords with the Australianist procedural description is not yet evident from such internet material as I have been able to consult. The dual role of Professor Maxwell-Stewart may be intended to head off procedural difficulties.

2. 'Description: Towards and Interpretation of Culture', in *The Interpretation of Culture: Selected Essays*, (New York: Basic Books, 1973), Ch. 1.

Cohen's initial success remained 'thin' (another Rylean borrowing). It tells us 'What,' but not of course 'Why.' Fundamental is a Rylean distinction. How, asked Ryle, to distinguish a twitch from a wink? Hard, perhaps impossible, without insider knowledge. Interpretation, but in what sense? A physical occurrence is *interpreted* as an *action*. Ryle satirically elaborates this move,<sup>3</sup> and Geertz joins the fun. But also, as an ethnographer, relishes *particularities* of culture-specific understanding, as with the Cohen case.<sup>4</sup>

### BACK TO THE 1821 VANDIEMONIAN MOMENT

A core historical challenge is understanding circumstances surrounding the April 28 hanging in Hobart Town of the ten. This penalty was, of course, far from rare in Britain and its empire, as the climactic penalty of well over a hundred offences at British law.

Presupposed in this study is familiarity with extant extensive scholarly study of processes and developments in relation to British penal law and sentences of capital punishment from the late 18th to early 19th centuries.<sup>5</sup>

The title uses an unusual phrase: 'religio-moral economy.' Its context should now be further explained. In 1994, I published a paper forming one of a set written by Australian historians. The book's title was: *Re-Visioning Australia Colonial Christianity*. Editors were M Hutchinson and E Champion. My paper was called: 'Pains and Penalties: The Religio-Moral Economy of Penal Transportation to New South Wales and Van Diemen's Land,'<sup>6</sup> making it a big-picture paper. The

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3. Gilbert Ryle, *Collected Papers*, vol. 2, 1968, pp. 480-496.

4. An implied Geertzian reservation about the chapter of *The Interpretation of Culture* (1973) in which he discusses 'thick' and 'thin' description should be noted. As Geertz makes clear in his 1973 Preface, the new paper in which he offers these Rylean borrowings is not only the first in the book but offered for the first time, as 'my present position'. It should be read cautiously. That chapter might perhaps be a 'try on'. 'Thick' and 'thin' are metaphors. What I believe Geertz playfully implied — he *is* often very playful — is something like: 'Live dangerously like me.' 'Enjoy the clever metaphors, but be cautious!'. But any metaphors, however interpretatively rich need, in the end, as metaphors, to be kept in place. 'Thick' and 'thin' description are no doubt interestingly playful metaphors (like all good metaphors); but *description*, and Geertz is clear on this, signifies the *genus*. Geertz was witty, that's all.

Exploring that Geertz's genus term — 'description' — is the task at the close of this paper.

5. See, for instance, M Foucault, *Discipline and Punish: The Birth of the Prison*, (London: Vintage, 1995; D Hay, and others, *Albion's Fatal Tree*, (London: Penguin, 1975; Potter, H, *Hanging in Judgment: Religion and the Death Penalty in England*, (New York: Continuum, 1993); Gatrell, V A C, *The Hanging Tree: Execution and the English People*, (Clarendon: Oxford University Press, 1994; Linebaugh P, *The London Hanged: Crime and Civil Society*, (London: Verso, 2003.

6. (Sydney: Centre for the Study of Australian Christianity, 1994), pp. 61-96. I was of course aware of, indeed made semi-joking reference to, E P Thompson's pioneering discussion, in *The Making of the*

present paper, by contrast, is *much* particularised. Among several core themes in the 1994 paper were 1780s British attempts to solve severe economic and management problems created by the successful North American colonial revolt. Hitherto, costs of a severe British penal law regime were, in effect, borne by selling to Americans, through agents, and for a designated number of years, *property* in the convict's labour. British gaols, in this setting, were little more than temporary holding houses. But after the revolution, housing convicts in hulks on the Thames could only be a short-term solution. The British convict population inevitably rose, such rises being only partly mitigated by increasing death sentences. Penitentiaries and panopticon prisons were mooted in these years as radical, yet inconveniently expensive, solutions. Overseas penal colonies were considered in Africa and New South Wales. By 1787, the latter was selected, and in 1788 the British arrived in Botany Bay.

A fact of fundamental importance about the new colony was that, from the start until the end of transportation to the eastern Australian colonies in the early 1850s, this was, by statute, a *civil* colony, with the major legal consequence that property in the labour of convicts, when assigned to free settlers, *remained* vested in the Governor.<sup>7</sup> This was a major legal fact though ignored or downplayed by many Australian historians. There was to be in the penal colony a Court of Civil Judicature, and the first governor, Phillip, who arrived in New South Wales in 1788, received *two* commissions. One was, of course, military, but the other, which addressed him as 'Esquire,' directed him to arrange, where possible, for 'due observance of religion' and 'celebration of publick worship.' What religion? Principally, of course, the legally established one in England.<sup>8</sup> So a chaplain of the established church came with Phillip, and when Van Diemen's Land, as a dependency of NSW, was set up in 1804, another establishment chaplain arrived, Rev. Robert

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*English Working Classes* (London: Victor Gollanz, 1963), of adversarial cultures among 18th and 19th century English working classes, which Thompson interestingly called their 'moral economy'. However in my 1994 study, and the present paper, the term 'religio-moral economy' refers not to working classes but to hegemonic ethical and religious preconceptions of the English and British cultural *elites* of the late 18th and early 19th centuries.

