Department of Social Sciences

French Exploration and Intentions with Regard to the West Coast of Australia 1772–1829

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Declaration

To the best of my knowledge and belief this thesis contains no material previously published by any other person except where due acknowledgment has been made.

This thesis contains no material which has been accepted for the award of any other degree or diploma in any university.

Signature: …….

Date: ……..

ABSTRACT

In 1772 French navigator Alesno de Saint-Aloüarn, visited the western coast of the Australian continent, and claimed it for France. Some French authorities and later French navigators believed that Saint-Aloüarn's claim was valid under prescriptive law, yet this law is only valid if the land claimed is settled within a time frame of thirty years. However, France did not intend to either lay claim to, or establish a colony in western Australia during later voyages of exploration conducted in the eighteenth and early nineteenth centuries, especially as in 1778 Captain Cook had taken possession of the east coast of Australia which was fortified by the British Navy.

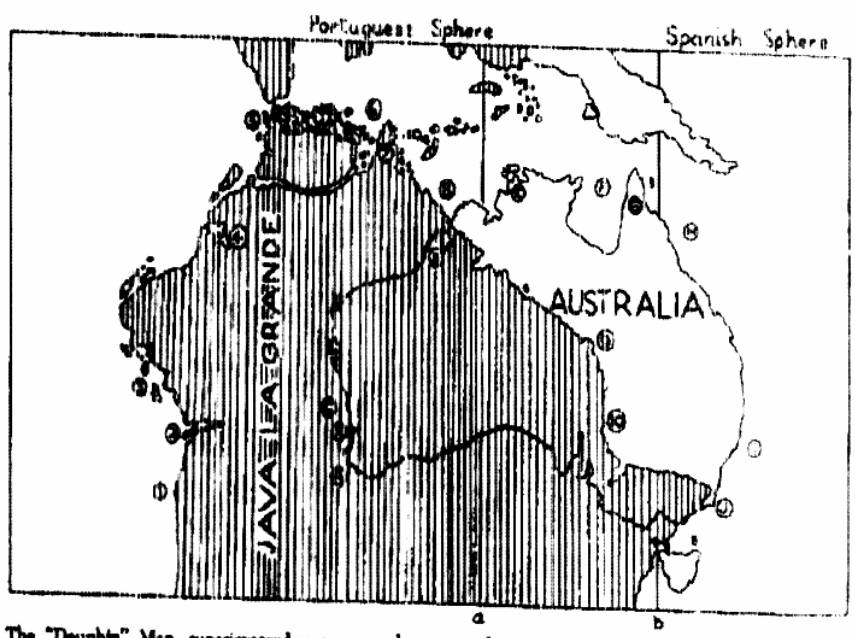
While this thesis does not dispute Saint-Aloüarn's claim, a long succession of writing developed from a British perspective has located rivalry and fear of French colonial ambitions as the cause for British occupation of western Australia. French, Dutch and British voyages to the west coast of Australia have been canvassed, drawing upon both contemporary accounts and twentieth century interpretations of the aims and motives of the respective governments.

This thesis investigates three factors considered to have significantly influenced the motivation for and preparation of relevant French and British voyages of exploration covering the period 1772 to 1829. Differences between concepts held by both nations, such as spatiality and territoriality, the value of science, together with the fact that Britain and France operated under two quite distinct legal systems in regard to territorial claim, form the basis for arguing against past historical understandings.

It is argued that while the primary aim of British exploration was to establish colonies to satisfy economic and defence requirements, as well as expansion of the empire, French voyages of exploration undertaken to the west of the Australian continent after 1778 were for scientific purposes. By adding knowledge of a largely unknown part of the continent to the world at large, the French hoped to restore national pride after their humiliating loss at the Battle of Waterloo in 1815, which effectively ended the Napoleonic Wars. The corollary is that the rivalry factor, often put forward by historians as the reason for British annexation of Western Australia in 1829, is shown to be of little value against the other three factors.

Map 1. “Dauphin” Map

C.Halls, *Westerly*, University of Western Australia Press, Nedlands, February 1965.



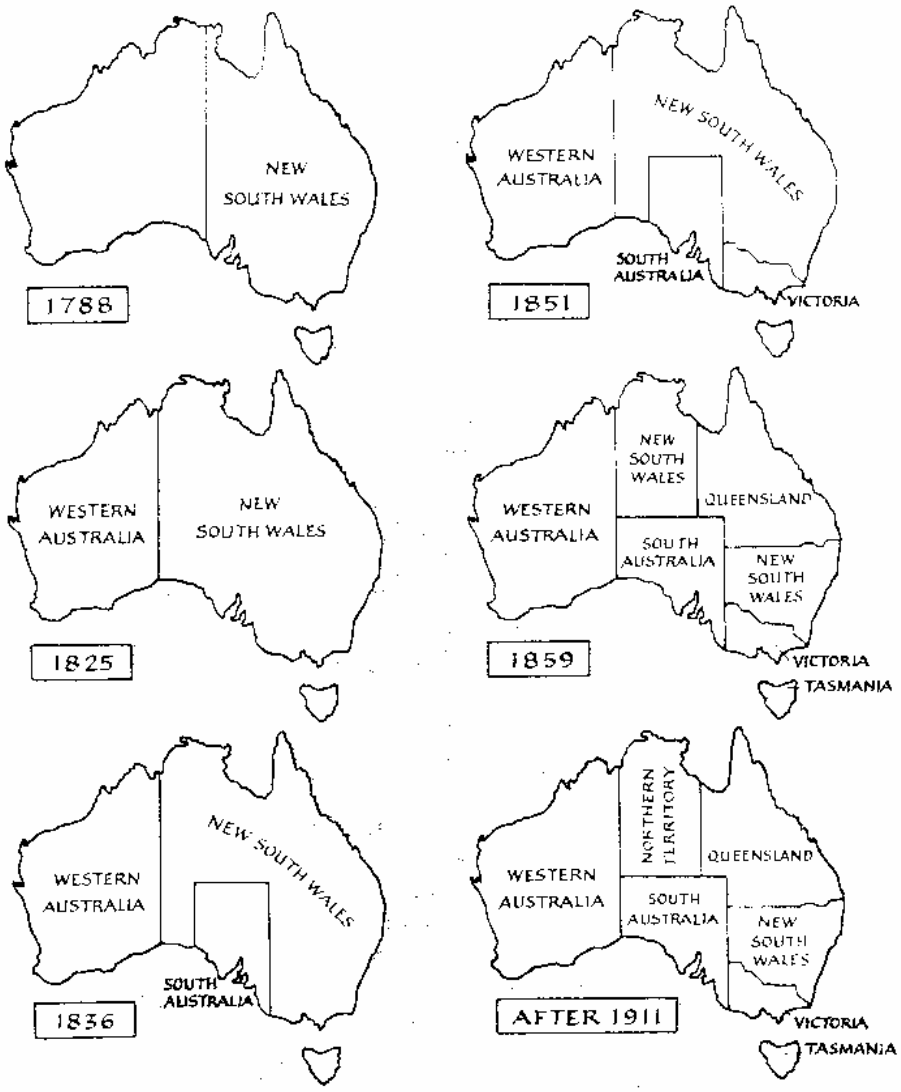
The "Dauphin" Map, superimposed upon a modern map of Australia. After A. F. Calvert *The Discovery of Australia*, Vol. 2, Pl. 23. Liverpool 1893.

a = The Lines of demarcation of Pope Alexander VI, 1494

b = The Pope’s Line of 1529

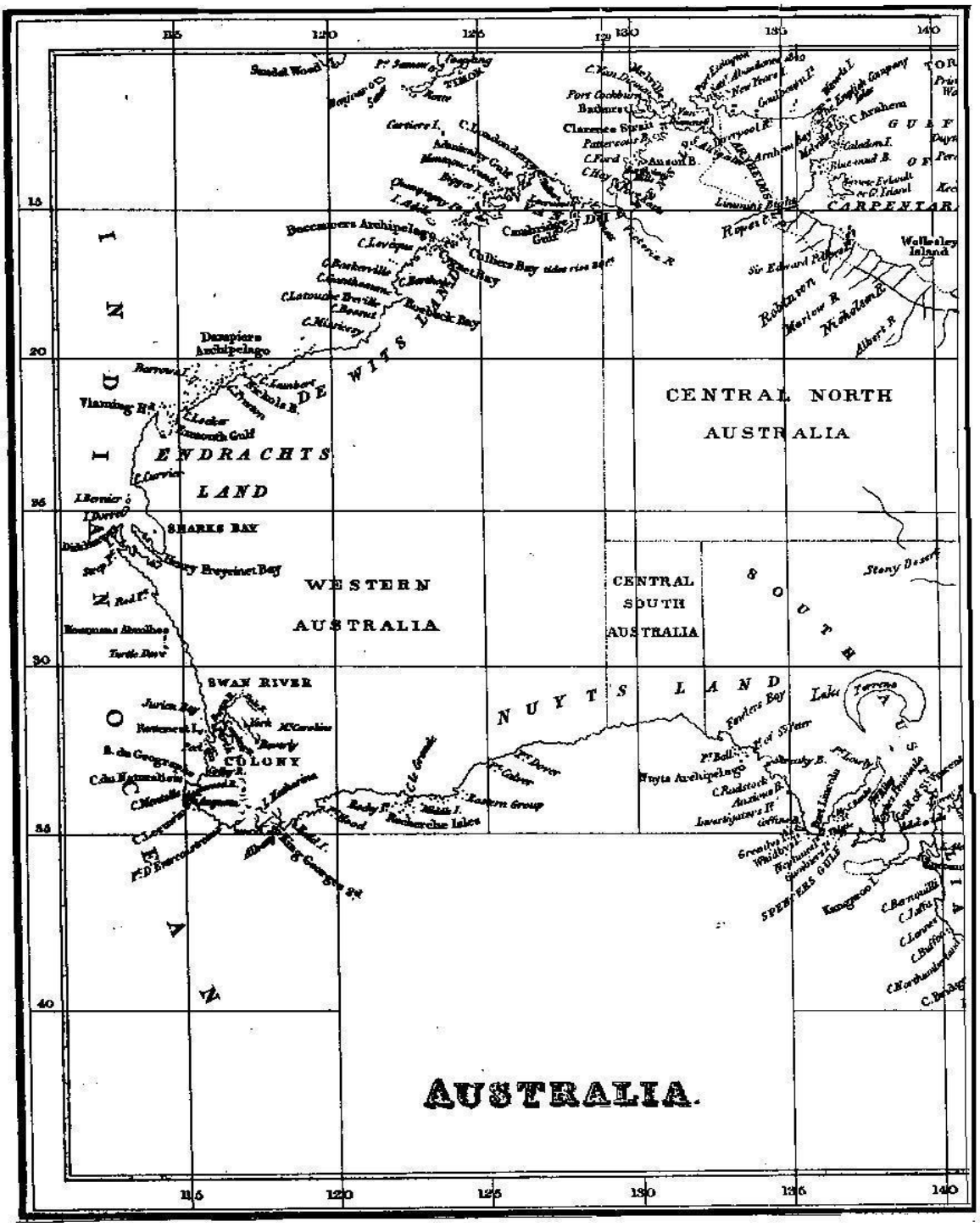
Map 2. Historical Boundries

Robert Hughes, *The Fatal Shore*, Pan Books in Association with Collins, 1988.



Map 3. Map of Western Australia showing Longitude Lines

William Henry Wells, (Facsimile Edition), *A Geographical Dictionary or Gazetteer of the Australian Colonies*, The Council of the Library of New South Wales, Sydney 1970.



Map 4. Map of Australia showing States and Oceans

http://wikitravel.org/upload/en/8/8c/As-mao.png . 9/6/2007

Chapter One – Introduction / Historical Background [1]

> History means interpretation – imaginative understanding.[2] History is movement; and movement implies comparison. The emergence of a particular value or ideal at a given time or place, is explained by the historical condition of time and place. The content of hypothetical absolutes like quality, liberty, justice or natural law, varies from period to period or from continent to continent.[3]

The purpose of this thesis is examine the general statement that France sought to lay claim to the western third of the Australian continent prior to 1829. French navigator Alesno de Saint-Aloüarn's [4] early claim to western Australia in 1772, followed by later French navigators in the eighteenth and nineteenth centuries, have formed the basis for assumptions that British annexation of the western third of the continent, together with immediate colonisation, was made in order to forestall French claims. Examinations of various texts reveal that there is a long succession and consensus of writing developed from a British perspective where historians emphasise a single cause of international rivalry between France and Britain as the reason for Britain colonising the west of Australia in 1829.

The rivalry concept as a simple causal argument, leads to a limited historical understanding of the French reasons for their explorations. Rivalry as the primary concept appears unsatisfactory; accordingly, this thesis proposes alternative explanations for the French presence in western Australia, relying on more complex concepts and perceptions.

