Gender and Honour in Middle-Class Cape Town: the making of colonial identities 1828 - 1850

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This study comprises an examination of the role of ideas concerning gender roles and respectability in the elaboration of a specific notion of a white colonial middle class in Cape Town, Cape Colony, in the decades before the establishment of Representative Government at the Cape. It pays particular attention to the cultural interaction of the incoming British settlers with the older Dutch society already in place in Cape Town. The insertion of British middle-class ideals of domesticity into Cape society had a decisive impact upon the public culture which would underpin the new political dispensation in the colony when a Representative Assembly was set up in 1853. The thesis argues that the new colonial political order which was enshrined in the constitution of 1853 was grounded upon a new gender order which set out distinctive roles for middle-class men and women and which allowed for the expression of a particular kind of personal and social respectability. Political developments in the Cape colony were thus inextricably tied to the elaboration of this new gendered social system. The thesis approaches the question of white colonial identity through several avenues. These include: the creation of a public sphere and changes in commercial culture; the importance of issues of the family and domestic service in structuring reform initiatives; the nature of male and female honour and its defence through defamation cases; the role of marriage in Cape colonial society; and the mediation of sexual transgressions through religious and civil authorities. Finally, the manner in which domestic ideology impacted upon political culture is approached through two case studies of political crisis during the period. The thesis thus seeks to advance South African historiography by undercutting the traditional division between studies of private and public life at the Cape in this period.

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List of Abbreviations.

CA - Cape Archives, Cape Town.

DSAB - Dictionary of South African Biography

NZAT - Het Nederduitsch Zuid-Afrikaansche Tijdschrift

PRO - Public Record Office, London

QBSAL - Quarterly Bulletin of the South African Library

SACA - The South African Commercial Advertiser

SAHJ - South African Historical Journal

SAL - South African Library

UCT - University of Cape Town, South Africa.

VOC - Dutch East India Company

ZA - De Zuid-Afrikaan

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The principles of language result from the principles of human nature, and the study of them leads us more directly into the secrets of our mental organization than almost any other study.

John Fairbairn in *The South African Commercial Advertiser*, 20 April 1831.

Abstract.

The thesis sets out to explore the question of what issues underpinned the elaboration of a middle-class colonial identity in Cape Town during the period 1828 to 1850, especially with reference to the new constitution of 1853. It argues that issues of respectability, expressed crucially in gendered terms, were a central element of an emerging middle-class colonial identity in Cape Town, and were equally important to the claims for civil rights expressed by colonists in the decades before Representative Government was established. The new colonial political order which was enshrined in the constitution of 1853 was grounded upon a new gender order which set out distinctive roles for middle-class men and women and which allowed for the expression of a particular kind of personal and social respectability. Political developments in the Cape colony were thus inextricably tied to the elaboration of this new gendered social system.

The thesis is organised thematically, around several questions of importance to middle-class life and identity in Cape Town. At the same time it is roughly chronological, with the second chapter (which follows an introductory chapter) setting out the changes which took place in the city's form from the earliest part of the period, and the last chapter discussing a political movement which was important as a unifying force on the eve of Representative Government. The two final chapters act as case studies and build upon the discussion in the previous part of the thesis - they pull together many of the themes of the thesis as a whole, and indicate the manner in

which thoughts on respectability influenced both the political development of the colony and the way in which politics operated.

The first chapter forms a theoretical and empirical background to the central questions set out by the thesis. The second chapter details the creation of a rational public sphere in Cape Town, following on from a discussion of public sphere theory in chapter one. It examines the changes in urban space - in housing design, in public buildings, in material culture and in the city's landscape - which marked the transition from a Dutch to a British colonial system, and it explores the implications of these for gender roles in the city. It also looks at the establishment of a free press, at sites of elite masculine assembly and at the effect which these had on the elaboration of a political culture in the city. These developments are linked to fundamental changes in the manner in which business was conducted. Free trade and free labour policies irrevocably changed the face of commercial activities in the city during this period. Informal business practices characterised the eighteenth-century city under the Dutch East India Company, with middle-class Dutch women taking important roles in this economic activity which showed a strong spatial connection with domestic life. The formalisation of business practices pushed women out of such public sphere activities and helped to underpin a society which was based upon a more rigid separation of public and private spheres, of work and home, and of men and women.

The third chapter, in a sense, interrogates the ideology of separate spheres which is explored in chapter two. It looks at the manner in which domestic-related concerns were of crucial importance to public sphere activities through reform movements

directed at labour in the form of domestic servants which were prompted by the desire to protect the domestic environment from material and moral contamination. It considers the interaction between white masters and black domestic servants and at the influence which such relations exerted upon middle-class perceptions of the home and the self. Racial and religious fears informed white middle-class concerns about urban sanitation in Cape Town, especially during times of crisis such as the smallpox epidemic of 1840. At such times, the Muslim community formed a visible group and was thus a target for middle-class fears about perceived religious, racial and sanitary differences. Space is also given to considering the different roles during which men and women took up in reform enterprises to further discuss the ambiguities between politics, middle-class gender roles and the separation of spheres. Whilst male reform initiatives, which often overlapped with municipal politics, had a proto-political function, female reform endeavours (whilst indicating the way in which women moved beyond the domestic sphere) were compromised by women's important cultural role as guardians of domestic space and signifiers of white middle-class status.

The fourth chapter moves on to discuss the issue of gendered respectability on a more personal level to attempt to unpack the meanings attached to honour for middle class men and women. It uses defamation cases to analyse the defence of honour by middle-class men and women and it explores the shifts in the law and its practice from a Dutch-influenced system of social gesture, marked by the ceremonial public affirmation of individuals whose honour had been threatened, to a British-influenced system which laid emphasis on monetary compensation. It shows how respectability

was gendered by discussing the different aspects of male and female honour. Men brought defamation cases when insulted by other men - women never appear as defendants - and the defamation cases put forward an idea of masculine honour which was bound up in professional and occupational identity rather than in sexuality. In keeping with the closer identification of women with the private rather than the public sphere, explored in the previous chapters, female honour was expressed in explicitly sexual terms, and centred around their chastity. The female equivalent of the male defamation cases were breach of promise of marriage or seduction cases in which women sought to defend their right to an honourable marriage.

The fifth and sixth chapters concern legitimate and illegitimate sexual relationships. Chapter five explores marriage and its role in middle-class life, paying particular attention to the differences between British and Dutch laws on marriage and property. Marriage provides a way of looking at the relationship between gender, property and power in the middle class - the franchise was based upon the voting rights of propertied men. Marriage was a significant part of the accumulation of property as well as the establishment of a home. An important theme in the thesis as a whole is the greater rights which Dutch law accorded to women with respect to marriage, divorce and property, and the erosion of these privileges by the imposition of British models of domesticity. Marriage was one of the most concrete ways in which a middle-class community was built up in Cape Town - particularly in terms of the frequency of marriages between British and Dutch.

Chapter six continues this theme of marriage and legitimacy by examining how issues surrounding illegitimate sexual relations were mediated through secular and religious power. It analyses divorce, separation, seduction and illegitimacy in the lives of white middle-class colonists. It returns to the issue of the sexualised nature of female honour and the changes in the law which negatively affected women's abilities to defend their sexual reputations. Divorce and separation law at the Cape gave equal rights to men and women in their ability to dissolve a marriage. Property division was also more equitable under the Cape system than was the case in Britain. The impact which these laws had on incoming British immigrants and the differences in their perceptions of marriage and its dissolution from their Dutch counterparts is discussed. These discrepancies in attitude were reflected in changes in the law. The British government removed the right to claim specific performance of a promised marriage, which was the main restitution which women who claimed they had been seduced sought from the courts. After 1839, when this law was enacted, Dutch women no longer used the courts as a means to defend their honour. Instead, they turned to the ecclesiastical authority of the Dutch Reformed Church to exert moral pressure on the recalcitrant fathers of illegitimate children.

The final two chapters act as case studies, bringing together many of the previous themes discussed in the thesis as a whole. The seventh chapter builds on the arguments about the nature of honour and the separation of spheres by analysing a specific case study concerning reputation and its defence - a political and sexual scandal involving the Chief Justice in 1831 - 1833. The scandal is useful for the light it sheds on the interwoven nature of the private and public spheres, undercutting the

discourse emerging at this point from the ranks of the city's middle class. What was initially a domestic concern escalated into a full-scale political crisis with the integrity of the Cape colonial government compromised, and the relationship between Britain and the colonies being called into question. It highlights the importance of looking at the interconnections between domestic and political life.

The final chapter considers a political movement in which many of the themes of the rest of the thesis also come to the fore. The anti-convict agitation of 1849 - 1850 was a middle-class-led protest against the British government's attempt to send convicts to the Cape. An important event in unifying British and Dutch colonists in the time before the establishment of Representative Government, the movement was crucially informed by ideas of respectability and gender roles which, as the previous chapters make clear, were elaborated over the course of the previous decades. It hopes to conclude the argument that changes in domestic life and the elaboration of new models of respectability and gender identity were important factors in the creation of a new colonial identity for the middle class of Cape Town, and in the foundation of a new political culture which would be enshrined in the constitution of 1853.

The sources utilised have been chosen to complement one another and to attempt to get around the problem of paucity of sources which is inevitable when dealing with such 'private' issues as sexuality, family life, honour and scandal. A major source has been the Cape Supreme Court cases between 1828 and 1850. In this collection of documents, cases of defamation, divorce, seduction, breach of promise of marriage, judicial separation and divorce all shed light on the manner in which honour was both

threatened and defended in Cape society. The courts were the last resort for many of the conflicts that came before them, but their records also indicate the ways in which various less formal methods of conflict resolution were used by Cape Town's citizens, as well as the manner in which these changed over time. The church records of the Dutch Reformed Church form a complement to the civil court records, for they indicate the manner in which church members made use of ecclesiastical authorities to defend their honour against impingement from others, particularly in sexual matters.

The foundation of the free press was a crucial aspect of the changing social and political shifts which accompanied the rise of middle-class influence in the city and the move towards Representative Government. Various newspapers were therefore consulted over the entire period, in both English and Dutch, to give an account of the various strands of public opinion and of the manner in which gender and respectability were viewed by contemporary editors and newspaper correspondents. Private letters and documents are a counterpart to this more public discourse. Since most Dutch middle-class families wrote fewer letters to one another than did their English counterparts (for a variety of reasons which are discussed in the thesis) their private thoughts and feelings on the issue of gender roles are difficult to ascertain. For this reason, I have made use of Dutch poetry and drama which enjoyed something of a efflorescence over the period. From these sources it is possible to extrapolate about Dutch perceptions of the relationship between family and public life.

More official sources include the government inquiries into issues such as the Sir John Wylde scandal of 1831 - 1833 and the Anti-Convict Crisis of 1849 - 1850. The

archives of charitable institutions were also scrutinised to discuss the manner in which concerns about domesticity intersected with public life in fears about the moral influence of black and white domestic servants upon the middle-class home. Other less conventional sources include the analysis of architectural forms, material culture and visual art in order to examine the changing urban space and internal domestic space of the city, as well as the manner in which these were presented to the outside world, and to other members of the Cape middle class.

It is hoped that this research will make a substantial contribution to the development of South African historiography. Unlike most other work on this period, it places gender at the heart of the analysis, and demonstrates its importance as a structuring principle in Cape Town's society and as a way of identifying social change over time. The study weaves together domestic notions of respectability with public displays of honour, especially in the elaboration of political culture, and therefore undercuts the traditional division between studies of private and public life at the Cape in this period. It also demonstrates the contested and fluid nature of identity amongst white colonists, which has yet to receive sufficient attention by historians of Cape Town.

Chapter One:

Introduction.

This introductory chapter will describe the socio-economic and political context in which a new colonial middle class of Cape Town was forged during the period 1828 - 1850. It will also attempt to delineate the boundaries of the group upon which this thesis focuses. Finally, it will set out the central arguments of this study - that issues of respectability, expressed crucially in gendered terms, were a crucial element of an emerging middle-class colonial identity in Cape Town, and were equally important to the claims for civil rights expressed by colonists in the decades before Representative Government was established. The new colonial political order which was enshrined in the constitution of 1853 was grounded upon a new gender order which set out distinctive roles for middle-class men and women and which allowed for the expression of a particular kind of personal and social respectability. Political developments in the Cape colony were thus inextricably tied to the elaboration of this new gendered social system.

The cultural encounter which occurred between British and Dutch at the Cape of Good Hope from the late eighteenth and early nineteenth century onwards was expressed in important ways by differing perceptions of gender roles (see chapter two). In the period from especially the 1820s onwards[1], new conceptions of gender

[1] The time frame of the thesis spans the period roughly from the 1820s to the 1850s - these were the most crucial decades for the creation of a colonial middle class and a bourgeois public sphere in Cape Town - starting especially from the establishment of the free press in 1824. This trend had begun even earlier - from the time of the first British occupation in the late eighteenth century, as the material

roles and the family played an important role in binding British and Dutch colonists into a cohesive colonial middle class in Cape Town. The application of British models of domesticity and of politics (closely tied to one another) to the Cape resulted in the evolution of new roles for middle-class men and women which saw men take up their place in a particular conception of a public political sphere which would be enshrined in the constitution of 1853. This contrasted with the period of Dutch rule during which men of equivalent social status and economic power had held no substantial political rights. Notions of a respectable identity for middle-class women, however, increasingly constrained their activities more narrowly in the private, domestic sphere, whereas the informal pattern of certain elements of Cape Town commerce (chapter two) and the nature of Roman Dutch Law (chapters five and six) had given them a greater degree of flexibility in the past.

The urban society of Cape Town provides a useful context to examine these issues, if only because of the wealth of sources which the city generated as the capital of the colony. While in many ways it was a unique environment, distinguished from the rest of the colony by various characteristics to be further explored below, it is still possible to see in Cape Town wider issues pertaining to the colonial situation of the Cape as a whole. Cape Town was the arena in which the bourgeois public sphere was first formed and which saw the struggle for the formation of an independent colonial press

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discussed in the thesis will make clear. The specific date of 1828 has been chosen partly out of regard for sources (changes in the legal system meant that the Cape Supreme Court records begin in that year) as well as because of the symbolic importance of the administrative restructuring that began at that time. 1850 marks the end of the period owing to the manner in which the Anti-Convict agitation points to the fact that the major elements of a colonial middle-class unity which stressed a particular model of gender roles and respectability was in place in the city by this time.

and related institutions of the public sphere from the 1820s onwards. The urban setting was also marked by the closest interaction between British and Dutch colonists in the colony. It was distinguished from the hinterland in the density of its population, the cosmopolitan nature of its inhabitants, and the particular economic structures which encouraged the development of an urban colonial commercial bourgeoisie. That Cape Town was the seat of colonial government also had a significant effect upon the social life of the city more generally.

Domestic life and political culture: the formation of the public sphere.

In the refashioning of Cape society, the attainment of representative institutions was deemed by contemporaries to be crucial. The *South African Commercial Advertiser*, first colonial newspaper of the Cape, stated this view unequivocally:

> A REPRESENTATIVE GOVERNMENT (it cannot be too often repeated) is the turning point - the pivot on which the whole army of Reformers in this country must move.[2]

The creation of a public sphere in the Cape was a prerequisite to the development of the political culture which would allow for the establishment of Representative Government. Under the autocratic rule of the Dutch East India Company (VOC) and the British government, colonial officials were not accountable to the colonists, made no provision for a public sphere, and were justifiably suspicious of its construction in the form of a free press and colonial public assembly. Chapter two will explore the specific mechanisms of the public sphere in Cape Town in more detail, but it is

[2] *SACA*, 28 May 1831.

necessary here to provide some historiographical and theoretical background and to map out the way in which the thesis argues that this developing political culture was grounded upon specific notions of masculinity and femininity.

Jürgen Habermas has been an influential theorist on the nature of the bourgeois public sphere, which he sees as a historically specific phenomenon, emerging in Europe in the seventeenth and eighteenth centuries. It might be defined as "a sphere between civil society and the state, in which critical public discussion of matters of general interest was institutionally guaranteed"[3]. A phenomenon which was bourgeois in cultural orientation, this idea of the public sphere took shape in the context of the developing market economy of eighteenth-century Europe, and defined itself in opposition to the trappings of aristocratic power. What was being built up was a connection between civil society and the state in which the idea of a public life, one conceived of as a life passed outside the sphere of the family and close friends, was becoming an important part of masculine identity.[4] The criteria for the admission of a private individual into the domain of the public sphere depended upon a combination of property and education,[5] and was thus restricted to men of a certain class. These restrictions, however, were only compatible with the principle of publicity if equal

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[3] McCarthy, T. 'Introduction' to Jürgen Habermas *The Structural Transformation of the Public Sphere, An Inquiry into a Category of Bourgeois Society* Translated by T. Burger, with the assistance of F. Lawrence. (Cambridge, Ma. 1989) Original German edition 1962, p.xi Habermas's ideas on the public sphere receive criticism and discussion in Calhoun, C. (ed) *Habermas and the Public Sphere* (Cambridge, Mass. and London, 1992)

[4] Landes, J.B. *Women and the Public Sphere in the Age of the French Revolution.* (Ithaca and London, 1988), p.39

[5] Habermas, *The Public Sphere*, p.85

chances for their acquisition were perceived to exist within the private sphere; as a result of this belief, "the propertyless were excluded from the public of private people engaged in critical political debate without thereby violating the principle of publicity."[6] The dichotomy which this conception of the public sphere created between exclusion and potential inclusion resulted in a profound ambiguity of vision amongst its advocates.

Habermas has been criticised for his failure to include gender sufficiently in his analysis, and subsequent theorists have been at pains to rectify this omission.[7] The rigid division which he postulates between the public and the private spheres has also been called into question.[8] This thesis argues that although a rigid division between public and private spheres was put forward by various cultural brokers at the Cape, the division between the two was not absolute and their relationship was more complex than contemporary pronouncements by middle-class men might lead one to imagine. This is particularly evident in the discussion of the Wylde scandal in chapter seven, an incident which showed the cracks which emerged under stress within the contemporary rhetoric of public and private spheres. Chapter three also indicates the manner in which women could carve out their own semi-public spheres by means of philanthropy, although it argues that the circumstances of the Cape dictated that these endeavours never achieved any road to contemporary political influence for middle-class women, as they did for

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[6] ibid, p.111

[7] See Fraser, N. 'Rethinking the Public Sphere: A Contribution to the Critique of Actually Existing Democracy', Eley, G. 'Nations, Publics, and Political Cultures: Placing Habermas in the Nineteenth Century' and Ryan, M. 'Gender and Public Access: Women's Politics in Nineteenth-Century America' in Calhoun, *Habermas.* Also Pateman, C. *The Sexual Contract* (Cambridge and Oxford, 1988) and *The Disorder of Women: Democracy, Feminism and Political Theory* (Cambridge, 1989), and Landes, *Women and the Public Sphere.*

[8] Calhoun, C. 'Introduction: Habermas and the Public Sphere', in Calhoun, *Habermas*, p.34

their male counterparts. It is important to distinguish the theory of rational public sphere discourse from the manner in which men and women experienced these differences in daily life, although impossible to fully delineate the latter.

Carole Pateman has stressed that the civil society constructed by the formation of a public sphere was fundamentally based upon a division between a masculine public and a feminine private sphere. The public is not sexually neutral, for the very definition of the public is based upon the exclusion of the private, feminine sphere.[9] The public sphere was therefore an essentially masculinist construction:

> Participation in the public sphere is governed by universal, impersonal and conventional criteria of achievement, interests, rights, equality and property - liberal criteria, available only to men. An important consequence of this conception of private and public is that the public world, or civil society, is conceptualized and discussed in liberal theory (indeed, in almost all political theory) in abstraction from, or as separate from, the private domestic sphere.[10]

Middle-class men at the Cape, as elsewhere in the colonial world, sought to erode the patriarchal control of the imperial state, encompassed in the person of an autocratic governor.[11] The move to a legislative assembly was premised upon a social contract of rule by mutual consent for those admitted to the public sphere. Pateman has stressed the 'fraternal' nature of this contract - for it was open only to men who premised their claim to political representation upon their power over women and children.[12] Landes has seen in the French Revolution the defining moment in the construction of a

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[9] Pateman, *Disorder of Women*, p.3

[10] ibid, p.121

[11] For a discussion of this issue in New South Wales see Aveling, M. 'Imagining New South Wales as a Gendered Society, 1783 - 1821' *Australian Historical Studies* 98, October 1992, p.11

[12] Pateman, *The Disorder of Women*, p. 43

masculine discourse which depended upon women's domesticity and silence in public life.[13] Over the course of the next half century, middle-class masculinity in Britain, for example, came to be crucially defined in terms of an involvement in political life, particularly in formal associations.[14]

Women's role in this new order lay in the socialisation of future citizens,[15] a view which was also expressed in the Cape colonial press.[16] The domestic sphere was the context for the instillation of proper civic virtues, indicating the importance of studying the connections between domestic life and political culture. It was also to provide a "privatized haven" from the public world for middle-class men.[17] From the last quarter of the eighteenth century onwards, an idea of the middle-class family, crucially influenced by the tenets of Evangelical thought, was elaborated in Britain and it is this domestic ideology which would come to have a crucial impact upon the social world of Cape Town.[18] It was characterised by a desire to separate home and

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[13] Landes, *Women and the Public Sphere*, p. 2 She connects this explicitly to the rejection of the dominant role of female aristocrats in salon culture in the late eighteenth century.

[14] Davidoff, L. and Hall, C. *Family Fortunes: Men and women of the English middle class, 1780 - 1850* (London, 1987), p.416

[15] ibid, p. 138

[16] *African Journal*, 6 February 1851. For a further discussion of this point see chapter three.

[17] Hall, C. *White, Male and Middle-Class: Explorations in Feminism and History.* (Oxford and Cambridge, 1992), p. 60

[18] An extensive literature exists upon the elaboration of domestic ideology in Britain during this period. See Davidoff and Hall, *Family Fortunes*, Hall, *White, Male and Middle Class*, Poovey, M. *The Proper Lady and the Woman Writer* (Chicago and London, 1984) and *Uneven Developments: The Ideological Work of Gender in Mid-Victorian England* (Chicago, 1988). Petersen, M.J. *Family, Love and Work in the Lives of Victorian Gentlewomen* (Bloomington and Indianapolis, 1989), Tosh, J. 'Domesticity and Manliness in the Victorian Middle Class: The family of Edward White Benson' in Roper, M. and Tosh, J. (eds) *Manful Assertions: Masculinities in Britain since 1800* (London and New York, 1991) A slightly earlier literature is represented by Lawrence Stone - *The Family, Sex and Marriage in England 1500 - 1800* (Cambridge, 1977)

work, and masculine and feminine spheres, and by an emphasis on the importance of personal parenthood (hence concerns about white children being brought up by slaves discussed in chapter three). Of course, as other writers have recognised, in practice these boundaries were more ambiguous, as this thesis tries to show with reference to the Cape.[19]

This thesis argues that respectability was the bedrock upon which claims for civil rights and political representation were made. The concept of 'respectability' or 'honour' (contemporaries used both terms) was multi-faceted, as the body of the thesis seeks to demonstrate. It included a whole range of social and cultural conventions which can be identified in those which might be described as middle class, and which differed with reference to men and women. Elements of respectability as discussed in this thesis with reference to the middle class in Cape Town involved chastity, honesty in business affairs, creditworthiness, education, a separation of home and work, appropriate dress and furnishings, legitimate marriage and offspring, Christianity and the inculcation of European (and later more especially British) cultural norms. Respectability was important both for the self and for the colony as a whole. Issues of respectability were not confined to the middle class, although it is upon this group that the thesis focuses. Robert Ross has recently gone so far as to assert that

> Respectability should be a central concept in the analysis of the Cape in the nineteenth century, and indeed subsequently. Its attainment was a major goal for many of the colony's inhabitants, of whatever background. [20]

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[19] Thus Davidoff and Hall, *Family Fortunes*, p.33: "Public was not really public and private not really private despite the potent imagery of 'separate spheres'."

[20] Ross, R. 'Missions, Respectability and Civil Rights: The Cape Colony, 1828 - 1854' Paper presented at the Imperial History Research Seminar, University of London, 28 October 1996, p. 16.

In the discussion that follows, therefore, it should be borne in mind that I am not claiming that issues of respectability were limited in importance to the middle class alone, although they might claim certain elements of this as class-specific (see chapter four). Other work has suggested that issues of respectability are equally important when discussing the identity of other groups at the Cape.[21]

For the group under study in this thesis, respectability was important at both a personal and a colony-wide level in grounding their claims for political representation. As noted above, however, the definition of respectability was different for men and women, as will be argued at length. The middle-class's bid for political power in the colony was grounded upon a particular moral conception of domestic life. With reference to the emerging public sphere, masculine virtue came to be grounded upon taking an active role in civil society - a 'public man' was necessarily a term of respect. Women's respectability, however, depended precisely upon removal from those mechanisms of power by means of which men sought to enfranchise themselves, and a 'public woman' was a concept of derision. As Catherine Hall as written of the situation in Britain:

> To be a middle-class man was to be a somebody, a public person, while the essence of middle-class femininity was being constructed as private and domestic.[22]

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[21] See Ross, 'Missions, Respectability and Civil Rights' with reference to John Philip and the Khoi Khoi. Also Comaroff, J. and J. `Home-Made Hegemony: Modernity, Domesticity, and Colonialism in South Africa' in K.T. Hansen (ed) *African Encounters with Domesticity.* (New Brunswick, 1992) which discusses the role of British constructions of respectability and domesticity in missionary endeavours. Scully, P. `Liberating the Family? Gender, Labor, and Sexuality in the Rural Western Cape, South Africa, 1823 - 1853.' PhD, University of Michigan, 1993, discusses similar issues to those raised in this thesis with reference to the elaboration of models of family life amongst freed people in the post-emancipation era.

[22] Hall,. *White, Male and Middle-Class*, p.17

The changes in the economic, domestic and political culture which occurred in Cape Town during the period under discussion were necessary for the foundation of a legislative assembly in the colony. The thesis attempts to argue that the changes in domestic life and public politics were interconnected and that neither can be understood in isolation from the other. The new political system represented by the constitution of 1853 was based upon assumptions about what constituted a proper society which had been developed over the course of this period.

Respectability in colonial perspective: the status of the Cape.

The patterns of private and public spheres, of respectability and of masculinity and femininity which were tied to the elaboration of political culture at the Cape were closely linked with British models. The thesis argues that it was British concepts of domesticity which achieved hegemony over the emerging colonial middle-class culture in Cape Town in this period, although this process was constantly disrupted by the colonial context - especially in interaction with the Cape Dutch. As with other ideologies, it is important (and difficult) to separate the expression of domestic discourse in the metropolitan context from its transposition in colonised regions.[23] At the Cape the elaboration of British-influenced domestic ideology was tempered by the Roman-Dutch legal system under which families operated, an issue which will be an important theme in this thesis. Cape law as well as Cape commercial practices

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[23] Thomas, N. *Colonialism's Culture: Anthropology, Travel and Government* (Cambridge, 1994), p.64

favoured the independence of colonial women in a way that offended British sensibilities about the proper gendered order of society. Over the course of the period, however, as men became empowered through moves towards their enfranchisement, changes in the law and in economic practices meant that women asserted their respectability through a removal from involvement in such endeavours. The thesis argues that the imposition of British models of domesticity and the separation of spheres which accompanied the move towards institutionalised colonial politics narrowed the opportunities of independence for white colonial women.

The Cape's place as a British colony crucially influenced the emerging Cape Town middle class's attempt to imagine itself as a community.[24] J.H. Elliott has stressed that colonial societies are formed out of a position of ambiguity - white settlers finding themselves in a society which is at once the same, and different, from their country of origin.[25] Added to this was the "low esteem" that their countries of origin held colonial societies - the "continuous bombardment of calumny to which settler communities were subjected gave them an early and powerful incentive to develop a more favourable image of themselves, if only in self-defence."[26] Thus Ann Stoler claims that middle-class colonial identity and respectability were formed out of a position of uncertainty and anxiety since European colonials were "so often viewed

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[24] "Communities are to be distinguished not by their falsity/genuineness, but by the style in which they are imagined". Anderson, A. *Imagined Communities: Reflections on the Origins and Spread of Nationalism* Second Edition. (London and New York, 1991), p. 6

[25] Elliott, J.H. 'Introduction: Colonial Identity in the Atlantic World' in Canny, N. and Pagden, A. (eds) *Colonial Identity in the Atlantic World, 1500 - 1800* (New Jersey, 1987), p. 9

[26] ibid.

disparagingly from the metropole as *parvenus*, cultural incompetents, morally suspect, and indeed 'fictive' Europeans, somehow distinct from the real thing".[27]

Tony Kirk has argued that the British elite considered the colonies "unfashionable, a haven for convicts and democrats where social rank failed to get its proper due. Certain genteel circles applied the adjective 'colonial' to anything awkward or uncouth. This superior attitude often hid a fear of social discomfiture."[28] Prejudice against 'colonials' derived to a certain extent from the connection in genteel British minds between convicts and colonies in Australia.[29] Kirk argues that by the period 1846 - 1854, which his study covers, the colonies had lost the degree of status they had had in British political life during the Regency period, a shift which was reflected in the inefficiency and backwardness of the Colonial Office.[30] In 1849, Edward Gibbon Wakefield, who was concerned to promote emigration to the colonies by people of higher social status, rather than the most desperately poor, claimed of Britain that "Contempt for the colonies, a sense of their inferiority or lowness, pervades society here."[31] This

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[27] Stoler, A. *Race and the Education of Desire: Foucault's History of Sexuality and the Colonial Order of Things* (Durham, 1995), p.102

[28] Kirk, T. E. 'Self-government and Self-Defence in South Africa: The inter-relations between British and Cape politics, 1846 - 1854'. D.Phil thesis, University of Oxford, 1972, p. 82

[29] ibid, p.258 For a discussion of the prejudice directed towards Australian colonies because of their association with convicts see Clarke, F.G. *The Land of Contrarieties: British Attitudes to the Australian Colonies, 1828 - 1855.* (Melbourne, 1977), p. 29 The association of colonies with convicts and low social status was a thorn in the flesh of the Cape middle class and is an issue which will be dealt with at length in chapter eight.

[30] Kirk, 'Self-government and Self-Defence', p. 118

[31] Wakefield, Edward Gibbon. (ed) *A View of the Art of Colonization.* (London, 1849), p.146

sentiment, which derived, he claimed, partly from an association of colonisation with transportation, deterred many "gentlemen" from emigrating.[32]

Against this view of the colonies, those who had sought to make a new life for themselves at the Cape were persistent in their attempt to re-invent both their self-image and the image which their colony presented to the outside world (see chapter two). The emergence of the Cape Town middle class as an identifiable group was intimately related to this position of the colony in the eyes of a mother country they sought to emulate in terms of society and culture. A self-image of improvers in the colonial world was an important means by which colonists could justify their enterprise in colonies such as the Cape as well as present themselves in a favourable light to the mother country.[33] Persistent depictions of the colony as a maturing society deserving of self-government can be connected to the pervasive "language of improvement" in the colonial press.[34]

What role did gender play in this conception of the colonial middle-class's position at the Cape? As noted above, this thesis postulates the increasingly strong influence of British-derived models of middle-class identity in Cape Town during this period, and the assimilation of a significant proportion of Cape Dutch into this model. Leonore Davidoff and Catherine Hall have produced significant studies on the elaboration of

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[32] ibid, p. 149

[33] Elliott, 'Introduction', p.2

[34] Greene, J.P. 'Changing Identity in the British Caribbean: Barbados as a Case Study' in Canny and Pagden, *Colonial Identity*, p. 4

middle-class identity in England during the late eighteenth and first half of the nineteenth century.[35] New models of femininity and masculinity, fundamentally influenced by the contemporary Evangelical revival which emphasised the importance of new life-styles for the attainment of grace, provided an important unifying factor for an urban middle class growing in response to the economic changes of the industrial revolution.[36] This thesis argues that gender provided a similarly unifying force for the various disparate social groups in Cape Town which would make up the colonial middle class. The ideology of separate spheres helped to distinguish the urban middle class in both Britain and the Cape from the 'aristocracy'[37] above them and the working class below.[38] With middle-class men in Britain only enfranchised by the Reform Act of 1832 (a development which was discussed at length in the Cape press) both groups were striving for political representation which would mirror their growing social and economic power.

It is arguable that the colonial context reinforced the separation of spheres and identification of women with the home. In a process similar, for example, to that of the Australian colonies, the elaboration of domestic ideology at the Cape meant that

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[35] Davidoff and Hall, *Family Fortunes*. Catherine Hall, *White, Male and Middle-Class.* Davidoff, L. and Hall, C. 'The Architecture of Public and Private Life: English Middle-Class Society in a Provincial Town 1780 to 1850' in Fraser, D. and Sutcliffe, A. (eds) *The Pursuit of Urban History* (London, 1983)

[36] Hall, *White, Male and Middle-Class*, p.75, Davidoff and Hall, 'Architecture of Public and Private Life', p. 327 - 8

[37] In the case of the Cape the middle class defined themselves less against an inherited aristocratic class than a group of notables who benefited from gubernatorial patronage and whose power did not derive from representative institutions - see below. Nevertheless, the image of the aristocrat was a potent one in the self-definition of the Cape middle class (see chapter four), even if such individuals were not physically present at the Cape.

[38] On this issue in Britain see Hall, *White, Male and Middle-Class*, p.95

white women were valued for their ability to produce children and sustain families rather than to perform productive labour.[39] As chapter two argues, changes in both economic and political culture in Cape Town meant that middle-class male endeavours in these areas were deemed appropriate, whilst female respectability depended upon removal from these spheres. Davidoff and Hall have argued that

> since it was essential for middle-class men to demonstrate credit-worthiness in such as way as to encourage trust for both potential customers and creditors, a respectable household, managed by a dependent wife and staffed by resident servants, became a potent symbol of social status.[40]

This situation was exacerbated at the Cape where credit facilities were limited and the same family connections which eased this problem in Britain were absent for many emigrants. With reference to the language of improvement, white female presence (as wives and mothers rather than breadwinners) was seen as crucial to the colonies for the civilising influence which they exerted on colonial society. Wakefield insisted in 1849 that female participation was crucial for any colonial enterprise because they exerted a vital influence upon the manners and morals of a country.[41] Ann Stoler has argued that European women could be placed by their male counterparts as "the bearers of a redefined colonial morality"[42], their increasing presence coinciding with an "embourgeoisment of colonial communities and with a significant sharpening of

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[39] On this point see Alford, K. *Production or Reproduction? An economic history of women in Australia, 1788 - 1850* (Oxford, 1984), p.8 - 9

[40] Davidoff and Hall, 'Architecture of Public and Private Life' p.328

[41] Gibbon, *Colonization*, p. 156

[42] Stoler, A. 'Carnal Knowledge and Imperial Power. Gender, Race, and Morality in Colonial Asia' in Micaela di Leonardo (ed), *Gender at the Crossroads of Knowledge* (Berkeley, 1991), p.66

racial categories".[43] As is argued in this thesis, embourgeoisment is not necessarily coincident with sharpening racial categories in Cape Town, although the issue of race and respectability is an ambiguous one, as discussed below. White women could, however, act as signifiers for white colonial respectability, as chapter three argues, even if their biological ancestry was less clear-cut than the identities they claimed. In a parallel with the manner in which white colonial women's options were circumscribed at the Cape over this period, Stoler has argued with reference to colonial Asia that European women's "supportive and subordinate posture" could be linked to "community cohesion and colonial security."[44] This thesis argues that the greater circumscription of white women's lives, and their place within the domestic sphere, was not peripheral to the political and cultural changes which were necessary for the establishment of representative government, but central to it.

The place of this thesis in South African historiography.

There has been little recent sustained or scholarly study of the nature of middle-class culture in Cape Town during this period.[45] Studies of the social history of the Cape

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[43] ibid, p. 64 This argument is also explored in *Race and the Education of Desire*, especially chapters four and five. See also Callaway, H. *Gender, Culture and Empire: European Women in Colonial Nigeria* (London, 1987), p. 235 and Brownfoot, J.N. 'Memsahibs in Colonial Malaya: A Study of European Wives in a British Colony and Protectorate 1900 - 1940' in Callan, H. and Ardener, S. *The Incorporated Wife* (London, 1984), p.190, 207 for a discussion of the relationship between European women, 'civilisation' and colonial racism.

[44] ibid, p. 72

[45] Apart from my own work, the most recent analyses of these issues in Cape Town have been provided by Natasha Erlank. Erlank, Natasha. `Letters Home: The Experiences and Perceptions of Middle Class British Women at the Cape 1820 - 1850.' MA thesis, UCT, 1995. Her discussion of Margaret Herschel's life in Cape Town is also relevant: `Circulating in Cape Town: Material Culture and Social Relations in the life of Lady Margaret Herschel' (BA Honours, UCT, 1993) My own thesis draws on previous work - McKenzie, K. 'The *South African Commercial Advertiser* and the making of colonial

Town underclass, particularly of slaves, have been far more wide-ranging.[46] Accounts of the Cape Town emerging middle class have tended to emphasise commercial and political rather than cultural developments.[47] The ideological development of thoughts on race and racism has also included discussion of the thoughts of members of the Cape Town middle class.[48] Whilst these were obviously crucial to the development of middle-class colonial identity, there has been no attempt to relate these commercial and political developments to culture and social life in a systematic way. These aspects of middle-class life tend to be assumed rather than analysed, with little attention paid to the fractured nature of colonial cultural identity and the manner in which it was forged.[49] The process of Anglicisation which took place in the Cape

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identity in early nineteenth-century Cape Town' MA , UCT, 1993 and, for a slightly earlier period, *The Making of an English Slaveowner.* See also Bradlow, E. 'The Culture of a Colonial Elite: The Cape of Good Hope in the 1850s' *Victorian Studies*, Spring 1986. Hattersley, A. F. *An Illustrated Social History of South Africa* (Cape Town, 1969) does give periodic accounts of social life amongst the city's middle class, but his material is primarily descriptive rather than analytical.

[46] Judges, S. `Poverty, Living Conditions and Social Relations - Aspects of Life in Cape Town in the 1830s' (MA thesis UCT, 1977), Bradlow, M. A. `Islam, the Colonial State and South African history: The 1886 Cemetery Uprising' B.A. (Hons) thesis, UCT, 1984 - 1985. Bradlow, M. A. `Imperialism, State Formation and the Establishment of a Muslim Community at the Cape of Good Hope, 1770 - 1840: A Study in Urban Resistance.' MA UCT, 1988. Elks, K. D. 'Crime, Community and Police in Cape Town 1825 - 1850' MA thesis UCT 1986, Bank, A. *The Decline of Urban Slavery at the Cape, 1806 - 1834* (Cape Town, 1991), P. van der Spuy. 'A Collection of discrete essays with the common theme of gender and slavery at the Cape of Good Hope with a focus on the 1820s' MA thesis, UCT, 1993 Pamela Scully's work is relevant here, although she does not focus specifically on Cape Town: 'Liberating the Family?" and 'Private and Public Worlds of Emancipation in the Rural Western Cape, c. 1830 - 1842' in Worden, N. and Crais, C. (eds) *Breaking the Chains: Slavery and its Legacy in the Nineteenth-Century Cape Colony* (Johannesburg, 1994)

[47] Meltzer, J.L. 'The Growth of Cape Town Commerce and the Role of John Fairbairn's *Advertiser* (1835 - 1859)' M.A thesis, UCT, 1989, 'Merchants, Commissioners and Wardmasters: Municipal Politics in Cape Town, 1840 - 54' MA thesis, UCT, 1986.

[48] Bank, A. 'Liberals and their Enemies: Racial Ideology at the Cape of Good Hope, 1820 to 1850' PhD thesis, Cambridge, 1995

[49] See Thomas, *Colonialism's Culture,* who argues that colonialism is a "cultural process", p.2 and stresses the ambiguous and contradictory strands in colonial culture, particularly with reference to hierarchising or assimilationist discourses. p. 142

from the 1820s onwards has been discussed from the perspective of official activity.[50] There has been little study of the informal manner in which interaction between British and Dutch forged a new colonial identity in the colony. Equally, whilst the political changes which led to the establishment of a legislative assembly at the Cape are well documented[51], there has been no attempt to explain the cultural shifts which accompanied this political change. The restriction of the franchise to male persons has been an issue ignored by historians discussing the new constitution of the Cape, as a fact too obvious for analysis. As this thesis contends, the enfranchisement of male persons of a certain property qualification was fundamentally based upon a certain conception of masculine identity and the exclusion of women from the franchise was part of a range of processes taking place at this time which circumscribed female activity to a particular realm divorced from politics.

I have already discussed some of the feminist literature which informs the conceptual framework of this thesis with reference to Habermasian public sphere theory and British domestic ideology. Whilst main-stream South African history has been accused of remaining profoundly androcentric[52], with little effort to include gender

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[50] Sturgis, J. 'Anglicisation at the Cape of Good Hope in the early nineteenth century'. *The Journal of Imperial and Commonwealth History,* Vol XI, no 1. 1982 is self-conscious about its focus on official policy rather than "the informal transfer" of cultural forms, p. 25

[51] Trapido, S. 'The Origins of the Cape Franchise Qualifications of 1853' *Journal of African History* V, I (1964), Kirk, 'Self Government and Self Defence', Warren, 'Merchants, Commissioners and Wardmasters', Meltzer, 'The Growth of Cape Town Commerce', Botha, H.C. *John Fairbairn in South Africa* (Cape Town, 1984). Keegan provides a good synthesis of the literature and the issues: *Colonial South Africa and the Origins of the Racial Order* (Cape Town and Johannesburg, 1996), p. 230 - 233, 240 - 244. The thesis makes no attempt to expand upon this literature but rather to examine the cultural underpinnings which made public politics a possibility in Cape Town.

[52] For a recent timely criticism of the persistent failure of South African historiography to take gender seriously see Bradford, H. 'Women in the Cape and its Frontier Zones, c. 1800 - 1870: A Critical Essay on Androcentric Historiography' (Paper presented to the South African Historical Society Conference, Grahamstown, July 1995)

systematically as a category of historical analysis[53], there is a rising interest in these issues, marked by a number of studies devoted to women's and gender history (much of which is still unpublished)[54]. The theory thrown up by the race/class debate referred to below has been largely gender-blind, and Cherryl Walker has called this debate with its insistence on maintaining a correct "theoretical pedigree", "one of the most insidious constraints on the development of women's studies in southern Africa"[55] for, she suggests, one "cannot bend gender to fit the mould created by existing theories of class and race".[56] Furthermore, whilst focused on male activity in the past, South African history which ignores gender makes no attempt to analyse the masculinity of its historical subject.[57] This thesis has tried to include both masculinity and femininity

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[53] Scott, J. W. 'Gender: A Useful Category of Historical Analysis' in *Gender and the Politics of History* (New York, 1988).

[54] With reference to material relevant to this thesis see Van der Spuy, 'Essays', Erlank, 'Circulating in Cape Town' and 'Letters Home', McKenzie, 'The *SACA*' and *English Slaveowner*, and Scully, P. 'Liberating the Family?' and 'Private and Public Worlds'. Caiger, P.J. 'British Colonial Women at the Cape, 1795 - 1820' BA (Honours) thesis, UCT, 1987, Hall, M. 'The Secret Lives of Houses: Women and Gables in the Eighteenth-Century Cape' *Social Dynamics* Vol 20, No1, 1994. Much of the material from Patricia van der Spuy's Masters thesis has now been published: 'Gender and slavery: towards a feminist revision', *SAHJ* 25 (1991), 'Slave women and the family in Cape Town in the nineteenth century', *SAHJ* 27 (1992), 'Making himself masters: Galant's rebellion revisited' *SAHJ* 34 (1996) and 'What then, was the sexual outlet for black males?: A feminist critique of quantitative representations of women slaves at the Cape of Good Hope in the eighteenth century' *Kronos* 23 (1996). Walker, C. (ed) *Women and Gender in Southern Africa to 1945* (Cape Town and London, 1990) self-consciously attempts to redress the previous lack of attention to gender in South African history but is explicit about its lack of attention to the Western Cape. This note does not include reference to a wide variety of other work on gender in Southern Africa which is not relevant to the topic under discussion.

[55] Walker, C. 'Women and gender in southern Africa to 1945: An overview' in Walker, C. (ed) *Women and gender*, p.3 Belinda Bozzoli looks at the relationship between Marxism and Feminism in South African historiography in 'Marxism, Feminism and South African Studies' *Journal of Southern African Studies*, Vol 9, No. 2 (1983)

[56] ibid, p.4

[57] On the importance of analysing masculinity in historical subjects see Brod, H. (ed) *The Making of Masculinities: the New Men's Studies*. (Boston, 1987) and Ramazanogly, C. 'What can you do with a man? Feminism and the critical appraisal of masculinity' *Women's Studies International Forum* 15 (3) 1992, Mangan, J. and Walvin, J. (eds) *Manliness and Morality: Middle-class masculinity in Britain and America 1800 - 1940* (Manchester, 1987), Roper, Michael, and Tosh, John. eds. *Manful Assertions: Masculinities in Britain since 1800* (London and New York, 1991)

in its analysis and to integrate the issue of gender into a wider discussion about the nature of colonial society. It attempts to indicate the manner in which historical processes which have been formerly treated with no regard to issues surrounding masculinity, femininity and the family (such as public politics, enfranchisement, political protest and constitutional development) were in fact crucially informed by ideas concerned with gender.[58]

A note on sources.

It cannot be argued that the failure to write gendered South African history is the result of a paucity of primary sources, for the richness of the primary material available with reference to these issues has been one of the chief joys of conducting this work. Nevertheless, the nature of the material does necessitate caution and some discussion is necessary here to delineate the manner in which I have tried to use a wide variety of sources to cover disparate issues of middle-class identity, even if that coverage must inevitably be uneven in many places.

A major methodological issue relates to the differences in the material used to unpack the world views of the British and the Cape Dutch, since these groups generated different kinds of historical sources. As first generation emigrants removed from close family and friends, the British tended to generate a vast collection of family correspondence, some of which survives. The Cape Dutch, however, did not have this

[58] Scott, 'Gender: A Useful Category of Historical Analysis', p.48

same incentive to correspond, and very little equivalent correspondence survives. As chapter two argues, they were also less embedded in a culture of literacy than their British counterparts. One avenue into the discussion of Dutch and British domestic arrangements has been through contemporary concerns about domestic labour and its relationship with the family. I have explored this theme through the contemporary press and through the records of reforming institutions.

Given the problems associated with unpacking the private life of the Cape Dutch, I have tried to approach these issues through the use of contemporary drama, poetry and folk ritual, sources which have not been sufficiently addressed by social historians in this period. Another avenue through which to approach Cape life is by means of contemporary travel accounts - mainly (but not exclusively) written by British men and women - which provide an important source for the thesis. It is important to point out clearly the limitations which these narratives contain, but their prejudices can be illuminating when discussing the cultural encounter between Dutch and British. Apart from contemporary Cape Dutch literature and ritual, other less conventional historical sources used in this thesis include the use of material culture, especially building styles and visual material - to indicate the manner in which Cape colonists presented their society to each other and to the outside world. Looking at visual caricature sheds particular light upon the stereotypes which informed perceptions of different ethnic groups.

Much of the thesis is based upon a scrutiny of the issues raised in the contemporary press, written in both English and Dutch, from varying political perspectives over the

course of this period. As John Fairbairn points out to his own readers in the epigraph to this thesis, in unpacking the world view of any group it is important to study their language and I have tried to pay attention to the underlying gendered narratives which informed contemporary periodical writing at the Cape. The same issue applies with reference to the use of court and church records, as my discussion in the relevant chapters shows. These records need to be approached with caution given the manner in which their context framed narratives about gender roles and honour. Men and women presented their cases before the court with reference to the legal and religious formulae which defined the manner in which they could defend their claims and there is no easy line to be drawn between these discourses and the manner in which gender and respectability worked in daily life. Whilst religious and civil court records do allow the voices of these men and women to be heard - they are of necessity muted and filtered through contemporary legal and religious systems (whose narratives are of course also significant to the discussion). Another problem to be borne in mind is that these sources allow honour to be studied only in terms of its transgression, a bias which needs to be considered when discussing issues such as male and female honour, proper conduct and legitimate sexual relations.

The changing social context of Cape Town's middle class.

Now that the broad avenues of inquiry to be dealt with have been sketched, it is necessary to provide some contextual background to these issues. In 1828 Cape Town, like the Cape Colony as a whole, had been under British colonial rule since 1795, with an interruption of three years (1803 - 1806) under the Batavian Republic. The British

had taken over the Cape from the VOC during the course of the Napoleonic Wars. The VOC had run the Cape with a view to its own mercantile and strategic interest rather than with the development of the settler economy in mind. All trade was officially the monopoly of the company, although in practice this proved difficult to enforce and sufficient space was present for the development of a class of local gentry, especially with the economic decline of the VOC in the late eighteenth century, which weakened its control over the Cape economy.[59] Nevertheless, such Cape notables were excluded from political power, leading to periodic conflicts with the VOC, most notably the Patriot movement of 1778 - 87.[60] In some ways such disturbances may be seen as the precursors to the calls for representative government in the nineteenth century. The transformations in the social world of the Cape over the first half of the nineteenth century, however, made the later political mobilisations very different in character.

The British government initially made little change in the socio-economic and political order of the colony. It was only in 1814 that control over the colony was made permanent and far reaching structural changes were first instituted in the period 1827 - 1828, when the recommendations of a Commission of Inquiry into government at the Cape were taken up. Whilst the British administration had up to this point been founded upon pre-existing colonial institutions at the Cape, this restructuring remade the administration along new British lines infused by ideas of colonial reform.[61] The

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[59] Ross, R. 'The Rise of the Cape Gentry' *Journal of Southern African Studies,* Vol 9, No. 2, April 1983, p. 198

[60] ibid, p. 209 - 212, Schutte, G. 'Company and colonists at the Cape, 1652 - 1795' in Elphick, R. and Giliomee, H. *The Shaping of South African Society, 1652 - 1840* Second Edition. (Cape Town, 1989), p.309 - 315.

[61] Keegan, *Colonial South Africa*, p.96, 101 - 2.

Commission of Inquiry had initially been set up in 1822 to investigate the judicial system of the recently acquired colonies of the Cape, Ceylon and Mauritius. Under the pressure of Cape settlers disgruntled with the policies of a colonial government obstructive to their interests, however (see below), it broadened its scope at the Cape and its recommendations were to have a major impact on Cape society. The result was the "dismantling of the old Dutch mercantilist system and the integration of the colony into the liberal political and economic order of the nineteenth-century British Empire."[62] The recommendations of the Commissioners led to the establishment of an independent legal system, unlike the system under the VOC which had largely conflated the executive and judiciary. In addition, they resulted in the foundation of a new system of local government, an efficient and anglicised civil service as well as formalising the already existing movements towards free trade. English was entrenched, from the 1820s, as the language of administration and the law.[63] The first moves towards a more representative style of government were made in the establishment of an advisory council for the Governor, which contained two colonists as members from 1828. J. Peires has called these changes in the colony "traumatic"[64]and has seen in them a crucial point in the extension of British control over the colony. They were accompanied by more informal initiatives begun by the colonists of Cape Town themselves, in the early years of the 1820s, and which, I will argue, were as far-reaching as government policy. Between the 1820s and 1853 the city of Cape Town was immersed in a period of profound social change, not least of

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[62] Peires, J.B. 'The British and the Cape, 1814 - 1834' in Elphick, R. and Giliomee, H. *Shaping*, p. 495

[63] Sturgis, 'Anglicisation', Van Schalkwyk, P. 'The Response of the Afrikaner to the Policy of Anglicisation in the Cape Colony 1806 - 1870' BA (Hons) thesis, UCT, 1990, chapter one.

which was the social impact of substantial British emigration to the colony.[65] The more stringent and far-reaching imposition of British government control in the form of the recommendations of the Commissioners of Inquiry was one change, as was the establishment of free trading practices which this heralded. Another fundamental change was the establishment of free labour conditions in the city with the emancipation of the Khoi in 1828, and even more significantly for Cape Town (where there were fewer Khoi than in the countryside) the emancipation of the slaves in 1834.

The political development of the city was crucially influenced by the foundation of the first free newspaper in 1824, with other colonial publications following. Municipal government was instituted in Cape Town in 1840, and, after a protracted debate about the level of the franchise, Representative Government was established in 1853. The franchise was set at a level far lower than that of either Britain or other British colonies, making it the most egalitarian in the British Empire at that time.[66] Any male person over the age of 21, regardless of race, who had occupied property for a twelve month period prior to the election to the value of £25, or who earned at least £50 per year (or £25 with board and lodging), was eligible to vote for a Legislative Council and for a House of Assembly. Members of the Legislative Council had to own property to the value of £2000 (£4000 if under mortgage) but all those who qualified as voters also qualified to be elected as Members of the House of Assembly.

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[64] Pieres, 'British and the Cape', p.495

[65] The most famous emigration wave of British settlers occurred in 1820 with the arrival of some 4 000 people in the Eastern part of the colony - a process which has become a "landmark in the colonial mythology of South Africa". Keegan, *Colonial South Africa*, p.61

[66] du Toit, A. 'The Cape Afrikaners' Failed Liberal Moment 1850 - 1870' in Butler, J Elphick, R and Welsh, D. (eds) *Democratic Liberalism in South Africa* (Cape Town, Johannesburg and Middleton, 1987), p.43

In 1806, when the British took over the Cape for the second, and final, time, the colony covered 110 000 square miles, yet in 1808 it was calculated that only 74 424 people inhabited this area - 29 768 slaves, 27 956 'inhabitants' (mostly white but including about 2 000 free blacks) and 16 700 'Hottentots'.[67] By 1840 the population had risen to 70 775 whites and 79 480 'coloureds'.[68] The majority of the population, throughout the period, lived in the area around Cape Town. Half of the colony's inhabitants lived in the city, the Cape district which surrounded it, and the district of Stellenbosch nearby - an area which accounted for only five percent of the total area of the colony.[69]

The population in Cape Town in 1808 was 15 567. This included 6 297 "Inhabitants", including free blacks, 435 "Hottentots" and 8 835 slaves. In 1824 the population was defined as 8 806 "Christians" (whites), 1 843 free blacks, 452 "Hottentots" and 6 763 slaves.[70] In 1838 the Cape of Good Hope Blue Books divided the population of Cape Town into 4 929 "white" males, 5 631 "white" females, and 4 535 "coloured" males and 4 921 "coloured" females.[71] By 1840 the population had risen to 20 181 and by 1850 to 23 749.[72] The economy of Cape Town "was based on linking the two worlds

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[67] Mason, John Edwin. '"Fit for Freedom": The slaves, slavery, and emancipation in the Cape Colony, South Africa, 1806 - 1842. PhD, Yale University, 1992, p.29

[68] ibid, p.30

[69] ibid, p.32

[70] ibid, p.36

[71] Cape of Good Hope Blue Book for 1838, p. 192 - 193.

of the ocean and the continent"[73] in that it was mainly concerned with commercial and service activities. Whilst the VOC had not been able to enforce its official trade monopoly effectively, it had nevertheless not provided a particularly encouraging climate for the development of a class of independent entrepreneurs. It was in the emerging climate of free trade and, later, free labour, that this group found the space to develop. They were made up of both Dutch settlers and more recently-arrived British immigrants. Amongst the most successful merchants were those who, through intermarriage, managed to link these two interest groups.[74] The 1820s saw this class begin to emerge into a position of unity and self-confidence, a process given concrete form by their completion of the imposing Commercial Exchange building on the Grand Parade in 1822. It became the centre of economic and social life for the white middle class of the city.[75] The emergence of the middle class as a power block in the city was further strengthened by the emancipation of slaves in 1834. The compensation money paid by the British Government to slaveholders injected a large amount of capital into the economy and stimulated the growth of new layers of the commercial bourgeoisie.[76]

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[72] Ross, R. 'Cape Town (1750 - 1850): Synthesis in the Dialectic of Continents'. In Ross, R. and Telkamp, G. *Colonial Cities* (Leiden, 1985), p.108

[73] ibid, p.112

[74] Ross, R. 'The Cape of Good Hope and the world economy, 1652 - 1835' in Elphick and Giliomee, *Shaping,* p. 265 - 266.

[75] Meltzer, 'Growth of Cape Town Commerce', p. 30 The Commercial Exchange was founded in 1817 and set up the first joint-stock company in the colony to erect the Commercial Exchange building.

[76] ibid, p.70

The social elite of the city was formed by the government and military officials temporarily stationed there, and by certain elite colonists who were bound as allies into this group. Government and military officials were temporary residents in the colony. Although influential in Cape society, their social world was focused primarily on the mother country, and towards other families spread across the empire like themselves.[77] Whilst certain influential local families could be co-opted into the ranks of the most elite of the colony, dominated by the officials and the military, one should be wary of defining this group as an 'aristocracy' and of dividing this group too rigidly from the ranks of a 'middle class'.[78] There were certainly favoured individuals amongst the various colonial classes of the city, and distinct political rivalries which coalesced around the Legislative Council and the municipality respectively,[79] but even elite culture in the city was more profoundly 'middle-class' in character than the term 'aristocracy' suggests. The domestic culture which came to dominate in the definition of 'respectability' in Cape Town rejected aristocratic trappings of power such as conspicuous consumption, trail by force, and direct control over a extended household of family and servants.

Religious authority in the colony was represented by a wide variety of different Christian groupings and, in Cape Town, by a growing community of adherents to

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[77] For an example of the manner in which this social world could remain separate from the majority of even the elite of the Cape colony, see the letters of Elizabeth Munro, whose husband was in the military. SAL MSB 721 Elizabeth Munro Collection.

[78] This social division in the Cape is articulated by Kirk, 'Self-government and Self-Defence', p. 310 - 311. His view has been extensively criticised by Digby Warren - 'Merchants, Commissioners and Wardmasters' and 'Class Rivalry and Cape Politics in the Mid-Nineteenth Century: A Reappraisal of the Kirk Thesis.' *South African Historical Journal* 24 (1991)

[79] Keegan, *Colonial South Africa*, p. 164 - 165

Islam. The latter lie largely outside the domain of this thesis, as will be discussed below. Under the VOC, the Dutch Reformed Church had held the status of a state institution and was organised as a branch of the government.[80] This did not mean, however, that religious zeal was a characteristic of the burgher population, and by the eighteenth century Cape religion lay in a moribund state. The first major and far-reaching religious revival took place in the Dutch Reformed Church from the 1860s.[81] The Dutch Reformed Church formed the most common religious affiliation of the population in Cape Town.[82] Other Christian faiths were represented by Lutherans, Anglicans (with the first bishop arriving in 1848), Presbyterians and various non-Conformist groupings, often associated with missionary activity.[83] Evangelical communities, mostly led by emigrants from Britain, formed a powerful interest group in Cape Town, especially with regard to social reform movements. The relationship between religion, faith and respectability was a complex one which will receive attention particularly in chapter six.

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[80] Chidester, D. *Religions of South Africa* (London and New York, 1992), p.77

[81] Much of the discussion of religion amongst the Dutch at the Cape has related to the role of Calvinism in racial ideology. On this issue, and on the 1860s revival see Ross, R. 'Going beyond the Pale: On the Roots of White Supremacy in South Africa' and 'The Rise of Afrikaner Calvinism' in *Beyond the Pale: Essays on the History of Colonial South Africa* (Hanover and London, 1993), du Toit, 'Failed Liberal Moment', p.59 - 63', Keegan, *Colonial South Africa*, p.16 - 17, du Toit, M. 'Women, Welfare and the Nurturing of Afrikaner Nationalism: A Social History of the Afrikaans Christelike Vroue Vereniging, c. 1870 - 1939'. PhD thesis, UCT, 1996, p.26 - 45

[82] See for example Cape of Good Hope Blue Book for 1838, p.196 - 199. Other listed Christian denominations were Lutherans, Anglicans and Scottish Presbyterians.

[83] The issue of missionary activity does not receive much attention in this thesis, although that of social reform inspired by a similar evangelical ethos does. An extensive literature exists on missionary issues in South African history which it is impossible to address here. Most of it, however, does not relate to Cape Town itself . An exception is Ludlow, E. H. `The Work of the London Missionary Society in Cape Town, 1812 - 1841.' B.A. (Honours) thesis, 1981

Approaching a definition of the middle class. [84]

Various writers have discussed the economic and political profile of this emerging middle-class group.[85] The emphasis here is on the formation of the cultural bonds which held them together. Beneath the ranks of those favoured by Government House stretched a whole range of occupations and income-groups which might be nebulously grouped together as 'middling classes'. These included merchants, professionals, traders, retailers and shopkeepers (who could span a wide range of income-groups) and skilled artisans who might own their own means of production and even employ others under them. They were a group of moderate wealth and status, without the desperate financial insecurity of the lower levels of the middle-class, although financial insecurity was a strong factor in their attempts to keep up respectability, as this thesis will discuss. They had a moderately influential place in the established order, but were lacking in political control, which is what they fundamentally aspired to. Whilst issues of respectability were important to this group's identity, their embrace of these tenets cannot be said to be altogether class-exclusive. The elaboration of models of respectability amongst lower ranks of Cape society is in need of further research.

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[84] I am grateful to, Stanley Trapido, Robert Ross and Elizabeth van Heyningen in helping me to come to the following description.

[85] Kirk, 'Self-government and Self-Defence', Meltzer, 'The Growth of Cape Town Commerce', Warren, 'Merchants, Commissioners and Wardmasters', Keegan, *Colonial South Africa*, p. 47 - 51, 163 - 169.

The Cape middle class was emerging in a semi-authoritarian colonial situation. At the beginning of the period under discussion, the autocratic powers of the Cape governor were virtually unchecked. [86] The rising ambitions of a colonial middle class were given short shrift by a Cape administration afraid of subversion of the social order - C.A. Bayly has seen in the Cape government at this point "an example of the classic dilemma of an early imperial state trying to control the expansion of 'settler capital'."[87] British rule at the Cape was initially sustained by the collaboration of a group of local notables, who had been prominent under the Dutch regime, but whose alliance was severely tested by the British government's policy on slavery.[88] The group under discussion in this thesis, however, were not in any entrenched position of power - they strove for, and largely achieved, political, economic and social influence over the course of this period. Many had arrived in the colony to escape past lives and to attempt to better themselves - their activities once at the Cape reflect an attempt to advance and protect their own interests. In this they pitched themselves both against the perceived disorder of a poor underclass and against the entrenched privilege of the governing class. In addition they allied themselves with those Dutch colonists who were willing to embrace their cultural accoutrements. For their own part, the Cape

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[86] C. A. Bayly in *Imperial Meridian: The British Empire and the World 1780 - 1830* (London and New York, 1989) has seen the dominant ideological character of the British Empire at the beginning of this period as "aristocratic, autocratic and agrarianist". p.137 At the Cape this sentiment was personified in a series of conservative governors, most notoriously in the earlier period (in the eyes of the 'progressive' colonists) in the form of Lord Charles Somerset (recalled in 1826 as a result of the investigations of the Commission of Inquiry), who was extremely dismissive of Cape middle-class aspirations. See also Keegan, *Colonial South Africa*, p.42 - 43 on this issue.

[87] Bayly, *Imperial Meridian,* p.206

[88] Rayner, M. 'Wine and Slaves: The Failure of an Export Economy and the Ending of Slavery in the Cape Colony, South Africa, 1806 - 1834' PhD thesis, Duke University, 1986, p. 93, 95.

Town Dutch of similar social position, after the end of the divisive debates over slavery and abolition, saw in their British counterparts the path to political power. In response to the amelioration legislation, and later to the emancipation of slaves in the 1830s, Dutch slaveholders made moves towards mobilisation against the British government, including riots in Stellenbosch in 1831 (see chapter seven) prompting John Fairbairn, editor of the colonial newspaper *The South African Commercial Advertiser*, to abandon his calls for representative government. The disunity between British and Dutch (and the numerical dominance of the latter) became one of the reasons for the imperial government's denial of representative institutions at the Cape.[89] Possibly in part as a realisation of this, a significant majority of the Cape Dutch of Cape Town decided to play colonial politics by British rules, and with emancipation a *fait accompli* they turned their attention in the 1840s and 1850s to the politics of colonial unity rather than of ethnic division.[90] The emancipation of slaves and the payment of compensation money helped to form a new layer of the colonial bourgeoisie - many of whom had formerly been slaveholders, or held mortgages on slave property, but who had now "come to terms with the entrepreneurial spirit of the age".[91] The Dutch of Cape Town were the most amenable to the direct and indirect

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[89] Trapido, S. 'The Origins of the Cape Franchise Qualifications of 1853' *Journal of African History* V, I (1964), p.47

[90] Various authors have voiced different reasons for the mid-century move towards colonial unity and away from the ethnic polarisation of the 1820s and 1830s. On the one hand, Andre du Toit has stressed the engendering of a liberal 'moment' amongst Afrikaner leaders which made alliance with British liberals easier to achieve. 'Failed Liberal Moment', p.41 - 45. In implicit opposition to this view is the work of Andrew Bank and Timothy Keegan who see in this alliance a humanitarian disillusionment and a hardening of racial attitudes which allowed a unity of interest to develop between English and Dutch colonists. Bank, A. 'Liberals and their Enemies', p. 371 - 3. Keegan, *Colonial South Africa*, p. 167 - 168 The abolition of slavery and the payment of compensation money aided the development of class unity both by removing a bone of contention between British and Dutch and by allowing for the economic development of new layers of a colonial commercial bourgeoisie in Cape Town. Keegan, *Colonial South Africa*, p.164

[91] Keegan, *Colonial South Africa*, p.164

policies and practices of Anglicisation instituted by the British - both government and colonists - during this period.[92] The most practical reason for this was the daily contact which they had with English colonists and English customs, in contrast with their more isolated counterparts in the interior.[93] Their willingness to abandon ethnic mobilisation and make common case with other members of a colonial middle class smoothed the path to a new constitution - with a low franchise which favoured their interests. No attempt was made to make Dutch an official language in the new legislative assembly.[94]

Over the course of this period, therefore, individuals were struggling to better themselves and to protect and advance their own interests in the changing social world of Cape Town. By means of this struggle they were forging themselves into a group which can be identified as a distinct colonial middle class. Whilst commercial activities were growing in Cape Town - the Cape Almanac indicated that the number of persons in the city engaged in commerce grew from 40 in 1809 to 223 in 1830[95] - restraints on trade continued until the 1830s. Government concessions granted to notables of the older settler community enraged those members of the newer middle class who sought to establish themselves. British merchants were particularly vocal in their demands that trade controls and regulations be abandoned - the last of these was finally eliminated in 1832.[96] The Commercial Exchange acted as an important

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[92] van Schalkwyk, 'Response of the Afrikaner', p. 80

[93] ibid, p.79

[94] ibid, p.27

[95] Meltzer, 'Growth of Cape Town Commerce', p.22

lobbying group on issues such as the reduction of tariffs, the establishment of colonial banks, British East India Company monopolies, a breakwater in Cape Town, control of paper currency and free labour initiatives.[97] The Cape colonial press, whose formation will be discussed in the following chapter, was a crucial development in allowing the middle class to influence public opinion and changes in colonial policy. Papers such as the *South African Commercial Advertiser* became "the colonial embodiment of enlightenment and middle-class confidence".[98] In addition to these economic issues, on a political level the Cape Town middle class resisted the system of patronage by which governors sought to rule at the Cape, and from which they were largely excluded. They mobilised politically around the elected Cape Town municipality, which became highly politicised and was used, in the 1840s, as a base from which to attack an unpopular Legislative Council (see chapter eight).[99] In so doing, they fundamentally changed the political face of the colony by their united efforts. Over the course of the period, more representative forms of colonial government replaced this autocracy - a Legislative Council, municipal government, and finally representative government. With the establishment of representative government there were definite material advantages for the colonial middle class in the ability to raise capital for investment in the colony.[100]

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[96] Trapido, S. `The Emergence of Liberalism and the Making of `Hottentot Nationalism' *The Societies of Southern Africa in the 19th and 20th Centuries* Vol 17. Collected Seminar Papers no. 42. University of London, Institute of Commonwealth Studies, 1992, p. 36

[97] ibid, p.37, Meltzer, 'Cape Town Commerce', p.32, Keegan, *Colonial South Africa*, p.100.