7. One must say Eastern Australia colonies, because for a relatively short time, in the second half of the 19th century British convicts were sent to Western Australia.

8. One might be tempted to say 'of course', but one reading, long ignored, of the *Quebec Act* of 1791, was that the established church of Scotland — Presbyterian, of course — possessed establishment rights in British colonies. Practically, there was only one statutorily established church — that of England — in the Australian colonies.

Knopwood. We meet him soon, as preacher of a ‘condemned sermon’ in 1821.

Another fact of fundamental importance in English elite religious culture is the *layered* saturation of established religion, and this was evident here. Testimony at law *must* be sworn as true *on the Bible*. Rights at law, to sue and so forth, depended on this. Reflecting this deep intertwining of established religion and law is the frequency, both in England and the penal colonies, of senior Church of England clergy also acting as magistrates in courts of law. None of this implies religious enthusiasm, although this was possible — not only among ‘established’ evangelicals.

The principal implication about penal colonies such as Van Diemen’s Land is that religious formalities are *situational* facts. Historians seeking to understand such conventionalities of prudent conduct, at least to the 1830s, might perhaps be described as seeking to discern Geertzian ‘thick description’.

#### **KNOPWOOD’S FIRST TWENTY YEARS IN THE COLONY: AN INTERPRETATIVE CHALLENGE**

But ‘thick description’ of what? Before tentatively exploring 1821 events shortly to be recounted certain historical puzzles about Knopwood should be noted. Among both contemporaries, and historians later, ‘readings’ of Knopwood’s performance as for long sole and official chaplain to the colony of Van Diemen’s Land (1804-1822), and, concurrently, as one of its magistrates — joint roles he held until 1823 — vary greatly. He continued to serve as one of the chaplains of the Church of England in Van Diemen’s Land until his death in 1838, but it is performance of his *official* religio-moral role in the penal colony over his nearly 20 years as *both* official Chaplain to the colony and a civil magistrate which is a principal subject of interest here. Evangelicals, which Knopwood clearly was not, tended increasingly during the second decade of the 18th century, to see Knopwood as a spendthrift and wine-bibber — in a word, as not *morally* serious. Geoffrey Stephens, in his 1990 biography of Knopwood cites the unsuccessful 1817 effort by the New South Wales governor, in a despatch to the British Secretary for the Colonies, to ‘relieve’ Knopwood as ‘Chaplain at the Derwent, who is quite superannuated and of late become quite infirm from Dissipation and loose improper conduct.’ Macquarie hoped some ‘respectable Clergyman may be found.’ Colonial Secretary Lord Bathurst seemed to agree, expressing the hope to Macquarie in

1819 ‘with all my heart’ that Knopwood could be ‘pensioned and removed.’ In the event, he took no action, so Knopwood remained chaplain.<sup>9</sup>

These dismissive perceptions of Knopwood were not only issued during his first twenty or so years in the colony but were long-lived. The Congregational historian John West, in his influential 1852 *The History of Tasmania*, was highly dismissive of Knopwood’s performance as chaplain, writing:

The Rev. Robert Knopwood, who arrived with the first settlers, was long the sole chaplain of Van Diemen’s Land. In addition to his clerical functions he regularly sat as a magistrate. He had not much time to care for the spiritual interest of his flock, and of his success in their reformation nothing is recorded: his convivial friends are the chief eulogists of his character. His little white pony, 33 years old, was not less celebrated. ... The gaiety of his disposition made him a pleasant companion and a general favourite; and conciliated whatever esteem may be due to a non-professional reputation. He is thus described by a companion: ‘The good old gentleman thus warmed to his subject, and said in an undertone — ‘You must come and see Bob at the cottage. Yeoix. Yeoix: tantivy, tantivy’; to which friendly invitation I immediately assented.<sup>10</sup>

West’s dismissiveness on Knopwood’s performance as chaplain does not stand alone. The Preface to James Fenton’s 1884 *A history of Tasmania* describes West’s *History* as ‘valuable,’ and he substantially reproduces West view of Knopwood, and rhetorically improved upon it.

