Culture, Capital and the State: Select Committee on Licensing and Regulating Theatres and Places of Public Entertainment.

by
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A Thesis
Submitted to the Faculty of Graduate Studies
in Partial Fulfilment for the Degree of

Master of Arts

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THE UNIVERSITY OF MANITOBA

FACULTY OF GRADUATE STUDIES

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CULTURE, CAPITAL AND THE STATE: SELECT COMMITTEE ON LICENSING AND REGULATING THEATRES AND PLACES OF PUBLIC ENTERTAINMENT

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A Thesis/Practicum submitted to the Faculty of Graduate Studies of The University of Manitoba in partial fulfillment of the requirements of the degree

of

MASTER OF ARTS

For my mother, Valerie, who gave me inspiration.
For my father, Colin, who fostered my intellect.
For my sister, Victoria, who showed me how to combine the two.

Abstract

British society experienced a transition from a rural agricultural community to that of the industrial urban setting during the Victorian period. In the process the notions of time and space were adjusted to fit new urban realities. Leisure underwent similar transformations with the creation of new forms and functions of leisure. The transition was not smooth but represented negotiations within the classes and across class lines that determined the type of leisure to be offered and who would control its production. The Select Committee on Theatrical Licensing provided a forum for the discussion of culture, its protection and production by two of the emerging commercialised leisure industries, the theatre and the music hall. While concentrating on theatre and music hall and subsequently culture, the influence of capital will not be neglected. The rôle of the state with regard to leisure demands attention as it underwent a transition from suppression to provision. Culture, capital and the state will be addressed within the context of the rivalry between music halls and theatre as it unfolded before the Select Committee on Theatrical Licensing of 1866.

Acknowledgments

To my colleagues at the Manitoba Theatre Centre who facilitated my numerous disappearances to "finish my thesis", especially Linda Dooley and Yvonne O'Connor.

To Karen Morrow, Graduate Programmes Secretary, who has made my life as a history graduate student bearable and occasionally fun.

I am also grateful to those professors that supported and encouraged me: Chris Johnson, Ed Rea, Keith Sandiford and John Wortley. I especially want to thank my advisor, Peter Bailey, whose turn of phrase and brilliance inspired me to explore this topic.

I wish to thank those fellow students and friends who read my work, listened to my ideas, made me the occasional meal and both consoled and congratulated me: Marc Baldwin, Luba Bereza, Bob & Madelaine Blanchard, Pat & Barb Connolly, Terry Fields, Murray Henderson, Lawrence Isaac, Kate King and Lori & Paul Young.

I am deeply grateful to Ingrid Botting and Diana Jones who reviewed my work in the early stages. I will be eternally grateful to Andrea Paci (the only editor I know who gets paid in cafe latte) who suggested both the punctuation and the phrasing that saw me through and whom I cannot thank enough.

Finally I want to thank my family without whom this endeavour would not have been attempted let alone achieved.

Rebekah L. Powell
Winnipeg, 1997

Table of Contents

Introduction

British society experienced a transition from a rural agricultural community to that of the industrial urban setting during the Victorian period. Not only were notions of time and space effected by this transition but the concept of leisure and its provision to the public underwent dramatic change. It was within this period that commercialised leisure industries emerged in response to the new urban constituency. However before leisure could become fully commercialised society had to determine who could produce such leisure and how it affected society's traditional sense of culture. An investigation of the rivalry between two such leisure industries, music hall and theatre, in Victorian England is not as narrow as it seems at first glance. It can be seen not only as a contest between the interests of music hall management and theatre management but as a reflection of the contemporary debates about the production and control of culture.

The 1866 Select Committee on Theatrical Licensing provides an excellent opportunity to study the cultural views of the theatre and music hall interests. It also provides insight into both official opinion regarding the production of culture and the rôle adopted by the state with regard to leisure. The 1860s represent an important decade in the Victorian period for it was during this time that parliament passed the 1867 Reform Act which greatly expanded democracy. Also important was the notion of free trade, which had gained strength from the 1840s onwards, and had become dominant. It was also a period of relative social calm and this, along with parliamentary reform, affected the way leisure was approached, especially the leisure of the working class. Previously working-class leisure was suspect. However as the

working class became less of a threat and more assimilated into the capitalist system, the debate turned from access to leisure to its provision.

Much historical research has been done on culture, specifically as it pertains to leisure during the Victorian period. Music hall and theatre development have attracted considerable attention.[1] While the works on music hall provide a useful reconnaissance of the operation, performers and audience of the halls, a similar exposition is lacking in the works on Victorian Theatre. These works concentrate on the plays and the players while failing to bring a historical and social context to the discussion of theatre.

While concentrating on theatre and music hall and subsequently culture, the influence of capital will not be neglected. While this was a cultural debate its participants were two groups of capitalists, the music-hall and theatre managers. The theatre managers, while preferring cultural rhetoric, were trying to protect their investments and at the same time the music hall managers were fighting for acceptance as both cultural providers and respectable capitalists. While the theatre managers dwelt on what was on the stage and who was in the audience, the music-hall managers pursued a different route (more sensitive to the social and political changes that had

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[1] Principal works in the field are, Bailey, Peter. Leisure & Class in Victorian England. Rational recreation and the contest for control. 1830-1885, London, New York: Methuen, 1978, 1987; Bailey, Peter, editor. Music Hall. The Business of Pleasure, Milton Keynes, Philadelphia: Open University Press, 1986; Bratton, J.S. editor, Music Hall. Performance & Style, Milton Keynes, Philadelphia: Open University Press, 1986; Booth, Michael R. Theatre in the Victorian Age, Cambridge: Cambridge University Press, 1991; Jackson, Russell, editor Victorian Theatre. The Theatre in its Time, New York: New Amsterdam, 1989 and Rowell, George. The Victorian Theatre. 1792-1914. A Survey, Cambridge: Cambridge University Press, 1978. I note the recent work of Dagmar Kift, The Victorian Music Hall. Culture, Class and Conflict, Cambridge: Cambridge University Press, 1996, which arrived too late to incorporate into the present work.

occurred in Victorian Britain) and were looking for the freedom to pursue their business. The rôle of the state with regard to leisure demands attention as it underwent a transition from suppression to provision. While the new leisure industries developed throughout the country it is the metropolis of London that provides the setting for our discussion. It is within the context of the large number of entertainment establishments competing for an audience that the debate over culture at theatres and music halls unfolds. This study will approach culture, capital and the state within the context of the debate over the production of culture as argued by the music hall and theatre interests before the Select Committee on Theatrical Licensing of 1866.

Chapter One

The importance and availability of leisure, accompanied by a change in its form and function within society, grew enormously during the Victorian period both for the working class and for the middle class. In this chapter the development of leisure from the turn of the century to the 1860s will be addressed, with particular attention paid to the development and position in society of two leisure institutions: the theatre and the music hall. J. Clark and C. Critcher describe leisure during this period as "the outcome of a continuous struggle between dominant and subordinate groups."[2] While the outcome of these struggles is pivotal to our discussion the `process' and `struggle' in the development will not be neglected.[3]

From the late 18th century to the mid 19th century England underwent significant changes which profoundly affected the pursuit and perception of leisure. The main causes of change were industrialisation, urbanisation, advances in technology, secular and religious reform, the rôle of the state, and commercialization. Central to the effect of these determinants on leisure and culture was the changing nature of time and space. As traditional notions of time and space were adapted and replaced to meet the needs of modernization, the rôle and locale of leisure activities were similarly affected; however this was not a homogenous process. Each class

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[2] J. Clark & C. Critcher, The Devil Makes Work: Leisure in Capitalist Britain, Urbana & Chicago: University of Illinois Press, 1985, p. 49.

[3] It is important not to "subordinate the process or struggle to the results of process and struggle." E. Yeo & S. Yeo, eds, Popular Culture and Class Conflict, 1590-1914. Explorations in the History of Labour and Leisure, Sussex: The Harvester Press; New Jersey: The Humanities Press, 1981, pp. 149-150.

adapted to the demands of modernity in its own distinctive fashion. For the upper class this was self determined, as they created their own sense of time for leisure. For the middle class, who experienced a transition in their definition of leisure from public to private, a growing concern with the leisure of the working class prompted attempts to impose their middle-class notion of time and space upon the workers. Finally, the working class, which was both resistant to much middle-class reform and active in appropriating leisure from the other classes in addition to creating its own leisure, was pressured by the economic and political changes within society over which it had little control. The constant negotiation within society and within each class over the definition and possession of time and space is important, as those who controlled these ideologies could ultimately define the new forms and functions of leisure.

Hugh Cunningham argues that a study of leisure, approached as "the history of lived experience," should consider the different leisure cultures in operation and their relation to one another.[4] His terms are useful to our present discussion (rather than the usual tripartite model defined along class lines) as they provide a framework in which to discuss culture in the Victorian period and the development of distinct leisure activities. Cunningham identifies six leisure cultures: that of the upper classes; urban middle-class culture; reformist culture; artisan culture; rural popular culture; and urban

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[4] Hugh Cunningham, `Leisure and Culture', in F.M.L. Thompson, ed, Cambridge Social History of Britain, 1750-1950, Cambridge: Cambridge University Press, 1990, v 2, pp. 279-362.

popular culture.[5] These leisure cultures did not operate in isolation but appropriated and incorporated aspects from each other and were affected directly by the determinants previously stated. By examining the history of these leisure cultures from the turn of the century, different elements can be identified which developed into the leisure experienced during the 1850s and 1860s by the classes of metropolitan London. Thus the period of study can be seen as both a result of the transition from rural to urban-centred leisure as well as the outcome of negotiations among different leisure cultures and classes resulting in the formation of new functions and forms of leisure.

I

During the 18th century the majority of the population lived and worked in rural areas and thus their participation in leisure activities was centred within rural culture and incorporated traditional pastimes. While Whitsun, Easter and Christmas provided the focus for community recreation, other festivities were celebrated at points between the end of one agricultural task and the commencement of another. For example, the end of the harvest provided an opportunity for the community to gather and celebrate together.[6]

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[5] *Ibid.*, p. 290.

[6] Robert W. Malcolmson, Popular Recreations in English Society, 1700-1850, Cambridge: Cambridge University Press, 1973, pp. 24-31.

Chapter One

The recreations available to rural communities were varied and diverse offering a chance for both direct participation and spectatorship, and encompassed either individual or communal involvement, often with a distinct flavour of violence and the carnivalesque (which can be characterised as a licence to do all and an excess in all things, including rôle reversal, violence and sexual freedom.). Pugilistic pastimes such as cudgelling, backsword and singlestick allowed individuals to exhibit their skills before the community as a whole.[7] Other activities saw animals as the central participants for the pleasure of the spectators and the profits of those betting on the outcome. These sports included bull baiting, throwing at cocks, cockfighting, the `welshmain', dog fighting, bull running and horse racing.[8] The local pub provided both a locale and an opportunity for leisure which was important within the rural community. While its main concern was the sale of alcohol, community meetings, games and activities also took place within its boundaries. Furthermore, games such as football allowed challenges between towns and were often played on the commons or the streets.[9]

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[7] Malcolmson, *op.cit.*, pp. 42-43. Cudgelling, backsword and singlestick involved two participants fighting with staffs or sticks, the goal being `to break a head', *ie* drawing the blood of one's opponent. *Ibid.*, p. 43.

[8] Throwing at cocks was particularly linked with Shrove Tuesday and involved missiles being thrown at a cock. Cockfighting provided ample opportunity for gambling with the `welshmain' being a large cockfight where a solitary cock would survive. Bull baiting offered spectatorship while bull running required participation, usually by young men of the community, in chasing through the streets and finally brigging the bull, *ie* throwing the bull off a bridge into the river. Malcolmson, *op.cit.*, pp. 46-51.

[9] This pastime was also linked with Shrove Tuesday. Malcolmson, *op.cit.*, p. 36. See also Brian Harrison, Drink and the Victorians, London: Faber & Faber, 1971.

Events such as wakes and fairs also involved the entire community in celebration. While fairs varied in nature, being either oriented toward trade (such as hiring fairs) or predominantly for pleasure, these gatherings, known for their violent and excessive nature, allowed a relaxation of social rules and were enjoyed for a limited duration by both young and old, male and female. It was also within the context of the fair that commercialised leisure can be identified in the form of itinerant performers, showmen and other travelling entertainments. Most of the larger community festivals required the financial support and social sanction of the local gentry, whose pastimes were linked to popular recreation and who frequently enjoyed gambling at animal sporting events. They were traditionally `obliged' to provide financial support for or goods to be used at the various festivals, and as Malcolmson argues, understood the value of `bread and circuses'.[10]

Thus rural recreations, dominated by the carnivalesque, followed the agricultural cycle and provided a variety of diversions for the rural community within a traditional sense of communal space, whether in a specific locale for a cockfight or in the customary access to the commons and the streets for football matches and bull running. Mostly self-generated, they were informed by rural society's sense of work and time. Since most work, whether agricultural or industrial, was task-oriented the

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[10] *Ibid.*, p. 71.

sense of time was markedly different during this period than later in the 19th century and within these communities "social intercourse and labour are intermingled."[11]

England's rapid industrialisation had a significant impact on the notion of work and leisure. In Cunningham's terms most workers participated in rural popular culture or artisan culture, while the gentry participated in the culture of the leisured classes. As Britain became more industrialised workers were less tuned to the rhythms of work and play of the agricultural year and these aspects of life came to be determined by the factory and its sense of time.[12] Notions of time, productivity and profit became more important and accepted by manufacturers, and work became more wage oriented rather than traditionally task oriented which in turn affected workers' sense of leisure time. "Time is now currency: it is not passed but spent."[13].

While workers did not acquiesce quietly to the demands of factory owners and the new industrialism, as can be seen in the continued observance of Saint Monday in certain trades and in some industrial centres, the threat of unemployment eventually became a much used and successful way of ensuring their acceptance of the new time discipline.[14] Time discipline was achieved within the industrial workplace by new forms of management, adherence to strict time guidelines and financial persuasion.

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[11] E. P. Thompson, `Time, Work-Discipline, and Industrial Capitalism', *Past and Present*, 38, 1967, p.42.

[12] Malcolmson, *op.cit.*, p. 117.

[13] Thompson, *op.cit.*, p. 43.

[14] *Ibid.*, p. 51, Cunningham, *op.cit.*, 1990 pp. 281-283.

Within society this adoption of the new sense of time was achieved by the increased opportunities for schooling and by teaching from the pulpit; however it must be emphasized that the new labour traits affected popular culture more directly than any of the contemporary middle-class reformers who were concerned with the leisure time of the urban worker.[15] The artisan community did manage to maintain its own sense of time and space since their skills were not easily mechanized and were therefore retained as a valuable commodity. In Cunningham's terms, they participated in artisan leisure culture, an exclusive male dominated culture that also operated within a collective ideology which protected the work and leisure of the artisan.[16] Other workers, not part of a skilled trade community, were less successful in resisting the new definitions of work, time and leisure, and, similar to changes in the industrial sector, a new time discipline was introduced in the countryside with the transformation of the small land holder to a wage-labourer.[17]

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[15] Thompson, *op.cit.*, p. 64

[16] Cunningham, *op.cit.*, 1990, pp. 301-302.

[17] In the early decades of the 19th century new time saving devices such as threshing machines were attacked and some were even destroyed by workers, known as the `Machine Breakers', since these diminished the availability of winter work and threatened their survival. E. J. Hobsbawm, Industry and Empire. An Economic History of Britain since 1750, London: Weidenfeld and Nicholson, 1968, p. 83. Both the industrial and agricultural workers' attachment to the old sense of time and working relationships was challenged not only by employers but also by the state. An example of the coercion used to force the workers to accept the new sense of time can be seen with the introduction of the Master and Servant Code in 1823 which punished the worker directly with the threat of imprisonment for failing to honour a contract. *Ibid.*, p. 99. Such cases were held before a solitary justice, often in his own home, and against whom there was no appeal. This system was not changed until the passage of an act in 1867 that required the cases to be heard in a public court before a bench of justices where fines rather than imprisonments became the norm. Sir Llewellyn Woodward, The Age of Reform, 1815-1870, Oxford: Oxford University Press, 2nd edition, 1962, pp. 614-615.

As Britain industrialised, it also experienced increased urbanisation which affected traditional popular culture and also required new forms of leisure that were less communal in nature which could be sought within the confines of new urban centres. In the eighteenth century Britain, compared with Europe and the Americas, was already well advanced in terms of industrialisation and urban growth. Throughout the country, towns and urban centres grew at a rapid rate, with a large proportion of the population living in or in close proximity to towns. By 1800, London already had a population of 1,000,000. No other European country had an urban centre of similar size and by 1861, London's population had grown to 3,227,000.[18] Also by the 1850s, the population of towns was greater than the population in the countryside, with over thirty percent of Britons living in centres larger than 50,000.[19] With the predominance of industrial time discipline and the geographical and social separation from agricultural life, urbanised workers were less in tune with traditional pastimes, and the occurrence of rural fairs and other festivities consequently diminished.[20]

New or modified forms of leisure were required by the urban constituency and much of these can be placed within Cunningham's category of urban popular culture, distinctive in its diversity and dynamic nature. The traditional locale of the commons or streets as the centre of leisure was replaced by the environs of the pub as centre for

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[18] This figure refers to the Greater London area. B.R. Mitchell, Abstract of British Historical Statistics, Cambridge: Cambridge University Press, 1971, p. 19.

[19] Hobsbawm, *op.cit.*, p. 67.

[20] Malcolmson, *op.cit.*, pp. 151-152.

urban amusement. While the ale house was of importance in rural areas as a place of public gathering, it was of increased significance within the sprawling urban landscape as other settings such as the commons had long since disappeared through Enclosure Acts. In addition, after the passing of the Beer House Act of 1830 any person who contributed to the poor rates was permitted to sell beer from his household upon having paid a certain duty to the Excise.[21] Although the sale of beer did not have to be a large commercialised interest, it was the larger public houses which developed different leisure activities including the architecturally distinct music hall that is central to our discussion.

Cunningham suggests three interdependent yet distinctive approaches to urban popular culture. The first focuses on leisure activities provided for a fee where participants acted as recipients of culture as spectators, audience or readers.[22] The second approach refers to `self-generating' culture in which the participants were the definers and suppliers of the leisure activity, (such as that found in musical bands, choral recitals and the cultivation of allotments). The public house played a key rôle in this `self-generating' culture by providing a site for community activities such as

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[21] John Lowerson & John Myerscough, Time to Spare in Victorian England, Sussex: The Harvester Press, 1977, pp. 62-63. See also Hugh Cunningham, Leisure in the Industrial Revolution, c.1780 - c.1880, New York: St. Martin's Press, 1980, pp. 85-86.

[22] Cunningham, *op.cit.*, 1990, p. 305. The habit of attending and often paying for entertainment and leisure at theatres, pleasure gardens, sporting events, circus and pantomime had been established by the late 18th and early 19th century. *Ibid.*, 1990, p. 310. Spectatorship at a variety of sporting events such as cricket and boxing was well established by mid century. Cunningham, *op.cit.*, 1980, p. 113. See also Keith A. P. Sandiford, Cricket and the Victorians, Aldershot: Scolar Press, 1994.

team competitions where persons were not merely spectators but performers, competitors and participants. The third approach focuses on the notion of neighbourhood. Its locale was the home and the street, and its main participants were women whose sense of time and space for leisure was influenced by the domestic sphere.[23] While these approaches articulate different forms of culture, it is important to note that all were components of urban popular culture and that they did not exist in isolation from each other. For example, the pub operated in both the first and second forms. As a commercial enterprise it offered alcohol for sale - a popular leisure expenditure - and at the same time the pub provided a space for the meetings of community groups, sporting events and competitions which were important aspects of Cunningham's `self-generating' culture.[24]

Developments in technology during this period produced both direct and indirect effects on leisure. One of the most important developments was the railway. Britain experienced a boom in the building of railways from the 1830s onwards that had, by the 1850s, established an elementary railway network.[25] The building of railways engendered economic growth and increased the demand for materials and services connected with the railways; more importantly decreased travel time between

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[23] Cunningham, *op.cit.*, 1990, pp. 305-306.

[24] *Ibid.*, pp. 306, 315-316.

[25] Hobsbawm, *op.cit.*, p 89.

centres provided closer connections between cities and cheaper transportation for passengers.[26]

Cheaper and more accessible rail travel would have an enormous impact on leisure with the development of the excursion business. By mid-century the day-trip or excursion was a popular leisure activity for some of London's urban workers. While a number of excursion organisers, such as the leader Thomas Cook, began their careers within a middle-class reform ideology they soon saw the potential for commercial success in providing workers with cheap outings and the excursion business grew rapidly with an expansion of destinations.[27] Relatively cheap railway access to coastal towns was particularly favoured by Britons seeking leisure at the sea-side, especially the working class, whose previous access to the sea-side was restricted by the distance that they could walk or travel by cart for a day's outing. While the middle and upper classes enjoyed transport by coach to both the coastal and inland resort towns, it was not until the introduction of the railway and cheap third class tickets that this form of leisure became an option for the urban working class.[28] While not developed in full

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[26] *Ibid.*, p 93.

[27] Peter Bailey, Leisure and Class in Victorian England. Rational Recreation and the Contest for Control, 1830-1885, London: Methuen, 1978,1987, pp.73-74. One interesting aspect of the expanding excursion business was the development of excursions offered by the railways to London and other urban centres to view public executions. Executions remained a popular entertainment throughout the mid 19th century with those in London often commanding an audience of over 50, 000. James Walvin, English Urban Life, 1776-1851, London: Hutchinson, 1984, p.144.

[28] This option became more accessible with the Railway Act of 1844 which bound the railways to provide adequate accommodation for the working class. James Walvin, Beside the Seaside, A Social History of the Popular Seaside Holiday, London: Allen Lane, 1978, p. 37. See also John K. Walton, The English Seaside Resort: A Social History 1750 - 1914, New York: St. Martin's Press, 1983.

during the period under discussion, the sea-side holiday figures heavily in the leisure options for the urban worker and his or her family by the 1880s.[29]

A general trend of celebrating technology, in conjunction with the railway era, can be seen throughout the period as innovations were introduced to the manufacturing sector which increased productivity. These new machines and technologies were displayed at international exhibitions, the first of which was held at the Crystal Palace in 1851 and called the `Great Exhibition of the Works of Industry of All Nations'. The ideology behind their display was "that all human life and cultural endeavour could be fully represented by exhibiting manufactured articles."[30] The intended audience at the Crystal Palace was middle class though the organising commission endeavoured to attract the working class on special "Shilling Days". Admission was reduced to one fifth of the regular price and these cheap days gained some popularity within the working class.[31] The combination of Shilling Days and cheap railway travel provided the excursion industry with a morally acceptable and financially profitable destination for the working class. The Great Exhibition attracted approximately 775,000 from the north of England who came to London in 1851 reflecting the popularity of the

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[29] Resort towns such as Eastbourne, Brighton and Margate, originally catering to the upper classes, were now opened to day-trippers, the week long seaside holiday maker, and the middle class family who would stay for the entire season. Walvin, *op.cit.*, 1978, pp. 25-28. See also John Lowerson & John Myerscough, *op.cit.*, pp. 29-32.

[30] Thomas Richards, The Commodity Culture of Victorian England. Advertising and Spectacle, 1851-1914, Stanford, California: Stanford University Press, 1990, p. 17.

[31] *Ibid.*, pp. 36-37.

emerging excursion trade. [32] This mixture of technology, culture and class created the illusion of equality as items were displayed without price tags and therefore seemed attainable by all who came to see. Another intriguing result of this mixture, as noted by Richards, was that "[i]n the Crystal Palace the working class no longer looked like the indigenous ally of the class that had rocked Europe in 1848. It was now just another segment of the market, it had become a customer," if only in spirit.[33]

What was central to the success of the exhibition was its sense of spectacle. Spectacle was not new to the Victorian public nor to its predecessors, what had changed was its meaning and form. Previously, spectacle had been the domain of the European monarchs, a tool to expose and solidify their power. In the post revolution era spectacle's function was adapted to suit contemporary society's needs rather than the needs of the monarchy. As Richards has argued "... the need for legitimating the new bourgeois order remained, and the class that came to dominate the nineteenth century found it was better to update the old forms of spectacle than do away with them altogether or invent new ones."[34] As we shall see from the evidence reviewed in chapter three, spectacle on the Victorian stage was popular from the 1820s onwards and the public had become familiar with this method of grand exhibition of technology.

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[32] Walvin, *op.cit.*, 1978, p. 39.

[33] Richards, *op.cit.*,p. 37.

[34] Richards, *op.cit.*, p. 54.

London was to host other exhibitions such as the International Exhibition of 1862 and this form of culture remained popular into the 20th century.[35]

Technological improvements within the publishing and printing industries provided for a cheaper press and greater access to the written word. Most newspapers had remained solely the domain of the middle and upper classes as a result of the newspaper stamp duty, the advertisement duty and the introduction of the paper duty in 1836 which made them unaffordable to the majority of the working class, who had to rely upon the broadsheets and broadsides for political and cultural commentary.[36] "[T]he broadsides provided a link with the past, with a folk culture that was rapidly dissolving between the city and the country."[37] Yet while broadsides were based loosely on traditional oral culture, Britain was an advanced literate society and it was through the medium of written text that culture was created, maintained and disseminated.[38] The removal of the tax on advertising in 1853 and the subsequent

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[35] Paul A. Tenkotte, `Kaleidoscopes of the World: international exhibitions and the concept of culture-place, 1851-1915', *American Studies*, University of Kansas, Spring 1987, 28:1, pp. 6-7.

[36] Charles Elkins, `The Voice of the Poor: The Broadside as a Medium of Popular Culture and Dissent in Victorian England.' *Journal of Popular Culture*, 14:2, Fall 1980, pp. 263-264. A Broadside consisted of a piece of paper, printed on one side that was unfolded. The broadsheet was similar but with printing on both sides. *Ibid.*, p. 263.

[37] *Ibid.*, p. 273.

[38] Cunningham, *op.cit.*, 1990, p. 308. See also Elkins, *op.cit.*, pp. 263-264. In the 1841 census 67% of men and 51% of women are listed as literate. Sally Mitchell, Daily Life in Victorian Britain, Connecticut; London: Greenwood Press, 1996, p. 166. While elementary education was not compulsory until 1880 and free after 1891, education was available to the working class at a variety of schools run by reform, religious and charitable organisations for a nominal fee. *Ibid.*, pp. 165-173. See also Chris Cook & Brendan Keith, British Historical Facts, 1830-1900, London: Macmillan Press, 1975, pp. 188-197.

removal of duties on newspapers in 1855 and on paper in 1861 greatly increased both access and competition for audience attention and patronage.[39] By the 1860s broadsides were gradually replaced by the penny dailies, the now inexpensive national as well as the popular Sunday papers.[40] The cheap press, whether broadside or newspaper, provided participants of culture with more choices and information about the emerging commercialized leisure enterprises.[41]

II

During this era of technological advance and industrialisation, different forces within society agitated for reform, both political and social, to address the needs of modernity. Leisure did not escape the investigation, criticism and adaptation of the Victorian period. During the 19th century the reformation of leisure, much like the remaking of work, manifested itself both along and across class lines. The middle class often appeared as the central agents in the desire for leisure reform mainly as they created changes within their own class as well as imposing reforms on others. While

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[39] Bailey, *op.cit.*, 1987, p. 71.

[40] Elkins, *op.cit.*, p.264. During the period 1815-1836 the stamp duty and advertisement duty were 4*d* and 3*s*. 6*d*. respectively. The duties were reduced after 1836 however it was not until their abandonment in the 1850s that a real price decrease was realised. The case of *The Times* and *The Guardian* illustrate this price decrease. In 1821 *The Times* and *Guardian* both sold at a price of 7*d*, by 1861 their price had dropped to 3*d* and 1*d* respectively. Cook & Keith, *op.cit.*, pp. 214-215.

[41] Bailey, *op.cit.*, 1987, p. 71.

the middle class did hold centre stage it is important to note that there was a minority within the working class that sought leisure reform of its own volition as well as a strong contingent of the working class resistant to change from above or within.