[98] Trapido, 'Emergence of Liberalism', p.37

[99] Keegan, *Colonial South Africa,* p.165

[100] ibid, p.169

This thesis looks at the cultural underpinnings of these moves to unity by disparate groups in Cape Town. It pays particular attention to the manner in which ideas about gender roles and family life acted as a means to bind the colonial middle class together, and at the connections between respectability, the claim to political rights, and a specific model of domesticity. Although crucially influenced by models of family life derived from Britain, the colonial context, and especially the heritage of the Cape Dutch, gave the Cape Town middle class a particular flavour of its own.

The sources used in this thesis provide indications of the characteristics of this emergent group. They were literate (or at least certain members of their family were) so that they read and expressed their views in the local press, and wrote letters to their friends and family when separated from them. They were Christian, or had some involvement with the church, and are reflected in its records. They were of sufficient financial security to bring claims of honour in court, whether these be defamation actions, seduction charges, or separation or divorce cases. They built houses and left their mark on the spatial development of the city. They had sufficient property to debate the interaction between marriage and inheritance law and to consider the interaction between gender roles and the accumulation of property in a marriage. They kept servants and were concerned with their influence in the home, and they involved themselves in philanthropy to counteract the effect of underclass disorder on middle-class life. Finally, they were politically ambitious and sought to bring their political influence into line with their social and economic power in the city. Their active role in politics, especially in incidents like the Anti-Convict crisis, was an important element in the establishment of representative government at the Cape.

This thesis focuses self-consciously on the white[101] middle-class, and particularly the interaction between Dutch colonists and their more newly arrived counterparts, the British settlers in Cape Town. The debate over the force of racial categorisation and discrimination in the Cape during this period has been a protracted one.[102] The degree to which a stratified racial order was already in place during the eighteenth century, or at what point it was elaborated over the course of the nineteenth century is a major focus of the debate.[103] Andrew Bank has stressed the contested nature of ideologies of race being elaborated over the course of this period.[104] This theme has also informed the work of Timothy Keegan.[105] A strong theme in this literature is the argument that Cape Town itself was not representative of the colony as a whole, and was not as rigidly stratified by race as was the case in the interior, where race and class divided people along similar lines.[106] Cape Town had higher manumission rates than

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[101] This designation, of course, has no concrete basis in biological 'fact', but refers to the racial identity claimed by certain individuals, and (as importantly) accepted by others as an identity appropriate for them to claim.

[102] For a discussion of the arguments and sources with regard to this question in South African history of this period more generally see Elphick, R. and Giliomee, H. 'The origins and entrenchment of European dominance at the Cape, 1652 - c.1840' in Elphick and Giliomee, *Shaping* and Freund, W.M. 'Race in the social structure of South Africa, 1652 - 1836' *Race and Class* XVIII, 1 (1976). Fredrickson, G.M. *White Supremacy: A Comparative Study in American and South African History* (New York and Oxford, 1981), Ross, R. with D. van Arkel and G.C. Quispel, 'Going beyond the Pale: On the Roots of White Supremacy in South Africa' in Ross, *Beyond the Pale: Essays on the History of Colonial South Africa* (Hanover and London, 1993), Mason, "Fit for Freedom", p. 61 - 73. Bank discusses the elaboration of ideologies concerned with race in 'Liberals and their Enemies' and Keegan, *Colonial South Africa*, also develops the question of the origins of a racial order as a major theme in his book.

[103] Elphick and Giliomee, 'European dominance', p.522. Ross, 'Beyond the Pale'. See Keegan, *Colonial South Africa*, p.15 - 36 on this issue with reference to the Dutch period.

[104] Bank, A. 'Liberals and their Enemies'

[105] Keegan, *Colonial South Africa*

elsewhere during the period of slavery, which resulted in the formation of an independent black class in the city. Rates of mixed marriage were also higher in Cape Town.[107] The lines between slave and free were blurred by the practice of hiring-out slaves so that the two were blended in a general underclass culture which included both whites and blacks.[108] The relationship between race and class was therefore an ambiguous one, especially after emancipation when slaves were no longer bound to a specific legal status. Wealth and whiteness were connected, but not absolutely. If not all the poor were black, then, equally, not all the rich were white. Economic status, however, was not enough to allow for inclusion into the ranks of the colonial middle class which I discuss in this thesis. Whiteness was not the over-arching defining element in contemporary perceptions of respectability, although attitudes to the poor and domestic servants could be coloured by racist discourse and connections to a European cultural heritage were important in the education of children (see chapter three). Although respectability was sometimes defined in racial terms (instances of which are noted in the body of the thesis) this was not the fundamental point in what was essentially a multifaceted issue. As chapter six will demonstrate, for example, sexuality and legitimacy defined access to Dutch Reformed Church membership whilst race did not. Yet in contradiction to this trend, the Dutch Reformed Church instituted racial separation amongst its membership in 1857.[109] It could be argued that

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[106] Elphick and Giliomee, 'European dominance', p.550 - 551, 557 - 8. Freund, 'Race in the Social Structure', p.58, Ross, 'Beyond the Pale', p.72

[107] Rates of mixed marriage (as opposed to illegitimate sexual relations) were persistent higher in Cape Town than in the rural areas. J.A. Heese has concluded that 15.9 per cent of marriages in the Cape Town Dutch Reformed church between 1800 - 1840 were mixed, compared with rates in the rural areas such as 3 per cent (Tulbagh) or 1.2 per cent (Zwartland). Figures quoted by Elphick and Giliomee, 'European dominance', p. 550

[108] Bank, *Decline of Urban Slavery*

the racial element of respectability was not voiced because it was taken for granted.[110] Nevertheless, in a highly competitive society such as Cape Town, where social friction and defamation were rife, and constructed around identifiable aspects of honour which involved creditworthiness and honesty for men, and chastity for women (see chapter four), race was not a recorded term of insult amongst a certain economic group. No claims, for example, were made in the Cape Supreme Court on account of racial slurs being directed at middle-class people in Cape Town.

Those studied by this thesis were people who probably defined themselves as white, and yet who make very little mention of doing so in the historical record. The failure to discuss "race", however, does not mean that racial discrimination did not exist. The term "race" might be applied to a range of distinctions between groups - on religious, ethnic or national grounds.[111] Andrew Bank has emphasised the term's multiple meanings over the course of this period, and suggested that it might have approached closer to a 'biological' definition by mid-century.[112] Nevertheless, it was still possible to exclude people of colour from the ranks of the advantaged without the articulation explicit racial discourse. As the following two chapters will indicate, inclusion in both the public sphere and the ranks of middle-class social acceptability was based upon the embrace of European cultural norms and the rejection of a disorder which was often framed in non-European terms (be these slave, black or even Cape Dutch).

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[109] Chidester, *Religions of South Africa*, p.80

[110] See Mason, 'Fit for Freedom', p. 69 - 70

[111] ibid, p.68 - 69

[112] Bank, 'Liberals and their Enemies', p. 10 - 11

The ambiguities between race and respectability were acknowledged by Capetonians themselves. In the Cape Dutch newspaper, *Het Nederduitsch Zuid-Afrikaansche Tijdscrift* (The Dutch South African Journal), a family are presented as discussing the connections between race and respectability. The mother of the family bases her claims to respectability on her European descent, but her cousin, '*Redelyk*' (Rational) destroys her vain pretensions, and advances a different definition of respectability. He says she should talk "softly" of her European descent for while her step-mother was from Holland, her real mother, who died when she was young, was of "a Cape family"[113]whose racial descent might not stand up under scrutiny.[114] He stressed that, in assessing respectability, God would not take into consideration a person's colour but rather his actions.[115] He castigates the mother in taking pride in her race (which is by any consideration misplaced) rather than in her behaviour as a virtuous member of society.[116]

In day-to-day life in Cape Town, however, it is likely that whiteness was an issue in the establishment of social status, or at least that money whitened and made one's race a matter beyond public discussion. It was the poor who tended to be racially mixed - most of the rich were white, or identified themselves as such.[117] Hamilton Ross, for

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[113] eene Kaapsche familie

[114] *Nederduitsch Zuid-Afrikaansche Tijdscrift (NZAT)* , March-April 1826, p.108

[115] ibid, p.107

[116] ibid, p. 108 - 109

[117] Elphick and Giliomee, 'European dominance', p.557 - 558

example, was a pre-eminent merchant in the colony, and was married to a Dutch woman whose grandmother had been a slave.[118] Other less exalted examples of people 'passing for white' can be noted.[119] These examples, however, do not mean that the elite was defined in non-racial terms, as the discussion of the importance of European culture has already stressed. S.E. Hudson, an English servant who had become established as a slaveowner at the Cape, described in the early nineteenth century the process whereby race was defined in accordance with one's situation in life, rather than in biological terms:

> several persons in Cape Town of great wealth and respectability have been formerly slaves or descended from them. One generation does away the stain and though it may be remembered by some ill-natured persons they are generally received by the inhabitants according to their present situation in life.[120]

Race and class, therefore, had an ambiguous relationship in the designation of the middle class. Wealth was not enough to demonstrate inclusion within the white dominant group. Many wealthy blacks were placed beyond the pale of social acceptability through their embrace of an alternative religious faith. Islam was a strengthening force in Cape Town over the course of this period, much to the disgust of many white Christians. The Islamic community acted as an alternative world for

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[118] Robinson, A.M. Lewin, ed. *The Letters of Lady Anne Barnard to Henry Dundas from the Cape and Elsewhere, 1793 - 1803 Together with her Journal of a Tour into the Interior and Certain other Letters.* (Cape Town, 1973), p.174

[119] Fredrickson, G.M. *White Supremacy*, p.118 See Freund, 'Race in the Social Structure', p.58 - 59 for examples of various prominent members of colonial society who had black ancestry.

[120] Shell, R. 'Introduction to S.E. Hudson's 'Slaves',' *Kronos*, p (1984), p.64 Hudson was writing in the late eighteenth or early nineteenth century. For an extended discussion of his position at the Cape see McKenzie, K. *The Making of an English Slaveowner: Samuel Eusebius Hudson at the Cape of Good Hope, 1796 - 1807* (Cape Town, 1993)

converts in Cape Town, with its own hierarchy of religious and judicial leaders, and of healers and teachers.[121] By the same token, however, it divided the convert from inclusion in the white middle class, which defined itself partly by its embrace (even if nominal) of the Christian faith.

Conclusion.

This chapter has sought to form a theoretical and empirical background to the major questions which the thesis will deal with. Cape Town during this period was undergoing a period of re-invention - from a mercantilist Dutch slave society to a city of free trade and free labour in the British colonial world. Amidst these changes, a colonial middle class was gradually forming - growing in political, economic and social self-confidence and moving closer to a desired role in the government of the colony. It remains to be argued in greater detail how these social and political developments were informed by ideas of gender roles and specific models of family life.

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[121] On Islam in Cape Town and its force as an alternative community see Bradlow, M.A. 'Islam, the Colonial State and South African history' and 'Imperialism, State Formation and the Establishment of a Muslim Community'

Chapter Two:

Cultural encounters between Dutch and British and the making of a public sphere.

This chapter investigates the cultural interaction between British and Dutch colonists in the urban environment of Cape Town and looks at the changes in the structure of the city which resulted from this process. It argues that new kinds of public discourse were impossible without the development of new kinds of public space in which they might be articulated. Intimately connected with the emergence of Cape Town as a British colonial city was the elaboration of ideas concerning the nature of a public sphere, and its supposed separation from a private domestic world. The claims for representative government which began to emerge over the course of this period cannot be separated from this emergent public sphere which was centred around the free press (established in a struggle with the colonial government in the mid 1820s) and related sites of public masculine assembly. The Cape press stressed a model of masculinity which emphasised the importance of taking a role in public life and it related this to a growing political maturity in the colony which would result in the establishment of a legislative assembly. The chapter interrogates the nature of the Cape public, arguing that exclusionary practices were fundamental to its operation.

A parallel process during this period was a greater formalisation of business which replaced a tradition of Cape Dutch commerce which operated informally out of the domestic sphere and in which middle-class women had been closely involved. This

shift allowed the middle class to lay claim to a respectability (against, amongst others, foreign observers who disparaged their connection to trade) which stressed the separation of home and work. These transformations in the economic, political and social face of the city saw a greater separation in public and private spheres and while 'respectable' men prepared to take their places on the stage of public life, women's gender identity barred them from what was perceived as the public domain of this new order.

Encounters between Dutch and British: Material Culture and Social Relations.

The landscape of Cape Town was fundamentally altered by the social changes taking place within the city, associated with the establishment of British rule over the Cape and the elaboration of a bourgeois public sphere. Changes in material culture were an important part of this process. Writing of the Cape in the eighteenth and nineteenth centuries, the historical archaeologist Martin Hall has found it useful to see the material world as "texts without words"[1] through which it is possible to explore "the statements through which people create and re-create themselves".[2] Drawing on the theories of Peter Stallybrass and Allon White[3], he emphasises the importance of discourse in statements made by material culture. Thus the artefacts of a social group not only "form part of a semiotically rich re-creation of existence, but they also

[1] Hall, M. 'Small Things and the Mobile Conflictual Fusion of Power, Fear and Desire' in A. Yentch and M. Beaudry, (eds). *The Art and Mystery of Historical Archaeology: Essays in Honor of James Deetz.* (Florida, 1992), p.373

[2] ibid, p.392

[3] Stallybrass, P. and White, A. *The Politics and Poetics of Transgression.* (London, 1986)

contain the consciousness of statements by those to whom they stand in opposition".[4] In the context of Cape Town during the first half of the nineteenth century, therefore, the 'statements' which members of the middle class made through the means of material culture, were informed by those towards whom those statements were directed, and to whom they stood in opposition. This projected audience could be various and complex. It included the underclass over whose actions in the urban landscape and influence on the nature of the city the middle-class exerted only a limited control. It included the metropolitan observers who subjected the middle class of the city to the critical gaze of imperial travellers, and it included the various ethnic allegiances of a settler elite which was not culturally unified. In this way, factions of the dominant class could use material culture for "contests of identity and prestige".[5] The intertwined discourses of material culture - whether these were expressed through building styles, domestic space, art or literature - allow the historian to disentangle the role of culture in struggles for identity amongst the middle class during this period. Thus, as Hall concludes when addressing the question of the relationship between material culture and social relations, "the material world *is* social relations" for it is through material culture that groups signify their identity in relation to others.[6]

This chapter therefore approaches the cultural encounter of British and Dutch through a discussion of their differing material culture and the impact of these differences

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[4] Hall, 'Small Things', p.392

[5] Hall, M. 'High and low in the Townscapes of Dutch South America and South Africa: The Dialectics of Material Culture' *Social Dynamics* 17 (2) 41 - 75, 1991, p.59

[6] Hall, 'Small things', p.380

upon the changing urban landscape of Cape Town. In addition it looks at the manner in which new kinds of public discourse were centred around new architectural spaces in the city. The public sphere had an important spatial dimension and could not be developed without a fundamental restructuring of the city.

In the discussion of the cultural encounter between Cape Dutch and British colonial forces at the Cape which follows, certain common themes can be disentangled. British perceptions of the Cape Dutch were filtered through a history of metropolitan and colonial rivalry. The common images in use at the Cape are analogous to those which the British had of the Dutch in Asia. The following discussion is indebted to the work of P.J. Marshall, who has emphasised the importance of the Dutch in Asia as a means of defining British imperial identity. The British stressed that their empire was one in which improvement was a dominating force and they saw the Dutch as a relic of the old order, while they represented modernity. In denigrating the Dutch, they were defining themselves.[7] Marshall underlines the way in which empires, as well as being systems of wealth and power, are also ideas in the mind, and claims that the "uniqueness of the British role in their own eyes as an imperial power in Asia was buttressed by portrayals of the Dutch as decadent, effete competitors, who had conspicuously failed to preserve the virtue necessary for such a role."[8] The same phenomenon is evident in British identity formation at the Cape, which was essentially part of the Dutch Asian empire centred upon Batavia. The most vehement critics of the Dutch at the Cape, and those who stressed their physical and social

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[7] Marshall, P.J. 'British Assessments of the Dutch in Asia in the Age of Raffles' *Itinerario* Vol 12, (1988), no 1, p.2

[8] ibid, p.12

shortcomings most emphatically, were those with an identifiable political agenda relative to Britain's role in the Cape. Men such as John Barrow and Robert Percival stressed the idleness and lack of initiative which characterised the Dutch colonial endeavour at the Cape in the hope that this would spur the British to take on their destiny as an improving imperial presence in Africa.[9]

The role of material culture in the interaction of Dutch and British settlers in Cape Town was evident from the very start of their encounter. Lady Anne Barnard, wife of the colonial secretary of the First British Occupation, Andrew Barnard, and first lady of the colony, made much of the re-decoration of her quarters in the Castle "in the stile of a comfortable plain English house" in which appropriately British setting she set out to entertain the Dutch elite of the colony - particularly Dutch women.[10] This immersion in British entertainment had an explicit political agenda, for it was designed to reconcile the Dutch to British rule, as Andrew Barnard acknowledged. [11]

From the first British Occupation onwards, building styles and domestic ornament became a way for the city's elite to signify personal allegiance and cultural orientation. The VOC city which the British had taken over was one informed by a

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[9] See Barrow, John *Travels in the Interior of Southern Africa.* (London, 1806) and Percival, R. *An Account of the Cape of Good Hope* (London, 1804) Barrow, in particular, has been seen as a 'founding father' of negative British stereotypes about the Dutch. See Streak, M. *The Afrikaner as Viewed by the English, 1795 - 1854.* (Cape Town, 1974), p.7 Pamela Scully's discussion of John Barrow emphasises his use of gender as a 'significant symbolic structure' through which to assess different cultures. 'Liberating the Family?', p. 94 The same might be said of Percival, for both writers make use of stereotypes of fat Dutch women to criticise the Dutch colonial enterprise. This point will be returned to in the following chapter with reference to child-rearing and domestic slavery.

[10] Robinson, *Letters*, p. 43

[11] ibid, p.65

Dutch aesthetic ideal which would rapidly prove anathema to a rising British-orientated elite. Slightly before the period under discussion, the city was still organised according to eighteenth-century Dutch style, and laid out in a network of right-angled streets and canals with buildings decorated in Baroque and Rococo decorative motifs.[12] British visitors persistently remarked upon the alien look of the city. By 1819, however, one visitor remarked that Cape Town "was fast losing its original Dutch character". This was described by him as distinguished by "that taste for canals and ditches, which seems to be as natural to Dutchmen as water to ducks" and by "the vulgar 'ginger bread' ornaments in plaster" which made up the Cape Baroque style of urban architecture.[13] The same observer indicated that this urban landscape was fast disappearing through the activities of the "English merchants" who were "building a number of handsome residences in a pure and elegant style of architecture."[14]

This shift from baroque to neo-classical architectural forms had actually predated the British presence in the Cape, but the fact that it conformed to the predominant taste of the new rulers hastened the trend.[15] In the context of colonial competition represented

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[12] On the characteristics of Baroque and Rococo ornamentation on Cape townhouses see Lewcock, R. *Early Nineteenth-Century Architecture in South Africa: A Study in the Interaction of Two Cultures, 1795 - 1837.* (Cape Town, 1963), p. 7 - 8.

[13] Moodie, J.W.D. *Scenes and Adventures as a Soldier and Settler, During Half a Century.* (Montreal, 1866), p. 95 For an account of the development of urban architecture in Cape Town in the seventeenth and eighteenth century which relates this style of flat-roofed building to arson attempts by slaves see Shell, R. *Children of Bondage: A Social History of the Slave Society at the Cape of Good Hope, 1652 - 1838* (Hanover and London, 1994), chapter nine.

[14] Moodie, *Scenes and Adventures*, p. 95

[15] Lewcock, *Early Nineteenth-Century Architecture*, p. 29

by the establishment of British rule over a formerly Dutch colony, classicism was appropriated as the distinctive style of the new regime, despite the fact that it already existed at the Cape. Different architectural styles took on political implications and became associated with both ethnic identity and political allegiance. As Moodie's description shows, the adoption of neo-classicism, with its 'pure and elegant' forms, was associated with the newly established British middle class. Those who wished to signify their allegiance to the new dispensation found it expedient to embrace the new style of urban architecture.[16]

One peculiarly Cape architectural feature which fell victim to this change in taste was the stoep - a raised platform which separated the house from the street, often with seating on each end. Travellers saw the stoep as a particularly exotic element in Cape Town's urban landscape, and invariably remarked upon it.[17] Stoeps were described not only as an unusual architectural feature of an alien colonial world, but also for their effect on social relations. They can therefore act as a fine example of the interconnection between the material and social world. Visitors (and residents) testified that it was the custom of the elite of Cape Town to sit upon their stoeps in the evening and observe the street. In turn, they themselves were observed. The stoep was

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[16] Hall, 'High and Low', p.59

[17] For traveller's, and residents' account of stoeps, see Hudson, S. 'Buildings' CA A 602 Hudson Papers, Warner, B. (ed) *Lady Herschel: Letters from the Cape 1834 - 1838.* (Cape Town, 1991), p.26, Deacon, C. (ed) Journal of Sarah Norman Eaton (Pretoria, 1953), p. 81, Murray, R.W. *South African Reminiscences* (Cape Town, 1894), p.2, Cole, A.W. *The Cape and the Kafirs: or, Notes of Five Years Residence in South Africa.* (London, 1852), p.25, Krauss, F. 'A Description of Cape Town and its Way of Life, 1838 - 1840' ed and translated by O.H. Spohr. *QBSAL*, no 21, 1966, p.3, Alexander, J.E. *Narrative of a Voyage of Observation among the colonies of Western Australia in 1835.* (London, 1837), p.236 - 7, Arago, J. *Narrative of a Voyage Round the World.* (London, 1823), p.106 - 7. Bunbury, F.L.S. *Journal of a Residence at the Cape of Good Hope* (London, 1848), p.52, Moodie, J *Scenes and Adventures*, p.95

an ambiguous spatial zone between the public and private spheres, since it was part both of the house and of the street.[18] As well as observing the life of the street, the elite of urban Cape Town were of course themselves also on display. As an architectural form, stoeps were part of a culture which stressed the visual display of power and elite status.

This was a world in which the operation of political power was far more explicitly linked to conspicuous consumption and bodily display than would be the case as the nineteenth century progressed.[19] The exhibition of social status, through the use of these notions of power, was strictly controlled by means of sumptuary laws[20] which minutely stipulated the degree of lavishness allowed to the different social groups of a highly hierarchical society in matters of dress, carriages and other forms of public display.[21] Sumptuary laws were replaced, at the Cape, by a free market underpinned by the supply and demand of fashion - two elements of commodity control at "opposite poles in the social regulation of demand".[22] Like the public sphere itself,

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[18] The stoep should not be confused with the veranda, a common element in British colonial building - verandas tended to be covered and attached to gardens, rather than connecting street and house in so ambiguous a fashion. That the two were not conceived of in the same way can be seen firstly in the manner in which British travellers remarked upon stoeps as an alien architectural element associated with Dutchness and secondly in the trend of converting stoeps to verandas which was part of the Anglicisation of domestic architecture in Cape Town. On this latter issue see Lewcock, *Early Nineteenth-Century Architecture*, p. 97, 112.

[19] The importance of publicly displaying social status did not disappear, even though the nature of this display altered. See chapter seven.

[20] The great codifier of Dutch sumptuary laws in the eighteenth century was Jacob Mossel, whose 'Measures for Curbing Pomp and Circumstance' came into force at the Cape in 1755. *Plakaatboek*, 6: 773 - 95, quoted in Jean Taylor, *The Social World of Batavia*, (London, 1983)

[21] Taylor, *Social World of Batavia,* p. 66

[22] Appadurai, A. 'Introduction: commodities and the politics of value' in Appadurai, ed. *The social life of things: commodities in cultural perspective.* (Cambridge, 1986), p. 38

fashion was premised upon "the illusion of total access and high convertibility, the assumption of a democracy of consumers and of objects of consumption."[23] Sumptuary laws were thus in flagrant contradiction of British notions of a free market economy, but they were also indicative of a social system that codified the power it invested in bodily display in a way that was incompatible with the bourgeois public sphere.[24]

Stoeps were seen by visitors as an architectural form which involved stasis rather than movement, a theme common to various depictions of the Cape Dutch by the British. One visitor claimed that "it is undoubtedly owing to the presence of the ladies in their balconies" that the promenades of the city were "completely deserted".[25] Stoeps were not considered as an architectural feature unconnected to social relations but were rather seen as promoting a certain kind of gendered social encounter. Many visitors coupled their descriptions of stoeps with the courting patterns they encouraged.

Charles D'Oyly, a visiting amateur artist and civil servant visiting from India, whose lively sketches of social encounters amongst the citizens of Cape Town during the 1830s remain unsurpassed, captured this moment of social encounter in his private sketchbook.[26] [**Fig 1**] A corpulent - probably Dutch - couple contrast with their

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[23] ibid, p.32

[24] Habermas, *Public Sphere*, p. 7 - 8.

[25] Arago, *Narrative*, p.106 - 7.

[26] D'Oyly's work at the Cape needs more sustained attention by social historians of this period. He was born in India in 1781 and appointed to the East India Company's service in Bengal in 1796, retiring in 1838 owing to ill-health. Most of his Cape sketches were made during a visit of about a year in 1832. Although his drawings provide a great deal of insight into the social interaction of various classes of


Figure 1.

attractive younger companions upon the stoep whilst the gentlemen walking by (whose top hats suggest they laid claim to the identity of English gentlemen) assess their charms, one making use of his eyeglass to do so. This situation is one of display and inspection with the Dutch family in a static position and the young men moving by.

The opposition between private stoeps and public promenades found expression later during this period in the pages of the local press. 'Americanus' wrote to *Sam Sly's African Journal* in 1844, complaining that the women of the Cape did not compare with those of his own country because they were "immured - imprisoned" by stoeps, which he complained were "*isolated* and selfish". He called for the development of public walkways and the demolition of the city's stoeps.[27]

Stoeps were not only seen as a catalyst for inappropriate social relations, they were also associated with dirt and disease. Reminiscing about his experiences in 1854 and complaining about the dirt of the city at that point, R.W. Murray remembered that "the metropolis of the Cape hadn't a pavement on which you could walk twenty yards without running against a flight of stone steps that led up to an ungainly stoep."[28] He

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people at the Cape it is important also to bear in mind the strong element of caricature that informs his work, as will be further explored below. On D'Oyly in India see Archer, M ''The Talented Baronet': Sir Charles D'Oyly and his Drawings of India', *The Connoisseur,* vol 175, no. 705, November 1970. On D'Oyly at the Cape see Gordon-Brown, A. (ed) *The Cape Sketchbooks of Sir Charles D'Oyly 1832 - 1833 depicting Cape Town, the Countryside and Neighbouring Villages.* (Cape Town, 1968) and Hall, M. 'Fish and the Fisherman, Archaeology and Art: Cape Town seen by Bowler, D'Oyly and De Meillon' *South African Journal of Art and Architectural History,* 2 (3&4), 1991. D'Oyly's work can be found in the Cape Archives, The William Fehr Collection, Cape Town, the Museum Africa, Johannesburg, and the Library of Parliament, Cape Town, as well as in private collections.

[27] *African Journal*, 18 April 1844.

[28] Murray, *Reminiscences*, p.2

went on to describe a "broad open drain, about six feet wide, running from the Government Gardens through Adderley-street to the Bay."[29] This was part of the system of canals which had characterised the Baroque Dutch city and which, together with stoeps, became associated with inappropriate urban space, both in terms of ethnicity and sanitation. The canals and stoeps were objected to for practical reasons, for the former were repositories for "all the dirt and offal" of the town, as Murray claimed.[30] The latter were also despised for the fact that they could form the wretched dwelling places for the most undesirable of the city's poverty-stricken underclass, who lived and worked beneath them.[31] Building pavements and public promenades, covering over canals and removing stoeps were all part of a process of Anglicising the cityscape of Cape Town; a development which would be couched in the reforming discourse of Empire in the politics of the later nineteenth century.[32] In the 1840s the trees lining the Heerengracht were cut down, and the canal covered over, in 1851 the first streets were paved with wood block, and in 1854 the town engineer of Cape Town advocated the abolition of stoeps and their replacement with paving.[33] An

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[29] ibid.

[30] ibid.

[31] Descriptions of the terrible conditions endured by people living underneath stoeps can be found in the special wardmasters' report into conditions of the town during the 1840 smallpox epidemic, an episode which will be investigated in more detail in the following chapter. CA. CO 490 item 159

[32] Bickford-Smith, V. *Ethnic pride and racial prejudice in Victorian Cape Town: Group Identity and social practice, 1875 - 1902.* (Cambridge, 1995), p.34

[33] There had been calls for this process in the press as early as 1829 when Fairbairn compared the situation in Cape Town to what would be expected of an English town. He said that the replacement of stoeps by public footways would be "of great public advantage. At present pedestrians run great risks in traversing the streets, and these tasteless masses of masonry present a sorry figure to the eye of those who have ever witnessed the streets of a handsome *English* Town." *SACA* 2 May 1829, emphasis added.

ordinance requiring their removal was passed in 1862 to the wide-spread approval of the city's inhabitants.[34] As Lewcock describes these developments:

> Thus the very basis of baroque unity was destroyed - the canals, the trees and the stoeps, which together created a visual and social harmony in the old domestic streets of the town.[35]

In the later decades of the nineteenth century, stoeps became a political symbol in the ethnic struggles of Cape Town's politics. Already associated with Dutchness, they became progressively associated with dirt, disease, and an undesirable black underclass, particularly 'Malays'.[36] The progressive move of the elite out of the city centre, to what Vivian Bickford-Smith has called "the sylvan delights of the suburbs"[37]and the shift in architectural styles amongst the fashionable probably increased this identification of stoeps with the underclass, who were already living and working underneath them in the 1840s.

There was more to the shift from baroque to neo-classical forms, from Dutch to British architectural taste, than external building style. The criticism of stoeps in favour of promenades was paralleled by a shift from static to fluid social interaction in the arrangement of internal rooms. Eighteenth-century town houses in Cape Town

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[34] Lewcock, *Early Nineteenth-Century Architecture*, p.412 The stoeps of the city evidently survived this legally-sanctioned destruction, since there were still complaints about them in the latter decades of the century. On this see Bickford-Smith, *Ethnic pride*, p.14

[35] Lewcock, *Early Nineteenth -Century Architecture*, p.412

[36] The stoep became a symbol in the political conflict between the 'Clean Party' and the 'Dirty Party' in Cape Town in the 1880s. For a discussion of this conflict see Bickford-Smith, *Ethnic pride*, p. 39

[37] Bickford-Smith, *Ethnic pride*, p.14

were characterised by rooms with a multiplicity of uses, and especially "the combined use of a front room as living room, bedroom and retail store".[38] A particular development of the changing architectural style of the early decades of the nineteenth century were that owners "made rooms more specialised, took beds out of the main reception rooms and gave houses more depth in terms of passing into increasing privacy".[39] This shift from single multipurpose front rooms, to increasingly specialised rooms separated by corridors allowed for the proper degree of movement necessary for "the ritualised social activities of the [British] house party."[40] These changes in housing design can also be related to the shifts in commercial practices described below.

Charles D'Oyly depicted the culture encounter between Dutch and British, represented as one between stasis and movement in the colonial setting, in an illustrated burlesque poem entitled *Tom Raw, the Griffin*, published in 1828.[41] It clearly illustrates many of the stereotypes of the Dutch to which the British gave expression to during this period of colonial rivalry. Tom Raw, a young Briton en route to India, stops at the Cape and has a disturbing encounter with the local Dutch women. The opening description of the Cape expresses the importance of images of Dutch women in characterising the settlement:

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[38] Malan, A. 'Households of the Cape, 1750 to 1850: Inventories and the Archaeological Record'. PhD thesis, UCT, 1993, p. 176

[39] ibid, p.130

[40] Hall, 'High and Low', p.59

[41] *Tom Raw, the Griffin: A Burlesque Poem, in Twelve Cantos ... By a Civilian and an Officer on the Bengal Establishment*. (London, 1828). D'Oyly's style is unmistakable in the illustrations - the anonymous poem appears to have been a collaboration between D'Oyly and others. p. iii

> The Cape's a kind of inn - a half-way house
> To India, breaking a long, tedious stage
> Famous for monstrous bays, and monstrous vrows
> Or women; fattening at a certain age,
> *Id est*, when married; for they're quite the rage
> When young and buxom. ...[42]

Tom Raw gets invited to a Dutch resident's house, the Van der Sluggenbottoms. Their name conforms with the tendency of British visitors to stigmatise the Cape Dutch as sluggish and lacking in initiative and to describe the Dutch in terms of the fatness of their womenfolk. At their house, Tom has a narrow escape from being crushed to death between his hostess and her equally large companion. [**Fig 2**]

> ... Among the vrows Mynheer the youth installed,
> And here he found his body jammed so fast
> That he could scarcely move his limbs - or breathe at last.
>
> The hostess, Madame Van der Sluggenbottom,
> Was twenty stone, at least; - her neighbour more;
> Such weights made people wonder how they got 'em,
> Or how their plumpness squeezed through the door.
> Tom stared at sights he'd never seen before,
> He felt ashamed to speak, and - took to blushing;
> The women, in broad Dutch, both bending o'er
> Th' embarras'd youth, talked loud, then fell to pushing,
> Till the result seemed like to end in downright crushing.[43]

Even worse, Tom Raw finds himself being burnt by the small pans of coals which were the traditional heating for Dutch drawing rooms. Women were accustomed to place their feet on such small stoves which they then pushed under their skirts to keep

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[42] ibid, p.13.

[43] ibid, p. 15.

Figure 2



TOM RAW AT THE CAPE OF GOOD HOPE.

warm. Fireplaces were extremely uncommon in traditional Cape Dutch urban architecture - conversely, they were a feature invariably included in British-style homes built in Cape Town. Open fires were usually relegated to the kitchen because of the widespread fear of fire which, Robert Shell has argued, informed much of the urban architectural style of the Cape.[44] This circumstance allows D'Oyly to indulge in extensive innuendo about Tom Raw's "hot companions".[45] Tom Raw eventually manages to escape, only to suffer nightmares of "Vrows, and charcoal conflagration" in which fat Dutch women sit on his chest and seem "bent on ending his existence".[46] When woken by the wife of one of his friends, he, thinking she is one of the burning, fat 'Vrows', grabs her to prevent himself being smothered. Her screams then rouse the whole house who rush into his room in various stages of undress. The description of his sojourn at the Cape ends in unmitigated domestic disorder.[47]

The tension in the satire revolves around English mobility and energy and Dutch fatness and immobility.[48] Tom Raw is young, upwardly-mobile and a traveller, representative of the British empire on the move. The Dutch women who oppress him are grossly fat, slothful and embody an colonial force which is clearly spent. The use of stoeps, the arrangement of domestic space, and the images of fat Dutch women were all part of the manner in which themes of movement and stasis informed British

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[44] Shell, *Children of Bondage*, chapter nine.

[45] *Tom Raw*, p.16

[46] ibid, p.17

[47] ibid, p.18

[48] I am grateful to Martin Hall for pointing out this aspect of the poem.

presentations of the cultural encounter of Cape Dutch and British colonial powers. This discussion of the cultural encounter between British and Dutch as represented in shifting architectural forms and in popular satire, indicates the important role which gender had in mediating representations of the Dutch for British observers. This point will come up again in the discussion of Dutch business practices. The Dutch were denigrated by a rival colonial power in terms of their gender roles - their powerful, corpulent women and men lacking in initiative were a world turned upside down, a world over which it was appropriate for a society of publicly-active, improvement-minded men, and domestically orientated, civilising women to take control. The colonial encounter between Dutch and British settlers, therefore, was expressed through perceptions of differing, and rival, masculinities and femininities.

British attempts to acculturate the Dutch.

Nigel Penn, who has delineated the manner in which John Barrow's vision of the Cape Dutch was part of a general British imperialist world view, has emphasised that this was not merely the expression of crude prejudice. Barrow held many of the Cape Dutch in high esteem, and even went so far as to marry a Dutch woman.[49] This is an important point, for it demonstrates the willingness of the new British dispensation to co-opt the local elite into their social circle, so long as they were willing and able to conform to the new metropolitan cultural norms. As chapter five will indicate, this process had a particularly gendered slant by means of the frequent intermarriage of

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[49] Penn, Nigel. `Mapping the Cape: John Barrow and the First British Occupation of the Colony, 1795 - 1803.' *Pretexts* Vol 4 No 2 Summer 1993, p.35

British men with Dutch women. Language was the most obvious element of this transformation, and the colonial British press carried frequent calls for the importance of Dutch youth gaining familiarity with the English language. An editorial in 1833 claimed that since the Cape was "now a British colony", English should be extensively studied by the youth of the colony, even more so because of "its extensive use in every quarter of the globe" and for "the richness of its literature, and the transcendent merits of its moralists, philosophers, historians and men of genius and science".[50] In the month that followed, correspondents took up this theme, claiming that Dutch parents should teach their children English to fit them "for the duties of *good Citizens*, and of moral responsible beings."[51] By neglecting this duty, parents worsened the prospects of their offspring in a British colony.[52] There was some justice in this, for confidential reports on civil servants indicate that lack of proficiency in English was a handicap to advancement.[53] 'A Colonist' wrote to the *Advertiser* and advised "our Colonial Youth" to converse in English with one another in order to gain confidence in that language. He urged them to "cast off at once and for ever that silly and mischievous notion, that an implied slight is thrown upon their parent tongue, by conversing in English when among themselves!"[54] By doing so, they would make

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[50] *SACA*, 28 September 1833

[51] *SACA*, 2 October 1833, letter from 'A Friend to Utility'.

[52] In 1835, a letter ostensibly from 'A Colonial Youth', expressed the social disadvantages of unfamiliarity with the English language thus - "if you wish to aspire to any capacity above that of the lowest order of Society, - you must learn the English Language, and the manners and customs of the mother country". *SACA*, 18 March 1835, letter from 'A Colonial Youth'.

[53] CA CO 1887 Confidential Reports on Civil Servants, 1843 - 1845, p.2. I am grateful to Harriet Deacon for bringing this source to my attention. The Anglicisation of the Cape civil service had been accomplished by the early 1820s, by which time all official correspondence was conducted in that language. Van Schalkwyk, P. 'The Response of the Afrikaner', p. 14 - 15 Sturgis, 'Anglicisation', p.18 - 19

themselves familiar not only with the English language, but "with English society, habits and manners."[55] During the social tension of the 1835 frontier war there were calls in the *Advertiser* that the Dutch should "cease to be South Africans, and become English."[56] Even in 1831, at a time when debates over slavery resulted in much ethnic tension between Dutch and British, the *Advertiser* reported a speech by a prominent Cape Dutch notable that the "Cape Dutch were essentially English. Their habits, their intermarriages, their general improvements, all exhibit and prove this fact."[57]

Incorporating the Dutch into a new British-orientated colonial middle class involved more than their speaking the language of the new mother country. It was also a process informed by the adoption of particular 'manners and customs'. Ferdinand Krauss claimed that by the late 1830s it had become, amongst the Dutch, "the rage to copy everything English and to adopt the manner of life of their new fellow-citizens" in dress, furnishings, language and attendance at the English church, as well as through intermarriage.[58] As a German visitor, Krauss clearly did not have the same agenda as those writers discussed above with reference to the acculturation of the Dutch. That certain Dutch citizens enthusiastically adopted this means of social advancement was satirised in a rather nasty sketch by Charles Cornwallis Michell, contributed to the album of the daughter of the governor, Sir Lowry Cole, some time between 1828 and 1833. [**Fig 3**] In a room marked by British material culture in the

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[54] *SACA*, 16 October 1833, letter from 'A Colonist'.

[55] ibid.

[56] *SACA*, 14 March, 1835, letter from 'Zutphen'.

[57] *SACA*, 20 July 1831.

[58] Krauss, F. 'A Description of Cape Town', p.46

Figure 3



EN AVANT DEUX

shape of an imported Adamesque fireplace (in place of the traditional foot-stoves) a couple watches the dancing lesson of their porcine-looking offspring. While the mother comments - "Didn't I tell you love, it wouldn't be money misapplied", the father replies, presumably in a thick Dutch accent, "It is indeed quite vonderful". The title - "En Avant Deux" - uses word play to draw together various threads of mockery about this upwardly mobile family.[59]

The cultural impact of British rule was not viewed without concern by the Cape Town Dutch. *Het Nederduitsch Zuid-Afrikaansche Tijdschrift* was founded by the Dutch Reformed Church minister, Abraham Faure, in 1824. It provided a cultural space for the expression of Cape Dutch identity, carrying, for example, in its first issue, and in every issue thereafter until it closed in 1842, an extract from Van Riebeek's *Journal*.[60] It also gave attention to the upbringing of children, expressed through two imaginary family dialogues in two issues of the Journal in 1826.[61] The first dialogue involves a mother and a father in which the father expresses concern about the morals of his daughter's teacher, who is English, since she is running a lottery amongst her pupils. Her major virtue is that she is a good English teacher, and "if Betje was an English girl, I wouldn't find any fault; but I nevertheless do not want her to be unearthed from Dutchness, and it looks to me that this will be the consequence."[62] In the second

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[59] I am grateful to Ayelet Kuper Margalioth for her advice in this respect.

[60] Trapido, S. 'The Cape Dutch and Problems of Colonial Identity' Paper presented to the Institute of Commonwealth Studies, 25 February 1996, p.14

[61] Both articles were entitled 'Shortcomings in the Upbringing of Children: Dialogue." *Gebreken in de Opvoeding der Kinderen: Zamenspraak.* They appear in the January-February, and March-April issues of *NZAT* 1826.

dialogue, a mother and father are advised by their cousin, 'Redelyk' (Rational) in the proper education of their daughter. The child's mother wishes her to concentrate on attaining the feminine accomplishments pictured in 'En Avant Deux', which she defines as the basis for respectability[63] but Redelyk stresses the greater importance of religious instruction, reading, writing, arithmetic, "and a grounding in her mother tongue".[64] He warns against following the latest trend for educating children which laid stress on fashionable accomplishments.[65] Whilst the Cape Dutch of Cape Town were aware of the advantages of acquiring an English education, they were reluctant to embrace this at the expense of losing their own language and ethnic identity.[66] Nevertheless, by the end of the period English had gained rapid ground amongst the Dutch in Cape Town, as is indicated by the push from within a sector of the city's Dutch Reformed Church community to hold services in English in order to keep an increasingly Anglicised youth within the arms of the church.[67]

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[62] was Betje een Engelsche meisje, ik zoude er niet op weten aan te merken; maar ik wil toch dat zy niet geheel van het Hollandsche zal ontaarden, en dat komt my voor, zal het gevolg wezen." *NZAT* January-February, 1826, p.23

[63] *NZAT*, March-April 1826, p. 105

[64] en de gronden harer moedertaal laten leeren. ibid, p. 109

[65] ibid, p.111

[66] van Schalkwyk, 'Response of the Afrikaner', p.43

[67] ibid, p.59 - 60 This contrasted to the situation in the interior. p.61

The press and the formation of a public sphere in Cape Town.

The use of the published word to give advice on the rearing of children, and to assert cultural identity brings us to consider the role of the press in the creation of colonial identity in Cape Town in the decades after 1824, when the first independent newspapers were founded. The free press was the foundation upon which the bourgeois public sphere was built and crucially informed the establishment of representative government. The manner in which the bourgeois public sphere was conceived of has been discussed in the introduction. It is necessary here to explore the role which the press played in its construction.

An independent colonial press had been contrary to the policies of the VOC; *placaaten* forbidding the establishment of independent publications were issued in 1702, 1726 and 1744.[68] During the First British Occupation, Francis Dundas, acting-governor of the Cape, gave voice in 1801 to the fears which imperial powers had of the consequences of an independent colonial press:

> the establishment of a printing press I conceive to be more likely to produce evil than good effects, since the minds of the inhabitants are by no means prepared to exercise the freedom of discussion on almost any subject, particularly politics, concerning which they had been led to entertain very confused and erroneous opinions.[69]

In 1824, the Scottish immigrant Thomas Pringle, along with Abraham Faure, obtained reluctant permission from the governor, Lord Charles Somerset, to publish their

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[68] Meiring, J. *Thomas Pringle: his life and times.* (Cape Town, 1968), p.82

[69] Quoted in Meiring, *Thomas Pringle,* p. 82

literary journal *The South African Journal / Het Nederduitsch Zuid-Afrikaansche Tijdschrift*. This slight relaxation of government policy on colonial publications inspired the printer George Greig to announce the publication of *The South African Commercial Advertiser* without asking official permission. The fact that a government levy was imposed upon the paper convinced him that it had official sanction, or at least toleration. Within a few numbers, the editors were Thomas Pringle and his friend John Fairbairn, the latter of whom would remain as influential editor of the paper for the rest of the period under discussion, apart from the publication's periodic suppressions by the colonial state.[70] After a protracted struggle between government and colonists, Ordinance 60 of 1829 placed the colonial press under the protection of the law.[71]

John Fairbairn had come to the Cape with the idea of setting up an independent newspaper already in place in his mind. In 1823 he wrote to Thomas Pringle: "Your hint about Magazines and Newspapers pleases me exceedingly. What should hinder us from becoming the Franklins of the Kaap?"[72] This identification with Benjamin Franklin is a significant one, given Franklin's symbolic association as a "harbinger of liberty" connected to the press, the diffusion of scientific knowledge, and political

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[70] For an account of the career of John Fairbairn see Botha, *John Fairbairn.* On the *Advertiser*, see Meltzer, 'The Growth of Cape Town Commerce' and McKenzie, 'The *South African Commercial Advertiser'*.

[71] For a detailed account of the struggle to establish a free press in South Africa see Meiring, *Thomas Pringle*, Botha, *John Fairbairn*, Cutten, T. *The History of the Press in South Africa* (Cape Town, 1935), Touyz, B.M. 'The Cape Colony: The Struggle for the Liberty of the Press 1822 - 1829' (BA (Hons) thesis, UCT, 1977) and de Kock, Wessel. *A Manner of Speaking: The origins of the press in South Africa.* (Cape Town, 1982)

[72] John Fairbairn to Thomas Pringle, 2 March 1823, quoted in Meiring, *Thomas Pringle*, p.80

representation.[73] As editor of the *Advertiser*, Fairbairn invoked the image of Franklin as the model to which he turned when conducting his newspaper.[74] Fairbairn clearly saw himself and his paper as being at the head of a civilising process at the Cape, believing, as the epigraph adopted by the *Advertiser* claimed, that "The mass of every People must be barbarous where there is no Printing."[75]

The foundation of an independent press in Cape Town was possibly the single most important moment in the formation of a distinctive colonial identity. It allowed the citizens of the town to express their views publicly and to interact within the printed sphere with men (and I use that word advisedly) of similar tastes, interests, and socio-political ambitions. Despite the diversity of opinion which it unleashed, and the bitter press wars between rival newspapers which would result, the colonial press was poised to act as an unprecedented unifier of local opinion, and (as Francis Dundas had feared) to allow for the expression of those political aspirations which would eventually result in the establishment of Representative Government in the colony.

What newspapers such as the *Advertiser* were seeking to establish for the first time in the Cape colony was a public sphere, along the lines discussed in the previous chapter. John Fairbairn saw in his newspaper nothing less than the chance to completely reform Cape society along the lines of the rational public sphere, as he expressed in an editorial in 1831.[76] Fairbairn's conception of the role in social transformation - in "enlightening"

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[73] Schama, S. *Citizens: A Chronicle of the French Revolution* (London, 1989), p.44

[74] See *SACA* 13 October 1830

[75] Attributed in the paper to Samuel Johnson.

his "species" - which an influential editor could play is very evident in this editorial.[77] He considered that the people of the Cape needed instruction in the proper role of the press in society, and in the manner in which they should make use of it. The editorial also set out the principles of the art of acceptably conducting a public discussion through the printed medium, and to emphasise the importance of *rational* and measured expression.

The foundation of the *Advertiser* was followed by that of several other newspapers . Figures for the number of subscribers to Cape Town newspapers are difficult to come by but Andrew Bank has suggested that by the mid-1820s, the *Advertiser* had about 500 subscribers.[78] Figures for subscribers give little indication of the number of people who actually read the newspapers, however, given the communal reading practices described below. It seems likely that the influence of their ideas went far beyond the number of people who formally subscribed to the papers. Owing to the specific circumstances of the Cape, the Dutch colonists were not heir to the same culture of print as their British counterparts, but they were quick to see the advantage which the press could give them in the dissemination of their views in the public sphere. That the new public sphere of the free press was anathema to a certain traditional Cape Dutch social world was expressed by a Dutch newspaper which claimed that if anyone (except an Englishman) had suggested in 1823, the year before the foundation of the *Advertiser*, that a private

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[76] *SACA,* 16 April 1831.

[77] The earnest vision of their role in society held by editors such as Fairbairn was satirised in the opening issue of the more light-hearted *Sam Sly's African Journal* in 1843 when the editor, William Sammons, declared that the purpose of his paper "is simply to instruct the young, reform the old, correct the town, and castigate the age". *African Journal*, 20 May 1843.

[78] Bank, 'Liberals and their Enemies', p. 84.

press could be started in Cape Town, he would have been shunned as a complete madman.[79]

Nevertheless, the *Advertiser's* main rival *De Zuid-Afrikaan*, was founded in 1830. While it affected to despise "free-press *humbug*"[80] it was not above using the same devices as its rival to disseminate its ideas, especially in the context of the social tensions attendant upon emancipation.[81] Another Cape Dutch publication, *De Meditator*, however, claimed that the free press had been responsible for the development of social anarchy in the colony by stirring up men to act beyond the proper boundaries of their interest. It looked back to a golden age of masculine domesticity when men[82] were not driven to take their places in the public sphere but kept their eyes upon their own household. [83] This conception of the proper role of citizens - focused exclusively on the affairs of the family rather than upon those of society at large, was anathema to a conception of the bourgeois public sphere which papers like the *Advertiser* were trying to promote. As Pateman has argued, the public sphere was crucially based upon a specific sense of masculine identity. In this view, middle-class masculinity was bound up with a man's ability to act within the public sphere, 'manhood' being "a central part of claims to

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[79] *Waarheid en Onpartijdigheid, of De Meditator in het klein. Eene Komplete Verzameling Der Inleidings-Artikels van het nieuwsblad de 'Meditator'* (Cape Town, 1838), p. iii [Truth or Impartiality, or 'The Meditator' in brief. A Complete Collection of the Leading Articles of the newspaper 'The Meditator'.]

[80] *ZA*, 9 April 1830

[81] See chapter seven, below, for a greater discussion of the emphasis which *De Zuid-Afrikaan* laid on the importance of a free press to a 'civilised' society.

[82] The Dutch pronoun "men" can have both a neutral or a masculine meaning (not a purely feminine one). In this translation I have assumed that the writers of *De Meditator* were not concerned to keep their pronouns gender-neutral out of specific intent.

[83] *De Meditator*, p.12

legitimate middle-class leadership."[84] In times of political crisis, such as the debates over emancipation in 1831, the *Advertiser* called upon the citizens of the Cape to take action as public men. [85] It is only when men expressed themselves publicly that their true social role could be fulfilled. As *De Meditator* indicates, the colonial society of Cape Town was marked by several conflicting notions of masculinity and the position of men within a rational public sphere could not be taken for granted. This accounts for the paper's anxious delineation of the role of the public man within civil society.

The development of a literate culture at the Cape was important in the formation of colonial identity in the opportunity it gave to the colonists to represent themselves to the outside world. Early in its history, the *Advertiser* complained of travellers to the Cape "prying through the windows of decent retirement with an impudent face of curiosity"[86] and pointed out the importance of the colonists taking on their own representation before the outside world.[87] The paper implied a sense of the violation of a carefully constructed social world - the fear that the colonists were being "injured and insulted" rather than being treated with the "respect and deference" they deserved as representatives of an enlightened colonial endeavour.[88] The existence of a colonial press allowed the city's middle class to exhibit an appropriate face of their city to the outside

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[84] Davidoff and Hall, *Family Fortunes*, p.199

[85] *SACA*, 28 May 1831.

[86] *SACA*, 10 March 1824.

[87] ibid.

[88] *SACA*, 10 March 1824

world, claiming that in "the vast Continent of Africa, *the Cape of Good Hope* is the only respectable and flourishing Settlement of Civilized men."[89]

The spatial organisation of the public sphere.

The public sphere existed not only within the boundaries of print, but also within the urban space of the city. It was necessary for the appropriate sites of assembly to be constructed within which men of status could encounter each other and disseminate their public ideas. Public discourse was intimately connected to a certain kind of space, which facilitated its production. Thus, as I have argued in the introduction to this chapter, it was necessary to the elaboration of the rational public sphere for the urban landscape of Cape Town to be fundamentally rearranged.

The cultural entrepreneurs who promoted the development of the public sphere in the Cape took their cue explicitly from that of Enlightenment Europe, and the shifts in urban space in the city had similar European antecedents. During the course of the eighteenth century there had developed in Europe an important political and literate culture centred around reading clubs and coffee houses, which provided a social foundation for a distinct variety of bourgeois culture.[90] The high cost of an emerging print culture encouraged communal reading in the form of subscription services, public libraries, reading rooms, coffee houses and clubs.[91] This situation was exacerbated at the Cape by

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[89] *SACA*, 31 October, 1832

[90] Darnton, R. *The Kiss of Lamourette: Reflections in Cultural History* (London and New York, 1990), p.170

its spatial remove from the cultural centres of Europe, whose publications were in limited supply and arrived at irregular intervals. For this reason, it seems appropriate to consider reading in Cape Town during the early decades of the nineteenth century as having a strongly communal character, catered for by the coffee houses and reading rooms which sprang up from the 1820s.[92] Communal reading processes in sites of discourse such as coffee houses allowed for the free exchange of ideas and the forging of class links which were crucial to the establishment of both middle-class identity and political strength. The sites of social assembly in which printed matter was read provided the focal points in a web of information dispersal which spread over the entire city.

Institutions such as coffee houses were set up in bourgeois consciousness as respectable - in opposition to meeting places such as taverns - and combined an accessibility which was perceived as democratic, with a cleansed discursive environment.[93] Sites of middle-class assembly were set against the unacceptably irrational, and possibly dangerous, recreation of the city's underclass. The development of such institutions as the South African Library and the Commercial Exchange provided sites of rational assembly where the social bonds necessary to the creation of a public sphere might be forged. The building of the Commercial Exchange [**Fig 4**] was completed in 1822 and conformed to the neo-classical architectural ideals of the new British-orientated dispensation. As

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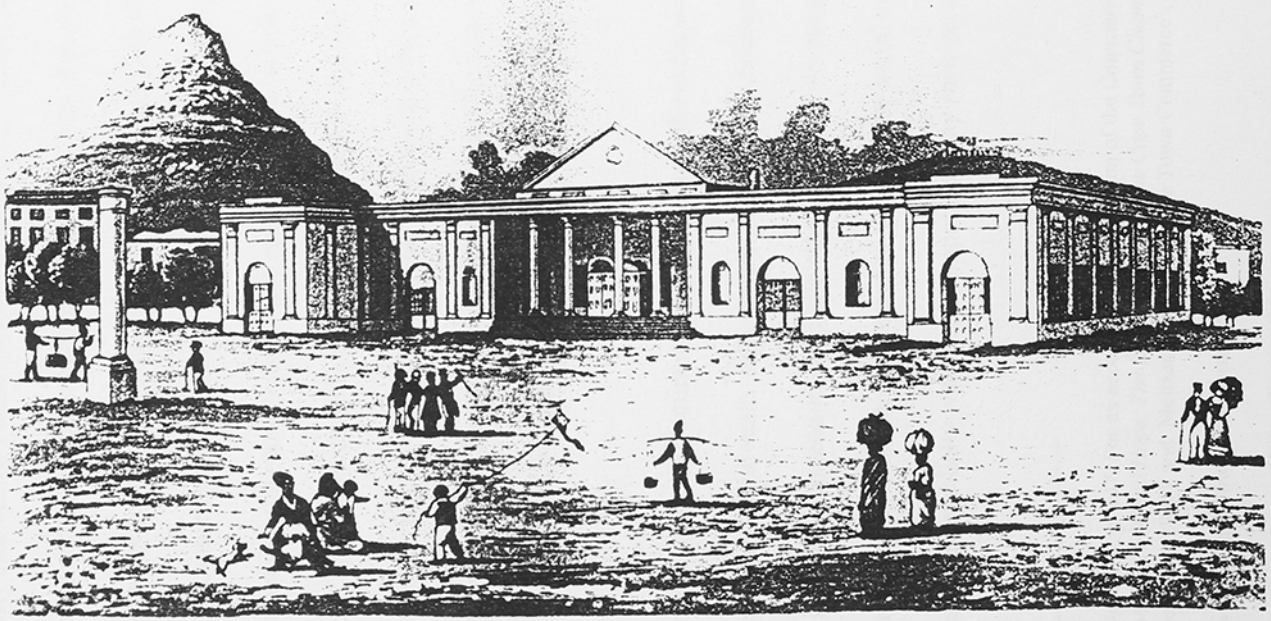
[91] Landes, *Women and the Public Sphere*, p. 51

[92] William Bird gives a caustic account of the Cape coffee-rooms "where stale newspapers and pamphlets are to be read" and news discussed. *State of the Cape of Good Hope in 1822* (London, 1822), p. 149 - 150

[93] Stallybrass and White, *Politics and Poetics of Transgression*, p.97

Figure 4



COMMERCIAL EXCHANGE.

contemporaries recognised, the scale of the building - far too large for its intended purpose - was a symbol of the new-found social and economic confidence of a group of rising merchants with strong links to British capital.[94] The building "rapidly became a centre of economic and social life for white middle class Cape Town".[95] As well as housing the newly established Public Library (founded in 1818), public meetings, celebratory dinners and subscription balls were held there. The importance of the Commercial Exchange to the social world of the Cape elite was such that Trapido has referred to it as "businessmen's alternative to representative government."[96] Spatially, it was designed as an unambiguously masculine space in which women were present only in the role of spectators. In 1831 a gallery was added to one end of the centre room with the specific intention of allowing women to watch public meetings.[97] While they thereby provided the audience before which middle-class men enacted their public role, they could not, however, present a danger of actual participation.

The public dinners held at the Commercial Exchange were the occasion for middle-class male bonding on a substantial scale. A Commercial Dinner was held annually and allowed for an important expression of middle-class solidarity. As the gallery for women constructed in the Commercial Exchange suggests, the social occasion itself might be exclusive, but publicity was equally important. Any such occasion would be

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[94] Bird, *State of the Cape*, p. 147. For an account of the foundation of the Commercial Exchange see Immelman, R.F.M. *Men of Good Hope: The Romantic Story of the Cape Town Chamber of Commerce, 1804 - 1954* (Cape Town, 1955), and Meltzer, 'Growth of Cape Town Commerce', p.30

[95] Meltzer, 'Growth of Cape Town Commerce', p.68

[96] Trapido, S. 'The Emergence of Liberalism' p. 36

[97] Immelman, *Men of Good Hope*, p. 54

announced in the press beforehand, and a detailed description of the event, which included the names of the principle attendants, and stewards[98], would follow. The public dinners were marked by ritualised speeches, songs and toast drinking and served to signify to the world at large who those individuals were who could be included within the ranks of the social elite.

The reorganisation of commercial culture.

The spatial development of the public sphere was intimately connected to changes in the practice of commerce in Cape Town. The building of the Commercial Exchange was the most visible symbol of the changes which were taking place in the culture of commerce during the course of the early decades of the nineteenth century in the city. The first decades of the nineteenth century saw an increasing formalisation of commerce in Cape Town.[99] As free trade policies were gradually established by the incoming British administration, merchant firms with strong connections to Britain were set up in Cape Town.[100] This contrasted with the situation in the city through much of the eighteenth century. Although the VOC granted monopolies to certain powerful Cape

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[98] Davidoff and Hall have seen the appointment of stewards at public dinners in Britain as a way of young men serving their apprenticeship for public roles, and announcing their inclusion within the ranks of the social elite. *Family Fortunes*, p.441 - 442.

[99] On this process see in particular Immelman, R.F.M. *Men of Good Hope*, Meltzer, 'Growth of Cape Town Commerce' and George, M. `John Bardwell Ebden: His Business and Political Career at the Cape, 1806 - 1849' MA thesis, UCT, 1980.

[100] Meltzer suggests that by the 1830s British merchants were the dominant, although not the exclusive members of this group. 'Growth of Cape Town Commerce', p. 22 - 23 Ross makes the persuasive point that, in the early years of British rule, the most successful merchants were British men who allied themselves through intermarriage with established Cape families. Ross, 'The Cape of Good Hope and the World Economy: 1652 - 1835' in Elphick and Giliomee, *Shaping*, p.265 - 266

burghers for the provision of supplies to passing ships, and to the city itself, much commercial activity in Cape Town was practised informally and was integrated far more fully into domestic life.

Many visitors remarked upon the fact that the Cape Dutch were preoccupied with commercial concerns in the midst of their family life. Robert Semple, writing of the Cape in 1800, argued that the Cape Dutch were occupied with "entirely commercial" matters and that if any two met together (especially if they were women) then the first topic of conversation was commerce. The private sphere of the home was neglected for the public sphere of commerce:

> A good housewife is esteemed here, not so much from her attention to her household, as from her knowledge of the prices of different articles of merchandise, and in what quarter of the town to look for them; and the rearing of children or the management of slaves is in comparison but a secondary consideration.[101]

This rejection of Dutch business practices and gender relations should be connected to the discussion above relative to colonial rivalry between British and Dutch. Semple, for one, was extremely critical of Dutch colonial society, especially with reference to slavery and the role of women. It is necessary to turn to other sources to look at the manner in which informal Cape Dutch commerce operated. Otto Frederick Mentzel, who lived at the Cape from 1733 to 1741 and was very much part of its social world, gave a detailed account of the manner in which this female involvement in informal

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[101] Semple, *Walks and Sketches*, p.24

commerce operated in Cape Town. Owing to the fact that trade was officially the monopoly of the VOC, most private trade was conducted casually out of the houses of burghers or Company servants.[102] A variety of goods were kept in private houses, which changed frequently according to supply, and it would soon became known in the town where such goods could be purchased.[103] Because of the surreptitious nature of much of this unofficial trading, stated Mentzel

> the actual disposal of the purchases rests largely with the wives; the burghers usually practice a definite and regular craft such as that of black-smith, joiner, shoemaker, tailor and so forth, while their wives often earn more than they by means of trading.[104]

Mentzel's description of Cape commerce is borne out by the inventories of the period. Antonia Malan's analysis of the probate inventories of eighteenth-century houses in Cape Town indicates that substantial numbers of high-status houses in the city during the period 1740 - 1780 used front rooms as retail stores as well as living rooms[105] and she stresses the fact of "the complete physical integration of commerce into the domestic environment" at this time.[106] The existence of multi-purpose front rooms

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[102] As Robert Ross has demonstrated, the monopoly of the VOC over trade was by no means total but, as Lalou Meltzer had rightly pointed out, its policies were in general antithetical to the development of a class of private entrepreneurs. See Ross, R. 'The Cape of Good Hope and the World Economy' and Meltzer, `Growth of Cape Town Commerce', p. 17

[103] Mentzel, O.F. *A Geographical and Topographical Description of the Cape of Good Hope.* Vol. 1. Van Riebeek Society Translation Part Two. (Cape Town, 1925) First published 1785, p. 75 Lalou Meltzer has gives an account of the operation of trade under the VOC in 'Growth of Cape Town Commerce', and stresses that what was essentially smuggling "was so widespread and necessary that smugglers were not scorned as criminals." p.19

[104] Mentzel, *Description*, p.80

[105] Malan, A. 'Households of the Cape' p.67

[106] ibid, p.68

incorporating both domestic and commercial functions persisted into the early nineteenth century[107] but after about 1820 a shift in commercial practices took place with the emergence of retail shops and the separation of home and work.[108] The result was a decline in the direct involvement of high-status women in commercial activities, which can be related to a decline in the number of women in paid occupations during the period after 1820 - 1840 more generally.[109] By 1866, one long-time observer of commercial practices in Cape Town could claim "in this colony you may see continually that a large number of estates are made by the women; not so much now as they used to be, because the women do not work so much as they used to do."[110]

Eighteenth-century Cape commerce, therefore, was conducted on the very opposite lines to that which the establishment of a nineteenth-century British-orientated bourgeois culture at the Cape encouraged. It blurred the separation between home and work, its commercial activities were often surreptitious, if not illegal, and it allowed middle-class women a degree of personal involvement in the enterprise which was coming to be considered increasingly inappropriate amongst the British commercial elite during this period. As was the case in Britain, the formalisation of commerce in

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[107] ibid, p.100

[108] ibid, p. 181

[109] Erlank, 'Letters Home', Appendix 2. p. 228 - 230

[110] Cape of Good Hope, Governor and Legislative Council. *Report of the Law of Inheritance Commission for the Western Districts.* G15 - 65 (Cape Town, 1866), p.125 Testimony of William Smith, public servant, conveyancer and general agent. He does not exactly specify what he means by the 'making' of estates, but from the context of the discussion it appears that the commercial activities are wives, along the lines that Mentzel describes, are referred to.

Cape Town, led to a marked decrease in the involvement of women in the business enterprise.[111]

Britain had experienced a similar shift from domestically based commerce to a separation of home from work. Despite this, the involvement of women in commercial activities and the interconnection of domestic and commercial space could be associated, at the Cape, with Dutch business practices, and therefore branded as backward. Associating 'respectable' women with their removal from the public sphere of economic activity could also carry a racial element. By inscribing respectability for white women as their position within the home, and their separation from the economic enterprise, their difference from black women, whose economic circumstances frequently forced them into the public sphere, could be underlined.[112] Rejection of Dutch business practices was also one more way in which British settlers could stigmatise Dutch colonial society as one marked by gender confusion and therefore social disorder.