The evolution of knowledge from the Renaissance, followed by the Reformation and the Enlightenment periods, produced differing outlooks and perspectives. Historical differences between the two nations of France and Britain are henceforth discussed. Following the Renaissance, the Reformation initiated in France early in the sixteenth century witnessed a great revolution in the Christian church, ending both the ecclesiastical supremacy of the Pope in western Christendom, and the worldview that the Church had presented for a thousand years. The division of France into Protestant and Roman Catholic factions led to a generation of religious civil wars between 1652 and 1698, resulting in French King Louis XIV, a Roman Catholic, trying to force French protestants to convert, thereby reducing absolutism to the formula '*Un roi, une foi, une loi*' (one king, one faith, one law.)[5] In

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[1] In this thesis the use of (w)estern (small "w") Australia is used in references prior to 1829. After the official founding in 1829 (W)estern (capital "W") Australia has been used in references.
[2] E.H.Carr, *What is History?* The Macmillan Press Ltd., London, 1977, p.18.
[3] *Ibid*, pp.17–18.
[4] French Navigator Aleno de Saint-Aloüarn (as noted in the *Cohérence du catalogue@bnf.fr*) will be referred to throughout this thesis as Saint-Aloüarn.
[5] David Parker, *The Making of French* Absolutism, Edwin Arnold (Publishers) Ltd., London, 1983, pp.1–2, and p.120.

contrast, the English Parliament in 1534 at King Henry VIII's insistence passed a series of acts that separated the English Church from the Roman hierarchy as a result of Pope Gregory VII's refusal to annul Henry's marriage to Catherine of Aragon. The Act of Supremacy effectively transferred to the king the ecclesiastical jurisdiction previously exercised by the pope by appointing the king as head of the Church of England, thus establishing an independent national church. The national religion of France remained Roman Catholic, while that of England remained Protestant.

François Dosse asserted that as royal power grew stronger in the sixteenth and seventeenth centuries, leaning more and more on the divine nature of the leaders, Louis XIV of France and the Stuarts of England became the object of an idolatry that was more and more widespread – 'absolutism as a kind of religion'.[6] However, England's political resistance against absolutism finally won out after the 1688 Glorious Revolution. Thus developed two different concepts**:** France's king ruled as an absolute monarch whereas the King of England who, as a constitutional monarch, ruled with the consent of parliament. France had to wait until embodying the values of the Enlightenment, the French Revolution of 1789–1792 resulted in the overthrow of the Bourbon monarchy, thereby discarding absolutism in favour of establishing the First Republic of France [7] and the subsequent rise to power of Napoléon Bonaparte.

Geoffrey Best has argued that the Revolution must have produced a military power and leadership such as Napoléon's, proportionate to its capabilities and its needs.[8] This imperial concept alone is difficult to attach to the argument that France would have conducted a campaign to secure western Australia, as the British navy was present in the eastern portion of the Australian continent to protect the British colony in 1788. Eric Hobsbawm's book *The Age of Revolution 1789–1848* covers this period, documenting the institutional changes introduced directly or indirectly by French conquest and showing the institutions of the French Revolution and the Napoléonic Empire was automatically applied.[9]

Further, the principal concepts used in such studies tend first to assume a conception of imperialism that conflates with empire building/imperialism that is more properly linked to

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[6] François Dosse, *New History in France – The Triumph of the Annales*, (trans. by Peter V. Conroy Jr.), University of Illinois Press, Chicago, USA, 1994, p.69.
[7] *Ibid.*
[8] Geoffrey Best, *War and Society in Revolutionary Europe 1770 – 1870*, Sutton Publishing Limited, Gloucestershire, 1998, p109-110.
[9] Eric Hobsbawm, *The Age of Revolution 1789-1848*, Abacus – an imprint of Time Warner Books UK, London, 1988, p115.

and defined by the period of the developing industrial revolution in Europe.[10] Furthermore this is taken to describe the contest between rival European powers to secure colonies in the latter part of the nineteenth century. French imperialism under Napoléon Bonaparte after the French Revolution strengthened the new national army, instigating various wars both within Europe and against Britain between 1792 and 1815. Napoléon's concept of imperialism attempted to change the nation of France into an empire after he was proclaimed Emperor of the French in 1804. He sought to extend the French Empire by conquest and acquisition using power, force, the imposition of alien rule and financial exploitation.

Britain's imperialism explains the development and building of the British Empire by securing colonies and settling British citizens to colonise, build and develop the land, as well as assigning the British rule of law to the colony. In the period under discussion, the industrial revolution as a process began in Britain in the late eighteenth century, but had not reached France until mid nineteenth century. The impetus of trade and raw materials was first therefore, with Britain.

French voyages of exploration to Australia in the eighteenth and early nineteenth centuries, and the account of French activities are constrained within a set of interpretations that emphasise a British perspective. Subsequent historical accounts do not separate French and British actions, by-and-large seeing both as two sides of a common national rivalry.

For at least two reasons, such analysis necessarily requires consideration of British action in relation to the western portion of Australia. Firstly, Britain had a colonial interest in other parts of the continent, and increasingly towards the end of the period under consideration, was drawn into arguments advocating occupation and settlement of the western third. Secondly, the rivalry factor as a single argument leads to a limited historical understanding of the French reasons for their exploration. The general conclusion appears to be that the French were at best ambivalent about the value of the western portion of the continent. [11] Finally, there appear to have been few attempts critically to scrutinise British and French historiography of colonialism and settlement, particularly as they might be applied to understanding the motives for French presence in Australia generally, and the western third specifically during the period of study.

[10] This later period is generally referred to as a developing period of 'high imperialism'; see for instance, E.J. Hobsbawm, *Industry and Empire*, Wiedenfeld and Nicholson, 1968, 'Introduction'.
[11] See, for instance, the discussion in R.T. Appleyard and T. Manford, *The Beginning*, University of Western Australia Press, Nedlands, 1979, p.23.

Rivalry

Various historians have documented the rivalry concept. For instance, Ernest Scott argues that the particular reason for the French not colonising western Australia has been effectively incorporated into popular historical consciousness through textual material. Scott cites an article in the *Quarterly Review* of August 1810,[12] which criticises the British Government who, in early 1800 at the time of war between the French and the British and at the request of a French diplomat Louis Guillaume Otto, granted passports and protection from hostile attacks from British ships during the French voyages of exploration. Scott further notes that the British Admiralty in later years was 'severely blamed for compliance,'[13] as the circumstance of the French voyages generated suspicion that the real purpose of the expedition was to ascertain the real state of New Holland; to discover what British colonists were doing; to ascertain what was left for the French to do on this great continent; and to rear the standard of Bonaparte on the first convenient spot'.[14] The criticism was directed at the audacity of the French diplomat to ask for British protection for ships on the ostensible grounds of research, when their secret purpose had been exactly opposite to the profession. Scott notes:

> There can be no doubt that this (*Quarterly Review* article, iv, 43) had a great influence in formulating the idea that has been current for nearly a century regarding Napoléon's deep designs. [Furthermore] Paterson's *History of New South Wales*, (1811) repeated portions of the article almost verbally, but without quotation marks (see Preface, p.v.), and many later writers have fed upon its leading themes, without submitting them to examination.[15]

Malcolm Uren opined that international rivalry, the protection of sea routes used by British merchant ships, and the necessity to possess places for refreshment of crews and the repair of ships on long sea voyages also stimulated the settlement of small British communities in isolated parts of the world. Further, that in Captain Nicolas Baudin's French expeditions to the Australian continent (1800–1803), although the French Government might never have thought possession with intent advisable, it had the effect of stimulating moves for asserting British possession beyond Port Jackson on the northern, southern and western coasts.[16]

In 1969 John Dunmore writes that the concept of Anglo–French rivalry predominated, when French explorers up to and including Baudin sailed at a time when mistrust and suspicion

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[12] Ernest Scott, *Terre Napoleon*, (second edition), Methuen & Co., Ltd, London, 1911, pp.42–43, cites *Quarterly Review*, 27 October, 1810, vol.iv, [NLS MS.3879, (ff.227–228)].
[13] Scott, *Terre Napoléon*, p.161.
[14] *Ibid*, p.162.
[15] *Ibid*, pp.161–162.
[16] Malcolm Uren, *Land Looking West*, Geoffrey Cumberlege, Oxford University Press, London, 1948, pp.1-2.

poisoned all fields of human endeavour, and the most obvious activities were interpreted as subtle diplomatic moves.[17] The French aim had been to find anti–British bases in order to keep the traditional British enemy out of the Pacific or defeat them in a future major conflict. Dunmore also notes that the concept of Anglo-French rivalry remains constant during the great period of Pacific exploration.[18]

John Bach makes the observation that the decision to establish a settlement on the west coast was largely the result of an abiding fear of French activities in those waters.[19] Fletcher writes that on behalf of the British authorities who had settled in the eastern part of the continent of Australia, Major Edmund Lockyer was despatched by the British to King George's Sound on the south–west coast in 1826, not only to found a new colony but to reinforce the British claim to this part of the continent to keep the French out.[20] David Markey argues that the British, established on the east coast, feared the encroachment of any other European nation to the western portion of the continent. Thus, when in 1826 the French sent out an expedition under Jules Sebastien Cesar Dumont D'Urville, there was an immediate reaction from the British government leading to the establishment of the first British settlement in what was to become Western Australia. [21]

Similarly, Neville Green states that when the French expedition under Dumont D'Urville, arrived at King George's Sound in October 1826, there was immediate reaction from the British government. Under instructions, Major Edmund Lockyer was despatched to secure the area for the British Crown.[22] A letter dated 4 November 1826 from Governor Sir Ralph Darling to Major Lockyer supports this argument. A further letter from Darling to Lockyer, dated 24 November 1826, indicates the establishment of a settlement:

> As the French Discovery Ships, which are understood to have been preparing for these Seas, may possibly have in view the Establishment of a Settlement on some part of the Coast of this Territory, which has not yet been colonized by us, I think it necessary to apprize [sic] you, confidentially, of what may possibly be their object: and I am to desire, in the event of their touching at King George's Sound, that you will be careful to regulate your language and Communications with the Officers, so as to avoid any expression of doubt of the whole of New Holland

[17] John Dunmore, , *French Explorers in the Pacific - the Nineteenth Century*, Vol. II Oxford University Press, London, 1969, p.9.
[18] *Ibid*, p.385.
[19] John Bach, *A Maritime History of Australia*, Thomas Nelson (Australia) Limited, Melbourne, 1976, p.36.
[20] Brian Fletcher, *Colonial Australia before 1850*, Thomas Nelson (Australia) Limited, Melbourne, 1976, p.67.
[21] David Markey, *More a Symbol than a Success*, Mt. Lawley College of Advanced Education, Mt. Lawley, 1976, p.19.
[22] Neville Green, "Aborigines and White Settlers in the Nineteenth Century", in *A New History of Western Australia*, C.T.Stannage (ed.), University of Western Australia Press, Nedlands, 1981, p.75.

> being considered within this Government, any division of it, which may be supposed to exist under the designation of New South Wales, being merely ideal, and intended only with a view of distinguishing the more settled part of the Country.
>
> Should this explanation not prove satisfactory, it will be proper in that case to refer them to this Government for any further information they may require. But should it so happen that the French have already arrived, You will, notwithstanding, land the Troops agreeably to your Instructions, and signify that it is considered the whole of new Holland is subject to His Britannic Majesty's Government, and that orders have been given for the Establishment of King George's Sound as a Settlement for the reception of Criminals accordingly.[23]

Pamela Statham also notes that, in December 1826, a small convict outpost under New South Wales administration was set up at King George's Sound, due mainly to fears of French inquisitional interest in unclaimed western New Holland, however this had in no way signified the British government's intention to colonise the western third.[24]

Arguably these writings, developed from a British perspective, emphasise the singular international rivalry concept as an explanation for British occupation and have thus become a repeated truism excluding other explanations. It would appear that these early rumours [25] have coalesced into historical orthodoxy through repetition in subsequent historical texts, especially those that have often constituted the only substantive text that many Australians have encountered containing an account of settlement. The implicit or explicit corollary of such argument is that the French objective was occupation before the British did so. Furthermore, while other texts acknowledge a broader range of French objectives/motives, most of the authors note that the underlying rationale for British action was the fear of French intentions to occupy.

These interpretations contain two related and problematic assumptions: one, that the principal reason for French presence over a long period was to establish the basis for possession of the west of the continent of Australia relating to Saint-Aloüarn's 1772 claim.

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[23] *Historical Records of Australia*, Series I, Volume XII, The Library Committee of the Commonwealth Parliament, Sydney, 1919, p.701.
[24] Pamela Statham, "Swan River Colony 1829 – 1850", in *A New History of Western Australia*, C.T.Stannage (ed.), University of Western Australia Press, Nedlands, 1981, p.182.
[25] For a discussion of these rumours, see Ernest Scott, "British Settlement in Australia (1783-1806)", in *Cambridge History of the British Empire*, Vol. II, Part 1, E. Scott (ed.), Cambridge, 1933 (reissued with new introduction 1988), p.83; G.A.Wood, *The Discovery of Australia*, (revised by J.C. Beaglehole), The Macmillan Company of Australia Pty Ltd, Melbourne, 1969, p.357; C.M.H. Clark, *A History of Australia*, Vol.I, Melbourne University Press, 1962, pp.174, 190; Appleyard & Manford, *The Beginning*, p.31.

Second, that the British claim to western Australia in 1829 occurred primarily as a consequence of inter-imperial rivalry between Britain and France.

Spatiality and Territoriality

In Chapter Two, Spatiality and Territoriality, a number of literary sources have been researched in exploring the effects when the contours of the earth emerged as a true globe – not just sensed as a myth but apprehensible as fact and measurable as space.