During the 18th century the urban and provincial middle class sought to distinguish themselves from the workers by emulating the interests of the gentry. They encouraged and established provincial and urban cultural institutions and participated within a male dominated and intellectually centred culture, (in Cunningham's terms within urban middle-class culture). By the early 19th century previously public amusements had been privatized. Many of the zoological and botanical gardens as well as museums and galleries were now private businesses with admission restricted to those who could afford an annual subscription, consequently excluding the working class.[42] Thus at the turn of the century the middle class had faced a redefinition of its culture in accordance with its redefinition of its place in society as the new industrial capitalist.

Within this new approach to leisure two central themes can be identified: an evaluation of individual activities and a move from public to domestic pleasure. Activities were scrutinized to determine whether they were acceptable to religious standards or were morally suspect. An acceptable purpose was the guiding ideology that informed whether outings to the theatre, parlour games, sports or even the reading of fiction were appropriate pursuits for the middle class. The participation in cultural

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[42] Cunningham, *op.cit.*, 1980, p. 83.

events valued in the 18th century faded and was replaced by an elevation of the home as sanctuary from the masses and the proper place for the enjoyment of leisure.[43] As Cunningham argues, the middle class "now took its pleasures more seriously, and took fewer of them."[44] It was within this ideology of purpose that the middle class began to look at leisure as re-forming and re-creating a person for work rather than as simply for entertainment, and that this newly defined recreation need only be pursued by those in need of such re-creating: men.[45] The desired result of this ideology is espoused in the comments of contemporary writer, W. Lucas Collins:

> What is wanted in our busy life is some means of honest and hearty recreation for mind and body which shall unbend the strained faculties from time to time, and send the toiler back to his duties a healthier and happier man.[46]

By mid century, as the middle class found increased time and attraction for leisure, they appropriated forms of recreation from popular culture, since their own history had few recreational traditions. Previously, "in a work-oriented value system leisure represented the irresponsible preoccupations of a parasitic ruling class or the reckless carousing of an irrational working class."[47] One such appropriated form -

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[43] Cunningham, *op.cit.*, 1990 pp. 295-296.

[44] *Ibid.*, p. 296.

[45] Peter Bailey, `"A Mingled Mass of Perfectly Legitimate Pleasures.": The Victorian Middle Class and the Problem of Leisure.' *Victorian Studies*, 21[1977], p. 20.

[46] W. Lucas Collins, `Our Amusements', *Blackwoods Magazine*, London: William Blackwood & Sons, Edinburgh, 100[1866] December, pp. 698-699.

[47] Bailey, *op.cit.*, 1987, pp. 75-76.

physical activity - previously dismissed for its animality, mindless aspects and popularity within the working class, was transformed by the middle class into acceptable participation at sporting events and the newly praised athleticism.[48] The attraction and attachment to sport in the young middle-class male was fostered at public school. Games enjoyed a strong tradition at the older aristocratic public schools and their importance was maintained at the newly formed middle-class public schools such as Cheltenham, Marlborough, Rossall and Radley of the 1840s.[49] Here sports were seen as a "...means of asserting control and moulding character, while at the same time allowing boys some measure of self-government."[50] The connection to sports did not end at public school but was ongoing as in many ways sport had "become an analogy for middle-class male life: a competitive struggle within agreed parameters."[51] This new commitment to sport was supported by leaders such as Charles Kingsley whose "muscular christianity" removed the image of the body as sinful and replaced it with the ideology of the physically fit man as evidence of a devotion to God and country.[52]

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[48] Cunningham, *op.cit.*, 1990, pp. 296-297.

[49] Cunningham, *op.cit.*, 1980, pp. 111-116. For a comprehensive study of athleticism in Victorian public schools see also J.A. Mangan, Athleticism in the Victorian & Edwardian Public School, Cambridge: Cambridge University Press, 1981.

[50] Cunningham *op.cit.*, 1980 p. 115. It also allowed them to acquire the newly created middle class values characteristic of the well made member of society: "combative, manly, Christian and patriotic." *Ibid.*, p. 116.

[51] Cunningham, *op.cit.*, 1990, p. 297.

[52] Bailey, *op.cit.*, 1987, pp. 83-84.

The middle class, in defining appropriate leisure activities, was concerned that recreation should not merely amuse (which was in itself suspect) but also instruct. Within society as a whole this trend can be identified in such events as the Great Exhibitions which, while providing a destination for excursionists, also informed them about the advancements of English society and its neighbours.[53] In both public and private leisure the middle class sought more purposeful and informative pastimes.[54] As Bailey notes, "Unwilling or unable to deny the claims and attractions of leisure, yet anxious to maintain a sturdy and coherent code of values amid rapid innovation and social change, the Victorian middle classes sought a rationale which would relieve them of the need to apologise for their pleasures, yet still keep them within the bounds of moral fitness."[55]

As the middle class became aware of its own need for leisure and the selection of appropriate activities, a small component turned its focus on the leisure chosen by others, namely the working class. Middle-class reformers' attention to working-class leisure manifested itself in a variety of forms - religious, secular, educational and philanthropic - but at its centre was the re-creation for work ideology. Legislative reform was an important tool used to change the leisure of the working class, as can be seen in the attack on popular animal sports. This important rôle of the state will be

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[53] *Ibid.*, p. 87.

[54] *Ibid.*, p. 83. "...the new family games on the market took care to combine `innocent' amusement with instruction.". *Ibid.*, p. 83.

[55] *Ibid.*, p. 77

considered later. However, to best understand the middle-class strategy with regard to leisure it is necessary to look at the broader political picture and society's transition from the early Victorian period to the mid-Victorian years.

The early Victorian era, in the perception of the ruling classes, can be characterized as a potentially volatile period in British history. It was an era of agitation for political reform epitomized by the Chartist movement and the passing of the Reform Acts. For the ruling classes, the French revolution occupied recent memory and revolution on English soil seemed likely and thus they regarded all the activities of the masses with fear and suspicion. The right of workers to assemble for the purpose of demonstration was restricted with the introduction of the Six Acts following the Peterloo Massacre of 1819.[56] Alarm at any large assembly of working people extended to leisure and community events. It is within the context of suspicion of revolution that reformers acted on their critique of working class leisure with a strategy of mainly suppression during the early Victorian era.

Fear of a bourgeois revolution against the establishment diminished after the 1832 Reform Act which solidified the middle class's position in society as part of the establishment. The middle class no longer needed nor desired the allegiance of the working class and thus the threat of their revolt subsided. Agitation by the working class did not diminish however during the 1830s and 1840s but grew as it began to

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[56] Philip Corrigan & Derek Sayer, The Great Arch. English State Formation as Cultural Revolution, Oxford: Basil Blackwell, 1985, p. 115. For a more complete description of the acts see also Woodward, *op.cit.*, pp. 62-66.

suspect a betrayal by the middle class who was satisfied with its own achievement of joining the establishment. Along with the middle-class Radicals, the working class found a voice for its frustration in the Chartist movement and its People's Charter. While Chartism's ideology was parliamentary reform and its key issue was universal suffrage (for men) it was not adverse to turning to arms as a last resort and its rhetoric was aggressive and often violent in tone. The Government responded to this potential violence often with great force as can be seen in the number of regulatory force present during the third petition rally of 1848.[57] The malaise felt towards the Chartists and the working class did not subside until after 1848 with the failure of the third Chartist petition as England experienced growing prosperity and political agitation began to diminish. During the mid Victorian years, (Age of Equipoise?) once the fear of revolution had subsided, the more prominent strategy for leisure was alternative provision rather than suppression and its key element was that of `rational recreation'. This term was used to describe an ideology of leisure that placed the recreation for work ideology within an economical and moral form while avoiding the licentiousness of the carnivalesque and other aspects of popular culture.

The lifestyle of the working class was evaluated by the reformers for its ability to provide healthy recreation and was found sadly lacking. Sabbatarians sought the

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[57] To control the rally on Kennington Common on April 10th the government provided: 150, 000 special constables, 8,000 military personnel, 1,500 Chelsea Pensioners, 12 cannons as well as the regular police force, marines, sailors and certain civil servants who were armed. Eric Hopkins, A Social History of the English Working Classes, 1815-1945, London: Hodder & Stoughton, 1979, p. 44-46, 49-50.

suppression of leisure on the Sabbath and were successful in London with the cancellation of park band concerts on Sundays as well as the prevention of Sunday openings of art galleries.[58] The key institution that the reformers opposed was the centrality of the pub in urban working-class life. Their opposition was two fold: first, that it divided the family, with the men socialising at the pub when the home should have been of central importance; second, as the pub's main fare was alcohol which, led to drunkenness, it neither produced a refreshed worker for the continuation of labour nor did it encourage fiscal restraint. It was this hatred of the pub that fuelled the Temperance movement.

This opposition to the pub was carried through to the mid Victorian period when reformers turned to the strategy of alternative provision and emphasized the need for `rational recreation'. The founding of the Young Men's Christian Association in 1844, for example, enabled reformers to offer an alternative to working-class leisure, stressing the need for devout religiousness: "Amusements are not necessary to your happiness, religion is". However, by the 1860s, recreation was available in small amounts.[59] The Temperance Movement formed by the evangelicals, which gained popularity from the 1830s, offered alternative amusement such as excursions, the first of which was organised by Thomas Cook in 1841 as an alternative to the suspect

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[58] Bailey, *op.cit.*, 1987, p. 93. Sunday opening at art galleries was not permitted until after 1896. *Ibid.*, p. 93.

[59] *Ibid.*, p. 104.

attractions of race week in Leicester.[60] The National Association for the Promotion of Social Sciences was an important institution through which middle-class reformers sought to redirect leisure activity towards morality and social improvement.[61]

In an era of free trade and individuality the middle class could not deny the right of free will and consequently the right to choose one's own leisure. "Nevertheless, it was as yet only the middle class who in the nature of things could be expected to apply the appropriate moral calculus to their pleasures."[62] Both in their approach to their own leisure and in their review of that of the working class, the middle class favoured strategies of critique and suppression as well as reconstruction and counter-attraction. It is important to note that not all members of the middle class supported the efforts of the reformers. The middle class as a whole sought to retain its distinctiveness from the workers and therefore did not see the reduction of barriers to culture or the intermingling of the classes in the pursuit of leisure as a beneficial result, "at a time when the middle class were acutely concerned to reinforce, not reduce, social distance."[63]

Within the working class, there was a minority that sought leisure reform of its own volition. Richard Hoggart speaks of this section of the working class as: "...the

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[60] *Ibid.*, p. 59.

[61] *Ibid.*, pp. 102-104.

[62] *Ibid.*, p. 105.

[63] *Ibid.*, p. 115.

purposive, the political, the pious, and the self-improving minorities in the working classes."[64] In Cunningham's terms these workers participated in reformist leisure culture which can be distinguished as either secular or religious, and which was intent on reform and recruitment into this lifestyle; however, unlike middle-class reform which was imposed from above, it was to take shape within the working class as a living example. "The recommended corrective was that of rational recreation, both to continue the political and educational improvement of the class, and through public good manners, to oblige the other classes to respect the working man."[65] While the two forms of reformist leisure culture might, at first glance, have different and possibly conflicting purposes, they shared a common foe: the pub and the fraternity it offered to its patrons.[66] Secular reformers, while focussing on the `rational' and thus distinguishing themselves from the sentiment of evangelicals, offered the workers self-improvement. Leisure was offered at the mutual benefit society and club meetings either for educational or social improvements or in support of a specific purpose (at a later date it began to offer recreational activities such as cycling, hiking, *etc...)* however its central purpose was: "its belief in education through mutual association." Religious reform, which developed from the evangelical movement, attempted to

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[64] Richard Hoggart, The Uses of Literacy, Harmondsworth, 1958, p. 11 as cited in Cunningham, *op.cit.*, 1990, p. 299.

[65] Bailey, *op.cit.*, 1987, p. 102.

[66] Cunningham, *op.cit.*, 1990, pp. 299-301.

diminish the attraction of the pub. Its central characteristic was its participation in the Temperance Movement and later the development of the more extreme teetotalism. The Salvation Army, established at the end of the 19th century, can trace its roots to this religious reformist culture and is an example of the views and values held by its members. As a leisure culture predominantly working class and interested in improvement through mutual association there are commonalities between Cunningham's artisan and reformist categories. Yet unlike the reformists, artisan leisure culture neither actively sought a wider membership nor retreated from the fraternity of the pub.[67]

Working-class leisure was under attack from above and within yet it managed to develop its own programme and structure. One successful strategy used by the working class when confronted with reform was appropriation, the acceptance of outside notions of leisure adapted to work within the *mentalité* of the working class. Gareth Stedman Jones addresses this method of appropriation in his discussion of the attempt by the middle class to civilize the working class by controlling their physical environment and providing them with an example of good lifestyles. Respectability was a central idea that the middle class was eager to impress upon the workers. A superficial symbol of respectability was the Sunday suit, used by the middle class to identify their sense of propriety and godliness in its display at church or chapel on the Sabbath, where the value of the suit was disseminated to others. The working class,

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[67] *Ibid.*, pp. 301-302.

never a cultural sponge but rather a cultural sieve, accepted the symbolic Sunday suit as representative of pride in one-self and respectability but rather than possessing a religious or pious overtone its wearer did not promenade to church or chapel but rather to the pub or to the races. Thus the working class had accepted an ideal from above - middle-class respectability as evidenced by the suit - but on its own terms and adapted in meaning to comply with its own class nature and not the nature of the middle class.[68]

The working class appropriated cultural symbols not only from the middle class but also from the gentry, a fact that disturbed the middle class as it blurred the boundaries between middle and working class. While gaining popularity later in the period, the *swell* of the music hall stage is an important case in point of this type of appropriation. George Leybourne as *Champagne Charlie*, popular in the late 1860s and 1870s, represents the archetypical *swell* that gained the admiration of the workers and the condemnation of the middle class. In attitude, attire and actions he reflected the gentrified life where leisure and consumption were valued more than work and production. He was a folk hero of excess and the carnivalesque, representing the `good life' and its attainability by the working class. His trade marks were the dress suit, cane and constant consumption of champagne.[69] In the 1860s tariffs on

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[68] Gareth Stedman Jones, `Working-class culture and working class politics in London, 1870-1900: notes on the remaking of a working class.' *Journal of Social History*, vii[1974], pp. 473-477.

[69] Peter Bailey, `Champagne Charlie: Performance and Ideology in the Music Hall Swell Song.' in J. S. Bratton, ed. Music Hall: Performance and Style, Milton Keynes, Philadelphia: Open University Press, 1986, pp. 49-52,59-66. The cane is an interesting collage of symbols. It represents authority and is similar to the riding crop, a mark of the officer class. It also represents an appropriation of the middle-class umbrella and its symbolism of preparedness and respectability. As prop its versatility

champagne were removed and its price decreased bringing it within the budget of the middle class. While champagne was served in music halls its cost was still prohibitive to working class consumption. However, it was available at least in ideology if not reality, and this was of concern to the middle class as another example of weakening the boundaries between the middle and lower classes.[70]

In conjunction with appropriating symbols and ideas from the middle class, the working class also used certain institutions of rational recreation for their own purposes. The Volunteer Force, for example, founded by the middle class with mainly middle-class patronage, attracted a growing number of the working class, and by the 1870s the organization was predominantly working class. The participation of workers in a patriotic middle-class based recreation might on the surface seem a success for middle-class reformers. On closer investigation the main attraction of the Force for the workers was the associations and activities it offered rather than the patriotic ideology that had been its *raison d'être*.[71] Organisations such as the Temperance movement and Sunday schools offered day-trips and other recreational activities for the workers. While these organisations did attract a sincere following, many of the working class saw these opportunities as primarily a time for leisure, a change of rôle and venue, and

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is virtually limitless, a multi-meaning instrument that functioned as the extension of the performers' body and gesture.

[70] *Ibid.*, pp. 58-60.

[71] Bailey, *op.cit.*, 1987, p.96 The Working Men's Club is a similar example which became independent of middle-class patronage and direction in the early 1880s. Cunningham, *op.cit.*, 1980, p. 126.

thus took advantage of the recreation available within the programme of `counter-attraction' ideology devised and directed by the middle class.

III

The 19th century is marked for its *laissez-faire* style of government yet at the same time the state was active in the repression, control and provision of leisure. During this era the bureaucracy of government was expanded along with the formation of an all encompassing state architecture. It was an era of free trade and competition, however by the 1860s the state was increasingly involved in the regulation of leisure. This seeming contradiction can be understood if one acknowledges, as Corrigan and Sayer argue, that "state intervention, [...], enabled, accomplished, stabilized, regulated into dominance that market on which *laissez-faire* theory depends."[72] It is also important to emphasize that as the middle class benefitted from their increased representation in Parliament, after the Reform Act of 1832, their views came to dominate and therefore the state's attitude to leisure reflected the changing attitude of the middle class with regard to the access and provision of leisure. This is even more evident by the 1860s on the eve of the 1867 Reform Act which extended the franchise and firmly entrenched democracy. By 1867, the working class were no longer to be

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[72] Corrigan & Sayer, *op.cit.*, p. 118.

feared but were considered to be a vital part of society that simply needed improvement and it was the state's function to facilitate such change.[73]

An analysis of the result of several pieces of legislation can reveal how the rôle and ideology of the government, with regards to popular leisure, changed from the turn of the century to the 1860s. Society's unease during the early Victorian period was reflected in the rôle assumed by the state with regard to leisure. The state acted as suppressor through a variety of legislation that attacked popular recreation and traditional pastimes. In 1835 two acts were passed that directly affected popular leisure. The first, the Highways Act, was intended to clear the streets of `nuisances'. Many forms of popular recreation fell into this category, for example the playing of football or other games and the performance of itinerant players.[74] The second, The Cruelty to Animals Act, attacked animal sports and while it was carefully worded so as to exclude the sporting pastimes of the gentry it specifically outlawed cock fights, bear baiting and other animal sports of popular culture.[75] Other legislation indirectly affected leisure such as the state's programme of land enclosures. "Enclosures meant

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[73] The reform bill was initially introduced in March of 1831 and was passed by the commons. It was not until June of 1832, in its third draft, that it passed the House of Lords after numerous concessions and regal pressure had been achieved. It became law in 1832 extending the franchise and providing a redistribution of seats. The 1832 Reform bill led to an increase in the electorate from 435,000 to 652,000 in England and Wales, with an additional 400,000 by 1867 as a result of population growth and an increase in wealth. Woodward, *op.cit.*, pp. 80-88. While the 1832 Reform Act provided for a 49% increase in the electorate, the franchise was still restricted to just under 10% of the male population as a whole in England and Wales. Scotland and Ireland experienced similar increases in the electorate.

[74] Malcolmson, *op.cit.*, pp. 140-141.

[75] *Ibid.*, pp. 123-126.

the re-arrangement of formerly common or open fields into self-contained private land-units, or the division of formerly common but uncultivated land, [...], into private property."[76] The Enclosure Acts had a significant impact on traditional recreation as the removal of access to common lands not only affected the ability of the agricultural worker to maintain a subsistence level of living but also removed the traditional playing ground for community games and activities. The Footpaths Act of 1815 allowed landowners to deny access to paths that crossed their property, thus further disconnecting the workers from traditional forms of recreation.[77]

At the same time as popular recreation was under attack it was also under surveillance. The 1829 and 1839 Metropolitan Police Acts established a regulatory force in the form of police to survey society and especially supervise the behaviour of the working classes which was seen as threatening during the Chartist era. While the full effect of these acts, *i.e.* a regular police force, was not realised until the mid 19th century it is of note that the ideology behind them was entrenched by the 1830s.[78] The police represent a significant addition to the existing officers of the state. The monarch, parliament and legislative ideals remained distant entities for the majority of

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[76] Hobsbawm, *op.cit.*, p.80.

[77] Cunningham, *op.cit.*, 1980, p. 81.

[78] Other acts included the Municipal Corporations Act of 1835 and County Police Act of 1839. Clark & Critcher, *op.cit.*, pp. 65-66.

the population, for them, the state was represented by the magistrates and the activities of its officers, the police.

Until the 1830s, the state's rôle had been one of direct or indirect suppression of popular leisure. In rural areas, legislation had removed access to customary playing fields and prevented traditional festivities in the streets. Within the urban setting access to popular working-class leisure such as allotments, which had both an economic and cultural value, diminished as property took on new values and rents were raised. While the traditional is always affected by the process of modernization "it still must be emphasized that many customary rights were forcibly undermined, and that their dissolution was often effected by men of property in order to enhance their own interests."[79] From swimming to walking to running, the working class found itself more and more on the outside of an ideology and a space for the practice of leisure.[80]

Yet the working class could be the unintended beneficiary of legislative reform as in the case of the drink trade. The reduction of the spirits tariffs in 1825, following the ideology of free trade, led to an increase in applications for spirit licences and thus a plethora of establishments in which such refreshment could be acquired. The Beer House Act of 1830 which was introduced to counteract the blossoming gin trade, resulted in further expansion of drinking establishments. This act also reflected the split in the establishment pitting free traders against those who saw gin and its

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[79] Malcolmson, *op.cit.*, p. 117.

[80] Cunningham, *op.cit.*, 1980, pp. 79-81.

surrounding culture as a social evil. As competition for working class patronage was fierce, the publicans began to diversify their amenities, not only offering drink, but food, entertainments, sports and most of all a locale for leisure. "By a supreme irony the free traders, the campaigning spokesmen of the middle class, seem to have paved the way for the drink-sellers."[81] The working class also benefitted from the passing of various acts regulating working conditions and hours. The passing of the 1833, 1844 and 1847 Factory Acts in the textile industries and the 1842 Mines Act led to a reduced work day and thus increased time for leisure as well as a more regulated and safer workplace.[82] By the 1860s similar reforms had taken place in most of the industries and workshops providing workers with a routine for work and leisure.[83] Regular holidays for young clerks became more common within financial and bureaucratic institutions later in the period with the passing of the Bank Holidays Act of 1871.[84]

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[81] *Ibid.*, pp. 84-85.

[82] The 1833 Factory Act which applied to the textile industry instituted reduced hours of work for children, under 13 years, of 9 hours per day or 48 hours per week and under 18 years, of 12 hours per day or 69 hours per week, and prevented children under the age of nine from being employed. It also required that children under the age of 13 receive schooling for 2 hours per day and provided for inspectors to ensure the act was being followed. Within the mining industry the 1842 act accomplished similar goals. Women and girls were prevented from working underground and employed boys had to be over the age of 10. The 1844 and 1847 acts further reduced the working day to ten hours for women and children. This did not translate directly into a 10 hour day for the male workers until the abandonment of the relay system in 1850. Thus by the 1850s male workers had secured a shorter working day and improved working conditions as a by-product of the improvements secured by legislation for their helpers, women and the young. It is important to note that these acts covered only the textile and mining industries. Woodward, *op.cit.*, pp.151-155.

[83] Acts passed in 1864 and 1867 extended the definition of factories and workshops so that all places of employment would be covered by the hours and safety regulations thus extending the benefits to most of the workforce. *Ibid.*, p. 611.

[84] Bailey, *op.cit.*, 1987, p.95.

Legislators' response to working-class leisure changed as they realised that by encouraging free trade, for example in the reduction of spirit tariffs, and by privatizing leisure, the workers had been forced increasingly to seek leisure at one of the few spaces left open to them, the pub. The leisure of the pub was criticised by the reformers but also by the middle class in general who sought to bring working-class leisure into the open where it could be appropriately directed and controlled under the surveillance of society. This shift is reflected both in the legislation regarding leisure and in the attempts by institutions to include the working class. For example, the Manchester Art Union in 1840 specifically encouraged membership of the working classes seeking to expand their knowledge and appreciation of art. However this endeavour was not likely to succeed as the annual subscription rate of one guinea prohibited most working class participation.[85] Similarly, legislation such as the Museums Act of 1845, Bath and Wash-houses Act of 1846 and the Libraries Act of 1850, was introduced to enable the establishment of institutions at which the working class could pursue leisure.[86] Two elements are important within this shift by the middle class. First, this avenue of leisure was provided within the `counter-attraction' ideology. Second, using enabling legislation to achieve their goal was problematic as there was no guarantee that local authorities would implement the changes to leisure provision and most of them did not. While this new found support of public

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[85] Cunningham, *op.cit.*, 1980, p.83.

[86] Clark & Critcher, *op.cit.*, p. 58.

amusements by the state was derived from the *mentalité* of the mid-Victorian years it was based mainly on the public nature of parks, museums and libraries in that they were open and could be subjected to surveillance and strict control.[87] The middle class were not always successful at achieving legislative action in this direction. While the 1833 Select Committee on Public Walks provides a clear picture of the necessity for public space for proper use and its support by the middle class, the recommendations of the committee were not implemented and the proposed acts did not pass parliament.[88] Thus by the 1850s the state's rôle regarding leisure was two-fold as both supplier, in enabling the provision of public amusements, and as regulator, in the form of licensing. The licensing of establishments where alcohol could be purchased was the central activity of the state as regulator of leisure. Social order and class harmony within the context of mid-Victorian Britain, as well as both municipal and national prestige were the main motivating factors behind the assumption of this rôle by the state.[89]

The transformation of leisure was completed by the 1870s and 1880s. Rather than an activity experienced within the rural community it was now separated from work and was placed within the context of the urban landscape. The leisure of the 1860s mirrored the nature of Victorian capitalism in that it was segregated, institutionalised and specialised. The effects of industrialisation, urbanisation and

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[87] Cunningham, *op.cit.*, 1990, p. 324.

[88] Cunningham, *op.cit.*, 1980, pp. 90-93.

[89] Cunningham, *op.cit.*, 1990, p. 325.

reform had separated leisure from work, from its traditional locale and along both gender and class lines. The institutionalisation of leisure was aided by the rôle of the state as regulator of entertainment. The characterization of this institutionalisation was that within the new leisure industries the participants, the audience, had less agency over what was offered and were limited in their ability to affect the process of creation of this culture. The specialised nature of the modern leisure industries identified specific locales for specific leisure activities. For example, theatres offered drama, music halls offered food, drink and music and the pubs provided alcohol.[90] Problems arose when these boundaries were broken and varieties of leisure were offered within one leisure institution. It is within the context of expanding leisure, campaigns for its reform and the more intrusive role of the state that we consider the case of music halls and theatre.

IV

The commercialisation of leisure was not new to the Victorian era, the tradition of paying for entertainment having a long and diverse history: from participation by travelling players at the fairs and wakes to the production and reception of plays from

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[90] Clark & Critcher, *op.cit.*, pp. 70-71.

1576 at London theatres.[91] Spectatorship within all classes was an established tradition by the 19th century. However, this period can be marked for the variety and diversity of commercialised leisure that was available. It is also the period during which leisure, especially commercialized leisure, became institutionalised. While some leisure provision was enabled by the state, as previously discussed, the majority was supplied on a commercial basis. The development of such institutions as the music hall and the continued existence of theatre within the often restrictive nature of state control reflects the struggle between free-trade ideology and state control throughout the period.

The 1840s and 1850s saw an increase in the number of drinking establishments which offered commercialised leisure to its patrons and by the 1860s an architecturally distinctive music hall can be identified. However the process from pub to music hall was not a clear or direct one. The music hall of the 1860s found its roots in a variety of traditions and leisure enterprises. The distinct music hall developed from the singing rooms, the free and easy and penny gaffs of the 1820s and 1830s. The mixing of classes and sexes at public amusements such as pleasure gardens was reproduced within the music hall. It was also influenced by the supper rooms however their audience and its taste was predominantly middle class.[92] The central figure in the

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[91] The first public playhouse in London was built in 1576 by James Burbage and was named *The Theater*. Glynne Wickham, A History of the Theatre, Cambridge: Cambridge University Press, 2nd edition, 1992, p. 121.

[92] Peter Bailey, `Custom, Capital and Culture in the Victorian Music Hall' in R.D. Storch, ed. Popular Culture and Custom in 19th Century England, London & Canberra: Croom Helm;

history of the halls is the publican, who became later the self-named `caterer'. By the 1860s much of the hall's success depended upon the personality and business acumen of the `caterer'.

At the early singing rooms, the publican undertook the rôle of chairman of the proceedings. Men gathered on the premises of the pub, usually in a small room with the publican directing the proceedings to drink, sing and amuse themselves. Gradually the participation of the audience diminished as semi-professional and professional singers were brought in to entertain and provide a performance which included, increasingly, theatrical elements. The room in which these activities took place may have grown bigger but it was still within the pub and provided both food and drink for its patrons. During the 1840s and early 1850s, a distinctive space for musical entertainment developed which was still attached to the public house but which now commanded its own purpose built space. Within this concert room the publican provided an evening of entertainment supplied by professional singers, dancers and comedians. The next stage of development led to the architecturally distinct music hall of the late 1850s and 1860s. This building was still constructed within the property of the public house but had its own entrance, was lavishly decorated and fitted, and featured a raised stage, footlights, supper tables and long bars.[93]

New York: St. Martin's Press, 1982, pp. 181-182.

