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*LOST IN SPACE*

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# THE “SPACIAL” SETTLEMENT OF AUSTRALIA

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## 1. INTRODUCTION

This article attempts to understand the legal and social (or narrative) significance of the notion of property ownership in Australian history in the light afforded by the governmentality approach, as developed by Foucault. I start this paper with the suggestion that a new approach is needed to understand the historical spread of agricultural settlement in Australia. I argue that European preconceptions of Australia were formulated by visual technology to enable the states gaze to govern its citizens. I describe how European developers saw Australia through the eyes of liberalism and the notion of the landscape as a resource. I argue that ideas of land ownership by those who were industrious on the land formed the basis of claims to ownership in Australia. Finally, I argue that the colonial settlement project linked possession of land with notions of space. To demonstrate this, I show how European notions of space excluded Aboriginal accounts and how notions of the sexual division of labour are connected to space. I conclude that the colonial construction of space is connected with liberalism and its techniques of governance.

This article explains how through an understanding of the *governmentality* literature, property ownership in Australia may be seen as part of the ability of the political culture of

liberalism to supervise its subjects through the allocation and creation of spatial areas.

## 2. PROPERTY WITHIN A CULTURE OF LIBERALISM

Before I commence to describe what I call in a preliminary sense ‘property’ as a *resource* and discuss a spatial approach to property, I conceptualise in this context what I call “the culture of liberalism”.

Firstly, I argue that under liberalism governments developed specific techniques, assemblages, or systems of notation (Rose and Miller 1992). Three comments are necessary here as (a) these techniques, which act as forms for *governance*, are not neutral as they were connected to substantive political visions; (b) these techniques enable us to visualise a form of decentered state where power operated from a multiplicity of sites; (c) in the context of liberalism, property discourse has lost connections with a sense of place and has become aligned with ideas of property as a unit of production (*resource*). I argue only in a relatively short period of history was property dependant on a form of local knowledge.<sup>1</sup> What is property currently depends on forms of cartographic inscription and bureaucratic procedure through forms of registration of title (Pottage 1994).

Secondly, implicit in notions of Australian liberalism was a belief in progress and the improvement of nature and property by labour and capital. In this sense, I link liberalism with the development of science as a method of manipulating nature founded on Bacon (Bessant 1991, Merchant 1983:186) and

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<sup>1</sup> See Pottage for how in England property depended on a connection with place (1994:365). On the “dephysicalisation of property” see Vanderveelde.

the notion of the “agricultural improvement” of nature as espoused in particular readings of Locke.

I now outline the way I wish to describe the idea of property in rural Australia. To do this, I firstly look at the way the land and the environment was viewed by early Australians to attempt to understand the *genealogy* of recent materialistic views towards nature as a *resource*. I examine therefore the way settlers and farmers regard the *landscape* or morphology and relate it to ideas of ownership as enshrined in the notion of legal ownership. I argue that rather than the legal idea of property being a self-contained notion immune from social and political ideas, the notion of property is constituted by ideas of work and gender.

Secondly, I look at the farm as a social space to describe what the social construction of space tells us about social relations. In this section, in the first instance, I describe how European notions of space exclude Aboriginal accounts. I therefore describe how the development of the nation state went hand-in-hand with the declaration of a territorial space. Finally, I attempt to go further than scholars who have described the sexual division of labour to show the spatial division of labour, to show not just that the spatial is socially constructed, but that the social is also spatially constructed.

My task in light of my general post-structural approach is to show how the notion of property is value laden – how the notion of property acts for a whole set of values or the way property, as an idea, is constructed in language. In its performance capacity, I argue language constructs a discourse or a coherent system of self-referentiality that is authoritative and seemingly natural (Loo 1994:7).

My objective is therefore to show how the culture of liberalism constructs notions of property and law as a system of *governance*. In particular, my objective is to argue how

law, as a reflection of liberalism, enshrines social and technical ideas concerning property. This premise leads me to conclude that the notion of property conflated as part of the national story was part of the ability of the state to govern.

### 3. THE HISTORICAL PROCESS OF LAND SETTLEMENT IN AUSTRALIA

The official history of land settlement and how under “colonial capitalism” the Australian landscape was settled with family farms is well known.<sup>2</sup> Numerous studies have traced the granting of crown land to individuals and how the crown was assumed to be the only source of title in an *unoccupied* land.<sup>3</sup> This history has privileged the account of the historical spread of European agriculture over a supposed vacant land in a particular way. Two aspects of this account are referred to here.

Firstly, as Carter has shown, this account illustrates the operation of *imperial history*, which focuses on historical individuals in a way where the focus of facts comes after the event. The object of such a history was not to understand but to legitimate and to give order to chaos. Travellers who came took for granted the land was already there waiting for their confirmation of their “prior acquisition” waiting for them (Carter 1987:xxi). In this *imperial history*, Aboriginals remained outside as the history of occupation was merely an act of interpretation of what was already there (Carter 1987:325-326).<sup>4</sup>

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<sup>2</sup> See Davidson 1997, Roberts 1968, Denoon 1983, Fletcher 1976, Meinig 1962.

<sup>3</sup> See Reynolds 1996, Kercher 1995.

<sup>4</sup> For critiques of Carter see Seddon 1988, Malouf 1989, Gregory 1994:171-80.

Secondly, while some accounts show how land law reflected capitalist development,<sup>5</sup> little account has been given of the form in which land law was constituted by social meaning. In particular, this history has been temporal or linear and not spatial. It has not shown how the capitalist development of agriculture involved not only commodification, markets, business etc., but also the production of a spatial form, which excluded Aboriginals.

In the remainder of this chapter, I give indications of how a new history of settlement of Australia could be approached, emphasising the above concerns. My aim is not to give a new history of settlement but rather to show as Carter has done, how *imperial history* together with what I call spatial understandings, reveals a particular view of property law that blinds us from the possibility of appreciating a neglected aspect of property law. Such an approach I believe provides a different understanding of *property* and allows us to see how property is implicated in *governance*.