Spatiality can have two meanings: material space and place as humanly constructed meanings attached to specific places, or, as imagined spaces – an idea imagined or narrated – a mental construct.[26] The concentration upon the British account has carried with it the emphasis upon the fixed notion of space/land excluding a richer narrative such as that which might take into account theoretical developments in the historical understanding of imperialism**,** spatiality, contestation and occupation. [27] For instance J.M.R Cameron writes that 'development had three distinct faces – the evaluation, utilisation and to a less extent, the regulation of the land – for it was on these that survival depended'.'[28]

Xavier de Planhol, writes that France emerged as a living territorial construction after the 843 Treaty of Verdun (partition of the Carolingian Empire), with systems being set in place for the spatial organisation and occupation of the lands; systems which were by and large to remain stable until the Industrial Revolution.[29] Holden Furber notes that the few thousands of Europeans, who built these 'empires', thought of themselves primarily as merchants rather than rulers.[30]

As both France and Britain have contributed to and shaped the spatial view toward the expansionist expression occurring in voyages of exploration, it is interesting to observe the differences in their individual views of spatial concept. For instance, Carl Schmitt notes in 1492, when the New World of America emerged as opposed to the Old World of Europe, the

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[26] Cited in http://www.cwru.edu/affil/GAIR/papers/2002papers/berquist.html. Jon L. Berquist, "Critical Spatiality and the Uses of Theory", accessed 20/1/2003.
[27] See for example: David Harvey, *Exploration and Geography*, Edwin Arnold, London, 1916; P.J.Cain and A.G.Hopkins, *British Imperialism and Expansion 1688–1914*, Longman Group UK Limited, London, 1993; P.J. Marshall, Introduction, in *The Oxford History of the British Empire* Vol. II, P.J.Marshall (ed.), Oxford University Press, Oxford, 1998.
[28] J.M.R Cameron, "Patterns on the Land 1829 – 1850", in *Western Landscapes*, University of Western Australia Press for the Education Committee of the 150th Aniversary Celebrations, 1979,Chapter 8, p.204. Cameron cites *Historical Records of Australia*, Series I, Vol.xii, pp.777-80.
[29] Xavier de Planhol, *An Historical Geography of France*, (trans. by Janet Lloyd), Cambridge University Press, Cambridge, 1994, p.117.
[30] Holden Furber, Vol. II, *Rival Empires of Trade in the Orient 1600-1800 – Europe and the World*, University of Minnesota Press, Minneapolis, 1976, p.3.

new global image required a new spatial order. Further that the attitude to lands newly discovered and possessed differed between European and English concepts of spatiality. Schmitt points out that:

> English law has preserved a better sense for the particularities of different territorial statuses than continental legal thinking, which even in the nineteenth century was obtained only in a single territorial status: the state. The diversity of colonial possessions and the distinction between dominions [territory and power] and non–dominions, kept alive the English sense for specific orders and variations of territorial status.[31]

The discussion of differences is explored by Anthony Giddens who writes that 'space' has no distinctive content as space cannot cause or determine anything. The discussion also takes account of Benno Werlen's definition of space as a formal and classificatory concept because it enables us to describe a certain order of material objects with respect to their specific dimensions.[32] Werlen notes that territories are socially constructed forms of spatial relations and their effects depend on who is controlling whom and for what purpose.[33]

David Harvey notes that 'geographical knowledge records, analyses and stores information about spatial distribution and organization of conditions (both naturally and humanly created) that provide the material basis for the reproduction of social life'.[34] Further, geographical knowledge was deeply affected by imperial and colonial practices coupled with the exploration of commercial opportunities and markets. Thus geographical knowledge was complicit with those politics, showing concern with anthropogenic influences in changing the face of the earth, recognising the extensive role played by human settlement and action.[35] Harvey notes that the spatial and temporal imagery, the construction of alternative worlds, the senses of space and time that course through the consciousness and the mental or imaginary space and time are rich terrains through which to work in order to understand personal and political subjectivities and their consequences when materialised as human action in space and time.[36]

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[31] C.Schmitt, "The land Appropriation of a New World", *Telos*, No.109, Fall 1996, p.32.
[32] Benno Werlen, *Society, Action and Space*, Benno Werlen and Teresa Brennan (eds.), (trans. by Gayna Wall), Routledge, London, 1993, p.xiii.
[33] *Ibid*, p.216.
[34] David Harvey, *Spaces of Capital*, Edinburgh University Press ltd., Edinburgh, 2001, Chapter 6, p.108.
[35] *Ibid*, p.228.
[36] *Ibid*, p.224.

R.D.Sack notes and uses 'place' to discuss those humanly constructed areas of space that have been grounded, controlled and maintained.[37] In defining territoriality Sack argues that it involves the attempt by an individual or group to influence or affect the actions of others by delimiting and asserting control over a geographic area – this area will be called territory.[38] Further that territoriality as a component of power, is not only a means of creating and maintaining order, but it is a device to create and maintain much of the geographic context through which we experience the world and give it meaning.[39] Territory then is a historically sensitive use of space especially when socially constructed. Circumscribing things in space or on a map identifies places, areas or regions, but it does not by itself create a territory until its boundaries are used to affect behaviour by controlling access, which are in turn affected by access to resources and power, and is the primary spatial form power takes.[40] Territory is intimately related to how people use the land, how they organise themselves in space, and how they give meaning to 'place'.[41] Further that the use of territory became important within the constructs of mercantilism, nation building and the first merchant capitalism, followed by industrial capitalism. For the rise of capitalism an extensive market system for buying and selling commodities, and in addition the need to make labour and capital dependent on commerce.[42]

Harvey Starr cites Ronald Abler (et al.) who argues that 'time and space are obvious and immediate aspects of human existence, and are fundamental to locating an event and ordering the experience of it'.[43] Jon L.Berquist cites Paul C. Adams (et al.) that 'human geography has long studied the processes by which people interact within space, such as mental maps, symbols and icons of landscape, perceptions of the environment, and the everyday use of geography'.[44]

Between 1770 and 1829, as both France and Britain were mounting voyages of exploration, it is arguable that their ideas of spatiality differed. France did not indicate having intentions

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[37] Robert D. Sack, *Textures of Place: Exploring Humanist Geographies*, in Paul C. Adams, Steven Hoelscher and Karen S. Till (eds.), University of Minnesota Press, Minneapolis, 2001, p.232.
[38] Sack, *Human Territoriality*, p.19.
[39] *Ibid*, p.219.
[40] *Ibid*, p.25.
[41] Carter, *The Road to Botany Bay*, Faber and Faber Limited, London, 1987, p.27.
[42] *Ibid*, p.58.
[43] Harvey Starr "Territory, Proximity, and Spatiality", in http://www.cla.sc.edu/poli/faculty/starr/Research/ISA2003a.htm. cites Ronald Abler, John S. Adams, and Peter Gould, *Spatial Organisation: The Geographer's View of the World*, Prentice Hall, Englewood Cliffs, 1971, p.10. Accessed 2/8/2004.
[44] Paul C Adams, Steven Hoelscher, and Karen E. Till, "Places in Context" in *Textures of Place: Exploring Humanist Geographies*, University of Minnesota Press, Minneapolis, pp.xiii–xxxiii, cited in Jon L. Berquist, "Critical Spatiality and the uses of Theory", http://www.cwru.edu/affil/GAIR/papers/2002papers/berquist.html, p.6. Accessed 20/1/2003.

of claiming, colonising or settling western Australia, but appeared to visualise 'space' as none other than of scientific interest. Therefore science was the motivating concept, which will be discussed in detail in Chapter Four. In contrast Britain in 1788 claimed and settled the eastern coast of Australia within set boundaries. Paul Carter argues that 'place' as an idea or mental construct was firmly in the eyes of Britain, that not only named Botany Bay but also organised houses and clearings, thus indicating the cultural place where spatial history begins and advances exploratively.[45] Further that a spatial history takes us back not to chronological origins, but to the study of intentions.[46]

Captain Cook has been called the founder of Australia by both naming and describing the eastern Australian coast, thus underlining the active nature of the explorer's time and space in his first voyage of 1770. Subsequently, with the arrival of the First Fleet in 1788 the government had no money to spare to help the colony, introduced the general rule that English colonies had to cover their own costs, generate revenue enough to pay their own bills, and run their own affairs. Britain's colonies were required to be self-supporting; as spatiality and vision of the landscape denoted that the valuable use of the landscape was of primary concern. Lloyd recounts that:

> Cook had reported that Australia was an island with an attractive and fertile coastline that reminded him of South Wales, and this seemed a very satisfactory place to which to send criminals…no entirely new settlements had been launched for over a century, and the government did not have to look back to the early days of settlement in North America to remind themselves how difficult it was for a colony to be self–supporting…but the tide of emigration had begun to arise and helped the growth of new colonies of white settlement by the early years of the new (eighteenth) century.[47]

Alan Frost opined that in 1786 William Pitt the younger (1759–1806) assumed direct control of Indian affairs, concerned that the French were contemplating another attempt at overthrowing the British in the East, and as part of the strategic review then undertaken, resolved that convicts should be used to establish a new settlement south of the line.[48] Pitt's proposal, subsequently recommended in 1826, that it was to be placed at either King George's Sound or some other suitable place in south western Australia with the capital of this territory placed at King George's Sound.

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[45] Paul Carter, *The Road to Botany Bay*, p.xxiv.
[46] *Ibid*, p.351.
[47] T.O. Lloyd, *The British Empire 1558-1995*, (second edition), Oxford University Press, Oxford, 1996, p.2.
[48] Alan Frost, "The East India Company and the Choice of Botany Bay", in *Historical Studies*, Vol. Sixteen, Department of History, University of Melbourne, April 1974 – October 1975. p. 610.

Perhaps the most comprehensive statement regarding the British decision to occupy western Australia (known as New Holland in the seventeenth century) is by Frank Crowley. He argues that although most of the Australian coastline had been visited or mapped at one time or another by European sailors, the Dutch, French and English navigators of the previous three hundred years had all agreed that these coastal lands appeared to be unsuitable for agriculture and the inhabitants unwilling or unable to engage in trade.[49] Markey also asserts that the basic reasons for the French not wanting to acquire the western coast were either that there appeared to be nothing to trade, or that the coast was not considered valuable as a port of call for supplies and repairs.[50] Yet Crowley argues that because of a fear that some other government such as that of France might settle there first, the British founded the new colony on the banks of the Swan River.[51]

While not focussing specifically on the French activities, C.M.H. Clark does note that as late as 1826, the French discoverer Dumont D'Urville in the discovery ship *L'Astrolabe* traversed the south coast of the continent. This is not to say, of course, that Clark ignores the significance of French presence, nor does it rule out concern with their activities as a cause for British action. For instance, Clark notes that in 'March 1826, Sir Ralph Darling was ordered to forestall the French by establishing settlements at Shark Bay on the west coast of New Holland'. However, Darling instead chose King George's Sound because of the poor reputation of the land and native people around Shark Bay. [52] Of course this took place some time after the British occupation of the eastern part of the continent and the extension of control in 1825 to the 129th degree of East longitude. The occupation of the eastern portion in 1788 was of the area to the east of 135º East longitude; that is to say to what is now the line of the West Australian and South Australian/Northern Territory borders.[53] It is feasible to argue that settlement at King George's Sound occurred only because James Stirling (and others) rose what was essentially a bogey of French occupation primarily as an additional lever to advance their more persistent arguments for a British occupation – one that might bring gain to him and others. Certainly this is consistent with the argument of Brian Fletcher,

[49] F.K.Crowley, *Australia's Western Third*, William Heinemann Australia Pty Ltd., Melbourne, 1960, p.1.
[50] Markey, *More a Symbol than a* Success, pp.18-19.
[51] Crowley, *Australia's Western Third*, p.3.
[52] C.M.H Clark, *A History of Australia*, Vol. III, Melbourne University Press, Melbourne, 1973, p.13.
[53] Public Records Office, London, CO 201-174 1826 (4) ref 103, in which Sir Ralph Darling writes on 24 November 1826, that…'as the published Maps are marked through the centre from North to South, and my Commission adopted that line as the Western Boundary, it would be difficult to contend, or to satisfy any Nation desirous of making a settlement on the Western Coast, that we have an indisputable right to Sovereignty of the whole Territory. I therefore beg to repeat the suggestion contained in my Private Letter to Mr Hay, dated 9 October, that I may receive a Commission, (ref 104), describing the whole Territory as within this Government. If generally known that we had actually assumed the Sovereignty and were proceeding to settle the Western Coast, it might possibly tend to prevent the intercourse of any Foreign Power and might set the matter at rest.'

who writes that the British had found ample land and resources in the east and therefore had no desire to extend their commitments unnecessarily.[54] Clark reasoned that forestalling the French occurred in conjunction with the desire of men like Stirling who primarily sought to occupy the land for commercial gain and personal aggrandisement.[55] Pamela Statham-Drew has also alluded to Stirling's strategy, as after New South Wales Governor Sir Ralph Darling had given orders to Lockyer to establish a settlement at King George's Sound noting that: 'it would have come as a surprise to Stirling, and a possible obstacle to his plans for Swan River'.[56]

Clark also provides an account of the occupation of the west, one that is quite different from those emphasising inter-imperial rivalry that has come to predominate historical accounts in Australia. Stirling had suggested to Governor Darling that the western coast of New Holland had commercial potential; it could play a role in the China India route, produce crops and fatten cattle as well as having advantages as a naval and military station. Clark further notes the conjunction of the ambitious James Stirling and the desire of the East India Company to establish an 'emporium' in the west or north that might give it access to the trade of the East which it had lost when the Dutch had obtained control of Java following the Napoléonic Wars. Thus to forestall the French, Stirling urged that the Crown immediately possess the site. [57]

D.K.Fieldhouse on the one hand writes that the establishment of permanent settlements was not always the desire of British home governments and that territorial expansion in this period was a direct response to the French economic and strategic ambitions.[58] Furber on the other hand argues that the French nation's geopolitical circumstances tendered to hinder the French participation not only because of the size of France, but the ways in which their economic situation lagged behind the political unification. The British ability to penetrate commercially in India, where they had ventured militarily, brought to the French the need for peaceful commerce in the future.[59] With the victory of the British in the duel for empire, the

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[54] Pamela Statham-Drew, *James Stirling, Admiral and Founding Governor of Western Australia*, University of Western Australia Press, Crawley, 2000, p.58, citing in note 14 – John Barrow, Admiralty to Hay, 13 Feb. 1826, CO 201/175, f' II – 'if the French have any designs on any part of New South Wales (at this time western Australia was still part of N.S.W.) it would be *there*, because in the first place it commands the Strait directly opposite Van Diemen's Land; and in the second, they have claimed the discovery [sic] (which is not true however) of that part of the coast.