Separating home and work was one way, in both Britain and the Cape, of neutralising the persistent social stigma attached to 'trade', from which so many of the city's middle class maintained their economic position.[113] Whilst the Cape Dutch were not

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[111] For a description of the manner in which the formalisation of commercial activities in Britain acted against women's involvement see Hall, *White, Male and Middle Class*, p.120

[112] On the attempt of freed married women to withdraw from waged farm work see Scully, 'Liberating the Family?', p.254. Mason, 'Fit for Freedom', p. 568 Scully sees in this pattern "a certain conformity with British dominant gender ideology". p. 254 Mason sees in it a more positive attempt to increase the physical and psychological distance between freed families and the master and mistress.

[113] On the social suspicion attached to trade in England, see Davidoff and Hall, *Family Fortunes*, p.19 - 20

heir to the same squeamishness about involvement in trade, their British counterparts were clearly concerned by it. A separation between home and work and the economic dependence of one's wives and daughters came to be regarded as "powerful symbols" of middle-class status in Britain during this period, and those who could tried to achieve these ideals to a greater or lesser extent.[114] In a similar development, many Cape Town merchants built houses in the suburbs around Cape Town in the late 1830s, and Meltzer has speculated that the capital for this suburban expansion may have been linked to the compensation money paid out after emancipation.[115] If this is true, the adoption of the free labour practices of a reform-minded empire can be linked to the adoption of its domestic practices which allowed for the assertion of respectability in the separation of home and work.

The need to assert respectability through a separation of home and work and the creation of a domestic haven outside the bounds of the city was especially important in the circumstances of the Cape, where many metropolitan visitors sneered at the economic basis of the commercial class of the city's claims to elite status.[116] George Thompson (himself a merchant) defended the economic basis of the Cape Town elite by stressing that "however vulgar the notion of buying and selling may be"

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[114] Hall, *White, Male and Middle-Class*, p.110

[115] Meltzer, 'Growth of Cape Town Commerce', p.63 Even if Cape merchants were not directly slaveowners, Meltzer suggests that as agents for the transfer of compensation from Britain, and in less direct ways, they benefited from the economic boom that followed the infusion of the capital from compensation into the economy of the Cape. p.67 - 70 On the move to the suburbs and the architectural shifts which accompanied this at the Cape, see Lewcock, *Early Nineteenth-Century Architecture*, p.312

[116] On the importance of the garden setting for middle-class homes in England see Davidoff and Hall, *Family Fortunes*, p.370 - 373. On the use of the garden at the Cape, and its importation, when possible, into the city centre itself, see Lewcock, *Early Nineteenth-Century Architecture*, p. 313 - 318

these activities were useful in promoting "the interests of an infant society" and should therefore not be subjected to ridicule.[117] Nevertheless, visitors continued to undercut colonial claims to social respectability and elite status by pointing out the reliance of such groups on involvement in trade.[118] R.S. Dobbs, who visited the Cape in 1840, gave an account of the social slights which could be inflicted upon those whose wealth came from trade[119] and he criticised the ambiguous social practices which allowed the acceptance of those termed 'merchants' but denied others whose work was almost indistinguishable, from certain ranks of society.[120] In spite of the separation between home and work, the persistence of public auctions as the major method of disposing of goods in the city resulted in circumstances which compromised the social status of merchants in the eyes of their metropolitan visitors. Describing the conduct of public auctions at the Cape, Edward Blount noted:

> They are usually held in the open street; and it is considered as nowise derogatory to the dignity of a merchant, to be seen at the auctioneer's elbow, displaying Bandana handkerchiefs, bundles of thread, or such like articles; or standing with a goose-quill behind his ear ... ready to note down the names of the different purchasers of his wares. It was in this gentlemanlike situation, that I discovered, to my surprise, one of the most respectable and opulent merchants of the town, in whose company I had dined the previous evening.[121]

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[117] Thompson, G. *Travels and Adventures in Southern Africa.* (London, 1827), p.383

[118] English disparagement of the commercial basis of the power of the metropolitan Dutch had a long history. For an account of the seventeenth century see Schama, S. *The Embarrassment of Riches: An Interpretation of Dutch Culture in the Golden Age.* (New York, 1987), p. 258 - 261

[119] He gives an account of a proud young woman who was an intimate of Government House, and who was snubbed by a social rival who made pointed reference, before the Governor's wife, to buying things at the shop belonging to the young woman's father. Dobbs, R.S. *Reminiscences of Life in Mysore, South Africa and Burmah.* (Dublin, 1882), p. 176 - 177

[120] ibid, p.177 - 178

[121] Blount, E. *Notes on the Cape of Good Hope, made during an excursion in that colony in the year 1820.* (London, 1821), p.100 - 101

It was in such circumstances, which blurred the boundaries of the elite and the common in the operation of colonial business, that another visitor, A.W. Cole, could remark that "the very idea of exclusivism in colonial society had never for an instant struck me."[122]

Exclusivism, subscriptions and the public sphere.

Cole's refusal to accept the idea of exclusivism in colonial society struck at the heart of Cape Town's middle-class irritation at the intrusive gaze of metropolitan visitors. A certain "Indian" visitor[123] had published critical remarks about the Cape in a British newspaper in Calcutta, the *Bengal Hurkaru*, in which he expressed surprise that he had not been granted access to the homes of the colonial elite. This prompted a bitter denunciation by Fairbairn, on the refusal of visitors to respect the social exclusivity of Cape colonial society.[124]

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[122] Cole, A.W. *The Cape and the Kafirs*, p.63 This was in response to a complaint from a women in Port Elizabeth that elite society in Cape Town was "a very mixed set", meaning that it consisted of a mixture of English and Dutch as opposed to the more exclusively British society of the Eastern Cape. He later has a joke at this women's expense when he encounters the man who had sold him gloves a few hours ago at a ball at her house - "And I was in the house of the fair one who talked sneeringly of mixed society!" p.75

[123] British civil servants and military personal could visit the Cape on sick leave without the loss of pay they would experience if they returned to Britain. [Hattersley, *Illustrated History*, p.90] They were therefore an important, though transient, part of middle-class society at the Cape during this time. They were referred, by the citizens of the Cape, and by themselves, as 'Indians' or 'Hindoos', the later possibly resulting from the word 'Hindustan'. I am grateful to Richard Drayton for suggesting this last point.

[124] *SACA*, 13 October 1830.

Ritualised visiting at the Cape was an important way of forging social links and delineating the boundaries of the elite, and had been even in the eighteenth century.[125] It was part of a range of ways by which the middle-class set themselves apart from undesirable social elements in the city. That a visitor from another colony could disregard these conventions, and refuse to play by these rules of reciprocal social recognition, struck at the heart of the middle class's sense of itself as an exclusive group with claims to honour and respectability. Fairbairn's hyper-sensitivity to the criticisms of a visitor from what certain contemporaries saw as a more socially sophisticated English colony[126] reveals the limits to the colonial self-confidence of the city's middle class. It also points us to consider the way in which the public sphere, although theoretically open to access by all, was in fact bounded by a series of social practices that guaranteed its exclusivity.

The use of subscription lists to link individuals in various endeavours was an important means by which the social exclusivity of the middle class could be assured. Connecting various acceptable individuals, subscription lists helped to define and limit the boundaries of the public. They were used for a variety of purposes - to raise money, for societies and other mutual associations, and for balls and other leisure activities. The means by which subscription lists operated to delineate the boundaries

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[125] On visiting among the eighteenth-century Dutch see Mentzel, *Description*, p. 107. Lady Ann Barnard's attempts at cultural influence were jeopardised by her failure to take account of this delicate system of social protocol. Robinson, *Letters*, p.57. For the Cape in the nineteenth century see Erlank, N. `Circulating in Cape Town', p. 86 - 87 On ritualised calling in Britain see Davidoff, L. *The Best Circles: Society, Etiquette and the Season.* (London, 1986), p. 41 - 46. On the transference of this system to the colonial context of Australia see Russell, P. *'A Wish of Distinction': Colonial Gentility and Femininity.* (Melbourne, 1994), p. 50 - 55.

[126] The *Advertiser* paid tribute to the cultivation of the Hindoos on 13 October 1830 even as he attacked the views of that one critic.

of the respectable, and the effect which this had on the operation of colonial politics in Cape Town will be explored in depth in chapter seven. One aspect of middle-class leisure which used subscription lists very overtly to limit the ranks of the public was the theatre, and it is useful to pay this process greater attention. The theatre's social ambiguity highlights the means by which subscription lists asserted exclusivity in the colonies, and could sanitise a potentially disreputable social space.

One of the first public buildings to be erected by the British administration during the First British Occupation was the 'African Theatre', which opened in 1801. The cost of building this grand structure (which, significantly, was initially designed to hold only the more exclusive boxes[127], and no pit) was one of the facts which told against the governor, Sir George Yonge, when his handling of public money was investigated by the metropolitan government.[128] Anxieties about the disorders attendant upon the theatre predate the construction of the African Theatre by Sir George Yonge. Andrew Barnard received advice from the governor-general of India as to the dangers of establishing a theatre in the newly-British colony of the Cape, since it would act adversely upon the hegemony of the British colonial state "by rendering the younger branches of the Public Service indolent, dissipated, and intractable, in place of active, industrious and obedient; by encouraging profusion, the parent of profligacy".[129] This

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[127] A pit was added in 1804 because of financial constraints. Fletcher, J. *The Story of Theatre in South Africa: A Guide to its History from 1780 - 1930.* (Cape Town, 1994), p.33

[128] ibid, p.26

[129] SAL MSB 761, R.C. Wellesley Collection, R.C. Wellesley, Earl of Mornington, to Andrew Barnard, October 1800. It is noteworthy that Wellesley also noted that a colonial press was "a dangerous Engine, unless under the absolute control of the Government".

theme of potential social disorder in connection with the theatre persisted into its early history at the Cape, and the middle class developed various strategies to deal with it.

A Dutch visitor to the Cape in 1824 remarked that the Cape women attended the African Theatre in such flimsy garments that they appeared "almost completely naked" and he implied that their morals were as immoderate as their dress.[130] The local Dutch press also provided a forum for religious criticism of the theatre[131], despite the fact that this was also a time of great productivity for Cape Dutch playwrights, who both translated existing plays and wrote their own.[132]

To avoid such criticisms was obviously of foremost concern to those who wished to attend the theatre *and* assert their own respectability. One way of doing this was to insist upon the amateur status of the productions. During the whole of this period, theatre in Cape Town was almost completely amateur in character, and many women's parts were taken by men. This amateur status can be related to the degree of anxiety which existed in middle-class minds about the respectability of the Cape theatre and their desire to keep it class-specific.[133] A second way of asserting the

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[130] bijna geheel naakt. Teenstra, M.D. *De Vruchten Mijner Werkzaamheden, Gedurende Mijne Reize, Over de Kaap de Goede Hoop, Naar Java, en terug, over St Helena, naar de Nederlanden.* Van Riebeek Society Edition. (Cape Town, 1943), p.185

[131] The *NZAT* published several direct, and implied, attacks upon the theatre in the 1820s. In September 1826 it published 'Iets over het Dansen en de Toeneelspelen' [Something on Dancing and Acting] which criticised these activities from a moral perspective. The dialogue on the upbringing of children in January-February, 1826, also attacked parents who allowed their children to attend the theatre. Both pieces were by the same author, who used the pseudonym 'Serieus'.

[132] See Bosman, F.C.L. *Drama en Toneel in Suid-Afrika, Deel 1: 1652 - 1855.* (Amsterdam, 1928)

[133] A report on a theatrical performance in 1824 went so far as to portray the relationship between actors and audience as one between host and guests, therefore laying emphasis on the class-specific nature of the activity. *SACA* 14 April, 1824.

theatre's respectability was for an amateur theatre company to obtain the patronage of a prominent member of Cape society, usually the Governor, whose name was always prominently displayed in the advertisements for their productions.[134]

The use of subscription lists instead of allowing tickets to be indiscriminately purchased was the most overt way of limiting the theatre audience to the ranks of the respectable. One advertisement went so far as to note that this policy was adhered to "to avoid disorders".[135] In this way, the underclass, or those not deemed sufficiently respectable, were systematically removed from the social spaces within which people of refinement encountered one another. William Bird noted that

> None of doubtful appearance are admitted to those seats in the theatre where, by their behaviour, they might put modesty to the blush; nor are the eyes of innocence offended by the effrontery of immodest women, or of men heated by intemperance.[136]

In 1829, after certain disorders at the theatre, all slaves and free blacks were expressly prohibited from attending and policemen were stationed at the theatre under orders from the manager to keep them out.[137] On 18 July 1829, an advertisement for the Dutch Amateur Theatre Company stated that "No Slaves or Free-blacks will be admitted to the Gallery",[138] a circumstance which suggests a racial element to the

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[134] This was also a strategy made use of in Britain. See Davidoff and Hall, *Family Fortunes*, p.438

[135] Notice by "The Private Dutch Theatrical Company", *SACA*, 28 May 1831.

[136] Bird, *State of the Cape*, p.167

[137] Elks, K. D. 'Crime, Community and Police', p.66.

[138] *SACA*, 18 July 1829.

definition of respectability. Ticket sale by subscription alone was a more subtle and less confrontational method of keeping the audience of the theatre racially and socially exclusive and was a common enough practice to have been satirised by the theatre world itself. In 1834, Charles Etienne Boniface wrote a play in which the drama centred around the social consequences of being excluded from subscription lists. The play is based upon the premise of the use of subscription lists to delineate the boundaries of the respectable, indicating the acceptance of this idea by the audience itself.

The comedy, *Clasius Stupidibus Bavianus: Het Proces om een Komedie Lootje*[139] was written as a result of a feud between two playwrights in Cape Town. The protagonist, Clasius, was a thinly disguised caricature of J. Suasso de Lima (1791 - 1858) who had arrived at the Cape in 1818, having been born in Amsterdam of Portuguese-Jewish descent. Once at the Cape he involved himself in a variety of activities, mostly in teaching, publishing, literature and the theatre.[140] The author, Charles Etienne Boniface, was born in France, and lived at the Cape from 1807 until his death by suicide in 1853. Boniface contributed extensively to South African drama by his work - both original pieces and translations - in Dutch and French.[141] Although initially friends, Boniface and de Lima soon fell out with one another, probably because of Boniface's difficult personality.[142]

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[139] SAL MSB 2, C.E. Boniface Collection. The subtitle of the play entitles it "The Case about a Comedy Ticket".

[140] Fletcher, J. *Story of Theatre*, p.48, Bosman, *Drama en Toneel*, p. 257 - 61.

[141] Bosman, *Drama en Toneel*, gives a list of his extensive works on p.124

[142] Fletcher, *Story of Theatre*, p.48, Bosman, *Drama en Toneel*, p.259

de Lima laid himself open to ridicule by Boniface through his domestic arrangements, which will receive further attention in chapter four. He left his wife in 1825 and went to live with two spinsters in Cape Town, Anna and Magdalena (Leentje) Theron, an occasion which caused much gossip in the town. Being particularly close to Magdalena, de Lima's relationship with her was ridiculed in *Clasius*, the plot of which involves a child-like Clasius who lives in the house of a shrewish domineering landlady, Leonora Klipkuil, who is described as his "protector".[143] The play opens with Clasius absent for the purpose of gaining a subscription ticket for the theatre. Leonore claims that "he has a right to it [the ticket], for his money, just like every respectable and decent person" and that he will insist that he gets a ticket since "his reputation now depends upon it."[144] Clasius, of course, is refused a subscription ticket, which is an unmistakable denial of his claims to respectability. As a result, he decides to bring charges of defamation against those who have refused to include him on the subscription list. He enlists the services of the crooked English lawyer, James Lawshark, whose massacre of the Dutch language allows the author to poke fun at English immigrants. Lawshark charges an exorbitant amount for his legal services, and produces a string of inappropriate witnesses in court - one of whom is Clasius' (de Lima's) abandoned wife and child - who only do further harm to his client's reputation. Clasius, however, asserts the importance of sacrificing all to bring the court case: "It can't be helped, Leentje Love, a right-thinking person must offer up

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[143] beschermster. C.E. Boniface Collection, cast of characters.

[144] *Clasius,* p.7. Hy heeft er aanspraak op, voor zyn geld, zoo als elk fatsoenlyk en ordentelyk mensch. ... Zyn reputatie hangt thans er van af.

everything to his good name."[145] Needless to say, Clasius looses the case and has to be helped out of his resultant financial difficulties by his associates.

The play reveals the importance of subscription lists as a way of signifying respectability in Cape Town. An alternative title given when advertising the play was *De Gekwetste Reputatie* [The Injured Reputation][146], indicating clearly that the play was essentially about the construction of respectability. The satire of the production could only work if its audience accepted the fact that subscriptions lists were used by the citizens of Cape Town as a mark of social status - failure to be included denied one claims to respectability. Whilst particularly concerned with the theatre, and its social ambiguity, subscription lists were used in many different aspects of life in Cape Town, and allowed the ranks of the public to be defined in an appropriate, and exclusionary, way. These mutual associations, delineated through subscription lists, were as much about including the appropriate as excluding the socially undesirable. They allowed the pursuit of publicity with a simultaneous sense of privacy and exclusivity.[147]

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[145] ibid, p.42. Het kan niet helpen, Leentje Lief, Een weldenken mensch moet alles aan zynen goeden naam op offeren.

[146] Bosman, *Drama en Toneel*, p.322

[147] On the importance of this central ambivalence in mutual associations to the creation of bourgeois identity in provincial France see Harrison, C.E. 'The *Esprit d'Association* and the French Bourgeoisie: Voluntary Societies in Eastern France, 1830 - 1870' D.Phil thesis, Oxford University, 1993, especially p.205 and p.212

Conclusion.

This chapter has tried to delineate various aspects of spatial and social change in Cape Town over the course of this period. It argues that the change in character of both the face of the city and of its middle class were interdependent. Shifts in architectural styles and the spatial organisation of the city were indicative of a changing cultural climate which was becoming increasingly influenced by British norms. The cultural encounter between Dutch and British settlers was expressed both through spatial images of movement and stasis and through a perception of differing masculinities and femininities. The establishment of the rational public sphere, most especially in the form of the press, and the formalisation of business practices can be associated with an increasingly important public role for men which would form the basis for claims for representative government. The nature of this new system meant, however, that women, were becoming increasing separated from this emerging power base. The Cape Town middle class presented a vision to the outside world of themselves and their city which stressed environmental improvement and social maturity. The following chapter will explore how this image could be undercut by fears about dirt, disease and underclass disorder. It will also critically examine the ideology of separate spheres to indicate the manner in which domestic related concerns influenced public politics and the roles which men and women took up in social reform.

Chapter Three:

Middle-class domesticity and social reform.

This chapter will look at perceptions of the middle-class domestic sphere in Cape Town and explore the ambiguities and tensions surrounding the elaboration of white bourgeois domesticity in the colonial context. The maintenance of an appropriate domestic sphere was a crucial element in the assertion of middle-class respectability. This endeavour had a double focus - it was directed both towards the family members within the home and to those forces outside this space which might impact negatively upon it. This chapter will therefore explore the efforts made by men and women to achieve domestic respectability by looking at both the education and socialisation of children and at the control and reformation of domestic servants. Public reform endeavours and the domestic sphere were connected inasmuch as many middle-class reform projects in Cape Town were ultimately aimed at protecting the moral and physical order of the home itself. Gender roles within the colonial domestic sphere also determined the manner in which men and women took up their places in public enterprises of social reform. The making of the bourgeois self within the home, therefore, crucially determined issues of public reform which sought to protect a racially sanitised space within which the white middle-class family could recreate itself. Domestic-related concerns configured life both within the home and within the public sphere - by influencing personal behaviour within the middle-class family as well as reform initiatives which were underpinned by a desire to protect this space.

The making of white middle-class community involved the proper upbringing of a new generation whose manners and morals could signify a distinct identity. As Ann Stoler has written in her discussion of the making of colonial identity in Dutch Asia, it was not simply biology or descent which categorised racial divisions - "what sustained racial membership was a middle-class morality, nationalist sentiments, bourgeois sensibilities, normalized sexuality, and a carefully circumscribed 'milieu' in school and home."[1] The possible biological ambiguities surrounding the 'white' middle class have been discussed in chapter one. I have showed in chapter two how inclusion in the public sphere was determined by the ability to conform to social practices which were perceived as respectable - and as European. A proper upbringing - in both school and home - was designed to inculcate a white cultural identity through the embrace of European cultural norms and the rejection of cultural attributes which troubled European identity. With reference to this process there were definitely articulated fears about the influence of black servants on white middle-class manners and morals. These were particularly expressed by visitors commenting on the characteristics of the colonial middle-class, but they also fed into Cape middle-class fears about the influence of the colonial sphere upon the respectable society they were seeking to construct. Whilst the work of black domestics was indispensable to the running of the middle-class home, it simultaneously threatened "a culture of whiteness that cordoned itself off from the native world".[2] Reform initiatives could be designed to minimalise this threat.

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[1] Stoler, A. L. *Race and the Education of Desire*, p.105

[2] ibid, p.112. Stoler's discussion relates to the East Indies.

Perpetuating the middle class: parenthood and education.

The proper education of their children was a persistent issue for middle-class parents and concerns about the difficulty of bringing up children in the colonial context were repeatedly expressed, especially by British immigrants.[3] By 1820, education of the elite in Cape Town exhibited a fairly chequered history, marked by the establishment and decline of a number of private enterprises for both English and Dutch children. As well as the use of private tutors at home, those few parents who could afford to do so sent their sons to complete their education in Europe, as they had during the Dutch period.[4] The foundation of an appropriate school to educate the sons of a rising colonial middle class in Cape Town was considered an important first step to the realisation of that groups' social and political ambitions.

The South African College was designed to meet this need and was founded in 1829 upon the initiative of a diverse group of influential men in Cape Town (many of whom were clergymen) and which included representatives of both the British and Dutch communities. It was financed initially by public subscription.[5] The importance of making the enterprise one which was based on both British and Dutch support was

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[3] An extensive history of education in Cape Town lies outside the bounds of this argument. On education in Cape Town see Malherbe, E. G. *Education in South Africa (1652 - 1922)* (Cape Town and Johannesburg, 1925), Ferguson, W.T. and Immelman, R.F.M. (eds) *Sir John Herschel and Education at the Cape 1834 - 1840* (Cape Town, 1961), Bradlow, E. 'Children and Childhood at the Cape in the 19th Century.' *Kleio* XX, 1988 and Bradlow, E. 'Women and Education in Nineteenth-Century South Africa: The Attitudes and Experiences of Middle-Class English-Speaking Females at the Cape. *SAHJ* 28 (1993), 119 - 150.

[4] On Dutch colonists sending their sons to be educated in the Netherlands see Mentzel, *Description of the Cape*, p.109, and Nahuys van Burgst, H.G. *Adventures at the Cape of Good Hope in 1806.* Translated and edited by M.A. Bax-Botha. (Cape Town, 1993), p.38

[5] Ritchie, W. *The History of the South African College 1829 - 1918.* (Cape Town, 1918), p.24

articulated from the outset and the school was presented as an important symbol of colonial unity.[6] The school was self-consciously intended for the education of a white, male, respectable colonial elite. It was open to white boys aged between 9 and 15 years.[7] Children of colour and those born out of wedlock were expressly excluded in the school prospectus.[8] Fairbairn, in his account of the opening of the school, which registered 115 boys in its first year of operation,[9] made much of the importance of a colonial reform-minded middle class educating its youth as a sign of social development and increasing liberty - claiming that the South African College was an institution of "the People".[10] When read against the provisions laid down in the prospectus, however, it is clear that this notion of the 'People' - or the public - was defined in terms of both race and respectability, as has been previously argued in chapter two. Whilst Cape Town was proving its reform-minded credentials to the world in setting up an institution which would prepare its male youth for their place in the civil system, the limits set upon whom might gain access to this state were explicit. The connections between racial identity and legitimacy are indicated by the prospectus of the school - the South African College was designed for the

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[6] For an account of the opening of the South African College, in which its establishment was praised in both English and Dutch see *SACA*, 3 October 1829.

[7] Most middle-class girls were educated either at home, or in small private schools in the city. An account of the state of education in the colony in 1832, stated that private schools in Cape Town for girls were of better quality than those for boys. *SACA,* 5 May 1832, letter from 'Emile'. One exception to this was the Dutch co-educational school 'Tot Nut van het Algemeen' (For the Benefit of the Public). Founded in 1805, the school had varied success and had to be re-founded in 1831. It was intended for primary education, and later became a feeder-school for the South African College. It became fully bilingual in 1840. Ferguson and Immelman, *Herschel and Education*, p.10

[8] Bradlow, 'Children', p.15 - 16

[9] Ritchie, *History of the South African College*, p. 48 and 848

[10] *SACA*, 3 October 1829.

socialisation of men who would take their place in the public sphere, and was thus intended for the inculcation of civic virtues. The restrictive nature of 'the public' - masculine, white and legitimate - was reproduced in miniature within the boundaries of the school to ensure a sanitised space for the education of a white middle class.

Despite the self-congratulatory tone of the *Advertiser* upon the opening of the South African College, the school was to have a chequered career over the course of this period. There were frequent problems with the fact that the children admitted did not have sufficient grounding in elementary education, which meant that the professors were unable to give the required attention to the advanced teaching which was the stated aim of the college.[11] The financial position of the school also remained precarious[12] and teachers were difficult to obtain.[13] Over the course of the 1830s and 1840s, the numbers attending the school dropped dramatically, reaching an all-time low of only sixteen pupils in 1840. During the late 1840s, however, numbers picked up again and remained at around 100 pupils for the next few decades.[14] In 1838, the *Advertiser* noted that a government grant of £200 per year had been awarded to the South African College to try to arrest its decline. The article gave further expression to the perceived importance of education in grooming a colonial male elite to take their places at the head of society.[15]

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[11] Ritchie, *History of the South African College*, p.72

[12] ibid, p.81

[13] ibid, p.109

[14] ibid, p.848

[15] *SACA*, 7 February 1838.

Despite the role which the South African College was designed to play in the construction of a colonial leadership, it evidently failed in this capacity. Bishop Gray, when setting up his private school, the Diocesan College, in 1850, wrote that the South African College "has long, and very generally, been regarded as almost useless."[16] He claimed that it had been unable to get the middle-class inhabitants of the city to send their sons there as paying pupils. In 1847 a correspondent to the *Advertiser* complained that "the unfortunate College happens not to be fashionable."[17]Even the rigorous promoters of the South African College, liberal-minded men such as John Fairbairn, John Philip, and H.E. Rutherfoord, rejected colonial education and sent their sons, at great financial and emotional cost, to be educated in Britain. They also reported the sacrifices which their friends made to do the same.[18] Returning a son to the proper social environment of the mother country evidently remained an important method for British immigrants of asserting one's elite status. For tertiary education, this was inevitable, but this process was not just an academic issue - it was also a cultural one. The Cape Dutch also continued to send their most promising sons to be educated in the Netherlands over the course of the period and leading members of the local professional class were typically trained at

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[16] Gray, R. *A Journal of the Bishop's Visitation Tour through the Cape Colony, in 1850.* (London, 1852), p.210

[17] *SACA*, 23 December 1847, letter from 'A Citizen'.

[18] The correspondence of the Fairbairn, Philip, and, especially, the Rutherfoord families indicates the financial sacrifices made to send sons to be educated in Britain as well as a persistent dissatisfaction with colonial educational institutions, which, Jane Philip noted, were "not of the first order". University of the Witwatersrand (Wits), Philip Family Papers, A85. Jane Philip to Miss Wills, 29 March 1844. See also Wits, Fairbairn Family Papers, A663 and SAL MSB412 H.E. Rutherfoord collection.

Dutch universities.[19] The colonial milieu, therefore, was in a certain sense hostile to the inculcation of proper white middle class values for children - particularly for boys who would take up a role in the leadership of Cape society. Samuel Hudson, when describing what he considered to be the depraved conditions in which colonial youth was reared (of which more below) claimed in the early years of the nineteenth century that the "only chance of preventing the Evils attendant on such a bad beginning is to send them to Europe for a few years."[20]

The fear that children would not grow up as proper Europeans and thus as proper citizens (fitting inheritors of the rational public sphere explored in chapter two) was therefore an issue for middle-class parents in the Cape colony. Faced with the inadequacies of colonial education, a sense of the contamination of upbringing in the colonies, and the expense of sending children to be educated in Europe, the middle-class home was particularly important as the site of children's socialisation and the inculcation of respectability. The *African Journal*, for example, gave explicit expression to the idea that home was the ultimate place for the social construction of the respectable child. It set out the important role of women within the home as the major moral influence on the upcoming generation. [21]

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[19] Bank, 'Liberals and their Enemies', p. 144 - 5.

[20] Shell, R. 'Samuel Hudson on Marriages and other Customs at the Cape' *Kronos* 15 (1989), 49 - 57, p. 52.

[21] *African Journal*, 6 February 1851.

That certain women in Cape Town were in agreement with this conception of their social role is indicated by the formation in the 1835 of a Maternal Association, which appears to have been under the direction of Jane Philip, and to have involved the participation of evangelically-minded mothers, both British and Dutch, in Cape Town.[22] A surviving speech before the Maternal Association of Jane Philip indicates that this group encouraged members to strive for better motherhood and emphasised the importance of the moral and spiritual education of their children.[23] The Maternal Association stressed that a wife's role was to bring her children up as Christians and thus to perpetuate the Christian family within the colony.

The *Tijdschrift* also gave space in the early years of its publication to instructional literature on the important role of parents in the moral educational of their children.[24] It stressed the fact that the "upbringing of children is an affair which is important not only to fathers and mothers, but also to general society."[25] The guiding-figure in the fictional dialogues on the education of children, *Redelyk* (Rational), advises his relatives that parents are the proper people to take responsibility for the religious and moral instruction of their children.[26] In both the Maternal Association and the

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[22] The only sources currently available on the Maternal Association are the letters of the Fairbairn and Philip women during this period. See Wits A85 and A663. It is not known how long this association was in existence.

[23] Wits A85

[24] The Cape Town Maternal Association and the sentiments expressed in the *Tijdschrift* prefigure later movements amongst the Dutch Reformed Church during the evangelical revival of the 1860s. See du Toit, Marijke. 'Women, Welfare and the Nurturing of Afrikaner Nationalism', p. 30 - 38.

[25] *NZAT*, May - June, 1825, p.161. De opvoeding van kinderen is eene zaak, waaraan niet slechts huisvaders en moeders, maar teffens het algemeen veel gelegen legt.

[26] *NZAT*, March-April 1826, p.109.

Tijdschrift the moral rather than the intellectual facets of children's education were stressed. Similarly, Rutherfoord felt that religion and morality were more important elements of his son's education than intellectual prowess.[27] These formulae point to the important religious element in the construction of a respectable family as well as to the vital cultural component of formal education.

Reminiscent of these prescriptions for childrearing - which were framed similarly in both the English and the Dutch colonial press - the letters of British immigrants describing their domestic life stress the importance of mothers in the education and socialisation of their children. Cheated of her desire to set herself up as a teacher before her marriage (of which more below) Eliza Fairbairn wrote extensively of her efforts to educate her own children, and of her dissatisfaction with the public education for small children available in Cape Town.[28] For mothers to be intimately involved in the education and socialisation of their children, it was necessary for them to have aid within the domestic sphere. Eliza Fairbairn noted in particular that she employed more domestic servants when her children's educational needs substantially increased.[29] The employment of domestic servants could act as an indicator of middle-class status as well as being a crucial aid to the maintenance of an appropriate domestic haven from the external world. The domestic servant, however, potentially

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[27] SAL MSB412. H.E.Rutherfoord to Mary Ann Smith. 9 February 1848. On religious influence in his sons' education, and his fears regarding high church doctrine see MSB412. H.E. Rutherfoord to Ebenezer Smith, 30 April 1846.

[28] See in particular Wits A663, Eliza Fairbairn to Mary Christie, 16 July 1836, SAL MSB232, Sir Thomas Maclear Papers, Eliza Fairbairn to Mary Christie, 10 June 1835, SAL MSB412, H.E. Rutherfoord collection, Eliza Fairbairn to Mary Ann Smith, 29 March 1838.

[29] MSB 412, Eliza Fairbairn to Mary Ann Smith, 29 March 1838.

encapsulated in his or her person the intrusion of a threatening cultural world into the white domestic sphere. Servants played an ambiguous role in the middle-class psyche since they both protected and threatened the respectable body - of the self and of the family. As such, the figure of the domestic servant provides a useful avenue to explore the links between public reform and domestic purity in the colonial context. Such a discussion indicates how domestic related concerns configured both home and public life.

Domestic service, slavery and the family.

Domestic labour in Cape Town was performed mainly by black women, despite the desire of white employers to encourage white immigration for the purpose of domestic service.[30] The colonial situation arguably exacerbated concerns about contamination from the underclass (which were already evident in metropolitan middle-class cultures) because of the greater socio-cultural divisions which separated black domestic servants and white employers.[31] White domestic servants could also cause problems for middle-class employers since the racial structure of colonial society meant that they could make the attempt to rise out of personal service. It was complained by the *Advertiser* that female domestic servants married very quickly after

[30] Boddington, Erica. 'Domestic Service: Changing Relations of Class Domination 1841 - 1948. A Focus on Cape Town'. Masters of Social Science, UCT, 1983, p. 48 - 49.

[31] Ann Stoler discusses the connections between metropolitan and colonial concerns about the interaction between domestic servants and employer's families in *Race and the Education of Desire,* chapter five. Her footnotes provide a useful guide to the literature on the European situation. As is argued below, the institution of slavery increased uneasiness (especially of European observers) about the place of domestic servants in the white home, although the desire to reform the character of domestic servants was not eliminated with emancipation.

coming to the colony, and were thereafter useless.[32] The editorial further asserted that soon after arrival, white domestic servants became "discontented", "disobedient" and made "unreasonable demands" upon their employers. They also, it was claimed "are perpetually quarrelling with the colored subdivision of your household".[33] Evidently many white servants saw the move to the colonies as an opportunity to rise socially, like the servant William Crout, who encouraged his parents in the 1820s to immigrate to the Cape because "here is no hard work expected to be done by white people in Cape Town, for it is done by slaves".[34] The low pay and generally poor living conditions of domestic servants meant that those most disadvantaged by their class, colour and gender tended to take on this occupation.[35] In Cape Town this meant that most domestic servants were black women.[36] The racial divisions between most middle-class employers and their domestic servants increased fears for the sanctity of the white home, as the following discussion of slavery and of the smallpox epidemic of 1840 will indicate. Concerns over the domestic sphere were influenced at the Cape by the divisions of race and legal status (freedom or slavery) between masters and servants. The maintenance of white settler identity was unsettled by the influence of black domestic servants on the culture of the domestic sphere.

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[32] *SACA*, 16 December 1829.

[33] ibid.

[34] Long, U. An Index to Authors of Unofficial, Privately-Owned Manuscripts Relating to the History of South Africa: 1812 - 1920. (Cape Town, 1946), p. 87

[35] Boddington, 'Domestic Service', p.i and 121. See also Cock, J. *Maids and Madams: A Study in the Politics of Exploitation* (Johannesburg, 1980), p.225, 227. Although Cock's focus is upon the Eastern Cape, her conclusions agree with those of Boddington. The *Cape of Good Hope Blue Book* notes that in 1840, wages for domestic servants were between 30 and 40 shillings per month.

[36] Boddington is unable to discuss the racial breakdown of domestic service in detail before the latter half of the nineteenth century, because of the lack of census data. By 1891, however, she has calculated that 86% of the personal service in Cape Town was performed by blacks - 16% by men and 70% by women. 'Domestic Service', p.125

Apart from the racial division between servants and their employers, the issue of domestic service in Cape Town is complicated by the fact that until 1838 - almost two-thirds of the period under discussion - many domestic servants were in fact slaves. In the 1820s and 1830s, two-thirds of the roughly 6 000 slaves who worked in Cape Town were domestic servants.[37] Domestic slaves were doubly disturbing to reform-minded British immigrants who wished to put an end to the institution of colonial slavery for reasons, among many others, of the perceived contamination which domestic slavery held out to the white family.[38] Travellers giving accounts of the Cape slave society were critical of the moral effect of slavery on the slaveholding family, particularly its women and children. Themes common to these writers were the bad influence which sexually immoral slaves exerted over young white girls, the lack of education and morality which resulted when white children were left in the care of female slaves (either as wetnurses or child carers or both) rather than being cared for by their own mothers, and the tyrannical natures bred in children who were used to physical and mental domination over slaves from a young age.[39] As is

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[37] Mason, 'Fit for Freedom', p.246

[38] This chapter does not intend to address the issue of slavery at the Cape exhaustively. An extensive literature on the subject exists. Amongst others see Ross, R. *Cape of Torments: Slavery and Resistance in South Africa* (London, 1983), Worden, N. *Slavery in Dutch South Africa* (Cambridge, 1985), ,Bank *Decline of Urban Slavery*, Watson, R. *Slave Question: Liberty and Property in South Africa* (Johannesburg, 1990), Mason, 'Fit for Freedom' and Shell, *Children of Bondage.* For writing on slavery and gender at the Cape see P. van der Spuy 'Essays', P. Scully, 'Liberating the Family?' and McKenzie, *English Slaveowner*. A strong theme in this literature is the relationship between slavery and concepts of the family - especially with reference to issues of control and resistance. Shell's 'family mode of control', expressed in *Children of Bondage* has been criticised by van der Spuy in 'Essays' as well as by Robert Ross in 'Paternalism, Patriarchy and Afrikaans', *SAHJ* 32 (May 1995), 34 - 47. This chapter is approaching this issue from a different viewpoint and does not seek to extend the debate.

[39] The following authors give particular attention to the moral influence of domestic slaves upon white families at the Cape. Although most of them were writing slightly earlier than the period under

particularly evident in the writing of S.E. Hudson (a former English servant who became a slaveholder at the Cape and who was extremely self-conscious and ambiguous about his position as master) slavery did violence to the sensibilities of these authors' conception of the family and the separation of public and private spheres.[40] Slaves were troubling to British middle-class domestic ideology because they blurred the barriers between the family and the workplace - they were both workers and possessions and, given the sexual exploitation of female slaves, could in addition be the blood relatives of their owners. Slavery eroded the sense of the economic sphere as a separate domain, which, as was explored in chapter two, was an important aspect of the middle-class British identity becoming increasingly influential in Cape Town in this period.

Hudson's extensive descriptions of the corrupting influence of black slaves on white children at the Cape[41], where he had lived for some ten years at the time of writing[42], fit into a broader trend of metropolitan and white colonial fears about bringing up white children in the colonies - particularly about the influence of indigenous servants.[43] The rejection of black influence upon white children allowed the

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discussion, their ideas persisted in the work of later writers such as Blount. Anon, *Gleanings in Africa; Exhibiting a faithful and correct view of the manners and customs of the inhabitants of the Cape of Good Hope and surrounding country*. (London, 1806) ; Shell, R. 'Samuel Hudson on marriages', Barrow, John *Travels in the Interior of Southern Africa.* (London, 1806) Vol 2; Semple, Robert. *Walks and Sketches at the Cape of Good Hope; to which is Subjoined A Journey from Cape Town to Blettenberg's Bay.* (London, 1803); Blount, Edward. *Notes on the Cape of Good Hope, made during an excursion in that colony in the year 1820.* (London, 1821)

[40] See McKenzie, *English Slaveowner*, for a detailed examination of S.E. Hudson's writing on slavery.

[41] Shell, 'Samuel Hudson on Marriages', p.52 - 3.

[42] Hudson's essays are not individually dated, but he notes that they were written between 1796 and 1806. McKenzie, *English Slaveowner*, p.10

[43] Stoler, *Race and the Education of Desire,* chapters four and five.

importance of accepting European cultural norms to be stressed and thus affirmed the racial integrity of the elite. The dangers of seduction and corruption by servants was an expression of the need for the rising generation to avoid cultural contagion in order to aspire to the status of mature and respectable bourgeois adult.[44]

When looking at the depiction of female slaves and the white domestic sphere in travel literature of the Cape, however, it is also important to make note of the role which representation of the corrupting nature of slavery on white families played in the British abolition movement.[45] In addition, attacks on slavery could form part of the general attack on the Dutch, and on Dutch colonial power, explored in chapter two Most of the writers who discussed the issues outlined above were also vehement in their attacks on slavery as an institution. Semple and the anonymous author of *Gleanings* in particular stand out in this regard. Even Samuel Hudson, himself a slaveholder, had previously been influenced by the British anti-slavery movement and, as I have argued elsewhere, his anxieties about slavery coalesced around the image of the black slave woman within the white family.[46]

The degree to which these authors presented accurate portraits of slave-owner family life is therefore open to question. Apart from their anti-slavery agenda, and the desire

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[44] ibid, p. 151

[45] On the image of the sadistic white mistress in British anti-slavery rhetoric see Ferguson, M. *Subject to Others: British Women Writers and Colonial Slavery, 1670 - 1834.* (London and New York, 1992), p.160 - 1 In the Cape, of course, these stereotypes could be fastened upon the Dutch, who made up the majority of slave-holders.

[46] See McKenzie, *English Slave-owner*, chapter four.

to titillate their readers which may have motivated salacious descriptions of the slave society, there was also the desire to promote the British colonial endeavour over Dutch rivals. Sources such as the *Tijdschrift,* which stressed the importance of education and personal child-care to Dutch families, suggest that the image of white children neglected in the hands of black female slaves needs to be treated with caution. What is not in doubt, however, is the power which these images of the Cape could have in the minds of metropolitan observers, and the disquiet which reform-minded colonists felt at the representation of their colony in terms of a dissolute, sexually-tarnished and archaic slave society.

Within this symbolic system, slavery was a moral liability in the search for a society which would be respectable in metropolitan eyes.[47] A recent analysis of the significance of the Cape of Good Hope Philanthropic Society (which purchased female slave children with a view to their eventual manumission) has suggested that it was motivated by concern with the image which the Cape slave society had in the eyes of the metropole.[48] With Britain characterising slave-holding societies as retrogressive, the position of the Cape as a worthwhile recipient for British settlement and, ultimately, representative government, was undercut by the institution of slavery.[49] Membership of a Philanthropic Society[50], which even included slaveholders

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[47] For a discussion of the limited extent of the anti-slavery movement in the Cape see Watson, *The Slave Question* and Iannini, C. `Slavery, Philanthropy and Hegemony: A History of the Cape of Good Hope Philanthropic Society, 1828 - 1833 BA(Hons) thesis, 1993

[48] Iannini, 'Slavery, Philanthropy and Hegemony', p. 37

[49] For a fuller account of the problems of slavery in the move to British and Dutch unity and the call for a Legislative Assembly see McKenzie, 'The *SACA*', chapter four.

[50] With reference to the discussion towards the end of this chapter about the role which men and women played in philanthropy, it should be noted that women were only peripherally involved in the

amongst its members, and which expressly forbade the discussion of slavery as an institution at its meetings, could signify to metropolitan observers that the Cape contained a "compassionate, beneficent, rational, liberal and civilized elite."[51] The society's failure to address the issue of slavery itself allowed it to avoid provoking disunity over the issue of emancipation which threatened the unity of white colonists and thus the foundation of representative institutions at the Cape. Members of the society also established their progressive credentials by being involved in many other reform endeavours in the city.[52] Freeing female children was a function of the importance which such reformers placed upon the role of female socialisation in the home - the freed women would aid in the proper socialisation of servants in their own families.[53]

The Slave Office records of the Cape Archives offer a different perspective to accounts such as Samuel Hudson's and do testify to the blurring of boundaries which could occur between slaves and their owners in the daily struggles of domestic life. The records were generated by the process of slave amelioration which preceded outright emancipation by the British government.[54] Ordinance 19 of 1826 created the office of the Guardian (later Protector) of Slaves which gave slaves a degree of legal

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Cape of Good Hope Philanthropic Society, in contrast to the anti-slavery movements of Britain and the United States, for example. Iannini, 'Slavery, Philanthropy and Hegemony', p. 36 - 37. Watson, *Slave Question*, p.203 - 204.

[51] Iannini, 'Slavery, Philanthropy and Hegemony', p. 41

[52] Watson, *Slave Question*, p.74

[53] Mason, 'Fit for Freedom', p.519 - 520

[54] For a discussion of these records see Scully, 'Liberating the Family?', Dooling, *Law and Community*, Mason, 'Fit for Freedom', chapter two.

recourse following mistreatment by their masters.[55] A prominent theme is the extreme physical cruelty to which female domestic slaves were subjected by their owners - both men and women.[56] Given the idea of the close relationship between female slaves and their mistresses expressed in the travel literature, it is important to note of the level of violence which could characterise these relationships.[57]

Another important theme in the Slave Office records is the sexual exploitation of female slaves by their owners, which could lead to slaves being linked to their masters by ties of blood.[58] It was possible for a female slave to claim freedom for her child, and sometimes for herself, if her child could be proved to have been fathered by her master. The paternity cases show particularly clearly the kind of boundaries between family and property, and between labour and the domestic sphere, which were inescapably blurred by the system of slavery. The common sexual abuse of female slaves also indicates the manner in which both slave women and slave men were dishonoured within a society which defined female honour as chastity and connected male honour with the ability of men to protect the virtue of their female relatives, as the following chapter will explore.[59] The Slave Office records, therefore, indicate the

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[55] CA Slave Office (SO) 4/5 - 4/8 Books of Inquiry 1826 - 1834.
SO 5/1 - 5/2 Day Books of the Protector of Slaves 1826 - 1829.
SO 5/3 - 5/4 Day Books of the Assistant Protector of Slaves, Cape Town, 1832 - 1834.

[56] Particularly extreme cases include the complaint of Steyn, a slave housemaid aged 24, against her mistress, the widow Jacobus van Reenen (to whom she was hired out), SO 5/3, 6 April 1833 and the case of Rachel, a 13 year old slave housemaid, against her mistress Mrs G.H. Stegman (to whom she was hired out by Stegman's mother-in-law), SO 5/4, 22 February 1834 and SO 4/8 no 22.

[57] Scully, 'Collection', p.72

[58] ibid, p. 117 See Mason, 'Fit for Freedom', p. 202 - 225 for a discussion of the sexual exploitation of slave women at the Cape.

[59] Mason, 'Fit for Freedom', p. 225

very real disruptions which slavery could pose to the domestic ideology of separate spheres and a discrete family unit.

Reform and appropriate domestic service.

Labour reform by means of the emancipation of slaves was accomplished not by the colonists themselves, but by the British government. Concerns about the nature of domestic service amongst the city's middle-class were not, however, laid to rest by the change in status of their black servants, although some of the worries specific to the institution of slavery discussed above were resolved. The issue of the 'character' of servants nevertheless remained important.

Public charity and social improvement associations took a myriad of forms in Cape Town during this period.[60] Many of these initiatives were religiously inspired, or linked formally to church groups, whether English or Dutch. This chapter addresses the large and complex issue of social reform movement only with reference to middle-class attitudes towards domestic service. This is not to argue that piety was not a genuine motivation for middle-class reformers, since religious belief, even if it took the form of different sectarian allegiances, was an important part of their identity. In the reproduction of Christian households, however, a sanitised domestic sphere was

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[60] For an account of charitable and reform initiatives in Cape Town see Judges, 'Poverty'; Bradlow, E. '"The Oldest Charitable Society in South Africa": One Hundred Years and More of the Ladies' Benevolent Society at the Cape of Good Hope' *SAHJ* 25 (1991), 77 - 104; Ludlow, E.H. 'The Work of the London Missionary Society in Cape Town'; Pearce, J. 'The Origins of the Temperance Movement in Cape Town in the 1880s' BA (Hons) thesis, UCT, 1985; van Heyningen, 'Public Health and Society in Cape Town, 1880 - 1910' PhD thesis, UCT, 1989'; Deacon, H. 'A History of the Medical Institutions on Robben Island, Cape Colony, 1846 - 1910' Unpublished PhD thesis, University of Cambridge, 1994,; Iliffe, J. *The African Poor,* (Cambridge, 1987), p.97 - 107.

crucial - piety and respectability went hand in hand in the concern for the needs of the middle-class family. Religious and secular concerns both influenced the manner in which public reform initiatives were informed by respectability. Both evangelical reformers and their critics were agreed on the importance of creating a class of suitable domestic servants, and certain reform endeavours in Cape Town were organised with this goal in mind. In discussing female philanthropic initiatives in Britain, Anne Summers has stressed that attempts to reform the working class were partly "rooted in the more mundane and limited requirement of widening the field of recruitment for domestic service."[61] The discourse of certain reform initiatives in Cape Town indicate that high-minded social aims and practical labour needs could make similar bedfellows in the colonies.

Insisting on a suitable position as a firm and enlightened master class was an important facet of colonial identity. Fairbairn, for example, was incensed by criticisms from an Indian visitor that domestic service at the Cape was of poor quality, and servants too independent of their masters' control. He responded by asserting the "manly habits" of Cape settlers who, unlike "emasculated" 'Hindoos', did not depend upon "the soft attention" of servants for their every comfort.[62] The Cape's colonial identity was asserted against an image of weak and luxury-loving British India and Fairbairn insisted that "There are as many good servants in Cape Town as there are

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[61] Summers, A. 'A Home from home - Women's Philanthropic Work in the Nineteenth Century' in Burman, S. (ed) *Fit Work for Women* (London and Canberra, 1979), p.39

[62] *SACA*, 13 October 1831, response to a letter by an 'Indian Valetudinary' published in the Calcutta paper, the *Bengal Harkaru* about the situation of Indian civil servants at the Cape.

discreet and judicious masters".[63] A distinct and positive colonial identity at the Cape could be asserted in contradistinction to negative images of other colonies whose control over their servants was deemed inappropriate.[64] After emancipation, control over servants was enshrined in law through the 1842 Masters and Servants Ordinance, which made desertion a criminal offence and allowed a worker to be punished for misconduct. As originally framed by the Cape Legislative Council, the law was framed in explicitly racial terms, but on the insistence of the metropolitan government, it was rephrased with no reference to race.[65] Significantly, as originally framed, the law excluded from the ranks of black labour, those women of colour were "lawfully married to any European", indicating the manner in which racial identity could be contingent upon the proper social connections - *lawful* (and thus respectable) marriage to whiteness.

If education was an important element in middle-class life, it was seen as equally crucial as a means of reforming the manners and morals of the underclass from which domestic servants might be drawn. The Infant School system was set up in the colony in 1830 for the education of children between the ages of 18 months and 6 years. Two schools, termed the 'Upper' and 'Lower' schools were set up, the latter for the children of slaves and the poor.[66] The explicit division along class lines was openly

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[63] ibid.

[64] As well as the weak and sickly 'Hindoos', the *Advertiser* also rejected the harsh slave labour practices of the West Indies (contrasted to the benevolent slave society of the Cape) [*SACA* 26 January 1831] and the convict societies of Australia [throughout the convict crisis - see chapter eight].

[65] Keegan, *Colonial South Africa*, p.125

[66] *SACA* , 26 March 1831. Annual Report of the Infant School Committee in Cape Town.

acknowledged by the committee controlling the schools, as was the important role which the schools were designed to play in reforming the character of the labouring classes who formed the pool from which domestic servants were employed. A correspondent who responded in the *Advertiser* to the notice of the formation of the Infant School Society paid particular importance to the role of education in combating juvenile crime, and to the especial benefits which an Infant School education held out to slave children, for the institution would "train them up in a love of honesty and truth, so that they may become good men and good servants".[67]

The *Advertiser* was persistent in its support for the Infant Schools, and frequently made connections between the importance of the middle class of the city supporting these institutions, and the usefulness the schools had in forming an appropriate labouring class.[68] Methods of teaching were explicit in the connection between moral and practical education - it was not enough simply to ensure literacy and numeracy, and morality was evidently the ultimate aim. In the 1835 annual meeting of the Infant School Institution, for example, the children exhibited their skills before a group of assembled dignitaries consisting of prominent men in the town, the Governor's wife and "a very full attendance of ladies".[69] The children sang a hymn and formed words and phrases by placing letters together in an exhibition for the audience. After they had formed the sentence "Thou shalt not steal", a teacher "commented upon the virtue of honesty, and

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[67] *SACA*, 27 January 1830.

[68] For a long discussion of the importance of education as a major means in reforming the morals of the poor and inculcating habits of industry see an editorial in the *Advertiser*, 18 June 1831.

[69] *SACA*, 18 February 1835

the consequences of an opposite line of conduct". As the self-satisfied report put it, "By this simple and pleasing method is the acquirement of letters rendered, in these Institutions, subservient to the inculcation of moral sentiment."[70] Sir John Herschel, addressing the school and assembled guests, asserted that, "The great business of early education was the formation of good habits, and the eradication of bad and vicious ones; and good habits were only to be formed by constant practice of good rules."[71] Since, as the *African Journal* claimed (in the following decade) Cape servants were distinguished in the minds of newly-arrived colonists for being habitual petty thieves[72], the inculcation of habits of honesty in the Infant Schools was of particular importance.

An article on the Sabbath Schools in Cape Town stressed the fundamental issue of the moral education of the children of the poor, and made an explicit connection between such reform initiatives and the attempt to procure appropriate domestic servants:

> Let us look at the Individuals who receive instruction in these Schools; the great proportion of them are those who, in all probability, when they grow up, will become our domestics. Every one prefers an honest, good, and sober domestic to one of opposite character.
>
> The present race of domestic servants is generally admitted to be anything but of an exemplary character.
>
> Do we wish those who shall succeed them to be the same? do we wish a race of thieves, and immoral characters, to be perpetuated? most certainly not; we all wish to see a change in this class of the community but how is this change to be wrought? - we unhesitatingly answer, by education, and of all education that imparted at the Sabbath Schools is likely to be the most effectual.[73]

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[70] ibid.

[71] ibid.

[72] *African Journal*, 4 April 1844

[73] *SACA*, 18 July 1835.

A second reform initiative aimed at inculcating moral values in a class of potential domestic servants was the School of Industry of the Ladies Benevolent Society.[74] The Ladies Benevolent Society (LBS) was founded by a group of women led by Jane Philip in 1822.[75] Its School of Industry opened in 1824 and was designed for the female children of parents who could not afford to educate them. The pupils were taught to read, and, later, some were also taught to write as a reward for good behaviour.[76] Of prime importance in the syllabus, however, was the sewing which the girls did upon orders from the general public, and by which they partially financed the school.[77] Such sewing was deemed fundamental to the training of domestic servants in Cape Town.[78] Inculcating the appropriate morals in their charges was integral to the running of the school, with a system of marks for good and bad behaviour in place from the beginning.[79] Girls who were "detected in a practice of speaking the untruth" (apart from forfeiting any rewards for good conduct) were publicly shamed in the presence of the school by having to wear "an imitation of a large human tongue of some red stuff, with the word 'Lyar' in distinct letters upon it" until the committee could consider their case.[80]

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[74] CA V3 - 1/1 Dutch Reform Archives - Records of the Proceedings of the Ladies Benevolent Society at the Cape of Good Hope Respecting the Free-School of Industry, 1824 - 1829.

[75] Bradlow, 'The LBS', p.77. Natasha Erlank has discussed the role of the LBS in women's networks and philanthropy in Cape Town in 'Letters Home', p. 49 - 57. I am grateful to her for her generous sharing of material.

[76] School of Industry Committee meeting 18 December 1824.

[77] ibid, 21 June 1824.

[78] Bradlow, 'The LBS', p.85

[79] School of Industry Committee meeting, 21 June 1824.

Children who persisted in conduct deemed unacceptable were dismissed from the school.[81] In addition to asserting surveillance over the pupils of the school itself, the status of their parents also came under the Committee's scrutiny. Parents had to make personal application for their children to be admitted to the school, and they could be rejected if deemed undeserving. The only recorded period of strife among the committee resulted from questions being raised by the secretary, Miss Watermeyer, about the admission to the school of a certain pupil, the daughter of a "servant" (though perhaps a slave) from Madagascar.[82] Miss Watermeyer questioned whether the child "be born from Christian parents, in lawful marriage" and asked that the society affix rules to the admission of children, as far as regards the status of their parents, since, "she had hitherto been under an impression that it was silently agreed between the members of the Committee that girls of indigent Christians, lawfully married, being inhabitants of this Town, of whatever nation or denomination of Christians, otherwise, only were the subjects to which the benefit of their School was to extend".[83] She suggested that the Society ought not to extend the privilege of admission to the school to other "classes of Society" since free blacks and slaves who wish to convert had many other means by which to attain basic education.[84] In the same meeting, Miss Watermeyer begged to resign her position "owing to family arrangements". It is impossible to determine whether there was any connection

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[80] ibid, 7 February 1825.

[81] ibid, 26 June 1826.

[82] ibid, 11 July 1825.

[83] ibid.

[84] ibid.

between these two developments, especially since she continued to pledge her support of the society's efforts. Watermeyer's queries were answered at a subsequent meeting, when it was stated that the child in question was, in fact, the daughter of parents who had been "baptised and lawfully married". It was further decided that the fact that free black children were born of unmarried parents should not be an obstacle to the children's admission to the school. Nevertheless, it was decided to restrict the number of free black children attending the school to 15, and if more applications than this were received, another school should be established "entirely distinct from the present Institution".[85] There is no record of another such institution having been formed. The ambiguities of the incident make the issue of race and respectability difficult to assess in this institution. Clearly there was a diversity of opinion regarding the role which legitimacy, Christianity and race would play in the definition of the 'deserving poor' as well as upon the issue of racial integration in poor relief.

Dirt, Disease and the Dangers of Domestic Servants.

Whilst the moral cleanliness of domestic servants was a pervasive issue for the Cape Town middle class, their bodily sanitation was an equally important, and connected, element. The presence of the black domestic servant in the white colonial home could be threatening not just in terms of culture and morals, but also in terms of disease. In 1840, two years after the end of slave apprenticeship in 1838, the city was hit by a disastrous smallpox epidemic which heightened fears about the place of the domestic

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[85] ibid, 1 August 1825.

servant in the middle-class home. Fears about contamination from domestic servants and the poor more generally became a rallying cry in the press for calls to improve the sanitation of the city resulting from the desperate conditions under which the poor lived.[86] The 1840 smallpox epidemic thus provides a flash-point for more general middle-class fears about the moral and material contamination which surrounded their homes.

Dirt and disease were constant fears in middle-class life and children were particularly vulnerable to the constant ill-health which was a result of poor sanitation, even in elite households.[87] Even powerful adult men like H.E. Rutherfoord, a prominent merchant and philanthropist in the city, suffered from continual ill-health,[88] his personal situation no doubt influencing his concerns about the health of the population at large.[89] Outbreaks of contagious disease could seriously threaten middle class households. In 1839 Eliza Fairbairn detailed the extensive sickness and death in Cape Town, mentioning measles, influenza and dysentery as the current killers. With relief, she noted that "While death has been busy in our neighbourhood we have been passed over", although all her four children and three servants had been ill with measles, and some also with dysentery.[90]

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[86] For a graphic account of the effect of such sanitation on the life of the poor during the 1830s see Judges, 'Poverty, Living Conditions and Social Relations', p. 57 - 80, 97 - 100.

[87] On childhood diseases and bad sanitation at the Cape see Bradlow, E. 'Children and childhood', p. 12 - 13 and Judges, S. 'Poverty, Living Conditions and Social Relations', p. 98

[88] SAL MSB 412. See in particular H.E.Rutherfoord to Ebenezer Smith, 21 October 1843

[89] See MSB412 H.E.Rutherfoord to Ebenezer Smith, 21 May 1840 on the smallpox and other epidemics.

[90] MSB412 Eliza Fairbairn to Mary Ann Smith, 10 May 1839.

The smallpox epidemic of 1840 was initially brought into a city already rife with dirt and disease by a shipload of 'Prize Negroes'; slaves captured by the British off the ships of countries which still permitted the slave trade, and sold into 'apprenticeship' at the Cape.[91] Whilst there had been persistent complaints in the press about the dirt of Cape Town all through the preceding decades, the smallpox epidemic caused the middle-class to shine a spotlight on the desperate living conditions of the poor in their city, when members of the white elite began to die.[92] The epidemic brought home to the middle class the fact that the sanctity of their homes was threatened by the dirt and disorder of the underclass world in which they were enmeshed, and particularly by the figure of the black servant who brought this external world of danger into the domestic interior. From describing the terrible living conditions of the poor within Cape Town and their suffering under the smallpox epidemic, the *Advertiser* stressed the danger to the domestic sphere which failure to address the problems of urban sanitation posed:

> From this noxious den [of the sick and dying] the other inmates proceed, their clothes saturated with infectious matter, every morning to their various employments, in every quarter of the town and neighbourhood, to join bodies of labourers, to assist in stores, or to act as *domestic servants, as cooks, housemaids or nurses!*
>
> We address the principle of Self Preservation in the rich. Is any sacrifice of time, labour, or money, too great to correct this tremendous danger? The poor may perish neglected, as it were in the dark; but they will leave behind them a legacy of vengeance.[93]

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[91] Saunders, C. 'Between Slavery and Freedom: The Importation of Prize Negroes to the Cape in the Aftermath of Emancipation' *Kronos* 9 (1984), 36 - 43 and "'Free, Yet Slaves' : Prize Negroes at the Cape Revisited' in N. Worden and C. Crais, ed. *Breaking the Chains: Slavery and its Legacy in the Nineteenth-Century Cape Colony* (Johannesburg, 1994)

[92] Hall, M. 'Fish and the Fisherman, Archaeology and Art: Cape Town seen by Bowler, D'Oyly and De Meillon' *South African Journal of Art and Architectural History,* 2 (3&4), 1991, p.79 For an account of white deaths in the *Advertiser* see 20 May 1840.

Fairbairn stressed that the rich could not turn a blind eye to the desperate conditions of the poor, for "all classes touch each other"[94] and the middle-class home was penetrated by the dirt and disorder of the underclass world in the figure of the servant:

> We embrace our children: But our children are handled by our servants, whose friends and associates branch out to the lowest level. In this way, (and shall we say it is unjust) the neglected hovel punishes the neglecting palace. ... Clothes from the bleaching ground, from the laundress, from the tailor and dress maker, from the shop, all may and often do, directly or through domestics, introduce the poison into our houses.[95]

Fairbairn called this process "Natural Justice"[96] because it was the rich who owned the terrible slum dwellings through which the disease was spreading through the town, owing to lack of sanitation.[97] Nevertheless, the servant bringing death from the outside world into the domestic sphere was starkly terrifying to middle-class householders.

Middle-class fear was allied to racism and coalesced at this time around the idea that the Muslim community of Cape Town was particularly resistant to inoculation and

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[93] *SACA*, 15 April 1840. Original emphasis.

[94] *SACA*, 27 May 1840.

[95] ibid.

[96] ibid.

[97] Warren gives an extensive account of the sporadic and largely ineffective attempts of the municipality to improve sanitary conditions in Cape Town. Owing to the fact that many Commissioners (two fifths) were landlords, they were reluctant to spend money on improving slum housing, a conflict of interest which rendered reform efforts largely ineffectual. 'Merchants, Commissioners and Wardmasters', p.98 - 106 and 'Class Rivalry and Cape Politics', p. 117

sanitary measures, and so held the prime responsibility for spreading the disease. There was a common perception amongst the white elite that Muslims were resisted inoculation against smallpox.[98] As has already been mentioned with reference to stoeps in chapter two, an association was made in middle-class minds between 'Malays' and dirt and disease. As an easily identifiable element of the black underclass, Muslims were vulnerable to such stereotypes - S.E. Hudson's concerns about slavery and its effect on white domesticity, for example, coalesced around the figure of the Muslim female slave poisoner.[99] With their own healers within the community, Muslims were apt to resent the heavy-handed intrusion of the colonial elite during times of crisis such as epidemics, especially against the background of a general neglect of sanitation and health care by the authorities.[100] With reference to the 1880s, Elizabeth van Heyningen has argued that Muslims were not the only group which resisted vaccination - the Dutch also did so, although this trend was muted by fear of being perceived as one with the Muslims.[101] Even so, the fear of the dirt and disease of a black underclass which encroached on white middle-class homes which was expressed in the 1840 smallpox epidemic was a persistent issue in Cape Town. These ideas can subsequently be connected to more blatant discriminatory practices, and to party politics which were informed by racial discourse and which paved the way for developments such as the closure of the Muslim cemetery in Cape Town in

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[98] *SACA*, 15 April 1840 and 23 May 1840, when, during a public meeting about the epidemic, it was claimed by certain speakers that Muslims were resisting vaccination.

[99] McKenzie, *English Slaveowner,* p. 98 - 104

[100] Bradlow, M.A. 'Islam, the Colonial State and South African history', p. 200 - 205

[101] van Heyningen, 'Public Health', p.166

1886 and the later forced removals of black immigrants to Ndabeni in the context of outbreaks of bubonic plague at the beginning of the twentieth century.[102]

Concerns for the state of the underclass were not merely informed by ideas of physical dirt, but also by concerns about moral disorder. Following the prescriptions of Mary Douglas, it is useful to bear in mind that "dirt is essentially disorder".[103] The police force of the city expressed this connection in its responsibility for both crime prevention and city cleanliness[104], although by the 1840s this was a point of controversy with the municipal government, with the police force trying to restrict its activities to crime prevention alone.[105] The *Advertiser* urged the clearance of slums to improve the morals of the town.[106] The report of special wardmasters, appointed by public meeting to inspect the city of Cape Town in the wake of the 1840 smallpox epidemic, and to report on the state of health of the population (in particular the conditions of the poor) also made strong links between moral and material degradation.[107] Sexual morality and a proper work ethic - vital characteristics in an appropriate servant, as the discussion of slavery makes clear - were perceived to be

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[102] Bradlow, 'Islam', p.189 ff. and Bickford-Smith *Ethnic Pride*, p.74, 183, 205 - 209. Swanson, M.W. '"The Sanitation Syndrome": Bubonic plague and urban native policy in the Cape Colony, 1900 - 1909' *Journal of African History*, XVII (3) (1977), 387 - 410. On the connection between colonial health reform initiatives and segregatory practices see Headrick, D.R. *The Tentacles of Progress: Technology Transfer in the Age of Imperialism, 1850 - 1940.* (New York and Oxford, 1988), p.147

[103] Douglas, M. *Purity and Danger: An analysis of concepts of pollution and taboo* (London, 1966), p.2

[104] Elks, 'Crime, Community and Police', p.36

[105] Warren, 'Merchants, Commissioners and Wardmasters', p.99

[106] *SACA*, 27 May 1840.