The first clergyman, the Rev. Robert Knopwood, had arrived in the colony with Collins’s fleet, 1803. The extent of his zeal and energy in the cause of religion may be inferred from the fact that so many years elapsed without any regular place of worship. Service, it is true, was occasionally performed ‘under the verandah’ of Government House (which was then a wooden building in Barrack Street), ‘weather permitting,’ or in the ‘King’s Store.’ Mr Knopwood was a magistrate as well as clergyman, an office which interfered considerably with his ministerial functions. He was never married, was fond of his pipe, and dined at the hotel with his bachelor friends after church on Sunday. He is described as a man of exuberant spirits, and partiality for lively company. His reputed saying was ‘Do as I say, not as I do.’

A much more recent Australian historian, C M H Clark, in the second volume of his 1968

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9. Geoffrey Stephens, *Knopwood: A Biography*, (Hobart: The print Centre, 1990), p.127.

10. West, usually scrupulous in such matters, gives his source. It was the former convict, and novelist, Henry Savery, author of *The Hermit of Van Diemen's Land*, originally published in 1829.

*A History of Australia*<sup>11</sup> alludes to the Knopwood legend, as perhaps it should be called. Clark enhances it, referring to Catholic chaplain, Father Philip Conolly — with whom, as will shortly be explained, Knopwood became acquainted in 1821.

The Reverend Knopwood, the first Anglican chaplain, and Father Conolly, the first Catholic priest, were boon companions who were often seen going through Hobart Town arm in arm particularly after they had been loving the bottle.

This derogatory Knopwood legend is tendentious, however and, as will shortly be explained, in some respects seriously misleads. At any rate, there is also strong pro-Knopwood evidence. Knopwood, a graduate of Cambridge, kept a fairly detailed diary, most of which survives (although not for 1821), as well as over a hundred sermons.<sup>12</sup> A good deal of *documentary* evidence survives relating to Knopwood's chaplaincy, his magistracy, and his daily life, which sustain inferences as to the man and his civic and religious roles *not* consistent with what West and other detractors wrote.

#### **KNOPWOOD. ANOTHER VIEW.**

In describing elements of what I call 'The Vandemonian moment,' I have much to say about Knopwood. Two things are clear. One is individuality or his ways. As a public figure for long carrying high-status public roles of chaplain and magistrate, he was closely watched. Individualities and eccentricities were noted, especially in a culture — English and Anglo-British — in which dissecting eccentricity was common. This crossed both class and cultural barriers and was likely to be a source of merriment — sometimes even ridicule.

The second thing to note about Knopwood might be called his conceptual range. He was far from what came to be called, towards the close of the 19th century, an 'intellectual,' yet he enjoyed lively curiosity, evident in the diary he kept over his Vandemonian years. About half of this survives.<sup>13</sup> His lively curiosity is also evident in some of the sermons which survive. Perhaps the years at Cambridge were not wasted. And while his diary for 1821 does not survive, the well-

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11. Published in 1968. Clark's source, not one to inspire confidence, was J W Beattie, *Glimpses of the Lives and Times of the Early Tasmanian Governors*, (Hobart, 1905), p.36.

12. 119 full sermons in the Papers of the Royal Society of Tasmania, and several more from his later years in the Mitchell Library, Sydney.

13. Held in the Mitchell Library, New South Wales. The entire surviving diary is reproduced in Mary Nicholls (Ed), *The Diary of the Reverend Robert Knopwood, 1803-1838: First Chaplain of Van Diemen's Land*, (Hobart: Tasmanian Historical Research Association, 1977).

ordered ‘condemned sermon’ he preached on the evening of April 27, 1821, does.

Historian Geoffrey Stephens gives an example of what he calls an 1805 Knopwood sermonical ‘purple patch.’ ‘Purple? Well, ‘concise and powerful’ might be safer:

[The] enemy, this tormentor within, is never to be avoided. If he [the tormented] retires into solitude it will meet him there, and haunt him like a Ghost: If he goes into society, it will accompany him, it will spoil his entertainment, and dash the untasted cup from his trembling lips, whilst the sinner indulges his vain imagination, whilst he solaces himself with the prospect of pleasures rising upon pleasures, never to have an end and he says to his soul, *Be of good cheer thou hast happiness laid up for many years.* [But a] voice comes to his heart that strikes him with sudden fear, and turns the vision of joy into a scene of horror.

Stephens calls this ‘evangelical,’ signifying, perhaps, traditional evangelical command concepts or assumptions: repent; confess; seek forgiveness.

#### **THE VANDEMONIAN MOMENT, 1821: INTRODUCTORY COMMENT**

Two background matters should be clarified in this study. The first relates to the legal status of the colony and associated institutional process; the second concerns scale.

First, as to legal status: Van Diemen’s Land was legally an offshore part of New South Wales. This is clearest in legal arrangements. NSW had a governor, to whom the Lieutenant-Governor of VDL was subordinate. NSW, like VDL, had civil magistrates. The highest civil and military court in the colony was that of the Judge Advocate. Usually, this sat only in Sydney, the NSW colony’s principal settlement. Minor civil and criminal cases were decided in the magistrate’s courts in each colony, but serious criminal matters, especially those in which capital offenses were decided on, were heard in Sydney. Alleged capital offenses in VDL were also, and increasingly inconveniently, for long heard in Sydney. This involved the accused and relevant witnesses going by ship to Sydney. Expensive and on ordinary measures inefficient! This was the situation in 1821. What temporarily changed that year was that the Judge Advocate spent the first half of 1821 in VDL. In April Governor Macquarie, too, arrived. This was for about two months and was his first visit to the colony since 1811.