[93] John Earl, `Building the Halls' in Peter Bailey, ed, Music Hall: The Business of Pleasure, Milton Keynes: Open University Press, 1986, pp. 1-8.

The caterer as benefactor, friend, chairman and cultural guide was a cultural type that was created and supported by the contemporary publicans such as Charles Morton, known as the father of the halls. While Morton cannot be credited solely with the expansion of the music hall as a commercialised leisure enterprise, his approach to leisure provision is typical of the music-hall proprietor and key to their success.[94] The rôle played by the proprietor was representative of the leisure available: while some did not partake of alcohol such as Charles Morton, they all appeared to consume food, drink, company and entertainment in abundance; they were the best of hosts with the best of everything to offer their guests; and most of all they offered escape as well as friendship. As Bailey notes, "Through style as much as practice the proprietor contrived to represent himself as host of a great feast while simultaneously charging for it."[95]

The entertainment available on the music hall stage developed its own distinctive character. The central feature was the star system inaugurated by the music hall caterers. Entertainers like George Leybourne, as *Champagne Charlie* and Alfred Peek Stevens as *The Great Vance*, with the encouragement of the music hall caterers, were created as larger than life folk heroes. The `star' was a rôle played by the performers on and off stage. The luxurious life of *Champagne Charlie* was

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[94] Bailey, *op.cit.*, 1982, pp. 185-186.

[95] Peter Bailey, `A Community of Friends: Business and Good Fellowship in London Music Hall Management.' in P. Bailey, ed, Music Hall: The Business of Pleasure, Milton Keynes: Open University Press, 1986, p. 35.

emphasized by the arrival of Leybourne at performances in a carriage drawn by four horses accompanied by numerous attendants, the image was completed with elegant clothing and the ever present bottles of champagne.[96] In conjunction with the creation of the music hall star, the *turn* system was developed. Many of the entertainers played at a variety of music halls on any given evening. While some entertainers, such as Leybourne, had exclusive engagements with a particular music hall and its affiliates the majority would perform up to five times in an evening at different halls throughout London.[97] Therefore the music hall offered a varied bill as well as the other amenities of food and drink. It must be emphasized that the entertainment provided at the music hall by the 1860s was a commodity, paid for as separate from rather than as accompaniment to food and drink. The type of entertainment was no longer at the direction of the audience but programmed by the caterer for consumption. The operation of the music halls required heavy capitalization. The halls were commercialized interests that grew more popular leading to its first boom in the 1860s. What distinguished these new music halls from their predecessors was not only the types of performances they offered as described above but the respectability of leisure on offer that the caterers began to proclaim. Morton had not only developed the star system but claimed that his entertainment was distinct from its origins and was respectable - a key element of rational recreation.

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[96] Bailey, *op.cit.*, J.S. Bratton, ed. pp. 49-52.

[97] *Ibid.*, pp. 50-52.

The expansion of the music hall was not achieved without opposition. Much of the anti-leisure program followed by middle-class reformers was aimed at the music halls which were seen to possess numerous faults in that they offered a combination of evils: alcohol, prostitution and a general blurring of class distinctions. "The majority of our music-halls are only ante-rooms to brothels; that they are openly used for that purpose by prostitutes and their associates;..."[98] "The youthful snob of the music-halls, who makes himself ill with gin and cigars in order to be manly, ... matured, with all his self-conceit, littleness, meanness, and vanity developed and exaggerated, is a public nuisance who is daily becoming more common."[99] While the reformers were vehement in their opposition to the halls and what went on inside few had ever attended the halls and thus their anti-hall literature must be regarded with caution.

The main activity of the state with regard to the halls was the granting of licences. In accordance with the state's adopted rôle with regard to leisure the licences were concerned with establishments selling alcohol and providing music and dancing and were overseen by the magistrates. Unlike the theatres, the music halls were not subject to censorship of performance material however they were restricted in the types of performances allowed. Music and dancing were the sole options for the music hall stage, plays were forbidden, a ruling reinforced by the 1843 Theatres Act.

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[98] 'Our Music Halls', *Tinsley's Magazine* 4 April 1869, p. 220.

[99] *Ibid.*, p.219.

While music halls experienced new regulations as they developed, theatres had been subject to strict control by the state since the interregnum. Under the two patents, originally granted by Charles II in 1662 and 1663, the proprietors of Convent Garden and Drury Lane enjoyed a monopoly over the performance of stage plays[100]. Their control over drama did not go unchallenged however and there were a number of *minor* theatres operating within London in the early 19th century. The monopoly was abolished in 1843 and thereafter any theatre possessing the correct licence could legally present plays. Drama was now open to all; however it was not to be performed everywhere but only on the stage at the theatre. There were restrictions as to the types of refreshments that could be served at a theatre and alcohol was strictly forbidden.[101] The theatres were subject to the censorship of the Lord Chamberlain and every play had to receive approval before performance. Theatres had traditionally enjoyed the patronage of the establishment however as the middle class (the new establishment) began to review its leisure theatre could not escape reflection and was determined to be morally risky. While theatre continued to enjoy some upper class support, the withdrawal of the middle class was threatening and in an attempt to attract a larger audience the theatres presented melodrama and spectacle which appealed to a cross section of classes.

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[100] The original patents were granted to Thomas Killigrew and Sir William Davenant. Glynne Wickham, *op.cit.*, pp. 162-163.

[101] Spencer Ponsonby, `Memorandum on Theatres', Appendix No. 1, *Select Committee on Theatrical Licences and Regulations*, House of Commons, 1866, hereafter known as *SCTL*, pp. 280-281.

By the 1860s theatres were feeling financial pressure due to the success of the music hall. While they still possessed the sole right to produce drama, music halls were presenting dramatic sketches on their own stages and to much audience acclaim. The music hall's profits were further augmented by the sale of alcohol during the performances, a practice prohibited at the theatres. The theatre community consequently desired legislative protection for its profits. The stage was now set for the confrontation between theatre manager and music hall proprietor; however, this struggle was not going to be an easy one. For the first time the theatre community was doing battle within its own class. The audience of the music halls may have been predominantly working-class, but the management was not. While most music-hall managers did have proletarian roots music hall was big business and its leaders were men of substance with money, a powerful professional association and parliamentary allies. A definition of music-hall entertainment as culture would not be easily dismissed. A strategy that had traditionally worked for art in the past, *i.e.* the protection of culture from the masses, was not as successful because now it was not only a question of art, but it was also a question of profit and free trade. The true issue was an economic one: the music halls were making large profits and the theatres were struggling. Following the *laissez-faire* theory, traditionally the government would not intervene with such a question of competition. Eventually if there was enough pressure from within its ranks it would form a select committee to study the

issue whose report would form the basis for any forthcoming legislation.[102] It is within this context of the select committee that the battle between theatre and music hall unfolded and it is the *Select Committee on Theatrical Licences* (*SCTL*) called in 1866 that must now command our attention.

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[102] Cunningham, *op.cit.*, 1990, p. 322.

Chapter Two

In order to understand the conflict between music hall and theatre one must appreciate the system of licensing under which both institutions functioned and how its confusing nature added to the problem of controlling or exploiting performance in the metropolis. This system of licensing and the problems it caused for the leisure entrepreneur are revealed within the testimony and recommendations of the *SCTL*. It is also integral to comprehend the history of division within the theatre community before it was faced with competition from outside, in the form of the music hall, to evaluate properly its position as presented to the *SCTL*. This chapter will discuss the complement of the 1866 committee and its function; however, more importantly, it will focus on the state's rôle in the regulation of entertainment. The state's rôle can be characterized as the creation of a dual jurisdiction regarding the licensing of drama and other entertainment. Previous to the 1843 Theatre Act there was also a distinction between performance of the `legitimate' drama at the two patent theatres and other entertainment of a theatrical nature at the unlicensed `minors'.[103] While this distinction is of lesser importance to our discussion than the dual jurisdiction its significance will be addressed within the context of licensing performance. Since the interregnum dramatic performance and entertainment in general in and around London had been governed by royal decree and parliamentary regulation. The central function of the

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[103] The privileges granted to the patent theatres in the seventeenth century and maintained until the Victorian period, along with the position of the minor theatres, will be discussed in section one of this chapter.

state with regard to the production and reception of entertainment rested in the licensing of performance which was governed by various regulating authorities. Theatre was governed by both royal power in the form of patents, and parliamentary authority chiefly through the actions of the Lord Chamberlain.[104] In contrast music halls fell under the jurisdiction of the magistrates. Conflict arose from the development of the dual jurisdiction between the magistrates and the Lord Chamberlain and the opportunities it provided to certain leisure entrepreneurs to avoid regulation.

I

As discussed in chapter one, the state had regulated entertainment since the 17th century. As Spencer Ponsonby stated in his submission on theatres to the *SCTL*, according to the Office Records (1628-1660): "...the Lord Chamberlain licensed and closed theatres, interfered in the copyright of plays, and either personally, or through the Master of the Revels, had complete control over managers and actors."[105] The first Act of Parliament that specifically outlined the Lord Chamberlain's authority over the licensing of theatres was the 1737 Licensing Act, *(10 Geo.2,c.28)* which was an attempt to control or remove political allusions on the stage as well as to control the

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[104] While the Lord Chamberlain was a member of the Royal Household, his office was answerable to parliament and charged with the administration of entertainment legislation.

[105] Ponsonby, *op.cit.*, p. 279.

growing number of smaller unlicensed theatres.[106] Its origin is generally credited to an unproduced play called The Golden Rump. The play, highly critical of the monarch and his ministers, came into the possession of Giffard, manager of the theatre in Goodman's Fields, who was wary of its criticism and took it to Sir Robert Walpole. Walpole, still offended by the recent attacks on his character in Henry Fielding's Pasquin and The Historical Register, reacted by bringing in the 1737 Act which limited the theatres in number to two and imposed censorship over all plays.[107] The 1737 Act is significant as it granted the Lord Chamberlain the task of licensing and overseeing dramatic entertainment. It was not the first time that parliamentary legislation determined what leisure could be seen in the metropolis (Parliament had set a precedent in this matter by passing the `Closing of Theatres Act' in 1642 and 1648); however it was the first time a single authority had been created to deal with theatre and its performance throughout the country and an attempt to unify the licensing process.

The 1737 Act allowed the Lord Chamberlain to grant licences for theatrical entertainment within the city and liberties of Westminster and the residences of the

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[106] *An Act to explain and amend so much of an Act made in the twelfth year of the Reign of Queen Anne, intituled, `An Act for reducing the Laws relating to Rogues, Vagabonds, Sturdy Beggars and Vagrants into one Act of Parliament; and for the more effectual punishing such Rogues, Vagabonds, Sturdy Beggars, and Vagrants; and sending them whither they ought to be sent.', as relates to common Players of Interludes. 10 Geo.2,c.28*

[107] Giffard, while compensated for his vigilance, had spurred into existence a law which made the operation of his own theatre illegal. H. Barton Baker, History of the London Stage and its Famous Players, (1576-1903), London: George Routledge and Sons, Limited, 1904. pp. 66-68.

Sovereign and appointed his office as the licenser of all new plays in Great Britain.[108] The position of Examiner of Plays was established to fulfil this function for the Lord Chamberlain. As licenser of all new plays, the Lord Chamberlain controlled the site of new productions and this directly affected the function of the patent theatres.[109] The wording of section five of the Act, which granted the Lord Chamberlain the right to licence theatres in Westminster and the royal residences, created confusion by suggesting that plays were to be performed only in the royal residences or at the patent theatres in Westminster. The patent theatre interests favoured this interpretation as it gave them the monopoly, and for the next half a century the Lord Chamberlain concurred.[110]

The path to the dual jurisdiction has at its source the changes to the performance of drama brought about at the Interregnum. Upon the reopening of the theatres, which had been closed by Parliament in the 1640s, the performance of drama was allowed at the discretion of the monarchy. In granting patents Charles II hoped to

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108 *10 Geo.2,c.28*, Section I & V.

109 The Choice of *Examiner of Plays* during the 19th century mainly remained within the theatre community. The position was for life and was held by: George Coleman, the Younger (1824-1836); Charles Kemble (1836-1840); John Mitchey Kemble (1840-1857); E.F.S. Pigott (1874-1895); G.A. Redford (1895-1912); C.H.E. Brookfield (1912-1913); G.S. Street (1913-1936). M. Drabble, Ed, Oxford Companion to English Literature, Oxford: Oxford University Press, 1985, pp. 1107-1108.

110 Dewey Ganzel, `Patent Wrongs and Patent Theatres: Drama and the Law in the early 19th century.' *PMLA*, 76, 1961, p. 386. "... No person or Persons shall be authorized ... to act, represent, or perform for Hire, Gain or reward, any Interlude, Tragedy, Comedy, Opera, Play, Farce, or other Entertainment of the Stage, or any Part or Parts therein, in any Part of Great Britain, except in the City of Westminster, and within the Liberties thereof, and in such Places where his Majesty, his heirs or successors, shall in their Royal Persons reside and during such Residence only. " *10 Geo.2,c.28*, Section V.

reassert the traditional control possessed by the monarchy over the theatres. The drama of the restoration stage was to reflect the tastes and the values of the monarchy and was for a select audience, the royal household. The two patent companies were designed to serve his brother James, Duke of York, and himself and the monarchy was to be strengthened by the drama rather than attacked by it.[111] Thomas Killigrew and William Davenant, the first recipients of the patents, formed the King's Men and the Duke's Men respectively.[112] The King's Men company was housed at Drury Lane and by 1731 the Duke's Men had moved into its own purpose built space at Covent Garden under John Rich.[113] The patentees joined to form one company in 1682, thus presenting a single patent theatre.[114] In 1695, King William III licensed Betterton and his company to perform drama. This licence was eventually transformed into a patent and by the early 18th century London once again had two patent theatres (Covent Garden and Drury Lane) which possessed the monopoly over the performance of drama.[115]

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111 Wickham, *op.cit.*, pp 162-163.

112 Glynne Wickham, *op.cit.*, p. 162. Davenant's patent, granted March 26 1662 and Killigrew's patent, granted April 25, 1663 entitled them to build "... one theatre or playhouse ... wherein Tragedies, Comedies, Plays, Operas, Music, Scenes and all other entertainment of the stage whatsoever, may be shown and presented:..." Davenant's Patent, 1662. Killigrew's Patent, 1663.

113 George Rowell, The Victorian Theatre, 1792-1914, Cambridge: Cambridge University Press, 1978, 2nd ed, pp. 8-9.

114 Wickham, *op.cit.*, p. 162.

115 Ponsonby, `Memorandum on Theatres', *op.cit.*, p. 279. There was much discussion over the original intent of the granting of patents. The patentees argued that the original intent by the King was to have two theatres for dramatic performance. Those opposed to the patent monopoly argued that the third

Chapter Two

The sole right to produce drama held by the patent theatres did not go unchallenged from its inception in 1662 to its abolition by the Theatre Act of 1843. There were other theatres that operated during this period, however they were seen as less of a threat to the patent monopoly as they were not in competition with the patents. For example, the Italian Opera House was licensed under the authority of Queen Anne in 1704. It could present Italian Opera but was forbidden to produce English drama, and likewise the patent theatres were prohibited from presenting Italian Opera. The Haymarket Theatre, established in 1731 and receiving a yearly licence by 1748 was similarly restricted with regard to the performance of drama. Drama was allowed on the Haymarket stage only during the summer so that it would not interfere with the patent theatres' winter season.[116] At the same time theatres known as the `minors' produced drama throughout this period, permitted by diverse interpretations of the patents and laws governing theatrical performance, and while they may have operated

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patent which was granted to Jolly in January of 1663, though never used, proved that the King had not intended to create a monopoly of dramatic performance for the two original patent holders. Conflict also arose over the guarantees within the patents and ownership of the patents stemming from the tradition of dividing Patents as well as occasionally mortgaging them to finance construction of theatre buildings. Therefore the number of persons claiming to own the patents rose, which led to confusion over who had the right to perform the drama. The patents did not restrict the ownership of theatres, simply the right to perform drama, leading to further confusion and argument. Those opposed to the monopoly called for the granting of new patents by the monarch and suggested that no sovereign could limit the actions of future monarchs and therefore Charles II's intentions towards the patent theatres were presumptuous. Ganzel, *op.cit.*, p. 385. This idea of granting new patents was put into action by the licence (later patent) bestowed on Betterton by King William III in 1695. Ponsonby, `Memorandum on Theatres', *op.cit.*, p. 279.

116 Ponsonby, `Memorandum on Theatres', *op.cit.*, p 279. Other theatres such as: the Lyceum and the Adelphi in 1809; the Olympic in 1813; St. James Theatre in 1835 and Strand Theatre in 1836 were licensed under the authority of the Lord Chamberlain and permitted to produce "musical dramatic entertainments and ballets of action" and burlettas, *etc... Ibid.*, pp. 279-280.

under restrictions their existence did represent a challenge to the monopoly which will be addressed. While the licensing Act of 1737 did in essence provide some protection to the patents and, as previously stated, was interpreted favourably for the patentees by the Lord Chamberlain, the latter's rôle as caretaker of patent rights was never clearly defined nor wholeheartedly performed.

The passage of the 1752 Licensing Act (*25 Geo. 2,c.36*) which was an attempt by the state to licence entertainment other than the drama created a dual jurisdiction over entertainment between the Lord Chamberlain and the magistrates for the metropolis of London.[117] The 1752 Licensing Act enabled the magistrates to license places of entertainment in the capital just as the 1737 Act had empowered the Lord Chamberlain to licence entertainment in the same location. Under section II of this Act the magistrates were empowered to licence public houses and other establishments for `public dancing, music or other public entertainment of the like kind'. While this did not include the performance of plays, the phrase `or other public entertainment of the like kind' was open to interpretation and would be the source of much of the subsequent conflict over jurisdiction. The police were also granted permission to enter any establishment operating without a licence and arrest all the audience members and proprietors.[118]

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117 *An Act for the better preventing Thefts and Robberies, and for regulating Places of public Entertainment, and punishing Persons keeping disorderly Houses (25 Geo.2,c.36).*

118 *25 Geo.2,c.36* p. Section II: "...any House, Room, Garden, or other place kept for Public Dancing, Music or other public Entertainment of the like kind, in the Cities of London and Westminster,

Chapter Two

The 1752 Act's origin is credited to a pamphlet written by Henry Fielding, titled, `An Enquiry into the Causes of the late Increase in Robbers, &c.,'. Fielding attributed the increase in crime to the luxury enjoyed by the upper class and the attempts to imitate their lifestyle by the lower classes. The pamphlet was aimed at reducing the amusements of the lower classes which were considered uncivilized and dangerous. Whether the passage of the act was successful in reducing the amount of `dangerous' amusements is unclear. However over the next fifty years the magistrates granted licences for `public dancing, music, or other public entertainment of the like kind' to a number of establishments, thus expanding the type of entertainment offered to inhabitants of the capital.[119] These licences became known as burletta licences and later as music hall licences. While this act did not affect establishments licensed by the Lord Chamberlain it did allow some of the `minors' to acquire a licence outside of the patent monopoly and the jurisdiction of the Lord Chamberlain.[120]

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or within Twenty Miles thereof, without a Licence for that Purpose ...shall by deemed a disorderly House or Place and every such Licence shall be signed and sealed by the said Magistrates in open Court, and afterwards be publicly read by the Clerk of Peace, together with the Names of the Magistrates subscribing the same;...". Section III of the Act stated that all licences granted by the magistrates under this Act were for performances after 5 o'clock in the afternoon so as not to interfere with the workday and that establishments receiving licences must declare the premises as licensed under *25 Geo.2,c.36* clearly at the entrance. *25 Geo.2,c.36,* p. Section III.

[119] Submission by Henry Pownall, Chairman of the Middlesex Branch of Magistrates for 24 years, to the *SCTL* in 1866, Appendix No. 2, pp. 300-301. For a list of establishments licensed by the magistrates see *Appendix A*.

[120] During this period the magistrates refused licences to twelve establishments which were:"Bagnigge Wells, in 1772; The Castle Inn, Sunbury in 1773; The Amphitheatrical Building, St. Pancras; Astley's Royal Tent, Whitechapel; White Conduit House in 1785; The Amphitheatre in 1788; Mulberry Gardens, Mile End in 1788; The Lyceum Theatre in 1795; The Rooms, Rolls Building in 1797; The Adam and Eve Tea-gardens in 1798; The Shepherd and Shepherdess, City road in 1799 and The Hoxton Square Tea-gardens in 1799." *Ibid.*, p. 301. Sec IV of the Act declares that the powers within

Thus the 1752 Act, in giving licensing power to the magistrates, provided entrepreneurs who desired to entertain the public with an alternative to obtaining theatrical licences from the Lord Chamberlain and at the same time gave non-theatrical licensing powers to the office of the Lord Chamberlain regarding `music, dancing and other entertainments'.[121] The Lord Chamberlain's sole control over the performance of plays was not affected by the 1752 Act; however, as previously stated, with regard to other entertainments, a dual jurisdiction had been established in the metropolis of London between the magistrates and the Lord Chamberlain. Problems arose from the types of entertainments granted licences by the Lord Chamberlain under the 1752 Act. While the Act excluded the performance of plays, the Lord Chamberlain allowed burlettas and melodramas to fall under the category ` and other entertainment' which therefore became eligible for non-theatrical licences. In doing so the Lord Chamberlain blurred the definition of a play and provoked inquiries (mainly from patentees) about how burlettas differed from plays.[122] The difference between `legitimate drama', allowed only at the patents, and burletta or melodrama, allowed at the `minors', became hard to distinguish. The development of burlettas and melodramas was considered a threat by the patentees, for under a certain interpretation

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the Act do not extend to any establishment or performance: "...under or by virtue of the Letter Patents, or Licence of the Crown, or the Licence of the Lord Chamberlain of His Majesty's Household..." *25 Geo.2,c.36*. The Act was later made permanent by the passing of *28 Geo.2,c.19*.

121 Ponsonby, `Memorandum ...', *op.cit.*, p. 280.

122 See *Appendix B* for a sample of the entertainments granted licences by the Lord Chamberlain.

of the law a number of musical interludes could be added to `legitimate drama' thus transforming it into a burletta or melodrama which did not require a theatrical licence for its performance.[123] For example both George Farquhar's The Beaux Stratagem and J.B. Buckstone's The Wreck Ashore were billed as burlettas by enterprising minor theatre managers.[124] By the turn of the century burlettas were popular and were performed in many public houses and the `minor' theatres. Gradually the musical portions of burlettas fell from favour, and in performance, many burlettas contained no music at all, though musical sections were still written into the scripts received for approval by the office of the Lord Chamberlain.[125]

The magistrates' power to licence establishments was extended to include theatrical entertainments with the passing of the 1788 Licensing Act *(28 Geo.3,c.30)*. However, these powers were restricted to the provincial towns.[126] The geographical restrictions within the act ensured that the 1788 Act did not encroach upon the

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123 Ganzel, *op.cit.*, p. 387.

124 Gilbert B. Cross, Next Week - East Lynne. Domestic Drama in Performance 1820-1874, Lewisburg: Bucknell University Press, 1971, pp. 30-31.

125 The Lord Chamberlain required that a burletta be accompanied by six songs; minor theatre managers would often pick any six songs but with little intention for their performance. *Ibid.*, p. 33. Ganzel also asserts that the Lord Chamberlain was unclear on the definition of a burletta and: "when his Comptroller admitted that "burlettas" had been approved which contained no music, it appeared that the office of the Lord Chamberlain had violated the very licences it had issued." Ganzel, *op.cit.*, p. 387.

126 *An Act to enable Justices of the Peace to license Theatrical Representations occasionally, under the Restrictions therein contained (28 Geo.3,c.30).*

authority of the Lord Chamberlain.[127] These licences allowed a variety of theatrical entertainments for a limited duration, no more than sixty days, and were occasional in that licences were neither renewed nor granted to premises which had been licensed in the previous eight months.[128]

Thus by the turn of the 19th century entertainment in the capital was governed by the 1737 and the 1752 Licensing Acts, and similarly in the provinces by the 1737 and 1788 Licensing Acts. Two regulating bodies had been established, the Lord Chamberlain's office and the magistrates'; however the parameters of their authority were not clearly defined. While the Lord Chamberlain was responsible for theatrical entertainment under the 1737 Act, licences for entertainment of a theatrical nature could be and were obtained from the magistrates under the 1752 Licensing Act using the phrase `entertainments of the like kind'. The issue was further confused by the granting of licences by the Lord Chamberlain for melodrama and burlettas under the same section of the 1752 Act. Licences obtained under the 1752 Act were not subject to the same strict regulations as those obtained as theatrical licences under the 1737 Act. Thus, not only was there the problem of dual jurisdiction, but there was no

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[127] *28 Geo.3,c.30,* p. Section I. Section I defines the various geographical limits to the powers of the magistrates. It establishes a twenty mile zone around the cities of London, Westminster and Edinburgh; a fourteen mile restriction around the Universities of Oxford and Cambridge; an eight mile restriction around patent and licensed theatres; ten miles around the royal residences and "...within two miles of the outward limits of any City, Town or place having peculiar jurisdiction."

[128] *28 Geo.3,c.30* p. Section I. The Act defines the entertainment allowed under licence as "...Tragedies, Comedies, Interludes, Operas, Plays, or Farces, as now are or hereafter shall be acted, performed, or represented at either of the Patent or Licensed Theatres in the City of Westminster, or... have been submitted to the Inspection of the Lord Chamberlain...". Section I.

standard by which the theatrical nature of an entertainment could be judged, nor was there a clear path for its regulation. These ambiguities led to challenges against the patents' monopoly by the growing number of `minor' theatres who desired access to `legitimate' drama.

By the late 1820s both patentees and those opposed to the monopoly were dissatisfied with the status of drama and performance in London. The patentees opposed the rise of the `minor' theatres and burlettas while the minors desired more freedom through a change in the system of licensing. A Select Committee was consequently formed under the leadership of Edward Bulwer to investigate the state of dramatic literature in 1832 (*SCDL*). Bulwer was anti-monopoly, anti-censorship, and favoured dramatic copyright, and while patentees hoped to bring their complaints to the committee, he intended the committee to be a forum in which the inherent difficulties and contradictions within current legislation would be exposed.[129] Actors, playwrights, theatre managers and representatives of the regulating bodies gave testimony before the committee. Numerous witnesses and members of the committee felt that the poor quality of dramatic literature was due to the fact that good authors were not attracted to

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[129] *Select Committee on Dramatic Literature, House of Commons, 1832*, hereafter known as *SCDL, 1832*. The members of the committee were Edward Lytton Bulwer, Gillon, Lamb, William Brougham, Sheil, Jephson, Galley Knight, Colonel De Lacy Evans, Stanhope, John Campbell, John Stanley, Henry Bulwer, Ellice, Duncombe, Evelyn Denison, Lord John Russell, Lord Porchester, Sir Charles Wetherell, Lennard, Sir George Warrender Bart, Mackinnon and Lord Viscount Mahon. *Report of the SCDL, 1832*.

writing for the stage for three main reasons: censorship by the Lord Chamberlain, lack of copyright and patent monopoly.[130]

Under the current legislation any new play had to be submitted for approval by the Lord Chamberlain before its production at the patents or summer theatres.[131] The legislation was considered by some to be unfairly restrictive towards new plays as a section of the 1737 Act allowed for the uncensored revival of plays previously presented without submission to the Lord Chamberlain or the procurement of a licence.[132] Also if a play was denied by the Lord Chamberlain's office, neither the playwright nor the proprietor of the theatre was provided with an avenue of appeal and there was little consistency in the Examiner of Plays' decisions.[133] While censorship was blamed for the poor state of dramatic literature by those giving testimony to the

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[130] Ganzel, *op.cit.*, p. 384. For a complete list of the witnesses that testified before the *SCDL* see *Appendix C.*

[131] The patent theatres were Covent Garden and Drury Lane. Other theatres such as the Haymarket and Italian Opera House received theatrical licences from the Lord Chamberlain and were known as the majors. These establishments did not provide competition for the patents due to restrictions on their operation and can be categorized with the patents in their interests.