[107] CA CO 490 item 159. Report of the Special Wardmasters on the state of the cleanliness in the town and the extent of smallpox. May 1840.

undercut by bad sanitary living conditions.[108] The recurrent problems with sanitation in Cape Town, which surfaced over and over again in the course of the nineteenth century indicates that these problems of dirt and overcrowding were never sufficiently well addressed, for the municipal government was reluctant to spend the necessary funds. To protect the middle-class home from the dangers of sanitation in central Cape Town, it appears as if the elite of the city took the easier route of moving their homes out of the centre and into the surrounding suburbs such as Rondebosch or Green Point. Whilst this might go some way to preventing the intrusion of disease into the household, it was still necessary to preserve the moral integrity of the domestic sphere. In order to achieve the aim of an appropriate servant class, therefore, other reform endeavours were undertaken.

Reform and colonial masculinity.

Reform initiatives were not just significant for the 'creation' of an appropriate servant class. They were also constitutive of the middle-class self and vital to the elaboration of colonial identity, as the discussion of the Philanthropic Society has already pointed out. Insisting on their role in reforming and improving colonial society gave respectable colonists a platform from which to undercut the assumptions of the mother country about their cultural backwardness and idleness. It also gave them a sense of purpose and legitimised their enterprise in their own eyes.[109] The Almanacs produced in Cape Town were an important means of presenting an appropriate image to visitors

[108] Ibid, report on Ward no.2, 5 May 1840.

[109] Elliott, 'Introduction' in Canny and Pagden, *Colonial Identity*, p. 9 - 11

from the outside world, and especially to observers from the metropole, whether or not this image was in fact accurate.[110] Stanley Trapido has described the manner in which the Cape was presented as a 'New Jerusalem' within the pages of the Cape Almanac of 1830, indicating its progressive credentials to foreign observers.[111]

Both the editor and readers of the *Advertiser* called consistently for the middle-class to take up its reforming role within Cape society and thus to allow the colony to take its place amongst the civilised countries of the world. As 'An Observer' remarked in that paper, an "active public spirit among the middle classes of society is a blessing to any country whatever".[112] Fairbairn used the pages of his paper to encourage the unity of English and Dutch colonists in endeavours of public improvement. By doing so, he argued, the colony could prove itself worthy of civil rights in the form of Representative Government:

> the habit of assembling ourselves together for benevolent and public objects being thus acquired, a general Object will naturally command a general Union. In this way a Community ripens for *Self-Government* in the widest sense of the term.[113]

With extremely limited political rights before 1854, middle-class men in Cape Town could assert their stake in the future of the colony through participation in reform agendas which could play a proto-political role in the city. Associations for social

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[110] On the disjunctures between Cape almanacs, especially the visual presentation which they gave of the city, and the material reality of persistent urban filth see Hall, 'Fish and the Fisherman', p.86 - 87

[111] Trapido, S. `The Emergence of Liberalism' p.37

[112] *SACA*, 25 April 1829.

[113] *SACA*, 14 December 1831.

improvement allowed middle-class men a formal role in the public sphere, which, as chapter two has indicated, the colonists were at pains to construct. They therefore gained public confidence in preparation for the real political power which representative government would give. Between 1827, when the Burgher Senate was dissolved, and 1840, when municipal government was established for Cape Town, there was no formal role for men of influence to play in the city beyond mutual associations.[114] As the *Advertiser* claimed, mutual associations were a training ground for Cape men - instructing them in their proper behaviour in the public sphere.[115] Public action was an important constituent of middle-class masculinity, and men signified their social importance and respectability through enacting their role in the public sphere before women of their own class, who formed an important audience for their actions, as will be considered below.

The establishment of municipal government saw the institution of a dual body consisting of a Board of Wardmasters, and a Board of Commissioners, to be elected by those designated 'householders'.[116] The Commissioners formed the municipal executive and had a higher property qualification for election, restricting eligibility to the wealthiest in the town.[117] Wardmasters, by contrast, could hail from the ranks of the petite bourgeoisie, and in 1844 a Muslim wardmaster was elected, although he

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[114] Warren, D. 'Merchants, Commissioners and Wardmasters', p.4 - 5.

[115] This process can also be identified within Britain itself. See Davidoff and Hall, *Family Fortunes*, p. 416.

[116] A householder was defined as any male person who owned or rented a property "of the yearly value or rent of not less than £10 Sterling, and paying an annual tax exceeding six shillings." Warren, 'Merchants, Commissioners and Wardmasters', p.12

[117] Warren, 'Merchants, Commissioners and Wardmasters', p.13

declined to take his seat.[118] It was the Commissioners, however, who held the real power, and the high property qualification excluded all but whites from qualifying. The 1840 Ordinance explicitly stated that "no female was deemed to be a householder", meaning that no women could vote in the municipal elections, or qualify for election as either Wardmaster or Commissioner.[119] Mutual associations provided training for municipal government which quickly took on a political slant, spearheading the drive for a representative government, and being actively involved in protesting unpopular metropolitan government policies, as the final chapter will show.[120]

The role of middle-class women in reform movements.

Whilst reform initiatives undertaken by middle-class men in Cape Town had a self-conscious proto-political role, the position of middle-class women with regard to reform was more ambiguous. Feminists critics of Habermasian public sphere theory have argued that the theory of a private/public sphere dichotomy was disrupted by women's reform networks, which mobilised women for public action in spaces outside the terrain of masculine politics.[121] Mary Ryan has stressed that "everyday

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[118] Trapido, 'Cape Franchise Qualifications', p.38

[119] Warren, 'Merchants, Commissioners and Wardmasters', p.12 - 13

[120] ibid, p.132

[121] Habermasian theory is explicitly criticised by Mary Ryan in 'Gender and Public Access' in Calhoun, ed. *Habermas in the Public Sphere.* Similar arguments about the connections between female philanthropy and politics have infused the discussion in Ferguson, M. *Subject to Others: British Women Writers and Colonial Slavery, 1670 - 1834* (London and New York, 1992), Epstein, B.L. *The Politics of Domesticity: Women, Evangelism, and Temperance in Nineteenth-Century America* (Connecticut, 1981) F.K.Prochaska, *Women and Philanthropy in Nineteenth-Century England.* (Oxford, 1980) and

politics inevitably falls short of perfect rational discourse" and that 'public' life can be cultivated in many and varied spaces.[122] At the Cape during this period, however, female philanthropy appears to have been small-scale, disparate and not extensively mobilised. It did not have the same proto-political function as masculine reform initiatives in contemporary political developments. Women's philanthropic work clearly *does* disrupt the rigid conception of the separation of spheres which underpinned the ideology of the bourgeois public sphere. Nevertheless, the wider implications of their activities for gender roles were deliberately marginalised by middle-class men who portrayed masculine philanthropy/social reform activities as being performed before a passive audience of women constrained by the domestic sphere. In this way, male perceptions of philanthropy fed into their conception of political behaviour, just as their mutual associations acted as political-activity-in-waiting in the years before Representative Government.

I have already discussed the important role which women were deemed to play in the middle-class home with reference to the inculcation of proper religious and moral values in their children. The British domestic ideal which emphasised the 'civilising' role of women in the home and in society in general, facilitated their activities in philanthropy beyond the domestic sphere.[123] Both the LBS and the Infant School Society had important participation by women.[124] In many ways, however, their

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Summers, A. 'A Home from Home'. For a discussion of the importance of private networks of community and philanthropy in Cape Town to the lives of British middle-class women see Erlank, 'Letters Home'.

[122] Ryan, 'Gender and Public Access', p. 286

[123] ibid, p. 267. Prochaska, *Women and Philanthropy*, p.2 - 5, 7 - 8.

involvement in such activities was subservient to the control of men. Whilst women attended Infant School Society meetings, they withdrew before the real business of voting began.[125] The School of Industry was also concerned to place itself under the hierarchy of male reform initiatives in the city by obtaining the "sanction" of the Bible and School Commission.[126] In this, female philanthropy at the Cape mirrored certain British patterns[127] as well as later developments in colonial Australia.[128] It was emphasised (by both women and men), despite the real and important work which such women did in philanthropy in Cape Town, that these activities were only accomplished in their "leisure" time[129] - their true social role was to be found elsewhere, in the realm of the family.

Miss Watermeyer's claim that she had to give up her involvement in the running of the LBS School of Industry is a telling one. Evangelical women in Cape Town, such as Eliza Fairbairn and her mother, Jane Philip, were concerned that their philanthropic efforts were compromised by the time which women had to give within the home to

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[124] These institutions were run both by evangelically-influenced British and Dutch women, although Emma Rutherfoord complained at a later date that Dutch women were remiss in their philanthropic duties in the city. Murray, *Mid-Victorian Cape Town*, p.121 - 122. It could be argued that these organisations were run predominantly upon British evangelical lines. In discussing the evangelical revival in the Dutch Reformed Church of the 1860s, in which women began to take a new and active role in religious and philanthropic organisation, Marijke du Toit has argued that in previous decades DRC Church hierarchy was not conducive to extensive involvement by Dutch women in church affairs. 'Women, Welfare and the Nurturing of Afrikaner Nationalism', p.25 - 26, 31 - 33.

[125] *SACA*, 18 February 1831.

[126] School of Industry committee meeting, , 21 June 1824.

[127] Davidoff and Hall, *Family Fortunes*, p.432

[128] Russell, *Wish of Distinction,* p.193, 195.

[129] School of Industry committee meeting, , 21 June 1824.

bringing up their families.[130] Eliza Fairbairn remarked with reference to a woman who had recently joined a philanthropic endeavour in the city, that "[she] will I daresay be very useful unless she gets married."[131]

Women who wished to take on a role in public philanthropy were constrained by their position as the guardians of middle-class domestic respectability. Whilst middle-class women were important to the running of endeavours such as the LBS and the Infant Schools, it was crucial that this work be voluntary in nature, and not divert them from their true social role as the wives and mothers of a middle class that was based upon the premise of the non-working respectable woman. Eliza Fairbairn found to her cost that attempts to step outside this prescribed role were frowned upon even by those most concerned with the importance of institutions such as the Infant Schools of Cape Town. In 1830, with the Infant School system being set up in the city, Eliza sought to engage herself as a salaried teacher in one of these institutions. Upon hearing of her plans, Dr Philip, although he was an untiring supporter of the scheme itself, wrote to his daughter outlining his objections to such a step. Philip's justification for refusing his permission is both complex and illuminating. It lays particular stress upon the notions of respectability which were so important to middle-class Cape Town. His argument is that such an action would be detrimental both to Eliza's character and to her future prospects; by "becoming Mrs of a School", he claims, she would do herself "a serious injury".[132] Giving her attention to the running of a school would "draw

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[130] Wits, A85, Philip Papers. Jane Philip to Miss Wills, 31 May 1838.

[131] SAL MSB412, H.E. Rutherfoord Collection, Eliza Fairbairn to Mary Anne Smith, 29 March 1838.

[132] Long, *Index*, 149 John Philip to Eliza Philip, 27 January 1830.

your attention from numerous things necessary to your future comfort respectability and usefulness."[133] His objections are therefore both moral and material. Philip was concerned that, in the business of running a school, Eliza would lose sight of the all-important task of forming an appropriate female identity - of becoming the "Lady" which her class demanded she be.[134]

The conception of a woman's role which Philip is putting forward here is one intimately connected to both class and marriage. His emphasis on the importance of Eliza acquiring the manners of "a Lady" and the effect that working as a teacher would have on this is a theme which is continued in the letter:

> While Ladies of the first rank of society are humanised by voluntarily instructing the ignorant, diminishing ideas are invariably connected, with the office of a *stipendary* school Mistress. However your present equals in society might speak to you they would instantly feel that you were below them as soon as it should be known that you brought a school for hire.[135]

The important and delicate relationship between women, class and charity is given very clear expression here. The dividing line in Philip's mind, as in that of many of his contemporaries, rests upon the concept of paid work. While voluntary work could enhance a middle class woman's social position as a 'Lady', the moment this work, even if almost indistinguishable in character from voluntary aid, became permanent, and carried a salary, her hold on social status became precarious. Given Philip's social

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[133] ibid.

[134] ibid.

[135] ibid, 150. Original emphasis.

mobility over the course of his life (his parents were skilled artisans)[136], he was clearly particularly concerned to conform to securely middle-class gender norms.

For Philip, woman's "Empire" was within the realm of the family. It was here that his daughter would play out her "usefulness"[137]. Becoming a "Mrs" in a school would prevent Eliza from undertaking the appropriate role for a middle class woman:

> Although I want to see you independent so far as happiness is conceived of the marriage state, yet I do not wish to see you in a situation which might preclude you from a reputable offer. Both the disadvantages you would be under as to the attain[ment] of the accomplishments you require, nor the degradation associated with the idea of a stipendary school Mistress, I must tell you plainly with the present ideas of society you would have no chance of an offer of marriage such as I would wish to see you accept of.[138]

Philip's advice to his daughter regarding marriage, class and charitable work has important implications for the position of middle class women in colonial society as a whole. Middle class women in Cape Town during this period appear to have been more peripherally involved in organised charitable and philanthropic work than their counterparts in Britain. Whilst involvement in associations for social improvement could play a proto-political role in the lives of middle-class men in Cape Town in the years before Representative Government, the same implications did not apply for women. Whilst it is important not to conflate the theory of separate spheres with its

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[136] Ross, A. *John Philip (1775 - 1851): Missions, Race and Politics in South Africa* (Aberdeen, 1986), p.2

[137] For an account of the importance of the philosophy of `usefulness' in the Philip family, see Erlank, `Letters Home', 63 - 65.

[138] Long, *Index,* 151.

practice, and to acknowledge that women's thoughts on the relationship between politics and reform are largely lacking from the sources, it is equally necessary to recognise the limits which constrained female philanthropic activity at the Cape during this period.

This chapter has argued that European women were instrumental in promoting white solidarity in the colonial setting, as they were given an important responsibility in "guarding cultural norms".[139] Motherhood and the appropriate rearing of children was crucial for the construction of a colonial bourgeoisie.[140] Demography also accentuated the emphasis on women as reproducers - white women were sought as wives and mothers rather than as economic producers. Unmarried women in Britain might take on philanthropy as a respectable 'career' and an alternative to marriage, often with the support of their families. Marriage, however, was the more common fate of colonial women and made substantial investments of time in philanthropy more difficult to make.[141]

The ambiguities of middle-class women and reform found expression in the failed attempt to include 'ladies' in a public meeting at the Commercial Exchange to discuss the recent formation of a Temperance Society in Cape Town. Temperance formed an important issue in household management and the control of domestic servants. Like dirt and disease, drink was considered by evangelical reformers to be "a Vice which

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[139] A. Stoler, `Carnal Knowledge and Imperial Power', 70.

[140] ibid, 82.

[141] On single women and philanthropy in Britain see L. Davidoff and C. Hall, *Family Fortunes*, 431.

has ruined the Labor of the Colony, and carried disorder and unceasing annoyance into every household".[142] It was because of this connection with the domestic sphere that it was resolved to take the unprecedented step of inviting "the Ladies of the Colony" into the public space of the Commercial Exchange for the purposes of this meeting.[143]

Sadly for the position of middle-class women in the emerging public sphere of the Cape, their inclusion was an unmitigated disaster and led to an incident which became the basis for a play ridiculing the Temperance Movement in the city. The meeting ran into trouble since temperance was not a reform initiative supported by all members of the city's middle class. The anti-temperance men were represented at the meeting by a notorious heckler of philanthropists, one H.Buckton, who loudly suggested that the society not only address the issue of temperance but also that of chastity within the city. He warned that "Bacchus and Venus ... were not far apart" and that "they were not aware how far Ardent Spirits being annihilated might not be opening the door to other vices; for in falling from Bacchus they might stumble upon Venus".[144] Buckton was interrupted by "Loud Cries of scandalous! shame! kick him out!" by the rest of the company and the meeting became so uproarious, as the "language, tone and gesticulations of this person [Buckton] here became so ineffably offensive" that "in

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[142] *SACA*, 1 February 1832.

[143] ibid.

[144] ibid.

the midst of the confusion the ladies were conducted from the rooms by their friends."[145]

The incident provided the inspiration for an extended satire on the cause of philanthropy, and, in particular, of temperance, in the hands of Charles Etienne Boniface. His 1832 play, *De Temprantisten* (The Temperantists) was initially of interest to South African historians in its early use of written Afrikaans[146], which is spoken by the black underclass in the play. More recently, the play has been rightly analysed by Andrew Bank as an expression of anti-liberal sentiments in Cape Town.[147] Boniface was at pains to show that liberal efforts to civilise the Khoi were in vain. Bank, however, makes no mention of the important use of gender stereotypes in the satire of the play. These are particularly noteworthy since Boniface expressly states in an introduction that his inspiration for the play was the riotous temperance meeting in Cape Town in which women were removed.

Boniface begins his introduction by poking fun at the English love of forming societies for reform in the colonies.[148] He describes the riotous meeting and satirises the immoderate behaviour of those advocating temperance.[149] The retreat of the "English

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[145] ibid.

[146] Boniface, C.E. *De Nieuwe Riddeorder, of, De Temprantisten. Klugtig Blijspel in Vier Bedrijven.* (Cape Town, 1832) with Introduction and notes by F.C.L. Bosman, and notes on Boniface's use of Afrikaans be J.L.M. Franken. (Johannesburg, 1954), p.15 - 16

[147] Bank, 'Liberals and their Enemies', p.175 - 180

[148] Boniface, *Temperantisten*, p.x - xi. All references to the play itself use the South African Library 1979 Facsimile Reprint of the 1832 edition.

[149] ibid, p. xii - xiii

Ladies"[150] is compared by one of the characters in the play to the "theft of the Sabine virgins".[151] Another character notes that "the *lately married* of our friends had to hurry to make their prudish little females leave the hall".[152] Boniface railed against the social influence of the philanthropists in Cape Town whom, he considered, were trying to set up an oppressive Theocracy.[153] He particularly vilified Fairbairn and Philip - the former appearing in the guise of the "Constitution-maker"[154], 'John Brute', and the latter as his patron, 'Humbug Philipumpkin'.

Boniface's satire hinges partly upon gender inversion, which he uses to ridicule the endeavours of the temperance people, thus undercutting the claims to respectability (including proper gender roles) which was a such an important part of the temperance movement. In the play, the movement gains a Khoi convert, Kalfachter, who wishes to know whether his wife, Grietje, can join the order. The character standing in for the printer George Greig, Goris Krikie, explains to him the impossibility of this:

> Do you not yet know that one cannot make a woman a [temperance] Knight? ... A woman, even if she is a Hottentot, still remains but a woman; - and since the occurrence at our very first Meeting which our beauties experienced, we have decided not to tolerate any *Ladies* amongst us.[155]

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[150] ibid, p.xiii

[151] ibid, p.29 de Sabynsche-maagden roof

[152] ibid, de *jongstgehuwden* onder onze vrienden zich hasten moesten hunne kuische wyfjes het lokaal te done verlaten. Original emphasis.

[153] ibid, p.xvi

[154] ibid, p.11

[155] ibid, p.167 - 168 Weet gy dan not niet dat men van eene vrouw geen Ridder maken kan? ... Eene vrouw, al is zy dan ooke eene Hottentottin, blyft daarom toch maar eene vrouw; - en sedert hetgeen op onze alleresste Meeting aan onze schoonen is wedevaren, hebben wy ons voorgenomen geene *Ladies* meer onder ons te tolereeren. Original emphasis. It is significant that Boniface uses the English word 'Ladies' to refer to the women at the meeting, thus identifying female interference in public affairs with Englishness.

Kalfachter cannot understand this system, claiming that it allows women to go to the canteen and men not - men must drink only water and women need not. The fact that Khoi women were 'forbidden' from being members of temperance societies would have been particularly funny to contemporary viewers given the complaints over the behaviour of drunken 'Hottentot' women to be found in the Cape Town press.[156] Upon hearing of this arrangement, Kalfachter exclaims in shock, "Well, that gives you a pretty household!"[157] The use of gender roles to satirise the temperance movements sheds light upon the ambiguous relationship between women and reform movements in Cape Town. Whilst their voluntary philanthropic activities were important signifiers of middle-class respectability and piety, as Philip's letter indicates, the disruptive implications which the critics cited above have noted with reference to female philanthropy and public politics were suppressed at the Cape during this period, and for a significant time thereafter. Whilst female philanthropy might indicate the importance of a multiplicity of public spheres, philanthropy played no role in the Cape as a route for women into contemporary political power on masculine terms.

The removal of women from the Cape temperance movement is particularly interesting in its contrasts with equivalent reform movements in the United States. Women were particularly strongly attracted to temperance movements in that country, temperance

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[156] For accounts of drunken Khoi women brought before the police or courts see *SACA* 7 February, 18 February, and 21 February 1829. A letter from 'A Constant Passer-by' complained of the "indecent exposures of the Hottentot women" in the streets of Cape Town. *SACA* 5 April 1826.

[157] Boniface, *Temprantisten*, p.168 Wel, dat geef dan een mooi huishouwe af!

being considered, in many ways, to be "a women's issue", because women saw themselves as the primary victims of men's drinking.[158] In the United States, women came primarily to control the temperance movements, not least since "[t]emperance was an attractive issue for women because men's drinking symbolised so many of the injustices that women felt" in an oppressive society.[159] In the latter half of the nineteenth century, women's temperance movements became linked to female emancipation and female suffrage. The movement therefore held the potential for female autonomy of action and for the articulation of female dissatisfaction with male roles in society.

The same was clearly not true of the Cape, where women played an ambiguous and marginalised role in public reform movements. It is possible that blurring the boundaries between the public, masculine, and private, feminine sphere, were more difficult in the colonial context where metropolitan models of respectability were anxiously applied in the face of the mother countries' criticism. Given the problems with maintaining a sanitised domestic environment and attaining a proper education for ones children, it was difficult for women to move out of their domestic duties into the sphere of public reform. The small numbers of British women - who took the lead in reform movements - in Cape Town at this time was probably also an important factor. The masculine political culture being elaborated during the course of this period was explicitly premised upon the idea of acting 'for' women, and it was still in the process of construction during this period.

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[158] Epstein, *Politics of Domesticity*, p.100

[159] ibid, p.107

This pattern would continue in Cape Town into the later nineteenth century, the period at which temperance was becoming a politicised issue in the United States (see above). Elizabeth van Heyningen has sought to explain the "striking absence of feminist involvement" in the debates over the Contagious Diseases Acts in the 1870s. She notes "One may well ask why, in a pioneer society where they might be expected to develop more freely, women were so unengaged politically."[160] She suggests that poor educational opportunities might be one reason. It is also possible that this was a heritage of the period under discussion when ideas about reform and philanthropy at the Cape were premised upon a rigid conception of women's place within the home and the extremely limited and depoliticised nature of their work within the public sphere. Colonial concerns about the purity of the domestic sphere - in situations of sanitary danger and, in particular, fears about the moral influence of servants - meant that mothers were particularly important in the running of their homes and the socialisation of their children, activities which left them little time in which to engage themselves in public philanthropy. In addition, the proto-political uses of male reform initiatives and municipal government (from which they were excluded through the definition of householders) were manifested in public meetings and reports in the press, and in attempts to gain control over the running of the city. Masculine reformers confined women's role within this process to that of spectators, rather than as actors, although it is difficult to ascertain what women themselves thought upon these issues. Male colonial reformers were to be spurred to action in defence of the moral sensibilities of their women-folk, surrounded by a disorderly underclass population. As Fairbairn put it:

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[160] Van Heyningen, 'Public Health ', p.362

> For them [women], infinitely more than for ourselves, we think, and speak, and act. For their tranquillity and domestic happiness we labor to reform - all orders of men, from the highest to the lowest - to relieve them from the terrors of the midnight robber, the keen disgust occasioned by the sight of servile intoxication, and all the dangers that flow from moral disorder in the population by which they are surrounded.[161]

Conclusion

This chapter has argued for the importance of the domestic sphere in informing the philanthropic and reform movements which were directed at the underclass of Cape Town. Domestic-related concerns were of importance in regulating both behaviour within the middle-class home (in terms of the socialisation and education of children) and public policy which impacted upon the changing social world of the city. The preservation of European cultural norms in the middle-class home were deemed crucial to the elaboration of an appropriate colonial identity which could lay claim to political representation. Fears of moral and physical contamination by black servants within the white home influenced the manner in which children were educated, the role of parents (especially mothers) in the rearing of children, the organisation of the middle-class home, and the attempt to impose sanitary improvements upon the face of the city. The ideals of domesticity meant that middle-class reformers took on specific roles in these endeavours according to their gender. Reform initiatives and mutual associations were an important proto-political activity in a colony which denied a responsible public role to middle-class men. Middle-class women, however, despite

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[161] *SACA*, 1 February 1832.

the cultural importance of philanthropy as a defining point of their piety and respectability, were denied any authority or influence upon developing colonial politics through these activities. This concern for the respectability and sanctity of the domestic sphere, and these gender roles of reformers, would be put to the test in what was the largest and most fundamental popular endeavour in the colony prior to the establishment of Representative Government in the colony: The Anti-Convict Movement of 1849 - 1850. This theme will be revived in the final chapter of the thesis, but it is now necessary to turn to a more detailed discussion of the nature of respectability for men and women in middle-class Cape Town.

Chapter Four:

Defamation and the Defence of Honour.

This chapter approaches the question of the nature of middle-class respectability through an analysis of the means by which men and women defended attacks upon their personal reputations. It argues that the legal culture under which compensation for attacks on honour was granted underwent a substantial change over the course of this period. A Dutch system which emphasised the importance of public social gestures and the symbolic affirmation of the complainant's place in the community was eroded during this time. It was gradually replaced by a British system based much more strongly upon personal monetary compensation as a remedy for defamation. This bourgeoisification of what might be termed an *ancient regime* culture of honour display was coupled with the increasing use of elements of the rational public sphere, explored in chapter two, as extra-legal means to defend reputation. As well as delineating the complex relationship between honour, compensation and credit over the course of the period, the chapter will also address the different aspects of male and female honour and the relationship which these had to gender roles in middle-class colonial society.

Personal Reputation and Community.

By studying the defence of personal reputation before the eyes of others, the issue of community is brought to the fore. Making the case for gossip as an important

historical source, Luise White has pointed out that "if we can historicize gossip we are able to look at the boundaries and bonds of a community. Who says what about whom, to whom, articulates the alliances and affiliations of the conflicts of daily life."[1] The constituent parts of middle-class respectability are highlighted by analysing in what circumstances personal character was placed under threat and what the consequences of these threats were. Defamation cases involve as their essence the opinion of an individual in the eyes of his or her community and therefore highlight community mores and attitudes in a particularly illuminating manner. Such cases also indicate which individuals' opinions were seen as important by which other individuals, revealing the operation of class and gender divisions in the assertion of respectability. As the following discussion will make clear, middle-class litigants were most concerned about their position in the eyes of other members of their peer group - who were also their social competitors and whose negative opinion could have a decisive impact of their role in society. Bringing defamation cases could buttress personal claims to respectability as well as tarnish rivals' reputations. The social fluidity of a colonial context, in which many newcomers were competing for an enhanced social status, made defamation an important tool in asserting one's personal standing within a rapidly changing community marked by attempts at upward social mobility. Stigmatising others as immoral could therefore increase one's own chance of being identified as respectable.[2]

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[1] White, L. 'Between Gluckman and Foucault: Historicizing Rumour and Gossip' *Social Dynamics* Vol 20, No 1, 1994. On the anthropological implications of gossip see Spacks, .P M. *Gossip* (New York, 1985)

[2] On social competition and defamation in the Australian colonial context see Sturma, M. *Vice in a Vicious Society: Crime and Convicts in Mid-Nineteenth century New South Wales*. (St Lucia, 1983), p.135 - 136. On defamation as a social tool to be used against economic rivals - especially by men against women - see Morris, Polly. 'Defamation and Sexual Reputation in Somerset, 1733 - 1850' PhD thesis, University of Warwick, 1985, p.27 and 732 - 33.

Wayne Dooling has explored the issue of honour in the context of the Stellenbosch District during an earlier period and stresses the fact that studying the importance of honour and the way in which a person's honour could come under threat, indicates the operation of community within colonial society. His work demonstrates both the social and the economic importance of having an appropriate reputation - of being able to lay claim to a "good name".[3] Thus to "speak of reputation without the existence of community would be nonsensical. Furthermore, reputation is intimately connected with 'shame'."[4] As such, it circumscribes behaviour within the shared boundaries of common values.[5] The very wording of the declarations made by plaintiffs when bringing actions of defamation in court made explicit use of this notion of community and their place within it, for it was routine for plaintiffs to establish their standing in the community when making complaints.[6] Establishing his social credentials, James Bance, Port Captain for Table Bay, claimed in his declaration that he was "always reputed, esteemed and accepted by and amongst all his neighbours, and other good and worthy subjects of this realm, to be a person of good name, fame and credit".[7] When making a claim for defamation against

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[3] Dooling, Wayne. *Law and Community in a Slave Society: Stellenbosch District, South Africa, c. 1760 - 1820* (Cape Town, 1992), p.22

[4] ibid, p.23

[5] ibid.

[6] Polly Morris indicates that in Somerset, witnesses were routinely asked if the plaintiff was possessed of a good character and whether this had been injured in the eyes of the community. 'Defamation and Sexual Reputation', p.395. Whilst witness testimony does not routinely survive in defamation cases at the Cape, the issues were undoubtedly similar.

[7] CA, Cape Supreme Court (CSC) 2/1/1/21, No 35, 1832. James Bance vs James Buckley.

Alexander McDonald, the merchant Thomas Sutherland claimed that he was "greatly injured in his said good name, fame and credit, and brought into public scandal, infamy, and disgrace, with and amongst his neighbours and other good and worthy subjects of our said Lady the Queen."[8] This language represented more than legalistic formula, and the process of defending one's honour both strengthened community bonds amongst those who claimed their place amongst the respectable of Cape Town, and allowed for the exclusion of outsiders.

Defamation and the law.

The major source for this chapter is the thirty one civil defamation cases of the Cape Supreme Court, between 1828 and 1850, lodged in the Cape Archives, although occasionally cases from slightly before the period will be referred to.[9] As noted in chapter one, although this source provides a tremendously rich avenue of inquiry, it is necessary to bear in mind its limitations. These narratives about honour and identity were obviously influenced by the circumstances of the court action. Men and women did not speak personally in these cases - even witness testimony is usually absent - but articulated themselves through their attorneys, who framed their claims according to

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[8] CSC 2/1/1/42, No 8, 1839.

[9] The surviving Supreme Court records include the summons, the declaration of the plaintiff and the defendant and a brief note of the judgement. The costs of the suit are sometimes noted but more often are not. The earlier cases referred to - Wilhelmina van Reenen in appeal vs Samuel Bailey, respondent (Original judgement given 1816, appeal in 1817) [CA Government House (GH) 48/2/30] and James Meres vs Charles Dixon (Original judgement given 1813, appeal in 1814) [GH 48/2/18] are both from the Court of Appeal and are particularly useful in that they include the arguments of counsel. Only cases in which at least one of the parties can definitely be identified as being resident in Cape Town have been included in this sample. Since it was not usual to routinely give both plaintiff's and defendant's residence, this may cause certain cases to have been neglected.

the precepts of the law. Even so, bearing in mind these issues, it is still possible to come to some useful conclusions by means of such illuminating sources.

Cases which are particularly rich will be described in detail for this chapter attempts to pay particular attention to the *mechanics* of disputes and to the ways in which conflicts were resolved. As this account will make clear, conflicts about honour did not necessarily lead to civil actions for defamation and there were several stages by which a conflict could be defused, without incurring the expense of a court action. Disputes about honour and their resolution form a kind of 'cultural grammar'[10] through which the historian can unpack the mind-set of the middle class in Cape Town by investigating the ways in which people of status influenced one another's character.

Up until 1827 the *Raad van Justitie* (Court of Justice), established in 1685, was the highest civil and criminal court in the Colony. It was presided over from 1734 by the *Seconde* (Deputy Governor) although the Governor retained the right of veto. Although the Court of Justice was nominally separate from the executive Council of Policy, in fact the two consisted of the same members.[11] This system was not substantially changed after the British took over the Cape, until 1827, when a royal charter was issued, acting upon the recommendations of the 1826 report of the Commission of Inquiry. This abolished the Court of Justice and established a Supreme

[10] This term is S.M. Stowe's - *Intimacy and Power in the Old South: Ritual in the Lives of the Planters* (Baltimore and London, 1987), p.3.

[11] Dooling, *Law and Community*, p.3

Court which sat in Cape Town and consisted of a Chief Justice and three Puisine judges, posts which were filled by men from Britain.[12]

The nineteenth-century Cape law of defamation, however, was rooted in Roman-Dutch rather than in British law. Unlike British law, Roman-Dutch law makes no distinction between libel and slander, or between written or verbal defamation.[13] The notion of an audience is enshrined in the law and for a charge of defamation to be brought, the utterance must be made in the presence of someone other than the plaintiff alone.[14] Damages thus "depend on the loss of estimation of the plaintiff in the eyes of those who heard the defamatory expressions."[15]

There was some confusion during the early nineteenth century as to whether truth was an absolute defence against a charge of defamation.[16] The law of defamation would ultimately develop to the point where truth was not an absolute defence unless the defendant could prove, in addition to establishing the statement's truth, that the publication of the defamatory statement was either in the public interest (justification)

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[12] Dooling, '"The Good Opinion of Others": Law, Slavery and Community in the Cape Colony c.1760 - 1830' in Worden, N. and Crais, C. (eds) *Breaking the Chains: Slavery and its Legacy in the Nineteenth-Century Cape Colony* (Johannesburg, 1994)

[13] P.Q.R. Boberg 'Law of Delict' in H.R. Hahlo and Ellison Kahn (eds) *The Union of South Africa: The Development of its Laws and Constitution* (London and South Africa, 1960), p.545

[14] Nathan, Manfred. *The Law of Defamation (Libel and Slander) in South Africa.* (Johannesburg, 1933), p. 28 - 31. Boberg, 'Law of Delict', p.550

[15] ibid, p.30

[16] Olivier, N.J.J. `Laster' in G.G. Visagie, L.F. van Huyssteen, C.R. de Beer, N.J.J. Olivier, W. du Plessis, J.Th. de Smidt en H.C. Gall *Die Siviele Appèlhof en die Raad van Justisie, Hofstukke en Uitsprake wat Betrekking het of Siviele Sake, 1806 - 1827: 'n Evaluering van Capita Selecta uit Bepaalde Gebiede van die Reg aan die Kaap.* Finale Verslag, 1992, p. 33.

or a personal opinion based on true facts (fair comment on a matter of public interest).[17] The defence of privilege might also be used, if the defendant could prove to the court that he or she was acting in the discharge of a duty in the publication of the defamatory statement.[18] Statements made in the heat of a quarrel between the parties, or in response to something said by the plaintiff are also deemed not be actionable provided that those to whom the statement was published understood this circumstance.[19] Jest and Mistake are other possible defences but neither of these are used in the cases investigated for this period.[20]

Honour and Social Status.

The defamation cases of the Cape Supreme Court are dominated by the middle and upper classes of the Cape, for it was they who could afford the complex system of formal notarial accusation and court fees to be considered below. Their mechanisms for honour defence can been considered class specific, for they depended upon a degree of literacy, solvency[21] and familiarity with the modes of public discourse

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[17] Boberg, 'Law of Delict', p.550. He is writing of the position in the 1960s.

[18] ibid, p.552. For an example of this defence see *Bailey vs Abercrombie and Chiappini*, below.

[19] ibid, p.552. For examples of this defence see *Meres vs Dixon* and *Wolff vs Hesselmeyer van Hellings*, below.

[20] ibid, p.552 - 553

[21] As noted above, costs were seldom noted in cases brought before the Cape Supreme Court. In the case of Paul Ring versus Isaac Manuel, for slander, the costs came to £14.10.4 (CSC 2/1/1/11, No 14, 1829.) In the case of Hubertus Benedictus van Horstok, M.D. vs Charles Etienne Boniface, Pieter van Breda and Christiaan Nicolas Neethling, for slander, the costs came to £53.1.2. (CSC 2/1/1/13, no 48, 1830.) In the case of Matthew Gregory Blake vs Thomas Pownall Pellow Barrow for libel, the costs were £48.14.8 (CSC 2/1/1/46, No 21, 1841) In the case of Mary Ann Fury a Minor & Orphan assisted by her Curator Joseph Sturgis vs William Hare, for compensation for "defloration", the costs were £29.7.5. CSC 2/1/1/28, No 21, 1834.

which were unavailable to the poor. This is not to say, however, that only the rich laid claim to honour, for evidence from elsewhere suggests that even amongst the most powerless, a sense of outraged honour could provoke claims for redress. Slaves made use of the office of the Slave Protector to complain against others who had attacked their character, even if such claims could be rejected by dominant-class mediators who refused to countenance claims to honour by slaves against their masters. The records of the Slave Protector do, however, indicate that slaves claimed the right to defend their character, and made use of the mechanisms of the law available to them to protect their reputations.[22] In discussing dominant class claims that honour and respectability were their prerogative, therefore, it must be borne in mind that the underclass could also lay claim to their own rights of reputation, even if not in the same manner as those of higher status. These issues, however, must lie outside the bounds of a thesis focused upon middle-class defences of respectability - a discussion of how concepts of personal character operated in underclass life in Cape Town must await further research.

A case in which the relationship between social status and access to respectability is foregrounded is that of *Meres vs Dixon* which took place a decade before this study

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To give some idea of the implications of these costs, the Cape of Good Hope Blue Book of 1838 indicates that clerks in government employ earned salaries from about £100 per year (junior clerk in the auditors office) to about £180 per year (senior clerk in the auditors office). [p.144] The Resident Surgeon of the Somerset Hospital earned £300 per year. [p.192] The monthly wage for a domestic servant in Cape Town averaged about 52 s. 6 d. per month. [p. 246] The buying power of these wages can be gauged by the fact that sheep cost 12s. 9d. per head, bread 4 and a half d. per pound and beer 1s. 8d. per gallon. Evidently the costs of bringing defamation cases before the Cape Supreme Court put this means of redress for injured honour beyond all but the more financially secure members of the population.

[22] CA SO 5/3 Day Book of the Protector of Slaves, 1832 - 1833. Cases of Rodielfe, 1 February 1833, Rosina 13 November 1833 and Leentje, , 2 March 1833.

begins, but which is worth referring to because of its inclusion of the arguments of the legal counsel. James Meres was a Naval Lieutenant and Charles Dixon was a livery stable keeper in Long Street in May 1812 when they entered into a dispute during the Autumn races of that year. While attending the races, Meres had placed his horse in the charge of Dixon's stables and accused Dixon of placing the horse in the charge of a small boy who could not look after it properly. Their argument took place in "a public street and in the presence of a number of People."[23] According to witnesses produced by the appellant (Meres), when Meres complained to Dixon of the treatment of his horse, Dixon said to Meres that he "might go to hell if he pleased", that he had had too much trouble with the horse already and refused to serve him again, and he then "repeatedly called the said Meres a damned shitten puppy; accompanying the same with the most insolent tone & gesture."[24] Dixon, however, produced witnesses who testified that Meres had used equally abusive language towards himself and that he had only been retaliating in kind. According to these witnesses, Meres told Dixon: "I'll soon clap a stopper in your mouth you are a saucy fellow ... you are an impertinent *damned rascal*".[25] As a result of this quarrel Meres brought a defamation action against Dixon, in order to force him to apologise[26], and in his declaration made explicit reference to the connections between honour and class position.

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[23] GH 48/2/18 James Meres vs Charles Dixon - original verdict, 13 May 1813. Appeal verdict, 25 April 1814.

[24] ibid, p.150

[25] ibid, p.239 Emphasis in original.

[26] ibid, p.267

Meres stressed his position as an officer and the importance which honour had to his professional and gender identity, as a man and as an officer. [27] Meres stressed the context of the quarrel; that it had been in the "Public Street" in front of witnesses and that that he was at the time "in his full uniform" so that his professional honour was compromised publicly since "his country & King suffer no officers to remain in their services, who are injured in their honor".[28] Given the "rank of the Aggressor" Meres could not find no redress other than within the law courts.[29] The differences in their situation, he asserted, made his claim more powerful:

> Because the Parties differ so much in Situation and Character, the Appellant stands in such a situation with regard to His King and Government and his Fellow Citizens that the smallest spot in his Character dishonors him and renders him incapable for the service for which he is called upon. -
>
> It is indifferent to the Respondent what one says of his Character, provided he only takes care that he does not transgress the positive Laws and makes a great deal of Money consequently the reciprocally expressed words used between the Appellant and Respondent do not make the injury equal and it is upon this just ground that it is founded in Law.[30]

Meres' advocate, G. Buijkes, represented his client as having a social duty to preserve the honour of his class against the attacks of the "plebeian"[31]. Thus Meres and his lawyer projected an image of society in which men are divided between those who can claim honour and those who cannot, in accordance with the dignity of their profession.

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[27] ibid, p.133 - 134

[28] ibid, p.136

[29] ibid, p.267. V.G.Kiernan has stressed the importance of a sense of class exclusivity in explaining the use of the duel to resolve disputes. Kiernan, V.G. *The Duel in European History: Honour and the Reign of Aristocracy* (Oxford, 1989), p.153 - 154

[30] GH 48/2/18, p. 194 - 195

[31] ibid, p.266

Honour and money are not equated, an idea which will be considered in more detail below. In this vision of society, it was sufficient 'satisfaction' for a man such as Dixon to make money - claims to honour were unnecessary for a man of his position. A man of high status, such as Meres, had the social duty to protect this division by refusing to countenance insults from those of low status. Although Dixon's counsel did base their defence partly on the fact that Meres had "put himself at a level" with Dixon by "quarrelling ... in the open street"[32] their main defence was a rejoinder to another argument of Meres' - namely, that Dixon had placed himself in the relation of servant to Meres by caring for his horse, so that Meres had the right to correct Dixon, whose care had been inappropriate.[33]

This idea that Meres might have the right over Dixon that a master had over his servant raised the advocate acting for Dixon to great heights of eloquence. Once more, the idea that society is divided into the honourable and the dishonourable was raised, but in this case the division was made between the slave and the free. It should be noted that the division in society was one between slave and free rather than between black and white. No cases were brought in the city of Cape Town on the basis of racial slurs, lending support to the suggestion made in chapter one, that racial identity was not always an implicit part of respectability.[34]

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[32] ibid, p.233

[33] ibid, p.192

[34] An example from the interior (Veloorevlei) of defamation in racial terms is CSC 2/1/1/10 No 51, 1829. Petrus Johannes Boomzaier vs Hendrik Nicolas Kotze. Judgement was for the plaintiff - damages 40 shillings with costs. Costs in this case came to £27.3.6.

J.H. Neethling, in his reply to Meres' counsel, insisted that Dixon was a "free born British subject" and as such had a right to resist the abuse of Meres.[35] Meres had no privilege by virtue of his rank

> to trample upon the right of a free man, Publicly to degrade him to the miserable state of a destitute slave or wretched banditi[36] - to impose upon him the obligation to suffer such an abuse, such illtreatment without feeling the insult and retaliating the injury? ... is there under the British Government a man freeborn, who is to suffer such an insult from any Gentleman, nay is there a convicted "*damned rascal*" who is not rather to suffer death thro the hands of avenging justice?[37]

Neethling claimed that, despite their efforts, the opposing counsel had been unable to prove in law that "a man of the lower class of inhabitants may not retaliate upon an injury suffered of a man of the higher class."[38] As a self-made man practising his profession, Dixon could not be placed in the position of servant. This insistence on the nature of servility was therefore presented as having dangerous implications for society at large if, by their contracts of employment, free-born men supporting themselves by their own labour, placed themselves on a level with slaves.[39] The court evidently agreed with Neethling, for Meres' appeal was denied, but both parties were to pay their own costs.[40] The court's insistence that all free men, of whatever status,

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[35] GH 48/2/18, p.238

[36] Given the fact that Neethling's home language would have been Dutch, he may well have been referring to convicts, or "bandieten", a term of grave insult - see chapter eight.

[37] ibid, p.240 - 241. Original emphasis.

[38] ibid, p.242

[39] Ibid, p.248

[40] GH 48/1/1/ Court of Appeal minutes, p.232

had equal access to claims of honour, points to an important element of the system of respectability in operation at the Cape - it was essentially bourgeois rather than aristocratic in orientation. For all Neethling's rhetoric about the 'lower class', as the keeper of a livery stable who was making "a rapid fortune"[41] (as Meres described it) Dixon can more appropriately be defined as middle class. The Cape system evidently rejected the world view of British officers such as Meres as inappropriate - a rising self-made man had every right to defend his honour, and could not be degraded to the level of a servant. Another point raised by this case is that while British officers like Meres might have found the courts an unsatisfactory second best to more gentlemanly ways of settling disputes (and one only to be employed when dealing with a social inferior) in fact the courts played a crucial role in the defence of reputation for the majority of people at the Cape, even those who insisted upon their high status.

Changing remedies for defamation.

With regard to the use of the court, the remedies for defamation prescribed by Roman-Dutch law are an important clue to the way in which charges of defamation operated within the community system of the Cape. Roman-Dutch law at the Cape provided as a remedy for defamation the legal form known as *amende honorable et profitable.* This involved a public apology by the convicted defendant as well as a fine which was generally paid to a charity of the plaintiff's choice.[42] The *amende honorable* was a central performance of the social theatre which so crucially informed the operation of

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[41] GH 48/2/18, p. 266

[42] Nathan, *Law of Defamation*, p.181

charges of defamation, especially with reference to slander. An analysis of the defamation cases of the period 1828 to 1850 in the Cape Supreme Court, however, indicates that, during this period, the system of *amende honorable et profitable* gradually gave way to a system of compensation alone. In his account of the law of defamation as revealed by the cases of the Court of Justice between 1806 and 1827, N.J.J. Olivier suggests that the shift to monetary compensation alone was the result of both developments in the law of the Cape itself, as well as the influence of the British system.[43] Public penances which involved the bodily display of contrition had already been rejected by middle-class litigants as remedies for defamation in England by the early nineteenth century.[44] The existence of this system of compensation at the Cape was a function of the notions of honour subscribed to by the Cape Dutch.

Over the course of the period 1828 to 1850 the *amende honorable* died out completely. The thirty one defamation cases of the Supreme Court over the period 1827 to 1850 include only six cases in which the plaintiffs formulated their plea explicitly in terms of the *amende honorable et profitable*. All six of the plaintiffs were Dutch - one woman and five men. Furthermore, the cases are all in the earlier part of the period - one in 1828, one in 1830, two in 1831, one in 1832 and one in 1833.[45] It

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[43] Olivier, 'Laster', p. 33

[44] Morris, P. 'Defamation and Sexual Reputation', p. 240, 276 and 310 - 311.

[45] CSC 2/1/1/8, No 26, 1829. Pierre Giles Rocher assisted by his father Pierre Rocher vs Edward Judge.
2/1/1/13, No 36, 1830. Christiaan Nicolaas Neethling vs Ryno Mellet.
2/1/1/16, No 18, 1831. Michiel Cornelis Wolff vs Hermanus Mauritius Hesselmeyer van Hellings.
2/1/1/18, No 58, 1831. Johan Fredrik Plaff vs John Petrus Schonk.
2/1/1/21, No 36, 1832. Anna Susanna Hendrica Truter vs William Hart
2/1/1/23, No 21, 1833. Nicolaas Hendrik Laubscher and Johannes Albertus Laubscher, for himself and in the capacity of father and guardian to his minor sons Everhardus Laubscher, Marthinus Laubscher, and Johannes Nicolaas Laubscher vs John Fairbairn and George Greig.

should be noted however, that the two appeal cases discussed below also framed their requests in this form although both plaintiffs were of British origin (one, however, having married into a Dutch family). A typical request, or a judgement, might be expressed as follows:

> the Defendant may be condemned to render to the Plaintiff an amende honourable and profitable; - Honourable by the Defendants' appearing before the open Court of the Magistrate of this Town and there asking the Plaintiff's pardon for the injury he has done to the Plaintiff, and declaring that he is sorry for what has happened and that he holds the Plaintiff for a man of honor against whose Character he has nothing to say; - and profitable by paying to the Plaintiff to be employed by him for any Charitable institution in this Colony, a sum of Twenty Five pounds Sterling with all the Costs of Suit.[46]

The remedy was fundamentally a positive affirmation of the plaintiff's standing in the community in which social theatre played a prominent role. It was considered to cancel the effect of the slander by an equally public avowal of the defendant's mistaken assessment of the honour of the plaintiff before the community in open court. Although a financial punishment was inflicted on the defendant, this should not be confused with compensation, since, in this form of law, the money did not go to the plaintiff personally but to the public charity of his or her choice. Honour was therefore not commodified, and the money donated to charity served the dual purpose of punishing the defendant and enhancing the beneficent reputation of the plaintiff. The social position of the plaintiff was reinforced by his or her ability to offer patronage to more dependent sectors of the community. Supreme importance was therefore attached to social gesture - a public ceremony which shamed the defamer and affirmed

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[46] CSC 2/1/1/13, No 36, 1830. Christiaan Nicolaas Neethling vs Ryno Mellet.

the social status of the plaintiff, and an act of public benevolence which served the same purpose - rather than to monetary compensation. Furthermore, punishment was inflicted upon the body of the defendant, rather than upon his or her monetary wealth, through the shame of having to make a public apology and admit to an error of judgement.[47] Plaintiffs who claimed remedy in this manner stressed the relative importance of the public apology over the monetary compensation, even when the latter was to be bestowed upon a charity. Stressing the importance of the *amende honourable*, one plaintiff claimed that "every one knows that no Valuation can be made of such a thing, nor can it constitute any value."[48]

The fact that the *amende honourable* gradually died out during the period under discussion, and when invoked, was done so by Dutch plaintiffs alone, is indicative of the shift between two systems of power and social gesture explored in chapter two. The system of satisfying honour by the *amende honorable* was the antithesis to one in which honour was commodified. The concept of monetary damages was anathema to a system in which the *gesture* was all-important, and the operation of political power was far more explicitly linked to conspicuous consumption and bodily display than would be the case as the nineteenth century progressed.[49] The *amende honorable* can thus be viewed as part of a social world - that of the *ancient regime* Cape - which

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[47] For a description of the shame involved in making a public apology in open court see *Wilhelmina Van Reenen in appeal vs Samuel Bailey*, p.15.

[48] CA GH 48/2/30 Wilhelmina van Reenen in appeal vs Samuel Bailey, respondent. Original verdict 5 September 1816, verdict on appeal, 5 June 1817.

[49] The move away from the public shaming of the body of the defendant can be linked to Michel Foucault's discussion of shifts in mechanisms of punishment from the late eighteenth century onwards. Foucault, M. *Discipline and Punish: The Birth of the Prison* (London, 1977) Translated by Alan Sheridan. Original French edition 1975, p.8.

would all but disappear in the face of the new rational public sphere. Just as sumptuary laws were superseded by free market commodity exchange and fashion, the *amende honorable* was replaced by financial compensation for threats to character.[50] The public shaming of a defamer was superseded by the financial penalty of the free market.

Wayne Dooling has stressed the importance of patronage in building links of community amongst the Cape Dutch in an earlier period, claiming that honour, credit and patronage were all intimately linked. In an astute analysis of the situation in the Stellenbosch District in the late eighteenth and early nineteenth century, he has explored the links between personal reputation and the operation of the law with reference to slaveholders and their slaves.[51] Dooling stresses that honour is "a concept of central importance in slaveholding societies"[52] and that their standing in the community was crucial both to slaveholders' sense of themselves and to whether the law would judge in their favour. Slaveholders, both men and women, were bound together by ties of obligation which found their most concrete form in relationships of credit.[53] In cases involving slave ill-treatment, the reputation of individual

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[50] On the difference between fashion and sumptuary laws as a regulation of demand see Appadurai, A. 'Introduction', p.32, 38 - 9.

[51] Dooling, *Law and Community* and 'Good Opinion'. Dooling is primarily concerned to look at the issue of slaveholders' honour with reference to treatment of slaves, claiming that overtly brutal treatment of slaves was deemed dishonourable. *Law and Community* p.39, 50. He is less forthcoming about other aspects of slaveholders honour, particularly as it might relate to gender. Whether one can identify shifts in the elements which constituted honour from the eighteenth century to the period under discussion is an issue which must await further research.

[52] Dooling, 'Good Opinion', p.41

[53] Dooling, *Law and Community* p.9 - 12

slaveholders influenced both the chances of a case coming to court and the likelihood of the testimony of slaves being admitted as evidence.[54]

Whilst the centrality of notions of honour for slaveholders of the Cape is clearly demonstrated by Dooling's thesis, care should be taken when analysing how the defence of honour operated in society. The differences between the operation of honour in the slave societies of the Cape, and that other arena where notions of honour spring so immediately to mind, the Southern United States, are very evident, despite the frequent use of the United States as a comparative framework in which to site the slave society of the Cape. Robert Ross had pointed out the dangers of making uncritical analogies between the situations of these two countries, especially with reference to the relationship between masters and their slaves.[55] If the *amende honorable* was typical of traditional Dutch means of defending one's honour, the duel was the preferred method of Southern elite planters.[56] Despite certain important underlying similarities between the duel and Cape resolution of conflicts in the *operation* of settling disputes (to be further considered below) the *amende honorable* and the duel were fundamentally different in character. The duel was an isolating experience for the participants, an affair to be settled privately and discretely, even though it involved the reputation of the elite group as a whole.[57] It also acted as an alternative to the law. The *amende honourable* however, was rooted in the operation

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[54] ibid, p.40 and p.48

[55] Ross, Robert 'Paternalism, Patriarchy and Afrikaans', p.36

[56] Stowe, *Intimacy and Power* p.7

[57] ibid

of the law, and was a highly public procedure in which community ties were stressed explicitly, the defendant, if convicted, was publicly shamed, and the plaintiff was re-established in the ranks of the elite. By contrast, duelling was almost unknown amongst the Dutch at the Cape, as was the case in metropolitan Holland.[58] Duellists at the Cape were drawn almost entirely from the ranks of visiting British officers - men such as Meres.[59] This point warns us to be wary of comparisons between slave-holding societies without closely examining the specific way in which honour operated within a particular context.

Mechanisms for the defence of honour - the press.

The world view of officers such as Meres was not representative of Cape elite society as a whole, a point which may have been a factor in the dismissal of his case. Even Cape Town's dominant classes were predominantly bourgeois rather than aristocratic in their cultural orientation, a quality which reveals itself in the mechanisms by which they defended their honour. As the Dutch *amende honorable* died out, it was replaced not only by monetary compensation, but by mechanisms for the defence of honour which involved the newly emerging bourgeois public sphere.

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[58] Kiernan, *Duel* p.89.

[59] For an account of duels fought at the Cape see Lloyd, A.C.G. 'Duelling at the Cape' *QBSAL*, Vol 5, no.2, 1950, 39 - 45. Reprinted from the *Cape Law Journal*, vol. 37, 1920. All the duels mentioned, even those from the Dutch period, involved British participants, the majority of whom were army officers.

The *South African Commercial Advertiser*, which so self-consciously set out to educate the behaviour of men within the public sphere of the Cape, frequently attacked duelling, considering it a "Gothic method of settling disputes"[60], and emphasising the anachronistic nature of trial by combat in the Age of Reason.[61] In its instruction to correspondents conducting disputes within the pages of the paper, the *Advertiser* rejected the imagery of aristocratic combat and embraced that of the rule of law -

> Let us not come before the most grave and majestic Public to make sport like gladiators, or to tilt at each other's reputations like vain and ambitious Knights; let us appear wigged and gowned, as it were, with courtesy and mutual oblivion, being known only to the Judges and to each other, as nothing more than embodied Propositions, Proofs, and Arguments.[62]

The appropriate action for a proper man was through legal channels, his symbols were the wig and the gown of the law-maker rather than the weapons of the knight, gladiator or aristocratic dueller. Claims of honour were perfectly compatible with the bourgeois public sphere, whilst they might be expressed very differently from those inspired by 'aristocratic' mores. The *Advertiser* for example, was at pains to point out the way in which the law could be used to avenge ones honour without loss of position.

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[60] *SACA*, 5 January 1831. Extract from "Ramsay's History of South Carolina'.

[61] Criticism of the duel at this time "had a part in the progressive current of thinking, the growth of the bourgeois, antifeudal consciousness". Kiernan, *Duel*, p.165

[62] *SACA*, 2 February 1831.

An editorial of 1837, entitled "Opinion", began by attacking the idea that public opinion might force "certain classes" of men to take justice into their own hands and fight duels.[63] It went on to argue that it is not true public opinion which imposes this duty of men of honour, but "blind", or unreasoning, custom.[64] Using the language of the bourgeois public sphere, the editorial stressed that no "rational being" could impose the duty of duelling upon a proper man for by so doing it is the wronged who are punished, rather than the wrong-doers.[65] The recommendation of the *Advertiser* was that the laws should be changed in order for them to facilitate the punishment of those who insult the honour of others. In both civilian and military life, those who offer insults to others should be deprived from holding positions of honour, rather than placing the onus of defence upon the defamed.[66]

For men like Fairbairn, so bound up in the appropriate creation of a rational public sphere, the courts were the proper places to pursue affairs of honour. The frequency of litigation in Cape Town in this period, and the even greater number of cases which we can assume did not reach court but were arranged privately according to the fixed rules to be considered below, suggests that the majority of Cape Town's citizens, with the exception of military officers, like Meres[67], agreed with him about the proper way of conducting a dispute.

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[63] *SACA,* 15 February 1837.

[64] ibid

[65] ibid

[66] ibid

[67] See also CSC 2/1/1/3 No 25, 1828 John Wallace vs William Henry Hill and George William Sheniman for another example of British army officers' conception of honour and its defence.

The various means of conducting a dispute over a person's honour in Cape Town exploited the mechanisms of the bourgeois public sphere described in chapter two, especially the press and the courts. Cases might also, by Dutch Reform Church members, be brought before the *Kerkeraad* or Church Council. The *Kerkeraad*, however, was used almost entirely by people bringing charges of sexual impropriety - seduction, adultery or illegitimacy - and these cases will be considered in chapter six. Sometimes such cases could be pursued in both the civil and the ecclesiastical spheres.[68]

There were several stages which disputants went through before they actually took the final and expensive step of appearing in court. The press was an important vehicle for defusing tension between parties and for allowing public apologies to be made and honour to be vindicated without going to court. Persons who feared they had trespassed on another's honour, or who were threatened by others with court action as a result of their actions, could defuse the situation by placing a public advertisement in the press.[69] The press was an important vehicle for making such apologies public and Fairbairn claimed that a free press would enable men to defend their reputations more effectively.[70] From its very inception, the paper had been at pains to argue that a free press safeguarded reputation, rather than the reverse, and it did not leave public

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[68] There are no examples of this with reference to Cape Town during this period, although see the example from D'Urban village in the notes below. For a discussion of this issue see Du Toit, A. 'Afrikaaners' Failed Liberal Moment', p.55

[69] See example by J.A. Christie in *SACA*, 10 May 1826.

[70] *SACA*, 22 August 1826.

men without advice as to how this should be done. The way in which men undertook to conduct such affairs of honour was considered to be just as important as the original insult itself. The *Advertiser* ran an editorial in 1837 entitled "Libels and the Libelled". The editorial begins with the four stages which men should go through when faced with a stain on their character. Although the situation referred to here is one in which charges appear in the press, the behaviour of the citizens of Cape Town in the Supreme Court, indicates that they took similar action against verbal defamation:

> When a gentleman sees in the public Papers an offence laid to his charge to which his conscience enables him to plead not guilty, he may either despise it, and stand upon his character; or deny it as publicly as the charge was made; or require an explanation and public apology; or bring his accuser to a Court of Law.[71]

Fairbairn advised that it was best to take the first course of action.[72] If the injured party felt that the charge might reach the ears of those not acquainted with his general character, a plain denial or short explanation of the circumstances which gave rise to the charge was also deemed appropriate. Fairbairn advised frankness and confidence as the best defence in such circumstances for they give the best evidence for "innocency and good sense."[73] Another appropriate way of proceeding would be to "require an explanation" from the one who had brought the charges, but it was important that this be done in a particular tone - "in a manner that does not imply any imputation of bad motives on the part of those who have made the charge public".[74] It

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[71] *SACA*, 4 March 1837

[72] ibid

[73] ibid

was also vital that such a note be sent privately or by a friend rather than by an Attorney or "other professional person" in which case the demand for an explanation should be viewed simply as a prelude to legal action.[75] The tone, or "manner" in which the letter should be written was set down in detail.[76]

These instructions indicate the importance of language in the conduct of disputes concerning honour. Stowe has also emphasised the way in which language mediated affairs of honour amongst planters in the ante-bellum American South. Stowe points out that the various forms of written discourse used to communicate by the elite formed a kind of "cultural grammar" which defined the limits of the elite by specifying who might communicate with whom and which situation suited a particular phrasing. Thus

> Words mediate the world and in a sense invent it ... language is a kind of activity, a kind of work, the historical understanding of which is essential to the meaning that any other kind of activity could be said to have had.[77]

As chapter two has made clear, the press was one of the most important mechanisms in establishing a rational public sphere at the Cape. It also played a vital role in allowing men to defend their reputations in a proper manner. Inserting public notices in the press enabled men to publicly state their grievances, or offer apologies, and the papers were used as a forum to publish correspondence between gentlemen when

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[74] ibid.

[75] ibid.

[76] ibid.

[77] Stowe, *Intimacy and Power*, p.3

disputes arose. Even if a case did not come to court, and a formal action of defamation was not instituted, the letters of both parties could appear in the press in order to make their position known.[78] For example, when Justice Menzies and Henry Cloete, Advocate and Member of the Legislative Council, entered into a dispute during the Annual General Meeting of the Subscribers of the Public Library, Cloete saw fit to use the press as a means of establishing his position in response to Menzies' decision also to publicly state his case.[79] This case did not come to court, but there were others that did. I now turn to a more detailed analysis of a series of encounters, all of which led ultimately to civil law suits, which shed light upon the most common preoccupations regarding middle-class honour in Cape Town during this period.

Mechanisms for the defence of honour - the courts.

The case of *Wolff vs Hesselmeyer van Hellings* demonstrates the full gamut of steps taken by middle-class Capetonians in the move towards a court case of defamation. The case also further highlights the complex relationship between honour and monetary value. The standard wording of a plaintiff's declaration before the Cape Supreme Court was that he or she had been injured in his or her 'good name, fame and credit'. As I have tried to demonstrate throughout this chapter, the wording of such declarations demonstrates issues which went beyond legalistic formulae. There is a real sense in these cases of the way in which reputation and creditworthiness were

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[78] See the example of the dispute between Justice Menzies and Henry Cloete in the *Advertiser* of 27 April 1836 and 4 May 1836.

[79] *SACA*, 27 April 1836

linked. The financial implications of attacks on character should not be confused with the argument about the shift from social gesture to monetary compensation given above, for these are two different issues. Even if honour was *satisfied* by a public apology rather than by monetary compensation, this did not alter the fact that having one's character threatened could have real material consequences. Even though the plaintiff in *Wolff vs Hesselmeyer van Hellings* requested compensation in the form of *amende honorable*, the issues of the case hinge around the financial implications which threats to honour held out for middle-class individuals.

As if to underscore this point, the original insult took place in the sphere where one's "good name, fame and credit" could be put most graphically to the test - the public auction. Auctions were still the most common means of dispersing goods in Cape Town at this time, and specialised, glass-fronted retail shops were only beginning to appear in the 1830s. Wolff was an auctioneer in Cape Town, "of fair Fame, and enjoying an extensive business and credit", as he claimed in his declaration.[80] At an auction held on the Grand Parade in front of the Commercial Exchange, by Jones and Cooke, where Wolff was officiating, he declared that Hesselmeyer van Hellings had "in the presence of many Witnesses", and in order to "injure" Wolff in his "good Name, Fame and Credit" said to Wolff

> *Jouw gemeene Bliksem* (i.e. '*You low Rascal*') *Youw Bliksemsche Smeerlap*(i.e. *You rascally Blackguard'*) and shaking his hand at the said Plaintiff in a threatening manner, he further said: "*Only wait I will get you some time or other*" or Words to that very effect and meaning.[81]

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[80] CSC 2/1/1/16 No 18, 1831, Michiel Cornelis Wolff vs Hermanus Mauritius Hesselmeyer van Hellings.

[81] ibid. Original translations and emphasis.

In compensation for this, Wolff claimed "amends 'Honourable and Profitable'" in which Hesselmeyer van Hellings would beg pardon in the form of a notary deed (which could then be made public by Woolf) which asserted that Woolf was "a man of honor, on whose Character and good fame he has nothing to say". Furthermore, he would pay £15 to the treasurer of the South African College, and costs.[82] As a consequence of these words, spoken on 5 January 1831, Wolff sent a Notary Public two days later to Hesselmeyer van Hellings, who was himself a notary by profession, "to require him to retract the defamatory and injurious words and expressions" which he had made.[83] As Fairbairn had set out in his article 'Libel and the Libelled', this 'request' had threatening overtones and could be seen as a prelude to the inevitable litigation - it was termed an "insinuation" and one party "denounced" the other.[84] It was also, however, an accepted means of defusing a conflict. A statement given to the notary could pre-empt a court case and provided a less expensive way for the injured party to gain 'satisfaction'. Hesselmeyer van Hellings, however, refused to admit that he had been in the wrong, and sent the Notary away without a retraction. In return, he sent his own insinuation, witnessed by a Notary Public, dated 19 January 1831, in which he claimed that Wolff could not be ignorant of the circumstances at the auction, that the "said insult was no more than a retort for the premeditated injury suffered by the Insinuator from the Insinuated", and that "to avoid unpleasant litigation and

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[82] ibid. The costs of this suit are not noted.

[83] ibid.

[84] ibid.

expenses" Wolff should publicly declare that he had "nothing to say against the good name and character" of Hesselmeyer van Hellings.[85]

Wolff took no heed of this. He requested a copy of Hesselmeyer van Hellings' insinuation and sent his own refusal on 1 February. He evidently decided to take the matter to court since a summons was served on Hesselmeyer van Hellings on 10 February. They went to court in March and the case proceeded through March, April and May with judgement being handed down in June. Thus the whole process, from the initial insult, to notarial deeds, to court action, and ultimately to judgement, took about six months.

In his defence, Hesselmeyer van Hellings and his counsel made use of one of the justifications outlined at the beginning of this chapter, namely that his statements were not libellous since they were a fair response to a previous insult by Wolff. Hesselmeyer van Hellings began his statement by asserting his public good character and went on to explain that the reason he had insulted Wolff was because Wolff had publicly questioned his creditworthiness and ability to pay debts at the auction. Also making use of the important concept of publicly-acknowledged solvency, Hesselmeyer van Hellings claimed that Wolff had sought to "injure" him "in his Credit and reputation".[86] When some items at the auction to the value of one rixdollar and six skillings were knocked down to him, Wolff demanded cash from Hesselmeyer van Hellings who replied that he would pay him directly, and then paid him "within a

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[85] ibid.