Second, as to scale: population in 1811 was about 1500, and in 1822, excluding military

and marines, about 8500.<sup>14</sup> Towns in south and north grew; as did pastoral, mostly sheep farming ventures in the midlands, and north and north-west. In 1819, the shipping monopoly of the East India Company ceased, and, much to unsettlement of Aboriginal inhabitants, the local economy, including towns, boomed. Wool and whaling were keys. Soon — 1823 — VDL became, through interest group agitation, legally independent of NSW, although both remained part of the empire. What about convicts? There was a management problem here. Benthamite panopticon concepts gradually grew in appeal, but in 1821 Bentham remained largely among voices in the wilderness.

### **THICKENING DESCRIPTION OF THE 1821 VDL SITUATION**

On April 28, 1821, in Hobart town, ten convicts were executed. In Hobart, this was news. Certainly, the editor of the *Hobart Town Gazette* thought so. This was unsurprising given many spectators and the *Gazette's* role as a journal of public record.

One situational fact about this trial, reflecting the fact that hitherto Sydney was the usual place for these, is that the court was held in a room in the Colonial Hospital. This was presumably the closest he could get to a suitably solemn setting. Castles remarks that 'A team of convicts was detailed to scrub out a ward of a new hospital as the designated place for the court to meet.'<sup>15</sup> That had to do.

The phrase 'thick description' is convenient here. Approaching this project, a fundamental fact is the character of offences for which gallows execution was then considered appropriate. A brief list of these offenses in the ten cases is a useful start to 'thickening' one's concept of criminal offences for which, in those days, death was seen as an appropriate penalty.

- Joseph Potaski, Robert Hunter, Edward Brady, James Flinn — Robbing the home of prominent landowner, Mr Alfred Thrupp.
- John Oliver — Cattle stealing.
- John M'Ginnis — Sheep stealing.

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14. See Wray, Vamplew (General Editor), *Australian Historical Statistics*, (Sydney: Fairfax, Syme & Weldon, 1987). Chapter on Population by J C Caldwell, 'Colonial Population, 1788-1825', p. 25, cols 9-12. Census estimates for Van Diemen's Land 1822: male, 6056, female 1019, and children 1347

15. Alex Castles, *Lawless Harvests, or God Save the Judges: Van Diemen's Land 1803-55*, (North Melbourne: Australian Scholarly Publishing, 2007), p. 87.

- Thomas Kenny, John Higgins, John Hill, Michael Riley — several outrages and robberies in the woods, and firing on the King’s troops.

By the 1840s, in England and the Australian colonies, most, but perhaps not all of these were seen as meriting not the hangman’s noose but penal servitude.<sup>16</sup>

There is much evidence of this particular Hobart execution, making possible fairly detailed reconstruction of what Geertz might have called a ‘thickened’ description of what was happening.

There is also detailed evidence of prior legal procedures in these cases, culminating in the sentences imposed. Early in 1821, Judge Advocate Wylde, together with six military officers required by law as jurors, constituted the Hobart Criminal Court.<sup>17</sup>

In normal solemnly oratorical judicial style, emphatic about both the moral and the legal importance of the role he played, Wylde pronounced the ‘awful’ death penalty. Part of doing this, again as in England, was uttering solemn, solicitous religious words, reflective of the religio-moral order established by law in England and, it was assumed, its colonies. Wylde was wordy. This went with the job but is also a kind of window on what may not have been easy — especially since they had no choice — for the convicted felons having to listen to it.

His Honor the Judge Advocate WYLDE, previous to passing the awful sentence of the law on the prisoners, addressed them at some length in a very impressive and pathetic manner.

The Judge Advocate then adverted to some of the particular cases, by which it appeared, that several of the prisoners, breaking through all restraint, had taken again and again to the bush, committing various enormities and outrages, ... . It was true, that, notwithstanding the diligence of Police in this country, many of them had been carrying

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16. Sentence of all, other than Kenny, reported in *Hobart Town Gazette* on 3 February, 1821. Paragraphing added. Spelling as in original. On changing sentencing practices, reflected in the conduct of this case, see Alex Castles, *Lawless Harvests, or God Save the Judges: Van Diemen's Land 1803-55*, (North Melbourne: Australian Scholarly Publishing, 2007), pp. 87-89. This court — for this was a penal colony — had something of the character of a military court. The six officers were in effect jurors. The accused had no legal representation, and, as then with English criminal trials, were not entitled to legal representation. They might, however, call on witnesses. Typically, such trials were short. Nor were there rights of appeal. (Castles, pp. 87-8.) Also generally useful by the same author is *An Australian Legal History*, (Sydney: Law Book Company, 1987).

on their depredations for a long time — but the fatal career was at an end; and he trusted, that they would not delay a moment in awful preparation for its dreadful catastrophe.