[132] Ganzel, *op.cit.*, p.392. Under Section III of *10 Geo.2,c.28* new plays and additions to old plays had to be submitted to the Lord Chamberlain for approval before performance; however the act does not require submission of old plays and therefore inadvertently encouraged revivals rather than premieres.

[133] Unlike his predecessor John Larpent who opposed certain disrespectful references to religion and politics, George Coleman, a playwright who had his own plays refused by the Lord Chamberlain in the past, in his rôle as censor from 1824 to 1836 refused any reference to religion at all, even the words paradise and providence were suspect. Baker, *op.cit.*, p. 229.

SCDL, as it dissuaded authors from writing for the stage, the situation was not rectified in the proposed legislation.[134]

One of the key issues addressed by the *SCDL* was the production of stage plays at the patent and licensed theatres as well at the `minors'. By 1832 the patent theatres were suffering financially from competition by the `minors', and while they still maintained the sole right to perform drama, plays were performed at better managed and more profitable establishments. It was for this reason that the patentees called for a review of their status and reenforcement of their patent privileges, hoping that the *SCDL* would be useful in the fulfilment of their goals. The protection and purity of the drama was heralded as their major concern, while less was said of the economic difficulties experienced by the patents themselves. During the first three decades of the 19th century the patents experienced many financial difficulties which the patentees blamed on the growing success of the `minor' theatres.

There were numerous reasons why the patents did poorly against their rivals. Compared with the `minor' theatres the patents were large operations employing a great number of people. For example, the patents employed whole companies for different types of performances. Therefore the price the audience had to pay to see a production of drama not only covered the wages of the dramatic performers but perhaps the opera and spectacle company as well. The patents also had a large number

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[134] Although Bulwer, among others, was opposed to censorship, it was not dealt with in his proposed legislation as it was thought to be too sensitive an issue which could interfere with the adoption of the proposal. *Ibid.*, p. 394.

of non-acting personnel that had to be paid from the house receipts, in addition to being plagued by debts from theatre construction, some of which continued for years.[135] The minor theatres, in comparison, were smaller operations with fewer people in their employ while maintaining similar size or larger auditoriums which provided for more potential revenue from ticket sales. The minors were built in the newly developed suburbs where much of their potential audience, the emerging middle class, now resided and it was there that the minors enjoyed considerable success. "This was the result of specialization, of tailoring plays to the audience the theatre wished to attract, and of not attempting to gain every theatregoer in London with an all-inclusive bill."[136] The minors also enjoyed talented management who were often retired actors and occasionally certain women ran the minors on their own. The first to do this was Eliza Lucy Bartolozzi - known as Mme Vestris - who acknowledged her achievement in a speech on opening night,

> Noble and gentle, matrons, patrons, friends
> Before you here a venturous woman bends;
> A warrior-woman, that in strife embarks,
> The first of all dramatic Joans of Arc,
> Cheer on the enterprise thus dare by me,
> The first that ever led a company!
> What though, until this very hour and age,
> A lessee lady never owned a stage![137]

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[135] In the case of the new Covent Garden, for example, the proprietors were still burdened with debts from the old theatre building that had burned down in 1808, along with the financial obligations incurred as a result of its recent reconstruction. Ganzel, *op.cit.*, pp. 390-391.

[136] *Ibid.*, p. 390.

[137] As cited in Baker, *op.cit.*, p. 257-258.

Mme Vestris managed the Olympic Theatre from 1830 to 1838 and, according to a least one contemporary, did it extremely well. "The little Olympic, the most despised nook in the dramatic world, became not only one of the most popular and fashionable theatres London ever saw but [it] served as a life-boat to the respectability of the stage, which was fast sinking in the general wreck".[138]

In contrast, perhaps the greatest problem experienced by the patents was mismanagement; the companies were too large, the fare was not in keeping with public taste and the debts were ever increasing. However the patents maintained a continuous stream of investors, some of whom may have been interested in the protection of culture, the art and drama and the aesthetic of the stage. Other investors were connected by family ties as many of the great actors of the day became managers and proprietors and thus were directly concerned with the success of the patents. A connection between the patent theatres and prostitution was suggested by several of the witnesses before the *SCDL*. While this connection would not serve as a complete explanation for why investment was achieved in a poorly run enterprise, it does cast some doubt on the portrayal by theatre managers in the mid 19th century of a pure

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[138] J.R. Planché, The Extravaganzas of J.R. Planché, London: 1879, I, 286 as cited in Eds. Clifford Leach & T.W. Craik, The *Revels* History of Drama in English, Volume VI, 1750-1880, London: Methuen & Co. Ltd, 1975, p. 131. Mme Vestris also successfully managed Covent Garden from 1839 to 1842 after her marriage to Charles Mathews. Her management of the Theatre Royal Lyceum from 1847 to 1855 was not as successful and led to Charles' imprisonment in Lancaster gaol for their debts. Mme Vestris brought a sense of realism to the stage as drawing rooms began to be dressed as drawing rooms and increasing attention was paid to detail. Baker, *op.cit.*, p. 260, 265, 288-290.

theatre connected with the art of the stage and avoiding the lowness of prostitution and drinking that could be found at the music halls.[139]

After the committee had made its report, Bulwer introduced a `theatrical-reorganization' bill that favoured the end of the monopoly. The committee stressed that the financial interests of the patents would not be affected by the bill which was passed by the House of Commons. However it was defeated in the House of Lords as the property rights of patentees were seen to be unprotected by the bill. What was evident from the report of the committee and the passage of the bill in the House of Commons was that in essence the monopoly did not hold and that even though it was illegal before 1843, a dramatic author was free to have his or her play produced at any theatre in the Metropolis.[140]

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[139] Witnesses such as John Forbes, proprietor of Covent Garden, and George Davidge, proprietor of the Coburg Theatre were questioned about the activities of prostitutes at the theatres as well as the use of certain houses owned by the theatres. Forbes testified that the proprietors did own a building not connected with the theatre or its operation, but he was unsure for what purpose it was being used, and denied knowledge of it being a brothel. Testimony of Captain John Forbes, *Report of the SCDL, 1832*, qq. 2018-2024, p.115; testimony of George Davidge, *Report of the SCDL, 1832*, qq. 1214-1221, pp.76-77. There were times when prostitutes were kept out of the theatres, for example at *Covent Garden* under the management of Charles Macready from 1837-1839. In general, however, prostitutes could be found at the patents, often within rooms designed specifically for their occupation. "...[T]he management evidently made more money from the prostitutes' attendance than it lost by the absence of the respectable people who stayed away."Ganzel, *op.cit.*, p. 391.

[140] Cross, *op.cit.*, p. 33-34. While most playwrights were men there were a number of women who wrote for the stage however most were in privileged positions with family connections to the theatre as was the case for Marie-Thérèse De Camp and Fanny Kemble. See Adrienne Scullion, editor, Female Playwrights of the Nineteenth Century, London, Everyman, 1996. In Section 6 of their report, the committee argued that the patents had `not preserved the dignity of the drama' - their right to special privilege - and therefore while acknowledging their financial investments the committee recommended the removal of their privileged position. Thus in section 2 of their report recommended that `legitimate drama' be opened to all who procured a licence from the Lord Chamberlain and approval from the censor.

While the *SCDL* exposed the problems within the theatre community regarding theatrical production in the metropolis, it failed to produce significant legislative change regarding licences. This was not to occur until the 1843 Theatre Act. What is important to note is that practice was changed, even though the law was not. The minor theatres were not passive in their precarious position regarding licensing laws. The managers took an active role in challenging the monopoly and often were as creative as the pieces they presented in circumventing the law. For example, Robert W. Elliston, manager of the Royal Circus (later known as the Surrey Theatre) was known for his `creative' billing of plays as musical entertainments rather than dramatic fare. He billed Macbeth as `a grand ballet of action with music' however he neglected to mention in his advertising that the music part referred to the occasional sound of a single violin.[141] In certain theatres the managers went to great lengths to prove their performances were not theatrical. At the Sans Pareil (later known as the Adelphi Theatre) for example, during the performance a piano would rise periodically through a trap in the stage floor "to remind the audience that they were attending a musical performance."[142]

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[141] Elliston is interesting for his chameleon-like character, as a manager of a minor theatre he was their champion this changed when he became the lessee of the patent theatre, Drury Lane in 1819, when he began to inform against his former colleagues, specifically the Coburg and its proprietor Joseph Glossop. Cross, *op.cit.*, p. 30.

[142] *Ibid.*, p. 31.

Various avenues were taken by the minors to evade the law, for example the Strand Theatre, having been closed the year before at the insistence of the Lord Chamberlain, was reopened in 1834 under the management of Mrs Waylett with no admission charge although a ticket was required to enter. Audience members procured their tickets "at an adjoining confectioner's, people paid four shillings for an ounce of lozenges, and were presented with a box ticket; while [a patron] with half an ounce of peppermint drops, for which two shillings were given, was handed a ticket for the pit." Mrs. Waylett made further arrangements with Glossop, the manager of the Victoria Theatre, whose patrons received free admission to the Strand upon purchase of a ticket to the Victoria. The strategy was successful with a stock company performing both drama and musical entertainments until 1835 when the Lord Chamberlain closed the theatre and levied fines on the actors.[143]

Other evidence that the minors felt they had public approval for their business can be found if one reviews theatre construction during the first half of the 19th century. Between 1800 and 1843, twenty-six theatres were built of which eleven were destroyed by fire leaving fifteen new theatres from this period. Fifteen of the twenty-six theatres were built in the eleven years between the *SCDL* and the passage of the 1843 Act. From 1843 until 1863 there were no new theatres built in London.[144] Thus

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[143] Baker, *op.cit.*, pp. 440-441.

[144] Ganzel, *op.cit.*, p. 388.

at least in practice the monopoly over drama had been broken before the passage of the 1843 Theatre Act.

The patents meanwhile continued to assert their rights even though the `minors' were growing in number. Confusion over what constituted `legitimate' drama and who had the right to perform it, and the conflicting licensing acts was not resolved until the passage of the 1843 Theatre Act *(6 & 7 Vict.c.68).*[145] In essence, the 1843 Theatre Act abolished the monopoly and brought the patents under the licensing laws of Parliament. As Ganzel has argued, the 1843 legislation was aimed mainly at the patents and their rights under royal protection. The patents had been exempt from the jurisdiction of the licensing laws and it is suggested that it was this fact which the 1843 legislation strove to correct. "That the Royal Household did not choose to enforce the provisions of its patents was one thing, that it should presume such provisions could exist is quite another."[146]

While Ganzel's argument is convincing the 1843 Theatre Act did more than just bring the patent theatres under the authority of Parliament. Other outcomes of the act included the consolidation of licensing laws, extension of the Lord Chamberlain's authority both geographically and with regards to censorship, and the provision of a

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[145] Booth, *op.cit.*, p. 6. *6 & 7 Vict.c.68, An Act for Regulating Theatres.*

[146] Ganzel, *op.cit.*, p. 388.

definition of the term `stage play'. [147] The monopoly of the patent theatres was abolished as the Lord Chamberlain and the magistrates were authorized to licence establishments for the performance of `stage plays'.[148] All new plays and any additions or changes to old plays had to be submitted to the Lord Chamberlain for approval before performance. Previously the Lord Chamberlain had been responsible only for the `major' theatres and the patents in the matter of censorship.[149] "Now all theatres in Great Britain, including those previously licensed by local magistrates, had to submit to the Lord Chamberlain any piece performed `for hire' ..."[150] The Lord Chamberlain was also granted the authority "...for the Preservation of Good Manners, Decorum, or the Public Peace...", to reject any play, in part or in its entirety for a specific amount

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[147] Under Section I of the act the following legislation was repealed: 3. James.1,c.21, An Act to restrain the Abuses of Players; Part of Section I of *10. Geo.2,c.19* which referred to illegal performances of Interludes within and surrounding the precincts of the Universities of Oxford and Cambridge; *10. Geo.2,c.28, An Act to explain and amend so much of an Act made in the 12th year of the Reign of Queen Anne, entitled `An Act for reducing the laws relating to Rogues, Vagabonds, Sturdy Beggars and Vagrants into One Act of Parliament, and for the more effectual punishing such rogues, Vagabonds, Sturdy Beggars and Vagrants, and sending them whither they ought to be sent, as relates to common Players of Interludes.'* and *28 Geo.3,c.30, An Act to enable Justices of the Peace to license Theatrical representations occasionally under the Restrictions therein contained. 6 & 7 Vict.c.68,* Section I.

[148] Section II, *6 & 7 Vict.c.68.* Part of Section III and Section V allowed the Justices to grant licences to establishments outside the jurisdiction of the Lord Chamberlain or in areas around the various royal households if the royal family was not in residence. Section III determined the geographical area in which the Lord Chamberlain could license theatres.

[149] *6 & 7 Vict.c.68* Section XII, Section XIII established a fee to be paid to the Lord Chamberlain for the examination of plays and Section XV authorized penalties for anyone performing plays before they received approval or after they were rejected and the annulment of the licences of the establishments in which the plays were performed.

[150] Booth, *op.cit.*, p. 146. Section XVI of *6 & 7 Vict.c.68* establishes the definition of an `hired actor' and a stage play for `hire'.

of time or indefinitely.[151] Finally, this act clarified what was to be considered a `*stage play*'. According to Section XXIII of the Act: "... the word "Stage-Play" shall be taken to include every Tragedy, Comedy, Farce, Opera, Burletta, Interlude, Melodrama, Pantomime, or other Entertainment of the Stage, or any Part thereof.."[152] However, this definition did little to resolve the confusion over how entertainment should be regulated or licensed.

After nearly two hundred years the monopoly possessed by the patents was abolished and the performance of `legitimate' drama was open to all licensed theatres. The 1843 Theatre Act is seen by most theatre historians as a pivotal point in the development of Victorian theatre, a release from restriction and the beginning of fair competition.[153] Theatre managers of the day had fought for a long time to achieve the right to perform the `legitimate' drama. However, as Dewey Ganzel has argued, the 1843 Act represented less the beginning of the freedom to perform `legitimate' drama than a confirmation of the position of the `minor' theatres originally sanctioned by the evidence presented to the *SCDL* and its report in 1832. Using theatre construction as a reference, if the 1843 Act represented the beginning of a new era of competition and

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151 *6 & 7 Vict.c.68*, Section XIV. This right, in legal terms, was not extinguished until 1968. Booth, *op.cit.*, p. 146.

152 *6 & 7 Vict.c.68*, Section XXIII. This section also outlined the limitation of this definition: "... that nothing herein contained shall be construed to apply to any theatrical Representation in any booth or Show which by the Justices of the Peace or other Persons having Authority in that behalf, shall be allowed in any lawful Fair, Feast, or customary meeting of the like kind." Section XXIII.

153 Michael Booth, James Roose-Evans, George Rowell, Ernest Watson,Glynne Wickham, *etc...*

opportunity one would expect a large growth in this area. As this did not take place it can be argued that the Act was the legal sanction of practices long established and represented the formal abolition of the monopoly as "the fate of the Patent theatres had been settled long before."[154] Indeed one of the patent theatres, Covent Garden, had not enjoyed success since Mme Vestris's management in 1841 and during 1843 when the Theatres Act was introduced did not function as a playhouse but had been opened as a bazaar by the Anti-Corn Law League.[155]

While there may have not been an expansion of theatre building, the extension of the Lord Chamberlain's authority brought many of the established `minor' theatres under his control. The Lord Chamberlain granted licences to those `respectable' establishments that had been in operation before the passage of the Act. Of the twenty four licences granted in 1843, seven of the theatres had been previously licensed by the Lord Chamberlain while the other seventeen establishments, seven of which were saloons, were new to his jurisdiction.[156] The seven saloons were attached to public houses and in licensing them, the Lord Chamberlain required that a separate entrance

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154 Ganzel, *op.cit.*, p. 389.

155 Baker, *op.cit.*, p. 145.

156 Ponsonby, `*Memorandum ...*'*op.cit.*, p. 280. For a list of the establishments that received licences see *Appendix D*. Between 1857 and 1865 the Lord Chamberlain's office, under the authority of Section XII of the 1843 Act, granted 1 817 licences for manuscripts that had been submitted for approval and refused the performance of seven plays. Submission by William Bodham Donne, Examiner of all theatrical entertainments, office of the Lord Chamberlain, to the *SCTL*, pp. 297. For a list of theatres that were licensed in 1865, see *Appendix E* and for a list of the plays that were refused a license see *Appendix A*.

to the auditorium be available, rather than through the bar or drinking rooms and that saloons could not open until 5 o'clock in the evening. While the licences themselves did not specify restrictions regarding smoking and drinking, it was understood by saloon proprietors that they were forbidden during the hours of performance.[157] This restriction on drinking and smoking is of importance as previously a large amount of revenue was produced from the sale of alcohol at saloon theatres and thus in receiving a theatrical license they gave up a substantial amount of profits. This sacrifice would figure heavily in their future battle against the music halls whose profits came from both the price of admission and the sale of alcohol.

II

While the 1843 Theatre Act had clarified the distinction between legitimate and theatrical entertainment within the theatre community, placing all theatres under the Lord Chamberlain's authority, it did not end the ability of the magistrates to license places for `music, dancing and entertainments of the like kind'. The problems inherent in the dual jurisdiction increased with the development and growth of the music halls as the magistrates continued to license establishments for `public dancing, music and

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[157] Ponsonby, *op.cit.*, p. 280. The saloon licences were changed in 1845 to allow the serving of refreshments between performances as was the custom in the theatres.

other entertainments of the like kind' under the 1752 Act.[158] The situation was unsatisfactory as the licences were not specific to a particular entertainment and as music halls developed an increasing variety of fare magistrates desired the ability to licence specific entertainments. In 1851, after an opinion had been given by Frederick Thesiger and Charles Crompton, the magistrates were empowered to identify on the licence the type of entertainment allowed, either music or dancing.[159] However, whether or not licences should distinguish between music and dancing was not the issue central to the antagonism between the theatre community and the music halls. Rather the conflict arose around the phrase `and entertainment of the like kind' and its use in procuring a licence from the magistrates rather than from the Lord Chamberlain's office. The meaning of the phrase was difficult to determine as it was a generic term encompassing a variety of entertainment including `scenic representation' (plays). To the theatre community this was their central concern - that `scenic representation' only be allowed on the stage of an establishment licensed by the Lord Chamberlain and operating under the strict regulations of a theatre. Thesiger and Crompton were also

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[158] For example in 1845 the Middlesex magistrates granted sixty-seven such licences. Pownall, *op.cit.*, p. 301.

[159] Pownall, *op.cit.*, pp. 301-303. The question of separate licences had been addressed previously in a case by Lord Campbell in 1834 who had ruled against the granting of separate licences. *Ibid.*, p. 301. In Section 1 of their brief, they state that "[they] are of the opinion that the Middlesex magistrates are not compelled to grant licences for `public dancing, music, or other public entertainment of the like kind,' collectively, but that they may, at their discretion, grant the licence for music only, or for dancing only, or for music and dancing..." Opinion submitted by F. Thesiger and C. Crompton, *Temple*, 16 August 1851, Section 1, copy of opinion included in submission by Pownall, *op.cit.*, pp. 302-303.Thus on September 4, 1851 the Court adopted the resolution that all licences granted under the authority of the 1752 Licensing Act "will in all cases specify the particular entertainment which may be given."

asked to consider this aspect in the conflict and whether section XXII of the 1843 Theatre Act, which placed the phrase `or other entertainment of the stage' under the Lord Chamberlain's jurisdiction, prevented the magistrates from granting a licence based on the phrase `entertainment of the like kind'. The result of the case was that a licence from the magistrates would specify the type of entertainment either music or dancing and that the phrase `and entertainment of the like kind' would not appear.[160]

The Thesiger and Crompton opinion is relevant to our discussion as it reveals three important factors in the debate: that scenic representation (plays) did take place on stages other than those licensed by the Lord Chamberlain, that confusion remained among the regulators of entertainment over who supervised what and that the practice of deferring to custom rather than law continued with regard to the control of entertainment. The magistrates' insistence on clarification of their rights in licensing `entertainment of the like kind' reveals that those charged with enforcing the law were confused as to its parameters. In Thesiger and Crompton's opinion they state:

> We should have thought, if the question had been open to us, that the[1752 Licensing Act] did not apply to scenic representations at all, but the words "other public entertainment of the like kind," have been so long treated or acted upon as including scenic representations, that we are precluded from expressing

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[160] `Resolutions adopted by the Court on the 4th September, 1851' as cited by Pownall, *op.cit.*, p. 303. This issue was raised by Serjeant Adams, Assistant Judge of Middlesex Sessions, in 1850. Adams was of the opinion that *6 & 7 Vict.c.68* did in fact overturn the authority of the magistrates to grant licences in and within 20 miles of London and Westminster and was requesting clarification. In their request for advice, the magistrates asked, "Whether the statute *6 & 7 Vict.c.68*, does or not indirectly repeal the statute *25 Geo.2,c.3[6]*, so far as relates to "other public entertainment of the like kind," and whether persons who, under colour of the licenses granted under the *25 Geo.2*, suffer scenic representations to be performed in their houses, are not liable to the penalty given by the *6 & 7 Vict.*". Pownall, *op.cit.*, p. 302.

> our own independent opinion upon the point, and are compelled to accept the interpretation which has been put upon them, and from which it necessarily follows that the [1843 Theatre Act] does indirectly repeal this portion of [the 1752 Act] and that parties would be liable to the penalties of the latter Act, for suffering scenic representations to be performed in their houses.[161]

Their opinion was that the 1752 Act did not allow for scenic representation however they acknowledge that it had been interpreted in the past to allow for the inclusion of that type of entertainment under a 1752 licence. Thus they considered the question concluding that regardless of custom the 1843 Theatre Act clearly empowered the Lord Chamberlain to licence scenic representation and therefore magistrates should only licence entertainments of music or dancing. While this opinion provided some clarity to the magistrates it did little to solve the confusion over licensing which persisted throughout the 1850s as scenic representation continued to appear on the music hall stage regardless of whether the licence stated music or dancing.[162]

It is important to consider why the theatre community was so opposed to `scenic representation' at the music halls. The core of the issue can be found in the two pieces of legislation, the 1843 Theatre Act and the 1752 Licensing Act. These Acts clearly identify the method of operation at each type of establishment. As previously discussed, an establishment licensed under the 1843 Act was subject to inspection and censorship and limited in its sale of refreshments with regard to time - at

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[161] Opinion submitted by F. Thesiger and C. Crompton, *Temple*, 16 August 1851, Section 2, copy of opinion included in submission by Pownall, *op.cit.*, pp. 302-303.

[162] In this context scenic representation is a generic term that covers any type of entertainment that had some sort of interpretive nature and could not be identified specifically as music or dancing. It does not imply actual plays however it was often suggested by the theatre community so to do.

intermission - and space - outside the auditorium. An establishment holding a 1752 licence however fell under different regulations the significance of which, for our discussion, being that refreshments - alcohol, food and tobacco - were available throughout the performance and anywhere within the auditorium. Therefore the 1752 licence offered greater potential revenue as admission sales were enhanced by the continual sale of refreshments whereas under a 1843 licence the sale of refreshments was a much smaller operation and establishments relied heavily on admission for revenue. The ability of music halls to sell refreshments of any type throughout a performance provided some concern to the theatre community as they had given up that right in procuring theatrical licenses however as the theatre community offered different fare on the stage it was not greatly aggrieved. This situation changed when the music halls began to include more theatrical entertainment, falling under the generic category of `scenic representation', onto their stage. The theatre community was threatened by drama at the music halls as it had the potential of attracting audience away from its doors and into the bustle of the music hall. It was this acute financial concern shrouded in cultural ideology that lay behind the theatre's attempts to maintain its legislative rights and to ensure that 1752 licences did not include `scenic representation'.

While the theatre community may have felt unprotected by legislation it was not inactive in seeking to control its rivals. One of its traditional weapons was to bring proprietors and performers of unlicensed premises before the courts. Charges were

often laid using section I of the 1737 Act which denoted actors, outside of the protection of the patents, as vagabonds and thus, under section II, subject to prosecution and a fine of 50*l* for each performance.[163] This tactic was used throughout the early 19th century with a degree of success and was not reserved solely for attacks on large establishments. For example in 1831 the complete acting company of a penny gaff in St. Giles was arrested and brought before the magistrates on charges of being vagabonds under the sections of the 1737 Act which referred to illegal performances.[164] The theatre community also attacked touring companies as can be seen in the case of Elliot Galer, an entertainer who had purchased the copyright of a piece and had organised a tour of its performance throughout the provincial towns. He was arrested at his first performance at the Leicester Temperance Hall on charges of an illegal performance under the 1843 Act brought against him at the request of local theatre managers. The court case left Galer with losses of close to 2 000 *l* from his defence and the cancellation of the proposed tour.[165] While these are simply two examples they serve to show the breadth of the theatre community's attack against its rivals, from street performances to travelling shows. With the growth of the music hall industry in the 1850s, the focus of the theatre's attack became music halls such as the Canterbury

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[163] Section I & II, *10 Geo 2,c.28* For more information on the status of actors generally in society see: Michael Baker, The Rise of the Victorian Actor, London: Croon Helm Ltd., 1978.

[164] Harold Scott, The Early Doors, 1st pub, London: Ivor Nicholson & Watson Ltd. 1946; Republished, East Ardsley, England: E.P. Publishing Ltd, 1977. p. 111.

[165] Hollingshead, *Report of the SCTL, op.cit.*, q.5222-5227.

Hall where a variety of entertainment was available. The main fare was the comic song which might offend middle-class sensibilities but did not present a direct threat to the theatre community. It was however the other entertainment that brought the Canterbury to the forefront. Morton had great ambitions for his establishment and while proclaiming he provided respectable leisure for his patrons he began to introduce entertainments of a dramatic nature. He did not as yet perform plays but presented pantomimes and duologues that were in direct violation of the law and made him the primary target of the theatre community.[166]

The theatre community sought legislative protection once again with the introduction of a bill in 1860 that would affect the definition of stage plays. The bill did not pass but alerted the music hall community to the intentions of the theatre managers. A meeting between the two interests was arranged at the Adelphi Theatre to discuss the situation. A solution was not achieved and the meeting ended with the "theatrical managers declaring they did not require any alteration in the law" leaving the music hall proprietors in a dangerous position and liable to further prosecutions by the theatre community.[167] The music hall community responded to the failed negotiations by forming the London Music Hall Proprietors' Protection Association and

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[166] For example the *Canterbury Hall* was prosecuted for an attempted performance of a pantomime by two persons on its stage. The performance was prevented and the Canterbury Hall received a fine of 5*l*. Stanley, *Appendix No. 3 Report of the SCTL*, pp. 307-308.

[167] Stanley, *Appendix No. 3, Report of the SCTL*, p. 308.

preparing a bill of their own to amend the current licensing legislation.[168] While the music hall bill had some support by certain Members of Parliament it was never introduced into the house and therefore the practice of protecting one's interests by bringing charges against the music halls continued as did the unsatisfactory regulation of leisure for all parties in the metropolis.[169]

The intensity and urgency of the theatre community's attacks on music halls increased under Frederick Strange's management of the Alhambra music hall for two main reasons, the location of the hall in Leicester Square and the entertainment on offer. The Alhambra was less a traditional music hall and more similar to the theatre saloons before the 1843 Act and this was the *crux* of the problem. The 1843 Act required that proprietors abandon the `theatre saloon' mode of operation in favour of a strictly regulated house management which prohibited smoking, eating and drinking. As previously stated those `theatre saloon' managers who had opted for a theatrical license after 1843 had given up a substantial amount of revenue in favour of the respectability and expected profitability of running a theatre. The Alhambra was seen as a real threat as it possessed all the financial advantages they had given up and

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[168] See *Appendix F* for the changes in legislation proposed by the Music Hall Proprietors' Protection Association.

[169] The bill which had received support from Sir George Cornwall Lewis was not introduced into parliament as Stanley could not enlist the support of Sir George Grey. Stanley did not pursue the matter as the agitation from the theatre community had diminished somewhat and Stanley thought it best to let the matter drop. Stanley, *op.cit.*, q. 2722-2735.

presented theatrical fare similar to their own, compounded by its location within the theatre district in Leicester Square.