[86] ibid.

few minutes" of the auction ending. Wolff then refused to accept the money and said "in the presence of several persons" that the articles had been sold to someone else since "*he feared he would lose the amount by the Defendant* if the said Articles were sold to him, upon which the Defendant admits having used the said words [of the libel]".[87] Since the words were used in response to a previous insult of the same order, claimed the defendant, "they are by Law deemed Compensated" and the action could not be maintained.[88] In further testimony of his financial responsibility, and of the unjust nature of the charges laid against him at the auction, Hesselmeyer van Hellings produced Receipts of goods paid for by him to Wolff between 1829 and 1830. The court evidently agreed with Hesselmeyer van Hellings since it found for the defendant with costs. Like the men in the case themselves, therefore, the links between abstract concepts such as honour and concrete concepts such as the ability to pay for goods were upheld by the Cape Supreme Court.

The middle class of Cape Town supported itself primarily through trade and, as chapter two has indicated, in the eyes of visitors, particularly from Britain, this might compromise their claims to gentility.[89] As was quoted in chapter two, Edward Blount was shocked to discover a man with whom he had dined the night before to be getting his hands dirty, as it were, in the conduct of a public auction. In Blount's view "gentility" at the Cape was almost entirely confined to those who were not in fact

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[87] ibid. Original emphasis.

[88] ibid.

[89] See the *African Journal*, 9 November 1843 on this point.

colonists, but rather temporary sojourners in the colony - the military and civil servants from India. Only certain merchants were gentlemen, and even those were of a somewhat ambiguous status.[90] Part of his disquiet stemmed from the public manner in which goods were marketed in Cape Town. Auctions demanded that merchants be personally present, on the ground, rather than immured within the respectable walls of an office. To Blount, the *manner* in which sales were conducted at the Cape was even more disturbing than the idea that gentlemen might owe their wealth to trade.

As a British visitor, Blount might find such behaviour beyond the pale for a "gentlemanlike" merchant. The case of Wolff and Hesselmeyer van Hellings demonstrates, however, that auctions at the Cape were a fitting theatre for dramas of honour to take place. There was a delicately defined etiquette in bidding and payment which defined who was a man of honour and credit. The courts deemed Wolff's behaviour to be as slanderous as the insults which Hesselmeyer van Hellings offered in return. Refusing credit to a man whose reputation for his creditworthiness was unblemished was deemed a serious insult, and slanderous in law. In so doing, Wolff had transgressed the boundaries of appropriate behaviour at a public auction.

The importance of proper public behaviour in commercial transactions such as auctions went beyond good manners. As with so much else in this study, the conventions of personal interaction were grounded in concrete economic reality. Establishing a reputation of creditworthiness was of real importance in allowing a man to conduct

[90] Blount, *Notes on the Cape*, p.97

business at the Cape. Writing of the middle class in England during the same period, Leonore Davidoff and Catherine Hall have also stressed the significance of personal reputation to the conduct of business. Like the Cape, a "dearth of trustworthy institutions for raising capital or in which to invest"[91] meant that "personal reputation became a key to survival."[92] The way in which a man of business and his family conducted themselves signalled to others the head of the household's financial integrity and indicated that he was a safe investment. Thus, in a situation where personal trust was vital to the conduct of business, the links between kinship and commerce were very strong.[93]

The situation which Davidoff and Hall describe in England was arguably exacerbated by conditions at the Cape.[94] Although there were several family-run merchant firms in Cape Town, the family links of British merchants had often been severed, making it even more vital to demonstrate creditworthiness by personal behaviour. As the case of Wolff and Hesselmeyer van Hellings demonstrates, however, the significance of personal reputation to business credit was of equal importance to Dutch merchants. This case is only the most graphic of several cases between men involved in trade on a greater or lesser scale which appear in the records of the Supreme Court. All stressed that they had been injured in their 'good name, fame and credit'.[95]

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[91] Davidoff and Hall, *Family Fortunes*, p.207

[92] ibid, p.208

[93] ibid, p.216

[94] On the development of banking in Cape Town and the problems of obtaining credit at this time see George, 'John Bardwell Ebden', chapter two.

[95] CSC, 2/1/1/11, No. 14, 1829 Paul Ring vs Isaac Manuel.
CSC, 2./1/1/11, No. 11, 1829. Hendrik Pienaar vs John Johnstone.

Merchants were not the only men to bring defamation cases because of injuries to their credit and reputation. One very detailed case which involved doctors, *Bailey vs Abercrombie and Chiappini*, of 1841, hinged upon the nature of professional identity and accusations that the plaintiff had acted in a manner "derogatory to the character of a gentleman and a professional man."[96] Whilst the details of the case, which hinged around the treatment of a dying child, are not significant to this argument, what is of importance is the manner in which the two parties approached each other in the sequence of events which led to the court case. The two parties entered into an extensive correspondence in an attempt to resolve their differences, but in their insistence on dated copies of correspondence, both sides were evidently preparing for their possible later use of the press or the courts to state their case before the public world. The entire correspondence which followed was expressed in extremely elaborate and formal language, despite the evident agitation of the correspondents. The phrases 'begs leave' and 'takes liberties' figure prominently. Analysing the correspondence of élite men in the American South, and Stowe has stressed the notion of "liberties" in everyday correspondence. These expressions, used in the written dispute, which, in Stowe's analysis, could ultimately lead to an affair of honour, or duel, were the logical extension of the formality with which men of status encountered one another - "much of what was at issue in a full-blown affair was budding in men's routine discourse."[97] The care with

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CSC , 2/1/1/18, No. 58, 1831. Johan Fredrik Plaff vs John Petrus Schonk
CSC , 2/1/1/26, No. 47, 1833 and CSC 2/1/1/42, No 8, 1839. Thomas Sutherland vs Alexander McDonald
CSC, 2/1/1/44, No. 8, 1840. Johan Leonard Whal vs Johan Pieter Volsteedt.
CSC, 2/1/1/56, No. 11, 1846. Morris Hart and David Hyman Constatt vs Benjamin Norden.
CSC, 2/1/1/60, No. 20, 1848. Charles Smyth vs Edward Clayton.

[96] CSC 2/1/1/47 Samuel Bailey vs James Abercrombie and Pieter Chiappini, No 36, 1841. The case was also extensively written up over four separate issues of the *Cape Town Mail*: 4 December 1841, 11 December 1841, 18 December 1841 and 25 December 1841.

which men approached one another's honour and character was indicative of the reciprocity inherent within social interactions of a status group determined to set itself off from the masses. Whilst they used the courts and the press rather than the duel, doctors at the Cape similarly signified their claims to gentlemanly status by the formality of their social interactions. As Harriet Deacon has argued, doctors in Cape Town were engaged in a bitter struggle for dominance of medical practice in the city over their rivals, the apothecaries and they asserted their gentility in opposition to this group[98] Their class status could thus be asserted by an insistence upon their place as gentlemen and professional men in society, an indication of the wider context of Bailey's personal claims.

Men brought libel actions, therefore, when other men slighted their honour by threatening their reputation as creditworthy individuals. By doing so they reveal the real economic imperatives of respectability. But what of women? The prevalence of male plaintiffs in defamation cases suggest that these actions were mainly inspired by male economic imperatives. Women appear before the Cape Supreme Court in defence of their honour primarily through breach of promise of marriage cases (which also had economic significance) and which will be discussed in chapter six.

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[97] Stowe, *Intimacy and Power*, p.25

[98] Deacon, H. 'Cape Town and Country Doctors in the Cape Colony 1800 - 1860' forthcoming article in *Social History of Medicine*, April 1997. I am grateful for permission to refer to this forthcoming work.

Defamation and gender identity.

In the 1828 - 1850 period, women appear in defamation cases as plaintiffs alone, never as defendants. It is significant that men brought cases of defamation when insulted by *other men*. It was the opinion of other men which was arguably of greatest importance to them. Of the thirty one cases of defamation brought before the Cape Supreme Court between 1828 and 1850, only two were brought by women. This cannot be entirely explained by failure of women to have access to the courts, for, as chapter six will explore, almost equal numbers of men and women brought actions for divorce, and women frequently brought charges of seduction before the courts. The three cases in which women appear as plaintiffs which I will discuss (one of which comes from before this period), all involve their sexual reputation. No men who lived in the city of Cape Town itself brought cases as a result of sexual insults.[99]

Male respectability, as later chapters will explore, was not unconnected with the issue of sexuality. In Cape Town, however, this was not an issue which came before the Cape Supreme Court. Women's honour, by contrast, was crucially bound up in their sexuality. In contrast to this absence of women in the civil court records, they are extremely visible in the records of the *Kerkeraad* in which their honour was examined with reference to illegitimacy. This circumstance points to a fact which the cases of the civil courts make very evident, that, whilst male respectability was bound up in

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[99] One example from fairly near Cape Town was CSC 2/1/1/42, No 4, 1839. Albertus Petrus Meyburgh Albert's Son vs David Hendrik de Villiers. The plaintiff and defendant lived in the present Cape Town suburb of D'Urbanville - then "D'Urban village in the Cape District". This is an example of a case being pursued in both civil and ecclesiastical courts.

issues of creditworthiness, honesty and professional behaviour, female honour was rooted far more profoundly in sexual purity.

The cases brought before the *Kerkeraad* will be considered in chapter six and I turn here to the cases brought before the Supreme Court. The rumours surrounding Magdalena Theron and J. Suasso De Lima's life together have already appeared in chapter two in my discussion of the play *Clasius Stupidus Bavianus*. Two years after the play was performed, Johannes Jacobus de Kock edited and Samuel John Mollet printed and published a Dutch song book in which appeared a certain verse which the court translated as follows:

> Antje loves every one
> Leentje is a Stealer of dogs
> Both ugly with age
> Klaas crooks through rascally tricks[100]
> Yea however it is understood
> Leen is wife and Klaas Husband.[101]

As a result of this, Magdalena Theron brought a libel action against de Kock and Mollett.[102] de Kock had in fact played the character, Leonore Klipkuil, based upon Theron, in the play *Clasius* two years before, at the age of eighteen.[103] de Kock was a

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[100] This could also be translated as "Klaas is crooked with villainy", which, given De Lima's deformities, seems more appropriate. I am grateful to Karel Schoeman for this suggestion.

[101] Antje heeft een Jeder Lief
Leentje is een Honde dief
Lelukbei van ouderdom
Klaas van Schurkenstreken krom
Ja hoe men het vatten kan
Leen is vrouw en Klaas is Man.

[102] CSC, 2/1/1/35, No 35, 1836. See also *SACA* 17 August 1836 for an account of the case.

colleague of Boniface's and secretary of the amateur dramatic society 'Vlyt en Kunst'.[104] After he lost the libel action because of the song, his friends at 'Vlyt en Kunst' organised a benefit evening to help him to pay his fine.[105]

In his argument for the plaintiff, the Attorney General, Sir Anthony Oliphant, stressed the importance of libel in a small community such as Cape Town. Whilst in London, he claimed, such a "piece of ... abominable vulgarity"[106] would not be of such import, since "few know their next door neighbours", at the Cape it was different:

> here where there are not ten persons who can read Dutch but must know the individuals mentioned, it became of very serious import to them, as tending both to bring them into contempt among their acquaintances and to injure them in their business.[107]

The situation of the Therons and De Lima made it especially important that they keep clear of scandal. In passing Judgement, the Chief Justice, Sir John Wylde (possibly drawing on his own experiences - see chapter seven) commented on the dangers of slander to those already compromised by circumstance:

> Mr. de Lima lived in a house with three or four females, one of whom is the Plaintiff. This circumstance would raise, - must raise, - has raised a sort of cloud about the dwelling, and renders it of the utmost importance to these individuals that no one be allowed to deepen the shade.[108]

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[103] Bouws, Jan. 'n Bedrywige Kaapse Burger in die 19de Eeue: J.J. de Kock' *QBSAL* Vol 32, No 2, 1977 - 1978, p.34

[104] Bosman, *Drama en Toneel,*, p.336

[105] ibid, p.35 The court ordered de Kock to pay £22.10 damages with costs. Mollet had to pay one shilling with costs. Theron had asked for £100 damages.

[106] *SACA*, 17 August 1836

[107] ibid.

[108] ibid.

Although Theron's counsel claimed that those mentioned in the songs had been injured in their "business", in only in one case in the period in the Supreme Court did female sexual purity and business practice explicitly overlap. Anna Susanna Hendrica Sparks was a widow and kept a boarding house for "respectable persons and families".[109] Her husband had been Richard Tyrrel Sparks, a lieutenant in the 49 Regiment of Foot and had died two years before the trial of 1832. In common with most other plaintiffs, Sparks stressed her standing in the community, claiming that she was "a woman of good character and repute, and esteemed as such by her Neighbours and friends".[110]By means of her lodging house, Sparks declared that she was "daily and honestly acquiring, sundry great gains and profits to the comfortable support of herself."[111]She was now suspected as "a woman of unchaste and immoral character and conduct" because William Hart had accused her of sleeping with a man in Cape Town, and of having conceived a child. He told one Dennis O'Kelly - "I am surprised to hear that you are going to live at Mrs Sparks after what I have told you of her infamous conduct."[112]As a result of this, claimed Sparks, those who were not aware of

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[109] CSC 2/1/1/21, No 36, 1832. Anna Susanna Truter widow of the late Richard Tyrrel Sparks vs William Hart, Senior. The court deemed that her declaration was too vague and she was forced to bring another case in the following year - CSC 2/1/1/23, No 1, 1833. During this case, the exceptions she made to the defendants plea were upheld and he was ordered to plea again, although there is no record of the result of this and the final judgement does not appear.

[110] ibid. When she amended her plea in 1833, Sparks added the word "chaste" to this description of her character.

[111] CSC 2/1/1/23 No1, 1833

[112] ibid

her innocence had "shunned and avoided the company and conversation" of her. In addition, she claimed:

> divers good and respectable persons have been and are prevented and deterred from hiring rooms and becoming boarders and lodgers in the said house of the said Plaintiff, and that the said Plaintiff hath thereby lost and been deprived of diverse great gains and profits which might and would have otherwise arisen and accrued to her from the said persons so hiring the said rooms and becoming boarders and lodgers aforesaid.[113]

As a result, Sparks claimed that she was "greatly injured, and in danger of being totally ruined."[114] Keeping lodging houses was one of the few career options for widowed women of moderate property in Cape Town during this period[115] but unlike male merchants, women who were conducting a business such as a lodging house had to maintain not only creditworthiness but also sexual respectability in order to operate effectively. In the context of a widening separation of public and private spheres, discussed in chapter two, women's sexual reputations could be imperilled by their very involvement in the public sphere at all. Writing of the situation in London in the late eighteenth and early nineteenth centuries, Anna Clark has spelt out the central contradiction which could result:

> The more a woman tried to attain a middle-class standard of respectability through her economic efforts, the more vulnerable she became to insinuations about her sexual reputation, for of course the ideology of separate spheres required women to stay in the home to be truly respectable.[116]

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[113] ibid

[114] ibid

[115] Erlank, 'Letters Home', p.230

[116] Clark, Anna. 'Whores and gossips: sexual reputation in London 1770 - 1825' in Angerman, A. Binnema, G. Keunen, A. Poels, V. and Zirkzee, J. *Current Issues in Women's History* (London and New York, 1989), p.237.

In the colonial context of the Cape, unlike in Britain, the separation of working women from non-working women carried an additional racial aspect. With white women central signifiers of settler identity, as has been discussed in the previous chapter, asserting the sexual respectability of white women was an important means of demonstrating class and racial barriers and forging settler identity. By inscribing respectability for white women as their position within the home, their difference from black women, whose economic circumstances frequently forced them into the domain of the workplace, could be underlined. Furthermore, by representing white female honour in terms of chastity, white men could defend their sexual exploitation of black women, thus legitimating "a racial interpretation of female sexuality which ultimately overrode any claims black women might have to respectability."[117]

A case which refers explicitly to the sexual aspect of female honour and how it could affect not only the woman herself, but also the honour of her husband, is one from slightly before this period. It is referred to here because of the arguments of the counsel make explicit reference to the nature of female honour. Over twenty years before he was involved in the action against Chiappini and Abercrombie, Samuel Bailey felt his "situation in Life" had been injured by doubts being cast upon his wife's chastity.[118] On 8 May 1815 the newly married Samuel Bailey sent an "Insinuation" through a notary to his wife's cousin, Wilhelmina van Reenen, as a

[117] Scully, 'Liberating the Family', p.435.

[118] GH 48/2/30 Wilhelmina van Reenen in appeal vs Samuel Bailey, respondent, original judgement, 5 September 1816. Appeal lodged, 1817. p. 107

result of rumours about his wife's virtue which he heard had been spread by van Reenen.[119] The insinuation informed her that Mrs Catherina Cornelia Cloete had signed a declaration before the notary which stated that a year or longer ago, van Reenen had told Mrs Cloete that she had heard it by a Mrs Pallas that Hester Bailey had borne a child previous to her marriage.[120]Also present at the time had been Johanna Paulina Eksteen. It should be noted that Mrs Cloete, Mrs Eksteen, Mrs Bailey and Wilhelmina Van Reenen (later Mrs Munnick) were all cousins. The insinuation asked Van Reenen whether she was willing to stick to her word and make a declaration that Mrs Pallas had spoken this to her. It emerges from the subsequent trial that the circumstance of the libel were as follows - Van Reenen, Cloete and Eksteen were at the house of "one Woeke"[121]when "a foundling of the Neighbourhood" was brought to the house by Van Reenen and so it came to pass that in the discussion which followed, Van Reenen said that her cousin, Hester Bailey, had had a child before she was married.[122]

Negotiated attempts at reconciliation through the use of notaries broke down and the case was brought to court. The case was brought not by Hester Bailey, but by her husband. Apart from the position of women under Roman-Dutch law, to be further considered in the following chapters, the reason for Bailey bringing the case in person was that as a husband he felt himself injured by the doubts cast on his wife's chastity.

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[119] ibid, p.41 - 42.

[120] ibid.

[121] ibid, p.102

[122] ibid, p.85

In his declaration he set out his reasons for bringing the case in great detail, thus shedding an interesting light upon the relationship between gender roles, honour and the proper actions of a respectable man. It was only after he had been married a few months, stated Bailey, that he had heard of the report, but he explained:

> [it] soon spread so generally that the Respondent [Bailey] who at first considered it as the most gross & palpable falsehood, could not any longer suffer his Wife's name to be in every body's mouth & that she should be represented as a person who had stained her reputation, and set but little value on the greatest Treasure which a young Woman can possess, & who was in consequence no longer worthy of being admitted into respectable Company.
>
> The Influence which such a report must have on the Happiness of Respondent's marriage on the honor of his Wife & on his situation in Life, immediately appeared to him in the strongest light; he could not, he might not leave it uninvestigated, & it became his Business to put a stop to it. - This his duty as a Husband and a good Citizen obliged him to do, in the former relation for the honor of his Wife, for his own honor & for the sake of his Domestic happiness, & in the latter, in the opinion of the World, which as a well thinking man, could not be indifferent to him.[123]

Women's honour was centred around their chastity, virginity being a young woman's "greatest treasure", and it was in this respect that Bailey had to preserve his wife's name from being "in every body's mouth". As a 'public woman' she was necessarily an unchaste one and barred from the ranks of the "respectable". Unlike his wife, however, Bailey had a dual identity, both within the private and the public sphere, for he was both "a Husband" and "a good Citizen" and these two roles prompted him to action. In the former role he set out to defend the honour of himself and his wife for the sake of his "Domestic happiness" but in the latter role he sought to justify himself in the "Opinion of the World" since he was a "well thinking man".

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[123] ibid, p.107

In his court action, Bailey requested honourable and profitable amends in the usual format. Wilhelmina van Reenen evidently wished to avoid the shame of a public apology, although she certainly seems to have been guilty of spreading the rumour, the original source of which remained obscure.[124] Her counsel wished to avoid the shame of a public apology by offering a private letter of apology, but its wording was not acceptable to Bailey. By writing this letter of apology, Van Reenen claimed that she had, although innocent, made every effort "in her power to keep the peace" without undercutting her own honour.[125] Van Reenen's counsel suggested that Bailey might have made use of this letter in the ways which have been discussed above - by inserting it in the press.[126]

This, Van Reenen's counsel stressed, should have been perfectly satisfactory to Bailey since it vindicated his honour. Its equivocal wording, however, led Bailey to reject it. The use of such a declaration in this case indicates clearly the way in which public declarations were supposed to operate in order to clear the name of the one who considered him- or herself slandered. The declarations in the press, the signed statements to the notary and the *amende honourable* were all part of a continuum in which the status of the plaintiff was positively affirmed in the presence of the community.

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[124] The original sentence ordered her to apologise publicly, to pay 500 Rixdollars to the Poor Box of the Dutch Reformed Church and to pay costs. ibid, p.9 - 10. The sentence on appeal reversed the payment to the Poor but affirmed the rest of the sentence and ordered Van Reenen to pay Bailey 100 Rixdollars towards the costs of the suit. [GH 48/1/1 p.303]

[125] ibid, p.62

[126] ibid.

With reference to the notion of community, the case is noteworthy for the strong family relationship which existed between the various parties. All the women involved in the case, except for Mrs Pallas, were cousins by blood or marriage. In addition, the notary, Rynier Beck, who acted for Bailey, was a personal friend of Thomas Munnick who had married Wilhelmina van Reenen during the course of the dispute. Munnick asked Beck to intervene with Bailey as a friend in order to settle the case amicably and have the fine cancelled.[127] Nevertheless, Bailey insisted upon bringing the case, stating that he had been "provoked to this Lawsuit" and he would not interfere with the fine imposed by the court upon Van Reenen "as a punishment for disturbing the public tranquillity."[128] A person's good reputation was thus not only his or her own, but also reflected on an entity outside the personal - that of the community. It was considered to be in the interests of the community at large for the innocent to be protected from slander.

Conclusion

This chapter has attempted to delineate the changing meanings which honour and its defence carried for the middle classes of Cape Town over this period. Honour was intimately connected with the idea of community and served both to assert personal status and to exclude others from the ranks of the elite. The means by which honour was defended were regulated by class and cultural orientation - at the Cape the law was a crucial mechanism in the defence of personal reputation. The public sphere of the press also became an increasingly important mechanism for conflict resolution

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[127] ibid, p.24

[128] ibid, p.20

over this period. Related to this development was the shift in Cape legal culture influenced by the incoming British colonial presence so that the public social theatre of the *amende honorable* was replaced by personal monetary compensation. The financial consequences of defamation, however, remained constant, and influenced the different meanings which honour held for men and women. This meant that female honour was sexualised far more profoundly than its male equivalent. The following chapter will extend the argument about the connections between masculine identity, female identity and property with reference to marriage.

Chapter Five:

Marriage, Community and Property Accumulation.

Marriage was one of the most concrete ways through which the middle class was forged in Cape Town for it was an institution which linked individuals, families, properties and ethnic groups. Furthermore, the constitution of 1853 (for which the emerging middle class was agitating over this period) enfranchised adult males not on the basis of race, but on the basis of property and of sex - and the accumulation of property was decivisely influenced by marriage. This chapter is devoted to the meanings which marriage held for the emerging Cape Town middle class for it is a crucial institution to investigate when interrogating the relationship between gender roles, power, and the accumulation of property amongst those whose propertied status gave them access to the vote. Furthermore, it has important implications for the establishment of a coherent group: marriage was a fundamental means by which the middle-class community of Cape Town re-created itself and ensured its legitimate continuation. By connecting individuals, properties and cultural groups, marriage played a vital role in constructing a colonial middle class by tying people with similar socio-economic aspirations together.[1] Marriage was central to the creation of the home and had practical and symbolic implications for the establishment of independence and status.

[1] It is only recently that the dominant class marriages of this period have come under the scrutiny of historians of the Cape. Like this thesis, Natasha Erlank's recent study of British women's writing at the Cape emphasises the importance of marriage as a "tool of social stability" in Cape Society. Erlank 'Letters Home', p.92. For an important comparative perspective with regard to underclass marriages, particularly of emancipated slaves, see Pamela Scully 'Liberating the Family?'

As Davidoff and Hall have pointed out with reference to the English middle class, marriage acted as an "economic and social building block".[2] Marriage united not only two individuals and two families but also two economic entities. At the Cape it was also an important force in uniting two cultural groups - the Dutch colonists and their more recently arrived British counterparts. Differences in the law of marriage and inheritance between Britain and the Cape influenced the manner in which this amalgamation took place, as did the heritage of differing commercial practices under the Dutch colonial system. This chapter will therefore scrutinise the importance of marriage alliances in the Cape Town middle class from a personal, a cultural, and an economic perspective, with a view to understanding the power relationships of property in the home.

Marriage in the middle-class life cycle: the choice of a partner.

Marriage brought about what was possibly the most fundamental change in a middle-class person's life, indicating an important new status of independence, responsibility and maturity. It signified a new life stage for both men and women. For men, marriage meant control of a new household of dependants. Once married, a man took on the duty to support his wife and family. If marriage was an important decision to take for men, it was possibly even more crucial for women. As chapter two has pointed out, independent economic opportunities were decreasing for higher status women at the Cape over the course of this period - the most respectable option for a middle-class

[2] Davidoff and Hall, *Family Fortunes*, p.322

woman was to be supported by the income of her husband.[3] Under such circumstances, marriage "could be the key to a woman's future".[4] With the importance of marriage for the social success of a young woman acknowledged by contemporaries, men engaged in courtship (especially if coming to grief in this process) might be represented as the victims of deliberate marriage snares. Hugh Lynar, a close friend of the attorney general, William Porter, claimed that Porter had been the victim of "manoeuvring" in an engagement which was later broken off - "the wife's family have the character of bagging game in the matrimonial field."[5] Describing to his mother an ill-judged engagement entered into - and subsequently broken off - by a young army officer at the Cape, Mary Maclear claimed that he "was drawn into the engagement".[6] Even if such descriptions were the function of the special circumstances of these cases[7], they are also indicative of a general social perception that 'capturing' a man in marriage was of vital importance to middle-class women.

The *Tijdschrift* encapsulated the importance of a woman making the right choice of a husband - and delineated the necessary qualities of such a man - in a poem entitled

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[3] On the narrowing of economic opportunities for women in Cape Town over the period 1820 - 1840 see Erlank, 'Letters Home', appendix 2, p. 228 - 230.

[4] Davidoff and Hall, *Family Fortunes*, p.325

[5] SAL MSB 391 Francis Porter Collection. Hugh Lynar to Francis Porter, Cape Town, 24 August 1846.

[6] CA A515 Maclear - Mann Papers, Mary Maclear to Mrs Lindsell, 21 April 1843

[7] The particularly close relationship between William Porter and Hugh Lynar - the two men lived together for their entire life at the Cape - make Lynar's description of Porter's engagement liable to question. Lynar was devastated when Porter announced his engagement and was instrumental in its breaking off. McCracken, J.L. *New Light at the Cape of Good Hope: William Porter: The Father of Cape Liberalism.* (Belfast, 1993), p. 69 - 70.

"Lucretia's Prayer for a Husband."[8] Lucretia wished, in the poem, for a "sober, pious, faithful, sensible virtuous Man" [9] as a husband and prayed for

> No sluggard or miser, that only covets my money
> Also no prodigal, who, when everything has been spent
> My soul and body by his lewdness would defile
> And then this beautiful visage with shame and grief bedeck.[10]

It befitted a cautious woman to think carefully before accepting a proposal, given the impact which this decision would have upon the rest of her life. Emma Rutherfoord, writing as a young middle-class woman of English origin in the 1850s, indicated a strong sense of marriage as the defining moment in her life. When her friends, mostly older than herself, began to get married, she declared that she was "not fit for it".[11] Her elder sister had recently married and left the colony for India when she described the concern of her parents that she too would marry and leave them. In return she assured her sister that "you may always direct my letters Miss Rutherfoord to the end of my days" since she had no desire to leave her family.[12] Emma Rutherfoord saw the choice of a marriage partner as the most serious step of a woman's life - given the economic opportunities of a woman of her class, her opinion was clear-sighted.[13]

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[8] Lucretia's Bede om een' Echtgenoot. *NZAT,* March - April 1826

[9] Een sober, vroom, getrouw, verstandig deugdzaam Man.

[10] Geen luyaard of geen vrek, die slechts myn geld begeert,
Ook geen verkwister, die, als alles is verteerd,
My ziel en ligchaam door zyn ontucht zou bevlekken
En dan dit schoon gelat met schaamte en rouw bedekken.

[11] Murray, J. (ed) *In Mid-Victorian Cape Town: Letters from Miss Rutherfoord* (Cape Town, 1953), p.14

[12] ibid, p.19

[13] See ibid, p. 87 - 88, and p.95 for the stress which an unexpected proposal caused her.

Several factors came into the decision of what constituted an appropriate partner. Certain partners, or potential partners, stressed the importance of mental compatibility. Hugh Lynar claimed that William Porter had been ensnared by a "pretty face", and was "the victim of a delusion". Porter, claimed Lynar, should not commit himself before "being satisfied that she professes something like heart, or even a sympathising nature".[14] In this he echoed Emma Rutherfoord who stressed the importance of "a refinement in heart" in a partner.[15] Marriage was as much about economics as sentiment, as will be explored at length below, and Mrs Mary Maclear was of the opinion that financial constraints were a reasonable cause to break off what she evidently considered a hasty engagement on the part of the son of a friend from England, despite the appropriate connections of the family in question (a branch of the Cape Dutch Cloete family).[16]

Racial origin could also prove of importance when choosing a marriage partner. Somewhat before the period under discussion, Lady Anne Barnard's description of the elopement of Hamilton Ross and Catherina van den Berg in the 1790s gave an account of the manner in which the young woman was shunned by Dutch society because of her racial origin:

> the dutch ladys will not visit her I dare say, she has a dash of *the Blew,* her mothers mother having been a slave, & as we are as proud as *Lucifer* on point

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[14] SAL MSB 391 Hugh Lynar to Francis Porter, 24 August 1846.

[15] Murray, *Mid-Victorian Cape Town*, p.95

[16] CA A 515 Maclear-Mann Papers, Mary Maclear to Mrs Lindsell, Biggleswade, Bedfordshire, England, 21 April 1843.

> of birth there is no quality or virtue not even the *virtue of being rich* which is not spunged out by the word slave born, or half cast - this is a very pretty girl - much genteeler than the generality of the women here but I have much offended two of *the quality* by asking if they were Acquainted with her.[17]

As chapter one has discussed, however, race and respectability had an ambiguous relationship in Cape Town. Ross and Van den Berg were to take their places at the very pinnacle of colonial society during this period, a fact which undercuts this description of a rigid colour line in Cape Town. Race, however, remained an issue for some in the choice of a partner, if not for all. A young carpenter, Jurgen Jacobus van Winkle, was forbidden by his parents in 1850 to marry Rachel Williams, a member of the Presbyterian Church because "she is to a certain extent, - a person of color."[18] Even the designation of the woman, however, she being a woman "of color" only "to a certain extent" indicates the ambiguity of racial categorisation. Such attitudes were not always consistent, for Rev Mr Morgan of the Presbyterian Church, which van Winkel had also for some time attended, willingly published the banns, and tried to persuade van Winkel's parents to allow the match.

The issue of parental approval was an important one in a prospective marriage, and not only for legal reasons. Emma Rutherfoord's parents were evidently of the opinion that her future husband (Andrew Murray) would be a good match for her, but they concurred in her opinion that she could not make a decision upon a short

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[17] Robinson, *Letters*, p.174

[18] CA CSC 8/1/1 1850. Application for Marriage of Minors, case of Jurgen Jacobus van Winkel and Rachel Williams. The two were given permission to marry.

acquaintance.[19] H.E. Rutherfoord presented his daughter's subsequent acceptance of Murray as an affair concerning the family as a whole, although the ultimate decision rested with her. Once the decision had been made and Emma's siblings' approval expressed, H.E. Rutherfoord noted - "I am glad of this as we have always acted together & been united as a family & I hope we always shall be."[20]

Marriage, therefore, united two families as well as two individuals. It forged alliances between like-minded groups and thus aided the growth of a middle-class community in Cape Town. Religion was an important factor in pulling disparate groups together - families such as the Rutherfoords, the Murrays, the Fairbairns and the Philips gravitated together in their social interaction and subsequently intermarried. In one instance, at least, these social alliances had important political implications for the Cape at large. The marriage of Eliza Philip, daughter of Dr John Philip, and John Fairbairn, in 1831 (when Eliza Philip was nineteen and her husband thirty-seven) helped to cement a powerful political alliance which was extremely influential in the course of Cape history. As we have seen in chapter three, in 1830 Eliza sought to engage herself as a salaried school-mistress in Cape Town but was forbidden to do so by her father. Philip was concerned that by engaging herself in paid work, his daughter would put herself beyond the chance of a reputable offer of marriage, and thus beyond the chance of fulfilling what should be her true destiny as a middle-class woman.[21] It is probable, however, that this letter also had a more specific purpose, for

[19] SAL MSB 412 H.E. Rutherfoord Collection, H.E. Rutherfoord to E. Smith, 23 June 1856.

[20] ibid.

[21] Long, *Index*, p.151, John Philip to Eliza Philip, 27 January 1830.

Philip wrote to his daughter whilst on a tour of the interior accompanied by his political ally, John Fairbairn, and the two men were in fact travelling together on the very day the letter was written.[22] Given the importance of the political alliance between Fairbairn and Philip in the history of Cape liberalism[23], the role which Fairbairn played in the dissemination of Philip's ideas, and the pressure which Philip evidently exerted upon his daughter to make an appropriate match, one can only speculate about the extent to which Philip's letter to Eliza, stressing the importance of her not spoiling her chances of making a good match, was written specifically with Fairbairn in mind.

Intermarriage between British and Dutch.

Of more profound and lasting influence on the nature of middle-class society in Cape Town was not individual political alliances but the trend of intermarriage between British and Dutch. The cultural tensions of the intermingling of British and Dutch have been examined in chapter two, as has an element of the material culture of courtship - the stoep. The cultural and economic implications of these marriages, however, need greater attention here.

If a symbol for this trend of intermarriage between British and Dutch as the foundation of a new Cape society is sought, it might be found in the marriage of Hamilton Ross, later pre-eminent merchant of the city and Member of the Cape

[22] I am grateful to Robert Ross for pointing this out to me.

[23] See Bank, 'Liberals and their Enemies' for a detailed discussion of Philip and Fairbairn in this regard.

Legislative Council, to Catherina van den Berg, daughter of Jacobus Johannes van den Berg who had been a surgeon in the service of the VOC.[24] The elopement which in a sense spectacularly began a later more prosaic trend was described at length by Lady Anne Barnard. [25] Hamilton Ross's commercial and social success in Cape Town was probably influenced by his choice of wife from amongst the established Dutch community. British merchants who allied themselves through intermarriage with established Cape families were amongst the most successful of their kind in the early British period at the Cape.[26] Intermarriage with an established Dutch elite could give newcomers the social and economic stability needed to make a new start at the Cape. Barnard claimed that elopement was "the fashion" in Cape Town at this time, and gave a humorous account of a flurry of intermarriage between British soldiers and Dutch women in 1798. [27]Other contemporary observers agreed on the frequency of marriage between English immigrants and Dutch women.[28] Despite the pejorative sexual stereotypes through which many British observers viewed Dutch women, the fact remains that they were willing to intermarry with them in substantial numbers. Marriage, therefore, provided an important means by which a middle-class population

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[24] See *DSAB* Vol II, p.606 - 607

[25] Robinson, *Letters of Lady Anne Barnard*, p.174

[26] Ross, 'The Cape of Good Hope', p.265 - 266.

[27] Robinson, *Letters*, note to p.179

[28] On the frequency of marriage between British immigrants and visitors and Dutch women (as opposed to sexual liaisons with slaves) see the following travel accounts: Rose, C. *Four Years in Southern Africa* (London, 1829), p.5 - 6. Salt, H. *A Voyage to Abysinia, and Travels into the Interior of that Country, executed under the order of the British Government in the years 1809 and 1810* (London, 1814), p.7. Nicholson, G. *Fifty Years in South Africa* (London, 1898), p.14 Dobbs, R.S. *Reminiscences of Life in Mysore, South Africa and Burmah.* (Dublin, 1882), p.174 . Bird, W.W. *State of the Cape of Good Hope in 1822.* (London, 1823), p.174. Krauss, Ferdinand. 'A Description of Cape Town and its Way of Life, 1838 - 40' edited and translated from the German by O.H. Spohr. *QBSAL* No 21, 1966, p.46

was forged in Cape Town by the inter-mingling of colonists of Dutch and British descent. Ferdinand Krauss, a German naturalist who paid a two year visit to Cape Town between 1838 and 1840, claimed that the children of the "Kaapenaars" (the term itself indicative of colonial identity) were very different in character from their parents because of the "rage to copy everything English" which led to frequent intermarriage, particularly by Dutch women to British men.[29]

Cape Dutch visions of marriage.

The idea that marriage was an important social cement was one subscribed to by the Cape Dutch themselves. In 1828 *Het Nederduitsch Zuid-Afrikaansche Tijdschrift* published an article entitled 'Marriage Recommended'[30] in which the author discussed at length the advantages of married over unmarried life as well as the religious and social duty of a man to marry. With the Dutch Reformed Church minister Abraham Faure the editor of the *Tijdschrift,* the article was evidently founded upon ideas about the religious importance of marriage in a Christian life. The article was addressed most explicitly to men, stressing at the start that the author was speaking of marriage with worthy women only - "because of all the worldly disasters there is none more disastrous than marriage with a stupid, wicked wife."[31] Marriage was viewed as the safe refuge for a man from the stress of public life. The article ended with this

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[29] Krauss, 'Description', p.46

[30] 'Het Huwelyk Aangeprezen' *NZAT,* March - April, 1828. p.13 - 17

[31] ibid, p.13 want van alle aardsche rampzaligheden is er geen rampzaliger, dan de huwelyksverbindtenis met een verstandeloos, ondeugend wyf.

question - "In which harbour can one flee from the storms and dangers of public life better and more safely, than in the still harbour of the domestic married happiness?"[32] The article claimed that the "institution of marriage belongs to the nobility of our human nature"[33]and called unmarried life, when chosen freely, "an obvious contradiction to nature"[34]for a life without marriage was unimportant to society.[35] It argued for the superiority of married over unmarried life on the basis of the religious nature of humankind, stressing that the spirit of God encouraged marriage and should be attended to.[36] The journal attacked the idea of free love which it linked to Enlightenment Philosophy[37] and which it rejected because it damaged the fabric of society:

> The education of the children depends completely on the institution of marriage. ... Take away the bond of marriage, the bond of the domestic life, through which father and mother pour out their care on the youth, cherish it with love, and provide for its wants, teach, advise and lead it, through observation and experience, mould it into an adult human being; take this marriage bond away, and humanity is destroyed, before the third generation has arrived; it has languished, like the plant in alien ground, from which the gardener withdraws his daily attention!"[38]

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[32] ibid, p.17 In welke haven zal men de stormen en gevaren des openbaren levens beter en veiliger ontvlieden, dan in de stille haven van het huisselyk huwelyksgeluk?

[33] ibid, p.13. De instelling des huwelyks behoort tot den adel onzer menschelyke natuur.

[34] ibid, p.15 eene blykbare tegenspraak der natuur

[35] ibid.

[36] ibid, p.13

[37] On the relationship between the Dutch Reformed Church and the influence of Enlightenment thought at the Cape see du Toit, A. 'The Cape Afrikaner's Failed Liberal Moment', p. 49

[38] ibid, p.14 - 15 Van de instelling des huwelyks hangt de opvoeding der kinderen geheel af. ... Neem den band des huwelyks weg, die de band is des huisselyken levens, waardoor Vader en Moeder beiden aan het jeugdige wicht hunne zorgen verspillen, het met liefde koesteren, in deszelfs nooddruft voorzien, het onderrigten, raden, leiden, door opmerking en ondervinding het van lieverlede, tot een mensch vormen; neem deze huisselyke huwelyksbetrekking weg, en het menschdom is vernietigd, eer het derde geslacht aanwesig is; het is weggekwynd, gelyk de plant op uitheemschen grond, waaraan de hovernier zy dagelyksch toezigt onttrekt!

In the opinion of the *Tijdschrift* therefore, marriage was indistinguishable from the rearing of children (explored in chapter three) and the propagation of a respectable lineage of descendants. Humans were set off from animals in their pursuit of these aims which defined their civilised status.[39] Marriage was considered part of a social continuum in the establishment of a community and the propagation of worthy descendants. As such, it was the building block of community. The importance of this theme in the *Tijdschrift's* description of marriage - connection between the marriage of individuals and the interest of succeeding generations - was also one which found expression in the popular culture which attended Dutch wedding ceremonies.

Petrus Borchardus Borcherds, Cape civil servant, in his account of his own wedding in 1806, emphasised the importance of marriage as a rite of passage for young women, as well as the distinction drawn in society between the married and the unmarried. His description underlines the point made at the beginning of this chapter, that marriage was a defining moment in the establishment of personal independence and maturity.[40]

The joyous and public festivities which attended Cape Dutch weddings were frequently described by travellers to the Cape. British observers found the strength of

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[39] ibid, p.14 - 15

[40] Borcherds, Petrus Borchardus. *An Autobiographical Memoir* Facsimile Reproduction Africana Connoisseurs Press, Cape Town, 1963. First published in Cape Town by A.S. Robertson, 1861, p.288

community involvement in such rituals disturbing, owing to their own cultural norms of privacy.[41] *Sam Sly's* description of a Cape Dutch wedding stressed that the "Dutch ceremonies differ somewhat from the English, inasmuch as the former are more disturbed by visitors, and appear more public, and make a greater exhibition".[42] During such a wedding it was the custom for the married couple to be publicly presented to all the guests, who generally included a wide range of friends and acquaintances as well as close family.[43] The speeches and poetry which these rituals occasioned also stressed the importance of the link between the individual, the family and the community. Some of these poems and toasts by J.S. de Lima survive in the South African Library, and he appears to have frequently obliged the wedding party with addresses of this sort. The poems typically extol the pleasures and duties of marriage and the religious blessings which flow from such unions.[44] Marriage is a "building that always defies / Dangers, bad luck, torment, disaster;"[45] it "will be an

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[41] See, for example, Bird, *State of the Cape*, p.168 For an extended discussion of this point see McKenzie *The Making of an English Slaveowner,* chapter four. The greater emphasis upon the connections between the nuclear family and the community which the Cape Dutch show compared with their English colonial counterparts is no doubt also a function of the isolation into which emigration placed British families at the Cape, particularly in the earlier decades of the nineteenth century. I am grateful to Stanley Trapido for this point.

[42] *African Journal*, 1 August 1844. This view was shared by Edward Blount. See *Notes on the Cape of Good Hope*, p.116

[43] Samuel Hudson includes a detailed (and disapproving) account of such a wedding ceremony in his essay entitled 'Marriages' written some time in the late eighteenth or early nineteenth century. He goes on to describe the public putting to bed of the bride. See Shell, R. 'Samuel Hudson on Marriages and other Customs at the Cape', *Kronos* 15 (1989) See also Borcherds, *Memoir*, p.290

[44] SAL. Poems by J.S. de Lima on the marriages of Oloff Marthinus Bergh and Geesje Wilhelmina van Reede, 1833; Hermanus Barend Keytel and Maria Margaretha Johanna du Toit, 1848; Marthinus Adriaan Richard Bergh and Rosina Anna Dorothea Monteath, 1850; Rosina George Clement Gie and Johanna Christina Wicht, 1853. Toast at the Golden Wedding Anniversary of Petrus Borchardus Borcherds and Jeannetta Johanna Borcherds, 1856.

[45] SAL. J.S. de Lima. *Epithalamium, of Bruilofts-zang* for Oloff Marthinus Bergh and Geesje Wilhelmina van Reede, 1833. "Een gebouw dat steeds gevaren, / Onspoed, kwelling, ramp, trotseer;"

eternal Eden; / Based on Religion and on Virtue".[46] The poems often refer to the family and guests and the joy which a wedding brings to them.[47] When de Lima gave a celebratory address at the wedding of a man for whose father he had performed the same office twenty seven years before, the theme of continuing generations was very marked. De Lima began his poem by quoting from his previous address and marvelled that he was able to celebrate such family continuity.[48]Similarly, when celebrating the Golden Wedding Anniversary of Petrus Borchardus Borcherds[49] and Jeannetta Johanna Borcherds, born Blackenberg, de Lima stressed the place of the marriage in the social world of the Cape. In his litany on the successes of the Borcherd family, de Lima presents the original marriage as the starting point for a range of personal achievements for the good of society at large, claiming, "Is it not the Holy Word that binds together all civilised people?" [50]

Marriage, Property and the 'Civilised Home'.

'Civilised people' were bound together by more than 'the Holy Word', for the marriage of propertied individuals involved the setting up of an independent household and the merging of economic assets. Whilst historians have recognised the

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[46] SAL. J.S. de Lima. *Epithalamium* for George Clement Gie and Johanna Christina Wicht, 1853. "Uw huwelijk zij een eeuwig Eden, / Op Godsdient en of deugd gegrond."

[47] J.S. de Lima, *Epithalamium* for Bergh and van Reede, 1833.

[48] J.S. de Lima, poem for Hermanus Keytel and Maria Margaretha Johanna du Toit, 1848.

[49] Borcherds gave an account of this celebration in his memoirs, describing it as a "good ancient custom". Borcherds, *Memoir*, p.454

[50] J.S. de Lima, Toast at the Golden Wedding Anniversary of Petrus Borchardus and Jeannetta Johanna Borcherds, 1856. Is niet de Heilige Schrift de band, die alle beschaafde volken aan elkander snoert?

role of material culture in signifying 'civilisation' for mission converts[51] - a practice which had important implications for their civil rights[52] - there has been less recognition that this process was of equal importance to white settlers.[53] The 1853 constitution laid down that for a man to qualify for the vote, he needed to earn wages of £50 per year, or occupy a fixed dwelling of £25 in value. The franchise was thus premised partly upon the ability of a man to occupy a home of his own, and to support this home by the earning of wages in a free market. Thus in the debates over the franchise in the Legislative Council in 1852, the Collector of Customs, William Field, articulated this connection between civil rights and stability of residence for those whom others might feel were disqualified from political rights by virtue of their race:

> Now I consider the fact of a coloured man being resident in one place for at least twelve months, as required by the eight clause, is in itself about the best test of character in this country, for we know the roving disposition of some of the coloured people, especially of the Hottentots, is a great source of complaint.[54]

He went further in his articulation of the politics of respectability by claiming that men having "a house of their own for twelve months, of £25 value" was "quite a sufficient test of character and fitness for electors of representatives for the lower house, mixed as such electors will, of course, be with those possessing higher property

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[51] J. and J. Comaroff, 'Home-Made Hegemony', p.54 - 56

[52] Ross, 'Missions, Respectability and Civil Rights', p. 12

[53] Natasha Erlank has indicated the importance of material culture in signifying status amongst whites in Cape Town in 'Circulating in Cape Town', p.49

[54] Constitution Ordinance: Debate in the Legislative Council of the Cape of Good Hope on the Qualification of Electors. Reprinted from the *Cape Town Mail* 1852. Pamphlet, South African Library. p. 13

qualifications."[55] Civil rights were therefore partly grounded in the ability to set up an appropriate domestic sphere. The stimulation of desire for domestic commodities - the 'trappings of civilisation' - might have the desired effect (for merchants and missionaries) of drawing indigenous people into wage labour in a cash economy[56], but the setting up of a properly appointed home was equally imperative (for both social prestige and political rights) for the propertied. The nature of the Cape franchise determined that one expressed ones right to vote not through racial identity but through the economics of respectability which involved either wage labour of a certain value or the occupancy of a fixed abode - the setting up of a 'civilised' home which was an integral part of the process of marriage.

Once a household had been set up, it had to be protected from collapse. Insolvency involved not just loss of the right to vote, but also economic and social disaster - a fact which moved several insolvent men in Cape Town to commit suicide.[57] On a more mundane level, financial vulnerability was a fact of middle-class life in Cape Town. The lives of Eliza and John Fairbairn were marred by constant financial worries. Fairbairn was anxious that his children not repeat his mistakes in this manner and that they should remain financially independent. Writing to his son, James Alexander, while the latter was at school in Britain, he tells him to look to the

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[55] ibid, p.14

[56] Trapido, S. '"The friends of the natives": merchants, peasants and the political and ideological structure of liberalism at the Cape, 1854 - 1910' In S.Marks and A.Atmore *Economy and society in pre-industrial South Africa*, (London, 1980), p. 249

[57] Erlank, 'Letters Homes', p. 93 - 94

example of Mr and Mrs Henry Rutherfoord, the brother and sister-in-law of H.E.Rutherfoord:

> They have plenty of money yet you see they are more careful than I who have very little. It is because they are careful of money that they have plenty of it. Follow their example and not mine. You will never be independent if you are careless of money, and you will never be happy unless you are independent[58].

James Alexander's sister also wrote to him whilst he was at school, warning him to be careful about spending too much money. Her description of the family's poverty indicates the manner in which the status of a home was signified through its material possessions:

> I must candidly warn you that Papa's affairs are not very flourishing we keep no carriage, only two servants no piano & see no company & yet he says it is only by the strictest economy that we can manage to live - I am obliged to reduce all house expenditures in as small [?] as possible.[59]

Servants, pianos, carriages and the keeping of company were some of the ways by which middle class families endeavoured to show their financial security and social status.[60] This description provides further evidence for the manner in which material culture was used to express social relations, as chapter two has emphasised. In the maintenance of social class the retention of such indicators of status was of great

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[58] Wits, A663. John Fairbairn to James Fairbairn, September 1857.

[59] A663. Jane Fairbairn to James Fairbairn, 27 January 1852.

[60] On the use of carriages to signify social status in Cape Town see Erlank, 'Circulating in Cape Town', p. 100 - 101

importance. Reference to material culture was used by a sister to appraise her brother of the seriousness of the situation in order to warn him against extravagance.

When H.E.Rutherfoord's business suffered serious losses in 1855 he too was forced to dispense with various indications of social status - his daughter's horses were sold, and there was talk of dismissing their various teachers.[61] Emma Rutherfoord's letters indicate the financial vulnerability of her entire social circle and the ever-present danger of businesses failing and the family having to lower its social standing. W.G. Gadney, who lived near the Rutherfoords in Green Point, and was Treasurer of the South African College, suffered a business failure, and had to turn his home into a lodging house. As Emma put it: "The Gadney's house is going to be a lodging house so we may expect all kinds of strange objects about Green Point."[62] Judge Bell's family had to make important social sacrifices in order to afford to educate their son in England. Of the impending departure of the Bell's son, Emma Rutherfoord wrote:

> It is a very good thing as he is only idling here, but they are obliged to sell their carriage and horses and live very quietly to afford it. Certainly the salary of the Judges and other Government officers should be increased rather than diminished or we can not expect to get superior people. It is not quite the thing for a grave Judge to be obliged to go to court on the top of an omnibus.[63]

Once more the importance of material culture and social status is made clear - "superior people" had to maintain an appropriate level of consumer consumption, one which emphasised their separation from the rest of society. A private carriage rather

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[61] Murray, *Mid-Victorian Cape Town*, p.102.

[62] ibid, p.20 - 21.

[63] ibid, p.102

than a place on top of a crowded omnibus was the appropriate way for a Judge to travel.

Marriage, Property and the Cape law of inheritance.

Marriage and the setting up of a 'civilised' home entailed the amalgamation of two sources of property. The previous discussion has indicated that the Cape Dutch stressed the manner in which marriage bound persons, families and a community together. The nature of the Roman-Dutch law of inheritance underpinned this by giving marriage a role in binding the propertied together which was specific to the Cape. Whilst the marriage of British men and Dutch women might lead to the acculturation of the urban Cape Dutch to British norms, the marriages which took place at the Cape tied the British immigrants into a system of law greatly at variance with that of their previous experience. It was also one which upset the ideas of certain British immigrants about the control of an independent man over his property. Cape marriage and inheritance law was designed to build a community of inter-linked persons and property in a far greater degree than its more individualistic British legal counterpart. An examination of the changing attitudes towards the law of marriage and inheritance at the Cape indicates the relationship between property accumulation, gender roles and power within Cape marriages.

The most striking aspect of Roman Dutch law at the Cape when compared with British law is the greater rights which it accorded to women.[64] Despite debates over

the matter, to be considered at length below, the British did not substantially alter the Roman-Dutch marriage or inheritance law during this period. The Cape Marriage Order of 1838, the most important legislative measure in this regard during this period, had a decisive impact upon the lives of the Cape underclass since it was intended to facilitate the performance of marriage ceremonies amongst emancipated slaves.[65] One important aspect of the Cape Marriage Order for middle-class men and women was the provisions it laid down for breach of promise. These will be examined in the following chapter.

Unless an ante-nuptial contract was drawn up, all marriages at the Cape during this period were in community of property. Under this system, all property held individually became jointly held upon marriage and all property acquired by either spouse during the marriage fell automatically into the joint estate.[66] "In the absence of an ante-nuptial contract providing otherwise the husband acquires the marital power over his wife who is reduced to a legal position analogous to that of a minor under guardianship. By virtue of the marital power the husband had control over his wife's person and property."[67] This included his right to the 'moderate' chastisement of

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[64] On Roman-Dutch law compared with British law see Ridgard, M. 'Women, Family and the Law: The legal status of women in the Cape Colony between 1806 and 1872' BA (Honours), UCT, 1993 and Scully, P. 'Private and Public Worlds'. As will be examined below, this issue was discussed in even greater detail by contemporaries themselves: Cape of Good Hope, Governor and Legislative Council. *Report of the Law of Inheritance Commission for the Western Districts*. G 15 - 65 (Cape Town, 1866)

[65] For an extended discussion of the Marriage Order of 1838, its intentions and its effects upon the Cape underclass see Scully, 'Liberating the Family?', p. 296 - 315

[66] H.R. Hahlo 'Law of Persons and Family Relations: Husband and Wife' in Hahlo and Kahn, eds *The Union of South Africa*, p.409 - 410

[67] ibid, p.411

her.[68] Thus, under law, the husband and wife become one person, and the husband is that person.[69] A married woman was, therefore, a minor in law - she could not appear in court without her husband's permission and assistance and could not enter into contracts or contract debts, except with regard to her duties as a housekeeper, unless her husband gave her permission to do so.[70] The issue of maturity upon marriage was an ambiguous one for women. Whilst a married woman gained social status and a mature position in society upon her wedding day, she was from then on a minor in law unless she attained her legal majority through widowhood.

Thus far, the position of women under Cape law appears bleak, but in these aspects it was no more so than their position under the law of Britain.[71] Nevertheless, marriage in community of property had real benefits for women, although these were felt only when the marriage was dissolved.[72] The law of divorce and the tremendous advantages which it offered to women at the Cape in comparison to British women will be discussed in the following chapter. Inheritance law at the Cape, however, also placed power in women's hands. Upon the death of either spouse, the community of property was dissolved. In the event of there being no will or ante-nuptial contract, the

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[68] Ridgard, *Women, Family and the Law*, p.26

[69] Pateman, *The Sexual Contract*, p.199

[70] Ridgard, *Women, Family and the Law,* p.26. See also Baikoff, J. 'The legal position of free women at the Cape before 1827: examples from the Constantia Valley' Cape Town History Workshop Papers, University of Cape Town, 1981, p.3 and Hahlo, 'Law of Persons', p.415

[71] For a detailed analysis of the relationship between women, domesticity and property in Britain during this period see Davidoff and Hall, *Family Fortunes*, chapter six. See also Hall, Catherine *White, Male and Middle-Class*, p. 120 and 177 and Poovey, M. *Uneven Developments*, p.75 - 76

[72] ibid.

property was divided into two halves - the remaining spouse (irrespective of sex) took half and the children divided the other half between them. If there were no children or grandchildren, their property would be divided amongst the heirs of the deceased, even if these were ascendants rather than descendants. Descendants of the deceased, however, took priority over ascendants. Within any generation, there was "complete equality of division, irrespective of age and sex".[73] Even making a will could not completely over-turn these provision - it was impossible to disinherit a child except under special conditions of the child's offence against the parent[74] and the estate could not be concentrated in the hands of one person. Each heir could not receive less than one third of the sum due to him or her had there been no will. In the event of second marriages, a widow or widower marrying again and having children by the previous marriage could not give to the second spouse more than that amount given to the child of the first marriage who receives the least.[75] The position of a widow at the Cape, therefore, was much stronger than her British counterpart, whose property became her husband's upon their marriage and which, allowing for restrictions such as primogeniture, could be disposed of as he saw fit after his death.[76]

The consequences of this system of intestate inheritance was that properties were divided and re-divided at regular intervals in order to make a settlement with the

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[73] Ross, R. 'The Development Spiral of the White Family and the Expansion of the Frontier' in *Beyond the Pale*, p. 139. This discussion of inheritance law is based on Ross's summary, p.139 - 141.

[74] The Inheritance Commission noted that a child could be disinherited if the grounds were publicly stated in the will. p.28

[75] *Inheritance Commission*, p.xi - xii See also Baikoff, 'Legal Position of Women', p.11 - 12

[76] Ridgard, 'Women, Family and the Law', p. 25

children upon the death of a spouse.[77] Farms would often be sold to raise the capital necessary to pay out inheritances since until 1844 it was not possible to split up the land itself.[78] Ross suggests that widowers were more likely than widows to be able to maintain farms under such circumstances.[79] There were exceptions, however, and Jill Baikoff has described the situation of various widows in the Constantia Valley who did not choose to marry, but, having reached their majority under Roman-Dutch law, conducted their own farming, commercial and property-developing businesses.[80]

Even if white women did not personally exploit their legacies, their equality with men in the inheritance system increased their economic and social influence in a colony in which they had in former centuries been a scarce resource.[81] Robert Shell has argued that the unbalanced sex ratios of the Cape, coupled with the system of partible inheritance, led to a situation in which settler women during the VOC period were empowered to marry up the social scale as well as to maintain precedence over black

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[77] Ross, 'Development Spiral', p.141

[78] ibid, p.142 Ross argues that this system led to a fluid situation which allowed young men to set up on their own. p.144

[79] ibid, p.141

[80] Baikoff, 'Legal Position of Women', p.6 Baikoff describes the situation of three women in the Constantia Valley from the seventeenth to the early nineteenth centuries. The example closest to this period is that of Leonora Colyn who, as the widow Colyn owned three highly productive wine farms in this region. p.10 For another example of an late eighteenth-century Cape woman's active involvement in farming and commercial activities see the 1797 diary of Johanna Duminy in Franken, J.L.M. (ed) *Duminy Diaries*. Van Riebeek Society (Cape Town, 1938). A recent feminist analysis of this diary which critically analyses its presentation by Franken can be found in Brink, Y. "'At Home' and 'all at sea' in language: The diaries of Johanna and Francois Duminy." *Social Dynamics* 19 no 2 (1993) 70 - 91. Wayne Dooling has noted in his examination of debt and patronage links in Stellenbosch in the eighteenth and early nineteenth century, that both men and women were involved as major creditors. Dooling, *Law and Community*, p. 9

[81] On the scarcity of white women in Australia during the convict period and the effect which this had on their roles in colonial society, especially with regard to marriage, see K. Alford *Production or Reproduction?* p. 8 - 9

women.[82] In the early eighteenth century the VOC took the decision not to sponsor family immigration to the colony, and the result was a scarcity of women amidst continuing male immigration which lasted through the eighteenth and into the early nineteenth century. Martin Hall's analysis of the histories of 41 high-status gabled estates in the wheat and wine producing areas of the Western Cape stresses the importance of women in lines of inheritance and community construction.[83] His data suggests that while all the title holders were men, "both through descent and marriage, women were critical to the continuity of the underlying structure of relationships that bound together the rural elite."[84] Thus "many of the estate biographies map out a 'shadow lineage' of women, standing behind the formality of male legal ownership."[85] Tracing the family connections of the owners of these buildings, he claims that marriage between cousins or between the children of married cousins was extremely common and that the effect of this, coupled with the system of partible inheritance, "was constantly to fragment estates between widows and children, and between the children of successive marriages, and then to reconsolidate capital in new conjugal estates."[86]

Owing to the small pool of original female settlers, Robert Shell has also described "an astonishing high degree of family intramarriage, when the settler family is

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[82] Shell, Robert. *Children of Bondage,* chapter ten, especially pp 327

[83] Hall, M. 'The Secret Lives of Houses: Women and Gables in the Eighteenth-Century Cape' *Social Dynamics* Vol 20, No1, 1994.

[84] ibid, p.7

[85] ibid, p.17

[86] ibid, p.9

considered in its matrilineal aspect."[87] The Cape gentry thus used inheritance laws and marriage customs to keep capital within their own status group. By the time of the period under discussion the population returns of Cape Town suggest that the sex ratio had evened out, to the extent that females actually outnumbered males.[88] The legacy of a former scarcity of white women, however, coupled with the nature of Cape Dutch inheritance law, influenced a tendency of elite Cape Dutch families to intermarry. Gender relations, and, particularly, marriage, were important means by which a community was constructed and by which this group maintained itself in a position of economic dominance.

The terms of Cape inheritance law no doubt influenced the ability of widowed women at the Cape to engage in independent business. This was further facilitated by a culture of informal female participation in trade in the city, as described in chapter two. Robert Semple, who (as we have seen in chapter two) asserted that Dutch women were more knowledgeable about their husbands' businesses than the men themselves, also claimed that Cape Dutch women exhibited a strong degree of independence:

> There exists not at the Cape that marked difference in the manners of the two sexes which we find in Europe. In conversation the women are free and unreserved, and very often not only listen to, but make use of expressions by no means to be reconciled with English ideas of decency and propriety. They are not the disciples, they might be the models, of the school of Mrs. Wolstonecraft[89] (sic); they call everything by its right name, and seem in

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[87] Shell, *Children of Bondage*, p.302 Like Dooling, Shell also indicates the importance of "a wide and complex network of interlocking credit and mortgage obligations" which "further tightened settler family bonds." ibid.

[88] In 1838 white males in Cape Town numbered 4 929, whilst females numbered 5 631. *Cape of Good Hope Blue Book for 1838*, p.192 - 193. By 1845, when the population was not broken down on the basis of race, the total number of men in Cape Town stood at 11 074 whilst that of women was 11 469. *Cape of Good Hope Blue Book for 1840*, p.228 - 229

> general to think that actions which men may perform with impunity ought equally to be allowed to themselves.[90]

Semple's description suggests that the Cape law of marriage and inheritance, as well as the informal commercial practices still in place when he made his observations in 1800, accorded Cape women a measure of economic independence which was reflected in their demeanour. This evidently offended his English sensibilities. The distinctive characteristics of the law, therefore, made marriage an extremely important way of accumulating property at the Cape and increased the social value of white women of status and assets. [91]The significant, but declining, role which white women played in informal commerce in the early nineteenth century has been discussed in chapter two. The nature of Cape inheritance law also affected their influence on the accumulation of property, as this discussion has sought to establish. Contemporary views on marriage and property held by English and Dutch colonists reflected the ambiguity of women's roles within the system of property accumulation which characterised elite Cape marriages. Certain incoming British settlers were offended by the economic power which Cape Dutch women could yield under the law, and which (at a time when men were claiming political rights on the basis of control over a home

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[89] Mary Wollstonecraft (1759 - 97) published her feminist polemic, *A Vindication of the Rights of Women* in 1792. As Semple's description suggests, her book argued for the innate equality of men and women and, against the background of British debates on the French Revolution, linked feminism to general political and social reform. Todd, Janet. (ed) *Mary Wollstonecraft: Political Writings* (Toronto, 1993), p.xvii

[90] Semple, *Walks and Sketches*, p.22 - 23

[91] Martin Hall has stressed the importance of racial purity in this process of inheritance - ten out of the fourteen 'founding mothers' of the families which owned the 41 properties in his sample were born in Europe, two were of unknown origin and only two were emancipated slaves or the daughters of slaves. 'Secret Lives', p.27

of wives and children) disturbed their sense of the proper relations between man and wife.

Marriage, Gender and Property discussed: The 1866 Commission Report.

A Commission of Inquiry into the Laws of Inheritance of the Cape Colony sat between 1865 and 1866 in order to investigate public opinion on the laws of marriage and inheritance.[92] The eventual report is an extraordinary document, which, although published outside the period under discussion, sheds important light on the way in which marriage was viewed at the Cape. It is also informed by debates which were current before 1850.[93] The Commissioners of Inquiry for the Western District consisted of seven Commissioners appointed by the Governor (both Dutch and British) headed by William Porter, the Attorney General.[94]

The Commission was set up because of concerns about widespread dissatisfaction with the colonial law of marriage and inheritance, particularly on the part of British settlers, especially those in the Eastern Cape. The discussions amongst settlers with reference to the law of inheritance were chiefly bound up with the issue of community of property, and the restrictions placed upon a man's right to dispose of his property

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[92] Cape of Good Hope, Governor and Legislative Council. *Report of the Law of Inheritance Commission for the Western Districts.* G. 15 - 65 (Cape Town, 1866)

[93] This is indicated by the discussions in *Community of Property and the Law of Inheritance at the Cape of Good Hope.* (Cape Town, 1859)

[94] The Commissioners were William Porter, Joseph Barry, C.J. Busk, Saul Solomon, John Stein, J.H. Redelinghuys, and P.A.D. Brand.

as he wished when his wife had died.[95] Despite this, the Commission came to the conclusion that the law should remain unaltered in its essentials since it is "equitable in its principle and beneficial in its workings".[96] Their primary reason for coming to this conclusion was that it was perfectly possible for people marrying, if they did not wish to marry under community of property, to avoid this by making an ante-nuptial contract. In their opinion community of property "recognizes to a reasonable extent the equality of the sexes, and harmonizes with the true idea of the marriage union, by blending inseparably the interests of the husband and the wife."[97] The report recognised, however, that the power which women had under the law at the Cape was felt by them when their marriages were dissolved, rather than when they were still in existence.[98] The report explicitly compared Cape marriage law with its British counterpart, and showed a degree of colonial self-satisfaction in what they regarded as the Cape law's advantages over that of the mother country:

> We are aware that it is saying little for the colonial law, to say that it is immeasurably superior to the law of England. For, in truth, except in so far as courts of equity in England allow ante-nuptial contracts to exclude the consequences of marriage according to the common law, the marriage law of England must be regarded as utterly indefensible.[99]

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[95] *Community of Property*, p. 7

[96] ibid, p. viii

[97] ibid.

[98] ibid, p.4

[99] In this instance they were referring to the power a husband had to leave the joint property of the marriage, whatever portion had belonged to his wife before marriage, away from her in the event of his death. As the next chapter will examine, however, the report also attacked the divorce law of Britain in extremely strong terms, while praising that of the Cape for allowing women "equal civil rights" to men. Testimony of Justice Cloete, p.152

The report is especially useful because the Commission, in addition to sending out questionnaires to several divisional councils and municipal boards of the colony, also undertook to examine sixteen witnesses, which they selected explicitly for their divergent opinions.[100] All the witnesses were men, both English and Dutch, from more than one generation, many of whom were in the legal profession, but they also included businessmen and civil servants.[101] Their testimony gives extensive evidence on how property and the married relationship were viewed by various parties amongst the middle class at the Cape, in particular the different views of certain English and Dutch witnesses. It indicates that there was still, by 1866, considerable debate about the place of women with reference to property, and thus to power, within the family, despite the decrease in their informal participation in commerce.