[55] Clark, *A History of Australia*, Vol. III, p.20.

[56] Statham-Drew, *James Stirling*, p.60.

[57] Clark, *A History of Australia*, Vol. III, p.10-12.

[58] D.K.Fieldhouse, *The Colonial Empires: A Comparative Survey from the Eighteenth Century*, Wiedenfeld and Nicolson, London, 1966, pp.75-76.

[59] Evan Luard, "The Balance of Power", p.226, cited in Chafez et al, *The Origins of National Interests*, p.153.

foundation was laid for a dominant conquest of trade in India. The continuing importance of the Indian Ocean and the countries whose shores border it, and in particular western Australia, were apparent for both nations. France's aspirations were for the exploration and advancement of science, whereas Britain's later aspirations were for territorial acquisition, commercial prospects and future colonisation.

The Napoléonic Wars, lasting until the British defeated the French in 1815, virtually eliminated the lucrative continental market for Indian goods; thus Glen Chafez asserts that the major incentive to establish colonies lay in the extension of sovereignty of the state and its monarch to increase the flow of tradeable commodities.[60] However, it will be argued that Napoléon and the subsequent French imperial government did not have the disposition, conception, or specific intention to extend the French empire by the inclusion of western Australia for several reasons. Firstly as noted by Miriam Estensen, Matthew Flinders' circumnavigation of Terra Australis (1801–1803) proved that 'the question of a great waterway dividing Terra Australis in two had been answered: it did not exist.'[61] Further, Estensen cites a letter From Flinders to Sir Joseph Banks suggesting the name he thought applicable to the entire southern continent: Australia.[62] Secondly, as Flinders had proved during his circumnavigation that Terra Australis was indeed one continent, it was a possibility that the whole of the continent would be claimed as British. The French were aware the eastern part of the continent was settled British territory. Thirdly, Brumwell and Speck note that 'in the French-British Battle of Trafalgar in 1805, fifteen French vessels had surrendered to the British.'[63] Scott asserts that 'the end of the Napoléonic wars left the power and prestige upon the sea unchallengeable and her possessions out of Europe were placed beyond assail'.[64] Williams argues that as the French mercantile marine and navy had been

[60] Glen Chafez, Michael Spirtas, Benjamin Frankel (eds.), *The Origins of National Interests*, Frank Cass Publishers, London, 1999, pp.153-155.
[61] Miriam Estensen, *The Life of Matthew Flinders*, Allen & Unwin, Crows Nest, N.S.W., 2002, p.278.
[62] *Ibid*, p.354, (note 7) citing a letter: Flinders to Banks, 23 August, redated 4 November, 1804, Royal Greenwich Observatory, Herstmonceaux—Board of Longitude Papers RGO 14/51: 18f 172, in Ingleton, p.311. 'The Propriety of the name Australia or Terra Australis, which I have applied to the whole body of what has generally been called New Holland must be submitted to the approbation of the Admiralty and the learned in geography…as it is required that the whole body should have one general name, since it is now known…that it is certainly all one land, so I judge that one more acceptable to all parties and on all accounts cannot be found there than that now applied.' Also refer to Paul Brunton (ed.), *Matthew Flinders Personal letters*, Hordern House in Association with The State Library of New South Wales, Sydney, 1922, p.236, in a letter to Joseph Banks, 'consulting on the propriety of calling the new continent Australia…as a general name for the Continent'.
[63] Stephen Brumwell and W.A. Speck, Cassells's Companion to Eighteenth Century Britain, Cassell & Co, London, 2001, p. 391; Mary Kimbough, *Louis-Antoine De Bougainville 1729 – 1811*, Studies in French Civilisation, Vol.7, The Edwin Mellen Press, UK, p.213.
[64] Scott, *Terre Napoléon*, pp. 267-268.

destroyed in 1805 [65], they could not have defended the territory of western Australia, especially as the British Navy was relatively close at hand in the eastern seaboard. Fourthly, by reason of distance from France, it would be extremely difficult to maintain supplies to the western portion of the continent. Fifthly, Péron's perception of New Holland: 'a blackish stripe from north to south was the humble profile of this continent' and therefore commercial advantages were not propitious. Robert Aldrich writes that colonial promoters assumed that colonies should serve France, return profits by providing useful raw materials and if colonies were not useful they could be abandoned'[66]. Dunmore asserts that 'Colonies …require a large fleet to maintain trade…and he who is master of the sea is master of the land.'[67] Lastly, French citizens were reluctant to relocate so far away from their homeland as Aldrich writes 'existence of colonies posed serious questions…colonial promoters faced a…battle to convince a sceptical class.'[68]

The definite 'space' of Australia's beginnings in 1788 lay in the explorer's gaze, in this case as shown by Arthur Phillip commander of the First Fleet, who had conjured up the cultural 'place'. Paul Carter notes that Phillip visualised the land untouched by cultivation, 'sizing it up', rehearsing spatial hypotheses with the prospect of plans formed, lines marked, and a settlement of civilised people.[69] However, the colony was not self-supporting until the late 1820's. Crowley recounts that James Stirling argued to the British Government that where previously documented 'space' was reported as barren, he visualised his idea or mental construct as suitable for settlement.[70]

Of those who have examined French material, most emphasise several explanatory frameworks. Dunmore noted one in claiming that France was only half-heartedly looking for territories where French surplus population could settle.[71] In contrast, L.R.Marchant has argued a second interpretation: that in 1818 the French Minister of the Interior Lainé called for a report on transportation, indicating that France now needed to establish a convict colony abroad, with the Swan River area in western Australia recorded as having the

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[65] Glyndwr Williams *The Expansion of Europe in the Eighteenth Century – Overseas Rivalry, Discovery and Exploitation*, Blandford Press Ltd., 1968, p.283.
[66] Robert Aldrich, *Greater France*, Macmillan Press Ltd., London, 1996, pp.90–91.
[67] M.F. Péron, *Voyage of Discovery to the Southern Hemisphere*, Translated from the French, Covent Garden, 1809, p.56; Robert Aldrich, *Greater France –A History of Overseas Expansion*, Macmillan Press, London, 1996, p.91; John Dunmore in *French Explorers in the Pacific, The Eighteenth Century*, Vol. I, The Clarendon Press, Oxford, p.47.
[68] Robert Aldrich, *Greater France*, p.17. On p.90 Aldrich writes that 'Colonial promoters faced a long and uphill battle to convince a sceptical class and wider electorate of the merits of spending money, risking lives, and diverting resources to distant and sometimes unpromising colonies.'
[69] Paul Carter, *The Road to Botany Bay*, pp, 304-5.
[70] Crowley, *Australia's Western Third*, pp.3-4. Also see Clark, *A History of Australia*, Vol.III, p.17.
[71] John Dunmore, *French Explorers in the Pacific – The Eighteenth Century*, Vol. I, p.385.

advantage as a French penal colony. Further, that because the territory was not British, it was in fact French by right of the claim made in 1772 by Saint-Aloüarn. Marchant noted that Lainé however, indicated that occupation of western Australia would give rise to recurring tensions between Britain and France causing British alarm in the eastern part of the continent. Furthermore, Marchant writes that in the following years Forestier, another member of the committee of investigation into the matter of a penal colony, also indicated that western Australia was indeed the best place for a penal colony. This is in contrast with H.Brunschwig who notes that in 1829 French Deputy Bessieres declared, 'For what our colonies are worth to us and cost to us, we would gain much more by not having them. The colonial system is now no longer practicable.'[72] Marchant stated that Britain 'got wind of the idea that France was interested in establishing a settlement in western Australia', thus Major Lockyer was subsequently sent to occupy King George's Sound for the British.[73]

F.K.Crowley and B.K.de Garis concur that Stirling continued to persuade influential officials in the British Government that they ought to occupy the western part of Australia as soon as possible, by the formation of a private company. Yet, although the British Government refused to grant a charter to private investors, they had taken notice of the rumour that France was interested in new Holland.[74] Similarly Statham-Drew writes that Captain James Stirling, who had in the previous year explored the area around the mouth and lower reaches of the Swan River wrote to the Admiralty, and after pointing out all the benefits of the site, concluded with a warning:

> In proportion as the possession of that Country would be as valuable to Great Britain, so would its occupation by any Foreign Power be injurious and ruinous. The Dutch and the French have already visited these Shores, the latter might obtain millions of Slaves among the Malay Islands and in a future War might pour out swarms of Privateers upon some of the most important channels of our Trade in its neighbourhood. [75]

It was indeed logical for Britain to extend the territory having had the experience of settling the eastern portion of the Australian continent, although reluctant to finance the settlement of western Australia. When Stirling and others established a private enterprise to sell land after western Australia was eventually claimed by Britain, J.M.R. Cameron notes that Stirling personally marked the frontage to each grant.[76]

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[72] H. Brunschwig, "The Origins of the New French Empire", in *Imperialism and Colonisation*, G.H. Nagel and P. Curtis (eds.), The Macmillan Company, New York, 1964, p.114.
[73] Leslie R. Marchant, *France Australe*, Artlook Books, Nedlands, 1982, pp.226-231.
[74] F.K.Crowley and B.K.de Garis, *A Short History of Western Australia*, (second edition), The Macmillan Company of Australia Pty Ltd., Melbourne, Victoria, 1969, p.10.
[75] Statham-Drew, *James Stirling*, p.86.
[76] J.M.R Cameron, "Patterns on the Land 1829 – 1850" in *Western Landscapes*, Chapter 8, p.205.

The French saw Australia as having defined boundaries on the Eastern seaboard of the continent as belonging to the British, whereas western Australia was seen as a geographical unit, a region, and a land–mass with a definite 'space' within set boundaries. Yet it will be argued that the French in their voyages of exploration did not look at the land from a spatially motivated future vision, nor did they indicate subsequent conquests, claims, economic interest or indeed a civilising mission for western Australia, but rather as for scientific interests; that is the 'space' was conceived as one replete with opportunity for scientific discovery.

Thus the perceptions of empty geographic space attracted both France and Britain in their exploratory voyages to Australia and western Australia in particular. Cartography, (then known as geography) embraced the concepts of spatialisation, however decision makers perceived objective conditions for the use of the space in different ways. France's objective was to add to geographical knowledge and science, whereas Britain's objective was the expansion of Empire and commercial opportunities.

Voyages of Exploration

Chapter Three, Voyages of Exploration, discusses French, Dutch and British voyages of exploration to the Australian continent and the western coast in particular. Saint-Aloüarn, as the first French explorer to lay claim to western Australia in 1772 will be discussed more fully later in the chapter.

Accurate maps became both necessary and important for future voyages of exploration outside Europe with the Dutch, French and English interested not only in accurate mapping of the Australian coastline, but also observing and documenting the terrain. For instance, Glyndwr Williams discusses the existence of maps in the sixteenth century that show a great Southland called 'Java la Grande', roughly in the position of northern Australia.[77] C.Halls concurs the existence of the 'Dieppe Maps' that show a great southern continent approximately in the position occupied by Australia.[78] Interestingly, Halls notes an early map, the 'Dauphin Map' (see Map 1, p.iv) – sometimes referred to as the 'Harleyan Map' – as it was subsequently owned by Lord Harley one of the principal Lords of the British Admiralty, who was responsible for sending William Dampier in 1699 on a voyage of discovery to New Holland.[79] Dunmore states that knowledge based on a study of the

[77] Glyndwr Williams, *The Great South Seas – English Voyages and Encounters 1570-1750*, Yale University Press, London, 1997, p.9.
[78] C. Halls, "Java la Grande – the Forgotten Continent", *Westerly*, University of Western Australia Press, Nedlands, February, 1965, p.31.
[79] Halls, "Java la Grande – the Forgotten Continent", pp. 31-41.