Under Strange's management, [1864-1869] the Alhambra presented largely acrobatic acts and *ballets d'action*. It was one such *ballet d'action* that brought the focus of the theatre community to bear on the Alhambra and resulted in Strange being brought before the courts. This opera ballet had been part of a spectacle given at Drury Lane earlier in the year and its subsequent unlicensed Alhambra performance angered the theatre managers. Strange managed to avoid conviction but remained a target and was the victim of a more successful prosecution in 1865 after a performance of *Where's the Police,* a pantomime ballet at the Alhambra in association with John Hollingshead, a conviction later overturned by the Court of Common Pleas.[170] In each case Strange had to pay for his defence and, in his own estimation, had paid between 1 000*l* and 2 000*l* to defend himself in the three cases brought against him by the theatre community.[171] "It is not to be wondered at that the attack by the legitimate theatre managers was waged fiercely from a combined front, since Strange and Hollingshead were together reinstating the saloon theatres under their noses."[172] While the music hall proprietors might win their cases, unless change was achieved they remained

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170 Harold Scott, *op.cit.*, pp. 153-154.

171 Strange, *Report of the SCTL, op.cit.*, q. 1619.

172 Scott, *op.cit.*, p. 154.

susceptible to prosecution and the cost incurred therein and thus desired changes to the law.

The involvement of John Hollingshead, member of the Dramatic Authors' Society with Frederick Strange at the Alhambra serves to illustrate another dimension of the debate, that being the support of free trade within the entertainment industry. Hollingshead was a supporter of the failed Theatres Bill arguing that the current legislation was restrictive to the industry as a whole while proving ineffective to the production of quality dramatic literature.[173] However Hollingshead also saw it as a "mistake in dealing with the present question as one merely between music halls and theatres."[174] Hollingshead was concerned with the dramatic literature and favoured free trade on the stage. In his opinion music halls would then have the legal right to produce the light pieces, for which they were currently known, allowing the theatres to concentrate on the true drama thus bringing about an elevation of the art at both institutions.[175] While Hollingshead himself admitted that he was not drawn to the music hall for entertainment he supported the right of the public to choose where and how they should be entertained and dismissed the notion of protecting culture from the masses, "it is more important that millions of people should have no restriction put on

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173 John Hollingshead, *Report of the SCTL*, q. 5215-5216

174 Hollingshead, *op.cit.*, q. 5221.

175 Hollingshead, *op.cit.*, q. 5312-5318.

their amusing themselves in a decent way and being elevated by any performance they think proper. I think that the people are of more importance than the drama."[176]

Free trade on the stage was not a new concept, it was supported by members of the *SCDL* in the 1830s and by many of the witnesses that testified before the committee. The arguments used against the patent monopolies at that time have resonance in the current debate. Francis Place, a strong supporter of free trade, testified before the *SCDL* that as the Patents had not fulfilled their trust that they should lose their monopoly and be subject to competition.[177] The result of such a competition would be, according to Place, "[t]here would be speculations in that as in other trading concerns, and after a while the play-going public would have the entertainments they desired, in reasonably-sized theatres, and at reasonable prices."[178] While Place, in 1832, was arguing for the rights of the minors to be allowed to perform the drama without penalty, a similar argument was being pursued by persons such as Strange and Hollingshead in the 1860s to achieve the right to perform their pieces without penalty and many of them would agree with Place's comment that "if you want to have anything done as well as it can be done, you must leave it to competition."[179] While Strange's views on free trade were not wholeheartedly embraced by the Music Hall

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176 Hollingshead, *op.cit.*, q. 5334.

177 Francis Place, *Report of the SCDL*, *op.cit.*, q. 3698-3705.

178 Place, *op.cit.*, q. 3722.

179 Place, *op.cit.*, q. 3739.

Proprietor's Association he found strong allies in gentlemen like Hollingshead and John Locke, Member of Parliament. Strange's desire was to provide the type of entertainment that his audience favoured wether musical or theatrical. Hollingshead sought an improved drama by allowing the musical halls to produce the lighter pieces and thus giving the theatres the ability to concentrate on and enhance the true art of the drama. Locke's bill, introduced into Parliament in 1865, echoed these sentiments. All had different aims but theirs was a collective goal - free trade in the emerging leisure industry.

III

By the 1860s the antagonism had escalated between the two major leisure industries, the theatre and music halls, for a variety of reasons as discussed earlier in this chapter. The result of this was attempts to change the legislation regulating leisure in the metropolis, numerous court cases brought by so called `injured' parties against each other and a mounting malaise as to the possibility of an equitable solution. Free trade, a debate dominant in society as a whole, was also a central concern within the middle class who assumed they had the right to invest their money as they saw fit. As stated in chapter one the issue was predominately a battle within a particular class, the emerging middle class who had parliamentary support on both sides. Consistent with practice at the time the issues were brought before a select committee for discussion and resolution. On February 28th 1866, the committee was instructed, "to inquire into

the working of the Act of Parliament for Licensing and Regulating Theatres and places of Public Entertainment in Great Britain, and to report any alterations which may appear desirable." The committee comprised fifteen members and heard testimony from a variety of witnesses within the theatre and music hall industries as well as the regulatory bodies involved, after which it made its recommendations to Parliament.[180] The state's rôle as licensor of entertainment, as previously mentioned, had a long history which many of the witnesses interpreted in various forms to favour their respective positions. The key issue that was brought to the committee's attention was the current dual jurisdiction between the magistrates and the Lord Chamberlain's office.

An analysis of the membership of Select Committees can often be used to determine whether the subject under review was of national interest or on the periphery of debate. The public standing of committee members is of far greater importance than that of the witnesses testifying before them in applying this form of analysis. The committee was selected from Members of Parliament. With regard to the members of the *SCTL* there is one member of note - John Locke, Liberal member for Southwark - who was already known as a strong supporter of music halls.[181] In general the

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[180] The members of the committee were: Goschen, Walpole, Lord Eustace Cecil, Lord Ernest Bruce, Sir Arthur Buller, Clay, Clive, DuCane, Locke, Lusk, Taverner John Miller, O'Beine, Powell, Selwin and Colonel Sturt. *Report of the SCTL*, 1866. For a complete list of the witnesses that testified before the committee see *Appendix G.*

[181] Dictionary of National Biography, eds. Sir Leslie Stephen & Sir Sidney Lee, Oxford: Oxford University Press, reprint 1921-1922, v. 12 p.37.

committee seems fairly anonymous and ordinary. Of the members who can be identified there were two Liberals, Sir William Clay and John Locke. Six Conservatives served on the committee, Sir Charles Jasper Selwin, member for Cambridge, Lord Eustace Brownlow Henry Cecil, member for South Essex, Sir Francis S. Powell, member for Cambridge, George Joachim Goschen, member for St. George's Hanover Square and Spencer Horatio Walpole, member for Cambridge.[182]

The seeming anonymity of the committee presents a problem in that it implies the committee was not of great importance but rather a pacifier to public agitation, specifically that of the theatre community. This image of a meaningless committee is further supported by the lack of action taken on its recommendations for change to the licensing laws regulating public entertainment. However, if one reviews the way that Parliament had dealt with the arts community in the past, the situation is not as negative as it at first seems. As has been noted with regard to the 1832 *Select Committee on Dramatic Literature* and its findings, immediate parliamentary action was not successful; however practical change was achieved which was then followed by legislative change in 1843 with the Theatre Act. It is important to note that with regard to the entertainment industry, Parliament often lagged behind practice, and legislation

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[182] For information on Clay, Selwin and Walpole see Dictionary of National Biography, *op.cit.*, v4. p.466, v17 p.1168, v20 pp 666-668. For information on Cecil, Goschen and Powell see People of the Period, *Being a collection of the biographies of upwards of 6 000 living celebrities*, ed. A.T. Camden Pratt, London: Neville Beaman Ltd, 1897, v1, p.210, v1, pp457-458, v2, p.279. Other members are difficult to identify, for example in the case of member Clive, three were politically active at the time, William, George and Henry Bayley however it is unclear which if any of the three identified served on the committee. Boase, Frederic Modern English Biography, London: F. Cass, 1965 pp. 653-654.

was often introduced to confirm a tradition rather than to create a new one. While the 1866 committee may not have inspired legislative change, it did expose the workings of the arts industry and the changes it was undergoing, and provides the historian with a front row seat in the debate which would escalate in the 1860s and 1870s as music hall established itself as a leisure industry.

APPENDIX A

The establishments that received licences from the magistrates for the last half of the 18th century were:[183]

Sadler's Wells, Ranlagh (discontinued in 1805)
Mary-le-bone Tea gardens (discontinued in 1774)
The Bell, Edmonton (discontinued in 1805)
The Angel, its rival (discontinued in 1802)
Hamstead Long Rooms (discontinued in 1796)
The King's Head, Enfield
The Festino, Hanover Square (licensed from 1790-1805)
White House Conduit House (licensed from 1798)
Bagnigge Wells (licensed from 1798)
The Islington Spa \ New Tonbridge Wells (licensed from 1798). *Ibid.*, p. 301.

The plays that were refused a license between 1857 and 1865 by the *Examiner of Plays*:[184]

`How it's to be Done' (2 Acts) at The Strand Theatre in 1858
`The Blood Spot' (2 Acts) at The Queen's Theatre in 1858
`The Discarded Son, or The Gambler's Progress' (2 Acts) at The Victoria Theatre in 1858
`Le Toreador' (2 Acts) at St James's Theatre in 1859
`The Money Lender' (2 Acts) at The Standard Theatre in 1861
`The Gipsy of Edgware or The Crime in Gill's Hill Lane' (2 Acts) at The Marylebone Theatre in 1862 `The Last Slave' (2 Acts) at The New Adelphi Theatre (in Liverpool) in 1865.

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183 Pownall, *op.cit.*, p. 301.

184 Donne, *op.cit.*, p. 297.

APPENDIX B

Various Entertainments licensed by the Lord Chamberlain from 1628 to 1866[185]

1628 Comedyes, Historyes, Interludes, and other Stage Playes.
1635 French Comedians to act Interludes and Stage Playes.
1666 Rope Vaulting on a Stage.
1672 Drolls and Interludes.
1695 Licence to Betterton and others for Tragedyes, Comedyes, Playes, Interludes, Opera, and all other theatrical and musical Entertainments whatever.
1731 Tragedyes, Comedyes, Playes, Opera, Music, Scenes, and all other Entertainments of the Stage.
1738 A Puppet Show.
1745 Pantomime Entertainments and Concerts.
1749 French and Italian Comedies and Comic Operas.
1755 Burlettas or Italian Comedies.
1759 Scott's Musical Pastoral, "The Gentle Shepherd".
1760 Concert of Music at Mr. Cock's Great Room in Spring Gardens.
1773 Concerts and Assemblies.
1781 Masquerades.
1792 Dibdin's "Recitation, Singing, and Music," by himself alone.
1794 Astronomical Lectures.
1794 Public Music and Dancing.
1795 Readings and Music.
1799 Oratorios.
1805 Juvenile Entertainment of Burlettas, Operatic Ballets, Pantomime and Action Songs, by Children under 12.
1806 Dancing, Song, Recitations, Optical and Mechanical Exhibitions at *Adelphi*
1807 Music, Dancing, Pantomime and Horsemanship.
1810 Mechanical Exhibitions, Hydraulic Experiment, and Artificial Fireworks.
1811 A Ballet Performance.
1815 Fantoccini, with Music and Singing.
1816 Music, accompanying an Exhibition of Mechanical and Picturesque Views.
1818 Melodrama and Comic Pantomime.
1821 Ventriloquism, Music, Dancing, and Experimental Philosophy.
1822 Fancy Dress Ball.
1823 Horsemanship and Ropedancing.
1824 Extempore Recitations.
1825 Music, Dancing and Assemblies.
1828 A Dramatic Concert.
1833 Monodramatic Entertainment.
1839 Promenade Concerts.
1840 Magical Experiments and Legerdemain.
1842 Equestrian Performances, and Trained Animals.

The word spectacle is also used in some of the Licences.

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[185] "The List is by no means a list of all Licences, but only illustrates the different species of Entertainments licensed from time to time." Ponsonby, `Memorandum ...', *op.cit.*, pp. 286-287.

APPENDIX C

Thirty-nine witnesses testified before the *Select Committee on Dramatic Literature* in 1832.[186]

Thomas Baucott Mash, Comptroller under the Lord Chamberlain
James Winston, stage manager at the Haymarket
John Payne Collier, Shakespeare scholar
William Dunn, treasurer to the committee of Drury Lane
Charles Kemble, proprietor of Covent Garden
Samuel James Arnold, proprietor of the English Opera House
George Coleman, Examiner of Plays
George Bolwell Davidge, proprietor of the Coburg Theatre
Edmund Kean, actor and proprietor of the Richmond Theatre
William Dowton, actor
John Braham, singer
David Osbaldiston, proprietor of the Surrey Theatre
Captain John Forbes, proprietor of Covent Garden
Thomas James Serle, playwright
Peter Francis Laporte, lessee of Covent Garden
Samuel Beazley, architect and playwright
William Charles Macready, actor
David Edward Morris, proprietor of the Haymarket
Thomas Morton, script reader at Drury Lane
Thomas Potter Cooke, actor at the Coburg
Douglas Jerrold, playwright
Edmund Lenthall Swifte, author and theatregoer
Charles Mathews, proprietor of the Adelphi
Eugene M'Carthy, lessee of three Irish theatres
W. Thomas Moncrieff, playwright
George Bartley, stage manager of Covent Garden
George Rowland Minshull, magistrate
John Poole, playwright
Richard B. Peake, playwright
William Henry Settle, law clerk
John Ogden, independent theatregoer
Thomas Halls, magistrate
Francis Place, author
Richard Malone Raymond, manager of the Liverpool Theatre
William Wilkins, builder and proprietor of provincial theatres
James Robinson Planché, playwright
William Moore, trustee to Harris, proprietor of Covent Garden
James Kenney, playwright
Edward William Elton, actor.

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[186] *Report of the SCDL*, 1832.

APPENDIX D

Licences granted by the Lord Chamberlain in 1843, after the passing of *6 & 7 Vict.c.68.*[187]

Establishment	Location
Albert Saloon,	City Road
Albion Saloon,	Whitechapel
Apollo Saloon,	Yorkshire Stingo, New Road
Adelphi Theatre,*	Strand.
Astley's Theatre,	Westminster Bridge Road.
Britannia Saloon,	Shoreditch.
Bower Saloon,	Upper Marsh, Lambeth.
City of London Theatre,	Norton Folgate.
Effingham Saloon,	Whitechapel Road.
Garrick Theatre,	Leman Street, Whitechapel.
Grecian Saloon,	City Road.
Haymarket Theatre,*	Haymarket.
Her Majesty's Theatre,*	Haymarket.
Lyceum Theatre,*^	Strand.
Marylebone Theatre,	Church Street, Marylebone.
Olympic Theatre,*	Wych Street, Strand.
Princess's Theatre,	Oxford Street.
Pavilion Theatre,	Whitechapel.
Queen's Theatre,	Tottenham Street.
Sadler's Wells Theatre,	New River Head.
St James's Theatre,*	King Street, St James's.
Standard Theatre,	Shoreditch.
Strand Theatre,*	Strand.
Surrey Theatre,	Blackfriars, Bridge Road.
Victoria Theatre,	New Cut, Lambeth.

* Theatres licensed by Lord Chamberlain before 1843.
^ Licensed at intervals in 1843.

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[187] Submission by Spencer Ponsonby, *op.cit.*, Appendix G, p. 293. All licences were for the period of one year from 29 Sept, 1843 unless stated.

APPENDIX E

Licences granted by the Lord Chamberlain for Stage Plays, in 1865.[188]

Establishment	Location	Capacity
Adelphi Theatre	Strand	1560
Alexandra Theatre	Highbury	1330
Astley's Theatre	Westminster, Bridge Road	3780
Britannia Theatre	Hoxton	3923
Bower Theatre	Upper Marsh, Lambeth	1000
Cabinet Theatre	Liverpool St, King's Cross	360
City of London Theatre	Norton Folgate	2500
Effingham Theatre	Whitechapel Road	2150
Gallery of Illustration	Regent Street	360
Grecian Theatre	City Road	2120
Haymarket Theatre	Haymarket	1822
Her Majesty's Theatre	Haymarket	unavailable
Lyceum Theatre	Strand	1490
Marylebone Theatre	Church St, Marylebone	1500
New Royalty Theatre	Dean St, Soho	762
Olympic Theatre	Wych St, Strand	1140
Pavilion Theatre	Whitechapel	3500
Princess's Theatre	Oxford St	1580
Prince of Wales's Theatre (formerly Queen's Theatre)	Tottenham St	8814*
Sadlers' Wells Theatre	New River Head, Islington	2300
St James's Theatre	King St, St James's	1220
Standard Theatre	Shoreditch	3400
Strand Theatre	Strand	1081
Surrey Theatre	Blackfriars, Bridge Rd	1802
Victoria Theatre	New Cut, Lambeth	3008*
Windsor Theatre	Windsor	unavailable

Drury Lane Theatre open under Patent, Capacity: 3800
Covent Garden Theatre open under Patent, Capacity: 3000

* The seating capacity for The Prince of Wales's Theatre is more likely to have been around 3000, the number listed is cited as correct in the *Report of the SCTL* and presumably is a typo and should read 3814 or 3140. Similarly the capacity listed for The Windsor Theatre should probably read 3800 or 3000 rather than the 3008 listed in the *Report of the SCTL*.

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188 *Ibid.*, Appendix H, p. 293.

APPENDIX F

A Bill to Amend the Acts concerning Places of Amusement.[189]

Whereas by the Act of the Session held in the 25th year of the reign of King George the Second, chapter 36, intituled "An Act for the better preventing Thefts and Robberies, and for regulating Places of Public Entertainment, and punishing Persons keeping Disorderly Houses," justices at the Michaelmas Quarter Sessions of the peace are authorised and empowered to grant licences for any house, room, garden, or other place to be kept for public dancing, music, or other public entertainment of the like kind in the Cities of London and Westminster, or within 20 miles thereof: And whereas by an Act of the session holden in the second and third years of the reign of Her present Majesty, chapter 47, section 46, provision is made concerning any house or room kept or used within the Metropolitan Police District for stage-plays or dramatic entertainments, into which admission is obtained by payment of money, and which is not a licensed theatre: And whereas by an Act of the session holden in the sixth and seventh years of the reign of Her present Majesty, chapter 68, section 2, intituled "An Act for regulating Theatres", it is enacted, that (except as in the said Act is mentioned) it shall not be lawful for any person to have or keep any house or other place of public resort in Great Britain for the public performance of stage-plays without authority, by virtue of letters patent from Her Majesty, her heirs and successors, or predecessors, or without license from the Lord Chamberlain of Her Majesty's household for the time being, or from the justices of the peace as thereinafter provided; and every person who shall offend against this enactment shall be liable to forfeit such sum as shall be awarded by the court in which, or the justices by whom, he shall be convicted, not exceeding 20*l*. for every day on which such house or place shall have been so kept open by him for the purpose aforesaid without legal authority. And by section 23 of such last mentioned Act it is enacted, "That in this Act the word stage-play shall be taken to include any tragedy, comedy, farce, opera, burletta, interlude, melodrama, pantomime, or other entertainment of the stage, or any part thereof."

And whereas it is expedient that the two last-mentioned Acts should be amended: Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, as follows:-

1. The Acts of the second and third year of Her Majesty, chapter 47, and the sixth and seventh year of Her Majesty, chapter 68, shall not be construed to prevent or prohibit any person using or keeping any concert room or public garden for the performance or representation of the music of any opera, operetta, burlesque, or other piece, or for the performance or representation (without acting or change of scene) of the music of any opera, operetta, burlesque, or other piece, or for the performance or representation of dancing on a platform or stage, or for the performance or representation (without change of scene) of any entertainment consisting of dancing, singing, or dialogue, by not more than [blank space in original text] persons, or for the performance or representation of any Negro or Ethiopian entertainment: Provided always, that nothing in this Act shall be construed to render it unnecessary to obtain a license from the said justices pursuant to the said Act of the 23rd year of King George the Second, chapter 26.

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[189] Stanley, *Appendix No. 3, Report of the SCTL*, p.312.

APPENDIX G

Thirty-three witnesses testified before the *Select committee on Theatrical Licences* in 1866.[190]

Hon. Spencer Cecil Brabazon Ponsonby, Permanent Secretary of the Lord Chamberlain's Office
Henry Pownall, Esq. Chairman of the Middlesex Branch of Magistrates for 24 years
Sir Thomas Henry, Chief magistrate of Bow Street Police Court
Sir Richard Mayne, Chief Commissioner of the Metropolitan Police
Hon. George Chapple Norton, Magistrate at the Lambeth Police Court
Frederick Strange, Esq. Proprietor of Alhambra *Music Hall*
William Henry Bodkin, Esq. Assistant Judge for Middlesex
William Bodham Donne, Esq. Examiner of all theatrical entertainments, Lord Chamberlain's Office
Frederick Stanley, Esq. Solicitor for London Music Hall Proprietors' Protection Association
Benjamin Webster, Esq. Proprietor and manager of Adelphi *Theatre*
John Baldwin Buckstone, Esq. Lessee and manager of Haymarket Theatre for the past 14 years
Edward Tyrrell Smith, Esq. Lessee of Astley's Theatre, had been lessee of Drury Lane, Her Majesty's Theatre
Dion Boucicault, Esq. Dramatist, actor, past manager of Drury Lane and the Adelphi with Webster
Shirley Brooks, Esq. Dramatic critic
Horace Wigan, Esq. Dramatist, Manager of the Olympic Theatre
Tom Taylor, Esq. Dramatic author
Nelson Lee, Esq. Manager of the City of London Theatre
John Hollingshead, Esq. Dramatist, author, member of the Dramatic Authors' Society
William Thomas Simpson, Actor
John Green, Proprietor of Evan's Music Hall for 22 years
John Poole, Manager and musical director of Metropolitan Music Hall
J. Stirling Coyne, Esq. Playwright, secretary to the Dramatic Authors' Society.
David Francis, Secretary and manager of concerts and entertainments at Beaumont Institution
John Knowles, Esq. Proprietor of the Theatre Royal at Manchester
Captain Eyre Massey Shaw, Head of Metropolitan Fire Brigade
Charles Kean, Esq. Actor, large experience with theatres in the United States
Charles Reade, Esq. Dramatist and novelist
Frederick Guest Tomlins, Esq. Author and journalist
Major John James Greig, Head Constable of Liverpool Police Force for 14 years
John Jackson, Esq. Head Constable of Sheffield
Daniel Saunders, Manager of Day's Music Hall in Birmingham
Right Hon. Viscount Sydney, G.C.B.[191]
Inspector Richard Reason, Chief Inspector of Common Lodging Houses.

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190 *Report of the SCTL*, 1866.

191 The current Lord Chamberlain.

Chapter Three

By the 1860s, the theatre community saw the growing commercialism of leisure, epitomised by the popularity and growth of the music hall, as immoral and in need of strict regulation and direction as well as a direct threat to their business. For at stake was the pride of the nation, the very concept which defined it as a great power: its drama. Theatre had always enjoyed a privileged position in society both legally, as previously discussed, and socially due to its patronage by the aristocracy. The mere suggestion that the drama should be submitted to such derision at the music halls spurred the theatre community into action. It was not just an issue of legality or profit it was of national consequence that drama stay put in the theatre. The Select Committee on Theatrical Licensing represented an excellent opportunity for the community to voice its concerns about the state of entertainment and the nation's culture. The intent was to convince the committee that the way to entertain the nation was to keep the `legitimate' drama on the stage at the theatre and to keep its citizens in their seats. Within this context a number of issues were addressed: whether the theatre community was content with the current system of licensing and censorship and whether this should continue, the art of the drama, its protection and the issue of free trade, and finally, the community provided a summary of its thoughts about the music hall, its immorality and its need for regulation. In essence, the theatre community was seeking legislative protection for both its financial and cultural interests.

This chapter will review the testimony of the theatre community before the

SCTL and provide a synopsis of its position on the issues contained in the debate. As in any debate each side requires a greater analysis to determine the value of its opinion. The response to the theatre's position among government officials will be used to determine the relative weight of the argument. Finally the key issues will be identified that pertain to both cultural and economic matters and an evaluation of whether its case was put successfully.

I

As discussed in chapter two, theatres in the metropolis fell under the jurisdiction of the Lord Chamberlain for licensing and while there was general agreement about the need for licensing, theatre managers and dramatic authors disagreed with regard to the merits of the current system. Approval was given for licensing in principle as well as for the current regime by the self proclaimed spokesman of the theatre community, Benjamin Webster, manager of the Adelphi. Others like Edward Tyrrell Smith, manager of Astley's, John Baldwin Buckstone, manager of the Haymarket and John Knowles manager of the Theatre Royal at Manchester agreed.[192] However, dramatic author and actor Dion Boucicault challenged the position of the Lord Chamberlain as the sole grantor of licences. His position was informed by his own experience in failing to procure a licence for a theatre he

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[192] Webster, *SCTL, op.cit.*, qq. 3130-3132; Smith, *SCTL, op.cit.*, q. 3601; Buckstone, *SCTL,op.cit.*, qq. 3565-3572; Knowles, *SCTL, op.cit.*, qq. 6327-6332.

attempted to construct.[193] Boucicault's sentiments regarding the Lord Chamberlain were also reflected in the statements of Charles Reade, dramatist, who favoured the granting of a licence to any establishment built as a theatre.[194]

A number of authors had signed a petition that favoured the failed Theatres Bill stating that the current system of licensing had a negative effect on their livelihood.[195] As mentioned in chapter two, John Locke, MP and member of the *SCTL* had introduced this bill into parliament in March of 1865. It proceeded to a second reading in June but was subsequently withdrawn with the intention of reintroduction during the following session where it would be given due attention - this was never done. Locke devised the bill as both a response to the current danger of accidents and fires at the theatres - it incorporated various safety measures - and as a solution to the growing tension between theatres and music halls. Locke was arguing for free trade for the stage. His object was to introduce legislation that would allow any establishment with a music and dancing licence to perform stage plays. He further suggested that if parliament did not approve of the music halls performing all varieties of drama it should limit them to certain types. In his speech before the House he clarified which types he intended: "could there be any objection to music halls hav[ing] the same

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[193] Boucicault, *SCLT, op.cit.*, q. 4079, 4148.

[194] Charles Reade, *Report of the SCTL, op.cit.*, q. 6741.

[195] For a list of those dramatic authors who signed the petition and the wording therein, see *Appendix A.*

privilege which the minor theatres possessed before the monopoly was broken up - namely the performance of burlettas, interludes and melodramas?"[196]

The bill had received mixed response from members of parliament. H. Berkeley, member for Bristol, suggested that its passage would have the "effect of turning every pothouse into a theatre and every theatre into a pothouse", while fellow MP Dr. Brady suggested that it would lead to drama's descent.[197] Not surprisingly the theatre managers reacted strongly against Locke's bill. However dramatic authors supported this bill due to its assertion that "the rights of dramatic literary property are to extend to places licensed by the magistrates, and are to apply to the words to which a musical composition is set."[198] Within the context of the *SCTL* the two issues that concerned the witnesses most were the type of refreshments on sale and consequently the ability to perform drama at the music hall and the censorship of plays.

As previously noted a theatre licensed by the Lord Chamberlain was restricted in terms of refreshments that could be served. Alcohol was only allowed at intermission and had to be served outside the auditorium. Regulations such as these were often not written down but the Hon Spencer Cecil B. Ponsonby, permanent secretary of the Lord Chamberlain's department, suggested that the managers knew

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[196] Taken from Locke's speech in Parliament as reported in *The Times*, June 14th, 1865, 10*b-c*. *The Times*, March 11th, 1865, 7*f*; April 11th, 1865, 10*d*.

[197] As reported in *The Times*, June 14th, 1865, 10*b-c*.

[198] As cited in *The Times*, April 11th, 1865, 10*d*.

which rules they had to obey.[199] Ponsonby also testified that a theatrical licence would not be renewed if it was proved that the sale of refreshments was the central function of the theatre and that the theatre managers were aware of this.[200] As highlighted in chapter two, after 1843 a number of establishments had given up the sale of alcohol during a performance to procure a theatrical licence. The absence of drinking as well as eating and smoking during a theatrical performance was favoured by many of the theatre managers on cultural grounds. Drama was not to be performed while the audience was eating, drinking and smoking argued Benjamin Webster and his fellow theatre managers Nelson Lee, John Knowles, John Baldwin Buckstone and Edward Tyrrell Smith. J. Stirling Coyne and Tom Taylor, both dramatic authors, agreed that the audience's attention must be clearly and singularly drawn to the art evolving in front of it rather than the meal appearing before it.[201]

In examining the evidence provided by the theatre witnesses regarding refreshment at the theatre one notes two reactions at play, one of cultural ideology and the other economic. In the first case the drama was presented as pure art that would only be lowered if it was performed in the presence of an audience otherwise engaged in the act of nutritional consumption rather than solely focused on cultural

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[199] Ponsonby, *SCLT, op.cit.*, qq. 331-338.