The Commission wished to discover whether there was a substantial increase in the number of marriages by ante-nuptial contract, and whether those who drew up ante-nuptial contracts were mainly British or Dutch. The witnesses gave varied testimony as to the number of marriages by ante-nuptial contract, some noting that numbers were increasing whilst others disagreed. There was widespread agreement, however,

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[100] ibid, p.vii

[101] Those who gave testimony were - Johan de Wet, advocate of the Court of Justice and later of the Cape Supreme Court; Oloff John Truter, senior attorney of the Supreme Court; William Hawkins, British settler of 1824 and businessman; Edward Hull, notary public and attorney of the Supreme Court; Charles Aiken Fairbridge, attorney and notary public; John Bardwell Ebden, retired merchant; Thomas Ansdell, merchant; William Edward Moore, attorney, notary and conveyancer; J.C. Berrange, attorney, notary and conveyancer; William Smith, public servant, conveyancer and general agent; Hendrik Cloete, retired judge; Judge Pringle, of the United States, present in the colony under the treaty between the United States and Britain for the suppression of the slave trade; Charles Davidson Bell, Surveyor General; Alfred Whaley Cole, advocate and law lecturer at the South African College; David Tennant, attorney and notary public and J. Steuart, sheriff of the colony and later Master of the Supreme Court.

that those who objected to the laws of community of property and sought ante-nuptial contracts were primarily English settlers, particularly those from the Eastern provinces.

One witness who disagreed was Charles Aiken Fairbridge, attorney and notary since 1846, whose practice, as he described it, was chiefly amongst the English portion of the community, but who also had Dutch clients.[102] He claimed that ante-nuptial contracts were universally common, especially amongst merchants[103] and that "owing to some mismanagement, the matter has unfortunately assumed the complexion of a question between Dutch and English, and I believe that any alteration is opposed by some upon that ground."[104] In his opinion the division was one of class rather than of ethnicity: "business people" and the "educated classes" opposed the law while "the boers, and farmers who live from hand to mouth" did not question it.[105] Fairbridge claimed that the law was paternalistic and objected to it on the grounds that it took away the agency of independent men - "a man does not like to be compelled by process of law to be a good father, or a good husband, or anything else which is good. He likes to be a free agent in this respect."[106] For an independent (and now enfranchised) man of means and influence to submit to prescribed conditions of

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[102] ibid, p.55

[103] ibid

[104] ibid, p. 63

[105] ibid, p.67

[106] ibid, p.68

inheritance was evidently anathema to Fairbridge. Masculine independence demanded the power to dispose of property as one wished.

Fairbridge claimed that the law was especially prejudicial to merchants since it obliged them to sell up their concerns to pay off their heirs upon the death of their wives. When challenged upon this point by Porter, who claimed that such would be the case in a business partnership as well as a marriage partnership[107], he claimed that the law gave protection against this eventuality in the case of a business partnership in a way it did not with marriage.[108]

The concept of marriage as a partnership was one which was discussed at length by the Commission. The law of community of property was considered to be a useful and accurate expression of this aspect of the married relationship. As Porter put it

> The wife, by our law, is a partner with the husband. No term can be more correctly employed than that which describes the wife as a partner with the husband in the joint estate; the only different between a common business partnership and a matrimonial partnership being that in the latter the husband has the exclusive administration of the partnership property.[109]

The terms of this partnership, however, were viewed very differently by certain English and Dutch witnesses. Thomas Ansdell, merchant, to whom the description of

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[107] In this he was echoing the view of Johan de Wet. ibid, p.6 Porter's method of extracting information frequently saw him playing devil's advocate in order to get witnesses to express their views in greater detail. This view was also later expressed by William Smith, p.128

[108] ibid, p.55 - 56 John Bardwell Ebden, by contrast, claimed that these disadvantages could easily be prevented by marriage according to ante-nuptial contract so that the fault lay with the "folly or want of prudence of the parties concerned" rather than with the law itself. ibid. p. 75

[109] ibid, p.85

partnership quoted was suggested, responded by objecting to the analogy, claiming that the wife did not contribute to the business as a partner would, but only shared in the profits. He claimed that he did not agree with the theory that husband and wife both accumulated the assets of a marriage.[110] Porter then questioned him thus -

> it is said [by other witnesses - see below] that experience shows that the wife, with reference to the way in which the household affairs are regulated and children nurtured and educated, is not to be considered as a person who contributes nothing, but as a partner who contributes a reasonable half?[111]

Ansdell, however, would not be swayed -

> a wife can only be a partner in so far as she will economize the funds which the husband gives her. It is not the wife alone who has the bringing-up of children; because the husband is paramount, and in nine cases out of ten he forms the character of the wife and of the children also.[112]

Furthermore, Ansdell felt that widows should not be given the opportunity to take control of a husband and wife's joint capital upon a husband's death, but that the estate should be wound up.[113] In Ansdell's view, therefore, women were classed with children as the dependant sector of a masculine-controlled household. They had no independent economic initiative to contribute to the family. This view should be contrasted to that of Justice Cloete, who stressed the "equal civil rights"[114] of men and women and stated:

> I should think it is desirable that the widow should have the control of the estate. It is to their wives that husbands are very often indebted for making

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[110] ibid, p.95

[111] ibid, p.86

[112] ibid.

[113] ibid, p.97

[114] ibid, p.130

> their fortunes, or at all events for preserving them; and therefore I do not see why after the death of a husband the widow should not be entrusted with the management of the estate so long as she remains in a state of widowhood."[115]

Like Ansdell, Charles Aiken Fairbridge also objected to the idea that men and women were equal partners in marriage with regard to the accumulation of property, claiming that it was the "the energy, the labour, the toil of the husband that is the source of wealth" even if the wife, "by her care and thrift, helps the husband to accumulate property".[116] For certain British witnesses, the wife played an extremely secondary role in the family enterprise. This corresponds with the increasingly common British ideas about the separation of spheres explored in chapter two, and contrasts with traditional Cape Dutch commercial practices as well as the greater equitability of Cape law.

William Hawkins, British colonist and merchant, agreed with this view and coupled it with a severely jingoistic attitude to the law. Apart from objecting to the effect which the law of inheritance had for business practices at the Cape[117], he desired that the law be changed so that a man might have "full control of any property that his wife may have when she marries [including the freedom to leave it to anyone he pleased] ... as the law is in England."[118] When it was pointed out to him that the wife at the Cape

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[115] ibid, p.151

[116] ibid, p.56 Most informants agreed on the role the wife played in domestic management as either a saver or a spender. On this point it should be noted that the *Tijdschrift* included in 1824 an allegorical story entitled "Wenk Voor Spilzieke Huisvrouwen" - "Hint for Prodigal Housewives." *NZAT*, November to December 1824, p.396

[117] ibid, p. 34 - 35

was "in every sense merely a sleeping partner" whilst the marriage still existed, he still maintained that husbands were being deprived of their rights since "the husband has a right to do what he likes with what I call his own. For it is seldom that wives contribute much to the estate."[119] Hawkins wanted the wholesale importation of English law to the Cape, agreeing with Porter's suggestion that his approval of the law of England rested on nationalistic rather than legal grounds.[120] In Hawkins' mind, Englishness was associated with the absolute control of a man over his own property, and also over the property of his wife.

Unlike these men, however, John Bardwell Ebden, also a British merchant, claimed that husband and wife were equal in their claims on the estate since both "have laboured and exerted themselves to acquire an independence"[121]. The English witnesses who were connected to the practice of the law, and, even more especially, the Dutch witnesses, put significant emphasis upon the importance of the equality of sexes before the law, and several of them stressed the importance of women's contributions to the joint income even more strongly. While the division between those who felt husband and wife to be equal partners in a marriage and those who did not was not a strictly ethnic one, therefore, the witnesses who were most insistent

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[118] ibid, p.31

[119] ibid, p.32

[120] ibid, p.33 As David Tennant, attorney and notary public since 1849 put it - "Many English people imagine everything which is not English must be bad." ibid, p.220 This influence upon the thinking of those who opposed the law of community of property at the Cape was recognised in the arguments of those who supported community of property. They never failed to point out that law reformers in England were seeking to abolish the laws regarding the property of husband and wife which certain colonists were clamouring to introduce at the Cape. *Community of Property*, p.4

[121] ibid, p.82

upon a husband's rights over his wife's property were both English. Furthermore, Hawkins coupled this view with a nationalistic stance towards colonial law.

Like Justice Cloete, quoted above, J.C. Berrange, attorney of the Supreme Court, notary and conveyancer since 1838, demanded equality for men and women before the law.[122] He claimed that women frequently brought as many assets to a marriage as did men, if not more so[123] and when questioned on this point as to whether women contributed to the accumulation of property within a marriage "by her industry, or her economy and the aptitude for business which many of our Cape wives have?" he answered that in some cases it was exclusively by her own industry that a woman contributed to the assets of a marriage.[124] Justice Cloete spelt this out very directly -

> The principal of our law seems to be that wives should be considered to have equal civil rights with, to be quite as good managers, and to have their interests protected in the same way as their husbands. The principal of the English law is just the reverse. ... I think the common law of England the most rigid and harsh towards women of the laws of any civilized country.[125]

Not all British witnesses agreed with the likes of Hawkins. William Smith noted that great "progress" had been made in not having the English law at the Cape, and he had no desire to return to it.[126] Smith had been in public service from 1819 to 1847[127] and

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[122] ibid, p.112

[123] ibid, p.114

[124] ibid.

[125] ibid, p.152

[126] ibid, p.124

[127] ibid, p.123

was evidently witness to the shift in business practices described in chapter two. He claimed that "in this colony you may see continually that a large number of estates are made by the women; not so much now as they used to be, because the women do not work so much as they used to do."[128] Whilst at the time he gave evidence - the 1860s - the husband was the primary economic contributor to the joint estate; "in times back I have seen a large number of estates in Cape Town made by women, which I think the principal of community was favourable to."[129]

This account of the 1866 Commission of Inquiry has tried to indicate the diversity of opinion which existed between certain English and Dutch groups about the role of wives and husbands in marriage, particularly with regard to property. Pamela Scully has seen the Commission as "vividly demonstrat[ing] the eroding of married women's power under the influence of British law, and the relatively egalitarian views held by Dutch farmers in comparison to their English-speaking peers." [130] Whilst this division should not be overstated - for both English and Dutch witnesses spoke out in favour of women's rights to property control and "equal civil rights" - the differences in opinion between English and Dutch men are significant. Also of importance is the opinion of contemporaries that it was becoming common practice amongst English settlers during this period for marriage settlements to state that the consequences of a marriage should be those that would have arisen had the marriage taken place in

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[128] ibid, p.125

[129] ibid, p.126

[130] Scully, 'Private and Public Worlds', p.222

England.[131] The decades prior to the Commission had already seen the erosion of middle-class female participation in informal commerce. English immigrants were pressing for changes in the legislation regarding marriage and inheritance which would have resulted in the further erosion of women's economic autonomy. Although this legislation was not enacted, the choice of marriage by ante-nuptial contract was evidently a popular one with elements of the middle-class population - possibly especially for those of English origin or sympathies. Control over property was the basis upon which men claimed the civil right of enfranchisement. The selective political empowering of propertied men which had accompanied their enfranchisement in 1854 was therefore coupled with an erosion of women's independent economic action with reference both to the law and to commercial practices.

Conclusion.

The study of attitudes towards marriage forms an important focus for the intersection of issues surrounding gender roles, property and power in the act of setting up a home. The possession of a fixed abode of a certain value was one basis upon which enfranchisement could rest, and public civil rights were influenced by the possession of a solvent domestic sphere. Marriage was a crucial point in the life stages of a middle-class individual, and the right choice of marriage partner had a significant impact upon his or her future. This chapter has sought to delineate the wider

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[131] *Community of Property*, p.38, quoting William Porter in a speech made before the Legislative Council of 18 July 1848.

implications of this choice by stressing the important unifying role which marriage could play in Cape life, by connecting individuals, families, properties and cultural groups. It therefore served as a vital tie to bind together an emerging middle class. The cultural stress which the Cape Dutch laid upon marriage as a foundation for an interconnected society of individuals was further emphasised by the nature of Cape Dutch marriage and inheritance law. The power which women held under Roman-Dutch law with respect to inherited property can be linked to the tradition of informal commercial practices at the Cape explored in chapter two. The enfranchisement of male householders can be coupled with a trend which attacked the independent economic power of their dependent female relatives. As with the formalisation of commerce from which women were excluded, their power of inheritance under the law could be eroded by the choice of marriage by ante-nuptial contract rather than in community of property.

Chapter Six:

The breakdown of legitimate sexual relationships.

The previous chapter has explored the politics of respectability by looking at the role which marriage played in constructing properties and homes and at the manner in which it amalgamated the group that was to emerge as the city's middle class through the joining of individuals, families, properties and ethnic communities. It is now necessary to interrogate the manner in which respectable sexual relationships were vulnerable to dishonour and collapse, and at the mechanisms in place at the Cape to deal with such disintegrations of families and properties. This chapter further discusses the nature of respectability with respect to white families in Cape Town by looking at the ways in which this concept was threatened - by adultery, domestic violence, seduction and illegitimacy - and at the ways in which church[1] and state[2] could intervene in the 'private' sphere to control aberrant sexuality

[1] The discussion of the intervention of the church into private life is limited to the example of the Dutch Reformed Church. There are certain reasons for this - since almost all women who brought seduction cases before the Cape Supreme Court were Dutch, I have sought to discover what avenues they pursued when changes in the law prompted them to abandon the use of the civil courts (see below). The Dutch Reformed Church records also help to redress the balance with regard to the paucity of sources relating to Cape Dutch private life (see discussion of this issue in chapter one). The Dutch Reformed Church was the most common religious affiliation for Christians in Cape Town during this period and has left very well organised records about its dealings with personal sexual deviance. Nevertheless, it is recognised that more research is needed into the workings of other churches - especially those which served the British community - to deal adequately with this question. In 1838 the *Cape of Good Hope Blue Book* estimated that 6 000 people were affiliated to the Dutch Reformed Church, as opposed to 3 800 Anglicans, 1 000 Lutherans, 450 Catholics and 550 Scottish Presbyterians. p. 196 - 9.

[2] The intervention of the state will be considered through the divorce, separation and seduction cases brought before the Cape Supreme Court by people in Cape Town between 1828 and 1850.

As with the law of marriage, Cape legislation regarding the breakdown of legitimate sexual relationships had several advantages for women which were lacking in British law. Over the course of this period, however, the increasing application of British ideas about marriage, honour and the position of women in society began to place middle-class women in a weakened bargaining position when seeking redress in certain of these matters. The chapter ends with a discussion of how the church, as opposed to the civil law of the state, increased in importance as an avenue of redress for Cape Dutch women who sought marriage to the fathers of their illegitimate children. This shift is related to the changes in the law of breach of promise enacted at the Cape by the British government.

The law of England and the Cape compared.

British observers frequently remarked on the distinctive divorce law of the Cape, which one traveller called "very peculiar".[3] The relative ease with which a divorce could be obtained at the Cape occasioned much adverse criticism and William Bird felt that the divorce law of the Cape encouraged "vicious practices" in the colonists, and was the cause rather than the effect of marital discord.[4] Robert Semple, whose vision of female independence has been discussed in the previous chapter, joined the

[3] A Bengali. *Notes on the Cape of Good Hope, With an Appendix for the Benefit of Indian Invalids Visiting the Colony.* (Calcutta, 1847), p. 59 This anonymous writer's comments on divorce are based more on outraged sensibilities than accurate observations. He confuses private and judicial separation and divorce. For an account of the differences between these see below.

[4] Bird, *State of the Cape*, p.168

ranks of those who attacked both slavery and the law of divorce and separation at the Cape. [5]

The 1866 Commission of Inquiry into marriage and inheritance law exhibited a very different attitude to divorce law at the Cape from that of the earlier travellers. For the commissioners, if not for all of their witnesses, the differences between the law of the Cape and of Britain was cause for self-congratulatory statements about the equity of the Cape system. As the previous chapter has argued, the commissioners, and many of the witnesses, both English and Dutch, considered English marriage law to be indefensible. As one witness put it: "I think the common law of England the most rigid and harsh towards women of the laws of any civilized country."[6] He went on to refer to English divorce law as evidence in support of his argument.[7] When William Hawkins (the British merchant whose wish for English law to be introduced at the Cape is described in the previous chapter) was interviewed, William Porter sought to shake his confidence in English law by pointing to the perfidy of the English law of divorce.[8]

As with the law of marriage and inheritance, Cape divorce law differed from English law chiefly in the equal rights it accorded to men and women. A brief description of the two systems is necessary in order to understand the vastly different situation

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[5] Semple, *Walks and Sketches* , p.19 - 20 on marital dissolution.

[6] *Inheritance Commission*, evidence of Justice Cloete, p. 152

[7] ibid, p.153

[8] ibid, p.39

Before 1857 there was no formal legal change in the system of divorce in England.[9] Apart from the practices of wife sale, bigamy and desertion utilised by the poor, there were several options open to the 'respectable'.[10] The ecclesiastical courts were empowered to grant separation from bed and board on the grounds of life-threatening cruelty or adultery. Wives could receive alimony awarded by the court.[11] A private separation, drawn up by a conveyancer, allowed for the same provisions without a couple having to prove adultery and cruelty and therefore submit their characters and relationship to the scrutiny of the world.[12] Neither of these options allowed either party to remarry. The only possibility of full divorce with permission to remarry was to bring a private act before Parliament, available from the late seventeenth century.[13] The prohibitively high cost of this process restricted divorce by Act of Parliament to all but the richest people in the country.[14] A woman's grounds for divroce was also more restricted than a man's. Only four divorces were ever granted to women by this system, and all involved either bigamy or incest as an additional element to the husband's adultery.[15] Scottish law was far more liberal than its English counterpart and allowed both men and women to obtain divorces on the grounds of desertion and

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[9] Stone, L. *Road to Divorce: England 1530 - 1987* (Oxford, 1990), p.15

[10] ibid, p.141

[11] ibid, p.210

[12] ibid, p.162

[13] Stone, L. *Broken Lives: Separation and Divorce in England 1660 - 1857* (Oxford, 1993), p.11

[14] Stone, *Road to Divorce*, p.327

[15] Kitchin, S.B. *A History of Divorce* (London, 1912), p.182 Stone points out that one of these cases in fact involved a woman whose husband had committed adultery with her married sister. Stone, *Road to Divorce*, p. 360

adultery.[16] It was relatively low in cost and thus utilised by both the middle and the upper classes so that judicial separation was virtually unheard of.[17]

The new Divorce Court of 1857 placed English divorce under the authority of the Supreme Court rather than the ecclesiastical court. It built on previous practices, however, in the different rights it accorded to men and women. Whilst men could be granted divorce on the grounds of a wife's adultery, women could only bring an action of divorce when adultery was combined with desertion, cruelty, bigamy or incest.[18] The English Divorce Act was put into force in the Australia colonies and in New Zealand between 1860 and 1873.[19]Amendments placing husband and wife on an equal footing and extending the grounds for divorce were only made in the late nineteenth century in New South Wales, Victoria and New Zealand.[20] It was only in 1969 in Britain, "when the ground for divorce became the irretrievable breakdown of the marriage" that divorces could be "obtained relatively easily by both wives and husbands and by members of all social classes."[21]

Roman-Dutch law made the situation at the Cape during this period a great deal more equitable. Divorce was both easier to obtain and ostensibly equally available to men

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[16] Kitchin, *History of Divorce*, p.227

[17] Stone, *Road to Divorce,* p.357

[18] Kitchin, *History of Divorce*, p. 184

[19] ibid, p. 233

[20] ibid, p.234

[21] Pateman, *The Sexual Contract*, p.182

and women. There were several options open to men and women who wished to formally discontinue their married relationship. The simplest procedure was to enter into an extra-judicial agreement of separation, usually drawn up by a notary, in which no grounds need be given. This had only limited validity since it could not free a spouse from liability for the other's future debts.[22] The ability to enact private separations by notarial deeds should be borne in mind in the discussion of judicial separation given below. The small number of judicial separations over the period do not give any indication of the number of private separations drawn up by couples in Cape Town. In order to avoid liability for a partner's debts a judicial separation was necessary. Judicial separations were granted upon the grounds of domestic violence which had to be life-threatening to the plaintiff.[23] It was essential to prove the fault of the defendant, and there could not be fault on both sides.[24] There were varying degrees of judicial separation. Separation of board and lodging left the communal estate and the marital power of the husband intact. Separation of goods caused the marriage in all intents and purposes to cease to exist. If the wife was innocent she could, in addition, apply to be maintained by the husband. The couple remained married in the eyes of the law, however, and if one committed adultery or left the area in which they lived, without intention to return, it gave the other grounds for divorce.[25]

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[22] Geffen, Irene Antoinette. *The Laws of South Africa Affecting Women and Children* (Johannesburg, 1928), p.156 Despite this fact, couples did give notice in the press of private deeds of separation and declared that they could not be held responsible for one another's debts. See for example the notice of the deed of separation of James Ross and Maria Johanna Sophia Ross, born Zinn, in *De Zuid-Afrikaan*, 16 October, 1835.

[23] Hahlo, 'Law of Persons and Family Relations', p. 437

[24] ibid.

Neither extra-judicial or judicial separation allowed for remarriage at the Cape and this was only possible after divorce on the grounds of either adultery or malicious desertion. As with judicial separation, it was necessary to prove the 'guilt' of one party in order to dissolve the marriage, and it was important for the plaintiff to maintain a position of innocence in order for the divorce to be granted.[26] Men and women had equal rights under the law with regard to actions for divorce, apart from the fact that whilst a husband could bring a damages case against his wife's lover in a divorce action, a wife could not bring such a case against her husband's lover.[27] Cape and English divorce law also differed in the facility the former offered to the poor to seek divorce. If evidence was produced that the plaintiff did not own moveable property to the value of £10, it was possible to obtain a divorce *in forma pauperis*, although this facility does not appear to have been utilised very frequently.[28] The courts could also make provision for one partner if she or he could not afford a defence.[29] Once the divorce was granted, property was divided equally if the marriage

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[25] Ridgard, 'Women, Family and the Law', p.58 As an example of this see CSC 2/1/1/16, no 15, 1831. Lieve William Nicolai van der Riet vs Cornelia Sophia Johanna van Schoor.

[26] Geffen, *Law of South Africa*, p.165

[27] ibid, p.166 See CSC 2/1/1/27, No.9, 1834. Johannes Le Riche vs Thomas De Jongh, 2/1/1/16, No. 24, 1831, Thomast Hylett vs Willem Ventura and 2/1/1/64, No. 25, 1850, Charles Davidson Bell vs Lestock Stewart.

[28] Ridgard has identified 12 cases between 1829 and 1872 when the plaintiff sued *in forma pauperis*. ibid, p.64 These cases have not been included in this sample, given the focus on middle-class divorces and separations.

[29] CSC 2/1/1/76, No 27, 1854. Jan Andries Spolander vs Sophia Wilhelmina Carolina Spolander otherwise Beck. Spolander divorced Beck on the grounds of adultery. The court decreed, on her request that he pay her legal costs since she could not afford a defence. Unusually for divorce cases, the costs were noted in this case as being £32.19.7. £15 of this had to be put forward by Spolander to the court for the use of Beck. See the note on the costs of court cases in chapter three.

had been in community of property.[30] Both parties could remarry. The 'guilty' party, however, was forbidden from marrying the person with whom they had committed adultery.[31] If a spouse was convicted of adultery, he or she was likely automatically to lose custody of the children, unless it could be proven that the 'innocent' party was an even worse parent.[32]

Not all the cases brought before the Supreme Court during this period were contested, and some defendants were not even represented since they did not reply to the charges made against them. This suggests that certain divorce actions were based upon tacit mutual consent, although this had to be carefully concealed from the court. Even if a divorce was uncontested, it was not necessarily granted.[33] Any hint of mutual consent could overturn a divorce action. The main defences against divorce were adultery on the part of the plaintiff, connivance in the defendant's adultery by the plaintiff, condonation and collusion. Condonation involved forgiveness - expressed through

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[30] Hahlo, 'Law of Persons and Family Relations', p. 432. In the case of an ante-nuptial contract, other arrangements might be made, although none are discussed in the Cape Supreme Court. See the case of Agnes Barrow and Thomas Pownall Pellow Barrow, below, for a discussion of the division of property in judicial separation. Hahlo notes that it was possible for the injured spouse to bring a forfeiture of benefits claim against the guilty party, that they might not benefit financially from the divorce, but no such actions occur in the civil cases of the Cape Supreme Court in this period.

[31] Ward, David. *A Handbook to the Marriage Laws of the Cape Colony, The Bechuanaland Protectorate, and Rhodesia.* (Cape Town, Port Elizabeth, Johannesburg, 1897), p.2 Stone reports numerous ways of getting around this provision in both England and Scotland before 1857, so that, although legally forbidden, marriages between adulterous couples appear to have been possible, and even commonplace. Stone, *Road to Divorce*, p. 324 and 357. It is not clear whether this was possible at the Cape, given the fact that the co-respondent was usually named in the case.

[32] Ridgard, 'Women, Family and the Law', p. 34. When Charles Davidson Bell divorced Martha Antoinette Bell (daughter of the prominent merchant, John Bardwell Ebden) for adultery with Lestock Wilson Stewart, Assistant Surgeon in the Madras Army, he was also awarded custody of their daughter, who was less than two years old at the time. Martha Bell appealed against this decision to the Privy Council, but lost. CSC 2/1/1/64, no 24, 1850.

[33] Ridgard, 'Women, Family and the Law', p.64

sexual relations - of the defendant by the plaintiff after knowledge of the adultery.[34] Collusion indicated a conspiracy by the two parties to defraud the court by bringing a false accusation before it.[35] A further defence was that the action had to take place within five years of the original adultery, during which time condonation had to be avoided, but in practice this was not very strictly enforced.[36]

Between 1828 and 1854, 32 divorce and 8 separation cases involving at least one resident in Cape Town were heard before the Cape Supreme Court. The records mostly survive in the following condition. The summons is followed by the plaintiff's and then the defendant's declaration. The case was not always defended. Occasionally the cost of the case is noted, but this is not consistent.[37] Although it was evidently common to call witnesses in divorce and separation cases, unfortunately their testimony is very seldom included in the surviving documents.[38]

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[34] Hahlo, 'Law of Persons', p.426 - 427.

[35] ibid, p. 427 See the discussion of *Wylde vs Wylde* in Buchanan (ed) *Cases decided in the Supreme Court of the Cape of Good Hope, as reported by the late Hon. William Menzies, Esquire* Vol 1 (Facsimile reprint edition, Cape Town and Johannesburg, 1973 of original edition, 1903), p.272

[36] Ridgard, 'Women, Family and the Law', p.62

[37] See footnote on costs in chapter four.

[38] It is difficult to determine exactly why certain witness testimony was retained whilst others was not. It appears that the use of written testimony of witnesses who were not actually present at the trial itself, and of letters caused them to be filed with the court documents. This was not universal, however, for in *Bell vs Bell* (CSC 2/1/1/64, no 24, 1850), letters were produced in evidence but not filed.

Judicial separation and domestic violence.

Of the eight separation cases between 1828 and 1854, only one case was dismissed.[39] As the law dictated, all the cases were brought on the grounds of domestic violence, with the defendant seeking to prove that "cohabitation" with the plaintiff was "rendered dangerous and insupportable".[40] The graphic descriptions of violence within the middle-class home which these cases represent are a vivid expression of the manner in which ideals of middle-class domesticity could be undercut in practice. Pamela Scully has documented the surveillance of domestic abuse amongst the poor by the legal authorities which was coupled with a corresponding blindness towards violence in the middle-class family.[41] The fact that so few cases of separation were brought before the Supreme Court cannot be taken as evidence that middle-class men (who were almost always defendants) only rarely physically abused their wives. The cases indicate that in order to have grounds for separation the abuse had to be particularly violent (usually life-threatening) and accompanied by generally dissipated behaviour - usually expressed by drinking and insulting a mother in front of her children.

For the state to intervene in the private realm of a marriage and grant a judicial separation, the circumstances of the home had to be extremely far removed from any

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[39] CSC 2/1/1/62, No10, 1849. Maria Stegman vs Dirk Johannes Stegman. The eight cases are spread relatively evenly throughout the period - two in the 1830s, four in the 1840s and two between 1850 and 1854.

[40] CSC 2/1/1/41, No 35, 1838 Lea Catharina Ziederman born Jabobsz assisted by advocate H. Cloete her curator vs Theodorus Petrus Jacobus Ziederman.

[41] Scully, 'Liberating the Family', p.336, note 111 and p. 337.

respectable ideal. For this reason, many families no doubt made use of private notarial deeds to escape marital circumstances unacceptable to one or both parties. This procedure also avoided the necessity of making public the circumstances of one's own home. A husband had, by virtue of his marriage, the right of 'moderate chastisement' over his wife. Domestic violence had to reach levels which contemporaries considered unacceptable in order for the courts to consider it a reasonable ground for judicial separation. The cases also indicate that neighbours would only help an abused woman by intervening in a domestic dispute if her life was thought to be in danger.[42] That the disruption of the domestic sphere had to reach major proportions before the state would intervene is indicated by the fact that in two of the eight cases considered in the period, the circumstances were particularly unusual. One involved the activities of a husband who was subsequently declared of unsound mind.[43] In the other the female aggressor graphically undercut any models of middle-class womanhood.[44]

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[42] See for example the evidence of Hendrik Samuel Theodorus Richter in the case of the Van den Berg separation, cited below.

[43] CSC 2/1/1/44, no 16, 1840. Pieter Denyssen curator at litem of Anna Hendrina Van den Berg born Lochner vs Willem Theodorus Van den Berg. The following month Willem Theodorus Van den Berg was declared insane and Petrus Johannes Denyssen and Christiaan Laurens Herman were appointed his curators and administrators of his estate. CSC 2/1/1/44, no 20, 1840

[44] CSC 2/1/1/40, no 28, 1838. Henry Bickersteth vs Mary Bickersteth. The surgeon, Henry Bickersteth was frequently attacked by his wife in London, on the voyage to the Cape, and in Cape Town. Mary Bickersteth was censured by witnesses for not adopting "a line of conduct more becoming to [her] situation in life and character as a Lady". Henry Bickersteth obtained a divorce from his wife on the grounds of adultery in 1841. CSC 2/1/1/46, no 18, 1841.

Separation and the control of property.

In divorce cases the law stated that the property be divided equally if marriage had been by community of property.[45] The division of property after a separation differed according to the specifics of the case. Judicial separation under Cape law could give women a substantial degree of economic independence when community of property was dissolved. When Lea Catherine Ziederman separated from Theodorus Petrus Jacobus Ziederman by notarial deed in 1834 they agreed that their moveable property would be sold and the proceeds divided equally between them after payment of debts. Their immovable property would be divided between them and, of their four children, the two girls would be in the charge of their mother and the two boys of their father. Each would be responsible in law for the education of their specific charges. As a result of this agreement he transferred to her two pieces of ground with buildings and a piece of perpetual quitrent land adjoining them in Wynberg as well as other substantial land between Wynberg and Simonstown. Some time between 1834 and 1838, however, this agreement broke down, and Lea brought the case against Theodorus in 1838 to compel him to agree to the provisions of their earlier agreement. The court decreed that the separation should take place according to this earlier document.[46]

These provisions indicate that a separated wife, with community of property dissolved, could have a strong measure of individual financial autonomy. The law of

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[45] Hahlo, 'Law of Persons and Family Relations', p. 432

[46] CSC 2/1/1/41, no 35, 1838.

separation was thus consistent with the law of marriage and inheritance described in the previous chapter. Once more, the law at the Cape held out far greater advantages to separated wives than to their counterparts in Britain. Lawrence Stone has suggested that one major negative influence on women seeking separation from their husbands in England was the "near-certainty of severe financial hardship and, if poor, the probability of destitution."[47] Whilst a wife granted a separation under English law would be awarded alimony, if the innocent party, this was difficult to enforce. Furthermore, even after a judicial separation, a husband was entitled to take possession of any property his wife might inherit as well as any fixed capital or income derived from her own business activities.[48]

This substantial difference between the law of England and the Cape is clearly articulated by parties in a case in which the husband sought to have his marriage placed under the jurisdiction of the laws of England, rather than of the Cape, since they so clearly benefited his wife. Agnes Barrow gained a separation from Thomas Pownall Pellew Barrow in 1848, he being then described as living variously in Wynberg and Simonstown.[49] Following the pattern of British immigrants discussed in the previous chapter, they were married at the Cape in 1833 with an antenuptial contract rather than in community of property. Having been born in England, he was at that time a Lieutenant serving on board the *Pelorus* "lying temporarily in Simons Bay" and he made the argument that he had not effectively left his domicile of

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[47] Stone, *Broken Lives*, p.13

[48] ibid.

[49] CSC 2/1/1/60, no. 21, 1848.

England and that his marriage should therefore be considered to be under the jurisdiction of the laws of that country. The reasons for making this argument become clear when their property was described for she wished to safeguard several bequests from her family - evidently not named in the ante-nuptial contract. These, under English law, would, by virtue of the marriage, be, as he put it, the husband's "sole and absolute property". In addition, he wished the separation to be regulated by the law of England under which he was not required to pay her alimony since she was already possessed of "a separate Estate reasonably sufficient for her Maintenance."[50] The court decreed that all the estate be given up to her, that out of this she pay her husband a settlement of £3 000, after which he might make no more claim upon her. The children were to remain in her care, to be "suitably educated according to their station in Life, at her sole charge and expense".[51]

Female economic independence was therefore favoured by the separation law of the Cape, whether by private notarial deed or by judicial separation. Marriages by antenuptial contract, however, could undercut a woman's ability to be independently provided for upon a separation. Even given these financial advantages, women could find the situation of separation difficult. Lieve William Nicolai van der Riet divorced his separated wife, Cornelia Sophia Johanna van Schoor, for adultery after their separation. When justifying her adultery, van Schoor indicated the financial dangers for women, especially with children, which could result from separation. She complained that she had been "thrown upon the World with an infant, without any

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[50] ibid.

[51] ibid.

support what-so-ever" and that "Under these Circumstances, I endeavoured to get on as well as I could."[52] Such testimony indicates the economic imperatives of keeping a marriage intact.

Divorce at the Cape.

As noted above, the number of divorces far exceed the number of judicial separations during this period. This is possibly because of the facility of extra-judicial separation which was available. It was only possible to dissolve a marriage completely, so as to allow for remarriage, by a decree of divorce on the grounds of malicious desertion or adultery. The vast majority of actions were brought on the grounds of adultery. Of 32 divorces, 26 were brought on the grounds of adultery (of these, 4 were dismissed) and only 6 were brought on the grounds of malicious desertion (of which 2 were dismissed).[53] The six desertion cases involved three female and three male plaintiffs. Actions for divorce on the grounds of malicious desertion usually had two parts - initially an action for restitution of conjugal rights was brought, and if the deserting spouse still refused to return to the plaintiff, an action for divorce could be instituted.[54]

It is difficult to make substantive arguments on the basis on an analysis of the figures produced by the 26 divorce cases which involved charges of adultery over the period,

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[52] CSC 2/1/1/16, no 15, 1831.

[53] This reflects the pattern over a wider period - of the 102 divorces requested between 1829 and 1872, only 17 were on the grounds of malicious desertion. Ridgard, 'Women, Family and the Law' p.61

[54] See for example 2/1/1/64, no 3. 1850. Rogier Johannes de Oliviera vs Helena Elizabeth de Oliviera, action for restitution of conjugal rights, and 2/1/1/65, no 38, 1850, action for divorce.

because the sample is relatively small. That so few marriages in Cape Town ended in divorce or separation is testimony to the bonds which tied couples together.[55] After 1830, the cases are fairly evenly spread over time, averaging about one per year. A name analysis suggests that there were 12 cases involving Dutch partners, 9 involving British partners, and 5 involving mixed couples. The cases are fairly evenly divided between male and female plaintiffs.[56] Of the 16 cases brought by men, 10 were British and 6 Dutch, and both were spread fairly evenly over the period, having examples in all four decades. Of the 10 cases brought by women, however, 7 were brought by Dutch women, in the 1830s and the 1840s, and only 3 by British women, all in the 1840s. It is difficult to make any substantive arguments on the basis of such a small sample. It is possible to suggest tentatively, however, that if British women only took advantage of their greater rights under Cape law at a rather later date than their male counterparts, a likely cause is that during the earlier part of the nineteenth century, British immigrants did not yet have the advantage of extended kinship networks. In this isolated situation, British women may have been more economically dependent upon their husbands - an issue which may have made it difficult for them to contemplate leaving a marriage.[57] Restricted knowledge of the law in a foreign country as well as marriage by ante-nuptial contract may also have been influential factors.

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[55] To put the small number of divorce cases in perspective, it should be noted that population returns indicate that in 1840, 295 marriages were performed in Cape Town, with a figure of 194 for 1845. Cape of Good Hope Population Returns G 682, A1, African Studies Library, UCT, p.228 - 9. I am grateful to Natasha Erlank for finding this information for me.

[56] Of the 26 cases, 10 were brought by women, and 16 by men. This conforms to the pattern over a wider period - of the 102 divorces requested between 1829 and 1872, 43 cases involved wives suing their husbands. Ridgard, 'Women, Family and the Law', p.61

[57] I am grateful to Stanley Trapido for making this point.

One Cape Dutch woman who knew her rights under the law and was not averse to making use of them, despite her husband's attempts to use his own legal expertise against her, was Ester Johanna de Wet, born de Villiers, wife of the Cape Town notary Jan Andries de Wet. The records of this case are unique amongst the Cape Town cases since they include letters written by the defendant, mostly to his wife, over the course of the marital breakdown. Given the difficulty of obtaining personal evidence about the private relationships of the Cape Dutch, explored in chapter one, these letters provide a fascinating window into the personal experience of a Cape Dutch married relationship, even if written under unusual circumstances[58] The case also hints that, apart from economic considerations, there were other bonds which might hold couples together - in this case, that of religion. The nature of the court records make it difficult to discuss the impact of ideas of honour and respectability upon marital breakdown. In this case, however, the surviving documents present an aspect of one partner's experience of the dissolution of the married relationship.

Johanna de Villiers and Jan de Wet were married in Paarl in 1824, she being originally from "Drakenstein in the District of Stellenbosch".[59] At the time of the trial he was working as a notary in Cape Town. In October 1832, de Wet committed adultery with "a Woman commonly called Ann Sales". On 3 November 1832, he

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[58] CSC 2/1/1/23, no 14, 1833. Ester Johanna de Wet, born de Villiers, vs Jan Andries de Wet. The plaintiff called four witnesses and the defendant called two. None of their testimony is included in the documents. The seven letters which the plaintiff produced were all originally written in Dutch. Only the court translation, however, was included in the documentation, and the original was not filed.

[59] ibid.

signed a document "in order to please my Wife Ester Johanna de Villiers" which stated:

> I do renounce all right I held till now as well on houses, Household furniture, slaves and other properties, and likewise on the person of my above mentioned Wife giving her leave to do therewith as she may think proper.
>
> I do further declare to have rendered myself guilty of excessive extravagances and of violating my matrimonial bed[60]

Very shortly after this document was signed, de Villiers left her husband and returned to the house of her parents in the Drakenstein.[61] A letter which de Wet wrote to her parents, asking for forgiveness soon after this, suggests that de Villiers declared in front of several witnesses that she would be reconciled with de Wet, and that she gave her husband, as he put it, "a whole month in order to convince her that I had ameliorated my conduct."[62] De Wet made use of a strongly religious tone throughout his letters, stressing both his contrition and her duty to forgive him[63], and his style frequently slips into that of an extended prayer:

> O God, bend her mind to consider the most important step for her own Interest as well as mine her unfortunate and miserable husband[64]

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[60] ibid, court translation. The evidence suggests that this document was drawn up very shortly after the adultery was initially discovered. *Menzies,* I, p. 268

[61] ibid. de Wet to de Villiers, 10 November 1832.

[62] ibid, de Wet to the parents of Ester de Villiers, 18 November 1832.

[63] "With God forgiveness of Sins may be obtained and would you my dear Love refuse it to your husband and not listen to his supplications" De Wet to de Villiers, 14 November 1832.

[64] ibid, 16 November 1832.

De Wet feared that his wife would be swayed by other advisors, and, although he suggested that she ask the advice of her parents in this matter[65] he stressed that their situation was one "between man & wife" and that "the matter is too intricate than that a third person's advice could be taken upon it."[66] He was not above using these methods himself, however, and wrote both to her parents and to her brother to endeavour to have them influence her towards a reconciliation.[67] These actions suggest that many marital crises which did not come to the divorce courts were resolved with the help of the immediate family. Despite the contention of de Wet about the privacy of the marital relationship, his actions further support the contention of the previous chapter that the wider Cape Dutch family was generally intimately involved in the marriages of their individual members. The circumstances of this case also suggest that without similar support groups, newly-arrived British immigrants may have found it more difficult to leave a marriage than their Dutch counterparts.

Whilst de Wet abased himself in the first two letters to his wife, he was evidently worried by her failure to respond with any message to him apart from a set of instructions as to clothing and possessions she wished him to send on to her at her parents'. In a postscript to his letter on 16 November, he adopts a rather less submissive tone, and hints at what might be sexual rather than moral misery:

> You had better come to the Cape, as you know that I am already a fornight [sic] without a wife. You know my Love I cannot do without therefore in God's name do come.[68]

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[65] ibid, 14 November 1832.

[66] ibid.

[67] 18 November 1832 and 20 November 1832.

De Wet continued to pray for a reconciliation in his next letter that month, appealing to the intimate terms upon which they had previous lived together.[69] He prayed to God, (whose will it was, he claimed, that man and wife not be kept asunder) that his "crime" would be pardoned and that "I may press her to my heart again, her whose worth I did not duly appreciate before."[70] Despite his sense of his own sin, however, he began in this letter a trend which strengthened through the rest of the correspondence - exerting moral blackmail upon his wife to return to him. Ostensibly praying to God, he asked:

> Bend the heart of my love that she may feel repentance and does not make me unhappy for ever. She who swore before your altar never to forsake me. You have said 'Come unto me all sinners, who are burthened and laden, and I will give you rest', and is there no forgiveness for me with you my Love.[71]

De Villiers was evidently deaf to his pleas, for the next letter which is filed was written in April of 1833. By this time divorce proceedings were already in progress. At this point, de Wet described his circumstances as "frightful", and protested, "am I not your husband whom you have promised before the Great God never to leave." He claimed that his wife had "ever embraced Religion" and should therefore return to

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[68] ibid, 16 November 1832.

[69] ibid, undated letter received 30 November 1832.

[70] ibid.

[71] ibid.

him. He had married her "from affection" and tried to move her with recollections of happier days:

> Oh! dear child, think back how you my heart, and I lived with you, how often you did not in bed take me round my neck and tell me, de Wet, I love you from my heart, O God! What a thought for me.[72]

He warned her that should she not return to him she would be the cause of him "proceeding to some misfortune or other from despair".[73] The ambiguity of the letters, between supplication and threat, reflects de Wet's presentation of the ambiguity of de Villiers in the relationship itself - as both "child" and "upright adviser".[74]

de Wet's stress on the religious imperative of keeping a marriage together mirrors the religious stress placed upon Cape Dutch marriages explored in the previous chapter. de Wet did not frame his objections in terms of secular dishonour but in terms of religion. This prompts us to consider the important part which religious belief played in definitions of respectability, a point which has already been made with reference to education and social reform in chapter two. This point will be returned to in the discussion of the Dutch Reformed Church and the practice of censuring: religious identity was central to certain definitions of respectability, as was the attitude of the church towards the conduct of an individual. That de Wet saw fit to use such arguments to persuade his wife not to undertake a divorce action is probably indicative of one force which acted to keep unhappy couples together, and which kept

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[72] ibid, 18 April 1833.

[73] ibid.

[74] ibid.

the numbers of divorces at the Cape, despite the advantages of the law for both men and women, at a low level.

De Wet was evidently desperate to save his marriage. At such a distance, and with incomplete evidence, it is impossible to determine his motives, which were probably far from simple anyway. Although it is possible to take the contrition and suffering he expresses in his letters at face value, several factors suggest this may not be the entire story. His moral blackmail, and the way in which he moves from the idea of his repentance to hers, for refusing to forgive him, leaves a bad taste in the reader's mouth, yet, psychologically, it was possibly the mostly likely tactic to gain results.[75] The document which de Wet signed relative to their joint property, possibly suggests that she had brought a major portion of wealth into the marriage, as does his persistent reference to his parents-in-law as his "benefactors".[76] In his letter persuading them to give their support to a reconciliation he specifically thanks them "that the last slave which belongs to you has been left with me still".[77] During the court case, he did everything possible to prevent his wife from securing her divorce. He initially denied the adultery, but this was proven by the very letters of contrition which he had written to her and to her parents, and which she produced in court against him (hence their survival in the historical record). Once the adultery was proved, he altered his argument, using the defence of condonation.[78] He claimed that, with knowledge of the

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[75] See Landman, C. *The Piety of Afrikaans Women: Diaries of Guilt* (Pretoria, 1994) on the strong element of guilt, self-hatred and submissiveness evident in the religious beliefs of certain Cape Dutch women during this period.

[76] CSC 2/1/1/23, no 14, 1833, 18 November 1832.

[77] ibid.

adultery, de Villiers had forgiven him, "was reconciled to and cohabited with him".[79] The case was subsequently argued on the facts of the alleged reconciliation and witnesses were called to this effect. The court held that there was no evidence of condonation, the onus being on the defendant to prove it. Had it been the case, he might have proved it by the evidence of the servants or slaves present in the house at the time.[80]

Breach of promise of marriage and seduction.

The case of de Wet and de Villiers comes closest of all those in the court record to discussing the issue of honour in the break-up of a marriage - expressed in this case in terms of religious belief. Cases of divorce and separation in the Supreme Court do not generally address this issue, given the nature of the sources which survive, although it was no doubt important in keeping marriages from appearing before the courts. It is possible to return to the issue of respectability and sexuality, however, in consideration of another means by which legitimate sexual relationships broke down - that of breach of promise or seduction. In chapter four we have seen how women were almost completely absent from the defamation records. Only two women brought cases of defamation and both centred around insults which involved their sexuality. It has been argued that this reflects the position of white women in the domestic sphere

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[78] *Menzies*, I, p.272

[79] CSC 2/1/1/23, no 14, 1833, 18 November 1832.

[80] *Menzies*, I, p.269. The case of *de Wet vs de Wet* thus laid down the principle that "Cohabitation for two or three days after the knowledge of the Husband's Adultery by the Wife is not proof of Condonation." p. 268

and the equation of female honour with sexuality. That female honour was defined as sexual honour is further borne out by the way in which women did appear before the Cape Supreme Court in defence of their honour. Before 1839, they were frequent plaintiffs in cases of breach of promise of marriage.

Until 1839 it was possible for the court to decree specific performance of a valid promise of marriage. Thus the defendant would be sentenced to marry the plaintiff by a specific date or face a fine or even imprisonment.[81] The metropolitan government put an end to this practice. By an Order in Council of 7 September 1838, which came into practice at the Cape in 1839, they declared that no suit could be brought to compel the celebration of any marriage by reason of either promise or seduction. Instead, monetary damages were to be awarded for breach of promise and for seduction.[82] In assessing damages, elements to be considered would come to include "the monetary loss suffered by the plaintiff, the defendant's means, the social position of the parties, and the extent to which the plaintiff's feelings were wounded."[83] This legislation brought the situation at the Cape into line with that of Britain, where, from the eighteenth century, monetary compensation had been the only possible remedy for breach of promise.[84]

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[81] Hahlo, H.R. 'Law of Persons and Family Relations', p.393

[82] Ward, *A Handbook to the Marriage Laws*, p. 35

[83] Geffen, *Laws of South Africa Affecting Women and Children*, p.23

[84] Lord Hardwick's Marriage Act of 1753 expressly forbade any suit being brought before the ecclesiastical courts to compel the parties to get married. I am grateful to David Ibbetson for clarification of this point. For an account of breach of promise actions in England and the changing circumstances of the law see Stone, *Road to Divorce*, p.85 - 95.

Not all broken courtships resulted in breach of promise actions. Few women brought breach of promise actions during this period, and, as will be discussed below, most were pregnant when they did so. This suggests that court actions were undertaken only as the last resort, and were usually associated with the conception of an illegitimate child. The mediation of family and friends could be enough to resolve a broken promise of marriage. This method avoided both the expense and the publicity of a breach of promise action.

The previous chapter has already discussed two broken engagements with reference to the choice of a partner. Mary Maclear gave an account of the several broken engagements of one British soldier at the Cape when writing to the man's mother. She rejoiced that he had "escaped" from various entanglements with Dutch women who, although "respectable", were lacking in appropriate fortune.[85] That Cape Dutch families were wary of transient visitors who paid attentions to their daughters without committing themselves[86] is testified to by Mary Maclear's caustic account of the pressure exerted on Lieutenant Lindsell:

> my belief is that he was drawn into the engagement & that he had no intention of making proposals, but that on calling to take leave of Mrs C[87] - some very close questions were *on the part of a lady made* - concerning the state of his affections - when he acknowledged them to be greatest towards her daughter!

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[85] CA A 515 Maclear-Mann Papers. Mary Maclear to Mrs Lindsell, 21 April 1843.

[86] See Theunissen, J.B.N. *Aanteekeningen Eener Reis Door de Binnelanden van Zuid Afrika, van Port-Elizabeth naar de Kaapstad, gedaan in 1823.* (Oostende, 1824), p.109 for a description of this problem from the perspective of a Dutch visitor.

[87] The woman in question belonged to the numerous Cloete family, more specifically to a branch which Maclear described as "highly respectable" and "well connected" but - and this was the crux of the matter - "rich only in number". ibid.

There does not appear to have been any question of a court case in this matter, but it was important for the honour of the women concerned - both Miss Cloete and the other, unnamed, woman - that the man admit he had "*made proposals*".[88] Lindsell managed to escape his commitment by relying on his father's disapproval, which was expressed directly to Mr Cloete, and by escaping to India.

After William Porter's engagement had been broken off, some kind of monetary compensation was evidently arranged privately. Lynar refers to Porter conducting "business" with Eliza Smith's father, following the retraction of his promise of marriage to her. He also feared that if Porter changed his mind and went through with the marriage the "interpretation of the mass would naturally be" that this course of action was prompted by a desire to avoid a breach of promise action - "the sacrifice of £200 and the abandonment of his office".[89]

With the birth of an illegitimate child, however, the pressures on a woman to have a promise of marriage fulfilled appear to have been stronger. One case study which is particularly well documented will serve as an example of the experience of breach of promise actions for middle-class women in Cape Town.[90] In 1827 Elisabeth Helena Henrietta Greef, a young woman described by her counsel as being of "respectable"

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[88] ibid.

[89] SAL MSB 391 Francis Porter Collection, Hugh Lynar to Francis Porter, 24 August 1846.

[90] Apart from unusually detailed records in the Cape Archives - CSC 2/1/1/6, no 13 1829 Elisabeth Helena Henrietta Greef assisted by her father Hendrik Greef vs Pierre Jules Verreaux - the case was extensively reported in the press - *SACA* 25 March 1829 and 11 July 1829. It is also commented on in *Menzies* I, p.151 - 155

family[91] in Cape Town, fell in love with a young French naturalist, Pierre Jules Verreaux.[92] During that year, Verreaux made Greef frequent promises of marriage, both written and verbal. Witnesses indicated that Verreaux would visit Greef alone, and when she was unwell he visited her in her bedroom several times, sometimes alone. In her declaration, Greef stated that Verreaux did "entice the said Plaintiff, and induce her to depart from the paths of duty and virtue" and prevailed upon her "to allow him to have carnal knowledge of her person".[93] As a result, a child was born in February 1828.[94] In June, however, Verreaux had already retracted his promise of marriage, pleading poverty. In a letter to Greef and her parents dated 4 June 1827 he declared that he was struggling with debt and could not support a wife and child. He claimed to Greef's parents that he had always behaved in "an honourable and upright manner towards your daughter, without making her unfortunate or contemptible in the eyes of the public world".[95] Greef responded in a letter accusing him of being "a dishonourable man without Character" and claiming that "Almighty God" would punish him for his sins.[96]

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[91] *SACA*, 25 March 1829.

[92] On Verreaux see *DSAB* II, p.811 - 812. He first came to the colony in 1818 for a two year period, but returned in 1826, eventually leaving the colony for good in 1838.

[93] These cases were clearly framed in terms of seduction rather than rape, although this was necessitated by the circumstances of the court case, a fact which should always be borne in mind when evaluating the evidence. In order to claim the right of marriage, it was necessary to claim that seduction had taken place upon the promise of that marriage. It is difficult to speculate further about the realities of power relations in these sexual encounters. Pamela Scully's account of rape cases in Cape Town, Stellenbosch, Swellendam and Worcester between the 1820s and the 1850s concludes that the majority of rape victims were working rather than middle class. White middle class women very rarely appear as victims in the records. She attributes this to several causes. The circumscribed lives of urban middle-class white women made them less vulnerable to rape by strangers and rape was not considered to be possible between married partners. 'Liberating the Family', p.416 - 418.

[94] CSC 2/1/1/6, no 13, 1829.

[95] ibid.

As a result of the birth of her illegitimate child, however, Greef evidently resolved to seek a less spiritual redress, and brought an action of seduction and breach of promise against Verreaux.[97] Verreaux based his defence on the arguments that he did not understand Dutch - a claim soon demolished by the plaintiff's counsel - that he was a minor, and that Greef was sexually promiscuous - "a light character"[98] - since she was "in habits of the most intimate friendship & courtship with other young men".[99] He argued that she was in the habit of frequenting subscription dances without her parents, and of allowing young men to see her home through the streets of Cape Town. He also claimed that she was sexually involved with a certain Jan de Vages. This last claim was overturned by the court when it was discovered that Verreaux had tricked the unfortunate de Vages into waiting at his lodgings at a time when Greef was expected and that when de Vages came down without a light she, mistaking him for Verreaux, rushed to embrace him in front of strategically placed witnesses.[100] It is clear from the case that Greef's virtue was as much on trial as Verreaux's promises.

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[96] ibid, letter translated by the court from the original Dutch.

[97] Of the ten women who brought such cases between 1828 and 1839, only one was not the mother of an illegitimate child. According to Roman Dutch Law, Greef, as a minor in law, brought the case with the assistance of her father. Although her family as a whole was clearly injured by the disgrace, there is not a strong theme amongst these cases of the masculine honour of male relatives being damaged by the seduction of a woman of their family. As the cases noted below indicate, not all women brought cases with the assistance of male relatives - the issue appears to have been a legal one, rather than reflecting upon the honour of the men of the family.

[98] *SACA* , 11 July 1829.

[99] CSC 2/1/1/6, no 13, 1829.

[100] *SACA* 25 March 1829.

In summing up, however, the judge attacked Verreaux's line of defence - it was proved that the balls which Greef had attended were completely "respectable"[101] and much was made by the judge of her social status. He concluded that "In a country like this, public manners were remarkably simple, and very different indeed from those of the defendant's own country. It was impossible to look, without horror, at the artful, malicious, and diabolical plan of seduction which had been pursued."[102] Under the "contract" of betrothal, "he had deflowered the plaintiff, a virgin of equal condition with himself, and in every respect suitable to be the wife of a person of his condition".[103] The court could not compel the performance of the marriage, however, because of Verreaux's minority.[104] The court suggested to Greef that she bring the case again when Verreaux had reached his majority. She never did so, however.

The judgement that Greef had slept with Verreaux under the 'contract' of betrothal reflects the common wording of plaintiff's declarations, which tended to claim that "by subtle wiles and promises of marriage" the defendant seduced the plaintiff.[105] As the discussion of the Dutch Reformed Church, below, will point out - sexual relations before marriage were not condoned by the Cape Dutch community. Its records testify, however, that there was a strong sense within this church that a subsequent marriage

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[101] Evidence of Jan de Vages, *SACA* 25 March 1829.

[102] *SACA* 11 July 1829.

[103] *Menzies* vol I, p. 154

[104] It was proved that he was a minor at the time he made the promise. There was some discussion of the fact that because he was practising business in another country from his parents, he was, in effect, an 'emancipated' minor. Nevertheless, he was still under twenty five, the age at which 'emancipated' minors were allowed to marry without the consent of their parents. ibid.

[105] CSC 2/1/1/5, no 49, 1828. Maria Johanna Stadler vs Edward Tedlie.

would wipe out the stain of such sexual misconduct. The idea that premarital sex was allowable upon the promise of marriage cannot, therefore, simply be dismissed as a legalistic formula necessary to bring a case in court - it did have some validity amongst the community. This belief was clearly articulated in the 1850 petition of a minor who wished to gain permission to marry his betrothed against the objections of his parents, although the circumstances of the case must again warn us against taking his claims at face value. He claimed that after his engagement "and in consequence of the greater intimacy which it produced", he and his betrothed "were betrayed into improper conduct" and as a result she became pregnant. He requested permission to marry, which was granted, because he felt himself "as being morally the husband" of his betrothed.[106] Robert Ross has calculated that in the eighteenth century, about 10% of his sample of white women had children less than nine months after wedlock.[107]

It is clear, however, that Verreaux did not share this conception of the duties of betrothal, hence Greef's attempt to enforce this duty by law. There was no question of monetary compensation in this case. In her declaration, Greef stated that she was "injured beyond the possibility of retrieval by any mode whatsoever, save and except by the said defendant's compliance with his aforesaid promise to marry her".[108] This was recognised by the judge who recommended that Greef bring the case again when

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[106] CSC 8/1/1 Application for Marriage of Minors. Case of Jurgen van Winkel and Rachel Williams. As the last chapter has pointed out, the fact that Rachel was "to a certain extent, - a person of color" had occasioned the objections of van Winkel's parents.

[107] Ross, *Beyond the Pale*, p.132. Ross took a sample of 298 women born at the Cape before 1760 who married.

[108] CSC 2/1/1/6, no 13, 1829.

the defendant had reached the age of twenty-five,[109] and who also pleaded with Verreaux when handing down judgement that even though the court could not compel him to marry Greef, he should still make "the only real reparation which he had in his power."[110]

There is compelling evidence that women in Cape Town who brought actions for breach of promise felt that their honour - defined here in explicitly sexual terms - could only be satisfied by marriage and legitimisation of their place in the community, rather than by monetary compensation. There were eleven cases of breach of promise brought by people in Cape Town between 1828 and 1839, all but one of which involved women whose names indicate that they are of Cape Dutch origin.[111] The fact that several of the cases were brought by Cape Dutch women against foreigners suggests that their ideas about betrothal, sexual relations and marriage were not shared by outsiders, and were possibly an especially Cape Dutch phenomenon. Eight out of

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[109] See note on the legal definition of minority, above.

[110] *SACA* 11 July 1829.

[111] CSC 2/1/1/5, no 49, 1828. Maria Johanna Stadler assisted by her father Dekker Adam Stadler vs Edward Tedlie.
2/1/1/6, no 13, 1829. Elisabeth Helena Henrietta Greef assisted by her father Hendrik Greef vs Pierre Jules Verreaux.
2/1/1/16, no 21, 1831. Anne Elizabeth Steytler vs Daniel Disandt.
2/1/1/18, no 16, 1832. Catharina Josina Joosten assisted by her father Hendrik Pieter Joosten vs Willem Grobbelaar.
2/1/1/25, no 28, 1833. Johanna Frederica Carolina Godier assisted by her mother the widow Rebecca Catharina Godier vs George Titterton.
2/1/1/25, no 30, 1833. Johan Hendrik Bergman vs Wilhelmina Albertina Maria Klerck.
2/1/1/27, no 12, 1834. Johanna Schouw vs Carel Altenstad.
2/1/1/28, no 21, 1834. Mary Ann Fury a Minor & Orphan assisted by her Curator Joseph Sturgis vs William Hare.
2/1/1/36, no 54, 1836. Helena Susanna Johanna Joone vs Diederick Frederick Pallas.
2/1/1/36, no 57, 1836. Rosina Christina Sophia Broekman vs Jacobus Malan.
2/1/1/42, no 16, 1839. Sarah Marthina Catharina Theunissen van Langenhoven vs Frans or Franciscus J. Lind.

the eleven women who brought cases were pregnant and claimed marriage by court order as reparation. Two of these agreed to accept monetary compensation in lieu of marriage.[112] In the case of *Joosten vs Grobbelaar*, 1832, however, the plaintiff refused to accept the monetary compensation offered by the defendant and the court ruled in her favour, granting marriage by court order. Of the other three cases, one involved a woman who asked for monetary compensation because the defendant had already married another woman,[113] one involved no seduction but the court granted £150 damages[114] - a very high sum - and the final case was brought by a man who was granted £50 damages from the woman who had refused to honour her promise of marriage.[115]

The dominant pattern before 1839, therefore, was for women to request, and for the court to generally acquiesce, to marriage by court order as compensation for seduction.[116] After the introduction of the Order of Council regarding marriages at the Cape, however, the pattern changed dramatically. Whilst eleven cases appear in the period 1828 - 1839, there is not a single seduction case involving people from Cape Town after that date.[117] The next breach of promise of marriage case, which,

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[112] Schouw vs Altenstad 1834 and Fury vs Hare 1834.

[113] Stadler vs Tedlie 1828.

[114] Joone vs Pallas 1836.

[115] Bergman vs Klerck 1833. The circumstances of this case suggest that it was brought for economic reasons rather than in defence of masculine sexual honour, since an important part of the testimony involved the inheritance of the defendant.

[116] In summary: of eleven cases, only three did not make original pleas for marriage by court order. These three were unusual circumstances - in one case the man was married already, in a second no seduction was involved, and in a third the plaintiff was a man.

significantly, does not involve any charges of seduction, appears in 1851.[118] The case was based only on the damages which the plaintiff had sustained by remaining unmarried under promise to a man who would not fulfil his contract. She produced written evidence of marriage promises and was granted £250 plus costs.

The evidence therefore suggests that certain groups of women in Cape Town did not view the shifts in the Cape legal system under influence from the British state favourably. Their names indicate that all but one of the women who made use of the law to enforce promised marriages before 1839 were of Cape Dutch origin. The absence of a similar legal tradition of specific performance of marriage contracts in Britain may account for British women's failure to make use of the law of the Cape before it was changed. The ways in which honour was defended in Cape Town were being altered under pressure from a new metropolitan government which viewed reputation in different ways from the old Dutch system. The removal of marriage by court order from the statute books is analogous to the shift from *amende honorable* to monetary compensation in the defamation cases explored in chapter four. Marriage by court order endorsed a woman's claim to being a worthy choice of marriage partner and thus established her within society as an honourable woman, much as the *amende honorable* was a positive affirmation of a plaintiff's place in the community. Both specific performance of a failed marriage contract and the public social gesture of the *amende honorable* rejected the commodification of honour which monetary

[117] There are, however, some cases from the interior - more research is needed to discover whether the pattern of cases in Cape Town is repeated in the interior.

[118] CSC 2/1/1/67, no 19 1851. Christina Beck a minor assisted by her father Adriaan Beck vs Alfred Dolman.

compensation endorsed. The fact that their names indicate that almost all the women who brought seduction and breach of promise of marriage cases during this period were Cape Dutch may account for a cultural dissatisfaction with the new legal system regarding breach of promise and, especially, seduction.

The desire for marriage as opposed to monetary compensation was not one which stemmed solely from considerations of honour. Given the changing economic situation for middle-class women in Cape Town, described in chapter two, the narrowing of opportunities for independent economic action and the increasing separation of spheres, social acceptance as a respectable wife and mother could be an economic necessity for white middle-class women. Monetary compensation could not achieve this in the way that marriage could. Marriage was increasingly becoming the only option for women who wished to sustain a certain status in Cape Town; the economic and social imperatives for marriage as opposed to monetary compensation therefore loomed as large as the honourable ones.

Just as marriage was becoming vital to the maintenance of respectability, therefore, the courts were refusing to enforce its performance. British ideals of domesticity might revolt at the idea of marriage by compulsion but Cape Dutch women evidently saw the economic advantages of such a choice. In trying to discover what alternative mechanisms Cape Dutch women used to enforce marriage when they turned away from the use of the civil courts, I now turn to an analysis of this issue with reference to the Dutch Reformed Church. The shift in the civil law concerning breach of promise coincided with an increased surveillance on the part of the Dutch Reformed Church

over issues concerning illegitimacy and sexual impropriety. Having been failed by the civil courts, women could make use of the greater attention paid by the Dutch Reformed Church in these matters to enforce the moral and economic imperatives of marriage.

Illegitimacy, breach of promise and the Dutch Reformed Church.

The birth of illegitimate children was one possible result of incidents of seduction.[119] For illegitimate children to be baptised by the Dutch Reformed Church[120], the most likely religious affiliation of the women who brought seduction cases before the Cape Supreme Court, certain procedures had to be followed.[121] It was usual for the mother of the child to appear before the *Kerkeraad* (Church Council) of Cape Town and request baptism for her illegitimate child.[122] The child would only be baptised if two

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[119] Various options were available to women who conceived illegitimate children, including abortion, infanticide, abandonment and adoption. For an exploration of these options in a later period in Cape Town see Burman, S. and Naude, M. 'Bearing a Bastard: The Social Consequences of Illegitimacy in Cape Town, 1896 - 1939' *Journal of Southern African Studies* Vol 17, no 3, 1991 For a wider discussion of the question of illegitimacy in South Africa see Burman, S. and Preston-Whyte, E. *Questionable Issue: Illegitimacy in South Africa* (Oxford and Cape Town, 1992) This chapter does not presume to adequately address the issue of illegitimacy in Cape Town in the first half of the nineteenth century, a complex topic which needs much further research.

[120] As noted above, the issue of illegitimacy and the church amongst the British community of Cape Town must await further research - English women generally did not make use of the civil courts to gain redress after the conception of illegitimate children. As noted above, only one case occurred in this period.

[121] This discussion is based on the Minutes of the Church Council meetings for the Dutch Reformed Church congregation of Cape Town. See also Pedro, K.J. 'Die Doopbediening aan Slawe en Vryswartes in die Kaapse Kerk, 1802 - 1812' *Kronos* 9 (1984), 22 - 35 for a discussion of these procedures in an earlier period, as they relate to the baptism of slaves and free blacks in Cape Town. Slave children could be presented for baptism by their owners, or by their slave mothers with the permission of their owners. p.23 See, for example, CA G1 1/13, p. 157. Request of Willem Laurens, 1 March 1830.