'Dieppe Maps' helps to make a number of informed guesses about Australia's first French visitors to the Australian shores.[80]

According to French sources in 1505 Bigot Paulmier de Gonneville, sailing in the *Espoir*, was forced to land in an unknown country, which he named 'Terre Australe'. However, having lost his journals in a pirate attack, he could only verbally report his findings to French naval authorities.[81] Russell Ward notes that a book, published in Paris in 1663, recorded Captain de Gonneville had returned from a voyage to the 'Austral Land', and advised that it was their duty to claim it for France.[82] G.A.Wood writes that patriotic French geographers held that Gonneville's voyage in 1505 'secured without difficulty the French national honour of the first discovery of the Austral land', but 'without accurate navigational aids, the location of Gonneville Land remained subject to doubt'.[83] Marchant concurs that 'the exact location of Gonneville's land remains a mystery'.[84] Dunmore, Ward, Wood and Marchant all agree that Bouvet de Lozier conducted the first major French voyage of exploration to western Australia in 1738. Marchant also asserts that this mission was to search for Gonneville's lost land, as the French believed that Paulmier de Gonneville had in fact discovered *Terra Australis*.[85]

The Dutch, however, have a much sounder claim as the first European navigators to reach the Australian continent. Although the discovery of Australia dates from the early seventeenth century when Dutch navigators visited the West and North West coasts. However, the earliest claims to possession of Australia, which written records remain were those made by Abel Tasman in 1642 when he first sighted the South West coast of Van Diemen's Land (now called Tasmania), made a landing on 24 November, 1642 and 'a Prince-flag was planted as a symbol of the taking of possession'.[86] Denis Hancock argues

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[80] John Dunmore writes "Sixteenth-century French exploration in our region" in: http://www.france.net.au/site/science_culture/scient/fst/fst27p1_2.html p.2. Accessed 1/2/2001. Professor Dunmore, formerly of Massey University in New Zealand, is an authority on early French exploration in the south seas. Also see *Australians: to 1788*, D.J.Mulvaney and Peter J. White (eds.), Fairfax, Syme & Weldon Associates, Broadway, N.S.W., 1987. Alan Frost In Part III, Chapter 19, "Towards Australia: the Coming of the Europeans 1400 to 1788". On p.371 Frost writes that these Dieppe maps certainly exist and on page 374 the 1542 map is depicted.

[81] http://www.ambafrance-au.org/article.php3?id_article=475. Embassy of France in Australia. France's role in exploring Australia's coastline. Accessed 9/2/2007.

[82] Russell Ward, *Finding Australia – A History of Australia to 1821*, Heinemann Educational Australia, Victoria, 1987.

[83] Wood, *The Discovery of Australia*, pp. 242-243.

[84] Marchant, *France Australe*, p.19.

[85] *Ibid*, p.37.

[86] *Abel Janszoon Tasman's Journal of his Discovery of Van Diemen's Land and New Zealand in1642*, (Amsterdam, 1898), J.E. Heeres (ed.), Appendix E, p.131 at p.136, cited in Justice Elizabeth Evatt, "The Acquisition of Territory in Australia and New Zealand", in *British Institute of International and*

that the Great Southland was of considerable interest to a variety of early explorers – the Portuguese, Dutch, English and the French. The Dutch in particular were sailing around the western coast of the Australian continent during the seventeenth and eighteenth centuries. [87] In discussing earlier explorers, Clark writes that the amount of energy and cost expended by the Dutch during their exploratory voyages in the seventeenth century did not produce any desire or indeed any attempt to claim for Holland any part of the of the western coast of the continent of New Holland on which they set foot. He further argued that the Dutch sailors 'had recoiled in horror from an arid barren and wild land'.[88]

One of the first Englishmen to reach the coast New Holland was William Dampier in 1687, a buccaneer, an explorer, part scientist and a brilliant pioneer hydrographer.[89] Marchant writes that Dampier's view was 'that the land in western Australia was unproductive, arid, and mostly lifeless.'[90]

Thus both the French and the British nations had mounted various voyages of exploration prior to 1829 around the coast of the Australian continent and the western coast in particular. Despite its moods of intense nationalism, the French Revolution (1787–1799) had universal implications since it had developed into an attack not only on the king of France but also on monarchy in general, and therefore was of great concern to King George III of England. Antagonism between the nations appeared as a focal point leading up to the Revolutionary Wars (1803–1815). Napoléon's plans to invade Britain with the combined French and Spanish fleets ended with a British victory at the Battle of Trafalgar on 21 October 1805, thus having a deleterious effect on both France's navy and the French colonies. The final decisive British and Allied victory at the Battle of Waterloo in 1815 saw the end of the almost constant conflict that had existed between Britain and France since the late seventeenth century. Henceforth, while Britain had naval strength, a relatively close Indian base, and colonies on the eastern coast of Australia as a point for both maintenance and despatch of British naval ships to protect the western part of the Australian continent, should the French government indeed have proposed establishing an outpost in western Australia, the depleted French navy would have been totally unable to protect it.

Comparative Law, Grotian Society Papers: Studies in the History of the Law of Nation, C.H.Alexandrowicz (ed.), Martinus Nihoff, The Hague, 1968, pp.19–20.

[87] Denis Hancock, *The Westerners – the Making of Western Australia*, Text Books Pty Ltd., New South Wales, 1979, pp.12-26.

[88] Clark, *A History of Australia*, Vol. III, p.1.

[89] A.S.George, *William Dampier in New Holland*, p.vii.

[90] Marchant, *France Australe*, p.75.

Prior to Napoléon's defeat, the French voyages of exploration to the western coast of Australia appeared to be in the ascendant. In particular, Baudin's expeditions (1800–1803) were reportedly authorised by Napoléon as scientific expeditions.[91] These voyages occurred during the years that Matthew Flinders was circumnavigating and charting the Australian coast, and the two expeditions in early April 1802 met off the South Australian coast at Encounter Bay. Yet Flinders' biographer Miriam Estensen writes that: 'there was no overt suggestion of territorial aggrandisement', and further that: 'It seems unlikely that in 1800, Bonaparte was prepared to attempt a settlement on the other side of the world'.[92] In 1807 M.F. Péron published the first volume of Baudin's expedition to the South Australia coast, but as Péron died on 14 December 1810, Freycinet completed the account and the last volume was published in France 1816. Meanwhile, the charts published in Péron's 1807 volume allegedly had been copied from Flinders charts during the time Flinders was incarcerated by the French at the Ile de France (Mauritius) from 1803–1810. This gave rise to a serious dispute regarding the ownership of the charts.[93] Flinders published his *A Voyage to Terra Australis*, together with accompanying charts in England in 1814, with the completed volumes arriving on 18 July, which Flinders saw a few days before he died.[94]

Science

Chapter Four, Science, discusses the importance of science in the voyages of exploration of both France and Britain. In the seventeenth century, science academies were established in both France (1635) and England (1645).[95] Maurice Crosland writes that France became pre-occupied with the question of measurement of the earth.[96] The *Jardin de Roi* (King's Garden), also called the *Jardin des Plantes*, was founded in 1626 as a royal garden of medicinal plants and was first opened to the public in 1650. The garden became a centre for the scientific study of natural history and in 1693 zoology was formally made a subject of study. The English Society of Apothecaries began their 'Physic Garden' in Chelsea in 1676

[91] Nicolas Baudin, *The Journal of Post Captain Nicolas Baudin – Commander-in-Chief of the Corvettes Géographe and Naturaliste*, (trans. by Patricia Cornell), Libraries Board of South Australia, Adelaide, 1974. Refer pages 1-9 for details of the Plan of Itinerary and letter detailing instructions for expedition to south-west, north-west and north coasts of New Holland dated 29 September 1800.
[92] Estensen, *The Life of Matthew Flinders*, p.123.
[93] Brunton (ed.) *Matthew Flinders– Personal letters*, pp.208-209.
[94] Estensen, *The Life of Matthew Flinders*, p.470.
[95] John Gascoigne, *Science in the Service of Empire*, Cambridge University Press, Cambridge, 1998, p.23.
[96] Maurice Crosland, *Studies in the Culture of Science in France and Britain since the Enlightenment*, Valiorum, Ashgate Publishing Company, Great Britain, 1995, Chapter 1, p.280.

as a similar garden to that of the *Jardin des Plantes*. W.G.Armytage states that natural history then became the passion of the century.[97]

Paul Kristeller's essay, 'Renaissance Philosophy and the Medieval Tradition', opines that there is no such thing as Science with a capital S, but a variety of Sciences, such as medicine and mathematical disciplines including astronomy, each with its own traditions and historical development. Kristeller follows this line by writing that in the evolution of new approaches to science, the most significant development was the 'discovery' of Renaissance magic and occult science – alchemy, astrology and natural magic. He continues noting that these concepts are now seen as one of the critical formative influences on scientists in the age from Copernicus to Isaac Newton. It was only the physical science of the seventeenth and eighteenth centuries that gradually brought about a neat separation between genuine and false sciences.[98]

G.A.Wood follows this reasoning when arguing that Galileo, at the end of the sixteenth century, initiated the scientific revolution by coming to his conclusions as a result of systematic experimentation, a method followed by Englishman Isaac Newton. Wood writes that:

> Within the era of modern science, which began with the Renaissance, methods were developed using concepts of objectivity of approach, indicating the attempt to observe things as they are, with acceptability of the results of scientific study and without falsifying observations to accord with some preconceived worldview. It was a time in which long-standing beliefs were tested, preparing the ground for thinkers and scientists of the seventeenth century. Amongst many, three very important leaders of the scientific revolution are noted: Frenchman René Descartes (1596–1650), together with Englishman Francis Bacon (1561–1626) and Isaac Newton (1642–1727). Old world problems were being re-surveyed from the points of view of science and humanity.[99]

Englishman Isaac Newton (1564–1642), as a physicist and mathematician, was the chief figure of the scientific revolution of the seventeenth century, who provided the physical explanation of the Copernican universe by demonstrating how gravity sustained the physical universe, thus explaining how and what the new scientific thinking could achieve. The great triumph of the seventeenth century's scientific revelation, finally accepted in the eighteenth century, was the rejection of knowledge based on teleological or metaphysical explanations.

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[97] W.H.G.Armytage, "The Technological Imperative – Scientific Discoveries in the Service of Man", in *The Eighteenth Century – Europe in the Age of Enlightenment*, A Cobban (ed.), Thames and Hudson, London, 1969, p.115-116.
[98] Paul Kristeller, *Renaissance Concepts of Man*, Harper and Row, New York, 1972, p.139.
[99] Wood, *The Discovery of Australia*, pp.242-243.

New attitudes arising from the previous period led into the eighteenth century Age of Enlightenment that flourished prior to the French Revolution. This encouraged science and technology, as well as exploration of the non-European world. Crosland argues that this period presented science as an ideal liberating force and a demonstrably successful method of interpreting the natural world and exemplifying human progress. A certain universalism emerged, helping to spread the idea of man learning from nature.[100] French Royal mismanagement of national affairs had incurred losses in the French and Indian War (1754–1763) fought between France and Great Britain. The Seven Years War (1756–1763) involved overseas colonial conflict between Great Britain and France in the struggle for control of North America. Increased indebtedness from loans made to the American colonies during the American Revolution (1775–1783) resulted in the ultimate expulsion of France from the continents of both America and India. Embodying the values of the Enlightenment, the French Revolution of 1789–1799, a cataclysmic political and social upheaval, ended with the overthrow of the French King Louis XVI and the establishment of the First Republic.

Crosland writes that after the French Revolution, a decree established the *Nationale Institut de France* in 1795 to promote a multidisciplinary body dedicated to the progress of science and reason. Napoléon Bonaparte became a powerful patron.[101] Further, in 1797 a member of the *Académie* the Marquis de Condorcet, submitted a report expressing the following sentiments: '…the Natural Sciences offer a remedy for prejudice, for smallness of mind…literature has its limits, the sciences of observations and calculation have none.'[102] Even when France and England were involved with the Napoléonic wars, Banks tried to keep open scientific links with France.

The chapter argues that both France and England were interested in a new way of thinking and interpreting the world. For instance J.D. Bernal**,** in *Science and History*, asserts that the Englishman Francis Bacon (1561–1626) conceived the concept that human dominance over nature's elements initiated the development of modern science and technology, emphasising the essentially practical side in bringing a more common–sense appreciation of the world around for every person.[103] From the sixteenth to the nineteenth centuries both the French and the English were major contributors to science and the search for scientific knowledge

[100] Maurice Crosland, *Science under Control*, Cambridge University Press, New York, 1992, p.10.
[101] Thomas Bugge, in M.Crosland (ed.), *Science in France in the Revolutionary Era*, M.I.T.Press, London, 1969, pp.73-77.
[102] Maurice Crosland, *The Society of Arcueil – A view of French Science at the time of Napoléon I*, Heinemann Educational Books Ltd., London, 1967. pp.6-7.
[103] J.D.Bernal, *Science in History*, Watts & Co., London, 1954, p.304.

became of foremost importance especially for France and England. Although both countries produced outstanding scientists who were major contributors to the evolution of science, France's aim was to develop science as an adjunct and contribution for the advancement of knowledge of explored regions. Britain's aim was more towards the expansion of the British Empire by territorial clams together with the use of the natural resources found within the territories.