Should we transpose notions of liberal governance to Australia and other settler states, we run up against several difficulties, which I will now address (Hogg and Carrington 1998:5). It is easy to understand concern for morals in England in the eighteenth and nineteenth centuries where pauperism, petty crime, etc. were considered the key problems of social policy (Driver 1993:10). In this relative "dense fabric" of social institutions, it is easy to appreciate how ideas of governance and notions of technologies of *governance* operated (Hogg and Carrington 1998:10).

However, in the Australian context, as Hogg and Carrington argue, given the harsh unpopulated realities of Australia, the

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<sup>5</sup> Davidson and Wells 1984, McMichael 1984.

establishment and fostering of *governance* or the development of the state, must be differently conceived. Firstly, we must take into account the ill-liberal mechanisms of governance applied to Aboriginal ethnic groups and secondly, we must take into account the problems of the particular harshness of the Australian locality and the fact of the sparse population of frontier pastoralism (Hogg and Carrington 1998).

In terms of governance, little concern has been given to how the particular settlement pattern of colonial settlement was a consequence of pastoral capitalism, on how European conceptions of space excluded Aboriginal ones.<sup>6</sup> In essence, as explained by Hogg and Carrington, “a spatial history of colonisation has not shown the burden of governance that this imposes and which is masked in ill-liberal philosophical depictions as property as the essential and highest expression of individual autonomy” (Hogg and Carrington 1998:8).

Settlement of Australia involved several phases. The first phase involved the settlement of New South Wales within Australia to the spatial limits imposed by the coastal ridge of mountains. This allowed direct supervision of land use, convicts, and Aboriginal inhabitants.

Carter argues that the territory occupied by convicts was also a stage already set out by history where the state’s *gaze*, like the panopticon, was always in view keeping the prisoners in vision (Carter 1987:306). But contrast the projects of systematic colonisation, as envisaged by Wakefield, required land to be sold at a sufficient price to promote orderly closer settlement. It was argued, the virtues of closer settlement would civilise settlers due to close effect of parish and local

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<sup>6</sup> See the revisionary critiques of Reynolds 1987, 1996, Rowley 1972, Wright 1981, Wolf 1994, Hogg and Carrington 1998.



authority while the sufficient piece of land would guarantee a supply of labourers who could in turn be disciplined into being landholders.<sup>7</sup>

The development of pastoralism based on squatting where large numbers of graziers simply ran their sheep into unsurveyed “runs” in the interior, posed a problem in the sense of “how were such disorderly groups to be controlled?” Eventually, squatters’ interests were formalised or incorporated into the form of dominant control via a licensing system.<sup>8</sup>

#### **4. EARLY VISIONS OF THE AUSTRALIAN LANDSCAPE AND ITS MODERN EQUIVALENTS**

A major theme of my work has been the continuity and discontinuity of European culture in Australia and the way European ideas have been redeployed in Australia (Voyce 1996a). To demonstrate this, I commence this section by a brief portrayal of the perspectives of early Europeans in Australia of the *landscape*. This approach can thus ignore, for the time being, the later distortions where Australians and their landscape were “cultural inventions conjured up to define and promote national identities” (White 1981:viii). I therefore concentrate on the revelation of early explorers, farmers and scientists as revealed in dairies, letters, official reports, or paintings.<sup>9</sup>

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<sup>7</sup> Carter 1987 notes how Bentham was involved in Wakefield’s systematic colonisation, see Carter 1987:202 and Pike 1951-2:72.

<sup>8</sup> See Blainey 1966, Davidson 1981, 1997, Fletcher 1976, Powell 1988, Heathcote 1975, McMichael 1984, Roberts 1935, Denoon 1983.

<sup>9</sup> This section is especially indebted to Ryan’s brilliant book *The Cartographic Eye*, Ryan 1996. See also Haynes 1998, Carter 1987, Gregory 1994, Blomley 1994, 1998.

## 2. *The Space of Physics – Physical Spaces / Spațiul fizicii – Spații fizice*

Landscape is a term that has various meanings. Firstly, it may apply to a material assemblage or what Sauer calls “morphological components”.<sup>10</sup> However, no morphological mass is seen with neutral eyes as landmass is an important site for ideological practices, and is especially important to property relations (Blomley 1998:576). I examine *landscape* in the second sense.

This approach entails a relationship between the foreground and background of the social life of the viewers to allow us to see the *landscape* through the eyes of those who arrived here. In this sense, *landscapes* are constructed systems of social meaning (Hill 1991:13-14). Early visions of Australia were not only a projection of a culturally derived image early folk bought with them, but were also a product of the nature of the continent. The resultant view reflected the personality of the settlers involved, their specific background and the means and motive for their reports.

The great southern continent awaiting discovery had long been a product of imagination and myth and had been seen as a necessary counterbalance to the landmass in the southern hemisphere. Stories such as the Arabian Nights, (a misreading of Marco Polo) reported voyagers of freaks and strange men or half-men and half-tigers (Hill 1991:28). Until 1820, opinion of Europeans in Australia had been based on such earlier legends and was reinforced by colonists living in the Sydney area. The consequent opinion was that nature in Australia was characterised by contrariety and eccentricity (Smith 1960:184).

Keith Thomas has documented the development in England of a particular view of the landscape derived from painting a scene called *landscape* because it was reminiscent

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<sup>10</sup> Sauer cited in Mitchell 1996:24-25.

of a picture (Thomas 1984:265). Europeans who came to Australia with an interest in landscape brought with them the picturesque conventions of Europe. Artists showed how scenery was seen through European perspectives of landscape painting.

Thus, Australia was reported as a weird, bizarre, and threatening place (Hill 1991:20). "Nature was reversed, worn out" as this was the Antipodes where "seasons were in reverse and everything was topsy-turvy". Further, it was "the tired land and the last of lands". Another belief commonly held in early Australia was that the scenery was monotonous or, as Field in his geographical memoirs put it, "nature is prosaic, unpicturesque, unmusical" (Smith 1960:181-2).