This would be best effected in losing no opportunity of perusing with earnest attention those sacred books, with which they would be provided; — thus only to find that consolation which would be vainly looked for from any earthly source. In the merciful promises of the Holy Scriptures, he ardently trusted, that they would be enabled to find grace with that Almighty Power, before which they were all soon so likely to appear.

Those laws which they were bound to reverence in peculiar gratitude to much, and the public Justice of the country, which they had so long, so frequently violated and insulted, demanded the sacrifice of their lives, as the only equal expiation and atonement for the injuries inflicted on the public security and welfare. The ages of the offenders were indeed various. Some indeed were young in years, but as with grey hairs in villainy; But he trusted, at least, that there would be, but one feeling as to fit preparation for the awful scene of death, which was about to expose them to public punishment; and that the behaviour of all before that tremendous hour arrived, would bestow the sincerity of that contrite spirit of repentance ....

Thomas Kenny was not present at the formal act of sentencing. The likely reason is that he had escaped from gaol in Hobart, and was still on the run.<sup>18</sup> In his case completion of the formal process of sentencing was delayed only a short time. On March 31, 1821, a comparably portentous, but shorter, sentence was printed in the *Gazette* of March 31 that year.

The thick-thin metaphor was here, perhaps, overborne in these sentencing words by what long dead but not forgotten linguistic philosopher John Austin, in *How To Do Things With Words*, called the *perlocutionary* — meaning rhetorical<sup>19</sup> — force of what Wylde said.

Kenny originally was tried in Dublin, and it is worth noting that he bore a crucifix on a

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18. See, for example, report of the escape in *Hobart Town Gazette* 16 December 1820. Kenny's escape was noted half a century later by Marcus Clark, well-known author of *For the Term of His Natural Life*, in Clark's 'A leaf from an Old newspaper', in *Stories of Australia in the Early Days* (London: Hutchinson, 1897), p. 55. The 'old newspaper' was the *Hobart Town Gazette*.

19. John Austin, *How to Do Things With Words*, (Oxford: Oxford University Press, 1962), p. 101.

tattoo above his right elbow.<sup>20</sup> Doubtless he was a Catholic. It is useful to note in this connection that Roman Catholic clergy had only very recently been officially permitted to minister to Catholics in NSW and VDL.

Wylde's reported sermonical and moralistic sentencing addresses, with respect to Kenny and the other nine, tell us much, of course, about Wylde's civil, religious and legal views and values, but also about the convict views and values *he* regretted. In that respect, they contribute to thick description of those.

Knopwood's sermon to the four on the evening of April 27 survives. On the last page — and I consider this 'thin' information but with 'thick' significance — he *listed* in his own hand names of the four he 'preached before,' as well as the six he didn't.<sup>21</sup>

Considerations of the thickness of description, staying with this metaphor, arise in regard to Knopwood's 'condemned' sermon, which survives, in his own hand, in the archives of the Royal Society of Tasmania. Knopwood, as a magistrate, was sometimes on the hard side with magisterial penalties. However, there was another man — compassionate about eternal welfare. A brief extract from the sermon makes the point:

Pray for divine grace, to support you, to chase away fear, and to enable you dauntless to meet the King of terrors. It is in the power of God to support you effectually, under all you have to pass through; and if you are penitent, and pray to him for support, you will experience it.

Knopwood's next words are specially striking, for they allude to what Jesus is reported to

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20. *Hobart Town Gazette*, 28 November 1820. Kenny arrived on the *Admiral Cockburn* on 13 Sept 1819. Records are held by Archives of Tasmania. See Index number 39811: CON 31/1/23, p. 15; and Con 13/1/1 p. 318.

21. Knopwood: Last page of 'Condemned Sermon. He lists names of four he 'preached before.' These were John Oliver, John Hunter, Joseph Potaskie and John Hill. He adds six names of those 'executed at the same time. These were: John Higgins, John Maginnis, James Flynn, Michael Riley, Edward Brady and 'Tho Kennedy (Which must be Thomas Kenny). Knopwood does not say so, but one might guess that these were ministered to by the recently arrived Catholic chaplain, Phillip Connolly. What makes this inference likely is that in the long march to the gallows next morning the *Hobart Town Gazette* states that Knopwood *and* Connolly accompanied the condemned acting in a ministerial way. Geoffrey Stephens, in *Knopwood: A Biography*, p. 124, makes a serious (and untypical) treble error here, in effect writing Connolly completely out of the events of 27 and 28 April. Stephens refers to Knopwood as giving the sermon to the *ten* condemned (that is, *all* of them.) And he makes no reference to Connolly as accompanying them to the scaffold. Indeed he makes no reference, in these proceedings, to Connolly at all.

have said to one of the thieves crucified beside him:

Many doubtless have been removed from Prison to Paradise. God Almighty grant that you may be added to them.<sup>22</sup>

This particular sermonical resort is likely to have been popular among preachers of 'condemned' sermons. I recall, from *The Journal of John Wesley*, his typically concise report of what he said in 1767 to condemned men at Newgate:

Fri. 20. — I preached to the condemned felons at Newgate, on, 'Today thou shalt be with me in paradise.' All of them were struck, and melted into tears: who knows but some of them may 'reap in joy.'<sup>23</sup>

Relating to Execution morning, April 28, the *Gazette* has an interestingly full — one might even say Geertzian or heightened religio-moral description of the half-mile public procession. Accurate journalism? The question is good yet perhaps pedantic:

This morning, about 10 o'clock, the undermentioned unhappy men underwent their awful sentence at the law, upon a new platform<sup>24</sup> erected about half a mile from the town [Hobart], at the upper end of Macquarie-street, on the road to the Cascades.

Joseph Potaski, Robert Hunter, Edward Brady and James Flinn, for Mr Thrupp's robbery; John Oliver for cattle-stealing; John McGinnis for sheep stealing; Thomas Kenny, John Higgins, John Hill, and Michael Riley for several outrages and robberies in the woods, and firing on the King's troops.

The whole of these unhappy men, from the time of receiving their sentence, seem to have been perfectly resigned to their fate; and every step which brought them nearer to death appeared to give them additional comfort. From the time of leaving the county jail at nine o'clock, till the moment they were launched into eternity, they all invariably evinced the strongest sense of their situation, and, by their prayers and sincere repentance, endeavoured to seek pardon of their offended Maker. Of their crimes they spoke but little; but generally acknowledged the justice of their sentence, and often turned their discourse to the surrounding spectators, hoping that their fate would be a warning to others. They were

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22. Reference is to Luke 23: 43. 'And Jesus said unto him. Verily I say unto thee, Today thou shalt be with me in paradise'. ('Authorised' translation.)

23. *The Journal of John Wesley: Popular Edition Condensed*, Vo. 1, (London: Charles H Kelly, 1903), p. 118.

24. A 'new platform'? The *Gazette* does not mention it, probably as too well known to be news, but this was the first *mass* execution in Van Demonian history. Hitherto, apart from occasional individual Hobart hangings, which noted in Richard Davis's study, trials for hanging offenses, and executions should that be decided on, were usually conducted in Sydney. See Richard Davis, *The Tasmanian Gallows: A Study of Capital Punishment*, (Hobart: Cat and Fiddle Press, 1974), p.12, for his brief — one might say unGeertzian — account of the 28 April hanging.

attended with all possible zeal and humanity by the Rev. R Knopwood and the Rev. P. Connoly.

Castles, in *Lawless Harvests*, is sceptical about the credibility of the *Hobart Gazette* account, suggesting it was ‘ritualistic reporting’ in a paper under government censorship, thus lacking credibility as evidence. This is a fair comment if the question is what the condemned really wanted — to be somewhere else. But it may be the situationally apt question is, rather, what part they wished to play, and be seen playing, especially if there was some hope of a gallows reprieve. Comments on the concept of command hopes, discussed towards the close of this paper, may be in order.

Mission accomplished? All those involved: authorities, spectators, condemned, the two clerics, knew their part and played it. Only the condemned left the scene *for ever*. Those who have studied the pattern of Newgate hangings, such as, most obviously, Douglas Hay, V.A.C. Gatrell and Peter Linebaugh would probably not be surprised at all by these 1821 Hobart events.<sup>25</sup>

Yet comments on the *type* of are of interest, not least one from Jeremy Bentham, himself, in his *Principles of Penal Law*. Bentham, as is well known, emphatically criticised the British decision to establish penal colonies, rather than set up, in *Britain* of course, penitentiaries designed and operated on the panopticon principle. The Australian penal colonies Bentham considered expensive, unhelpful on utilitarian criteria, and more or less hopeless as instruments of actual penal reform.<sup>26</sup>

And yet it may be of interest that in this book Bentham offers a model of how penal execution *should* be conducted. Allowing for the fact that Bentham Gothicises the following description, one wonders whether, had Bentham noticed the procedures for dealing with the Hobart Ten,<sup>27</sup> he might have said the Vandemonians did not do a bad job. ‘Speak to the eyes, if you would

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25. Douglas Hay, et. Al. *Albion's Fatal Tree: Crime and Society in Eighteenth Century England*. (London: Penguin, 1975; V A C Gatrell, *The Hanging Tree: Execution and the English People, 1770-1868*, (Oxford: Oxford University Press, 1994); Peter Linebaugh, *The London Hanged and Civil Society in the Eighteenth Century*, (London: Penguin, 1991).

26. See, for instance, Bentham, Jeremy, *Panopticon versus New South Wales, or, The Panopticon penitentiary System, and the Penal Clonizaion System, compared: Containing, 1. Two Letters to Lord Pelham, Secretary of State, Comparing the Two Systems on the Ground of Espediency. Plea of the Constitution: representing the Illegalities involved in the Penal Colonization System*, [London] Robert Baldwin, 1812.