The thesis argues that many French expeditions around the Australian coast were primarily for scientific reasons. Peter Elmer notes that scholarly consensus suggests that the Renaissance survived the onslaught of religious reform and continued well into the seventeenth century when both the Renaissance and the Reformation were faced with challenges to their authority, that of scientific revolution**.** Under the influence of classical models, new scientific laws, new forms of art, literature, religious and political ideas were formed and new lands explored. Renaissance art represented a break with the past, wherein representation became scientific and realistic.[104] Further, that the chief feature of this period was its dependence on knowledge gathered from books, with the exception of science requiring hands-on-experience, and thus the study of science appeared to have a major impact on subsequent scientific developments in modern times.[105] In the nineteenth century, all aspects of science both general and natural were developing in relation to unexplored lands, with Britain seeing the potentiality of expanding the British Empire and securing natural resources.

H. Blumenthal writes that France was interested in documenting the natural resources of Australia, as well as accurately mapping the coastline. Both France and Britain had parallel objectives in mapping unknown parts of the Australian coastline, although their expeditions were very different.[106] However, Britain was intent on settlement and the commercial use of as they saw it, an empty land. D. Mackay writes that the Flinders voyage manifests the pursuit of science as a utilitarian one, where the concern was not only to make new but also useful discoveries.[107] Similarly, M.F.Péron, wrote about the general plan and object of the Baudin voyage and asserted that '…it was the honour of the nation and the progress of

[104] Peter Elmer, "Challenges to Authority", in *The Renaissance in Europe– a Cultural Enquiry*, Peter Elmer (ed.), Yale University Press, London, 2000, p.xiii.
[105] *Ibid*, p.213.
[106] Anthony J. Brown, *Ill Starred Captains: Flinders and Baudin*, Crawford House Publishing Pty Ltd., Adelaide, South Australia, 2000, p. vii.
[107] David Mackay, *In the Wake of Cook – Exploration, Science and Empire*, St Martin's Press Inc., New York, 1985. p.3.

science.'[108] Forfait further claimed that 'details will be received with all interest that is aroused by an expedition whose aim is to increase the scientific field, to add if possible, to what nature has done for the nations that live in another hemisphere.'[109]

The historical progression of science leading up to the period under discussion, namely 1772–1829, notes the development and the subsequent importance of science in mounting voyages of exploration to Australia by both the French and the British. New Holland as a place different in conception from the British notion is suggested by the French scientific interest in the area and the links between such activities and Enlightenment thinking. Certainly, contemporary material indicates that scientific objectives were at the forefront of French work in discoveries and documenting '*Terra Australis'*. In 1795, after proposals by Frenchmen Nicholas de Concorcet (1792), Daunau (1795), and finally Charles Maurice de Talleyrand (1801), the Convention decree 3 Brumaire year III created the *Institut de France* as a scientific body consisting of five divisions: history and geography; legislation and jurisprudence; morals, philosophy and political economy. Scott agrees with these contemporary understandings when he writes that, concerned with the advancement of knowledge, Napoléon and the *Institut de France* promoted Baudin's expedition to Australia in 1800–1803, complementing his ships with scientists, botanists, astronomers and artists.[110]

Thus science played an important part in both the French and the English voyages of exploration. It is argued here that French motives for their voyages of exploration to the western coast of the Australian continent were chiefly scientific rather than a desire for territorial gain, and that they were aimed at reinstating French prestige after suffering great naval and military losses in the Napoléonic wars with Britain and Britain's allies over the period from 1798 to the decisive victory over the French in the Battle of Waterloo on 18 June 1815. But this aim is evident even during the height of Napoléon's reign. Dunmore argues that Baudin's 1800–1803 voyages can easily be ascribed to a desire for scientific and geographical discoveries at the time when Napoléon wanted to impress Europe with his interest in non-military questions. Even though the expedition sailed under the patronage of Napoléon, it was Baudin's own *'projet de voyage'*. The Committee of the *Institut de France,*

[108] M.F.Péron, *A Voyage of Discovery to the Southern Hemisphere*, 'Performed by Order of the Emperor Napoléon, during the Years 1801,1802,1803, and 1804. Prepared for the Press by M.F.Péron, one of the Naturalists appointed for the Expedition, & Members of the National Institute, &c, &c, and published in consequence of an Imperial Decree.' (trans. from the French), Printed for Richard Phillips, by B McMillan, Bow Street, Covent Garden, London, 1809. This edition published by Marsh Walsh Publishing, Melbourne, 1975, pp.9-10.
[109] *Ibid*, p.9.
[110] Scott, *Terre Napoléon,* p.143.

to which the project had been referred, stressed that it was along the Australian coast that the greatest expanse of unchartered territory laid. [111]

This argument is further supported by Scott's observation that the French Government had fitted out Baudin's expedition with the best scientific instruments, stores, and a large company of artists, men of science, gardeners, hydrographers, botanists, zoologists, and mineralogists. Probably no exploring expedition to the South Seas had set out with such a large equipment of talented men.[112] Furthermore, in reference to John Holland Rose's statement that:

> Bonaparte sent out men-of-war to survey the south coast of Australia for a settlement. It may be true that, strictly speaking, the ships were 'men-of-war', inasmuch as they were ships of the navy. But the reader would hardly derive the impression from the words quoted, that they were vessels utterly unwarlike in equipment, manning, and command. As will presently be seen, they were very soon loaded up with scientific specimens. Nor is there any warrant for the statement that the expedition was instructed to 'survey the south coast of Australia for a settlement.' There was nothing about settlement in the instructions, which were not, as the passage would lead the reader to infer, confined to the south coast.[113]

Scott argued against this statement, as by stating that Bonaparte had sent out warships ('men-of-war'), Rose had suggested colonial ambitions by the French, rather than a scientific exploration.

Dunmore argues that the purpose of French explorer Louis-Isadore Duperrey's proposed expedition in 1822 on the *Coquille* was for scientific research. The most he was enjoined to do in his instructions was to report on the possibility of establishing a settlement in western Australia.[114] Yet Marchant argues that Duperrey had been assured it was quite in order to do so because of Saint-Aloüarn's 1772 discovery and the act of possession of the land (on the western Australian coast) had been made in the name of the King of France. Further Marchant states that when Duperrey sailed, the French authorities thought they had a considerable empire at least on paper including western Australia'.[115] Dunmore writes that Duperrey, assisted by Dumont D'Urville, in 1825 presented a plan to the Minister of Marine about the possibility of establishing two colonies to be established by France for the transportation of convicts: one 'in Port St. George (King George's Sound) and the other in

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[111] Dunmore, *French Explorers in the Pacific*, Vol. II, p.9, in which Dunmore cites Ernest Scott, "Baudin's Voyage of Exploration to Australia", *English Historical Review*, Apr.1913, p.343.
[112] *Ibid*, pp.152–153.
[113] *Ibid*, p.153. Scott cites John Holland Rose, *Revolutionary and Napoleonic Era*, Cambridge, 1895, p.139, in reference to Baudin's expedition.
[114] Dunmore, *French Explorers in the Pacific*, Vol. II, pp.110-111.
[115] Marchant, *France Australe*, pp.236-237.

New Zealand', but that 'our memoirs were no doubt thrown away.'[116] Yet in spite of these alleged policies France took no further action or interest after 1829, when Britain took possession of western Australia.[117]

The corollary of the science argument is simply that France's exploratory expeditions were mounted primarily for the advancement of science, mapping the coastline of the continent for the benefit of the world atlas, documenting coastal terrain as well ad their encounters with the indigenous Aborigines. By so doing the French restored national prestige after the humiliation suffered when the Revolutionary Wars ended with their final defeat in 1815. As a result of these events, Britain became the pre-eminent colonial power.

Law

The final chapter, Law, discusses different concepts in claiming unoccupied territory. The contention is that since the existence of the Law of Nations, there has always been opposition to prescription as a mode of acquiring territory. Marchant asserts that Saint-Aloüarn on 30 March 1772 annexed western Australia in the name of the French King for France under prescriptive rights.[118] Most historians, including Appleyard & Manford and J.S.Battye agree that Saint-Aloüarn's 1772 annexation took place. [119]

As a consequence of the earth emerging as a true globe, there arose from discovery a wholly new and hitherto unimaginable set of problems: the spatial ordering of the earth in terms of international law; the location of things and places in relationship to other things and places; and how they are distributed and evaluated. Thus Roman Law, the Law of Nations of the Principles of Natural Law, Prescriptive Law, International Law, Maritime Law, and English Common Law, have all had a bearing on voyages of exploration to the Australian continent in the seventeenth, eighteenth and nineteenth centuries. L.Oppenheim observes that the science of the modern Law of Nations commences from Hugo Grotius's book, which for the first time had built a fairly complete system of International Law as an independent branch of the science of law.

Réne David notes that Roman law was never applied in France except as customary law. Consequently, in conformity with the dictum the 'King reigns supreme in his kingdom', it

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[116] Dunmore, *French Explorers in the Pacific*, Vol. II, p.111.
[117] Marchant, *France Australe*, p.232.
[118] *Ibid*, p.5.
[119] Appleyard & Manford, *The Beginning*, p.21 and p.84; J.S.Battye, *Western Australia*, University of Western Australia Press (Facsimile Edition), 1978, briefly mentions that 'the first French ship to touch any part of the Australian coast was *Le Gros Ventre* in March 1772, under the command of Captain St.Alouarn' (sic), p.45.

could not be admitted that rules promulgated by a foreign sovereign were legally binding in France. Thus when French King Charles VII (1422–61), ordered in the *Ordinance of Montil-les Tours* of 1454 that the customs of all customary law provinces be reduced to writing, this development set French Law apart from other European legal systems placing French Law in an intermediate position between English law and other continental systems, a position it still retains today.[120]

Marchant writes that on 30 March 1772 Saint-Aloüarn annexed western Australia for France, under prescriptive rights to unpopulated land.[121] The question of law in relation to the validity of the claim and ownership of land therefore becomes paramount. Oppenheim notes that 'the principle of extinctive prescription, that is the bar of claims by lapse of time, is recognised in International Law'.[122] It therefore appears difficult to accept Marchant's statement that the French officials in the post Napoléonic period believed they had the legal right – (under prescriptive law pertaining to the Saint-Aloüarn claim) – to establish a colony at Rottnest Island or some other suitable place in western Australia,[123] particularly as the law articulates the requirement of continuous possession over at least thirty years.[124]

British Governor Phillip's formal possession of the East Coast of Australia in 1788, and Captain Fremantle's formal possession of western Australia in 1826 adhere to the principles of International Law, as observed by the occupation in 1788 of the eastern seaboard. Emmerich deVattel explains that the Law of Nations will only recognise the *ownership* and *sovereignty* of a nation over unoccupied lands when the nation is in actual occupation of them and when it forms settlement upon them, or makes some actual use of them. Vattel's argument lends support to the British formal possession and occupation of the eastern seaboard of the Australian continent in 1788, as well as claiming western Australia in 1829. Further, Vattel writes in relation to wandering tribes whose small numbers cannot populate the whole country, (in this case the indigenous people of Australia), their uncertain occupancy cannot be held as a real and lawful taking of possession.[125] Oppenheim discusses claim under International Law to ownership of territory, both occupied and unoccupied.

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[120] René David, *French Law – Its Structure, Sources and Methodology*, (trans. by Michael Kindred), Louisiana State University Press, Baton Rouge, 1972, pp.5-10.
[121] Marchant, *France* Australe, p.5, and p. 64.
[122] Oppenheim, *International Law*, p.349, § 155c cites Grotius who rejected the usucaption (the acquisition of a title or right to property by uninterrupted and undisputed possession for a prescribed term) of Roman law. (see note 2 – Grotius, ii.c.4, §§ 1,7,9).
[123] Marchant, *France Australe*, p.5.
[124] L.Oppenheim, *International Law*, p.576, § 253.
[125] Emmerich de Vattel, *The Law of Nations*, Vol.III, Reproduction of the 1758 edition, (trans. by Charles G. Fenwick). Part of the C. Wilfred Jenks Memorial Collection, Carnegie Institute of Washington, 1916. § 208, p.85.

Although (empty land or belonging to no one) is outside the province of this thesis, a short explanation of the doctrine follows, underlying the traditional British view of claim and settlement – that before 1788 Australia was *terra nullius*. However, in the nineteenth and twentieth centuries, challenge to *terra nullius* became a contentious and legally fought issue when Aboriginal people demanded legal rights to their land. Reynolds cites a 1913 High Court case where Justice Isaacs declared that:

> So we start with the unquestionable position that, when Governor Phillip received his first commission from King George III on 12th October 1786 the whole of the lands of Australia were already in law the property of the King of England.'[126]

Richard H. Bartlett argues that 'Native title is founded upon the principle that the antecedents rights and interests in land possessed by the indigenous inhabitants of the territory survived the change in sovereignty'.[127] On 3 June 1992, the High Court of Australia delivered its judgement in the case of *Mabo v. Queensland* and decisively rejected the concept of *terra nullius*. Justice Brennan explained:

> A common law doctrine founded on unjust discrimination in the enjoyment of civil and political rights demands reconsideration. It is contrary both to international standards and to the fundamental values of our common law to entrench a discriminatory rule, which, because of the supposed position on the scale of social organization of the indigenous inhabitants of a settled colony, denies them a right to occupy their traditional lands.[128]

In Chapters two and five, further reference is made to *terra nullius.*

Justice Elizabeth Evatt cites Grotius: '…the act of discovery is sufficient to give a clear title of sovereignty only when it is accompanied by actual possession'.[129] Although western Australia was founded directly from the United Kingdom, initially as a private enterprise, an uninterrupted possession was to be maintained. Thus on 18 June 1829, in the name of His Majesty the King, Captain James Stirling issued a proclamation effecting actual settlement of Western Australia.[130] James Crawford writes that the British claim to Australia in 1788 was

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[126] *Williams v. Attorney-General*, NSW, *Commonwealth Law Review*, 16, 1916, p.439, cited in Henry Reynolds, *The Law of the Land*, Penguin Books Australia Ltd, (third edition), Victoria 2003, p.9.
[127] Richard H.Bartlett, *Native Title in Australia*, (second edition), LexisNexis Butterworths, Chatswood, 2004, p.102, [9.21].
[128] *Mabo and Others v.The State of Queensland*, High Court of Australia, pp.29,30, cited in *The Law of the Land*, (third edition), Henry Reynolds, p.207.
[129]Grotius, *Mare Liberum*, Carnegie, New York, 1916, C.II, pp.11–12, cited in Evatt, "The Acquisition of Territory in Australia and New Zealand", p.22.
[130] J.A. Battye, *Western Australia*, (Facsimile Edition), p.83.

founded as a colony of Great Britain based on Common Law and effective occupation, and thus Australia has adopted the principles of English Common Law.[131]

It is apparent in regard to French exploration around the Australian coasts that they were carried out in peace and in recognition of the Maritime Act in International Law, as the sea is by nature free from the sovereignty of any States,[132] regardless of the British occupation of the eastern part of Australia.