The thinner strands of sclerophyll forest on the east coast and the savannah woodlands of South and Western Australia had particular appeal because it reminded many of English landscape parks as it appeared to be "managed" and "improved" landscape more like the land in the possessions of persons of property, rather than left to the course of nature alone. It appeared attractive as it did not appear as wild as it appeared at first glance (Heathcote 1976:42).

Heathcote has particularised attitudes to Australian landscape 1770-1870 (Heathcote 1965). One perspective<sup>11</sup> was to see landmass as resource (Heathcote 1976:40-46, Ryan 1996:72-75). Under this later view, *landscape* could only be of value if it was capable of being developed as a resource. Thus, the "attractive features" of landscapes with no trees was that little clearing was required (Smith 1960:186, Heathcote 1976:42). Thus, in the *culture of liberalism* there developed the notion of landscape as a resource for settlement and cultural

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<sup>11</sup> Heathcote (1976) observes three basic types of perspectives: the scientific attitude (landscape as phenomena), landscape as scenery, landscape as resource.

## 2. *The Space of Physics – Physical Spaces / Spațiul fizicii – Spații fizice*

redemption (Lattas 1997, Ryan 1996:72-75, Haynes 1998:54). With these ideas went the hallmarks of English property law, ownership, alienation, and exclusion. In other words, these views were implicated in the process wherein Europe landed property was detached from the localised worlds of feudalism and inserted into circuits of exchange (Blomley 1998:577).<sup>12</sup>

*Landscape*, in this sense of a resource, was seen by early settlers in the nineteenth century colonists with indifference, that *landscape* was a barrier to be broken down if settlement was to proceed. This attitude was, to some extent, ameliorated by later ideas of nationalism and artists like McCubbin and poets like Lawson and Patterson, when landscape was utilized as a cultural invention to promote a national identity (White 1981:viii).

As a resource, property came to be implicated with agrarian values. In one sense, land was implicated in what Share calls the “grand narrative” around land settlement and the attempt by various governments to sponsor land division to establish small settler families in specific areas (Share 1994:2,180), as well as governmental concerns related to population, to increase rural population and to reverse rural-urban drift (Share 1994:3). To many would-be settlers “land” was articulated around notions of freedom, exploring the project of British reformers (Chartists, Owenites) and Irish land agitators (Share 1994:180-181). In short, the liberal governance of the risk, associated with the management of colonisation in growing market economy (White 1992:139 and Share 1994:136).

Finally, *landscape* is associated with ideas of family farming and liberal discourse to maintain its moral resonance. In this

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<sup>12</sup> Few scholars argue that traditional precapitalist norms arrived in Australia. See Menghetti 1998.

context, family is a metaphor for continuity and unity within attitudes associated with agrarianism. In this discourse, the supposed naturalness of *the family* sustains and legitimises inequality (Share 1994:43).

My task is later to indicate how these notions are implicated generally in law and governmentality. A particular task, which I address in the later part of this article, is to step back into the seventeenth and eighteenth centuries to see how landscapes were emerging as a way of seeing through a particular form of visualisation, which was implicated in the allocation of space.

## 5. JOHN LOCKE AND COLONIAL DISCOURSE

In the portrait gallery of history, Locke is a man who has worn many faces (John Dunn, *The Political Thought of John Locke* (1976:5)).

A critique of important liberal thinkers such as Locke, Hobbes, and Bentham is beyond the scope of this work. A longer treatment of that subject would require an outline of the change of these important Enlightenment thinkers towards God and the place of nature,<sup>13</sup> the development of a social contract notions as a justification of government together with the development of the rational calculation of self-interest and a “regulation of the passions”<sup>14</sup> as a basis of forging political obligation. I should also mention Bentham and his attempt to forge a rational stable society based on code of private property.

As an alternative to that longer critique, I offer a different approach. Firstly, I outline Locke’s theory on the acquisition

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<sup>13</sup> Passmore 1974, Glacken 1967, Coltheart 1982.

<sup>14</sup> On the later neglect of passions and their role in political obligation, see Kahn 1999, Hirschman 1977.

of native lands and his views on native agriculture and property. Secondly, I outline a re-reading of Locke informed by the Foucauldian notion of *governmentality*. While I claim that Locke was not the sole source of these ideas, a critique of his ideas enables us to see how later elements of his ideas were redeployed in the Australian context. Locke's notions of agricultural labour shaped not only colonial development but also fitted in with the changing domestic economy. Subdividing the earth overseas required the subordination of the agricultural labouring poor at home. Thompson (1993) has noted the "poor of the commons" were popularly seen as functionally equivalent to the "Indians". British colonial policy defended the plantation system overseas as it would create more manufacturing industry in England (Arneil 1994).

### **5.1 Expansionist Discourses in the Nineteenth Century**

With the discovery of the new world, a number of justifications were advanced by European powers for the expropriation of new world territories. Papal grants, royal charters, or symbolical acts such as discovery, occupation, or planting crosses were the most common. By the seventeenth century the accepted justification for an assertion of sovereignty in international law was discovery and occupation with or without the consent of inhabitants (Tully 1994:170 and 174).<sup>15</sup>

Locke regarded the inhabitants of the first world (such as America) as exercising what he called "individual popular sovereignty" or "individual self-government". Locke was aware that native people did not govern themselves, in such a manner as laid out in his description, as being in a state of nature, but

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<sup>15</sup> For a full discussion of modes of acquisition of territory at international law, see Simpson 1993-4:203.

he nevertheless described their forms of government as not being full political societies (Tully 1994:178). Locke regarded that individuals in native society, unlike political society, had their own natural power, as they had not given up their power to a more advanced political society, based on a social contract. Locke, moreover, considered that in such societies people could appropriate property without the consent and approval of political society (Tully 1994:168-170). Locke's<sup>16</sup> views, like some of his contemporaries such as Vattel,<sup>17</sup> rested on the view that a new world political society existed in a state of nature and that native ownership of land was not a legitimate type of property. Native political formations were considered inferior and therefore subjected to European concepts of politics and property (Tully 1994:167 and 195).