[122] It was not unknown for fathers to present illegitimate children for baptism, although it was mothers who appeared more frequently. In 1820, Hendrik Korber requested baptism for his illegitimate child by

"blameless church members" could be produced as god-parents.[123] These sponsors had to sign a baptism certificate specifically intended for an illegitimate child in which they stated that they would take responsibility for its Christian education and ensure that it never became a burden to the church whilst still a minor.[124] A further condition was that the mother of the child reform her behaviour. In certain instances she had to bring proof that she was living a respectable life before baptism would be agreed to.[125] Furthermore, for having committed the sin of adultery which an illegitimate child represented, the mother had to submit to censure by the *Kerkeraad* and be forbade communion until such time as they considered she had shown sufficient penance and regret for her misdeeds.[126]

Censuring by the *Kerkeraad* could be imposed on both men and women, and most often involved cases of sexual impropriety.[127] It was usually women who were

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the widow James Fraser - possibly because she was not a church member. CA G1 1/10 Notule van die Kerkeraad March 1817 - September 1821, p.209.

[123] onbesprokene ledematen dezer Gemeentes. ibid.

[124] CA G1 11/3 Doopaktes van Onegte Kinders.

[125] CA G1 1/10, p. 212 - 213 case of Catherina Cezars, March 1820 - in this case respectability was defined as marriage. Cezars was to marry the father of her child before it would be baptised.

[126] For example, when Henrietta Greef appeared before the Kerkeraad to request baptism for the illegitimate child she had conceived of Verreaux, it was resolved that she be censured. As the *Kerkeraad* put it: "over haar onkuis gedrag te censuren, en de Tafel des Heeren te ontzeggen, zoo als gescheid by dezen, tot tyd en wylen zy berouw en leedwezen zal hebben betoond." [to censure her for her unchaste behaviour, to deny her the Table of the Lord [Communion], effective immediately, until such time as she shows remorse and penance.] CA G1 1/13, p.176.

[127] As is noted in the footnotes of chapter four, André du Toit has pointed out that in the mid 1850s, some individuals showed themselves prepared to challenge censure in the civil courts. By 1857 this had become such widespread practice that it was proposed before the synod that such civil appeals be censurable. 'Afrikaners' Failed Liberal Moment', p.55 No such cases appear in Cape Town over this period, although there was one in "D'Urban Village", now part of modern greater Cape Town. CSC 2/1/1/42, No 4, 1839. Albertus Petrus Meyburgh Albert's Son vs David Hendrik de Villiers.

censured, as a result of their requesting baptism of their children. It appears that the council did not actively seek out cases for censure, but considered those cases brought before them either as a result of a complaint[128], or because of a specific request - such as that of baptism. Censuring might take several forms - in very severe cases the censuring would be publicly announced to the congregation. When this public censure was revoked, it had to be done so in an equally public way.[129]

Apart from religious belief itself, there are several significant reasons why women might submit to censure by the Kerkeraad in order to have their illegitimate children baptised. Baptism was an important guarantor of certain civil rights at the Cape, and was therefore a crucial determinant in the life chances of illegitimate children. An illegitimate child was restricted in the inheritance rights it could claim. Although it could inherit automatically from its mother, it could have no automatic claim on the estate of its father, unless mentioned in the father's will. Even if mentioned, an illegitimate child could only inherit an amount deemed sufficient for its maintenance.[130] Baptism was also necessary to marry and to be buried in a Christian graveyard.[131] In a society which had historically defined whites as "Christians"[132],

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[128] One example of censuring as a result of a complaint is a case which indicates the disruption of boundaries of race and religion: A Muslim woman, Avia (with the help of two of her neighbours - whose names suggest they were white - and who were church members) complained before the *Kerkeraad* of a church member who had moved in with Avia and her husband, and had sought to become his second wife by Muslim rites. As a result of the investigation, Aletta Jacoba Hanssen, widow Lacock, was censured for a year, deprived of the church maintenance for her children, and the godparents of her two children were instructed to guard the children's morals against the licentiousness of their mother. G1, 1/20, 3 February 1840, p. 16 - 20

[129] CA G1 1/20, p.372 - 373, case of Philip Barends van de Kaap, 5 March 1838.

[130] Ridgard, 'Women, Family and the Law', p. 35 - 36

[131] Shell, *Children of Bondage,* p.332

baptism remained an important signifier of elite status, even though the records of the *Kerkeraad* indicate that baptism and church membership was not a privilege confined to whites (see below). Roman-Dutch law declared that legitimacy of a child followed immediately upon the marriage of its parents to one another.[133]

Baptism therefore had concrete social and economic advantages for an illegitimate child. Requesting it from the *Kerkeraad* could also have possible advantages for the mother. If the father of the child was a church member, requesting baptism could result in him being brought before the *Kerkeraad* and urged to legitimate the child by marrying its mother.[134] Even if this did not occur, the frequent recommendations made to mothers to marry the fathers of their children might be used as moral leverage.[135] Examining change over time in the records of the *Kerkeraad* indicates a greater degree of organisation and efficiency in control over cases of illegitimacy in the latter part of the period. This is marked by the formation of Commission of Inquiry into matters which might lead to censure.[136]

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[132] Ross, 'Going beyond the Pale', p. 79. Andrew Bank also argues that Christianity was central to settler identity: "The term `Christian' was frequently used as a label of settler identity and significantly served to distinguish Dutch colonists from `slaves' and `Hottentots' in censuses between the 1790s and 1820s." Bank, Andrew. `Liberals and their Enemies', p. 55 See Ross, 'Rise of Afrikaner Calvinism', p.184 for the social importance of baptism for white status in the eighteenth century - so that parents might bribe ministers to baptise their children. On the ambiguities surrounding slavery, freedom, social status and baptism in the Cape and in the colonial world more generally see Trapido, 'The Cape Dutch and Problems of Colonial Identity', p. 7 - 9.

[133] Ridgard, 'Women, Family and the Law', p.35

[134] Christiaan Hendrik Valentynse, who was called before the *Kerkeraad* to answer such charges and refused to appear, was censured and refused communion as a result. G1 1/21, p. 64 - 65. 9 March 1840.

[135] For example, in 1845, Johanna Andelia Jacobsz, church member, requested baptism for two children by James Johnsby who had promised to marry her but had refused to fulfil his promise. The council ruled that they would not baptise the children until their parents had married. G1 1/23, p. 366 See also two cases in 1835 - G1 1/15, p.358 and p.394. In these instances, however, baptism was not *conditional* on marriage, as it was in the later case.

The Commission of Inquiry was first set up at a meeting on 5 March 1838, as an immediate result of the discussion over a case concerning one Philip Barends van de Kaap, who wished to be relieved of the censure under which he had been placed as a result of living out of wedlock. Having since been lawfully married he now wished the censure to be revoked.[137] On 7 May 1838 the decision to set up such a Commission was confirmed and the reasons for doing so elaborated.[138] Apart from the case of Barends van der Kaap, the broader reason for doing so was the increased number of people requesting instruction in the faith in order to be admitted as church members. These included both whites, apprentices and free blacks, as the minutes of this meeting indicate.[139] The *Kerkeraad* was concerned with the fact that these requests were multiplying and that there were many cases of such people living an immoral life - that is, out of wedlock - and that after baptism and being accepted as Church members they continued to live in this manner and had to be immediately censured. The Commission would therefore have a dual function - it would act as a screening process for those wishing to be admitted to the church, and it would deal with those cases which might lead to censure which had occurred amongst already-admitted church members. The commission would investigate the life of each person applying

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[136] Commissie van onderzoek in zaken welke tot censurier lyden kunnen.

[137] G1 1/20, 5 March 1838, p.366

[138] G1 1/20, 7 May 1838, p.396 - 397

[139] The timing of the formation of the commission - at the end of the apprenticeship period - could relate to an increased number of requests being made for baptism by those apprenticed slaves about to be freed. After the ending of apprenticeship, a marked increase can be noted in the numbers of baptisms and marriages undertaken by the newly freed. Keegan, *Colonial South Africa*, p.123 Pamela Scully has discussed this phenomenon as evidence for the consolidation of an independent freed family. 'Private and Public Worlds', 215 - 217. The *Kerkeraad*, however, did not express the increased number of petitioners in racial terms.

to be instructed into the faith and if there was any proof of immoral conduct - defined as sexual relations outside of wedlock - the person would only be admitted for instruction if they undertook a lawful marriage or made a solemn declaration to abandon their present way of life.[140] Subsequent meetings indicate that those who could not give guarantees of their good conduct were refused access to instruction into the faith.[141] It was not racial origin, but personal respectability - defined as living a life in which sexuality was confined within the bounds of legitimate marriage - which was the determinate of inclusion into the church. The foundation of the Commission might also relate to an increase in resources available to the Dutch Reformed Church, which now received financial support from the British colonial government.[142]

It is possible that women tried to use the *Kerkeraad* as a mechanism to enforce marriage, much as they had previously used the Cape Supreme Court. The ecclesiastical authority held some advantages over its civil equivalent. It was much less costly for women to use, since it did not involve legal fees, it allowed for individual redemption through penance, and it was an avenue for exerting moral authority on recalcitrant fathers of illegitimate children in a way that the Supreme Court, after 1839, was not. The *Kerkeraad's* emphasis on the importance of lawful marriage for the baptism of children, the redemption of mothers, and the admission of church members was consistent throughout the period. The work of the *Kerkeraad* indicates the manner in which respectability - and access to the crucial civil right of

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[140] G1 1/20, 7 May 1838, p.396 - 397

[141] G1 1/20, 2 July 1838, p. 411

[142] Ross, 'The Rise of Afrikaner Calvinism', p. 187

baptism - could be defined very narrowly in terms of legitimate marriage. With the formation of the Commission, the *Kerkeraad* became more organised in its ability to deal with such affairs. Despite women's attempts, however, the *Kerkeraad* was often ineffectual in enforcing marriage. One father managed to escape censure by the *Kerkeraad* by leaving the city. The father of Apolonia Christina Fredrikse Geyer's child had promised to marry her and she tried to get the *Kerkeraad* to exert pressure on him to fulfil this promise. He, however, disappeared, and could not be found, despite attempts to track him down in Stellenbosch. [143] The *Kerkeraad* found its hands tied in cases of seduction when the father refused to accept their authority, or absconded before he could be censured.[144]

Thus while the *Kerkeraad* may have replaced the Supreme Court as an avenue for women to restore their honour through marriage and social legitimisation, it lacked the authority to be an effective aid to them. An additional disadvantage was its insistence on penance which punished seduced women where the Cape Supreme Court had formerly sought to protect their rights. The reluctance of Cape Dutch women to bring cases of seduction before the Supreme Court after 1839 was arguably a result of their rejecting the new ideas about honour and its satisfaction which were gaining currency there. Whilst the Commission was not set up as a result of changes

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[143] G1 1/25, p.208 - 209. 3 June 1850.

[144] See also the case of Sophia Johanna Magdalena Kraft who claimed that the father of her illegitimate child, the son of Petrus Wilhelminus Keytel, had promised to marry her before leaving Cape Town for the interior. Her father, Johan George Kraft, attempted to have the *Kerkeraad* enforce permission for the marriage from Petrus Wilhelminus Keytel, who, however, refused to acknowledge its authority to do such a thing. The *Kerkeraad* informed the Krafts that it could do nothing in this matter without the presence of the father of the illegitimate child. Kraft was censured and her child was baptised upon production of appropriate sponsors. G1 1/23, p. 455 - 456, 4 December 1845.

in the civil law, it does reflect a greater degree of control over the sexual lives of church members being exerted at this time, and indicates the manner in which legitimate sexuality defined the ranks of the socially acceptable with reference to admission to the church. Although not designed for this role, it may also have provided women who had been failed by the civil court the means to exert a much-needed pressure on the fathers of their illegitimate children, and thus to restore their honour by legitimate marriage.

Conclusion.

This chapter has explored the nature of middle-class respectability and sexuality by indicating the ways in which the state and the church intervened in private life to regulate the sexuality of individuals and to delineate the boundaries of the respectable. When respectability was threatened from within the family by such disruptive elements as divorce, separation, seduction, breach of promise and illegitimacy, there were a series of mechanisms by which regularity could be imposed upon such sexual transgressions. When informal mediation by family and friends failed, a range of legal and religious mechanisms were in place for the resolution of marital and pre-marital conflict. It has been argued that Roman Dutch law presented manifold advantages for middle-class women at the Cape, especially those with personal property to protect. Its provisions made independent economic support possible for women who wished to dissolve their marriages, as well as for their male counterparts. Although divorce and separation law remained unchanged under British rule, the strengthening influence of British law with regard to breach of promise left women in a weakened position from

which to defend both their honour and their economic interests. As a result of this shift in the law, women turned to ecclesiastical authorities in attempts to enforce promised marriages and to restore their personal respectability. Increased surveillance over the chastity of church members by the Dutch Reformed Church did allow women some kind of redress against recalcitrant fathers of illegitimate children, but it ultimately failed to defend their interests as the law had previously been able to do. The following chapter continues this theme of the importance of sexual respectability and looks at the manner in which these issues could spill over from the privacy of the home into the political arena.

Chapter Seven:

Women's Talk and the Colonial State: The Case of Sir John Wylde, 1831 - 1833.[1]

Between 1831 and 1833 Cape society was rocked by a scandal in which the accusations directed towards the Chief Justice of the Colony, Sir John Wylde, were considered to be so unspeakable that the participants in the debate over the matter were at a loss as to how to express them candidly. Out of the tangle of metaphor and anonymous accusations which resulted, emerges a story which illuminates a range of issues relating to the nature of respectability in the colonial context and the importance of gender roles in the conduct of public life and Cape politics. In what was in some ways a case of defamation which merged with a political scandal, telling the Wylde story is a useful way to look at the manner in which ideas about gender and respectability impacted upon the operation of Cape politics. It therefore illuminates a range of issues which have been dealt with in the thesis as a whole.

This chapter seeks to untangle the important and complex relationship between gender and the private and public spheres in the operation of colonial politics at the Cape through an analysis of the accusations of incest and concealment of pregnancy which were directed against Sir John Wylde and his daughter, Jane Elizabeth. The scandal which emerged was informed by contemporary notions of male and female knowledge, centred around the concept of 'delicacy'. Its course was influenced by

[1] I wish to thank Karel Schoeman for first bringing the Wylde Collection in the South African Library to my attention, without which this chapter would not have been written.

important issues surrounding the behaviour of men in public life and the influence which women and the private sphere played on the operation of colonial social and political life. The involvement of the press sheds important light on the operation of the newly-emerged public sphere in Cape Town, and on its vulnerability to government autocracy. Finally, the scandal coincided with a period of political stress in a colony approaching emancipation, and the colonial press's defence of Wylde was informed by both middle-class political aspirations and ethnic tensions between British and Dutch. In exploring the range of issues which surround the Wylde scandal, this chapter argues for the important influence of gender roles on political and social life at the Cape in the early nineteenth century.

An outline of the events of the Wylde scandal.

In 1831 Sir John Wylde was 50 years old and had been Chief Justice of the Cape Colony for 4 years. His household in Cape Town consisted of his mother in law, Mrs Moore, his five eldest sons and his adult daughter, Jane Elizabeth. His wife, also called Jane Elizabeth, whom he had married in Cambridge in 1805, was at this time absent from the Cape, a circumstance which would prove of vital importance to the future scandal.[2] Wylde had previously occupied the position of judge-advocate in New South Wales, which he took up in 1816, and had left his wife there in 1825 when he returned to England to await a further posting. He would not see her again for another ten years. In 1835 Mrs Wylde arrived at the Cape with a six year old daughter

[2] *DSAB,* II, p.861 - 863

and Wylde obtained his divorce upon the grounds of adultery on 23 February 1836.[3] The awkwardness of the situation was later described by William Porter, for "the unfortunate man was forced to sue for a divorce in the court of which he was himself the head".[4]

In January 1831 Miss Wylde had "for some time"[5] suffered from what her father described as "an Indisposition incident to Females"[6] , the symptoms of which included a failure to menstruate and a swelling stomach as well as persistent headaches and indigestion. The Wylde family appear to have been used to call upon Dr John Murray,[7]whose opinion of Miss Wylde's condition was that it was not dangerous, but required "air and exercise"[8]. At some point, Wylde asserted, what was referred to as a "misunderstanding" occurred between the Wyldes and Dr Murray and Murray refused to continue attending the Wylde family. It is unclear whether Murray actually examined Miss Wylde, but it is conceivable that the "misunderstanding" between Murray and the Wyldes arose from his diagnosis of Jane Wylde. By this

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[3] CSC 2/1/1/33 No 16a [or 17] 1836, Sir John Wylde vs Jane Elizabeth Wylde

[4] SAL, MSB 392, William Porter Papers, Diary of William Porter, 17 June 1839 - 16 November 1839, p.98

[5]SAL, MSB 517. Sir John Wylde Collection, p.24 This is my major source for the description that follows. Whilst the official dispatches are contained in the Government House records in the Cape Archives [GH 23/10 page 118 - 217], my first acquaintance with this case was from the rough notes and appendices which formed the basis for the subsequent dispatches (and which provide more detail than the official correspondence), and which are housed in the South African Public Library, Cape Town. These were, up until an unspecified previous time, placed by the librarian under "restricted access" although the reason for the restriction is not noted.

[6] ibid, p. 3

[7] In 1831, John Murray held the position of Surgeon to the Forces and was President of the Colonial Medical Committee. I am grateful to Harriet Deacon for this information.

[8] Sir John Wylde Collection, p.4

time, gossip surrounding Miss Wylde's condition was already widespread in the town. In the dispatches to the Secretary of State, Lord Goderich, which were the eventual outcome of the scandal, the Governor, Sir Lowry Cole, described the situation as follows: "Early in the year 1831 the reports respecting Miss Wylde's being pregnant were in circulation originating I believe from her appearance which was such as to create suspicion, and to attract observation from every one."[9] Subsequent to the "misunderstanding", between the Wyldes and Murray, Miss Wylde was not once examined by a doctor. Wylde gave as his excuse for this, the fact that he was unable to pay Murray and so felt a "delicacy" in calling in another doctor to attend his family.[10] He also that said he felt it to be unnecessary since Murray had said that the condition was not dangerous. It was later ascertained by the Governor, however, that Wylde had got a certain Dr Robert Dyce to attend other members of his family. At some point during this time, Wylde obtained books from the Public Library relative to midwifery and gynaecology and took extracts from them.[11]

Wylde then turned for help to John Reid, the clerk of the Attorney General, later described by the Governor, as a "simple minded and religious man"[12]. Prior to his arrival in the colony three years earlier, Reid had taken out his Diploma from the Royal College of Surgeons in Edinburgh and had practised in England, but had never

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[9] ibid, p.70

[10] Murray, however, was employed by many high-status patients in Cape Town who were accustomed to make their doctors wait extended periods for payment, a fact which casts doubts upon Wylde's excuse. I am grateful to Harriet Deacon for this information.

[11] ibid, p.88

[12] ibid, p.75

practised at the Cape except to give free medical advice to his friends when they requested it.[13] Reid did not examine Miss Wylde, but prescribed for her upon Wylde's description of her symptoms which he - Wylde - claimed were very common in the Cape.[14] Reid prescribed laxative pills for Miss Wylde between January and June of 1831 and Wylde related to him that there had not been much change in his daughter's condition during that time except that she had started menstruating again in April.[15]

It was in that month - April of 1831 - that, citing the health of himself and his daughter as justification, Sir John Wylde left Cape Town and retired to a country inn called the Halfway House, being half-way on the road from Cape Town to Simonstown. The party took no servants of their own to attend upon them, Wylde stating later that he wished to avoid unnecessary expense. The Wyldes remained resident at the Halfway House until the first week in August, with Sir John making trips to town to attend the court. During this time, the Governor claimed, the family received no visitors except for a certain Dr Stevenson, a passenger in a convict ship going to New South Wales, in late April and early May.[16] Miss Wylde was denied to her intimate friends, Colonel and Mrs Munro and Miss Taylor, upon their calling on her - a circumstance which was later deemed extremely suspicious.[17] Wylde claimed that for reasons of economy he did not wish to receive visitors.[18] The evidence he

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[13] ibid, p.74

[14] ibid, p.26 - 27

[15] ibid, p.24 - 25

[16] ibid, p.60

[17] ibid, p.72

initially produced that his daughter was not being secluded came from another visitor, J Bice Barnes, who, as Wylde's clerk[19] was, however, a not wholly independent witness. Barnes visited the Wyldes on 9 May, eight days after the last visit of Dr Stephenson[20] and although he found Miss Wylde subject to headaches and somewhat paler than before, he did see her two days after his arrival - she was confined with a headache when he arrived - and he denied that he saw anything suspicious in her appearance.[21]

On 6 August the Wyldes returned to town and the next day Sir John, when attending a sermon, was told by his fellow Justice, Clerke Burton that rumours were rife in the town that Miss Wylde had been pregnant.[22] At this point Wylde was implicated only so far as to having wished to conceal his daughter's pregnancy.[23] As to whether he was thought to have procured an abortion for her, or been involved in infanticide, is unclear. Evidently her appearance was such that it was assumed by observers that she had either been delivered of a child, or had miscarried. As a consequence of this, Sir John called on the Governor in order to determine whether Miss Wylde would be received at Government House. After some discussion between the Governor and Sir John, and upon Lady Frances Cole, the governor's wife, being consulted, Sir John's explanation of Miss Wylde's gynaecological disorders was accepted and it was agreed

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[18] ibid, p.6-7

[19] ibid, p.7

[20] ibid, p.60

[21] ibid, p.227 - 230

[22] ibid, p.1

[23] ibid, p.67

between them that Miss Wylde would be received at the next Government House ball, although the governor warned Sir John that since feeling against Miss Wylde was very strong there might be unpleasant consequences for her.[24]

At this point the scandal appears to have no longer been discussed in official circles, but it was by no means quietened in society at large and the Governor claimed that Wylde and his daughter were "shunned" at this time.[25] It is in January 1833 that we must pick up the story again, when Sir Lowry Cole received a letter dated 25 September 1832, marked "Private and Confidential", from the office of the Secretary of State, Lord Goderich. It gave notice that rumours had reached the Colonial Office regarding the character of Sir John Wylde and that unless he could clear his name he would be "totally disqualified from mixing in Society" and must be asked to resign as Chief Justice.[26] In keeping with the case as a whole, the charges themselves are not explicitly named but by this point it is clear that the rumours accused Sir John Wylde of committing incest with his daughter, of concealing her subsequent pregnancy, and of either inducing her to miscarry or of arranging for the removal of her new-born child.[27] The Governor, who had been fully aware of the rumours, was now forced to act upon them and an official inquiry began which is the main source for my account of the events of this case.

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[24] ibid, p.12 - 13

[25] ibid, p.88

[26] ibid, unpaginated - before page 1.

[27] ibid, p.69

In the wake of the official inquiry being instituted, Wylde and the Governor began to move on a course which would set the two in opposition to one another, provoke a sensation in the press and compromise the government in the eyes of the public. Wylde professed himself stunned and shocked by what he claimed was his first knowledge of the rumours.[28] He then, however, refused to proceed to clear himself until he had seen a copy of the dispatch and knew the precise nature of the charges laid against him.[29] Cole declined, stating that it was not the custom to give copies of Dispatches and there followed approximately two months of politely expressed but implacable opposition between the two men. Wylde refused to conduct any discussions except in writing and repeatedly demanded to see a copy of the dispatch, and Cole refused to give him any more information about the substance or origin of the charges. Cole found himself compromised by the persistent refusal to name the unspeakable which marked the case throughout its course, and in which the phrase "foul stains" became a metaphor for the doubts cast on Wylde's character. The letter from Goderich, as Cole noted, "merely alluded to" the charges "as a subject not fit to be committed to paper".[30] Equally, Wylde felt it impossible to answer charges founded, as he claimed, on nothing but unsubstantiated rumour.[31]

Eventually Wylde capitulated and wrote to the Secretary of State on 14 May 1833, setting out his claims of innocence and including, as well as letters of support from

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[28] ibid, p. 157 - 158

[29] ibid, p.163 - 164

[30] ibid, p.80

[31] ibid, p.179

prominent men in the town, affidavits from his servants and from the staff at the Halfway House as to the innocence of his own and his daughter's conduct. The affidavits claimed that Miss Wylde was not secluded at the Halfway House and that she had behaved normally and in a healthy manner there. Servants claimed that Miss Wylde was a woman of "strictly chaste and virtuous habits" and that Sir John had never behaved in any other way than "what was highly worthy of, and becoming in him, as a Father, a Christian, and a Gentleman."[32] The female members of the household (including Miss Wylde's maid, Anna Zauderman, formerly Cunningham) ascribed Miss Wylde's appearance to an illness which caused her to stop menstruating and have a swollen appearance.[33] Wylde included the medical evidence of two doctors, James William Fairbridge and Samuel Bailey, who testified that this condition was a common one at the Cape, and that it produced the appearance of pregnancy.[34]

Sir John took the course of action of applying to his friends and associates for support, and he delivered statements of their belief in his innocence to the governor on 11 March.[35] Wylde and his supporters then marshalled the forces of public opinion in his favour. Editorials which addressed the case in general terms began to appear in April of 1833 in the two major newspapers of Cape Town, *The South African Commercial*

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[32] Deposition of Benjamin Powell, Steward, and Elizabeth Powell, his wife. Public Record Office, London (PRO) CO 48, no 153, p.298, 299 The same wording was used in the deposition of George Gough, Butler. ibid. p.301

[33] ibid, p.292, 296

[34] ibid, p.324, 326. Despite their assertions, research on the Cape medical establishment has not discovered other references to this condition. Harriet Deacon, pers. com.

[35] SAL, Sir John Wylde Collection, p.81

Advertiser a paper well known for its liberal sentiments and reforming zeal, and, in greater detail, in *De Zuid-Afrikaan*. The latter was at this time a bitter rival of the *Advertiser* and supported the Dutch slaveowners against the emancipatory policies of the British Government. In his account of the events to Lord Goderich, Cole accused Wylde or his supporters of giving information to the editors about the proceedings of the case against him "for the purpose of prejudicing the Public Mind in his favor".[36] Three addresses of support for Sir John Wylde, denouncing the "scandalous rumours" circulating about him, appeared in the press, along with his reply to these. Two were from the Attorneys and Notaries of Cape Town[37] and the third from the general public, which *De Zuid-Afrikaan* described as being signed by "about 300 of the most respectable Inhabitants" of the city.[38] Throughout the entire crisis, the press remained strongly behind Wylde, for reasons which I will explore more fully below. Nowhere in the press were the charges actually described and without having access to the confidential government reports it would be extremely difficult for the historian to discover the nature of them.

Letters to the editor, all, apart from one correspondent, in favour of Wylde, continued to appear between April and June, when, on 7 June, in *De Zuid-Afrikaan,* there appeared a letter signed "Anglus" which gave the situation a new turn. It stated that although Wylde had wished to have an open inquiry instituted, he had been advised to

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[36] ibid, p.86

[37] *ZA* 26 April 1833

[38] *ZA* 17 May 1833. Wylde was to describe the signatories as comprising "the Property, Interests, and Intelligence of the Settlement." PRO CO 48 no 153, p.194

keep silent by "the Highest Authority", thereby implying that the Governor was implicated in a cover-up.[39] Questions had been raised in the press since April 1833 about the conduct of the Governor - it was considered by *De Zuid-Afrikaan* that his call for Wylde to clear himself was ill-advised, given his previous acceptance of Wylde's innocence, which had been indicated by his public behaviour towards the Chief Justice since 1831.[40] This new development, however, appears to have shocked the Governor badly. He took the questionable step of inserting a reply to the anonymous letter by 'Anglus' in the pages of *De Zuid Afrikaan* and by doing so laid himself open to further charges that he was behind the attack on Wylde.[41] Criticism of the colonial government and of Cole intensified, implying that the state was compromised in the eyes of the public and escalating a situation in which the cause of Wylde was already linked to dissatisfactions amongst the readers of *De Zuid-Afrikaan* about the conduct and policies of the British Government at the Cape.[42]

Cole, finding himself caught between the opinions of the citizens of Cape Town, and those of his superiors in London, understandably took more heed of the latter, and sought to defend himself against the charges of covering up Wylde's actions - whatever their precise nature . His public entrance into the debate, however, escalated the crisis in confidence in the colonial government amidst a political situation of coming emancipation which was already fraught with tension. The attacks on the

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[39] *ZA* 7 June 1833

[40] *ZA* 26 April 1833

[41] *ZA* 14 June 1833, letter by Asmodius

[42] *ZA,* 31 May 1833

government continued in the press until the end of July. In his final dispatch to Lord Goderich upon the matter, dated 24 June 1833, Cole set out his reasons for suspecting Wylde's involvement in either concealing his daughter's pregnancy or of committing incest. His accusations centred around Wylde's mysterious retirement to the Halfway House, his failure to have Miss Wylde attended by doctors, the excuses he used to prevent this, his use of books on midwifery, his desire to allow the scandal to blow over rather than to have it openly investigated, his failing to offer testimony from Mrs Moore, his mother in law or from his female servant, Mrs Cunningham[43], and his use of the press to prejudice public opinion in his favour.[44] Neither here nor anywhere else did Cole question the visit by Dr Stephenson - the doctor en route to New South Wales aboard a convict ship - to the Wyldes during their time at the Halfway House, perhaps because no way of tracing and questioning him about any conceivable involvement of his in the case was possible. This is even more remarkable given the fact that Dr Stephenson's visit to the Wyldes at the Halfway House - on 27 and 29 April and on 1 May - coincided with the time at which Wylde told Reid that his daughter had once more begun to menstruate.[45] Cole ended his report with this conclusion - he was unwilling to believe the charges of incest, not on the grounds of evidence, but because they seemed too horrific to contemplate. Nevertheless, as he stated, - "so long as those [charges] regarding his Daughter remain unexplained there must & will attach a strong suspicion against himself & I have no hesitation in stating

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[43] This contention of Cole's suggests that he was unaware of the content of Wylde's explanation to the Secretary of State in May 1833.

[44] Wylde Collection, p.87 - 91

[45] ibid, p. 60

it as my opinion that under these circumstances he ought not to retain the Situation he holds."[46]

Wylde, however, remained as Chief Justice of the Cape Colony for another 32 years, retiring from the bench after a stroke in 1855.[47] The dispatches which chronicled the Wylde case left the colony on 10 August 1833, in the same ship which bore the retiring Sir Lowry Cole from the Cape.[48] He was replaced by Sir Benjamin D'Urban who was at pains to demonstrate his belief in the innocence of Wylde by his behaviour towards him and the strong support which he gave him.[49] A letter to D'Urban from the office of the Secretary of State, which enclosed copies of the material gathered on Wylde, indicates that D'Urban acted upon instructions from London. The British Government was at pains to bring the investigation to a rapid close, not least because of its political implications, to be considered below. It was concluded that the evidence against Wylde himself was insubstantial, that he should be considered acquitted, and that D'Urban should not inquire any further into the case.[50] Doubts evidently still remained about Wylde's private conduct, which was deemed "indelicate" and considered to have naturally brought down suspicion upon his family.[51] The absence of any evidence from Mrs Moore made his vindication "less

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[46] ibid, p.91

[47] *DSAB*, II, p.863

[48] GH 23/10 - General Despatches to the Secretary of State, p.118 and 232.

[49] SAL MSB 392, Diary of William Porter, p.100

[50] PRO CO 48, no 153, Hay to D'Urban, 9 November 1833, p.1 - 3

[51] ibid, p.3

complete than it might have been".[52] Wylde, concluded the report, had produced evidence selected by himself which had not be subjected to cross-examination, but this was harder evidence than the unsubstantiated rumours which formed the only basis of the case against Wylde.[53] Nevertheless, there were evidently strong political imperatives to close the case on Wylde.

The investigation instituted by Cole had, in effect, blown up in the government's face by compromising its conduct in the eyes of the public during a time of extreme political tension and even potential rebellion. Cole's replacement, coming when it did, may have been seen as a God-given opportunity to defuse the situation and allow the scandal to quietly die down. Two years later, in 1835, Jane Wylde - whose lack of testimony is one of the loudest silences in this story - married a Captain Booth of the Royal Navy, and left the colony for England.[54]

Male knowledge, female knowledge and the concept of 'delicacy'.

It is unlikely that the questions surrounding the circumstances of Jane Wylde's possible pregnancy will ever be answered. In revisiting the personal trauma of herself and her family, what is possible is to ask questions about what this case can tell us about the society in which she lived. Of fundamental importance is an issue which

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[52] ibid.

[53] ibid.

[54] Warner, B. (ed) *Lady Herschel: Letters from the Cape 1834 - 1838.* (Cape Town, 1991), p.79

was possibly the very reason for Jane Wylde's unfortunate situation becoming a public scandal at all. This is the notion of gender-specific knowledge, articulated most clearly in this case by the concept of "delicacy". What strikes the modern observer of the Wylde family, just as it struck contemporaries, is the lack of a figure of female authority in a case which dealt fundamentally with issues of sexual purity and reproduction. The absence of Mrs Wylde and the fact of her misdemeanours - which were widely known at the Cape - is as striking as the failure of another woman (mostly obviously Mrs Moore) to step into her place.

Apart from the extreme difficulty of proving or disproving the fact of incest between Sir John and his daughter, the Wylde family's failure to make paternity claims against any individual, as described in the previous chapter, was one circumstance which made Sir John vulnerable to the charge of incest. At this time it was still possible for charges of seduction to lead to a sentence of marriage by court order being passed against the guilty party. The last reported case of marriage by court decree as damages for seduction took place in 1832 and it was only in 1838 that damages were accorded in monetary terms only.[55] As Sir Lowry Cole noted, even making the name of the father known informally would have defused the charges of incest.[56] It may be that the father of Jane Wylde's child was so unacceptable - perhaps in terms of his class or race - that vulnerability to charges of incest was preferable to acknowledging the pregnancy or, when the rumours first surfaced with such virulence, making public the identity of the father of the child. The other contributing factor to the charges against

[55] H.R. Hahlo 'Law of Persons and Family Relations', p.393

[56] Wylde Collection, p.75

Sir John was his unusually intimate involvement in the affairs of his daughter. It is to Wylde that evidence points for arranging the abortion or delivery which, assuming the fact of the pregnancy itself, took place. Even if the rumours of pregnancy are discounted, and his version of the affair accepted, his involvement in, and knowledge of, his daughter's complaints was fundamentally disturbing to observers, most especially to Sir Lowry Cole. This circumstance suggests that there was more to the attacks on Wylde than the obvious reason of horror at a possible case of incest.

Leonore Davidoff and Catherine Hall have emphasised that closeness between fathers and daughters was a prized middle-class family ideal in Britain during this period, and they have linked it to the cultural norm of child-like innocence for women who often married men much older than themselves.[57] Nevertheless, there were certain lines that fathers and daughters did not cross, most especially with reference to sexual and reproductive knowledge, if they were to remain within the bounds of "delicacy". The notion of "delicacy" demanded that men and women lay claim to differing realms of knowledge, especially with reference to the body, and that the degree of intermingling of these gender experiences, which might reasonably assumed to take place in the realities of daily family life, should be officially denied.

Sir Lowry Cole's account, written from memory in 1833, of his first meeting with Wylde in 1831 during which they discussed the issue of whether or not Miss Wylde would be received at Government House, is strongly informed by this notion of

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[57] *Family Fortunes* p.346 - 348

delicacy. Hearing Wylde's explanation of his reasons for retiring with his daughter to the Halfway House, without the help of either a doctor or of female servants, Cole's reaction shows a fundamental sense of his horror at the way in which Wylde had transgressed his appropriate gender role within the family and crossed the boundaries between male and female knowledge:

> I expressed myself in very strong terms (if not with disgust) on the extreme indelicacy of this proceeding, as well as the imprudence of it, considering the nature of his Daughter's indisposition, adding, that I was surprised he could think of talking to her (which he must have done) on such subjects.[58]

Worse still, Wylde offered, as a defence, written declarations by himself, his sons and his clerk, that there was no foundation for the reports in circulation. The testimony of Jane Wylde herself was never offered or solicited by either side.[59] Cole was even more shocked by this, saying that "in common delicacy" Wylde's sons should be or, even more crucially, should be *supposed* by observers to be, "ignorant of the nature of their sister's indisposition."[60] Cole told Wylde that he could not blame the public for having such suspicions when he had behaved in such an inappropriate manner.[61] During the official inquiry in 1833, Cole claimed that Wylde asked him not to pass on his judgement of Wylde's indelicacy of behaviour to Goderich since if he did so, Wylde was convinced that he would "be deprived of his situation, and his family be ruined"[62]. Cole also attributed Wylde's break with him and his going to the press for

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[58] Wylde Collection, p.4 - 5

[59] ibid, p. 6-7

[60] ibid.

[61] ibid, p.9.

support to Cole's censure of his behaviour as a family man and Cole's failure to promise to be discreet on this matter.[63] Private behaviour by men within the domestic sphere was evidently an influence upon their character and standing in public life.

The idea that an appropriate masculine identity was a crucial component to the maintenance of public office arises in another context as well. Just as Cole denounced Wylde on the basis of his gendered behaviour, so too does his language reveal the way in which he called constantly upon concepts of masculinity to defend his own actions before Lord Goderich. He defended his behaviour towards Wylde during their dispute by calling it "manly"[64] and stressed that to make what he called "underhand inquiries" into the situation of Miss Wylde in 1831 "was repugnant to my feelings, as it must have been to those of any Gentleman".[65] Justifying his refusal to meet Wylde publicly after the official investigation had been put underway, he once more invoked his personal concept of masculine identity, revealing the importance of gender as a structuring principle of behaviour for men in public office: "I beg your Lordship will recollect that I have been bred up and educated as a Soldier and in all cases in my profession where individuals are charged with conduct unbecoming the character of a Gentleman, they are excluded from Society until they have cleared their character from any stain which may attach to it."[66]

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[62] ibid, p.78

[63] ibid, p.76

[64] ibid, p.136

[65] ibid, p.67 - 68

[66] ibid, p.138

Wylde's transgression of the barrier between private and public spheres was thus disturbing to the operation of state business beyond the alleged acts of incest, abortion or infanticide. Carole Pateman's analysis of the operation of the public sphere stresses the way in which women were explicitly pushed out of this domain of the new civil society by contemporary contract theorists. The "separation of civil society from the familial sphere", she writes, was one which divided "men's reason" from "women's bodies."[67] As Pateman puts it - "Within the shelter of domestic life women impose an order, a social pattern, and thus give meaning to the natural world of birth and death and other physical processes, of dirt and raw materials, that is integral to domestic life."[68] By reason of this, they are "tainted" and cannot transcend being rooted in a disorderly natural world which is anathema to the ordered cultural world of civil society.[69] By their separation from this world, men can take their rightful place in civil society. Involving himself in the disorder of female reproduction, Wylde transgressed the supposed divisions between political and family life, and masculine and feminine spheres, which, as has been explored in chapter two, were hardening at the Cape around this time.

If Miss Wylde was pregnant, her father's decision to take this problem into his own hands was obviously ineffective. Historians of reproductive issues in the Cape during the colonial period have stressed the importance of indigenous female knowledge, particularly of Khoisan or slave women, in bringing about safe and undetected

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[67] Pateman, *Disorder of Women*, p.45

[68] ibid, p.25

[69] ibid

abortions for women, both black and white.[70] Ironically, during the period under discussion women who were of low status in both racial and economic terms may have found controlling their own fertility easier than their more economically advantaged sisters.[71] The sequence of events in the Wylde family, if we accept the fact of Jane Wylde's pregnancy, points to the failure of the family to have access to such knowledge. The pregnancy was obviously very far gone before an abortion was attempted - and may even have gone to full term with the delivery of a living child - since it was the appearance of Jane Wylde that first gave rise to the rumours. Given the dangers of attempting a termination at such a late stage in the pregnancy, Miss Wylde's survival might possibly make the fact of a full term delivery more likely.[72] It is impossible to know what became of the child that may have been born - whether it was concealed or killed. Wylde's dealings with the Cape medical establishment, both formal and informal, and his access to information through the mechanism of the public library seem to point to an alienation from sources of female knowledge, and, in particular, black female knowledge, which might have aided in an early termination of the pregnancy and an avoidance of scandal. With reference to acts of abortion or infanticide it is also important to note that there was more to the attempt of the Wylde family to conceal the pregnancy than the avoidance of scandal. Abortion and infanticide were severe crimes under the law of the colony, which carried heavy

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[70] Bradford, H. "'Her body, her life': 150 years of abortion in South Africa'. Paper presented at the 'Women and Gender in Southern Africa' Conference, Durban, 1991, p.3 Van der Spuy, "'The destruction of her Child': Infanticide and the politics of reproduction at the Cape in the era of amelioration." in 'Essays' p.172 See also P. Scully 'Liberating the Family'

[71] Bradford, 'Her body', p.3

[72] Lee Kleynans and David Savage, pers comm.

penalties. In 1822 two women - one the daughter of a slaveholder, the other a slave - were sentenced to death for their involvement in an act of infanticide.[73]

Women's Talk and Public Politics.

It was this apparently rigid division of public and private spheres and male and female knowledge which delayed an official inquiry for two years. It is unclear when Cole heard of the rumours that Sir John had committed incest with his daughter but he evidently did not choose to act on these rumours until directed to do so by the Secretary of State. Of the initial crisis in 1831, however, he later claimed that the discussions related only to the matter of Jane Wylde's possible pregnancy. At this point, Cole invoked the distinction between women's talk and the conduct of state business in his decision not to investigate the Jane Wylde affair - stressing the fundamental difference between the provinces of influence of men and women. By doing so, however, he laid the foundations for the later accusations of collusion on the part of the colonial authorities.

Cole claimed to Lord Goderich that he had encouraged Wylde in 1831 to have the matter cleared up in an open manner[74] but denied that Wylde had suggested that the matter be brought before the Council. Since the discussion related only to Miss

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[73] Van der Spuy, 'The Destruction of her Child', p.153 Van der Spuy provides a fascinating account of the varying attitudes towards reproduction-related issues of child-bearing, abortion and infanticide in the Cape during the 1820s and beyond.

[74] Wylde Collection, p.14

Wylde, Cole stated, it was not a subject for official government enquiry.[75] Wylde's account of this meeting, also made two years later, makes the distinction more clearly. Wylde asserted that he suggested that the matter be brought before the Council of Government, but that Cole warmly rejected this. Cole then said, according to Wylde - "Take my advice now, Don't talk to any one on the Subject, keep yourself quiet ... when the women have got some new subject to talk of, they will cease to talk of your Daughter."[76] On their discussing the matter again, Cole reiterated: "That women must have something to talk about, and that the world was too ready to take such an opportunity, as my [Wylde's] want of proper caution had offended".[77] On obedience to what he called this "advice", said Wylde, "I kept myself perfectly quiet."[78] Thus Cole drew a fundamental distinction between women's talk, or gossip, and matters which might legitimately involve the attention of the colonial state. By dismissing the charges as women's talk he put them beyond his concern, and, ironically, he exposed himself to later charges that he influenced Wylde against courting open investigation into the matter. Ironically, the discussions between Wylde and Cole, and the manner in which the Colonial Office acted upon rumours which reached Britain from the Cape, indicates that men were equally concerned with gossip, and that 'men's talk' could act as a powerful political tool.[79]

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[75] ibid, p.15

[76] ibid, p.47

[77] ibid, p.49

[78] ibid.

[79] I am grateful to Helen Bradford and Ruth Watson who both drew my attention to 'men's talk'.

The dichotomy between women's talk and the business of government deserves closer investigation. Although I have stressed the separation between public and private, and between male and female spheres of influence in my account of Wylde's difficulties in dealing with his daughter's condition, this must not be overstated. It is important to note how this case reveals a more ambiguous and mutually dependant relationship between masculine and feminine social worlds. It also interrogates the separation between public and private spheres, revealing them to be both divided and ultimately inseparable. It is this aspect of the case which I believe is especially interesting as it undercuts the historian's tendency to deal with private and public life as mutually exclusive aspects of the past. It undercuts the conception of the separation of spheres which was becoming increasingly influential at the Cape at this time, as chapters two and three indicate. As Pateman has stated of the classic texts of contract theory - "the meanings of 'private' and 'public' are mutually interdependent; the 'public' cannot be comprehended in isolation. Properly to understand the conception of a public world and the capacities and characteristics that are required to participate within it demands, at the same time, an understanding of what is excluded from the public and why the exclusion takes place."[80] The case also demonstrates a slightly different point. Whilst women are in theory excluded; in practice, the influence of the private on the public sphere is very evident. Despite efforts by both individuals and the press to trivialise the accusations against Wylde as gossip spread by women, women's talk and women's actions are shown to be of vital importance to the operation of colonial social acceptance. In order to operate effectively, the society needed the very transfer

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[80] Pateman, *Disorder*, p.3

of information through private, female channels - or gossip - that it affected to despise. Equally, as noted above, men were just as involved in the use of gossip as a political tool. Men might claim the public sphere of print culture as their own, and stress that it was the proper place for the conduct of public affairs (see below), but they were equally involved in the informal channels of information that they relegated to the sphere of women - and thus cast out of the sphere of politics.

Just as Cole dismissed the rumours surrounding Wylde as unworthy of his attention because they originated in female gossip, so too did the press seek to neutralise the accusations by reducing them to the status of mere women's talk. In an editorial of 3 May 1833, *De Zuid-Afrikaan* hinted that women were the origin of the accusations levelled against Wylde.[81] At the end of that month they ran an article entitled "Origin of Female Tittle-Tattle" in which the sin of slander was attributed to the nature of women, and the spread of the rumours concerning Wylde from the Cape to the offices of Downing Street was attributed to "one of the fair sex".[82] By reducing the accusations against Wylde to nothing more than female scandal-mongering their validity could be undercut.

Social gatherings and the signification of respectability.

Even as female gossip was attacked by representatives of the masculine public sphere - the press and the administration - women's networks were shown by the scandal to

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[81] *ZA*, 3 May 1833

[82] *ZA*, 31 May 1833

be crucial to the operation of colonial society.[83] Former chapters have emphasised the cultural importance of white women's respectability in the maintenance of colonial communities. Asserting white female chastity and gentility often formed part of a range of ways in which the colonisers neutralised potential divisions amongst themselves, emphasised their distinction from the colonised, and reassured themselves of their separate identity and right to rule. We have seen how white women were praised as community builders in both a literal and figurative sense - for their reproductive rather than their productive role within the colonial situation. As the daughter of the Chief Justice of the Colony, Jane Wylde had an important signifying role in demonstrating the respectability and solidarity of the elite, a role in which she was already compromised by the behaviour of her mother. Women's roles went beyond the importance of personal respectability, for they also were fundamental to rituals of exclusion and inclusion. Within the private sphere, they acted to decide who was allowed access to the ranks of the colonial elite.

The importance of the power and influence of women is evident from the very start of the crisis, in the form of the position held by the Governor's wife, Lady Frances Cole. Regarding the matter of whether Miss Wylde should be received at Government House, Cole refused to act without first consulting his wife, saying that it was her "feelings and opinions" which were of primary concern in deciding the question.[84] It was only after consultation with Lady Francis Cole that Sir Lowry informed Wylde

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[83] On the role of gossip as a regulating force in social life see Spacks, *Gossip*, p.34

[84] Wylde Collection, p.8

that "if Miss Wylde left her card at Government House, she should be invited to the Ball then in contemplation"[85]. Both the governor *and* his wife played important roles in determining whether individuals would be accepted or rejected by polite society. By having Miss Wylde leave her card at Government House and by her being publicly seen at a ball there, Sir Lowry and Lady Francis Cole signified to the community at large their acceptance of the innocence of the Wyldes. As observers stated both then, and in 1833, the issue of whether or not Cole had personally advised Wylde to keep silent was in some sense irrelevant - accepting the Wyldes through the formal rituals of social life was tantamount to advising their silence.[86] As 'Anglus' stated in *De Zuid-Afrikaan* subsequent to the interviews between the Governor and Wylde:

> it is notorious and public, that ... the Chief Justice and his family were invited to, and received at Government House. ... Had just suspicions remained in the breast of a highly respected character, he would not so far have defaulted in his duty to society as to have given that color to the offenders continuent in his high station therein, of which these invitations were indicative.[87]

Observers such as Daniel Jacob Cloete, Wylde's solicitor, testified that it was seeing "Miss Wylde moving in Society at Government House" after he knew that the matter had been discussed between Wylde and Cole, that persuaded him to pay no attention to the rumours.[88]

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[85] ibid, p.12

[86] Editorial, *ZA,* 14 June 1833.

[87] Letter from 'Anglus', *ZA,* 14 June 1833.

[88] Wylde Collection, p.215 - 217

The rituals of social life surface again and again in this case as important spurs to events. Just as a ball is involved in the initial 1831 question of social acceptance, so too is a ball to be given in honour of Lady Francis Cole in 1833 another precipitator of crisis, being the event which caused the dispute between Wylde and Cole to shift into the public arena. In April 1833 it was determined by some Gentlemen in Cape Town to give a ball for Lady Francis Cole in, as Cole put it "a testimony of respect on our approaching departure" from the colony.[89] Since the official investigation had already been instituted against Sir John, and he had, as yet, failed to clear himself, Sir Lowry Cole felt that it would be more "manly" in him to make his wishes not to meet publicly with Sir John known to the committee, and accordingly he did so.[90] He also informed Wylde of this fact. Despite this, Wylde approached the committee himself in an attempt to get his name put onto the Subscription List. His reasons for doing so make clear the importance of public appearances in the maintenance of respectability and social acceptance -

> As a Public Ball I find is to be given on the 23 instant, to the Lady Frances Cole; and as no one *should* be more ready that the Chief Justice of the Colony, and no Chief Justice *could* be more sincerely disposed than myself, to second any and every public attention, whether by public Ball, subscription Ball - or otherwise, which could be paid, and in the present instance so justly due to the Lady of the Governor; not less on private than public consideration, I beg leave to request, that you will do me the favor of directing that the name of 'The Chief Justice of the Colony' be placed on the List of Subscribers thereto.[91]

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[89] ibid, p.135 - 136

[90] ibid, p.136 - 137

[91] ibid, p.147 - 148 Original emphasis.

Subscription lists, as chapter two has argued, were significant means of signalling social acceptance at the Cape. Whether they involved charitable endeavours, public dinners, the theatre or other concerns, subscription lists were used as a form of social gesture to divide the respectable from the dishonourable, whether on moral or economic grounds. That the Chief Justice was not publicly seen to be involved in an entertainment which was as much about signalling social identity as eating, drinking and dancing, was of sufficient notoriety to provoke the original letter of 7 June by 'Anglus' which so disquieted Sir Lowry Cole. This circumstance gave the case even greater publicity as both Cole and the members of the Ball Committee sought to defend the charges laid against them by entering the public domain of the press. 'Anglus' said that public feeling had been provoked, amongst other things, by "the injudicious and public refusal to meet Sir John Wylde at a Ball".[92] As the *South African Commercial Advertiser* put it, the day after the ball took place, "when it is made known that the King's Representative cannot meet, even at a Public Ball, the individual next to him in Official Rank, and on whose integrity the pure administration of Justice depends, every inhabitant, even the lowest in the community, has a right to demand an explanation."[93]

Penelope Russell's account of the gentry in Melbourne during this period has also stressed the importance of the use of social gesture in the colonial context; making use of the term "genteel performance" to describe this phenomenon. As in Cape Town, the

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[92] Letter by 'Anglus', *ZA* 7 June 1833.

[93] *SACA,* 24 April 1833.

gentry of Melbourne operated in a "fluid and uncertain colonial world"[94] in which people's social antecedents were often uncertain and wealth and respectability were not unproblematically linked.[95] Previous chapters have stressed the cultural insecurity which could mar middle-class attempts to assert respectability in the colonial context - this issue dogged genteel performers in both the Cape and in Russell's account of Melbourne - whilst they ostensibly applied the standards of Britain, they were all the time aware that all but the highest ranks would not pass muster in metropolitan Society.[96] That members of the colonial administration - of which the Coles and the Wyldes were so obviously a part - could put themselves beyond the pale of Society was obviously infinitely disturbing.

Russell stresses the extent to which "Society", which she spells with a capital S to signify its exclusivity, was defined by women within the domestic sphere.[97] The 'genteel performance' is Russell's term for the way in which members of the gentry, in particular women, bridged the supposed gap between public and domestic spheres. They indicated the family's private respectability by their behaviour in public, particularly in exclusive social engagements such as subscription balls, and they 'policed' genteel society[98] through the formal system of calling derived from Britain

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[94] Russell, *A Wish of Distinction,* p.1

[95] It should be noted, with reference to this point, that Sir John Wylde was deeply in debt at the time of the scandal, and that rumours of his precarious financial situation were rife throughout the town. Wylde Collection, p. 10

[96] ibid, p.61

[97] Russell, 'Distinction', p.14

[98] ibid, p.59

which acted as the most explicit ritual of exclusion and acceptance in both Cape Town and Melbourne.[99]

Thus, Russell describes the 'genteel performance', the general, but not exclusive, prerogative of women in colonial society, as a "point of intersection between the public and the private worlds - or rather, as the point which demonstrated that there was no real separation of those two worlds"[100]. As the behaviour of both Cole and Wylde point out, Russell's concept (certainly with reference to the Cape) needs more emphasis on the role of men who were equally important genteel performers. What the Wylde scandal demonstrates clearly is the importance of and differences between men's and women's social responsibilities in defining the ranks of the respectable, as well as the complexity of the interconnection between the ostensibly separate public and private spheres. 'Women's talk' was not marginal to the conduct of colonial government, but part of the mechanisms by which the respectable were delineated from the dishonourable.

The role of the press in the defence of honour.

I have therefore argued that in contemporary political discourse gossip was reduced to the province of women, and seen as an inappropriate behaviour for men of honour, despite the very real role which men as well as women played in this informal

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[99] ibid, p.51. For an account of this system's British antecedent's see Leonore Davidoff. *The Best Circles: Society, Etiquette and the Season.* (London, 1986), p.43

[100] Russell, 'Distinction', p.60

transmission of knowledge about respectability and status. In opposition to a world of orality, men laid claim to the emerging print culture as the proper sphere to conduct a public political dispute. Like the other victims of defamation discussed in chapter four, Wylde made use of the newly established public sphere of the press in his defence. In 1833 the independent press in the colony was less than ten years old, and was dominated in Cape Town at this time by two newspapers which were in vehement competition with one another, *The South African Commercial Advertiser,* edited by John Fairbairn (who had been instrumental in winning the fight for a free press against the opposition of the colonial government in the preceding decade) was one, and *De Zuid-Afrikaan* edited at this time by P.A. Brandt, was the other.[101] Both papers were published in English and Dutch, but whilst the *Advertiser* took a strongly liberal line and was supported to a large extent by an urban commercial elite either of English origin or professing loyalty to the British government (despite the paper's persistent criticism of this institution) *De Zuid-Afrikaan* was founded with the specific purpose of promoting Dutch interests and took a strong anti-Government line on the issue of impending slave emancipation.[102]

During the crisis, the *Advertiser* made explicit reference to these means of masculine community construction and provided a useful account of how the concept of the public was perceived by contemporaries. It stated that Sir John Wylde had not, previous to Cole's refusal to meet him at the Ball, been barred from the ranks of the

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[101] Watson, *Slave Question*, p. 117

[102] ibid, p.83 The following chapter will indicate how a mid-century consensus between Dutch and British contrasted with this period of ethnic tension.

public, since nothing had appeared in the colonial press on the matter, and Sir John had "been received as well as any other public man whenever he appeared in Public, or in the Committees (*elected by Ballot*) for conducting the affairs of charitable, liberal, or public-spirited Institutions or Associations. The *People*, therefore, the unofficial and independent Inhabitants, are not a party in making or sustaining" the accusations levelled against him.[103]

When Wylde found himself at loggerheads with Cole, he turned first to his friends and those who might be supposed to support him, and then - either personally or through others - to the press as a vehicle for influencing public opinion. The case was first mentioned in *De Zuid Afrikaan* on 19 April 1833, establishing a precedent for later developments in which *De Zuid Afrikaan* took up Wylde's case much more directly, devoting substantially more space in both editorials and correspondence to it than did its rival. This first editorial in *De Zuid Afrikaan* was written in response to the address of support directed to Sir John Wylde by the Advocates of Cape Town which, the paper claimed, had brought the rumours into the public domain. It asserted that "official purity of character" was a matter of "public interest" especially regarding those who dispensed "public justice" such as Wylde, and that the people were the "watchful guardians" of the good character of public figures and it was important to tread carefully when making such accusations. It went on to pledge the paper's support for Wylde and attacked his accusers, claiming that the rumours had been spread with "personal ends and motives" in mind.[104]

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[103] *SACA,* 24 April 1833. Original emphasis.

[104] *ZA,* 19 April 1833. Six years later, in 1839, the new Attorney General, William Porter, also described several people, including Wylde himself, hinting at this notion of a conspiracy - that the

The *Advertiser* took up the case on 24 April and, as was the wont of Fairbairn, he related the current crisis to the reputation of the colony as a whole and its position in the eyes of the world as a community which could lay claim to the right of Representative Government. He feared that observers might draw "unfavourable conclusions respecting the state of Society at the Cape, from a perusal of the documents referring to some slanderous reports affecting the private character of the Chief Justice".[105] Fairbairn ended his editorial with this warning - "no crime can exceed in atrocity and baseness the *secret accusation* of an innocent man. ... For if such offences can be committed, or alleged against innocence with impunity, there is an end of Civil Society."[106] In Wylde's response - published in both papers - to the public addresses directed to him, he also saw the efforts in his favour as a vindication of the establishment of an appropriate public sphere at the Cape. Speaking of the inhabitants of Cape Town, he stated that the addresses were, in his words, a "Tribute, on your part, to Public Principle and its Immunity."[107]

Making similar references, *De Zuid-Afrikaan* implied that the government, by acting on the anonymous and unproved accusations against Sir John Wylde, compromised the colony's status as "a civilized and enlightened society"[108]. The paper feared that

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rumours were spread with the specific intent of hounding Wylde to his resignation - but at such a remove of time Porter said that found it impossible to determine the truth of this with any degree of certainty. William Porter Papers, Diary, p. 100

[105] *SACA* 24 April 1833

[106] ibid.

[107] *ZA,* 17 May 1833.

[108] *ZA,* 26 April 1833.

the present trend would be for the "Colonists in general ... [to be] slandered, libelled, and misrepresented whenever it suits any particular object. ... if our society in general deserves that credit which we are anxious to award to it, we would say that no event has occurred within this Colony calling more loudly for an expression of the public feeling generally, than the conduct which has been pursued towards its highest judicial authority."[109] The improper conduct of politics compromised claims to respectability and political power by the colony at large.

Thus, in a link which was made constantly throughout this period, the honour of individuals was connected to the honour of the colony at large. Whilst gossip and the rituals of society were forces of regulation in Cape elite life, there were prescribed mechanisms by which to protect one's reputation, and the uncontrolled spread of scandal was deemed dangerous to the fabric of colonial society. The defamation cases in the Cape Supreme Court analysed in chapter four indicate that middle-class men were quick to defend slights to their honour in the press, through the mediation of public notaries, or failing these methods, in court. Open discussion by means of the press was seen as a useful and legitimate manner by which to defuse attacks on both personal and social reputation, and whilst Cole might deplore Wylde's use of the public sphere, the *Advertiser*, for one, called the behaviour of the public in stating its support of Wylde a "mode of proceeding ... perfectly consistent with the utmost veneration for the Established Forms of Justice, and is nothing more than the voice of Honor and Humanity."[110] The difference between the conduct of Wylde and Cole was

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[109] ibid.

[110] *SACA*, 27 April 1833.

repeatedly stressed - Wylde had not responded directly or personally to the accusations through the means of the press, as Cole had done, but appeared to bow gracefully to the support of public opinion, only appearing personally in his published answer to public declarations of support.[111] The manner in which men should make use of the public sphere was delicately defined, and indiscriminate intrusion before the public was frowned upon. While it was inappropriate for Cole, especially as governor, to take account of anonymous letters in the press, responding to unsolicited public support by means of the press, as Wylde apparently did, was both acceptable and laudable. The Wylde scandal indicates how far, by 1833, the elements of the bourgeois public sphere discussed in chapter two - particularly the development of a colonial press - had become established in the political life of a formerly autocratic colonial situation.

The Wylde scandal and Cape politics.

Both papers, typically, saw in the crisis an opportunity to give voice to their political aspirations for the colony. The *Advertiser* used the crisis, as it had used others, as a vehicle to continue its campaign for administrative reform at the Cape, and proposed that this was a proper time to send a petition to the King, that the Judges of the Supreme Court of the Cape be placed on the same footing of independence from government as the Judges in England. Fairbairn went on to question the Executive authority held over Judges in the colony, and finally to call again for a Legislative

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[111] *ZA,* Letter from 'Asmodius', 14 June 1833. See also letter by 'Anglus', 28 June 1833.

Assembly.[112] In a longer than usual editorial on 27 April, towards the beginning of the public discussion of the Wylde case in the press, Fairbairn embarked on an extended comparison between the trials of himself and his paper, and the situation of the beleaguered Wylde. He began by alluding to the frequency of anonymous attacks on individuals in *De Zuid Afrikaan* and *The Grahams Town Journal*, both of which were ranged against the *Advertiser* in their political slant at this time. Fairbairn continued, in his attack on the prevalence of slander at the Cape, to claim, with some justification, that "During the last two or three years, we have been ourselves the subjects of perhaps as much Detraction as any of our betters".[113] The press war, during the tensions surrounding emancipation, between the *Advertiser* and *De Zuid Afrikaan* had been especially bitter, with a correspondent in the former paper referring to the latter in 1831 as "the monstrous Hydra, which has been too long permitted to exhale its pestiferous breath amongst us."[114]

The Wylde case provoked familiar tirades against its rival in *De Zuid Afrikaan*, despite the fact that both papers supported Wylde. The editor noted with approval that the *Advertiser* had published the public addresses in support of Wylde, even though that paper had "but lately supported and vindicated the most arbitrary and despotic public measures" in the colony, probably referring to the controversial amelioration legislation, and *De Zuid-Afrikaan* used this rare unanimity of feeling between the two

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[112] *SACA*, 1 May 1833

[113] *SACA* 27 April 1833

[114] *SACA*, 28 December 1831

papers to argue for the universal support for the innocence of the Chief Justice.[115] The *Advertiser's* support of Wylde, however, did not go without criticism. One correspondent, 'Zootomist', who was a frequent and scathing critic of Fairbairn within the pages of *De Zuid-Afrikaan*, especially with reference to the *Advertiser's* views on slavery, emancipation and the treatment of the indigenous population, accused Fairbairn of using the Wylde crisis for his own ends. The sympathy for Wylde, he wrote, has "afforded too good an opportunity to one of your crafty disposition to be neglected . .. In this, Sir, be assured you have failed of success."[116]

Thus both newspapers were by no means innocent of trying to achieve political mileage out of the Wylde affair. *De Zuid-Afrikaan*, however, also used the Wylde case to deliver attacks against a government with whose policies, in particular regarding emancipation, it was out of sympathy. A dissenting voice in the general acclamation of Wylde, which hinted that wider grievances were motivating the writers of *De Zuid-Afrikaan* was heard in the edition of 31 May 1833. 'Vindex' wrote accusing the supporters of Wylde as being motivated by "party spirit" or anti-government feeling. Even so, he stated with reference to Cole: "I am well aware that every act of a man who would perpetrate so monstrous a piece of tyranny as the Slave Ordinance is an abomination in the eyes of the many."[117] *De Zuid-Afrikaan* was quick to defend itself against the charge of "party spirit" in an editorial in the same issue, claiming instead that the supporters of Wylde had been motivated by "manly and

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[115] *ZA*, 26 April 1833.

[116] *ZA*, 24 May 1833

[117] Letter from 'Vindex', 31 May 1833

independent" feelings, and that many of the signatories of the addresses had been "unconnected with Slave property".[118] The link between Cole's conduct in the Wylde affair, and his political career in the colony as a whole, was, however, also made by other writers in *De Zuid-Afrikaan* and 'Anglus' found his refusal to meet Wylde publicly symptomatic of one "whose blunders and injustices have been but too severely felt in this much injured Colony".[119] Although *De Zuid-Afrikaan* denied that its attacks on the governor were motivated by party spirit, the far greater space it gave to the Wylde case, compared with the *Advertiser*, which attacked the accusations levelled at Cole's conduct in an editorial of 4 May 1833[120] is, I think, indicative of the way in which sympathy for Wylde's treatment by the colonial government was harnessed by disaffected groups to express their opposition to the conduct of the authorities as a whole.

If the years 1831 to 1833 were a time of crisis for the Wylde family, it is also important to make clear that they were a period of immense turmoil in the colony as a whole, and that the threat of open rebellion, by either slaves or slaveowners, was not inconceivable. The press war between *De Zuid-Afrikaan* and the *Advertiser* was one manifestation of deep divisions within Cape society over what was referred to as the Slave Question. A detailed analysis of this developing tension lies outside the bounds of this chapter but it is important to note the context of wider social tension, as the British government intervened in the relationship between slaves and their masters, in

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[118] ibid, editorial.

[119] *ZA* letter from 'Anglus', 7 June 1833.

[120] *SACA* 4 May 1833

which the private drama of the Wyldes took place. Following the implementation of an Order in Council in 1831, which laid down, amongst other provisions, that slave owners keep a punishment record book for the inspection of the colonial authorities, there were riots in the town of Stellenbosch in April of that year, just at the time when the Wyldes were beginning their stay at the Halfway House.[121] In the same year, Cole denied permission for public meetings to be held in Cape Town to discuss the slave issue.[122]

In 1832 in Koeberg, about 15 miles from Cape Town, the reactions of slaveowners to the Order in Council of 1831 were particularly vehement and the results were public meetings and letters to the press in which open rebellion was hinted at. Cole responded with a show of government strength; over-riding the opinion of his advisory council[123] and issuing an ordinance prohibiting any public meeting without his consent, as well as announcing a proclamation giving himself authority to banish those who disturbed the public peace.[124] Whilst Goderich viewed these actions as alarmist and ordered Cole in October 1832 to revoke the proclamation, R.L. Watson has suggested that Cole was wary of slaveholder resistance as emancipation approached, and that these fears are given some substance by the affair at Stellenbosch.[125]

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[121] Watson, *Slave Question,* p.36

[122] ibid, p.129

[123] *DSAB*, II, p.164.

[124] Watson, *The Slave Question*, p.140 - 142

[125] ibid, p.142

This then was the context for the vehement defence of public opinion and the attacks levelled personally against Cole in the press. The emphatic stress on the importance of the public sphere and the power of public opinion must be viewed in the light of the recent actions which Cole had taken to curtail these rights, so bitterly contested in the previous decade, by prohibiting public meetings. The Wylde affair highlighted the vulnerability of male colonists' role in the public sphere at a period in which institutional guarantees of their political aspirations were still lacking. That the colonial government could act against Wylde, or so it appeared, on unsubstantiated rumours in the face of no new evidence, was seen as further testimony of its injustice. As *De Zuid-Afrikaan* cried, in response to the government's revocation of the notarial licence of Daniel Jacob Cloete, Wyldes' solicitor, over his involvement in the affair, "After what has happened, can any man say that he is safe?"[126] The public sphere in the Cape, and the nature of middle-class public masculinity, was still precarious. The Wylde scandal highlights the struggles through which the new system of colonial politics and gender relations was constructed in this period.