Conclusion

Five strong arguments – the rivalry factor; spatiality and territoriality in Chapter Two; voyages of exploration in Chapter Three; science in Chapter Four; and law in Chapter Five are investigated and discussed in order to sustain the thesis argument that the French, in the period under discussion, did not have sustained intentions to claim the west coast of the Australian continent after Saint-Aloüarn's initial claim in 1772. The rivalry factor, which has been such a dominant theme in British historical writings, can be seen as arising from the British administration present on the eastern seaboard. Fear of any foreign nation claiming the western third of the Australian continent spurred British action to indeed lay claim in 1829. It is also important to observe that in this period, as correspondence and reports took a considerable time to be received and acted upon, doubts the British had about French motives in their voyages of exploration around the Australian continent were understandable. Nevertheless, James Stirling's reports to the British authorities about perceived French intentions, together with his personal ambitions for a high position in Western Australia, certainly added to British distrust of the French.

[131] James Crawford, "The Common Law Background", in *Australian Courts of Law*, 3rd edition, James Crawford (ed.), Oxford University Press, Melbourne, 1993, pp. 6-7.
[132] D.P.O'Connell, *International Law*, (second edition), Vol. I, Stevens & Sons, London, 1970, p.457.

Chapter Two –Spatiality and Territoriality

> In viewing human society as a historical creation of the human mind one establishes a general criterion of historicity. The developments that are properly considered historical are those that have shaped the nature of human societies and their institutions.
>
> L. Guelke[1]

Understandings of space were both implicit and explicit in their influence on French and British voyages of exploration to the Australian continent in the eighteenth and nineteenth centuries. Discussion about various voyages occurs in Chapter Three 'Voyages', but this chapter examines changing concepts of space and territoriality as understood by the French and the British during the period being studied. Circumstances within France and Great Britain contributed to how each nation viewed global empty space impacting on their political structure thus Australia and Western Australia were regarded from diverse perspectives. Consequently activities such as cartography (the science or practice of mapmaking), the New World and empire building, geography, and industrial / commercial expectation, demonstrated the variation in the conceptions of space. Later discussion about territoriality will support the argument that France did not intend to claim western Australia for France, whereas Great Britain had a greater necessity for annexing the western third to ensure that the whole of the Australian continent became British mainly for reasons of logistics and commerce.

A number of literary sources have been researched exploring the effects which transpired after the contours of the earth emerged as a true globe; as a place which Carl Schmitt notes was not just sensed as a myth but apprehensible as fact and measurable as space.[2] Robert Sack notes that there is a complex connection or intercausal link existing between space and the realm of society with each being mutually constitutive.[3] He argues that spatiality and the complexity of perspectives became powerful geographical agents.[4] As a consequence there arose a wholly new and hitherto unimaginable problem: the spatial ordering of the earth in terms of international law, the location of things and places in relationship to other things and places, and how they are distributed and evaluated. Exploration was linked to 'national' ideas about space; therefore examination of areas outside Europe had differing purposes.

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[1] Leonard Guelke, *Historical Understanding in Geography*, Cambridge University Press, London, 1982, p.18.
[2] Carl Schmitt, "The Land Appropriation of a New World", *Telos*, No.109, Fall, p. 29.
[3] Robert D. Sack, *Homo Geographicus*, The John Hopkins University *Press*, Baltimore, 1997, p.2.
[4] *Ibid*, p.7.

Sack writes that an important characteristic of territorial theory is that it is designed to disclose potential reasons for using territoriality, and is an historically sensitive use of space, especially as it is socially constructed and depends on who is controlling whom and why. He notes that territoriality is the primary spatial form power takes,[5] and thus must involve an attempt at enforcing control over access to the area and to things within it, or outside it by restraining those within.[6] Territoriality helps create the idea of a sociably empty place, because it is devoid of sociality or economically valuable artefacts of things.[7] Further discussion later in this chapter, examines territoriality in conjunction with analysis of the differences in perceptions as applied by both the French and the British in the period under discussion to the western third of the Australian continent.

The definition of spatiality can have two meanings: material space and place as human constructed meanings attached to specific places, or, as imagined spaces – an idea imagined or narrated – a mental construct.[8] Spatiality of locality is therefore contingent or dependent on its application, and outcomes are variable. Anthony Giddens asserts that 'space' has no distinctive content, and the concept is philosophically as problematic as that of time. The explanatory content of geographical investigation can be redeemed if geography becomes an action-oriented enterprise, as space cannot cause or determine anything.[9] Werlen writes that:

> Space is not an empirical but a formal and classificatory concept. It is a frame of reference for the physical components of actions and a grammalogue for problems and possibilities related to the performance of actions in the physical world. The framework cannot be empirical because there is no such thing as 'space'. 'Space' is a formal reference because it does not refer to any specific concept of material objects. It is 'classificatory' because it enables us to describe a certain order of material objects with respect to their specific dimensions. [10]

Just as time is constrained in an historical sense, so too is space. In other words spatiality is temporally variable. Harvey notes that geographical knowledge records, analyses and stores information about the spatial distribution and organization of those conditions (naturally occurring and humanly created) that provide the material basis for the reproduction of social life. At the same time space promotes conscious awareness of how such conditions are subject to continuous transformation through human action,[11] thus critical geographies of

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[5] Robert D. Sack, *Homo Geographicus*, p.25.
[6] *Ibid*, p.22.
[7] *Ibid*, p. 34.
[8]. Jon L. Berquist, "Critical Spatiality and the Uses of Theory" in http://www.cwru.edu/affil/GAIR/papers/2002papers/berquist.html. Accessed 28/1/2003
[9]Anthony Giddens, *Society, Action and Space–An Alternative Human Geography*, Teresa Brennan and Benno Werlen (eds.), (trans. by Gayna Wall), Routledge, London, 1993, Preface, p.xiii.
[10] *Ibid*, p.3.
[11] David Harvey, *Spaces of Capital*, Edinburgh University Press, Edinburgh, 2001, p. 108.

place allow for the integration of critical spatiality with imagination, narrative and identity. Sack uses 'place' to discuss the countless areas of space that have been bounded and controlled, that is, those humanly constructed and maintained places.[12] Later when historical and scientific consciousness had assimilated, coalesced and identified the planet down to the last cartographical and statistical details, it became more evident that the practical-political need was not only for a geometric surface division but a substantive spatial order of the earth. [13]

The following discussion about differences in political structure between France and England gives a broad outline of the development of a spatial order. Firstly in France, after King Louis I died in 840, the Treaty of Verdun in 843 ended a struggle amongst his three sons for possession of the Frankish empire that had been consolidated by their grandfather Charlemagne. The empire as an extensive group of states under a single supreme authority under the terms of the agreement was divided into three parts – Italy, Germany and the Kingdom of France – thus ending the brief unification of Western Europe. In the fourteenth and fifteenth centuries France was seen as a garden owing much to the Garden of Eden and the Christian tradition of Paradise: a land of fertility and abundance, but nevertheless a land worth defending, and over these formative years a sense of nationhood developed.[14]

While domestic France was emerging as a living territorial construction after the 843 Treaty of Verdun, systems were being set in place for the spatial organisation and occupation of the French lands. Systems which were, by-and-large, to remain stable until the Industrial Revolution beginning in Great Britain at the end of the eighteenth century, and in France in the middle of the nineteenth century.[15] For a long time the French monarchy, for all its solid and distinctive sense of landownership, did not develop the concept of precise territories based on accidents of natural geography until 1315, when the term 'frontier' appeared. During the wars of Louis XIV[16] in the early sixteenth century, the idea of natural boundaries

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[12] Robert D.Sack, "Place, Power and the Good", in *Textures of Place: Exploring Humanist Geographies*, P. C. Adams, S. Hoelscher, and K. E. Till (eds.), University of Minneapolis Press, 2001, p.232, as cited in Jon L. Berquist, "Critical Spatiality and the Uses of Theory", p.6.
[13] *Ibid*, p.29.
[14] Xavier de Planhol, *An Historical Geography of France*, (trans. by Janet Lloyd), Cambridge University Press, Cambridge, 1994, p.104.
[15] *Ibid*, p.117.
[16] Fernand Braudel, Vol. II, *The Identity of France*, (trans. by Sian Reynolds), Harper Collins Publishers, Inc., New York, 1990. Braudel states on p.167–168 that 'compared to the devastating Hundred Years War between 1339 and 1453 between France and England, such catastrophes as the Wars of Religion (1562–98) have to be rated as of secondary significance'. Louis XIV's wars fought away from French soil, p.169 – the successful War of Devolution (1667–68) between France and the Spain over possession of the Spanish Netherlands; the successful Franco–Dutch war (1672–79) of conquest; the unsuccessful War of the League of Augsburg, or the war of the Grand Alliance (1689–97) where French expansionist plans were blocked by an alliance of England, the United Provinces of

was introduced into French politics for they now came to be regarded as strategic necessities.[17] By the end of the seventeenth century the frontiers of France had been extended, and especially the one most under threat, namely the maritime frontier with England. It was not until the last years of the eighteenth century that the leaders of France appear to have deliberately adopted the policy of acquiring natural frontiers or boundaries as the most efficient way of enforcing control and the reification of power. [18]

The customary picture of French kingship in the centuries before the 1787–1799 Revolution may be summed up in two phrases,*"L'État c'est moi"*(administrative monarchy equated with the person of the king) *and "la grace de Dieu"* (divine right of the king).[19] After chief minister Cardinal *et duc de* Richelieu (1585–1642) died, Louis XIV (1638–1715) ruled as an absolute monarch. His successors, Louis XV (1710–1774, Louis XVI 1754–1793), their ministers and their successors down to the Revolution, all assumed the validity of both ideas – *L'Êtat c'est moi* – in the sense of the king as a symbol of the nation and the sole source of authority in the state, together with the concept of property-kingship.[20] The conception that the king owned his realm played an essential part in the history of European international relationships, and some of the most famous episodes of the reign of Louis XIV can be adequately explained only upon the basis that one of the primary driving motives of the monarch and his ministers was the unshakeable belief that he possessed proprietary claims, and had the right and the duty to enforce by his armies when the occasion presented itself.[21]

Xavier de Planhol argues that France, possessing a seaboard stretching from the Mediterranean to the Atlantic, and an extensive inland river system, was placed in a position of excellence. Not only the rivers but also the sea were viewed spatially to facilitate both communications and cultural contacts within and without the country. The rivers so well situated with reference to one another, allowed transportation from one sea to the other, accounting for the way in which 'the necessities of life were exchanged with ease by everyone with everyone else'.[22] Cargoes were transported only a short distance by land with an easy transit through plains; but most of the way they were carried on the rivers, some into

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the Netherlands and the Austrians and the unsuccessful War of the Spanish Succession (1704–14) between France and an anti-French alliance of England, the Dutch Republic and the holy Roman emperor Leopold I, about the disputed succession to the throne of Spain: the three principal claimants – England, the Dutch Republic and France.

[17] *Ibid*, pp.113.

[18] Robert D. Sack, *Human Territoriality*, Cambridge University Press, Cambridge, 1986, p.19.

[19] H H.Rowen, "L'Etat c'est a moi: Louis XIV and the State", *French Historical Studies*, Vol.2, No.1 Spring, 1961, p.83. http://www.jstor.org Accessed 10/1/2004.

[20] *Ibid*, p.91.

[21] *Ibid*, pp.93–94.

[22] Xavier de Planhol, *An Historical Geography of* France, p.3.

the interior, others to the sea. Thus France's transport became a spatial organising concept across the Eurocentric physical landscape.