Two conclusions follow from the idea that America was in a state of nature: firstly, that Europeans had a right to wage war against native Indians, and secondly, that appropriation of land was allowed to take place without consent because of the existence of a state of nature (Tully 1994:173).

By situating America in a state of nature, native political organisation could be disregarded and native ownership of property denied and replaced by the so-called "natural system of individual labour-based property". In effect, this argument of "agricultural dispossession of first world people on traditional grounds" was advanced with the only qualification

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<sup>16</sup> Locke had extensive knowledge of European contact with Aboriginal peoples. His special interest and concern was America as he was actively involved through his patron the Earl of Shaftsbury in colonial affairs in Carolina (Arneil 1992 and 1994). On Locke's antecedents, see Meek 1976.

<sup>17</sup> See for starting point on Vattel, Tully 1994:194 and Tully 1993. See also Castles 1982:16-19, and Reynolds 1987.

that from the colonists' perspective there was enough good land left over for Aboriginal people.

## 5.2 Locke's Justification for Property

Locke's argument concerning property may have been a reflection of previous ideas but he attempted to argue from biblical premises that God gave the world to people in common and that private property was justified. His argument turns on two critical arguments. First, the attribution to individuals of property in their person and therefore their labour. Secondly, the argument that it is "the mixing one's labour with the earth" that entitles one to the "product of one's labour". Thus, the individual appropriates property to himself when he commingles his labour with that "something" in the world, the individual "establishes ownership" (Rose 1985:52:73). For Locke the world was a God given rational order with private property at its heart. Labour and the appropriation of property through labour was the very rationale of man's existence (Bauman 1998:5).<sup>18</sup>

## 5.3 Property in a Civilisation of Commerce and Improvement

Locke, along with some of his contemporaries, regarded that all the societies in the world were the same in the beginning and their subsequent development on a world scale could be ranked. New world societies were by definition primitive and could be studied to examine how politics and property were before European societies developed. On top of the hierarchy were the superior European societies civilised

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<sup>18</sup> I am grateful for Val Kerruish and Fleur Ramsey for assistance here.



by the virtue of their state formations and property (Locke 1976 # 2.30, Tully 1993:264).

Locke's theory saw the historical development of societies from the pre-monetary stage to the introduction of money and to an enlargement of possessions and land. The process of development was legitimised by the ethic of industriousness. While God gave the world to men in common, it did not mean it should be left uncultivated but rather mankind should "draw from it" the conveniences of life. Land was accordingly given to the industrious and rational, labour was to justify title to it. Importantly, the industrious were equated with European-styled agriculture based on pasturage and tillage. This form of agriculture gave rise to property rights, thereby supplanting native forms of agriculture (Tully 1994:183).

The planned co-ordination and skills of native hunting and fishing which took thousands of years to develop and a lifetime for each generation to acquire and pass on were not counted as labour at all, except in the final stage of picking produce or killing meat. Hunting and fishing are glossed over in Locke's ideas as examples of unassisted nature or spontaneous provisions where activities such as the making of bread were described in depth (Tully 1994:183).<sup>19</sup>

Locke was seeking to distinguish between market and non-market societies and their different degrees of motivation by contrasting native society with its limited possessions and the desire for European societies for unlimited possessions. Cultivation of land was stipulated as the criteria of industriousness and rational use, in contrast to the "waste" and lack of cultivation of native hunting and gathering societies.

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<sup>19</sup> On Aboriginal knowledge and expertise in land and marine management, see Ross 1994.

## 2. *The Space of Physics – Physical Spaces / Spațiul fizicii – Spații fizice*

Locke's four-stage theory developed the idea of a historical progression in land use from subsistence hunting and gathering, through pastoralism to agriculture and there on to civilisation and trade (Coltheart 1982:viii-ix, Meek 1976 and Frost 1981).

The vital leap, according to Locke, between subsistence and industry happened when man mixed his labour with the earth, thus entitling him to the fruits of his labour. Thus bread, wine, cloth or silk – the product of man's labour – were the symbols of his property in the land he used to produce them, whereas acorns, leaves and moss were the products of nature. This distinction was the key to natural rights of man's property to land (Meek 1976, Coltheart 1982:iv).

In Australia, the ideas of Vattel, John Locke and the four-stage progression of societies were used to justify Aboriginal dispossession. Earlier European observation of American Indians seemed proof of this hypothesis. Later some European histories recounted Australian history as "in large part, the story of the progressive mastery of land" (Hancock 1960:124, Coltheart 1982:160).

These ideas crystallised in the *Gove* case,<sup>20</sup> in reaffirming the doctrine of *terra nullius* (land belonging to no one), the consequence being that, firstly, all land was regarded as being vested in the Crown; secondly, that the Crown did not recognise pre-existing native title; and that, thirdly, native peoples had to show a proprietary interest in land ownership to have a legal interest in land (in the European sense of having boundaries).

That these ideas have been rejected in *Mabo*<sup>21</sup> is not the point. Pastoral opinion has not shifted from the idea that native

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<sup>20</sup> *Milliripum v Nabalco Pty Ltd and the Commonwealth of Australia* (1971) 17 FLR 141.

<sup>21</sup> *Mabo v State of Queensland* (1992) 107 ALR 1.

title or customary rights should not be given to Aboriginals (Way 1993).<sup>22</sup> In fact, as Wolfe writes about Henry Reynolds' exemplary work on the frontier, there is the danger of viewing expropriation as a past event rather than as a continuing structure (Wolfe 1994:96). Thus, while *terra nullius* has been officially renounced, this is not the same thing as abolishing actions historically premised on it (Wolfe 1994:122).

While ideas of the supremacy of European political institutions and the primacy of commercial agriculture generally (Tully 1993:265) have been questioned, what I propose to take out of Locke is not only reading as to a juristic-discourse of rights regarding property, but an ideology of work which attributes virtue to people who are industrious and diligent, that the essence of humanity is to work (Kramnick 1990:1 and 276, Hundert 1972). I am interested in how discourses of work, discipline, habit, and self-formation are linked to property. In short, what I call popular discourse became authoritative through the endorsement of state power.