The fact that *De Zuid Afrikaan* took up the case of Wylde against the governor so much more directly than did the *Advertiser,* even though the latter also stressed Wylde's innocence , can surely be seen as evidence that the scandal was used by some of the paper's readership as a focus for disaffection relating to the eminent emancipation of the slaves. The unequivocal and widespread support for Wylde, as

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[126] *ZA,* 5 July 1833

well as the fact that Cole's involvement in the crisis was not seen as doing the administration any credit in the eyes of the public, influenced the Secretary of State to discontinue the investigation and allow the scandal to blow over. The office of the Secretary of State referred to

> the excitement unhappily prevails in the Colony upon the subject, mixed up as it has been most unnecessarily with political feeling, rendering it highly important that the question should as soon as possible be set at rest.[127]

As I have stated before, the removal of Cole himself at this critical juncture may also have defused the situation, for it allowed Wylde to be reinstated in official favour without a loss of prestige on the part of the ruling governor. Either way, it is clear that the unstable political situation of the colony at the time of the Wylde scandal, as well as the difficulty of obtaining concrete evidence against Wylde, influenced the outcome of the investigation.

Conclusion.

The Wylde story indicates the wider political implications which defamation and gossip could have for public men at the Cape. Despite the rhetoric of the separation of the private and public spheres, the Wylde case shows the interconnections between masculine and feminine worlds and the important place of gender as a structuring principle in the operation of Cape politics. Formal political developments were influenced by a range of informal inclusionary and exclusionary practices centred around the operation of social life in Cape Town. What was stigmatised as 'women's

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[127] PRO CO 48, no 153, Hay to D'Urban, p.1

talk' played a vital function in delineating the boundaries of the respectable, and was central, not peripheral, to decisions about social acceptability. The Wylde case also highlights the emergence of the press and the public sphere as an influence on Cape political life and the manner in which private crises could be harnessed to political agendas to discomfort a colonial government which had not yet accorded formal acceptance to the role of male colonists in Cape public life.

What began as salacious gossip whispered amongst the Society of Cape Town about the appearance of a certain young woman in a prominent family of the city ended with the integrity and judgement of the colonial government being called into question. There are many mysteries which continue to surround this case in which silences - both deliberate and inadvertent - are such an important aspect. Nevertheless, despite all these uncertainties, it is possible, from this story of the unhappy experiences of Jane Wylde and her father, whatever their precise nature might be, from this web of anonymous accusation, dissimulation and rumour, to attempt to disentangle important threads of insight about the way in which gender roles and notions of respectability operated in colonial society in Cape Town.

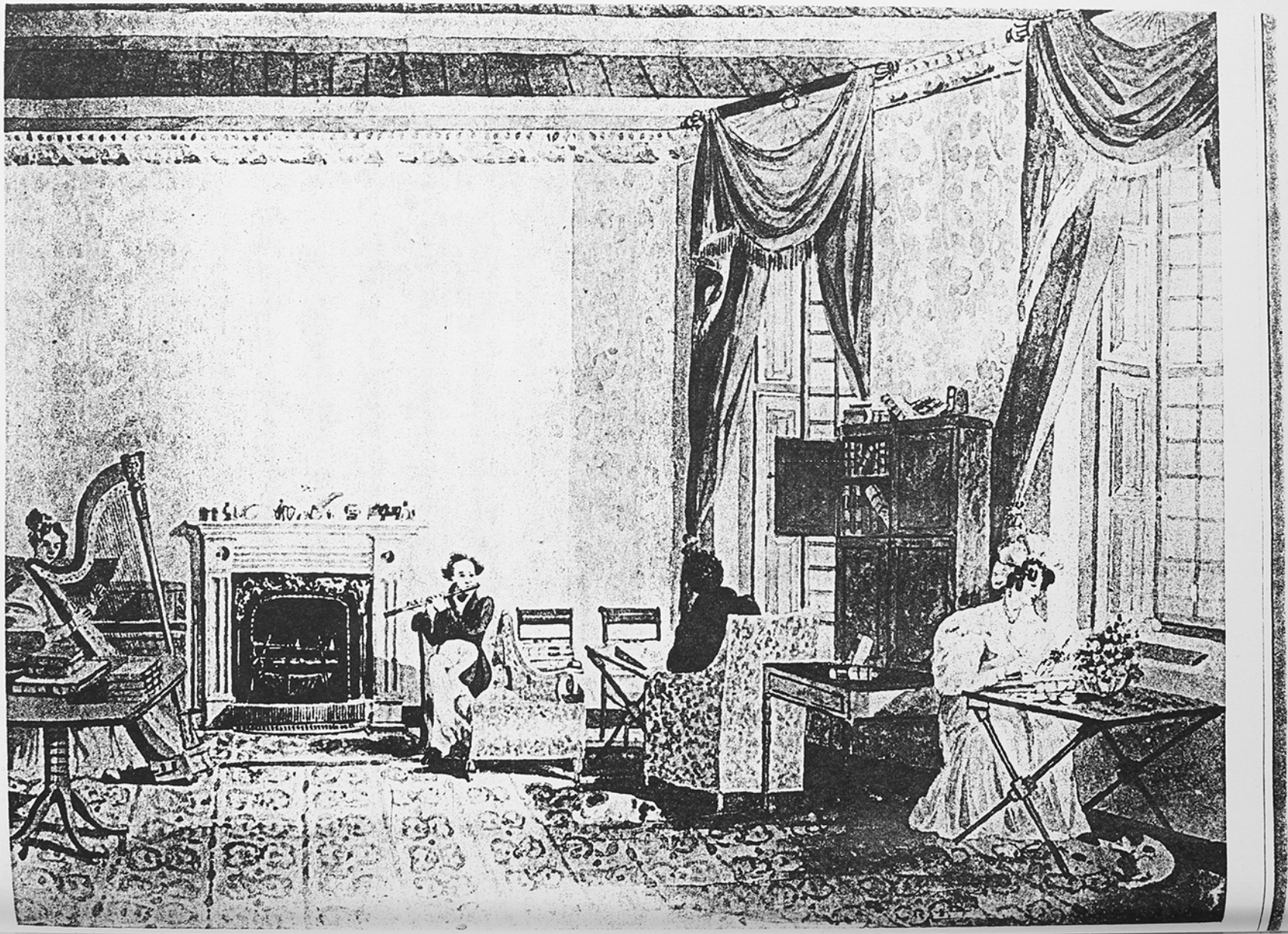
Charles D'Oyly's views of the Halfway House [Fig 5] and Hopeville [Fig 6].

Sir Charles D'Oyly, whose work is discussed in chapter two, was visiting the Cape from India during the time of Wylde scandal, and produced two images in 1832 of relevance to the story of the Wyldes. The one shows a "View from the Garden of George's Halfway House" and the other is generally considered to be a view of the interior of Sir John Wylde's house, Hopeville. The possibility that the young woman playing the harp is Miss Wylde makes the image even more intriguing. A word should be said about the circumstances of the survival of these drawings which I discovered when I asked to see the originals in the Cape Archives. There is a picture missing in the series which ought to lie between these two images. The caption, however, survives and it indicates that the lost picture was an exterior view of "Hopeville". The picture, however, has been cut out of the original album. So too has the caption which should identify the drawingroom scene as being of the Wylde family home. These are the only missing parts of the album. By numbering his views of the Halfway House, of the exterior and of the interior of the Wylde house one after the other in sequence, D'Oyly suggests that his work was informed by the circumstances of the scandal, which was rife in the town when these works were produced. The unknown person, who, probably for reasons of decorum, defaced the album, was evidently also aware of the Wylde case. Thankfully he or she did not see fit to destroy the interior scene which has been important to work on the material culture of the period. Ironically, this image which was evidently so potentially salacious to the one who saw fit to cut up the album, has been seen by commentators as a typical vision of Cape gentility and if it can be identified as Hopeville, which seems likely, this circumstance hints at the threat of dishonour which could lurk beneath the facade of respectability.

Figure 5



Figure 6



Chapter Eight:

The Anti-Convict Crisis and the Politics of Respectability.

The Anti-Convict Crisis of 1849 - 1850 was the most dramatic political event to be experienced by the people of Cape Town during the course of this period. The attempt of the British government to convert the Cape into a penal settlement saw a sustained campaign of civil disobedience throughout the colony, but particularly in Cape Town, which resulted in the abandonment of this policy. The implacable opposition of the colonists also had important implications for the move towards Representative government. This chapter will explore the manner in which this movement was prompted by ideas centred around respectability and the preservation of domestic life. It argues that the remarkable degree of unity across social groups in the colony in their opposition to convict labour being introduced at the Cape, despite the economic advantages which the system held out to the colony, was a function of the dissemination of ideas about gender roles and respectability discussed in previous chapters. The mechanisms which the participants in the movement against convicts used in their opposition to the colonial government were based upon the developments in the rational public sphere and the role of men in civic life which have already been considered. An analysis of the Anti-Convict crisis, therefore, brings many of the themes which have been considered in this thesis together, and argues for the importance of a specific notion of colonial identity as the inspiration behind the movement.

Events of the Anti-Convict Crisis.

The main events of the Anti-Convict crisis were as follows: The colonists of the Cape had resisted an attempt by Britain to have them receive juvenile convicts from as early as 1842. Whilst the colonists were eager to accept free immigrants of good character, they were implacable in their opposition to any transportation of unfree labour to their colony, and petitioned the Queen against the introduction of juvenile criminals at a Public Meeting on 4 July 1842.[1] The resistance beginning in 1849, however, was directly provoked by the policies of the new Secretary of State for the Colonies, Earl Grey, whom one historian has described as one who "reveled in abstract theories and their application to colonies."[2] Grey proposed, in 1848, that, should the colonists be willing to receive them, ticket-of-leave convicts should be sent to the Cape. This would result in the colony being classed as a penal settlement. Tickets of leave were granted to convicts who had already served part of their sentence, and were considered to be 'reformed'. These men were then allowed to hire out their own labour, and live within the community under conditions relatively free from restraint. Out of their labour, these convicts were required to pay their transportation passage, and this money was to be made available to the colony which received them. The Secretary of State suggested that the money be used to sponsor the free emigrants whom the colonists wished to attract to the Cape.[3] The ticket-of-leave system was part of the general reformation of

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[1] George, 'John Bardwell Ebden', p.180

[2] Clarke, *Land of Contrarieties*, p.52 The Cape colonists had the same view - see the quotation from the *Observer*, 15 May 1849, below which attacks Lord Grey's willingness to "experiment" upon the people of the Cape.

[3] Grey to Smith, 7 August 1848, published in the *Government Gazette*, 16 November 1848.

transportation and punishment which sought to effect the moral reformation of the criminal, rather than simply his removal from society.[4]

The governor, Sir Harry Smith, laid the proposal before the government-appointed Legislative Council[5], and published it in the Government Gazette. He responded to Grey by describing the universal opposition to Grey's scheme and enclosed the first of many petitions against the measure by the colonists.[6] Before he received this reply, however, and without waiting for the agreement of the colonists, as he had promised, Grey had the Order in Council proclaiming the Cape a penal settlement enacted. He then sent a shipload of convicts who had qualified for tickets of leave[7], aboard the *Neptune*, from Bermuda to the Cape. Continued pressure from the Cape colonists eventually induced Grey to agree to send no more convicts, and to revoke the Order in Council, but the *Neptune* was already under sail for the Cape. It reached the colony in September 1849. The citizens of Cape Town, fearfully awaiting the ship for months, had already formed an Anti-Convict Association by that time.[8] Opposition to convicts crossed class, racial and ethnic barriers, and the anti-convict movement was by no means a class-specific

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[4] Grey's account of the benefits of this new system can be found in PRO CO 49/43, Grey to Smith, 19 March 1849. For a general account of the nineteenth century attempt to reform the criminal by means of labour, see Foucault, M. *Discipline and Punish: The Birth of the Prison* (London, 1977) Translated by Alan Sheridan. Original French edition 1975, especially pp 242 - 243.

[5] The Legislative Council was created in 1834 - it consisted of the Governor, five officials, and from five to seven nominees drawn from the ranks of the colonists. It never achieved widespread legitimacy amongst the colonists who rejected it in favour of continued calls for representative government. Trapido, 'Cape Franchise Qualifications', p.41

[6] PRO CO 48/288, Smith to Grey, 19 December 1848.

[7] The men aboard the *Neptune* were mostly transported for minor offences committed under the pressure of the Irish potato famine. CO 49/43, Grey to Smith, 19 March 1849. The ship also held one political prisoner, John Mitchel, of whom more below.

[8] The Anti-Convict Committee was formed on 31 May 1849. It was later extended into the form of the Anti-Convict Association, with various branches and sub-committees, on 16 June 1849.

protest. Opposition by the poor (who formed a prominent element in the public disturbances which marked the conflict) most likely arose out of fears of economic competition in the context of a serious trade depression and unemployment following the 1848 uprisings in Europe.[9] The leadership of the movement, however, was drawn exclusively from the middle and upper classes of the city, as will be argued below. It was through their efforts that the protest was framed in terms of a discourse which can be connected to the elements of middle-class respectability discussed in previous chapters.

To combat the threat of convicts, the colonists adopted a pledge not to have dealings with anyone who helped to land, or who employed, when landed, the 282 convicts on board the *Neptune*. Once the ship had arrived, they extended this boycott to government officials, the army and the navy, refusing to supply them with food until such time as the *Neptune* was sent away from the colony. It was at this point that tensions first appeared in the Anti-Convict Association, and in late September 1849 the Association split into two groups over the application of the pledge. The 'moderates' felt that the boycott should be imposed only upon those who assisted in landing, supporting or employing convicts when landed. The 'ultras', who comprised the majority of the Association, supported a strict application of the pledge towards the government at large until the *Neptune* be sent away. This split had wider implications, which will be considered below, but it is important to keep in mind that the same opposition to convicts was shared by both 'moderates' and 'ultras'.

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[9] Keegan, *Colonial South Africa*, p.229

The Legislative Council of the colony had collapsed in July 1849 - the places left open when members resigned in protest could not be filled owing to intimidation by the citizens of Cape Town. At the height of its powers, the Anti-Convict Association acted in the role of an alternative executive with observers fearing that the Cape stood on the brink of full-scale rebellion against the British Empire. Comparisons with the American and French Revolutions and with the upheavals in Europe in 1848 were rife. The convicts could not be landed, and were to endure their cramped conditions on board ship in Simon's Bay for five months, as citizens and colonial government remained at loggerheads and riots and libel suits between the various colonial factions disturbed the city. The Cape government managed to feed its officials, its forces, and the convicts, only by paying inflated prices to those few members of the community who were prepared to break the boycott and face social and economic ostracism. Smith would not act without the instructions of Grey, despite demands that he send the convicts away on his own authority, and it was only in February 1850, when orders from London were finally received at the Cape, that the convicts were sent on to Van Diemen's Land. Universal rejoicing convulsed the town, which indulged in illuminations, public dinners and general self-congratulation, and the divisive factions which had opened up over the course of the crisis were largely reconciled. The colonists were left with a renewed impression of the importance of pressing for Representative government, as well as an strengthened sense of unity and of a distinct identity.

Convicts and Emigrant Respectability.

The middle class of Cape Town was eager to welcome free emigrants of good character into the colony. Grey's convict system was therefore one way of financing the kind of assisted emigration which many colonists were in fact calling for. Colonial demands for an immigration movement gained momentum from around 1840, in the wake of a perceived labour crisis following emancipation of apprentices, and the considerable public attention on issues surrounding immigration were expressed in both the *Advertiser* and *De Zuid-Afrikaan*.[10] The Cape, however, was not especially attractive to emigrants faced with the options of the New World (which was cheaper for self-financing emigrants), and of the Australian colonies (where schemes for assisted emigration were in place). The large pool of low-paid black labour militated against the immigration of whites[11], whose ultimate social ambition was to set themselves up independently, rather than in service to another.[12] Lord Russell, Secretary of State, initially refused to extend the province of the Board of Colonial Land and Emigration Commissioners (appointed in December 1839)[13] to the Cape. On the advice of governor Napier, he asserted in response to an 1840 petition by colonists for assisted emigration that the development of colonial infrastructure was more important to the colony's prosperity than government-assisted emigration from Britain

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[10] Rushby, L.A. 'The Cape and Immigration, 1839 - 1854' BA (Hons) thesis, UCT, 1983, p.11, 15

[11] Swaisland, C. *Servants and Gentlewomen in the Golden Land: The Emigration of Single Women from Britain to Southern Africa, 1820 - 1939.* (Oxford and Providence, 1993), p. 31

[12] For an example of this, and of perceptions of black labour by white emigrants, see the letters of William Edward Crout in Long, *Index*, p. 85 - 90

[13] The formation of the Commission represented a shift from the view that emigration was for removing undesirables from Britain to the colonies. Swaisland, *Servants and Gentlewomen*, p.17

to the Cape.[14] Napier advised him that it was the refusal of employers to pay adequate wages that was at the heart of the labour problem rather than a need for labourers from Britain.[15] Colonial-led initiatives for assisted emigration to the Cape came to nothing in the Western Cape in the 1840s owing mainly to lack of funds but also as a result of debate over the usefulness of emigration from Britain.[16] Some emigration initiatives took place in the Eastern Cape, but the number of people who came was small.[17] Changing economic circumstances in the colony, as well as a change in governor and Secretary of State, paved the way in 1845 for the extension to the Cape of immigration schemes organised by the Colonial Land and Emigration Commissioners.[18] Significantly, the resulting regulations stipulated that emigrants must be "useful and respectable".[19]

Given the concerns with domestic service outlined chapter three, the *Advertiser* especially stressed the improvements in domestic life which would occur if properly experienced white domestic labourers were to come out to the colony. It was concerned that employers desperate for servants did not sufficiently enquire as to the characters of their employees.[20] In the opinion of many colonists, character was the

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[14] Rushby, 'Cape and Immigration', p.30

[15] ibid, p. 27

[16] ibid, p.39

[17] ibid, p.46 Rushby explains the greater drive to obtain European labour in the Eastern Cape as a result of fear engendered by the racial tensions on the frontier. p.51 - 2.

[18] ibid, p.99

[19] Quoted ibid, p.101

[20] *SACA*, 21 December 1839.

most crucial of any immigrants' attributes. On the proposal to send "Juvenile Delinquents" to the Cape, the *Advertiser* asserted - "We are anxious for laborers, but we consider good morals and good character as essential to good labor."[21] It was for this reason, the editorial continued, that Cape colonists were opposed to convict labour in any shape or form.[22] During the course of the crisis itself, the desire for white emigrant labour was made manifest by the cry that whilst colonists resented the "exactions of the lazy Fingoe ... [and] the idleness of the drunken Hottentot", they would rather "submit" to them, than accept convicts.[23] It is here that the inherent contradiction in Grey's system lay for the colonists - whilst they would be able to finance free white emigration by accepting ticket of leave men, their concerns about the importance of accepting only those of suitable respectability would be undercut by the same system.

The system of government-assisted free emigration to colonies such as the Cape was supposedly designed to ensure that only those of appropriate moral conduct received financial assistance or were admitted to the colonies. Until the mid 1840s, it was necessary for newcomers to produce sureties of good conduct before permission to remain within the colonial boundaries would be granted.[24] For assisted emigrants, the screening process began in Britain where all emigrants had to produce certificates of good character to the authorities responsible for their transportation to the Cape. When

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[21] *SACA*, 18 November 1840.

[22] ibid.

[23] *Observer*, 15 May 1849.

[24] Hattersley, A.F. *The Convict Crisis and the Growth of Unity: Resistance to Transportation in South Africa and Australia, 1848 - 1853* (Pietermaritzburg, 1965) p.10

fears of convicts arriving at the Cape swept colonial society, there were concerns that convicts would be passed off as free emigrants by the metropolitan government. In view of such suspicions, it was decided by the authorities in Britain that the certificates of good character which assisted emigrants needed to present to the authorities in Britain, and which were initially filed in that country, could be kept by the emigrants themselves, given "the inconvenience that Emigrants experience who are not provided with Certificates of Character" once in the colonies.[25]

The process of emigration itself, especially for women, was one fraught with threats to personal reputation, and several measures were adopted in order to avoid these problems. The cramped conditions aboard emigrant ships were not conducive to the preservation of contemporary standards of moral innocence, particularly for single women.[26] Societies which promoted the emigration of British women to the colonies were concerned to keep their reputations intact by a combination of moral screening in the course of selection, surveillance on board ship, and material assistance when landed in the colony.[27] With female respectability crucially centred around sexuality, the mechanisms of female assisted emigration were primarily concerned with ensuring these women's sexual purity. Promoters of female emigration to the colonies, such as Caroline Chisholm in Australia, stressed the importance of sending "good and

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[25] PRO CO 48/302 Letter from the Colonial Land and Emigration Office to Herman Morivale, 2 February 1849.

[26] See Van Heyningen, E. '"Gentoo" - A Case of Mistaken Identity' *Kronos* 22, November 1995. for an account of the riotous conditions on board a particular emigrant ship and the way in which middle-class ideas about female sexuality were undercut by working-class female emigrants.

[27] Swaisland, *Servants and Gentlewomen.* See also First Report of the Committee for the Fund for Promoting Female Emigration. The Right Hon. Sidney Herbert, M.P., Chairman. March, 1851. Rhodes House Library.

virtuous women" out to the colonies in order to set up a "well-conducted community" where they would act as "God's police".[28] As the previous chapters have indicated, white women in Cape Town, like those in the minds of emigration reformers in Australia, were valued for their biological and social reproductive roles - safeguarding their sexual purity and morality was therefore especially important in the colonial endeavour. The importance of morality in emigrants, however, was not confined to women - men had also to prove their good character in order to gain admittance to the colony.

Emigrants' attempts to assert their good moral character, however, carried a certain ambiguity. Many emigrants used the move to the colonies to escape adverse conditions of economic hardship, which could compromise respectability, at home. A move to the colonies could allow emigrants to cast off old identities and lay claim to a fresh start, a fact of which already established colonists were well aware, and which engendered suspicion towards newcomers. As Lady Duff Gordon put it in 1861, speaking of a group of female assisted emigrants who were clearly of dubious moral background - "a change of hemisphere will reverse reputations".[29] A society with a high proportion of newcomers made it easier to cast off previous social roles and assume new ones, a fact which made established colonists even more sensitive to the importance of allowing only those of sound moral character into their colony. As with other free colonies, such as the city of Melbourne (in what would become the colony

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[28] Chisholm, C. *Emigration and Transportation Relatively Considered,* 1847. Quoted in Summers. Anne. *Damned Whores and God's Police.* Second edition. (Victoria, 1994), p.337 Edward Gibbon Wakefield held similar views. *View of the Art of Colonization*, p. 155 - 156.

[29] Duff-Gordon, L. *Letters from the Cape.* Annotated by D. Fairbridge. (London, 1927), p.47

of Victoria) association with convictism at the Cape could be used as a weapon against newly arrived or unpopular families or individuals in the social competition which was a function of the colonists' attempts to better their condition.[30] The ambiguous social position of emigrants was highlighted during the course of the crisis by rumours circulated that certain emigrants brought out by the Colonial Land and Emigration Commission were in fact convicts in disguise.[31] At the height of the convict crisis it was revealed that a former convict had penetrated to the midst of the ranks of the respectable. Mark Salom (who was, in fact, behind the accusations about emigrants being convicts) was himself discovered to be a convict, who had been transported to Van Diemen's Land in 1847. Having been put under the pledge, the subsequent social and economic catastrophe led him to surrender his estate in insolvency in October 1849.[32]It is possible that Salom made these accusations in order to divert attention from his own suspicious origins and it is clear, therefore, that Cape society felt itself vulnerable to newcomers who were in any way connected with convict labour.

Opposition to Convicts: Respectability and Domesticity.

Convict labour did hold out certain economic advantages for the colony, apart from financing the provision of emigrant labour. Despite the colonists' declared opposition

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[30] de Serville, P. *Port Philip Gentlemen and Good Society in Melbourne before the Gold Rushes.* (Melbourne, 1980), p.52

[31] Rushby, 'Cape and Immigration', p.128 - 129

[32] Hattersley, *Convict Crisis*, p.58 Salom was not the first escaped convict to make a new life for himself in Cape Town, and to conceal his past from his associates. ibid, p.8 - 9, p.90.

to convict labour in any shape or form, one reason for the Secretary of State's initial confidence in sending convicts to the Cape was the penal system already in place there.[33] The colonial secretary at the Cape, John Montagu, had made something of a reputation for himself within the Colonial Office as an expert on the subject of transportation.[34] Montagu had held the post of colonial secretary in Van Diemen's Land from 1834 to 1842, and on arrival at the Cape he worked out a system for the discipline of prison labour in that colony. Montagu's system stressed the rehabilitation of the convict through labour, in this instance through labour on public works.[35] Through this system, the criminals of the Cape could be reformed and returned to society as useful members of the work force.[36] Montagu's scheme for convict reformation, instituted in 1843, was deemed extremely successful, especially since it conformed to prevailing ideas in Britain. One of Grey's reasons for instituting the ticket-of-leave system was that the convict would be given the condition of a free labourer, "with all the moral training which that condition implies".[37] Despite the existence of a Cape convict system, which was building a much-needed infrastructure in the colony, the colonists were not prepared to take on the convicts of the mother country. They argued that it was the responsibility

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[33] PRO CO 48/298 Note dated 26 November 1849 on despatch no 167 from Smith to Grey, 6 September, 1849.

[34] Kirk, 'Self-government and self-defence', p.147.

[35] With reference to this, Foucault notes that there exists a doubly effective symbolic sense by which the convict is employed in public works - by doing so he labours both for the public benefit and constructs edifices and symbols of the status quo and the laws of society. Foucault, *Discipline and Punish*, p.109.

[36] For an account of Montagu's convict labour system and its place in colonial reform, see H. Deacon, 'A History of the Medical Institutions on Robben Island, Cape Colony, 1846 - 1910' Ph.D. thesis, University of Cambridge, 1994, p.52

[37] CO 49/43, Grey to Smith, 19 March 1849.

of a country to reform its own criminals and that the country which produced criminals, like a "sinner", must pay the penalty of the sin.[38]

Given their labour demands, the Colonial Office found the vehemence of the opposition to convicts at the Cape surprising - the colonists, however, stressed that the issue was not so much economic as moral. As the colonial artist Thomas Bowler put it, "This is not a political but a moral struggle and I am sure we shall triumph."[39] The *Advertiser* noted that all the petitions directed towards the crown made no mention of supposed "material advantages" from convict labour. The editorial denied the profitability of convict labour, but asserted that such arguments were peripheral to "the moral aspects of the case."[40]Convict labour, asserted Fairbairn, would have been rejected upon moral grounds without regard to its profitability, and Lord Grey had lost any respect he had in the colony because of his plan which "mixed up money and morals, setting one against the other in this disgraceful proposal."[41] Reporting on the convict crisis in retrospect, the Cape Almanac noted:

> We have nothing to do than to record the *fact*, that never, at any time, did the moral sense of the Cape Community shine forth more transcendantly, and its consequent self-reliance been more conspicuously displayed.[42]

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[38] *SACA*, 25 July 1849.

[39] Thomas Bowler to Dr Lee, 1849, quoted in Bradlow, F. *Thomas Bowler: His Life and Work* (Cape Town, 1967), p.32

[40] *SACA*, 9 June 1849.

[41] ibid.

[42] Preface of *The Cape of Good Hope Almanac and Annual Register for 1850*, Compiled by B.J. van de Sandt. Original emphasis.

The anti-convict crisis was marked by a remarkable unity of opinion in the opposition to convicts. Petitions were received from a wide variety of sources across the colony, and spanned racial, ethnic, regional and class divisions. Given the split between moderates and ultras which took place in the movement in Cape Town over the course of the boycott, it is important to stress that these groups were divided in their attitude towards the implementation of the boycott (although this had wider implications) but *not* in their opposition to convicts themselves. By inscribing the opposition in moral terms and stressing the dangers of social pollution, it was possible for the Association to bridge gaps between different social groups and mobilise the colonists against convicts. As Michael Sturma has written of the anti-convict agitation in Sydney, contemporary with that in Cape Town, "the supposed threat convicts posed to the community's morality added legitimacy, and perhaps more importantly, drama to the anti-transportation movement."[43] Given the feelings of social inadequacy with reference to the mother country, which marked middle-class culture at the Cape, opposition to becoming a penal settlement also served to legitimise a respectable image for the Cape colony - free immigrants could assert their morality by damning convicts as tainted.[44]

It is probable that framing their opposition to convicts in moral rather than economic terms allowed the Cape colonists to exploit metropolitan concerns about convict labour and its effect on social life. To a certain extent the emphasis on morality and

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[43] Sturma, Michael. *Vice in a Vicious Society: Crime and Convicts in Mid-Nineteenth century New South Wales.* (St Lucia, 1983), p.51 See also p. 57 on this issue.

[44] On these issues in Sydney see ibid, p.59

social pollution can therefore been seen in terms of political expediency. When Grey heard of the opposition at the Cape to the convict scheme, he set out to attempt to persuade the colonists by explaining in detail the reasons for sending convicts to the Cape.[45] In the course of this discussion he acknowledged the opposition to convicts on moral grounds as a legitimate issue.[46]

At issue in the debate over whether the colony would be designated a penal settlement was the middle-class colonists' sense of self which had been built up over the previous decades. The *Advertiser* explicitly invoked the image of a threat to the middle class when attacking the idea of sending convicts:

> has it not been seen and felt that there could be no 'middle class' of society raised up to exercise that self-government which belongs to the possession of representative privileges where a large body of the population were compelled to labour in competition with free workmen, but without wages, - fed, and herded, and worked like cattle, and attempted to be kept forcibly under restraints which even cattle cannot be subjected to without mutilation.[47]

The importance of creating a middle class which would be able to bring about self-government for the colony is very evident here, as is the preventative role that receiving convicts would play in this. It was believed, not without some justification, that a penal settlement could never qualify for a Legislative Assembly.[48] The Cape was no doubt

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[45] CO 49/43, Grey to Smith, 19 March 1849.

[46] ibid.

[47] *Mail*, 19 May 1849.

[48] C0 48/296, Smith to Grey, 24 May 1849.

aware that the struggles for Representative government in New South Wales and Van Diemen's Land had been answered by charges that the contaminating influence of convicts on society at large made these colonies unfit for elected self-government.[49]

The *Advertiser's* vision of the colony was one which contrasted upward and downward paths of development. As chapters two and three demonstrated, this theme had been a prevalent one in the press over this period - it stressed the improvements in the colony which would lead to the establishment of a rational public sphere. Under the critical gaze of visitors from the mother country, who often remarked upon the backward nature of the settlement in their accounts of the Cape, the middle classes of Cape Town had been at pains to establish a reputation for their colony which stressed its reform-minded credentials. Missionaries protested against convicts by asserting the Cape's position as an enclave of civilization from which the enlightenment of Africa, and the extension of British influence, might take place. Opening up the colony to convicts, it was felt, would deny the Cape this role.[50]

The colonists feared the adverse effect which convict settlement might have on the reputation of the colony and its inhabitants. Prejudice against 'colonials' amongst the elite in Britain related party to the association of colonies with penal settlements.[51] In its search for social legitimacy, the Cape could not afford the taint of convicts. In a country where the original social origins of immigrants could be obscure, the fear that those who

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[49]Clarke, *Land of Contrarieties*, p.43

[50] CO 48/296 The Memorial from Philip and Freeman, Representatives of the London Missionary Society, dated 20 April 1849.

[51] Kirk, `Self-government and self-defence', p.258.

had once been criminals could mix with respectable society was one which undermined the carefully constructed social barriers which had been forged during the previous decades. As most middle-class colonists could not rely on inherited wealth to establish an appropriate reputation, 'character' was of vital importance to their social survival, as this thesis has made clear, and it was the destruction of 'character' which was deemed the most terrible of the threats posed by convict labour.[52]

The theme of degradation was one which appears with great persistence in the objections of the colonists. What was at issue was their reputation in the eyes of the world, as a penal colony.[53] The *Advertiser* claimed that "[p]ersonal character, reputation in the world, perish from the moment that the *polluted miscreants, now near these shores*, are believed to be mixed up with Cape society"[54] and mourned that the Order in Council had publicly classed the Cape with "*Van Diemen's Land and Norfolk Island - the Sodom and Gormorrah of the British Empire*"[55] The *Observer* suggested the erection of lighthouses to serve as "beacons for our disgrace" , to cry out "UNCLEAN, UNCLEAN; - view not our misery, - be not the witnesses of our shame."[56] *De Zuid-Afrikaan*, claimed that:

> The Cape of Good Hope shall henceforth bear the brand and stigma of a penal settlement, - its inhabitants shall no longer be allowed to boast of morality and

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[52] See *SACA*, 15 September 1849, 'Petition from the Females of Hottentots Holland to the Queen.'

[53] The *Advertiser* expressed this concern particularly vividly when it mourned that the Cape had become idiomatically associated with penal settlements: "To send a man to the Cape, implies that he is a criminal, degraded and unfit for untainted society!" *SACA*, 30 January 1850.

[54] *SACA*, 13 June 1849. Original emphasis.

[55] *SACA*, 24 June 1849. Original emphasis.

[56] *Observer*, 19 June 1849.

> virtue - with the pollution and the vice of the mother country introduced among them![57]

In their memorials and petitions, the colonists emphasised these feelings, asking that the Queen might save the colonists "from disgrace, degradation and shame, from the evils and injuries with which they are threatened" and might act "to replace the Colony in its true position".[58] The Cape considered itself in terms of the Empire at large, and saw the importance of asserting its claims to be a free and moral society within that group of dependencies, whilst disassociating itself from the stigma of convictism in ideas about the colonies.

Personal and national reputations were both, therefore, threatened by convict labour. In the metaphors of protest, the colony became the home writ large in the colonists' attempts to protect their society from degradation. As such, many of the same concerns surrounding domesticity, which were addressed in the previous chapters, resurface in the political discourse of the anti-convict campaign. Fears that the 'labouring classes' would be defiled by the importation of convict labour can be connected to the attempts by the middle-class to ensure appropriate domestic service.[59] With reference to the reformation of labour, one petition claimed that the good example which whites could provide for blacks in the colony would be undercut by the importation of white felons.[60] The

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[57] *ZA*, 18 June, 1849.

[58] PRO CO 48/297 Petition from the Municipality of Cape Town against the introduction of convicts to the Cape, 18th June 1849.

[59] See petition of the Commissioners and Wardmasters of Cape Town, 20 November 1848, amongst others. PRO CO 48/301

sanctity of family life was used as an argument against the social usefulness of transportation. In denying that transportation could be a vehicle for social reform, the system of transportation was explicitly set in opposition against the ideals of domesticity in the *Advertiser*:

> Man is civilized in families. Paternal and filial affection, brotherly love, the instincts of kindred, ... this is the System of Nature, the foundation laid by almighty hands, on which individual virtue and social order are constructed to be finally animated by the spirit of religion. The British Transportation System is exactly the reverse of all this. It collects adult *men*, depraved, vicious and criminal, to be removed in thousands from all influences of family and kindred, and sets them down in tens of thousands together where the voice of childhood is never heard, and the face of woman is unknown![61]

Like Caroline Chisholm, quoted above, and as chapter three argued, the civilising force of white women in Cape society was an important aspect of its assertion of respectability. The importation of convict labour posed a threat to the model of domestic morality as the basis of colonial society. In a petition from the 'Females of Hottentot's Holland' - unusual in its female authorship, as will be discussed below - the authors stressed that convict labour would

> undermine the foundation of virtuous principle, loosen the bounds of society, and destroy the prosperity of the country. It will work a fearful change in the character of the people. Our villages, where crime is almost unheard of, will become like unto Sodom and Gomorrha. Sounds of demoniacal revelry will be substituted for those songs of praise which now nightly ascend to heaven from our quiet and secluded homes. ... It will force our husbands and sons to become the associates of men hardened in crime, and adepts in vice. It will expose our beloved daughters to the insults of the ruffian, or the artful wiles of the accomplished villain.[62]

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[60] Memorial of the inhabitants of Beaufort, *Despatches Relative to the Reception of Convicts at the Cape of Good Hope.* Presented to both Houses of Parliament by Command of Her Majesty, 31 January, 1850. (London, 1850), p.21

[61] *SACA*, 27 June 1849.

[62] *SACA*, 15 September 1849.

There was an almost complete unanimity of opinion on the convict issue, and the themes of moral degradation and threats to domesticity were repeated in almost all the petitions and discussions of the reasons for opposing convicts. It is likely that the manner in which this political opposition was framed points to the importance of ideas of respectability and domesticity in British thinking on both society and the colonies - the colonists knew that this was the most effective means to defend themselves from convict labour. But the fact remains that their opposition to convicts was real enough, and can be connected, it is argued here, to the elaboration of models of domesticity and respectability over the course of the previous decades in the colony itself.

The mechanisms of protest.

As with the Wylde scandal, the rational public sphere which had been built up over the course of the previous three decades, especially with the establishment of a free press in the 1824, was crucial in the operation of the protest against convicts. The anti-convict crisis also provided a necessary political training for a community which sought self-government. The inhabitants of Cape Town led the rest of the colony in these activities - it was their press which first suggested the idea of a 'pledge' against the convicts and their citizens who first formed the Anti-Convict Association. Although the colonists as a whole were almost entirely behind the resistance to the convicts, it was in Cape Town that the movement became most radical.

As chapter two has argued, the press at the Cape had been instrumental in the creation of a rational public sphere - collecting together a masculine group of readers and public actors who congregated in appropriate sites of middle-class assembly in the city. This role was very evident in the anti-convict crisis. The papers of Cape Town devoted extensive editorial space to a discussion of the issues involved. They reported the public meetings and the meetings of the Anti-Convict Association in great detail. They published the relevant official documents, petitions and memorials, as well as the flood of correspondence which resulted from the issue. At the celebratory dinner at the successful conclusion of the campaign the toast "the Colonial Press" was drunk whilst the band played "Be thou our help in trouble", in clear recognition of the role which a free press had played in the struggle.[63]

The formation of the Anti-Convict Association in Cape Town, which would lead the resistance against the convicts, built on the foundation of the proto-political activities of municipal government and various charitable and social improvement associations developed during the previous decades and discussed in chapter three. The men involved in municipal government were particularly prominent in the Anti-Convict Association. At the height of the crisis, with the Legislative Council effectively disbanded, the Association was in a position of power in the city which saw it presenting itself almost in the light of an alternative government.[64] As chapter three has argued, involvement in such activities had always been explicitly linked to training for self-government amongst a class which was gaining in economic and social power, but

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[63] *Mail*, 16 March 1850.

[64] Trapido, 'Cape Franchise Qualifications', p. 44

which lacked political representation. The leadership of the campaign, in the form of the Anti-Convict Association, was dominated by the middle classes of Cape society, and allowed them to assert their claims for leadership within the city.

The role of this group went beyond the practicalities of organizing public meetings, lobbying the government, explaining the operation of the 'pledge' against receiving convicts, hearing complaints by those who had been mistakenly boycotted, and collecting funds for people disadvantaged by the crisis. The leaders of the Association were, as many newspapers indicated, involved in instructing the colony in proper political action. Explaining the role of the Association, the *Mail* asserted:

> It has guided the people in a better way for the attainment of their object - a way of peace, order, and loyalty; - it has taught them a mode of resistance which averts the suffering of the people who resist, and inflicts it upon the traitors and oppressors themselves, - a plan, moreover, which will exalt this colony in the estimation of the civilized world, and make its people an example to every oppressed community among the nations of the earth. This is the real service for which the colony is indebted to the Association, and it is one whose value can hardly be too highly estimated.[65]

Support for the Association was not exclusively middle-class, and opposition to convicts, as the authorship of the petitions indicate, crossed class, ethnic and racial barriers. The prime directors of the movement, however, came from the ranks of the middle classes. The methods used by the colonists in order to achieve their objects - public meetings, the press, petitions, and formal associations - were those which became established tools in the fight for constitutional rights which continued after the *Neptune*

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[65] *Mail*, 25 August 1849.

had left the colony.[66] That this was a masculine endeavour is indicated by the fact that, despite the remarkable range of petitions from across social barriers, the petitioners were almost without exception men.[67] Men asserted their position as husbands, fathers and brothers in their petitions, and claimed to be inspired by the importance of protecting their womenfolk from the sexual dangers of convicts.[68] This discourse can be linked to contemporary perceptions of the role of men and women in social reform movements discussed in chapter three. 'Manliness' was a virtue used in the speeches of the Association to spur men to action against the importation of convicts.[69] With the crisis safely past, the celebratory dinner was held in the customary style analysed in chapter two - men taking up their positions in the public sphere at the tables themselves, with "lady visitors" observing from the gallery.[70]

The press emphasized the defense of 'natural rights' as the proper activity for the citizen[71] and the parallels between the agitation against the convicts, and the agitation for a Legislative Assembly were made explicit throughout the conflict. The *Observer* claimed, in its report of the public meeting against the convicts of 19 May 1849, that by

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[66] Botha, *John Fairbairn,* p. 233.

[67] Amongst a host of petitions, only two are signed by women - that from the 'Ladies of Stellenbosch' - included in PRO CO 48/297 - and one from the 'Females of Hottentot's Holland' probably indicating the area around the Hottentots Holland mountains, near present-day Somerset West, quoted in the *Advertiser* 15 September 1849.

[68] See 18 May 1849, petition from the Wesleyan Church, Somerset West for assertions of masculine domestic identity. *Despatches Relative to the Reception of Convicts at the Cape of Good Hope.* (London, 1850) On men's desire to protect their female relatives from the sexual threat of convicts see especially *ZA*, 20 August 1849.

[69] *Observer,* 22 May 1849, reporting a speech of Ebden.

[70] *Mail*, 16 March 1850.

[71] *ZA*, 24 December 1849.

their actions, the colonists had proved themselves "ripe for representative institutions".[72] After the *Neptune* had sailed, most newspapers ended their account of events by stressing that now the citizens of the Cape should turn their attention to the establishment of representative government in the colony.

The crisis and Representative government.

For all the use of mechanisms of political mobilisation in Cape Town, it is important to note that the Cape had not been granted a Legislative Assembly, and that the public sphere, upon which the colonists placed a great deal of importance, was still in a precarious position. The crisis indicated to the Colonial Office the cracks in its methods of control over the Cape, since Smith showed himself both unaware of the real feelings of the colonists, as well as prepared to submit misleading reports which hid his own mistakes and incompetence.[73] From the point of view of the colonists themselves, their vulnerability to government autocracy was an affront to their political and social ambitions - the crisis indicated to them the precarious position in which their public sphere could be placed. They were incensed by the fact that at the very moment that the Privy Council was debating their claims to representative government, Grey chose to assert his authority without due regard for their opinion.[74] As Keegan has put it, "Behind the single issue of convict transportation lay the wider fact that gubernatorial oligarchy

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[72] *Observer*, 22 May 1849.

[73] Kirk, 'Self-government and self-defence', p.488 - 490.

[74] Trapido, 'Cape Franchise Qualifications', p.43

was unacceptable to the emerging local bourgeoisie, seeking every opportunity to invest and prosper."[75]

The resistance of the colonists to the policies of the metropole was played out against the fact that the Cape, as a British Crown Colony, was far from a position of autonomy. This situation cast the colonists in the role of rebels, a position with which many felt uncomfortable, as will be considered below. The colonists themselves were well aware of this, characterizing their victory in heroic terms, as one in which "a small community, comparatively poor, without discipline or arms, have, by the favor of Heaven fairly gained a victory over the rulers of the most powerful of empires"[76] Crown Colony government allowed for a governor appointed by the Secretary of State whose power was circumscribed by executive and legislative councils. Unlike the executive council, the legislative council included some 'unofficial members', or colonists. Despite the fact that the governor could appoint from five to seven unofficial members and only six official members to his legislative council, any advantage for the colonists which might have resulted from this was neutralized by the policy of successive governors never to appoint enough unofficial members to outvote the officials. The autocratic rule of Britain, encapsulated in the person of the governor, was therefore under little restraint.[77] It is for this reason that the Legislative Council was particularly attacked during the

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[75] Keegan, *Colonial South Africa*, p.226

[76] *SACA*, 16 February 1850.

[77] Kirk, 'Self-government and self-defence', p.41 - 42

course of the crisis, while the protesters coalesced around the municipality, who was seeking to wrest political influence from the hands of the Council.[78]

Grey's conception of the relationship between Britain and her colonies was one in which the mother country was firmly in control. He valued the empire, and the commercial links which held it together, and he believed firmly in Britain's legal rights over her colonial subjects.[79] Against this vision of the imperial relationship stood the colonists, who, although they never seriously questioned the notion of the empire itself, were in the process of developing a society which attached great importance to the creation of a public sphere which would bring about the establishment of representative government in the colony. Within this culture of quasi-political action, the colonists were loath to accept the right of Britain to decide the future of their colony against their wishes.

Grey explained his failure to await a colonial response to the proposal before sending the convicts by citing the duties a colony owed to the mother country. He noted that the colony should take an opportunity to "render an important service to the Mother Country"[80], especially in the light of the expenses incurred by Britain during the recent War of the Axe (1846 - 1847).[81] This emphasis on colonial duty to the mother country was even more explicitly spelt out in a later dispatch when Grey had heard of the refusal

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[78] Keegan, *Colonial South Africa*, p. 230

[79] Kirk, 'Self-government and self-defence', p.34.

[80] PRO CO 49/43, Grey to Smith, 19 March 1849

[81] This assertion was vehemently denied across the board by the colonists, who considered that the expenses of the previous frontier war had been due to government mismanagement, and that they had suffered much more than the colonial government had as a result of the fighting and disruption on the frontier. *Mail*, 12 May 1848, *ZA* 14 May 1849, *Observer,* 22 May 1849.

of the citizens of Cape Town to land the convicts of the *Neptune*. Although Grey abandoned the accusation included in his first draft - that the colonists did not have "a proper sense of what was due to the Mother Country" - he did declare that they "were declining the share of the common burthens of the Empire which they might fairly be called upon to undertake."[82]

The implication that the colonies owed 'service' to the mother country did violence to the Cape's claims for a degree of autonomy in the form of Representative government:

> we deny that by any possible combination of circumstances can England claim 'service' from her colonies. ... The right to demand 'service' once conceded - there is no limit to the 'obligations' under which we may be laid, - powerless as we are to refuse them. ... There is no 'service', in short, which may not in like manner be claimed for us, and unless this attempt at tyranny - for it is nothing less - be met with a firm front, the Colonists may expect, what in that case they would richly deserve, that the wedge now sought to be introduced will be hereafter driven home, to the destruction of all their hopes.[83]

Grey's conception of the colonial relationship was clearly not shared by the *Mail*: free men could not be servants (as the case of *Meres vs Dixon* in chapter four emphasised), and thus the creation of a rational public sphere would be undercut if the colonists could be forced to act according to the wishes of government ministers in London. Despite the reality of British control of the Cape, the colonists demanded to be treated with due regard for their dignity and for the position of their colony as a maturing society deserving of representative government. Assertions of honour and respectability in the public sphere, implicit in the political ambitions of the city's male middle class, meant

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[82] PRO CO 48/297 Grey to Smith, 30 November 1849.

[83] *Mail,* 12 May 1849.

nothing if a man was reduced to the position of servant by an autocratic government. This concern with colonial status was echoed in their attitude to the explicitly experimental nature of the new system. Whatever their views on criminal reformation, the colonists were incensed that they were to form part of the mother country's 'experiments' in this regard:

> How dare Lord Grey in the eyes of God and man, proceed to make an *experiment* upon a people as a chemist would upon a piece of earth, which he perhaps destroys while endeavouring to realize an untenable theory.[84]

The split in the Association.

An emphasis on the morality of the issue at hand allowed a diversity of interests to unite behind the banner of anti-convictism. In the application of the boycott against the government, however, this united front broke down. Tony Kirk, whose account of the crisis takes the importance of colonial identity into account,[85] has stressed the importance of divisions between a merchant 'aristocracy' and a commercial middle class in the Cape colony.[86] Digby Warren's critique of Kirk's thesis contends that the distinction between merchant 'aristocracy' and middle class is overdrawn - he finds a strong degree of co-operation between these two groups.[87] As chapter one has explored, the designation of the Cape elite as an 'aristocracy' is questionable. What is clear from

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[84] *Observer*, 15 May 1849.

[85] See Kirk, 'Self-government and self-defence', p. 258. Timothy Keegan's recent analysis of the conflict also lays stress upon the importance of respectability as the force behind bourgeois attacks on convict importation. *Colonial South Africa*, p.230

[86] ibid, p.310 - 311.

[87] Warren, D. 'Merchants, Commissioners and Wardmasters', especially chapter two, and pages 225 ff.

the crisis, however, is the manner in which the more conservative, and, especially, the most wealthy members of the Association aligned themselves with the moderates.[88] Stanley Trapido has also made convincing note of the ethnic divisions between the moderates - who were mainly an English elite - and the ultras, who were composed of Dutch colonists and English radicals.[89] It seems appropriate to see the split as a function of the an elite whose interests were bound up in the status quo, and who feared the possible implications of the political disturbances in Cape Town during the course of the crisis.

The merchants of the city had initially been a driving force behind the formation of the Anti-Convict Association. The Association's calls for a boycott had been firmly supported by the commercial sector - insurance companies and banks announced in the press that no person employing convicts would be granted life assurance or loans, and that existing loans would be called in. Landlords threatened to evict tenants if they supported the convict scheme.[90] John Bardwell Ebden, prominent merchant and member of the Legislative Council until his resignation over the proposed convict system, initially acted as Chairman of the Association.[91] Ebden was celebrated on the occasion when the new unofficial members of the Legislative Council had been attacked in the street by what Smith described ambiguously as "a mob of several hundred persons, most

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[88] Trapido, 'Cape Franchise Qualifications', p. 44, paints a convincing picture of the political and economic concerns which led to the formation of the moderate party.

[89] ibid.

[90] Botha, *John Fairbairn*, p.207

[91] See George, 'John Bardwell Ebden' for an examination of the crisis from his perspective.

of them decently dressed and evidently not belonging to the lower orders of society".[92] During this incident, one of the members "served as a football for nearly a quarter of an hour" before making his escape.[93] Ebden was carried through the streets on a chair by the crowd, who would only quieten down when he agreed to address them, amidst much cheering.[94]

Ebden, named as 'a man of the people' by the Cape press, remained in a dominant position in the Association until the *Neptune* had actually landed. It was then that the split in the Association, hitherto firmly united, occurred. It was proposed at this point to extend the boycott to the government, army and navy in order to force them to send the ship away. Certain members asserted that the best course would be to wait for further instructions from London, and only to boycott those who attempted to land, or who employed convicts. The 'moderates' narrowly lost the subsequent vote, the boycott intensified, and this group, mostly British merchants and prominent landowners, led by Ebden, left the Association.

Kirk explains these events by claiming that the merchants withdrew from the agitation because it threatened Britain's relationship with the colony, upon which their financial well-being was based. In conflict with the commercial middle class who wished to gain control of the government to finance their local investment interests, the merchants backed the colonial government against the Association because they feared a new

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[92] CO 48/297, Smith to Grey, 24 July 1849.

[93] *Observer*, 10 July 1849.

[94] ibid

legislature which would not support their interests.[95] While this may be an accurate depiction of the merchants' interests, however, it does not explain the fervent initial support given to the cause by men such as Ebden, former member of a Legislative Council which protected his interests. Even Kirk admits that while the "Cape 'Conservatives' might dislike agitation, ... they feared convicts more. To avoid the greater evil they tolerated the lesser".[96]

An examination of the *African Journal* sheds some light on the fears which motivated the split between the moderates and the ultras. This was the only paper which gave support to the moderates as well as having some sympathy for the position of Sir Harry Smith. That the Cape government was fully aware of the role of the press in influencing public opinion is confirmed by the fact that Smith got soldiers to take over the production of the *African Journal* when its position on the crisis led to it coming under the pledge.[97] The government's role in influencing the paper must be borne in mind in the discussion that follows, but the protests against that Association which were aired in that paper still indicate the fears about the wider implications of the upheavals convulsing the colony.

The *African Journal* attacked the Association for its defiance of the metropolitan government, asserting that, as part of a British Empire the colonists should submit to the general good of that empire.[98] Subsequent to the split in the Association, and the

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[95] Kirk, 'Self-government and self-defence', p.319 - 320.

[96] ibid, p.277.

[97] ibid, p.269

resignation of the 'moderates', the attacks on the association became more vehement, and centered around accusations that it had brought "Mob Law" and "Mob Tyranny" to the city.[99] A correspondent attacked Fairbairn for his avocation of "general democratic principles, which, if not in themselves seditious, are such, as if adopted by any large concourse of persons calling themselves the 'people' might readily be made the excuse for perpetrating acts of sedition and rebellion."[100] The moderates were clearly uncomfortable with the political implications of what metropolitan observers characterised as a rebellion against colonial authority, a charge not far from the truth.[101] The anti-convict agitation was evidently informed by references to the American revolution - it was no coincidence that great meetings of protest were held on 4 July - but critics of the ultras took their symbols not from that struggle, but from the more violent phases of the French Revolution, and compared Fairbairn to Robespierre, dubbing the Association 'The Committee of Public Safety'.[102] There were fears that the rebellion instigated by the ultras might go too far, and some critics were concerned by possible wider implications of the resistance offered towards the state.

William Sammons, editor of the *African Journal*, accused Fairbairn and the 'ultras' of being allied with the "Political Missionaries" and of using the Anti-Convict Agitation for ulterior motives.[103] Another correspondent continued and elaborated upon this

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[98] *African Journal*, 21 June 1849.

[99] *African Journal*, 1 November 1849.

[100] Letter from G. Morison, Green Point, *Journal*, 1 November 1849.

[101] *SACA*, 15 December 1849 quoted the *Spectator* of 22 September 1849 which characterised the position of the Cape colony as "rebellion against the Imperial Government".

[102] *African Journal*, 3 January 1850. Letter from Thomas Buchanan.

theme, linking the ultras to fears about unfettered democracy and a non-racial franchise. He attacked the "London Political Missionary Society" as being behind the ultras and speculated as to the reasons why they were continuing the struggle. He suggested that the ultras were reluctant to surrender the power which the anti-convict crisis had given them and expressed fears for the future :

> is it the time when `Ethiopia' under the Dictatorship of the London Missionary Society will lift up her hands? There are many deep laid schemes, and interests, working under this convenient cloak of *Anti-Convictism* and it behoves the public to watch well the movements of this nefarious set. ... It is that faction [missionary supporters] that has rendered this Colony unfit for Emigrants, to settle in, or even the economical Dutch Farmers from being now able to sustain a livelihood. They are all sinking under the influence of this dreadful enemy. A black Democracy appears the aim of these Utopian speculators, if they have any fixed aim, for 'Ethiopia will soon lift up her hands' at the rate they are going (vide the celebrated sermon of one of their party) but it will be to the white man's throat, when the brutalizing effects of this system works out in teaching them the power of numbers over constituted authorities.[104]

These attacks on the Association lend credence to Trapido's argument that the split between moderates and ultras was an early manifestation of the splits which would later occur over the franchise qualification debates.[105] What was of concern was the political mileage which it was feared the ultras would make out of the anti-convict association, and the effect that this would have on the upcoming establishment of representative government in the colony and the imposition of a non-racial franchise with a low property qualification. It is important to note, however, that even this tirade against

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[103] *African Journal,* 15 November 1849.

[104] *African Journal*, 6 December 1849, Letter from 'An Anti-Convict Man'.

[105] Trapido, 'Cape Franchise Qualifications', p.43

Fairbairn and the ultras was signed 'An Anti Convict Man', indicating that even as the ultras were attacked by the moderates, the opposition to convicts was not under dispute.

While Kirk's analysis of the division between the two groups may be accurate; the significance of the split should not blind the historian to the importance of unity of opposition to convict labour. It seems problematic to assert that merchants, as a united group, opposed the anti-convict movement. They were prominent in the organisation at the beginning and the Commercial Exchange formed the spatial focal point for the movement, as is indicated in all pictorial representations of the events. Even after their defection, they still declared themselves against convicts, and allowed the dinner to celebrate victory to be held in the Commercial Exchange. These circumstances seem to indicate that, while they might have deplored the radicalisation of the association, they still supported its ultimate aim - the prevention of the Cape becoming a penal settlement. It was in this aim that the citizens of Cape Town were united, as they were also united in the reasons for their opposition.

Unity and colonial identity.

The convict crisis provided a mobilising issue for the sporadic disaffection with the colonial regime to be translated into a broad-based popular movement.[106] The colonists recognized the unifying importance of the anti-convict agitation, and its role in the creation of a colonial identity. As the *Cape Town Mail* put it, "the struggle has created a

[106] Keegan, *Colonial South Africa*, p.225

people in South Africa".[107] When considering "our political and intellectual development", *De Zuid Afrikaan* noted:

> Good results often spring from apparent evil. ... The Colonists have manifested such unanimity and spirit as had been unparalleled in the annals of our colonial history.[108]

Both English and Dutch commentators laid especial emphasis on the importance of the anti-convict agitation in bringing these two colonial groups together in a common moral cause. The *Advertiser* made use of images of founding fathers to assert the purity of the colony. It compared the Cape to the former colonies of New England, and stressed that it had been founded by "emigrants of the Reformed religion, and under the guidance of the most earnest religious sentiments; and the present colony of South Africa, including the British born population, is a community whose characteristics may be traced to the religious and moral influences of its origin."[109] The *Observer* invoked the ethnic backgrounds of the colonists in their 'Address to the People of England' as communities which by their descent were constitutionally bound to claim liberty.[110]

The connections drawn between the historical antecedents of the British and the Dutch were important, since their unity was a crucial step on the road to representative government. In this way the anti-convict crisis built on the foundations of the co-

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[107] *Mail*, 26 January 1850.

[108] *ZA*, 31 December 1849.

[109] *SACA*, 22 August 1849. Of course, in using this argument of the pure moral foundations of the colony to refute the charge that the Cape was not characterized by "active love of gain", the *Advertiser* was ignoring the fact that the colony had been founded for precisely those reasons, and by a commercial company, rather than a band of pilgrims.

[110] *Observer*, 15 May 1849.

operation in municipal government in the 1840s, and contrasted with the tensions between British and Dutch in the anti-slavery debates in the 1830s. Even *De Zuid-Afrikaan* stressed these links, claiming that, by their resistance to the convicts, the colonists had "proved themselves worthy descendants of the Saxons and Batavians."[111] J.P. Greene's analysis of the formation of colonial identity in Barbados emphasises that amongst crucial elements in this process were both a sense of the proper standards to be maintained for a civilised society, and a notion of the shared history of the colonists in their new environment.[112] The anti-convict agitation was an important catalyst in this process for it provoked the colonists into defending the civilised nature of the Cape, and their appeal to a shared history informed arguments which promoted a sense of cultural unity.

The crisis was instrumental in inspiring assertions of colonial unity not only in within the press, but also elsewhere. Thomas Bowler, who had argued for the morality of the protest, as quoted above, was moved to produce a dramatic visual image of the conflict. His original watercolour later reached a much wider audience in the form of a lithographic print. He chose to depict the Great Meeting of 4 July 1849 in front of the Commercial Exchange in heroic vein, with sweeping clouds, driving rain and the mountain background providing extra drama. Given the symbolic associations of the Commercial Exchange explored in chapter two, its depiction here as a symbol of

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[111] *ZA*, 31 December 1849. It is interesting to note that the image of the Batavians as citizens exhibiting the virtues of "perseverance, simplicity, [and] hatred of imperial tyranny" was one which was created during the seventeenth century when Dutch nationhood was itself under construction. See Schama, S. *The Embarrassment of Riches: An Interpretation of Dutch Culture in the Golden Age* (London, 1987), p.54.

[112] Greene, J. P. 'Changing Identity in the British Caribbean: Barbados as a Case Study.' in Canny and Pagden, *Colonial Identity in the Atlantic World*, p.214.

colonial defiance and independence is significance. [**Fig 7**] Michael Godby has identified this moment in Bowler's *œuvre* as one which decisively signified his adoption of a specifically colonial viewpoint in his art. In contrast to his previous dispassionate and emblematic views of Cape Town, which stressed the landscape rather than the inhabitants of the city, Bowler's depiction of the Great Meeting, which he dedicated to the Anti-Convict Association, is dominated by colonial action. Furthermore, it marginalises those not identified as Europeans - symoblised by the 'Malays' in the right-hand corner of the print.[113] Racial division is not the only distinction operating in the picture. Although Godby makes no mention of this, the well-dressed women watching from the fringes of the political action conform to their perceived role as the audience of public men in Cape society explored in previous chapters. Godby suggests that the anti-convict crisis was the decisive moment in Bowler's adoption of a colonial viewpoint in his art, and a significant step in his development of a colonial identity. As with Bowler, so too with his contemporaries, for the anti-convict agitation provided a focus-point for expressions of sentiments of unity and for the articulation of a shared history and shared heroes. At the 'Grand Dinner' of the Association to celebrate the departure of the *Neptune*, attended by 170 - 180 people, reported the *Mail*, the choir sang a song entitled "The Pledge" whilst the "whole company remained standing, as for a national anthem" and toasts were made to Fairbairn, as "the deliverer of the colony."[114] A Dutch poem

[113] Godby, Michael 'The Colonial Experience of Space: Thomas Bowler's Representation of the Figure in the Landscape in Lithographs and other Views of the Cape.' Paper presented at the Centre for African Studies, UCT, 24 September 1992, p.7

[114] *Mail*, 16 March 1850.

Figure 7.



celebrating the delivery of the colony from "the scum of England"[115] praised the "group of noble friends"[116] who had led them safely through the crisis.[117]

The anti-convict crisis, therefore, had an important role in the establishment of a specific colonial identity, a vital development in the struggle for representative government. John Mitchel, an Irish political prisoner on board the *Neptune*, strongly supportive of the actions of the colonists, no doubt partly because of his political sympathies[118], expressed the importance of the anti-convict agitation thus:

> these are the influences that have power to make an accidental aggregation of settlers become a national brotherhood instinct with the vital fire of liberty, and can transform the sons of English and of Dutch farmers into a self-dependent, high-spirited nation of South Africans. So be it! There will be one free nation the more.[119]

Conclusion.

The Anti-Convict crisis indicates the manner in which ideals of respectability and domesticity at the Cape of Good Hope were strong enough by the middle of the nineteenth century to inform a wide-ranging political movement. That so many disparate groups could be united under one banner was a function of the emphasis of the

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[115] t gespuis / Van England

[116] edelvriendental

[117] Anonymous manuscript poem entitled "Vreugde Lied op het vertrek van het Bandiet Schipden Neptune". (Joyful Song upon the departure of the Convict Ship Neptune). CA A2297.

[118] Mitchel was a solicitor, a University graduate aged 33 when transported after the unsuccessful Tipperary Rebellion of July 1848. See Kiernan, T.J. *The Irish Exiles in Australia*, (Dublin, 1954)

[119] Mitchel, J. *Jail Journal; or, five years in British prisons*, (Glasgow, 1881), p.184.

movement upon moral degradation and the mobilisation around fears of threats to personal, familial and social contamination. Despite the breakdown in unity within the movement there was never any question about the colonists' attitudes towards the importation of convicts itself. Concerns about the nature of colonial society as respectable, about the sanctity of the family, the proper behaviour of a servant class, and the position of the colony within the British empire all informed middle-class discourse surrounding the opposition to convicts at the Cape. The anti-convict crisis indicates, therefore, the important force which a colonial identity influenced by notions of respectability could exert upon the destiny of the colony as a whole.

Conclusion.

This thesis has attempted to delineate the cultural unity which emerged amongst the middle class in Cape Town during the period of the 1820s to the 1850s. Ideas concerning gender roles and family life acted to bind the colonial middle class together in the decades before the establishment of representative government in the Cape in 1853. These issues formed an important part of the means by which English and Dutch colonists in Cape Town amalgamated into an anglicised urban middle class. The new political dispensation which was enshrined in the constitution of 1853 was also fundamentally based upon these conceptions of the role of men and women in society. By investigating the manner in which the public sphere was based upon a gendered social system with a particular conception of masculinity and femininity the thesis has sought to demonstrate the manner in which the new political dispensation of the Cape can only be fully understood in terms of the new gender order.

Ideas about honour and respectability - of the self, of society and of the colony as a whole - were crucial to the development of colonial identity and the claim to political rights. The formation of a rational public sphere, particularly in the form of the press, allowed colonists to represent their society in appropriate terms to the outside world, and to lay claim to the identity of a maturing society worthy of self-government. Events such as the anti-convict crisis indicate the manner in which this discourse of respectability, of crucial importance to the operation of domestic life, had political currency and also permeated the public realm of the colony.

The period from the 1820s to the 1850s saw the elaboration of a bourgeois public sphere in Cape Town fundamentally derived from European models. This development and the formalisation of commerce which accompanied the establishment of British control over the colony (and which was crucial to the economic basis of an emerging middle class) fundamentally altered the gender roles of middle-class men and women. Women were gradually pushed out of an involvement in the enterprise which informal practices of commerce had allowed them. Along with the formalisation and expansion of commercial activities in Cape Town, the development of the bourgeois public sphere selectively empowered middle-class men, allowing them to take their place on a new political stage. The emerging political culture of Cape Town was fundamentally exclusionary in operation, with mechanisms such as subscription lists, and later the definition of 'householders' and the franchise qualifications limiting political activity to a prescribed section of the population. Despite the non-racial franchise, the public sphere was fundamentally constructed around European cultural norms - those who were unable to assimilate these mores and so demonstrate their claim to civil rights were cast out of the ranks of the public. Whilst public sphere activities were partially determined by domestic-related concerns, female activity in the public sphere was severely limited - even female philanthropic activities did not have the same implications for the operation of contemporary politics as did that of their male counterparts.

The emerging definitions of middle-class respectability were fundamentally different for men and women, and whilst men defined their honour in terms of the attributes which would advance their activities within the public sphere - creditworthiness,

honesty and professional integrity - women's honour was defined in the sexualised terms which demonstrated their place in the gender order. Whilst the Roman-Dutch law of the colony was based upon important elements of gender-equity, these were being eroded under the influence of British conceptions of the proper place of men and women in society, with especial reference to property. The investigation of relationships of property and power within the home are of crucial importance to the development of both a new gender system and a new political order. The means by which men and women defended their rights to property and to respectability in terms of legitimate and illegitimate sexual relationships were affected by shifts in the character of mechanisms of control over the private sphere by church and state. These can be related to an increasing British influence over Cape Town society which was often prejudicial to the independent endeavours of middle-class women.

The case studies in the final two chapters indicate the manner in which the arguments made in the rest of the thesis about the interwoven nature of domestic and political worlds could operate in the practice of colonial politics. They indicate the manner in which the colony could become the home writ large - both political crises were influenced by and expressed through the issues and language of the domestic sphere. The articulation of colonial identity and the development of a colonial political system were intimately related, and both were filtered through changing conceptions of gender roles and domestic issues.

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