27. Quite unlikely, of course.

move the heart’ Bentham wrote at the start of a section on strengthening the *impression* of punishments on the imagination. Bentham then describes an execution process likely to move ‘the heart.’

A scaffold painted black, the livery of grief — the officers of justice dressed in crepe — the executioner covered with a mask, which would serve at once to augment the terror of his appearance, and to shield him from ill-founded indignation — emblems of his crime placed above the head of the criminal, to the end that the witnesses of his suffering may know for what crimes he undergoes them: these might form part of the principal decorations of these legal tragedies; whilst all the actors in this terrible drama might move in solemn procession — serious and religious music preparing the hearts of the spectators for the important lesson they were about to receive. The judges need not consider it beneath their dignity to preside over this public scene, and its sombre dignity should be consecrated by the presence of ministers of religion.<sup>28</sup>

Wylde was still resident on the island, but Macquarie, governor of both New South Wales and Van Diemen’s Land, arrived in Hobart only two days prior to the execution. Given the ‘hands on’ style of many senior colonial administrators, it is reasonable to assume both witnessed the execution. In Macquarie’s case, this tends to be confirmed by the fact that in his daily diary he not only mentions this execution but writes out, in his hand, *each* of the ten names.<sup>29</sup> So Wylde and Macquarie can be assumed to be part of the ‘thick’ description of Hobart public events of that day.

Governors of civil colonies were empowered, as governors, to exercise the royal prerogative of mercy through a gallows reprieve, and in New South Wales sometimes did this. But given an earlier decision to reduce Hobart executions from 26 to 10, this was not — although perhaps not evident to the still condemned — likely.<sup>30</sup>

Nevertheless, last-moment reprieve *remained* possible. This is confirmed by the fact that at *each* of two further Vandemonian hangings shortly afterwards, at Georgetown and Launceston,

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28. [Reprint] Jeremy Bentham, *Principles of Penal Law*, University of Adelaide. Ebooks. Adelaide, edu.au/University of Adelaide Library, Uni of Adelaide, South Australia, 5005. p. 388. (Originally published by W Tait, 1843.)

29. From *Journeys in Time*, an internet website reproduction and commentary of the journals of Lachlan and Elizabeth Macquarie, 1809-1822. This was completed in 2009 as a joint project of Macquarie University and The State Library of NSW. Actual journals are held by the State Library of NSW. It can be found on the internet at <http://www.lib.mq.edu.au/all/journeys/1821a.html>

30. Wylde to Macquarie, 22 May 1821, in *Historical Records of Australia*, Vol. 10, Series 1. (Melbourne: Library Committee of the Commonwealth Parliament, 1917.) p. 513.

the prerogative of mercy *was* exercised to a few.<sup>31</sup> A conceptually messy situation, perhaps. And there I stand back. Benthamites in VDL would soon have their chance with Governor George Arthur's open air panopticon at Port Arthur: but that is another story. Arthur was governor from 1824 to 1836; and Port Arthur, on the south-west tip of the island, was opened in 1830 as a place of secondary punishment.

#### METHODOLOGICAL IMPLICATIONS

While Geertz's playful use of the Rylean Thick-Thin metaphor in ethnographic research generates unquestionably useful conceptual distinctions, some briefly explored here, it remains a *metaphor* — useful *but* tricky. Perhaps that is why, as far as I can tell, Geertz rarely used it in later writings. Incidentally, Geertz also became cautious about another tricky metaphor from *Interpretations of Culture*: 'Deep Play,' explored in his interpretation of a Balinese cockfight.

However, a particular circumstance may be relevant to Geertz's retreat from 'thick description.' Ryle's metaphor was perhaps *too* rich. 'Thick' and 'thin' were increasingly appropriated by micro-sociologists broadly in the line of Erving Goffman. A discussion of this development is in Heather Love's impressively concise 'Close Reading and Thin Description' in *Public Culture*, 2013, Vol. 25. 401-434.

I assume Geertz thought metaphors hard to avoid, practical choice often being between good ones and less good ones. However, *micro*-sociological problematics can fit uncomfortably with serious ethnography, so it is not surprising Geertz eventually cooled over the value of Ryle's clever distinction between forms of description.

As a historian, I am deeply empathetic to Geertz's ethnographic aim, but prefer to refer to searching for what are, in my view, more usefully called command ideas — or more concisely, 'command assumptions.' Models for this can be found in Augustine's analytic and interpretative distinction in *Civitas Dei* between the 'City of Man' and what he called the better city, the *Civitas Dei*, and can also be found in core concepts of some writings of Ibn Khaldun, Vico, Croce and Collingwood.

What *were* command assumptions in relation to the Hobart events recounted in 1821?