#### **5.4 Locke, Conduct and Productive Labour**

One recent reading of Locke fits in well with the approach of "governmentality" and the notion that inhabitants of states in the seventeenth century began to assume a "stance to themselves" as a kind of self-conduct (Iverson 1993:26, Burchell 1991:14-15, Foucault 1979, Tully 1980:106). To attempt to

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<sup>22</sup> For a discussion of pastoral leases and Aboriginal land rights, see Nettheim 1996, Reyburn 1989, Reynolds 1993. For a good critique of the outcry about Mabo and the fears of Aboriginal land claims, see Cowlshaw 1995. For a discussion on the land legislation, see Muller 1995. For the situation of native rights on pastoral leases, see the discussion of the *Wik* case in Hiley 1997. Reference should now be made to the *Native Title Amendment Act* 1998. See Burke 1998.

implicate Locke in the “art of government” (his phrase) is an unusual step given the usual invocation of Locke as the patron saint of limited government and the politics of the inviolable private sphere (Iverson 1993:46).

We will recall that the idea of the social contract was that authority to be exercised as a result of the peoples delegation to the government.<sup>23</sup> However, the basis of the original delegation rested on the idea of enhancing public good. Such a situation takes for granted that people are credited with the capacity to judge and reason. Thus, the practices of government were informed by the basis of Christianity which rendered casuistical authorities unnecessary but required the inculcation of a particular relationship to self, including the practices of suspension and examination, reason and virtuous behaviour (i.e., the Christian and neo-stoic virtue of discipline and industry) (Iverson 1993:32). Thus, the art of government is connected with the ability of the government to work on the “humours, interests, and capacities of men”.

Iverson argues that Locke’s work builds on contemporary writers who were concerned about the problems of poverty and education and, like Locke, were arguing for discipline and industriousness. Not only did Locke advocate punishments for idlers, but also more importantly as Dean has shown (Dean 1991, 1992), Locke was attempting to inculcate values of discipline, habit formation, and self-formation (Iverson 1993:42-43).

I argue that the dominant property discourses in Australia were connected with particular notions of “agricultural improvement”. I further argue that European ideas of agriculture are connected with the protestant work ethic based on the

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<sup>23</sup> The following critique relies on Iverson 1993. See also Tully 1980, 1988.

Calvinist injunction to work: combined as it was with the Baconian faith in the power of the scientific method to master nature.<sup>24</sup> The question now arises, was there a specific discourse on a form of conduct towards the self and the accumulation of property in Australia? Furthermore, did the form of self-conduct as regards work and the accumulation of property build up a specific knowledge of property discourse?

In this suggested line of inquiry, we must distinguish Weber's thesis, as it depends upon the subjective consequences of the doctrine of predestination (Weber 1985:98-128 and Dean 1991:213), while the notion of governance that I am developing depends upon the self-responsible conduct towards oneself (Foucault 1988, Burchell 1993). I approach the question raised above by firstly describing the development of moral citizenship.

At the types of settlement in Australia, certain discourses developed around the construction of moral citizenship. The mutual interconnecting point of interest groups was their mutual interest in maintaining a viable post-reformational form of social and economic life supported by a reduced relevance on the welfare state. This community fostered the idea of personal financial autonomy through notions of morally sanctioned behaviour. In this situation, the basis of citizenship no longer rested on land ownership, but was seen to be secured through prescribed behaviours. In feudal times, mutual dependency between landowners and people who worked the land was integral to the fabric of society. However, with the influence of various revolutionary movements, the new concept for citizenship rested on independence; dependency was deemed antithetical to citizenship (Hill 1961, Fraser and

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<sup>24</sup> Bessant 1991 and Merchant 1979.

Gordon 1994:35). Independence and citizenship came to be equated with wage labour. This collective pride in work and independence grew upon an aspect of Protestantism in the form of a work ethic that valorised discipline and labour.

Moral citizenship was contrasted with the concept of a moral menace exemplified by people who could not or would not provide for themselves. With the rise of individualism and the work of Malthus, the idea arose that poverty was the result of natural laws, which served to “hold the population in check” and that poor relief was a misdirection of valuable resources to those “who were idle” (Arblaster 1984:254-257). Malthus claimed that poor relief destroyed the spirit of independence and industry of the poor. He also claimed poor relief weakened their willingness to save and removed their restraint from improvident marriages (Dean 1991:83). Dean argues (1992:229) that by the nineteenth century, as a result of dealing with problems of the poor, a “moral economy” emerged: thus “help” could be extended to only the deserving poor that could co-exist in a non-threatening manner with the richer classes.

There is strong evidence that the secularised version of the Protestant work ethic is alive and well today. The unemployed are still stigmatised, exposed to labelling and self-doubt. The country was founded on attracting immigrants who were prepared to work. The work ethic along with the Victorian idea of progress, liberalism, and utilitarianism and exploitative ideas about nature are deeply immersed in our society (Williams 1983:219-220, Carney and Hanks 1994:90). These ideas of progress were taken to be part of our national character and glorified by some historians.<sup>25</sup>

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<sup>25</sup> I have in mind those historians characterised as Whig. For a critique of Whig historians, see Roe 1978, Coltheart 1982:1.

Ideas of moral citizenship also co-existed with ideas of a moral economy on work. This, I argue, took the form of a discourse on work as a form of a new control mechanism. Following Hirschman, I argue there developed prescriptively, endorsed productive behaviour against those who were seen not to work, or who were lazy or idle.

I summarise the direction of my argument so far. I argue that within liberalism several forms of property discourse co-existed. Firstly, property discourse constructed morphological areas (farm blocks) as a resource or in terms of a capitalism as a unit of exchange or commodity. Secondly, property is connected with agrarian development of Australia and various ideas of how land settlement should proceed whether it be in the form adopted by small-scale agriculturalists or pastoralists. Thirdly, property was connected with ideas of agricultural improvement, the protestant work ethic, and notions of productive labour.

## **6. THE COLONIAL “CARTOGRAPHICAL EYE”<sup>26</sup> AND SPACE**

Before it can ever be a response for the senses, landscape is the work of the mind. Its scenery is build up as much from strata of memory as from rock (Schama 1996:6-7).