[200] Ponsonby, *op.cit.*, qq. 307-308.

[201] Benjamin Webster, *op.cit.*, qq. 2948-2951, 2979; Nelson Lee, manager of City of London Theatre, *Report of the SCTL, op.cit.*, qq. 4986-5000; John Knowles, proprietor of Theatre Royal at Manchester, *Report of the SCTL, op.cit.*, q. 6224; John Baldwin Buckstone, *op.cit.*, q. 3375; Edward Tyrrell Smith qq. 3790-3805; J. Stirling Coyne, *op.cit.*, qq. 5856 - 5857; Tom Taylor, *op.cit.*, q. 4882.

consumption. Within this discussion of eating, smoking and drinking at the theatre, the French model was discussed at length. The committee learned that some such consumption was permitted on the continent; however, this fact was dismissed by a number of witnesses in a truly nationalistic fashion, best expressed by J. Stirling Coyne's comment, "but I can hardly think that the morals of this country would be benefitted by copying those of Paris."[202] Much of the language used by the theatre managers can be characterised as Arnoldian (the best that has been thought and said) and when speaking about the drama they used the rhetoric of high culture.[203] Other witnesses took a softer approach to this perceived threat to the art of drama. Both Horace Wigan and Tom Taylor reasoned that women would stay away from theatres where drinking and eating were allowed, and thus their civilising and censoring effect would be lost and that this in turn would further degrade the drama.[204]

Benjamin Webster, described by H. Barton Baker in his contemporary work, History of the London Stage, as "an actor with consummate ability" and "greater variety than perhaps any other actor of his generation", was strong in his belief that drama should not be defiled with the presence of food, tobacco and alcohol.[205] Generally associated with the Adelphi Theatre, he began his career at the Coburg in

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202 J. Stirling Coyne, *op.cit.*, q. 5857.

203 While Matthew Arnold's Culture and Anarchy was not published until the late 1860s his views were influential and the theatre managers incorporated them into their traditionalist position.

204 Horace Wigan, *op.cit.*, q. 4658; Tom Taylor, *op.cit.*, q. 4882.

205 Baker, *op.cit.*, p. 430.

1818 and later appeared at Drury Lane in 1824. Subsequently he became a lessee and manager of the Haymarket in 1837 and finally in 1853 took over control of the Adelphi thus he was well experienced as both actor and manager. Webster was perhaps the most eager of the theatre community to envelope his personal interests in the issue of national culture. In business however he was able to adapt his principles regarding art to the changing tastes of his paying audience. Under his management the newly reconstructed Adelphi premiered Boucicault's sensation The Colleen Bawn which was the "first drama in which a striking mechanical effect was the principal attraction and the first serious drama in which the actor became of secondary importance to the mechanistic and scene-painter" to much audience acclaim and theatre revenue.[206]

In his testimony before the *SCTL* he attempted to invoke the atmosphere and reverence of the Elizabethan stage stating that Shakespeare was not defiled in such a way during its original productions and was thus intended for an attentive audience.[207] While theatre historians debate the point, it can be stated that a part of Shakespeare's audience was rarely fully sober and that as a whole the audience was unlike the sedate, submissive, and subdued middle-class audience of today's revivals of the Bard. Webster's comments were attacked and contradicted by Frederick Guest Tomlins, author and journalist, who provided a number of examples from the literature of Shakespeare's time that show that tobacco was used at the playhouses. In *Skialethia* by

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[206] *Ibid.*, pp. 231-232, 429-432.

[207] Benjamin Webster, *op.cit.*, q. 3049-3067.

Sir John Davies in 1598 one finds the line, "See you him yonder who sits o'er the stage, with the tobacco pipe now at his mouth?". Similarly in Dekker's Gull's Horn book he states "the gallant made a great display of his smoking abilities at the playhouse."[208] This example illustrates that a certain amount of cultural imagery and exaggeration was inevitable; however there were boundaries, frequently crossed by witnesses such as Webster. The state of the nation's culture was at risk but so were their profits and as John Baldwin Buckstone argued the combination of the two issues was not unnatural. "No, I am not entirely for myself; I am for the interests of the pure drama. I think these music halls would vulgarise and injure the drama, or, to make use of the same expression as the elder Mathews did, brutalise the drama."[209] They could not appear completely altruistic in their position against the music halls due to their a conflict of interest but that did not diminish, in their eyes, the urgency of defending the drama and the ease with which they came to its defence. However most of the theatre community saw the truth behind Gertrude's comment "the lady protests too much methinks" and selectively chose to use the rhetoric of high culture when it would benefit them most.

Thus the theatre community took a practical issue - smoking, drinking and eating at the theatre - and redefined it as a cultural issue, one that affected the art of drama at a basic level. Having redefined the issue as cultural they could then use it to

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208 Frederick Guest Tomlins, *Report of the SCTL, op.cit.*, q. 6942.

209 Buckstone, *op.cit.*, q. 3427.

protect themselves economically from the music halls. Rather than seeking permission to sell refreshments during their performances, managers suggested that such a plan was an affront to the art. This argument could then be used as a reason to deny an economic advantage to their rivals, the music halls, where refreshments were sold during performances.

Theatres were also subject to the censorship of the Lord Chamberlain. As discussed in chapter two, a special officer was created to undertake this task. It was the job of the Examiner of Plays to review every play that was to be performed. Ponsonby stated that each play was carefully reviewed and that the managers usually complied with any omissions that were required. Few rejected plays were resubmitted, he argued, as the Lord Chamberlain's decision was invariable. Ponsonby also discussed in his testimony the self censorship that had developed among the managers. Most of the theatre managers knew what type of play would be rejected and therefore only submitted plays that would not offend.[210] This practice was corroborated by the testimony of Nelson Lee who stated that before sending a piece for approval one would omit what he thought the Lord Chamberlain's office might find objectionable.[211] As the position of Examiner of Plays was granted for life it did not take the theatre community long to determine what he saw acceptable and what he considered offensive. Once this was determined theatre managers and authors could be fairly

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[210] Ponsonby, *op.cit.*, qq. 391-391.

[211] Nelson Lee, *SCLT, op.cit.*, qq. 4949-4952.

confident in getting appropriately tailored pieces past the censor. Ponsonby also referred to "an indirect effect of the censorship" with regard to the translation of French plays, stating that as French plays were usually immoral they were altered at the translation state.[212] Locke queried the benefits of this practice asking Ponsonby: "And now you have them [French plays] in England, with the objectionable parts struck out, and something more stupid put in; is not that so?" to which Ponsonby replied: "That is a matter of opinion."[213]

The principle of censorship was affirmed by the majority of theatre witnesses.[214] Benjamin Webster, echoing other witnesses, stated that the censorship was very desirable as public opinion would not be able to control the morality of plays and that without censorship dramatic literature would pursue more immoral and political avenues. J. Stirling Coyne, John Baldwin Buckstone, Horace Wigan, Shirley Brooks and Tom Taylor, all authors stated that the current form of censorship had not affected them in the pursuit of their art.[215] John Hollingshead disagreed, feeling that the censorship of the press and the public would be sufficient to protect the morality of the

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[212] Ponsonby, *op.cit.*,q. 381.

[213] Ponsonby, *op.cit.*, q. 392.

[214] J. Stirling Coyne, *op.cit.*,qq. 5815-5821; Nelson Lee, *op.cit.*, qq. 4953-4957; Charles Reade, *op.cit.*, qq. 6472-6759; Tom Taylor, *op.cit.*, qq. 4756-4768; John Knowles, *op.cit.*, qq. 6227-6231; John Baldwin Buckstone, *op.cit.*, q. 3570; Edward Tyrrell Smith, *op.cit.*, qq. 3651-3659 and Benjamin Webster, *op.cit.*, qq. 2894-2903.

[215] J. Stirling Coyne, *op.cit.*, qq. 5815-5821; John Baldwin Buckstone, *op.cit.*, qq. 3561-3575; Horace Wigan, *op.cit.*, q. 4569; Shirley Brooks, *op.cit.*, q. 4493; Tom Taylor, *op.cit.*, qq. 4756-4786.

stage and along with the other authors who had signed the Dramatic Authors' petition, saw censorship as part of the whole system of control over drama that was restrictive to the development of their careers.[216]

The current system under the Examiner of Plays came under discussion and the conduct of the office by the current censor, William Bodham Donne, was not criticised by any of the witnesses. Dion Boucicault compared the pursuit of Donne's office to the effect of the presence of a lady at a dinner party in keeping the discussion focussed on polite matters.[217] However decisions made by the censors in the past and the potential decisions of future censors did concern the theatre community. Shirley Brooks considered past decisions as frivolous and favoured a system where there was at least an avenue for appeal if an author or proprietor disagreed with the censor's findings.[218] This sentiment was echoed by Charles Reade who was concerned with the disposition of future censors, and by J.Stirling Coyne who favoured an independent body for the rôle of censor.[219] Coyne also preferred that the guidelines for censorship be defined clearly, speaking from frustration with his own experience of having a play accepted for performance and later refused due to an objection from the crown. Coyne suggested that morality and religion should be the only basis for censorship and

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216 John Hollingshead, *op.cit.*, qq. 5246, 5215-5220.

217 Dion Boucicault, *op.cit.*, qq.4453-4457.

218 Shirley Brooks, *op.cit.*, q. 4480, 4483.

219 Charles Reade, *op.cit.*, qq. 6742-6759; J. Stirling Coyne, *op.cit.*, qq.5815-5821.

political allusion or inference should not be part of the criteria.[220]

Censorship based on morality and religion rather than political allusion was favoured by certain contemporaries. For example, in an article titled `Theatres, Music-halls and Public Morality' published in *The Economist* on 15 September, 1866, the author argued that the public was a better judge of plays than the Lord Chamberlain. He also argued that the influence of the crown had produced frivolous decisions from the Lord Chamberlain's office, citing the banning of *King Lear* during George III's illness as an example.[221] While the theatre community disagreed about the merits of the current licensing system, there was approval of licensing in general. At the same time censorship was seen as necessary by most witnesses but occasionally questionable in its objections to certain plays and ideas. In both areas the theatre community suggested that an avenue of appeal be introduced so that the Lord Chamberlain's decisions could be re-evaluated if they were found to be disagreeable.

Dissatisfaction with the dual jurisdiction was not limited to those who were regulated by the system, for witnesses responsible for its maintenance and operation argued that clarification was necessary and the system needed review. Sir Thomas Henry, Chief Magistrate of Bow Street Police Court; Sir Richard Mayne, Chief Commissioner of the Metropolitan Police; Hon. G.C. Norton, magistrate at the

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220 J. Stirling Coyne, *op.cit.*, qq. 5815-5836.

221 `Theatres, Music-halls and Public Morality', *The Economist*, 15 Sept, 1866 as excerpted in Victorian Theatre: The Theatre in its Time, ed. Russel Jackson, New York: New Amsterdam Books, 1989, p. 40-43.

Lambeth Police Court and William Bodkin, Assistant Judge for Middlesex all asserted that change was necessary.[222] The current Lord Chamberlain, the Right Hon. Viscount Sydney further suggested that, with the provision of a larger staff, his office should be entrusted with the responsibility for music halls and theatres. Spencer Ponsonby, William Donne and Henry Pownall, Chairman of the Middlesex Magistrates concurred with this idea, although Pownall suggested that music and dancing licences would still be granted by the magistrates with the Lord Chamberlain looking after all other entertainments.[223]

II

Having discussed the dual jurisdiction, censorship and the ability to serve alcohol within the auditorium the theatre community brought forth the *crux* of the issue, the art of the drama and its precarious position, as seen by the theatre community, when faced with growing competition from music halls in the metropolis. Witnesses testified about the art of acting, the dramatic literature, and about performance itself. This was followed by a discussion of free trade in the drama and

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[222] Sir Thomas Henry, *Report of the SCTL, op.cit.*, q. 787; Sir Richard Mayne, *Report of the SCTL, op.cit.*, qq. 1158-1165; Hon. G. C. Norton, *Report of the SCTL, op.cit.*, qq. 1345-1348; William Bodkin, *Report of the SCTL, op.cit.*, qq. 1927-1931.

[223] Right Hon. Viscount Sydney, *Report of the SCTL, op.cit.*, q. 7556, 7558; Spencer Ponsonby, *op.cit.*, q. 259, 263; William Bodham Donne, *op.cit.*, qq. 2525-2530; Henry Pownall, *Report of the SCTL, op.cit.*, qq. 418-423.

its protection by the state. Certain witnesses, such as Webster and Smith, presented an idealized image of what drama was like before the 1843 Act, suggesting that when there were only a few patent theatres the drama was done more justice by seasoned actors. This view was also supported by the actor Charles Kean, dramatist Charles Reade and theatre managers John Knowles and John Baldwin Buckstone who suggested that the old patent system ensured that there was not an abundance of poorly trained actors but a select number of well trained ones for the stage.[224] However, Frederick Guest Tomlins contradicted their testimony by stating that the legitimate drama was in large part neglected during the monopoly with an increasing number of spectacles and lower entertainments on the stage. He also argued that this trend had continued since 1843 citing an entertainment at Drury Lane in the late 1850s as an example where an acrobat fell to the stage from a broken wire, injuring himself and sending parts of the chandelier, through which he smashed, down in a shower of broken glass onto the audience, hardly the image of a dignified drama.[225]

The absence of a good school of acting and the now abandoned path of graduating from the provincial to the patent theatres were given as the main reasons why there were few decent actors.[226] Theatre managers testified that better actors could

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[224] Kean, *SCLT, op.cit.*, qq. 6608, 6685-6687; Reade, *SCLT, op.cit.*, qq. 6838-6839; Buckstone, *op.cit.*, qq. 3488-3498.

[225] Frederick Guest Tomlins, *op.cit.*, qq. 6887-6894.

[226] Benjamin Webster, *op.cit.*, qq. 2908-2929; Edward Tyrrell Smith, *op.cit.*, qq.3672-3674.

command high salaries thus deterring them from performing on the lucrative music hall stage; however both Webster and Smith qualified this statement by saying there were no good actors.[227] Dramatic author Tom Taylor and dramatic critic Shirley Brooks concurred that the London stage possessed few distinctive actors.[228] Dion Boucicault disagreed somewhat suggesting that there were sufficient good actors however they were attracted to the music hall stage where they could make five to six times more money than on the stage at the theatres.[229]

Closely tied to the decline of acting was a decline in the dramatic literature. Though many of the theatre managers argued that good plays could command a high price, some dramatists such as Charles Reade complained that a living could not be made.[230] This was a sentiment shared by Edward Stirling which he noted in his memoirs,

> It occurred to me to try my hand at writing a piece for a benefit. The subject I chose was "Sadak and Kalasrade". It was beautifully placed on the stage, and the scenery painted by William Beverley, the eminent artist. Beverley cleared one thousand pounds by this piece: I received sixty. Fortune smiled; my pen now went at tip-top speed - pieces written and produced plentiful as blackberries

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[227] Benjamin Webster, *op.cit.*, qq.2920-2929; Edward Tyrrell Smith, *op.cit.*, qq 3691-3697.

[228] Dion Boucicault, *op.cit.*, qq. 4274-4277; Tom Taylor, *op.cit.*, qq. 4783-4784; Shirley Brooks, *op.cit.*, qq 4494-4500.

[229] Dion Boucicault, *op.cit.*, qq. 4374-4375.

[230] Benjamin Webster, *op.cit.*, qq. 3225-3242; Edward Tyrrell Smith, *op.cit.*, qq.3660-3672; Charles Reade, *op.cit.*, qq.6722-6726.

- quantity rather than quality was the order of the day.[231]

Others such as Shirley Brooks, Dion Boucicault and Frederick Guest Tomlins argued that there were a large number of plays available; however, they were of a lower quality reflecting a lowering in public taste.[232] Nelson Lee identified the problem with dramatic literature as a lack of innovation: "There are no fresh sensations to be got; you cannot throw a man off a rock every day."[233] Both the scarcity of good actors and decent pieces were the reasons given for the few good productions that were mounted on the London stage.

Public taste was another factor discussed by the theatre community; however a consensus on whether it was lower or higher was not reached. John Hollingshead, Frederick Guest Tomlins and Dion Boucicault saw it as improving and if music halls were allowed to present drama they would in turn produce a ready made audience for the theatres.[234] In an article in *The Saturday Review* a contemporary writer agreed arguing that "The music halls would have just enough of the theatre to excite and diffuse a dramatic taste, but not enough to gratify it, and would therefore do the

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[231] Edward Stirling, Old Drury Lane: Fifty Years' Recollections of Author, Actor, Manager. 2 vols, London: Chatto & Windus, 1881, vol 1: p. 76, as cited in Cross, *op.cit.*, p. 40.

[232] Shirley Brooks, *op.cit.*, q. 4515; Dion Boucicault, *op.cit.*, qq.4276-4277; Frederick Guest Tomlins, *op.cit.*, q. 6917.

[233] Nelson Lee, *op.cit.*, q. 4946.

[234] John Hollingshead, *op.cit.*, qq. 5248-5249; Frederick Guest Tomlins, *op.cit.*, qq. 6874-6876; Dion Boucicault, *op.cit.*, q. 4279.

theatres more good than harm."[235] John Knowles and Nelson Lee disagreed and did not think that music halls would feed the theatre but rather, would lower public taste.[236] Benjamin Webster, Shirley Brooks and Tom Taylor felt that public taste had indeed deteriorated; however, Taylor qualified his remark by stating that the low public tastes were due to the theatres and not to the influence of music halls: "[h]ow could the music halls go lower than some of the modern burlesques."[237]

Having discussed the art of the drama, the issue of free trade and state protection was raised by the theatre community. John Knowles, J. Stirling Coyne, Horace Wigan, Dion Boucicault, Charles Reade and John Hollingshead supported the notion of free trade for the drama however the theatre managers only supported its application to the theatres.[238] The previous year John Locke had introduced his bill into parliament in reaction to the theatre's desire for such a `free trade'. He called upon parliament to interfere in the matter as

> [t]he managers formerly complained that they had not the same privileges as the patent theatres. They then cried out for free trade, but they were now monopolists. They claimed to go further than the proprietors of the patent theatres, and wanted to have a monopoly of every species of stage

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[235] `Theatres and Music Halls', *The Saturday Review*, Aug 18 1866, p. 204, 1st column.

[236] John Knowles, *op.cit.*, q. 6307; Nelson Lee, *op.cit.*, qq. 5033-5034.

[237] Tom Taylor, *op.cit.*, q. 4837; Benjamin Webster, *op.cit.*, qq. 3250 - 3255; Shirley Brooks, *op.cit.*, q. 4506.

[238] John Knowles, *op.cit.*, q. 6319; J. Stirling Coyne, *op.cit.*, qq. 5837-5841; Horace Wigan, *op.cit.*, qq. 4721-4722; Dion Boucicault, *op.cit.*, q. 4433; Charles Reade, *op.cit.*, qq. 6727-6730; John Hollingshead, *op.cit.*, qq 5312-5318.

performance.[239]

In contrast to the theatre managers, John Hollingshead sought free trade for all the entertainment industry thus allowing music halls to take the `scum of the drama', and permitting theatres to concentrate on the true art of the drama.[240] The current Lord Chamberlain, Viscount Sydney, supported the idea of free trade for theatres as long as they submitted to proper regulation.[241]

While most witnesses thought that London could sustain more theatres some, such as Webster and Tom Taylor, favoured the old patent system. As previously discussed Webster's views were idealized and often presented a distorted view of the past, especially when discussing the monopoly. Once again, Frederick Guest Tomlins challenged Webster's views that the drama was most successful under the monopoly. Tomlins emphasised that in Elizabethan times, when there was no monopoly in effect, London, with a population of only 300,000, supported ten theatres and thus comparatively drama was more successful then than under the patent monopoly.[242] Taylor's view is more realistic, he suggested a subsidized model theatre containing a school of dramatic arts that could serve as a example for the other theatres as well as

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[239] From Locke's speech in Parliament as reported in *The Times*, June 14th, 1865, 10*b-c*.

[240] Benjamin Webster, *op.cit.*, qq. 3216-3219; William Thomas Simpson, *op.cit.*, q. 5531; John Hollingshead, *op.cit.*, qq. 5312-5318.

[241] Viscount Sydney, *op.cit.*, q. 7668.

[242] Benjamin Webster, *op.cit.*, qq. 3250-3255; Frederick Guest Tomlins, *op.cit.*, qq. 6909-6942.

protecting the legitimate drama. His ideas did not gain much support as this proposed theatre would enjoy economic protection denied to its rivals; however, he readily admitted "that his theory reflects the interests of art and not that of political economy."[243] Perhaps the most revealing and most representative comment from the theatre community came from the dramatist and theatre manager Horace Wigan. When asked by the committee whether it was the responsibility of the government to protect the drama and elevate the public taste, Wigan replied, "... it is the duty of the Government to foster the art in every way."[244] Theatre was demanding the ability to develop its art and its business within the free trade idiom but also required government protection in this endeavour. Behind this call for free trade lay the key clarification: free trade was to be encouraged, enjoyed and tolerated only by theatres. The theatre community did not support free trade in entertainment but was in fact desirous of another monopoly, one excluding music halls, that its leaders, through an acrobatic work of logic, called free trade.

III

In testifying before the committee the theatre community had two main goals: to present a clear picture of the inherent merit of the drama and its current residence on

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[243] Tom Taylor, *op.cit.*, qq. 4796 - 4823.

[244] Horace Wigan, *SCLT, op.cit.*, qq. 4906.

the theatrical stage, and to alert society to the perils of the music hall and the impending social disorder if the music halls were allowed the same freedoms as the theatres. While both tasks were important, the theatres' financial success depended heavily on its convincing the committee that the latter was true.

The theatre community endeavoured to present the music halls as a blot upon both culture and the nation. Several theatre managers freely admitted that they had never attended a music hall though they argued that they knew that immorality went unchecked within the music hall walls. The halls received mixed reviews from those witnesses who had attended them, predominantly informed by the direct financial effect music halls had on the witnesses' livelihood. For example, Edward Tyrrell Smith, a manager, stated categorically that indecent songs were performed and that a general lack of decorum was the norm.[245] Benjamin Webster agreed with Smith arguing that alcohol was the main draw of the music hall and art had little to do with the matter. Henry Pownall, Chairman of the Middlesex Branch of Magistrates, agreed and was quick to classify the music hall audience as predominantly immoral and a cause for concern to parents whose children were attracted to the evil gilded interiors.[246]

In contrast Sir Richard Mayne, Chief of the Metropolitan Police and Sir Thomas Henry, Chief Magistrate of Bow Street Police Court, testified that music halls

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[245] Edward Tyrrell Smith, *op.cit.*, qq. 3606-3610, 3874-3875; J. Stirling Coyne, *op.cit.*, q. 5976; Benjamin Webster, *op.cit.*, qq. 2935-2937.

[246] Henry Pownall, *op.cit.*, qq. 500-518; qq. 600-606.

were well conducted.[247] The views expressed by Mayne and Henry are significant as they represent the institutions entrusted with the surveillance and supervision of society. If the police, whose business it was to keep the people properly behaved, could find little fault with the behaviour or composition of the music hall audience it was unlikely that biased theatre managers who had not attended a music hall would be able to persuade the committee otherwise. Horace Wigan disagreed with Mayne and Henry and further suggested that the real reason for music-hall attendance was "to smoke, drink, and make appointments to see women of the town."[248] This allusion to prostitutes at music halls was raised by a number of theatre managers as evidence of the immorality of the music hall industry. When questioned by the committee about the presence of prostitutes at the theatres, the managers did not deny their presence but said they were there to consume culture rather than market pleasure as they did at the music halls.[249] This opinion was not corroborated by those who regulated the entertainment industry. Ponsonby stated that while prostitutes could be found at music halls they were in fact found everywhere in society, a view also held by Sir Richard Mayne who stated that their respectable behaviour at the music halls did not warrant police interference.[250] Ponsonby further argued that women who attended music halls

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247 Sir Richard Mayne, *op.cit.*, q. 969; Sir Thomas Henry, *op.cit.*, qq. 774-780, 929-931.

248 Benjamin Webster, *op.cit.*, q. 2955-2962; Horace Wigan, *op.cit.*, q. 4636, 4669.

249 Benjamin Webster, *op.cit.*, qq. 2992-2994; Nelson Lee, Horace Wigan.

250 Ponsonby, *op.cit.*, qq. 178-182; Sir Richard Mayne, *Report of the SCTL*, *op.cit.*, qq. 1070 -1080.

could not be categorically labelled as `women of the town'. In his experience most of the female patrons were in attendance with their husbands who were respectable members of the working class, and that music halls such as the Canterbury Hall provided an opportunity for the family to amuse itself together as a unit rather than the regular public house which was a predominantly male sphere.[251]

The representation of the music-hall audience as immoral was occasionally challenged both directly and indirectly by the committee itself. During John Baldwin Buckstone's testimony about the effect of music halls on his theatre, he stated that revenue from `half price nights' had decreased significantly as a large part of their target audience, the young men, now attended the music halls instead. Using this complaint as a starting point Locke questioned whether these `half price nights' were not simply an affordable opportunity for young men to enjoy the drama but rather were convenient times to make acquaintances with prostitutes who attended the theatres on these evenings, both in abundance and with a lack of decorum that, as the evening progressed, led to a state of undress. While Buckstone's reply is hardly definitive, what can be inferred from the questioning is that the contemporary music hall audience was better behaved than the `half price night' audience of previous years whose demise Buckstone sorely lamented.[252]

Dramatic authors were less likely to be categorical in their condemnation of the

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[251] Ponsonby, *op.cit.*, qq. 339-341.

[252] John Baldwin Buckstone, *op.cit.*, qq. 3408-3423.

music hall as their profits were not affected in the same way as theatre managers, and in fact, the music halls could provide an avenue of income. John Hollingshead, Tom Taylor, Frederick Guest Tomlins and Shirley Brooks suggested that music halls were not immoral but were properly conducted and served to elevate the public taste. Brooks questioned whether society had the right to dictate how a certain class should amuse itself if the amusements it sought were harmless such as at the music halls.[253] Tomlins further suggested one advantage of the music halls over other leisure institutions in that by providing both entertainments and refreshment a visitor was fully satisfied and returned home refreshed and `re-created for work' at a decent hour, whereas "many visitors to the theatres on coming out resort to the public houses, and stay there."[254]

The theatre community was again split over the idea of drama being presented at the music halls. The theatre managers, having established the negative effects of smoking, drinking and eating on the drama, were strongly against the music halls being given permission to present plays in part or in their entirety. Many gave cultural reasons for their position, relying heavily on the notion of protecting the drama from defilement.[255] Occasionally economic factors were mentioned. Benjamin Webster, for

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[253] John Hollingshead, *op.cit.*, qq. 5257-5264, 5367; Tom Taylor, *op.cit.*, qq. 4847-4849; Frederick Guest Tomlins, *op.cit.*, q. 6873; Shirley Brooks, *op.cit.*, q. 4536.

[254] Frederick Guest Tomlins, *op.cit.*, q. 6942.

[255] Horace Wigan, *op.cit.*, qq. 4593-4594; Edward Tyrrell Smith, *op.cit.*, qq. 3884-3886, 3958-3961; Nelson Lee, *op.cit.*, qq. 4964-4975; Benjamin Webster, *op.cit.*, qq. 2907, 3259-3276; John Baldwin Buckstone, *op.cit.*, q. 3405.

example, objected strongly to the performance of ballet at the music hall, stating that it was in fact a stage representation. He also mentions in an offhand manner the real reason for his objection - the fact that ballets made up a large part of the revenue at the theatres - and thus he did not want to face competition from the music halls.[256] This combination of cultural and economic issues can also be seen in the views of Nelson Lee who, like other managers, objected to drama being presented on the music hall stage. Lee, however, did not object to the presentation of ballets or pantomime ballets at the music hall, and with reference to the latter form was quite willing to allow them to perform this type of entertainment as he wrote such pieces and would happily sell them to the music halls.[257] Thus one can see already the economic factors that informed the perpetuation of a cultural myth of evil around the music hall and its potential for harm to the drama.