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31. One might add that Macquarie, consistent with his 'way', wrote out in advance in his journal on 25 May, the names of the five to be executed on 30 May, 1821, and the four to die on 4 June.

Principally, these related to the ten condemned; to the Judge-Advocate; to Governor Macquarie, but specifically when reprieve was considered; to the two chaplains; to the ten condemned generally, but specifically during their last night in prison and on the road to the scaffold; to spectators in the crowd; and of course to the guards; to the hangman; and not least to the wordsmith, the editor of the *Gazette*. Often, one can do no more than diligently wonder. Generally, that is the closest the historian gets to understanding the inwardness (another metaphor!) of past individual and collective actions. Or, that is ‘as thick as it gets,’ when playing Geertz’s, and perhaps Ryle’s, game.<sup>32</sup>

‘Command assumptions’ — I prefer that to ‘command ideas,’ which latter I used in a 2005 ‘Thematic Article’ on interpreting Tasmanian religious history. ‘Command concepts’ sounds, at first, a strange term. However, four examples of these from the story of the Garden of Eden may help clarify what is intended: *God’s* command ideas; those of *Adam*; those of *Eve*; and not least, those of the *snake*.<sup>33</sup>

My 2005 statement, now somewhat shortened and slightly amended, is:

Command assumptions [rather than concepts] are what historians discover whenever individual and collective human behaviour, and changes to that behaviour, are discovered to be purposive — to have point. Command assumptions may be expressed unequivocally (Jesus’ ‘Do unto others ...’, Socrates’ ‘Know thyself ...’, Marx’s ‘From each according to his ability,’ Occam’s ‘Don’t multiply entities beyond necessity,’ or allusively, perhaps metaphorically (‘Don’t give a sucker an even break’). Political and other kinds of power, salvation, civic virtue, piety, martial virtue, truthfulness, justice, mercy, repentance, forgiveness, wealth, *as sought*, are, to that extent, command assumptions. Rarely, if ever, does only a single idea find expression in an act. To call an act hypocritical subsumes it under at least three command assumptions: will to deceive, intent to simulate, intent to conceal.

Having point is what makes individual and collective behaviour, not just an event describable in purely physical terms but an *action*. The historical interpreter may begin with evidence of claims made by actor(s) or observer(s), or later reports of such claims, but often moves to situational analysis. This involves conjoining evidence-attested descriptions

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32. In regard to Ryle, I recall still with amusement, personal letters from him in 1972, as editor of *Mind*, over changes he wished me to make to an article offered to that journal. Rylean leopards perhaps didn’t change their spots. The requested changes were in fact helpful and were made.

33. Richard Ely, ‘Religion’, in Alison Alexander (Ed), *The Companion to Tasmanian History*, (Hobart: Centre for Tasmanian Historical Studies, 2005), pp. 472-477. The reference to Adam, Eve, etc., is on p. 472. The original of the slightly amended statement given here is on p. 477. The main but not only alteration is that ‘command assumptions’ replaces ‘command ideas’.

of the *act* to be explained, with evidence-attested descriptions of *circumstance* in which, given postulated command assumptions, the thing done was necessary — *needed* to be done. This move is I believe what R G Collingwood had in mind in *The Idea of History* (Oxford: Clarendon Press, 1946,) p. 214, in saying that when one knows *what* happened, one already knows *why*. (Italics mine.)

Collingwood's idea of historical interpretation and Geertz's of semiotic interpretation, have a common ancestor: Vico's stubborn 18th-century hope that 'what man has made, man can know.'

This, I suggest, with one vital addition, is the main interpretative key to understanding what one might call either 'thick description,' or, more concisely in my view, command assumptions: as these are reflected in the religio-moral economy of penal transportation to the Australian colonies up to the third or fourth decades of the 19th century — especially, of course, to Van Diemen's Land.

And what is the addition? It is a reference to two closely linked concepts explained by the sociologist, Robert K Merton in a 1957 academic article.<sup>34</sup> These are the 'role set' and the 'status set.' Merton defines the role-set as that complementary set of role relations, 'in which people are involved by virtue of occupying a particular social status.' What this means in relation, say, to the hanging of the ten convicts in Hobart, on April 28, 1821, is pretty obvious.

## OVERVIEW

Should command assumptions, or something conceptually cognate, be the way of the future in studies of penal transportation? Substantially, it is suggested, yes. Casting a much wider historiographical and ethnographic net, thick description of Cohen's eventually unrewarded 1912 cleverness can concisely be redescribed — that is, without significant remainder — as 'rethinking' in R G Collingwood's sense. Command assumptions, and not thick description, is thus the fundamental principal subject of this paper: a subject often interlinked, in this particular case, with permutations, conjunctions, and larger developments within the religio-moral economy of British penal transportation to Australian colonies; and, in a larger setting, to complex evolution of *penal* imprisonment in Britain, its empire, and beyond.

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34. Robert K Merton, 'The Role-Set: Problems in Sociological Theory', *British Journal of Sociology*, (1957) vol. 8, pp. 110-113.