### **6.1 The Academic Development of Notions of Space**

Recently, historiography has taken a narrative turn (Marwick 1989:244-255) and historical events have been seen as both constituted and taking place in narrative. Critically, this narrative has often reflected a temporal master-narrative

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<sup>26</sup> See the book of this name by Ryan 1996.

reflecting a historical but non-spatial form (Soja 1989:11). Thus, scholars from a variety of disciplines<sup>27</sup> have begun to examine the role of space and the way spaces are constructed to elucidate or proclaim a social order<sup>28</sup> (Mohr 2000:1). Various scholars have observed that space is not merely a container or a neutral setting but is the outcome of past actions and that space permits fresh actions to occur. In this sense, social space is produced out of social structures (Lefebvre 1991:73, 83, Soja 1989:120-124). My particular focus here is how space is produced by liberal colonial discourse and is implicated in *governance*.

Foucault noted the connection between spatial concepts and the micro-physics of power and that all territorial concepts imply the exercise of power (Watts 1993-4, Hannah 1993, Driver 1985). Foucault recognised that power was both centralised and diffuse and that it was manifest in space. Foucault's substantive historical inquiries show clearly how the distribution and arrangement of people's activities and buildings are always deeply implicated with spatial relations (Philo 1992:151).

## 6.2 European Notions of Territory and Identity

European notions of space were founded on the practice of the Roman grid system of laying out army camps, colonies, and towns (Rykwert 1988). These spaces were the reflection of Cartesian coordinates of longitude and latitude whereby any point in a two dimensional space could be specified by a

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<sup>27</sup> For human geographers, see Soja 1989, Peet and Thrift 1989, Philo 1992, Gregory 1994. As regards law, see Blomley 1994, 1998, Mohr 2000, for feminist studies, see McDowell 1993, Johnson 1989.

<sup>28</sup> See Soja 1989, Lefebvre 1991.



unique set of numbers (Mohr 2000:8). European law, which emerged within the concept of Roman ideas, adapted and reinforced Cartesian space and latitude and longitude (Nicolet 1988).

The imperial endeavour encouraged the construction of space as a universal, measurable, and divisible entity to obtain a self-legitimising view of the world (Ryan 1996:4). Constructing space in this way enabled imperialist powers to hierarchise the use of space for their own advantage. The construction of universal space allowed a homogenous mapping practice, which could establish the latitude-longitude grid of the entire planet: in this sense, maps became part of imperial technology and European powers could fill in the blank spaces by mathematical projections (Tongahai 1994:54). Sorrenson has argued that the English government created and defined a small but important market for complicated, expensive, and accurate instruments especially chronometers, sextants through organs such as the Royal Greenwich Society and the Board of Longitude (Sorrenson 1995).

Recent interpretation on the role of maps in colonisation enables us to see maps as a reflection of a socially constructed world (Haynes 1988:52-54). Under this reading, maps are part of a discourse, which reproduces the authority of the map maker and suppresses the importance of indigenous culture. The production of maps showing Australia as *tabula rasa* preceded its occupation (Ryan 1996, Chapter 4, Haynes 1988:53).

While European powers were developing the use of maps in special ways, notions regarding a "territory" and nationhood were emerging.

Weber noted that groups were initially the bearer of rights. Rights attached to groups on account of their relationship with

land or their membership of a community. Weber contrasts law applying to group membership with the *lex terrae* applying throughout the nation not to individuals as group members but as the common law of the land. This system was first introduced by the Norman kings in England, but it became one of the hallmarks of the modern state (Weber 1978:696, Mohr 2000:4).

Weber argues this process was typical of the process of rationalisation where there was a movement from diverse, special laws based on group membership to compulsory membership of the state (Weber 1978:696). With the growth of nations, the concept of jurisdiction was developed in the sense that law defended a spatial area as being subject to its law. Initially propounded as *lex terrae* or the common law of the land, the declaration of a territorial homogenous territory was associated with liberal notions of individual equality as the individual came to be the bearer of rights associated with a person's attachment to territory (Mohr 2000:14).

In his novel, *Dustlands* Coetzee presents his explorer as finding self-identification only through distinguishing and the killing of the other. This means both a killing of creatures and a denial of self. Self-identity therefore proceeds from being in the world, yet separate from the world. Part of the explorer must be denied to preserve objectivity (Ryan 1996:6). De Certeau argues that this is a Cartesian attitude: through the delimitation of one's place in the world by denying the other "it is a mastery of places through sight". This division of space makes possible a panoptic practice where the eye may transform places into objects that can now be measured and controlled as they are now within the scope of vision (de Certeau 1984:36).

### **6.3 Aboriginal Space**

In establishing a colony, the representation of space as jurisdiction constructed a new space in contradistinction to Aboriginal notions of space (Mohr 2000:2). Aboriginal space was built on their close connection with the land. Topographic features were explained in stories and pathways that have religious significance. Aboriginal representative space involves elaborate systems of belief and social relationships, invisible to Europeans.

Topographical features in Aboriginal society are explained by stories of origins and through pathways having religious significance called “dreaming tracks”. These tracks and sites have their own custodians and are specific to particular rituals. These symbolical representations are illustrated by paintings, which were originally in the form of mental maps (Anderson and Dussart 1988). Although Aboriginal space incorporated elaborate systems of law, belief, and the social relationships, these systems were invisible to invading Europeans. The land was regarded as empty (Mohr 2000:8).

The European conception of property led to survey lines and fences running straight for thousands of miles, the ploughing and the trampling of Aboriginal culture in its way (Reynolds 1996). European ideas of ownership conceded to no forms of Aboriginal customary usage over farming land.<sup>29</sup> The granting of Crown land and the formation of various land settlement schemes were expressions of European colonisation and its technical, social, and economic ideas. They indicated the determination of government to “recode the wild” by domestic farming (Knobloch 1996:54-60).

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<sup>29</sup> This is of course true until Native Title Legislation and the *Mabo* and *Wik* cases. See Denoon 1979, 1983.