Not all theatre managers agreed with this myth. John Knowles, for example, testified that music halls in Manchester presented drama and that they had not been interfered with by the theatre managers. His evidence suggests the metropolitan nature of the debate, for outside of London some music hall and theatre managed to co-exist, often under the same regulatory body. However it must be noted that Knowles spoke from a position of privilege; his theatre was under patent and therefore not subject to much regulation, and consequently, he did not feel the adverse affects of music hall

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256 Benjamin Webster, *op.cit.*, qq. 3201-3208.

257 Nelson Lee, *op.cit.*, qq.5001-5008.

competition felt by some provincial theatre managers. Having said this, it is true that the music halls in Manchester were not subject to the same kind of prosecutions that their metropolitan counterparts were trying to stop and therefore it does suggest there was a specific metropolitan nature to the debate.[258]

Dramatic authors were less likely to accept the myth of `music hall as evil' and this attitude was again informed by both cultural and economic matters. While some like J.Stirling Coyne and Tom Taylor did not think the music halls should present drama, its appearance at this new venue did represent potential revenue for those individuals who would provide the pieces to be performed.[259] There was some doubt as to the ability of music halls to produce drama successfully. Charles Reade, for one, saw no reason to restrict the music halls, believing that they would eventually revert back to musical entertainments since this is what they did best.[260] Both Frederick Guest Tomlins and John Hollingshead supported music hall presenting drama and can be characterised as populists. They argued that music hall was not only a legitimate business but a commendable one which provided the people with the leisure they deserved. While they did not think serious drama would be attempted, they believed that there was an audience for light theatrical fare and saw no harm in this audience finding it at the music hall: "it is much more important to care for the public than to

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[258] John Knowles, *op.cit.*, qq. 6171-6179.

[259] J. Stirling Coyne, *op.cit.*, q. 5843; Tom Taylor, *op.cit.*, q. 4883.

[260] Charles Reade, *op.cit.*, q. 6866.

care for the British drama."[261]

The theatre community achieved a consensus with regard to the licensing of music halls. General disapproval was given for the current system of regulating music halls under the magistrates which provided opportunities to avoid regulation in the theatre's view. Music halls, the theatre community suggested, should be placed under the control of the Lord Chamberlain, thus ending the dual jurisdiction, and should also be subject to censorship. The theatre community was not suggesting the granting of theatrical licences to music halls; however if such a licence was granted music halls would have to make the appropriate changes to function as theatres and follow all the rules that would entail, specifically the removal of alcohol, tobacco and food from the auditorium. Members of the regulatory body agreed and would only sanction music halls receiving licences for plays if they operated as theatres.

IV

The theatre community had set itself two goals, to present a clear picture of the inherent merit of the drama and the need to protect its current residence on the theatrical stage and to alert society to the perils of the music hall and the impending social disorder if the music halls were allowed the same freedoms as the theatres. These tasks involved both economic and cultural issues. Of the two tasks the first was

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[261] John Hollingshead, *op.cit.*, q.5276; Frederick Guest Tomlins, *op.cit.*, qq. 6926-6930.

the easier to achieve as theatre managers could rely on historical precedence in seeking protection. Since the interregnum theatre had been favoured with royal or parliamentary protection from competition. There was a consensus that when it came to drama, its survival could not be left to the public but for it to flourish it needed to be preserved in a position of privilege.

While the theatre community had undergone changes in its hierarchy, from the two patents to the post-1832 expansion of theatres, it still remained privileged and protected from competition in any form. For example, any theatrical performance that did not take place in a licensed theatre was illegal. It did not matter whether the performance was for charity or profit or whether members of the royal household were in attendance; all performers, proprietors and patrons were subject to prosecution. This unilateral prohibition was given as an example of the inconsistencies of the current legislation by many of the witnesses who did not see charity readings at literary institutes as a particular threat to their business; however its existence provided complete protection to the theatres. The theatre community drew upon this history of privilege to further its case for the protection of the drama. It was a traditionalist argument that worked well. Drama had long enjoyed the position of a national treasure and the nation's psyche was predisposed to concede this point. For the theatre managers it was fairly simple to envelop their economic concerns within the cultural ideology of the nation's culture.

This consistent strategy of placing economic issues within a cultural frame was

quite successful as can be seen in the way the theatre dealt with the issue of smoking, eating and drinking during dramatic performances. At its root this was both an economic and cultural issue. Rather than dwell on the economic, the theatre managers had adapted the debate to centre on a cultural issue - the protection of drama from defilement - in order to prevent the economic success of their rivals, the music halls. The thrust of their argument was the defence of culture and its protection from the masses; less was said about the protection of their investments. Their use of this argument did not go unnoticed by contemporary writers. In an article titled, `Theatres and Music-Halls', in *The Saturday Review*, the author noted that theatre managers placed the emphasis of their argument on the concern for public taste rather than concern for their business. However he qualifies his reprimand of this action:

> But it is scarcely to be expected that a man should calmly acquiesce in what he believes to be detrimental to his interests, and it shows very little knowledge of human nature to suppose that he is deliberately indulging in claptrap when he identifies the public interest with his own, and thinks that civilization is rapidly retrograding because he has to shut up shop.[262]

The author encourages the public to judge the theatre managers' argument with caution which was what most of the committee members who heard the evidence did.

The theatre community, having been fairly successful in presenting the drama as a national treasure, turned to the more important task of convincing the committee that the music halls were immoral and in need of strict regulation. Again this was both a

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[262] `Theatres and Music-Halls', *The Saturday Review*, August 18, 1866, p. 203, 1st column.

cultural and economic issue. While the morality of performance was questionable it was also true that the music halls were making a profit and certain theatres were struggling financially. The situation looked bleak for the theatre community which feared a further drop in its profits if music halls were legally allowed to perform the drama hitherto the sole property of the theatres. The theatre community once again turned an economic issue into a cultural issue by presenting its concerns about music halls as centring on the morality of the public and the need to protect the public from the vice contained within the gilded interiors of the music halls. The task was twofold, to identify music halls as immoral and to prevent them from being allowed to present drama; however this was not to be achieved by the theatre community. Questioning the morality of the music halls was a strategy that would have been successful earlier in the century when the working class was seen as an entity to be feared and strictly suppressed. While Chartism was still a strong movement the theatre could have easily denounced a working-class leisure institution as violent and immoral. However the theatre community failed to realise that by the 1860s the working class were no longer seen as an immediate threat and the elements of rational recreation that were claimed by the music hall managers would not be easily dismissed. Furthermore theatre managers freely admitted that most of them had not attended a music hall and therefore were not in a strong position to comment on what went on there. Throughout the evidence presented to the *SCTL* many of their comments are dismissed or contradicted by the opinions of the police, members of the Lord Chamberlain's office and other

government witnesses.

The theatre community also failed to convince the committee that drama should not be presented at the music halls. As discussed earlier, there was division within the theatre community itself over this issue, as many of the dramatic authors were not opposed to music halls presenting light pieces of drama. Similarly official witnesses agreed that music halls could present certain dramatic pieces. The theatre community failed to realize that during an era of free trade it was asking for a monopoly and that, while it spoke of free trade as part of its cultural ideology it was seeking protective measures and privilege for its investments. This contradiction was not lost on the officials of the time nor by the committee itself who in its report recommended that the restrictions on music halls preventing them from presenting theatrical entertainment be removed. What is also interesting is the theatre community's failure to note that their own arguments of 1832, the call from the minor theatres to open up the drama and the freedom to produce the pieces they desired, were being appropriated and adapted by the music hall managers in their calls for access to the drama in 1866.

For the first time, the theatre was faced with a formidable opponent and was not able to claim its business interests as a national issue without some circumspection by government officials, music hall managers and the committee. It was not simply a case of high culture dismissing popular culture but was a battle fought within a particular class (the middle class). There was much capital invested in both leisure industries, and as theatre discovered to its detriment, in an era of free trade it could not easily

restrict the investments of its contemporaries.

APPENDIX A

PETITION OF THE DRAMATIC AUTHORS[263]

"That your petitioners have found that the existing legislation concerning theatres operates as a restriction upon their industry, while it has not in any manner supported or elevated dramatic literature; that the lower middle class and working class have of late years developed a large appetite for intellectual amusement, which the number of theatres (which give no comfortable or proper accommodation for these classes) have failed to satisfy; your petitioners therefore pray your Honourable house to pass the second reading of the *Theatres &c.. Bill*, which measure, in your petitioners' belief, is sufficient to remedy the evil of which they complain."

The gentlemen who sign this petition are "Charles Reade, Bayle Bernard, Robert Bell, George W. Lovell, R.B. Knowles, Dion Boucicault, John Oxenford, Palgrave Simpson, J.A. Heraud, F. G. Tomlins, E.L. Blanchard, Henry T. Craven, Arthur Sketchley, John Brougham, F.C. Burnaud, Andrew Halliday, W. Sawyer, Edmund Yates, Howard Paul, N. H. Harrington, and J. Hollingshead."

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[263] Read into a question put to Donne, *Examiner of Plays*. Donne, *op.cit.*, q. 2556.

Chapter Four

As a result of the growing number of prosecutions under the 1843 Act during the 1850s and 1860s the music hall industry had a variety of grievances which they intended to bring to the attention of the select committee. At the forefront was the current state of the law which left music halls vulnerable to prosecution for the majority of their performances. Following the failed passage of Locke's bill in parliament, the music hall industry brought its own possible solutions for the licensing issue to the committee. Most of the industry was represented by the London Music Hall Proprietor's Protection Association whose views were presented to the committee by Frederick Stanley in his rôle as solicitor for the organization. Stanley, however, did not speak for everyone and some of the key players such as Frederick Strange of the Alhambra distanced themselves from Stanley's conciliatory argument. The absence of direct testimony from Charles Morton, the self named *father of the halls* demands further inquiry into the strategy of the music hall association in keeping its most visible and outspoken member under wraps.

The testimony given before the *SCTL* exposes a number of issues. Not unexpectedly, the music hall witnesses testified to the orderly nature of their audiences and their operations. What is of interest is the support or rejection of this thesis by official witnesses. There is also a clarification of the law under which music halls operated and why their position was so precarious. Within the context of this discussion of the law, music hall witnesses were given the freedom to express the

changes they required regarding performance. Stanley's evidence represented a revised and possibly less offensive position which had the majority of the industry's support. Strange and the rest retained the argument, first used by the minor theatres in 1832 in breaking the patent monopoly, which sought the freedom to perform any piece that was favoured by their respective audiences, in essence - free trade.

This chapter will focus both on the testimony before the committee regarding music hall and its conclusions and recommendations. Of primary importance is the opinion of the music hall industry - its view of the issue and solutions it offered. This testimony will be juxtaposed against the opinion of the magistrates, the police, the Lord Chamberlain's office and other officials. Did the lack of uniformity in the response to what was best for the music halls hurt their position or did it provide a myriad of solutions from which the committee could choose? The recommendations of the committee, on a superficial level, illustrate the success of each side on certain points; however, taken more broadly, they reflect society's involvement in the debate over culture and its protection from democratization.

I

The committee, having heard the opinions of the theatre community regarding music halls, was eager to hear from the music hall industry itself and those officials most connected with them, the police and the magistrates. Not surprisingly the music

hall managers contradicted the negative impressions given by the theatre industry. In contrast to the theatre witnesses who were predominantly versed in the London context, a national experience with regard to entertainment at music halls or similar establishments was presented to the committee by music-hall witnesses. Our focus, thus far, has been the licensing, provision and protection of culture within metropolitan London. In light of the information provided by the provincial witnesses, is a broadening of context required? The evidence of three provincial witnesses indicates that the term music hall covered a broad range of places of entertainment and this is important to acknowledge as it provided for different constituencies within the debate over culture and dramatic performance. A brief review of the provincial testimony regarding Liverpool, Birmingham and Sheffield, will identify the similarities and differences to the metropolitan issues and determine what weight they bear to our discussion.

Liverpool possessed a number of entertainment establishments known as `music' halls. The four halls brought to the attention of the committee are best categorised as concert halls rather than music halls as they operated without a licence and their facilities were distinct from the metropolitan music halls due to the absence of smoking, eating, and drinking during the performances.[264] The establishments more similar to the metropolitan music halls were licensed by the magistrates for music and

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[264] The concert halls of Liverpool were: Philharmonic Hall, St. George's Hall, St James' Hall and the Lord Nelson Street Concert Hall. Major John James Greig, Head Constable for the Liverpool Police Force, *Report of the SCTL, op.cit.*, qq. 7164-7165.

dancing and numbered thirty three public houses, twelve beer houses and three refreshment houses.[265] Major John Greig, Head Constable for Liverpool, called for stricter control of entertainment while upholding the local police's reputation by stating how the establishments were policed well. Greig's own opinion and those of most citizens, as he implies, favoured the removal of singing and dancing from establishments where alcohol was served. The large number of such establishments is explained, by Greig, as due to the large transitory mariner population of Liverpool - the sailors - and, as Greig emphasised, was not a reflection of the general Liverpool population.[266] Concert halls were different from music halls and therefore their interests differed and so the committee did not hear testimony directly from the Liverpudlian music hall community.

Sheffield possessed only one concert hall, the Alexandra and like the Liverpool halls, it was unlicensed and did not provide refreshments in the auditorium during performances. Sheffield did not license establishments for music and dancing, however music hall type establishments could be found in public houses that provided such entertainments under a simple wine and spirit licence.[267] John Jackson, Head Constable for the borough of Sheffield, like his counterpart in Liverpool, would have liked to see stricter control over establishments that provided music and dancing and would have

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265 Major Greig, *op.cit.*, q. 6982.

266 Major Greig, *op.cit.*, qq. 6984-6986.

267 John Jackson, Head Constable for the borough of Sheffield, *Report of the SCTL*, *op.cit.*, qq. 7215-7229.

preferred that they were required to obtain a licence from the magistrates. Jackson also suggested that the metropolitan halls would benefit from being run like the Alexandra - without benefit of refreshments in the auditorium.[268]

Days' music hall in Birmingham offered its patrons refreshments during the entertainment and, unlike Sheffield and Liverpool, had suffered from attacks by the theatre community that compared with the Metropolitan disagreements. The Birmingham theatre managers had brought charges against Days' the previous year for the presentation of the Ghost Illusion. The case was decided in the court of Common Pleas and Mr Days was convicted of violating the 1843 Act.[269] Daniel Saunders, Manager of Days' Music Hall, characterised his audience as respectable working class with tradesmen and artisans attending on a regular basis accompanied by their wives. This image of a well conducted respectable music hall was confirmed by John Poole, a London music hall manager, who previously worked in Birmingham.[270] The music halls of Sheffield and Liverpool were not represented before the committee. In both cases the committee heard from a representative of the local police who preferred the classical entertainments of the concert halls to classic music-hall style entertainment. While there were similarities in the confrontation between theatre and music hall in the

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268 John Jackson, *op.cit.*, qq. 7303-7304, 7348-7349, 7357.

269 Daniel Saunders, Managers of Days Music Hall in Birmingham, *Report of the SCTL, op.cit.*, qq. 7410-7418, 7525.

270 Daniel Saunders, *op.cit.*, q. 7436; John Poole, Manager and Musical Director of Metropolitan Music Hall, *Report of the SCTL, op.cit.*, qq. 5693-5704, 5720-5727.

provinces, *i.e.* in Birmingham, the focus of the conflict was not in provincial towns. Hence the committee, for the most part, was presented with and witness to a metropolitan issue that required resolution.

II

Our focus then is on the London debate and those proprietors and officials who testified about the metropolitan music halls.[271] The music hall managers chose to present a united front under the banner of the London Music Hall Proprietor's Protection Association with Frederick Stanley as its representative to the committee. This contrasts with the variety of opinion presented by the theatre community, while the music hall managers did not agree on all the issues the strategy was to present a compromise they could all agree to and one which they hoped the committee would support. There are two notable exceptions to this unity - Frederick Strange of the Alhambra and John Green of Evans' whose significance will be addressed.

The absence of Charles Morton is interesting as for many years his music hall, the Canterbury, and his aspirations as its manager had been the focus of the theatre community's anger. It was the increasingly dramatic fare on offer at Morton's Canterbury Hall and his claims of respectability that fuelled the debate over culture.

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271 For a list of Metropolitan music halls, number of persons accommodated daily and capital invested in the buildings and fittings see Apendix A.

By removing Morton from the immediate picture the Association managed to clarify that the issue was not about one man's vision or encroachment on dramatic territory but rather surrounded one group of middle-class businessmen's ability to do with their capital what they wished and achieve some profit.

Of primary importance is the compromise proposed by the Proprietor's Protection Association and its description of the operation and licensing of music halls. As previously noted the early 1860s saw the introduction of several pieces of legislation regarding licensing. The first Bill was introduced in 1860, "at the instigation of the theatrical managers, for the purpose of extending the definition of stage plays, in the Act 6&7 Vict, c.68", it failed to gain support.[272] The Proprietor's Protection Association, formed in response to the theatres' bill, proposed their own bill which also failed and was followed later in 1865 with the introduction of Locke's bill.[273] According to Stanley, after the proposition of the first two bills, the theatre managers had "openly announced their intention of taking proceedings against music hall proprietors, if they brought themselves within the operation of the Stage Play Act: they even contended that a comic duet or a comic song, if in character, was an infringement of the law."[274] A period of 'general attack upon the music halls' began that according to the music hall managers arose not from public opinion or official

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272 Stanley, *op.cit.*, Appendix No. 3, p. 306.

273 For Stanley's Bill see Appendix F in Chapter two.

274 Stanley, *op.cit.*, Appendix No. 3, p. 308.

outcry but from the belief held by the theatre managers that they had the monopoly on stage plays.[275]

The music hall community suggested that the current system was too restrictive and questioned the need for licensing pieces at all whether in a theatre or other place of entertainment.[276] However they did note that if they were to remain licensed they would prefer to be under an authority separate from that which governed the theatres.[277] With regard to competition Stanley and the Association parted company. While the Association favoured open competition, Stanley preferred a more restrictive situation with the needs of the neighbourhood determining whether a particular place of entertainment was established.[278] Rather than openly seeking to perform drama, a position that had led to persecution and prosecution in the past, the Association presented a narrower definition of what it wanted on its stages. What was needed was a "line drawn between a theatrical entertainment and a musical entertainment" and to facilitate this distinction the Association had submitted a resolution to the Committee that outlined what it defined as a musical entertainment.

> Songs or selections from operas, the performers being in evening costu[m]e. Any entertainment consisting of dancing, singing, or dialogue, in or out of costume, whether not more than five or six persons are engaged therein, without change of scene during such entertainment, and all Ethiopian

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275 Stanley, *op.cit.*, Appendix No. 3, p. 308.

276 Stanley, *op.cit.*, q. 2563, 2567-2568.

277 Stanley, *op.cit.*, q. 2606.

278 Stanley, *op.cit.*, q. 2572-2575.

entertainments.[279]

Stanley suggested to the committee that the dominant factor in drawing a line between musical and theatrical entertainment should be the number of performers on the stage - the five/six strategy. By limiting the number of music hall performers on the stage at one time, the Association thought that the theatre community would not object so strongly as the music halls could not produce drama with large casts or even plays in their entirety if so limited.[280] This was a strategic proposal by the music hall managers as many of the prosecutions they had endured were for their presentations of plays or parts thereof without proper licensing. The theatre community was fairly dubious of the `five or six performer proposal' and justifiably so.

In contrast to the conciliatory nature of the Association's proposals, Frederick Strange, Manager of the Alhambra, was direct in expressing his dissatisfaction with the current system and his frustration with being brought up on charges. "We want a new Act of Parliament. The present Act of parliament is the most absurd Act which was ever made in the world; everybody at the Alhambra at this moment is liable to be locked up for being there for some unlawful purpose."[281] Strange had been subject to three prosecutions, all of which he had won, but was frustrated as he bore the costs of the defence. Strange's entertainments were similar to those on offer at other music

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279 Stanley, *op.cit.*, q. 2653-2659.

280 Stanley, *op.cit.*, q. 2772.

281 Strange, *op.cit.*, q. 1635.

halls, however his music hall drew particular attention as its location in Leceister Square placed it in the heart of the theatre district.

Strange disagreed with the five/six strategy proposed by the Association. He sought the right to perform any piece he chose regardless of the number of performers. "I should like to be able to do ballet, duologue, pantomimes and operas." Strange favoured free trade but believed a system of licensing was necessary to ensure that operations were run correctly with music halls and theatres possessing the same licence.[282] Strange did not advocate the presentation of legitimate drama such as Shakespeare at the music halls based not on cultural grounds but on the grounds that it did not suit the tastes of his audience. When questioned by Du Cane (member of the committee) as to whether he would attempt Shakespeare, and thus place himself in direct competition with the theatres, if he thought his audience would favour it, he responded "I should attempt it directly; if I thought it would pay."[283]

Another dissenter from the Association's position was John Poole, Manager and Musical Director of Metropolitan Music Hall. While Poole's background was mostly theatrical he had worked at one of Birmingham's music halls before joining the Metropolitan in London. The Metropolitan served a mixed audience of tradespeople and their wives offering a variety of fare including ballets, four-part songs, duets,

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282 Strange, *op.cit.*, qq. 1726-1732.

283 Strange, *op.cit.*, q. 1743.

acrobatic entertainments, comic songs and duologues.[284] Poole argued that the current legislation was too restrictive and stated that if the law was changed the Metropolitan would provide farces, operas, ballets and light burlesques.[285] Poole stressed that the quality of entertainment at the music halls had improved over the past few years along with the taste of its audience. Poole had strived to give them a musical education and felt successful. If the legislation was changed Poole would not remove the quality music in favour of burlettas but would replace the acrobatic acts and other entertainments of lesser quality and thus maintain the high standard of music-hall entertainment.[286]

Poole, along with Meacock [proprietor of the Metropolitan], was not represented by the Association nor did he concur with its vision for music-hall development. Poole disagreed with the five/six strategy arguing that this was a flawed way of differentiating music-hall pieces from theatrical pieces. Part of the Association's ideology was that larger casts could be quite risky financially and thus the music halls should be protected from ruin by a limited cast size. Poole argued that open competition was required and if larger casts were not profitable it was up to the music hall managers to cancel shows. Poole's sarcastic and succinct remark summed up his thoughts about the Association when commenting on Stanley's proposal that the

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284 John Poole, *op.cit.*, qq. 5728, 5737-5738.

285 Poole, *op.cit.*, qq. 5730-5735.

286 Poole, *op.cit.*, qq. 5799-5812.

music halls "required a law to prevent them from ruining themselves" - "It is very kind of him'' was his reply.[287]

III

One of the important official witnesses was Henry Pownall, Chairman of the Middlesex Branch of Magistrates. While no great friend of the music halls he did propose changes to the legislation that favoured the music-halls' desire to perform dramatic pieces. As Chairman of the Middlesex magistrates for over twenty years, Pownall was witness to the evolution of music halls from the singing saloons and early gatherings in public houses and in general did not approve of the developments. Pownall explained that currently magistrates licensed premises for music and dancing or music only. However the definition of dancing, according to the magistrates, referred to dancing by the public and not paid performers on the stage.[288] Pownall suggested that all other performances, *i.e.* not music or public dancing, should be under the jurisdiction of the Lord Chamberlain and that their theatrical nature could be determined by their use of scenic representation. For example, Pownall suggested that

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287 Poole, *op.cit.*, qq. 5740-5755.

288 Henry Pownall, Chairman of the Middlesex Branch of Magistrates for 24 years, *Report of the SCTL, op.cit.*, qq. 406-407. In 1865 the magistrates granted 60 licences for music and dancing and 291 licences for music only however not all were to music halls, public houses and other establishments such as lodges and fraternal societies received licences. Pownall, *op.cit.*, qq. 520-530.

a singer could use hand gestures during a performance but not costumes, scenery or dancers for any use of such devices would turn the song into a theatrical performance and thus require theatrical licensing.[289]

Pownall favoured licensing all entertainments and suggested that the Lord Chamberlain was best equipped to supervise the music halls. Pownall saw the Lord Chamberlain as in the better position as his office had the power to revoke a licence directly. The magistrates, in contrast, had to wait until the licence had expired before they could revoke it by denying its renewal.[290] Pownall also suggested that the Lord Chamberlain required structural surveys of potential establishments with specific requirements regarding ingress and egress that ensured the safety of the public. Currently the magistrates had no jurisdiction to require such surveys or necessary renovations. For example, in the case of the Alhambra a license was applied for from the Lord Chamberlain for 1857/1858. After an inspection of the premises the licence was refused due to the lack of structural stability in the galleries and the existence of only one entrance for use by the audience. The proprietors then applied to the magistrates for a licence and were granted one without further inspection or improvement of the establishment.[291]

Pownall would allow semi-theatrical houses but only if they were under direct

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289 Pownall, *op.cit.*, qq. 418-420, 424 - 426.

290 Pownall, *op.cit.*, qq. 481-493.

291 Pownall, *op.cit.*, qq. 683-688.

police supervision, licensed by the Lord Chamberlain and restricted to selling beer, wine and coffee with no spirits.[292] As stated earlier Pownall was no great supporter of music halls and in his testimony he referred to them as public houses, arguing that their *raison d'être* was the sale of alcohol however shrouded in an atmosphere of entertainment. He saw them as a threat to society and in need of strict Police surveillance as they were frequented by immoral women.[293] Even though Pownall's suggestions stem from a distrust and dislike of music-hall entertainment the development of a semi-theatrical house would enable the music halls to present dramatic fare without fear of prosecution.

Sir Thomas Henry, Chief Magistrate of the Bow-Street Police Court disagreed with Pownall regarding the behaviour of music-hall audiences and their general operation. He argued that the music halls were well conducted and provided an alternative to the public house for working families. Henry also saw the magistrates' ability to revoke a licence at the time of renewal as an advantageous tool that was used to influence how music halls conducted themselves.[294] Having heard the testimony of another official witness, Henry Pownall, regarding the poor behaviour and evil nature of the audience, Henry, along with a local Police superintendent, went to the Alhambra

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292 Pownall, *op.cit.*, qq. 594-595.

293 Pownall, *op.cit.*, qq. 500-518, 568-577.

294 Sir Thomas Henry, Chief Magistrate of Bow-Street Police Court, magistrate for 26 years, 2 years as Chief, *Report of the SCTL, op.cit.*, qq. 778-782, 856.

to judge for himself. Henry asserted that the audience was of mixed class, with the stalls, reserved seats and the pit each favoured by persons of different social standing reflecting the respective admission charges. Both men and women were in attendance and, contrary to the testimony of Sir Spencer Ponsonby, permanent secretary to the Lord Chamberlain, Henry further asserted that prostitutes were not in evidence in the stalls, seats or the pit. On more thorough investigation Henry and his policeman friend discovered prostitutes in the galleries, approximately fifty or sixty in number. However as Du Cane points out, "That is not so many as you would have seen in the saloon of a theatre in earlier days?" Henry agreed stating that the ones at the Alhambra were very well behaved and he could find no trace of the `infamous' private rooms to which Ponsonby referred.[295]

With regard to the current system of licensing Henry suggested that the responsibility for all licensing should be placed in the care of one authority. This new authority would be able to revoke a licence at any point during the year and would be under the Secretary of State's control and answerable to Parliament. Sufficient staff would be required to allow for proper supervision and surveillance of all establishments. Supervision would tend towards the morality of performances as Henry argued that certain plays did not read objectionable but it was the way they were mounted for the stage that made them objectionable and thus he recommended a staff of

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295 Henry Pownall, *op.cit.*, qq. 578-582, Sir Spencer Ponsonby, *op.cit.*, qq. 103 - 108, Henry, *op.cit.*, qq. 903-912.

inspectors to counteract this problem. However safety of the public was not to be ignored and a staff of building inspectors was also suggested.[296] Henry would not object if this new authority was placed in the Lord Chamberlain's office as long as the staff was expanded to enable the level of supervision advocated by Henry. With reference to this new authority, Henry remarked that "a good officer in that place would have an opportunity of greatly elevating the stage and music hall."[297]

Henry was not in favour of free trade, arguing that the number of establishments should be left to the discretion of the new authority. While opposed to music halls performing legitimate drama, Henry believed that lighter fare such as burletta, pantomime and ballet should be allowed. The increase in recent years of these types of establishments (the music halls) was seen as beneficial by Henry who argued that it had attracted men away from the public houses and gin palaces and that he had never heard of a case of drunkenness at the music halls.[298] While the last assertion hardly seems possible it does not discount the accuracy of the first part of his comments. Henry favoured transferring to the new authority all power regarding performance on the stage and safety of the building. However, the surveillance and control of the audience would remain the business of the magistrates as it would be the charge of the Police to maintain order and consequently the magistrates to whom they

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296 Henry, *op.cit.*, qq. 784-787, 795, 811.