#### 6.4 “Settler Space” in Australian Settlement

The early governors made grants of land pursuant to instructions<sup>30</sup>. Under legal theory, ownership of all lands had been presumed vested in the Crown. The right to confer title on a subject by way of grant had been presumed by the Crown (Lang 1973:15, Williams 1989:352). Later governors continued this practice. By 1847, land was sold after it had been surveyed. At first, official policy was restricted to an area known as the “limit of settlement” (coastal mountains). The reason for this was that officials were concerned that if settlers moved beyond this area they would “lose their civilisation”, the rationale being that “concentration produces civilisation” (Lines 1992:64).

Land was granted according to conditions laid down by governors. It appears land was given upon petition. Consequently, land could be granted upon fairly vague conditions.<sup>31</sup> The governor’s policy of granting land was that ex-convicts should be self-sufficient and available to provide wheat to the government. Undoubtedly, one of the Governor’s considerations was to keep troublemakers occupied in supporting themselves. In this sense, “informal practices” of land grants further assisted in providing a location for would-be troublemakers to bind them into a supportive but disciplined community.

While governors granted land by the formal procedure of land grants, it is now clear following recent scholarship that “informal practices” developed. Thus, an informal system developed whereby colonial governors or their agents allowed colonists to take possession of crown lands without any legal title but only with a promise they would later receive a formal

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<sup>30</sup> Historical Records of Australia, 124-6.

<sup>31</sup> *R V Cooper* (1825) at [www.law.mq.edu.au/scnw](http://www.law.mq.edu.au/scnw).

grant. In accordance with this custom, the holder of a Crown grant could simply pass this document to another in exchange for payment (Young 1999:6, Kercher 1995).

Under 1861 legislation, land blocks outside of towns were available for selectors. The provision of land to selectors through the development of closer settlement was an outcome of the clash between squatters and other interests over land reform (Waterson 1968; 60-70). Land sales were conditional on residence and improvement (Lang 1973:8).

The other feature of land ownership in the early development of pastoralism through squatting or the unauthorised occupation of lands. In this case, ownership was alleged on the "holding" not as a specifically delineated area, but rather as much land as a squatter could strategically manage to occupy by the mustering of flocks of sheep around water sources (Roberts 1935). In later times, with the development of Torrens title property ownership depended on technical projection of ideas of space enshrined in surveying and maps as well as the registration of land guaranteed by registration of title (Pottage 1994). Eventually, as I have mentioned, squatter interests were formalised over specific areas through licences.

As a specialised professional discourse, law codified cartographical knowledge facilitating land to be divisible into exclusive blocks and making it alienable. At all stages of this story from land selection, closer settlement to soldier settlement land allocation was a result of surveying and the allocation of families into farming lots (Share 1994). The advent of "occupation by squatting" was the exception.

In this context, the parcellation of land into homestead lots reflected the cultural dynamics of economic liberalism (Lehr 1994, Meinig 1979, Cosgrove 1984). Landscape thus, in a deeper sense, represents the symbolical patterns of material

and social practices (Zukin 1991:16). The importance of this insight in a social sense is that land distribution policies allocated individual families homestead lots at sufficient distance from each other to encourage their own autonomy but at sufficient closeness to encourage rural community.

### **6.5 Property, Space, and the Allocation of Autonomy**

The dominant theme in Australian political history is the “lament of an unsatisfied land-hunger” (K. Hancock, Australia 1945:61).

The predominant reason immigrants come to Australia was to obtain land (Baines 1994). As property came in the pastoralist squatter phase of development, to be associated with “property” by occupation, land became a unit of exchange. In this context, land settlement increasingly was implicated with liberal governance. Land was implicated in liberal governance in the sense that land ownership was involved in the encouragement for settlers to develop their own autonomy through ownership of their own family farms.

The ideas of land ownership and labour or the “romanticism of rigor” (Webster 1988:69-70) was part of the Australian legend and dominant ideologies that we may describe as conquistadorial, racist or masculinist and developmentalist (Share 1994:82, McQueen 1986). The irony, in a particular way, was that the settlement of Australia was undertaken through a form of regulated freedom. I suggest during the post-convict phase of settlement, individuals began to assume a “stance to themselves and take on notions of industriousness and discipline”. This attitude had rewards as in the inheritance context male labour in building up farms was recognised, whilst female labour was downgraded. In

short, in both these contexts, economic discourses combined with ideas of “conduct” to construct notions of property.

While notions of social contract have thus been used to explain the position of women, it is necessary to augment this approach by showing how the institution of property was mediated by the techniques and classifications of property attached to the notion of property (Loo 1994:159). Thus, availability to property depended on the legal evaluation of work and contractual or equitable rights to property were mediated by technical evaluations, or standardisation, which excluded an account of women’s experiences (Loo 1994:13).

### **6.6 The Allocation of Space as a Practice of Liberalism**

Recently scholars have implicated the role of the state in proclaiming a spatial order. This approach helps us to discern the spatial factors in colonial liberalism and how various governments may maintain control over populations.

Firstly, I argue that the history of law is associated with the growth of a unified state. At the time of the growth of imperial trade, I have argued that the development of maps and the deployment of surveys enabled European powers to proclaim a spatial order to reproduce its authority. These factors together with attitudes towards the mastery of self and nature resulted in the establishment of European supremacy representing what Reynolds calls the “success of the bourgeois revolution in Australia” (Reynolds 1996:194). This revolution saw the establishment in law of ideas of property founded on Blackstone that property was the “sole and despotic dominion which one man claims and exercises over the external things of the world” (Blackstone 1980:3).

## 7. CONCLUSION

There have been two major approaches to property. One approach within law as a professional discourse, which deals with property within notions of ownership control and exclusion. In the legal context, rules are the result of *ad hoc* deliberations of judges concerning entitlement to resources (Rotherham 1991).

Another tradition assumes property came into existence with the decline of feudalism and became a commodity with industrialisation (Palmer 1985, Baker 1990).<sup>32</sup> This mainstream view privileges political economy and the states' endorsement of a particular power relation over a resource (Gray 1991:294, Howe 1995). This form of critique of *commodification* assumes that the "language of property norms is descriptive of its own actualisation" or, in other words, says Pottage that the "old legal philosophical account of how 'things' are subjected to legal norms is subjected to a quasi-sociological account of the performativity of norms" (Pottage 1988b:747).

In Australia, property or land was connected with the "grand narrative" around land settlement and ideals as regards family farming. I argued that, in this context, the concept of *landscape* or commodity of the notion of property, became implicated with agrarian values.

This chapter differs from these above approaches in my attempt to critique property in the light of the *governmentality* approach. Readers will recall that I see this approach within liberalism as doing three things. Firstly, by codifying local

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<sup>32</sup> The notion that private property (in a codified form) rose with the development of capitalism was suggested by Marx 1954 and Engels 1902 (cf Mcfarlane 1978). For reviews, see Sugerman and Rubin 1984:24-30.



norms, secondly, through utilising an array of techniques and devices and, thirdly, by encouraging individuals to develop their own capacities.

As regards the first factor, I argue that liberalism adopted and gave authority to rural *norms* through the process of *normalisation* (Foucault 1977:144, Ewald 1990, Hunt 1993:19). In one sense, there is nothing original about this claim as legal scholars and anthropologists have been making this claim for a long time.<sup>33</sup> What is different in my formulation of *governmenality*<sup>34</sup> is that not only do selected local *norms* become authoritative but that the *narrative of the state* is involved through the incorporation of such norms and indeed the *state is constituted within such forms* (Corrigan and Sayer 1985, Dean 1994:149).

In this sense “property” as a social idea is implicated in the Australian legend and the dominant ideologies surrounding the formation of a national identity. I argue law is part of this process as it gives power to particular version of events. In the sense, law (and property law) as a specialised discourse, gives power to legal procedures and excludes other knowledge. In this sense, law is implicated in *governance*. This factor is not recognised as law renders invisible social accounts and the law, within legal liberalism, is presumed to be neutral of political factors.

Thirdly, liberalism has most often been referred to as “a political ideology”; I follow those who argue that liberalism is an “activity of rule” which uses a complex array of techniques,

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<sup>33</sup> See a discussion on “custom” and “legal anthropology” in Lloyd 1994, Chapter 10. For a provocative discussion on “norms” and “customs”, see Assier-Andrieu 1983 and texts such as those mentioned in Lloyd 1994.

<sup>34</sup> Here I am developing my approach with Corrigan and Sayer 1985.

assemblages, and *problematizations* to manage populations.<sup>35</sup> I argue three techniques are relevant in the area of property. Firstly, there is the notion of *property* resting on the idea that a distinction could be made between the owner and the rest of the world (Davies 1994:375). This argument depended upon the attribution to individuals of property in their person and therefore their labour. The utilisation of this idea was the basis of the “agricultural improvement discourse” and the settlement of Australia.

Secondly, I implicate the culture of liberalism with an ability to proclaim a social order through maps and surveys. Maps are linked with what Foucault has called the exercise of “judicial power” and through the world of maps, the world is disciplined (Harley 1988:1). Pottage argues the allocation of property, together with the system of mapping and registration, rendered property commensurable with each other reducing each to a form or notation which is superimposed upon the other (Pottage 1994a:362). Thus, while property and cartography are different ways of knowing land, neither is a mirror of nature, their harmonisation and utilisation as a technical device is implicated in *governance* or the construction of social relations in that the allocation of area opens a space for *governance* making it countable and accountable (Lefebvre 1991). Blomley and Summers argue property is given special status as a technical sense within the activities of liberalism as it is the fixity, visibility of security of land (guaranteed in part by the maps) that gives the state the power to stretch experience over time and space (Blomley and Summers 1999:266). In the context of rural Australia, this does two things. Firstly, it breaks down local practices

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<sup>35</sup> Rose and Miller 1992.

(aboriginal cultures or settler differences) and secondly, reduces the barrier of distance as an obstacle to control (Giddens 1985:38, Loo 1994:64).

Finally, as regards the capacity for subjects to develop their own capacities, I have noted how some research, that uses Foucault's *governmentality* approach, has utilised the work of Latour and his notion "of governing at a distance".<sup>36</sup> This work has shown how liberal forms of governing required not a confrontation between governor and governed but a constant and invisible reshaping of the governmental relation in an on going attempt to influence free subjects.

This work helps us to understand the European settlement of the sparceness of Australia which, of necessity, required a particular form of agricultural society so that farmers and pastoralists could persue their own independence and autonomy. My argument is that land settlement policy, which allocated farming lots, allowed individual families to develop their own autonomy, yet to be at sufficient proximity from each other to encourage rural community.

## REZUMAT

Acest capitol oferă o nouă abordare a problematicii colonizării europene în Australia, pronind de la lucrarea lui Foucault asupra *gubernamentalității*. În studiul de față, argumentez faptul că preconcepțiile europene despre Australia au fost formulate de tehnologia vizuala pentru a permite statului să-și guverneze cetățenii.Voi descrie modul în care

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<sup>36</sup> See Latour 1986, 1990, Miller and Rose 1990, Rose and Miller 1990, Kendal 1997.

coloniștii europeni vedeau Australia prin prisma liberalismului și priveau noțiunea de peisaj/teritoriu ca resursă. Astfel, ideile de proprietate asupra pământului a celor care lucrau eficient terenurile au format baza cererilor de punere în posesie. Voi explica în continuare că noțiunile de proprietate asupra pământului au fost generate de ideile promovate de dezvoltarea colonizării. În final, argumentez că proiectul de colonizare a creat o legătură între posesia asupra pământului și noțiunile privind spațiul. Pentru a demonstra aceasta, voi arăta cum concepțiile europene de spațiu exclud valorile aborigene și care este interdependența între diviziunea muncii pe sexe și ideea de spațiu. Conchid că modul colonial de construcție a spațiului este influențat de liberalism și de tehnicile acestuia de guvernare.

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