297 Henry, *op.cit.*, qq. 960, 865.

298 Henry, *op.cit.*, qq. 821-826, 842, 896, 933, 956.

reported.[299]

George Norton, magistrate at Lambeth Police Court agreed with Henry that the music halls were well conducted and that they had had an improving affect on their audiences in general. He also suggested that the licensing responsibility be put into the care of one authority for the metropolis and in his opinion the Lord Chamberlain's office was the best candidate. This opinion was shared by the Lord Chamberlain himself, the Right Honourable Viscount Sydney, who suggested that with the Queen's approval and a larger staff the office of the Lord Chamberlain could be overseer of both music halls and theatres.[300] Norton preferred that music halls be allowed to perform light pieces under the Lord Chamberlain's direction, "it is desirable that the people's tastes should be raised, and that, instead of listening to trash, they should have good sound pieces performed."[301] Again this view was shared by Viscount Sydney who dismissed the five/six strategy stating that if theatrical pieces were permitted at music halls, then "you must allow any number of actors."[302] Although Norton felt that the legitimate drama should be protected from an audience involved with eating he saw no harm in lighter fare being presented. His reason for protecting the legitimate drama was that "people who go to the large theatres go there for mental enjoyment, whereas

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299 Henry, *op.cit.*, qq. 964-965.

300 Hon. George Chapple Norton, Magistrate at Lambeth Police Court, *Report of the SCTL*, *op.cit.*, qq. 1299-1299A, 1252. Sydney, *op.cit.*, q. 7556, 7674.

301 Norton, *op.cit.*, q. 1274.

302 Sydney, *op.cit.*, q. 7789, 7792.

the primary object of the people who go to the music halls is refreshment after a hard day's work."[303]

These views were not shared by everyone involved with the surveillance of music hall entertainment. William Henry Bodkin, Assistant Judge at Middlesex is clear in his opinion that music halls should present strictly musical entertainment. Bodkin did not foresee any occasion when a music hall might be allowed to present plays. When the committee suggested that one should be able to entertain oneself as one saw fit, Bodkin asserted that he did not "see that morality is advanced by a man's seeing women dance half naked on the stage, and then go downstairs to join the audience."[304] He also suggested that the current fare on offer at music halls was cause for criminal activity, "a crime that is now very much on the increase, I mean the crime of embezzlement, robbing employers; and I find that the young men are very much induced to get into these difficulties through attending cheap places of amusements of this kind." He did not suggest that music halls should not exist but that their criminal connections must bear some significance in determining licensing and performance decisions.[305] Bodkin was suggesting that the morality of the lower classes needed legislative guidance whereas the upper classes were fully capable of self-regulation. Bodkin would keep the Lord Chamberlain's jurisdiction over theatres and that of the

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303 Norton, *op.cit.*, qq. 1258-1260, 1281, 1305.

304 William Henry Bodkin, Assistant Judge for Middlesex, *Report of the SCTL*, *op.cit.*, qq. 1809-1811, 1825.

305 Bodkin, *op.cit.*, q. 1834.

magistrates over the music halls. In his opinion, the only type of establishment to perform plays should be the theatre, Bodkin even objected to play readings at literary institutes, and consequently the current dilemma of determining whether a performance was a stage representation or a musical entertainment would be avoided.[306]

The unclear rôle of the Police in the surveillance of entertainment establishments fuelled the call for change by Sir Richard Mayne, Chief Commissioner of the Metropolitan Police. It was not the duty of the police to report immoral behaviour on the stage, nor should it have been in Mayne's opinion; their function rather was to police the audience. This was often done in conjunction with music-hall managers who provided their own policemen as well as applying to Mayne for members of his staff. The system had its flaws which Mayne wanted addressed. For example, under *2& 3 Vict.,c.47* the police had the right to enter unlicensed premises when it suspected a theatrical performance was taking place. However, under *25 Geo.2* the premises which held a music and dancing licence were protected from police intervention. The police could not stop entertainments, they could only observe and report them to the magistrates.[307]

While Mayne regarded the current system of licensing as adequate he favoured the creation of one authority in order to clarify the rules and regulations and enable

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306 Bodkin, *op.cit.*, qq. 1831-1832, 1885-1892, 1902, 2024.

307 Sir Richard Mayne, Chief Commissioner of the Metropolitan Police, *Report of the SCTL, op.cit.*, qq. 973-976, 1026-1037, 983, 993, 996.

proper surveillance. Mayne disagreed with Ponsonby and Bodkin regarding audience behaviour at music halls stating that to his knowledge they were well conducted and the audience well behaved. He further argued that he was unaware of any private rooms being attached to music halls and while there were `women of the town' in attendance they were orderly and could be found in all public places. It was suggested that if a large number of women of the town frequented an establishment the licence should be taken away. Mayne did not see any reason to do so, and stated that he "would rather let even women of that class dance and amuse themselves, although I knew men went there for the purpose of meeting them."[308]

Thus Mayne presented a fairly liberal view of how the lower classes could and should be allowed to enjoy leisure which is particularly significant in his rôle as Chief Commissioner of Police. With reference to the right of persons, whatever their rank in life, to amuse themselves Mayne argued that "if their conduct is proper there, whatever it may be elsewhere, I should not consider myself justified in refusing to let them meet and dance."[309] While Mayne acknowledged the problems of intoxicating refreshments he dismissed objections to music halls based on impropriety of audience members. He stated that in fact the opposite was true while calling for greater powers for the police to enter and supervise certain premises. He also saw no objection to music halls presenting light drama, and while it was not his taste to drink while seeing a play he

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308 Mayne, *op.cit.*, qq. 967-969, 1071-1076.

309 Mayne, *op.cit.*, q. 1044.

did not feel he should interfere with someone else's choice so to do.[310]

Many of the official witnesses expressed a concern for the safety of the public in calling for an expansion of the Lord Chamberlain's power to include the supervision of music halls. Of great concern was safety from fire and it was assumed that this was addressed within the inspections required by the Lord Chamberlain. This was not completely true, as Captain Eyre Massey Shaw, Head of the Metropolitan Fire Brigade explained to the committee. Captain Shaw noted that although there had only been seven serious theatre fires and forty-three lesser ones in the previous thirty years, there was no programme of fire safety at the theatres in which his department was involved. Each theatre had its own system for fire prevention and was supervised for the Lord Chamberlain by the Inspector of Theatres, William Bodham Donne.[311] However, the fire brigade's expertise was not sought.[312] Shaw expressed grave concern over the safety of the public at all places of entertainment suggesting that a number of improvements could be made. For the most part Shaw agreed with the improvements that had been recommended in Locke's failed bill and added some adjustments of his own, his main concerns being the ability to evacuate a building quickly and the

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310 Mayne, *op.cit.*, qq. 1168-1174.

311 As recommendations from Inspectors were often not carried out, theatres cannot be considered necessarily safer than music halls.

312 Captain Eyre Massey Shaw, Head of the Metropolitan Fire Brigade, *Report of the SCTL*, *op.cit.*, qq. 6533, 6410-6414.

availability of water.[313] While London possessed only 170 firemen, in contrast to a city like Paris which had over a thousand, the system and equipment for fighting fires was much better in the Metropolis, argued Shaw. Still, significant adjustments needed to be made if the safety of Londoners was to be assured.[314]

IV

In general the players are divided into two camps, the music halls and the theatres. However, this distinction is somewhat misleading as the licensing laws affected a wide gamut of entertainment establishments which are not easily categorized as theatrical or musical. Just as provincial `music halls' differed from their metropolitan counterparts and sought distinct changes, other entertainment establishments such as literary institutions suffered under the current system and sought redress from the select committee. The Beaumont Institution, founded "for innocent amusement in the intervals of business, without being subject to the baneful effects of intoxicating liquors" as well as general self-improvement could hardly be classified as the den of iniquity often implied by theatrical critics of non theatrical establishments yet it was subject to prosecution when it fell afoul of the licensing laws.[315] Whether as

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313 Shaw, *op.cit.*, q. 6414, 6441.

314 Shaw, *op.cit.*, q. 6543, 6552-6553.

315 David Francis, Manager of Concerts and Entertainments at Beaumont Institution, *Report of the SCTL, op.cit.*, q. 5885.

a result of an informant such as Jerwood in 1861 working on behalf of the theatre managers or through other means the Institute had been warned not to break the law. For example in 1856 as a fundraising event for the institute's library an evening of `elocutionary entertainment' had been organized by the elocutionary class. It was cancelled after Francis, the manager of concerts and entertainments at the Institute received a letter from the Lord Chamberlain's office stating "his lordship desires me to acquaint you that such performances at an unlicensed place are illegal, and would subject those who take part in them to the penalties of the [1843 Act], if information is laid against them."[316]

The Institute desired changes to the legislation that would make the reading of plays out loud legal. William Bodham Donne, Examiner of Plays, argued that it was not so simple; "there are two or three things which should be considered besides: Theatres, where plays are to be acted, generally contain in proportion to the house, a considerable number of persons employed; theatres all stand at heavy expenses, and you would be taking the privilege from those who are following their proper vocations by allowing plays to be performed at such places as the Beaumont Institution."[317] Francis suggested that the institute did not seek to provide alcoholic refreshments or permit tobacco within its doors. Its mission statement clearly states the opposite. Nor did it seek to become a theatre. Francis even suggested ways of ensuring it wouldn't

316 Francis, *op.cit.*, q. 6039.

317 William Bodham Donne, Examiner of Plays, *Report of the SCTL*, *op.cit.*, q. 2154.

by restricting the number of performances per week. What Francis was seeking was freedom to operate his establishment without being charged with breaking the law. "[W]e live at a part of the town where first class theatrical entertainments are not to be obtained; there are not theatres which the respectable persons of the neighbourhood usually attend, and we are now carrying on business under a fear and a dread."[318]

As noted earlier another entertainment establishment, the penny gaff, was often under threat from the police and from the larger society. Richard Reason, Chief Inspector of Common Lodging Houses and Dangerous Structures, expressed a commonly held belief in stating that penny gaffs attracted criminal elements especially young children. Similar to William Bodkin's assertion that young clerks had the tendency to steal from their employers to gain music-hall admission, Reason suggested that children attracted to the penny gaffs would themselves indulge in petty theft so to obtain the price of admission. On further questioning Reason admitted that the children were well behaved, did not pick each others' pockets and were simply subjected to poor entertainment.[319]

The entertainment available at penny gaffs broke the law as they were licensed only for music for the most part. While society at large found them objectionable and desired police intervention, Richard Mayne, Chief Commissioner of Police argued that

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318 Francis, *op.cit.*, q. 6058.

319 Mr. Inspector Richard Reason, Chief Inspector of Common Lodging Houses and Dangerous Structures, *Report of the SCTL*, *op.cit.*, qq. 7847-7848, 7869-7879.

"if I have been told that there was such a place demoralising the neighbourhood I have sent police to observe, and I have seldom found that there was anything that the police could interfere with." That is not to say that the Police had not intervened with their operation in the past but action was taken mainly based on information laid by the theatre community against particular operations. Mayne himself stated that he would not be inclined to stop a penny gaff if knew there was dancing taking place even though they possessed a `music only licence': "they dance, and I am not aware of any evil arising from that; the women are not very correctly dressed, but I think it would be over squeamish, looking at the class of persons who frequent those places, to find fault with them."[320] Even Inspector Reason, after grilling by Locke, was forced to admit that with regard to the children in attendance it did keep them "out of mischief."[321] While the interests of the penny gaffs were not represented directly to the committee they are part of the debate. Along with the music halls they inhabit a grey area of the law, providing acceptable entertainment to their own constituency, and fulfilling a local need, while enjoying some support and approval by the police.

John Green, Manager of Evans', is representative of another type of establishment, the song and supper room or night house, different from most metropolitan music halls yet part of the debate. While smoking, drinking and eating were permitted at Evans' women were not and the entertainment provided was mostly

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320 Mayne, *op.cit.*, qq. 1015-1017.

321 Reason, *op.cit.*, q. 7882.

singing and acrobatics. In this way Evans' protected itself in certain ways from attack as women were not subjected to the evils of intoxication nor were men tempted by the evils of women. In fact, Green stated it succinctly: "where the sexes go and meet, art is neglected; treated with contempt, and frequently despised."[322] Green did favour the expansion of legislation to allow music halls to present the drama. However he would enforce strict censorship and insist that it be a "trade in a respectable and proper article. Do not degrade or damage our fellow creatures."[323] He called for greater Government intervention with public entertainments fearful that public taste should not be left solely to determine the amusements of the nation.[324]

So in essence there are two camps - the theatres and the non-theatres or, more succinctly, those who had the right to perform a play and those who did not. Within the group of those who do not have the right to perform drama the largest and most important contingent is the music hall. However changes to legislation would affect the whole entertainment industry including establishments such as the Beaumont Institution and Evans', and this is important to note as it broadens the issue to tackle the larger question over the control of culture.

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322 John Green, Lessee and Manager of Evans', *Report of the SCTL, op.cit.*, q. 5619.

323 Green, *op.cit.*, q. 5595.

324 Green, *op.cit.*, qq. 5631-5638.

Was the music hall industry successful in presenting a uniform response under the banner of the Association which emphasized the development and requirements of the industry as a whole rather than the ambitions of certain music-hall managers? Aside from the dissention of Strange and Poole a uniform response was presented to the committee in the five/six strategy. A compromise that, on the surface, seemed less offensive to those who held drama in high regard. However as Strange and Poole pointed out the compromise did little to clarify what type of entertainment would be allowed and ultimately the strategy would be unacceptable to all parties. The logistics of using the number of performers on stage to determine whether a performance was illegal or legal were discussed and dismissed as more confusing than the current system. The music hall industry had been able to shake its tarnished image of unruly houses with the support of such prominent witnesses as Sir Richard Mayne, Chief Commissioner of Police. Many of the official witnesses agreed that music halls were well conducted and rather than be restricted to a certain number of performers should have access to the drama, whether lighter fare or the full spectrum of the literature.

Regarding free trade and censorship, attitudes were mixed within the industry and regulatory bodies. Some saw an advantage to an increase in establishments as forcing better quality entertainments. Music hall's grievance about prosecution was somewhat justified as it often won in court yet was still vulnerable. "[I]t is extremely difficult even for lawyers to ascertain what is a stage play, yet the police have the power to enter any place not licensed for stage plays, and take into custody the whole

of the audience, if an entertainment be produced which ultimately turns out to be a stage play."[325] Music hall was appealing for fairness in the system that currently gave them little protection. The industry argued that it was not in competition with the theatres since it did not present drama but catered to a respectable part of the population, the lower middle and working classes, and provided a wholesome form of entertainment enjoyed by its clientele and unoffensive in nature and design. It was now up to the committee to determine whether music hall development would be allowed to continue along the current path, with changes to licensing laws, or whether the privileged position, long enjoyed by the theatre community, would be preserved.

VI

Having heard the testimony from both theatrical and music hall interests as well as officials the committee brought forth their recommendations to Parliament. The first four dealt with the current system of licensing which was determined as unacceptable by the committee which suggested that one authority - the Lord Chamberlain as regards the Metropolis - be empowered to licence all establishments of entertainment. In contrast to the general consensus that the licensing system was unsatisfactory, Powell suggested that the magistrates should continue to license places for instrumental music

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325 Papers handed in by Frederick Stanley, Appendix No. 3, *Report of the SCTL, op.cit.*, p.310.

and public dancing. His motion was easily defeated with only Powell, O'Beirne and Selwin voting in its favour.[326] The committee further decided that two forms of licence be granted, one which permitted alcohol, refreshments and smoking in the auditorium and one which did not.[327] In their fifth recommendation the safety inspections, currently required only at theatres, were to be extended to all places of entertainment with sufficient powers entrusted to the licensing authority to ensure compliance with safety regulations. The committee also desired an amount be paid as security when an application was made for a licence and the requirements of the neighbourhood were not to be taken into account in the granting of a licence. Competition with established enterprises would not influence official licensing decisions, *i.e.* free trade.

Currently when a licence was refused there was no avenue of appeal, the committee disagreed with this and suggested an appeal to the Home Secretary would be desirable.[328] The committee regarded censorship as a valuable practice and recommended that it be extended to cover all pieces of entertainment and not just plays as was currently done.[329] Proper supervision and surveillance were advocated by the

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326 *Report of the SCTL, op.cit.*, p.xiii.

327 Upon this recommendation put forward by Lord Cecil the vote was divided with Lord Bruce, Locke, Lusk,Taverner J. Miller and Colonel Sturt voting against the granting of two types of licences. *Report of the SCTL, op.cit.*, p. xi-xii.

328 Again not all the committee members agreed with the introduction of an appeal process, Lord Cecil, Lord Bruce, Clay and Clive voted against it. *Report of the SCTL, op.cit.*, p.xiii.

329 This view was not held by all and Clay, Clive, Lusk and Locke voted against the extension of censorship. *Report of the SCTL, op.cit.*, p.xii.

committee which acknowledged that *25 George II.c,36* was not satisfactory and suggested changes that would enable police intervention.

The committee did discuss the merits of the five/six strategy with Lord Cecil suggesting that establishments with a licence to serve alcoholic refreshments *etc...* be restricted to only three actors or actresses performing at one time on the stage. The motion was defeated with Lord Bruce, Clay, Clive, Locke, Lusk, O'Beirne and Colonel Sturt voting against it. Powell then suggested that such houses with an intoxicating licence be allowed to present performances that were of a restricted type - a key issue in the debate. The committee was evenly split with Lord Bruce, Clay, Clive, Locke, Lusk and Colonel Sturt voting against. The motion was defeated when Goschen, the committee chair voted with the noes.[330] The most important recommendation that the committee provided referred to the ability of music halls to present theatrical entertainments, a central theme of all witness testimony. The committee stated that the current restrictions should be removed allowing music halls to present dramatic fare.

Aside from the fore mentioned important victory for the music halls in gaining access to the drama (a recommendation that did not translate into legislation) generally the recommendations of the committee do not specifically favour one interest over all others. However by granting music halls access to the drama the committee was defending their respectability as business ventures. On different issues, both sides,

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330 *Report of the SCTL, op.cit.*, p. xii.

theatrical and musical, had argued their points successfully. Practically all the witnesses that testified argued that the system needed attention. While many solutions were offered, the Lord Chamberlain as supreme licensing authority was favoured by many officials, theatre and music-hall witnesses alike. The significant difference for the theatre community regarding this recommendation was they understood that the one licensing authority would require changes to music halls if they were granted theatrical licences, *i.e.* the prohibition of alcohol, refreshments and smoking in the auditorium. The theatre community had argued strongly that culture needed to be protected from these damaging influences and that the purity of drama would be lost if music halls performed plays. On this point they were not successful, while the committee was concerned with the protection of culture it did not agree that keeping drama off the music-hall stage would help ensure its preservation. At the same time the strategy by the music halls to suggest limiting the number of performers did not succeed although the outcome was not unfavourable as the committee granted them the right to perform any piece regardless of the cast size which complied with Mr. Strange's request for free trade. The two licences were a concession to the theatres however clearly the music halls' request for greater freedom was granted by the committee as the types of performances were not linked to the types of licence.

In giving music halls the right to perform drama the committee was not neglecting the worries over culture often expressed during its hearings. The committee placed much faith in the power of censorship to protect the public's taste and to shape

its cultural education.[331] While censorship found support among officials and certain managers those who wrote for the stage more often found it a hindrance. In the past both the classics and more contemporary fare had fallen out of favour with the crown or parliament and hence the censor.[332] The extension of censorship to all performance also reflected contemporary notions of taste. A growing concern in mid-Victorian times was whether the public (and specifically the lower classes) could be trusted to determine their own leisure. In the past restrictive laws had helped to keep the drama pure and free from competition in conjunction with the suppression of `undesirable' diversions. However this committee faced the problem of juxtaposing notions of good taste with the issue of competition. In an era when free trade was gaining support the committee could not deny the rights of certain capitalists to realise a profit and therefore they could not recommend the traditional restrictive laws to protect culture. A new method was required that allowed competition to flourish while preventing

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331 While the music halls were never actually subject to the same kind of censorship as the theatres, Penelope Summerfield argues that censorship was achieved as it was self-imposed and therefore state intervention was unnecessary. As music halls developed the proprietor's were aware that they were responsible for what took place on their stages, and as they were mindful of their licences and their profits they made sure that offensive material was not performed. This was carried to a great extreme at the end of the century with the development of House Rules determining what a performer could and couldn't say on stage. Penelope Summerfield, `The Effingham Arms and the Empire: Deliberate Selection in the Evolution of Music Hall in London.' in Eds Yeo, Eileen & Yeo, Stephen, Popular Culture and Class Conflict, 1590-1914, Explorations in the history of Labour and Leisure, Sussex: The Harvest Press, New Jersey: The Humanities Press, 1981, p. 223-225.

332 As mentioned in Chapter two, even Shakespeare occasionally fell a foul of the censor - the banning of King Lear in the 18th century. More contemporary playwrights often fared no better, Oliver Twist -based on Charles Dickens' novel - considered a classic in modern times, was banned after the censor received numerous complaints about the ill effects of it on young boys and apprentices by their parents and masters. Donne, *op.cit.*, q. 2416.

immorality from doing the same. The committee was convinced that as long as each piece for performance was reviewed by the Lord Chamberlain the nation's culture could remain a protected entity whether it appeared on stage at the music halls or the theatres.

Appendix A

London Concert Halls, Music Halls, and Entertainment Gallerries.[333]

Establishment	Cost	Daily Accomodation
Crystal Palace	1 000 000	100 000
Agricultural Hall	50 000	20 000
St. James's Hall	50 000	5 000
St. Martin's Hall	50 000	4 000
Exeter Hall	50 000	6 000
Gallery of Illustration	5 000	500
Egyptian Hall	5 000	500
Polygraphic Hall	5 000	500
Polytechnic	20 000	1 000
Alhambra, Leicester-square	50 000	5 000
Oxford, Oxford street	40 000	2 000
Strand, Strand	30 000	1 500
Canterbury Hall, Lambeth	25 000	1 500
Metropolitan, Edgware road	25 000	2 000
Regent, Westminster	25 000	1 500
Wilton's Wellclose square	20 000	1 500
Evans's Covent Garden	20 000	1 000
Weston's, Holborn	20 000	1 500
Philharmonic, Islington	20 000	1 500
Highbury Barn, Highbury	20 000	2 000
Cambridge, Shoreditch	16 000	2 000
Winchester, Southwark	15 000	2 000
Lord Raglan, Theobald's road	12 000	1 500
Middlesex, Drury Lane	12 000	1 200
London Pavilion, Coventry street	12 000	2 000
South London, London road	8 000	1 200
Marylebone	8 000	800
Oriental, Poplar	7 000	800
Borough	6 000	1 000
Bedford, Camden Town	5 000	800
Deacon's Clerkenwell	5 000	800
Trevor, Knightsbridge	5 000	800
Sun, Knightsbridge	5 000	800
Lansdowne, Islington	4 000	600
Rodney, Whitechapel	3 000	600
Apollo, Bethnal-green	3 000	600
Westminster, Pimlico	3 000	800
Nag's Head, Lambeth	2 000	500
Woodman, Hoxton	2 000	500
Eastern Alhambra	2 000	1 000
Swallow Street	2 000	500

333 These figures were provided by Frederick Stanley, Solicitor for the London Music Hall Proprietor's Protection Association. Stanley, *op.cit.*, Appendix No. 3, p.313

Conclusions

As the notion of work was redefined as predominantly industrial rather than agricultural and as time lost its attachment to the seasons and became factory oriented so leisure remade itself and adapted to modernity and the new time discipline. Within this new sense of time and space each class adapted in its own distinctive fashion and thus new forms and functions of leisure emerged. Such new leisure did not develop freely but derived from negotiations among classes, as well as from state regulation, suppression and provision. Leisure, less communal though still self-generated in certain aspects, was now increasingly commercialised and sought within the confines of the new urban centres.

This study has reviewed the development of two leisure institutions, the theatre and the music hall, and has looked at their struggle for both legitimacy and security. Legitimacy was claimed by the theatre community based on its long standing patronage by the monarchy and its possession of the nation's culture, its drama. The theatre community believed that drama needed to be protected from the defilement of both the masses and the music hall and implied that their financial interests were of secondary importance. Defending drama from democracy would have been easier in the 1830s when the idea of democracy was more threatening. However, by the 1860s, democracy was slowly becoming a reality and was not as volatile as had been expected. What the theatre managers failed to realise was that cultural democracy could not be avoided given the approaching political democracy which was confirmed by the 1867

Reform Act. The traditional claims of the elite to high culture were weakened and economic activities were valued more than traditional cultural arguments. Consequently, the attachment to the rhetoric of high culture and the choice of this philosophy by the theatre community was unfortunate. The theatre managers considered that the emergence of a commercialised leisure that catered to the working class was indeed threatening to culture and needed to be stopped. However the task was not one to be easily achieved given the social and political ideals of the time. As one contemporary of the debate wrote, "Indeed the theatrical managers would assign to Government a task even more Quixotic and impracticable than the overthrow of immorality; they expect from it the authoritative preservation of a certain standard of taste."[334] This was an impossible task and was one of the failings of the theatre's strategy. In calling for the public's taste to be protected from the productions of the music hall stage the theatres left themselves open to attack as their productions were similar. The Victorian audience was vocal, it wanted spectacle and melodrama and while it would allow the occasional foray into the classics it demanded a healthy diet of villain chasing, heroine saving and mechanical mayhem. Victorian drama was not known for its brilliance in literature but for its brilliance in spectacle - the Victorian dramatist knew how to throw someone off a rock! Thus the theatre community undermined its cultural argument leaving only the economic grievances which, within the context of the day and the era of free trade, did not warrant much hearing.

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334 'Theatres and Music Halls', The Saturday Review, August 18, 1866, p. 203, 2nd column.

Conclusions

The music hall interests appropriated many of the arguments used by minor theatre managers in the 1830s to seek the right to produce what they thought fit for their audience. They also appropriated other strategies and adopted a similar practice of disguising dramatic pieces as musical entertainments. Most music halls received the support of the police and other officials with regard to the behaviour of their audience and the propriety of their operations and were not the dens of evil described by the theatre managers and reformers. The music hall managers also presented themselves as legitimate businessmen who had invested great capital in the leisure industry. Morton had done much to distinguish the music halls from their public house origins and argued that music halls offered leisure to the working class in a familiar and accessible form and thus were best poised to help them improve themselves by exposure through art and culture.

The state took on the rôle as regulator of leisure through the licensing laws although these were often unclear and created at least one dual jurisdiction. While the dual jurisdiction caused many problems for both music hall and theatrical managers legislative change was not the only solution. The calling of a Select Committee and its subsequent findings could be sufficient to provoke change even though legislation remained static. This was certainly true after the *SCDL* in 1832 and particularly after 1866 (licensing legislation was not resolved until 1911). What was important for the emerging leisure industry and its regulators was not necessarily new legislation but what could be assumed acceptable from the committee's report. Traditionally, with

regard to the arts, the pattern for change can be identified as discussion, recommendation, inaction, general acceptance into practice and finally legislative legitimation.

This period of study is important as it represents a pivotal point in the development of commercialised leisure. After the report of the *SCTL* the music hall industry experienced notable growth as its managers felt that public opinion was on their side and that they were free to produce what they pleased. It is interesting to note that in later years the music halls that possessed legitimacy, the mixed-class music halls, would use the licensing laws to undermine the business interests of their rivals, the smaller halls and saloons.

Culture generally was now big business and the elitist defence of its higher forms (such as the legitimate drama) was an inadequate defence against democracy and the pursuit of profit. Yet the stage eventually proved capable of adapting to capitalist modernity - theatres survived but music halls did not. The full rôle of the state in this process has still to be satisfactorily examined.

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