Conceptions of space differed somewhat in England. The sixteenth century English Reformation, (although primarily political rather than religious, due to Henry VIII's inability to obtain a divorce from Roman Catholic Pope Clement VII in 1534), began England's Protestantism and withdrawal from the European Catholic mainland.[23] This was partly due to the loss of French possessions in the fifteenth century, but also to being confronted by two Catholic powers, first Spain and then France, that embodied different principles of culture and politics. The experience of encountering the formidable powers of Spain and France, taken with the opportunities that had opened up westward with the Spanish and Portuguese conquest of the New World, seemed to have convinced English elites that the English future lay not in Europe but overseas.[24] As England was involved in large-scale conflicts between 1688 and 1713, hostilities disrupted overseas trade, coming to a halt in the late 1680s. During the War of the League of Augsburg (1688–1697) and the War of the Spanish Succession (1702–1713), freight and insurance charges on tobacco and sugar more than doubled, causing the volume of exports and quantity of shipping to fall.[25] The Union of England and Scotland in 1707 into Great Britain encouraged trade, and saw destiny in controlling the sea trade routes rather than in territorial conquest that was a danger to liberty itself, as well as a diversion from the nation's true commercial interests. If liberty was the precondition for successful commerce, and commerce was the cause of greatness, then liberty would be the guarantee of commercial greatness.

On the one hand, an absolute monarch ruled France maintaining large standing armies, whereas on the other hand, England after the seventeenth century Civil War dispensed with standing armies and relied instead on the strength of the navy for defence, prosperity and freedom.[26] King James II (1685–1688) determined to rule without the consent of Parliament, culminating in the English Glorious (bloodless) Revolution of 1688. The Revolution Settlement of 1689, together with the Bill of Rights and Toleration Acts, declared the rights and liberties of subjects by limiting the powers of the crown.[27] In 1714 the Act of Settlement came into force, and in such a polity the powers of the crown, the Lords and the Commons

[23] Krishnan Kumar, "Britain, England and Europe, Cultures in Contraflow", *European Journal of Social Theory*, 6 (1): p.15.
[24] *Ibid*.
[25] James Horn, "British Diaspora: Emigration from Britain, 1680–1815", in *The Oxford History of the British Empire – The Eighteenth Century*, Vol.II, P.J.Marshall, (ed.), Oxford University Press, Oxford, 1998, p.33.
[26] Kumar, "Britain, England and Europe, Cultures in Contraflow", p.15.
[27] Stephen Brumwell and W.A.Speck, *Cassell's Companion to Eighteenth Century Britain*, General Editor Derek Beales, Cassell & Co., London, 2001, p.160, and pp.326–7.

had been brought into equilibrium. The rise of the British Houses of Lords and Commons, together with the sealing of parliamentary supremacy in the 1688 revolution, achieved the aim of obliging the king to govern with the assistance of Parliament; to prohibit taxes, keep a standing army only with the approval of the legislature, provide for free speech, free elections and frequent meetings of Parliament. Thus the monarchy aristocracy and democracy were mixed, and held each other in check. The tendency of the monarchy to degenerate into tyranny could be offset by the Houses of Lords and Commons combined; that of aristocracy towards oligarchy by the king and Commons; and that of democracy towards anarchy by the crown and the Lords.[28] Therefore Britain's history conflates with France's, and although Britain also experienced turbulent times in questioning the 'divine right of kings', the doctrine virtually disappeared from English politics after the Revolution of 1688.[29]

The mid-eighteenth century witnessed the demographic distinction between Europe and the Kingdom of Great Britain. Britain was entering two decades of relative peace and stability. During the first half of the eighteenth century the population of Great Britain increased by less than 15 per cent. The United Kingdom of Great Britain and Ireland became a sovereign state from 1801–1927, and the first census in 1801 recorded 8.8 million, and by 1821 the census registered 12 million. The increase was due mainly to a decline of death from infectious diseases and the rise in the birth rate. [30] The enclosure movement of farming land had peaked during the Revolutionary and Napoléonic wars, and stimulated by rising grain prices, better drainage, more rigorous crop rotation, more effective use of fertilisers and thus more efficient farming practices,[31] more food was produced.

In contrast, the majority of the French, prior to the Revolution, were sunk in apathy and poverty while their rulers revelled in luxury. Braudel, observes that the natural birth-rate declined during the reign of Louis XV as:

> …fertility is not now the consequence of conjugal union, people afraid of it either directly or *indirectly* set out to hinder its progress…luxury makes most people regard a multitude of children

[28] *Ibid*, p.96.
[29] *Ibid*, p.160. After Catholic King James II was ousted by Protestant King William I, who had been invited by a number of peers and gentlemen to take upon himself the administration of the government until such a time as a Parliament could be elected. This body was principally responsible for the Revolution Settlement in January, 1689.
[30] Stephen Brumwell and W.A.Speck, *Cassell's Companion to Eighteenth Century Britain*, p.302. Childbearing increased as a greater proportion of the population married. It was in the growing commercial and manufacturing districts that women tended to marry earlier. Opportunities for earning higher wages in manufacturing than in agriculture assisted the trend to early marriage and thereby an increase in the population.
[31] *Ibid*, p.19.

> as a sort of dishonour. The richer a man is, the greater his need to limit his offspring. And worst of all was that the 'contagion' (of luxury) is spreading and imperceptibly influencing the humble people. Contraception became part of French behaviour particularly early compared to the chronology of the same process in the rest of Europe. These practices spread like wildfire with the French Revolution, although they were evidently already in use well before 1789.[32]

Braudel notes that the French population crept up at a snail's pace, whereas Great Britain's continued greatly to expand during the industrial revolution.[33] Braudel cites Sauvy's view [34]: 'France began to reduce its stock of young people, at the very moment when the race for world-wide expansion was beginning'.[35] D.K.Fieldhouse argues that the lack of French immigration to Canada certainly reflected French reluctance to emigrate in the eighteenth century.[36]

The Enlightenment was an aspect of the European Enlightenment occurring between the seventeenth and eighteenth centuries where reason, knowledge, freedom and happiness were key tenets. Scottish thinkers David Hume (1711–1776), Adam Smith (1723–1790) and Adam Ferguson (1723–1816) were well known, together with Scottish doctors, architects and engineers. English thinkers John Locke and Isaac Newton were influential and revered and in demand all over Europe. Glasgow, Edinburgh and London vied with Paris to be the capital of the European Enlightenment.[37]

The 1787-1799 French Revolution embodying enlightenment values under the leadership of Robespierre attempted to remake France in accordance with its concepts of humanitarianism, social idealism and patriotism incorporated the ideals of the French Revolution. 'Liberty, Equality and Fraternity' thus became the passwords of democracy. One of the first actions of the French Revolutionary assembly had been to order the systematic mapping of France as a means to ensure equality of political representation,[38]and to construct a solid economy and society with its rulers exploiting similar cultural foundations as they constructed a strongly structured European nation state. As First Consul, Napoléon Bonaparte (1769–1821) rapidly shaped the revolutionary zeal and idealism of France to his own ends by attempting to conquer the whole of Europe and England as well, with the aim of extending his Empire.

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[32] Fernand Braudel, *The Identity of France*, pp 189–193.
[33] *Ibid*, p.189.
[34] A Sauvy (ed.), as cited in *Histoire économique de la France entre les deux guerres*, II, 1974, pp.340–1.
[35] *Ibid*, pp.189–190.
[36] D.K.Fieldhouse, *The Colonial Empires – A Comparative Survey from the Eighteenth Century*, (second edition), Weidenfeld and Nicholson, London, 1966, p.48.
[37] p.12.
[38] David Harvey, *Justice, Nature and the Geography of Difference*, Blackwell Publishers, Oxford, 1996 p.240.

The French had lost interest in colonies until Napoléon showed a few flickers of interest about the world outside Europe, but they soon died away.[39] In the Napoléonic Wars France lost all her existing overseas territories and as a consequence the French realised they really did not need them. The effects of the disastrous French wars with England ended in Napoléon's final defeat by the British at the Battle of Waterloo on 18 June 1815. The idea of a world space embodying territory was therefore, effectively negated.

In contrast, Great Britain's plans to establish a base in Australia at Botany Bay had been discussed as early as 1779 at the height of the American War of Independence (1775–1783), but the scheme foundered on the grounds of cost and the absence of economic benefit to Britain. Since the early decades of the eighteenth century Britain's American colonies had provided the destination for thousands of felons sentenced to transportation under the 1718 Transportation Act that empowered courts to send convicts overseas.[40] American independence now ruled this area off limits, and in the meantime large numbers of minor felons were crammed within floating 'hulks' moored on the Thames River at Woolwich,[41] increasing proposals for a penal colony at Botany Bay.[42] Alan Frost writes that Lord Sydney (a British privy councillor) wrote in 1786 to the Chairman of the East India Company concerning the proposed settlement of a convict settlement at Botany Bay that:

> The several Gaols and places appointed for the confinement of Felons in this Kingdom being so crowded a State that the greatest danger is to be apprehended not only from infectious Distempers which may hourly be expected to break out amongst them. Measures should be immediately pursued for sending out of this Kingdom, such of the said Convicts as are under Sentence or Order of Transportation. [43]

Alan Frost argues that there were three general motives for colonising New South Wales: first, the 'dumping of convicts', second the commercial one, and the third which discusses the strategic motive of supplying flax and timber to India from Norfolk Island and New South Wales to support the refitting of the British navy.[44] Frost also states that the 'Seven Years War (1756–63) had left Britain as the most powerful maritime nation on earth'.[45] In this age the structure of Britain's ships, (including hulls, frames, masts and spars) was made

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[39] T.O.Lloyd, *The British Empire 1558–1995*, (second edition), Oxford University Press, Oxford, 1996, p.112.
[40] Stephen Brumwell and W.A.Speck, *Cassell's Companion to Eighteenth Century Britain*, p.391.
[41] *Ibid*, p.392.
[42] *Ibid*..
[43] Alan Frost, "The East India Company and the Choice of Botany Bay", in *Historical Studies*, Vol. Sixteen, April 1974 – October 1975, Department of History, Melbourne University, Melbourne, p.606.
[44] Alan Frost, "Botany Bay: a further comment", in *The Founding of Australia*, Ged Martin (ed.), Hale and Iremonger, Sydney, 1978, p.31.
[45] Alan Frost, *Botany Bay Mirages. Illusions of Australia's Convict Beginnings*, Melbourne University Press, Melbourne, 1994, p.59.

of timber, while their canvases, cables and cordage were made from flax and hemp. The East India Company's dockyard at Bombay,[46] a well-equipped dockyard with skilled Indian artificers capable of both repairing and building ships, was used to refit British ships. It has been suggested that concern in 1786 about Anglo-Russian relations could have led to a problem in the supply of flax and hemp from Europe,[47] however, G.C. Bolton notes that Russia's substantial export income came from trade with Britain. Bolton argues that the expedient of starting a new colony at Botany Bay[48] having close proximity to uninhabited Norfolk Island with supplies of flax and pine timber that could have provided naval supplies to Bombay, was therefore instrumental in the determined the choice for settlement.[49] Geoffrey Blainey however, writes that Norfolk Island's acreage was too cramped to produce a large supply of flax and its coast was rocky and lacked a safe harbour; but flax seeds could have been used to encourage growth on the mainland of New South Wales.[50] Frost supports Blainey's 'flax and naval timber' theory,[51] writing that:

> It would be a brave historian who would gainsay these contemporary witnesses and claim that the obtaining of naval stores was not a motive in the Botany Bay decision.'[52]

Thus the corollary of the population discussion seems to indicate that France did not need to expand territories to accommodate surplus population, whereas the opposite was the case with Great Britain.

After the French Revolution, enlightenment values manifested in the surge of scientific institutions encouraged and validated by Napoléon I. French scientific voyages of exploration to the southern ocean and the Australian coastlines, as discussed in detail in Chapter Four, were subsequently mounted. Robert Blake noted:

> England is no doubt in one sense a part of Europe, but the social spatial differences between the English cultural, political and social heritage and that of any other European country are far greater than the differences within mainland Europe itself, substantial though these are.[53]

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[46] *Ibid*, p.62.
[47] G.C.Bolton, "The Hollow conqueror: flax and the foundation of Australia", in *The Founding of Australia*, Ged Martin (ed.), p.93.
[48] G.C.Bolton, cited in Alan Frost, *Botany Bay Mirages. Illusions of Australia's Convict Beginnings*, p.60.
[49] *Ibid*, pp.59–60.
[50] Geoffrey Blainey, " The Tyranny of Distance", in *The Founding of Australia*, Ged Martin (ed), p. 90.
[51] Frost, "Alan Frost and new evidence for the 'flax and naval timber' theory", in *The Founding of Australia*, Ged Martin (ed.), p.209.
[52] Frost, *Botany Bay Mirages*, p.86.
[53] Krishnan Kumar, 'Britain, England and Europe: Cultures in Contraflow', p.5, cites "The Englishness of England", in Robert Blake (ed.), *The English World: History, Character and People*, H.N. Abrams, New York, 1982.

Great Britain's subsequent acquisition of a world empire was bound to further intensify the sense of difference from Europe.[54] England's spatial acuity as a maritime trading empire identified her success as a trading nation, laying the foundation for a blue-water policy designed to enrich England while defeating universal monarchy in Europe.[55]

It was such a differing outlook that underpinned emerging British dominance. P.J.Cain observes that 'despite the loss of the American colonies, Britain was still the greatest Imperial power in the world in the 1790s, a position emphatically confirmed by her victory in the Napoléonic wars'.[56] David Armitage notes that 'the origins, the transferability and the contestability of the British Empire as Protestant, commercial, maritime and free are what mark it as an ideology – rather than as an identity.' And further that 'the expansion of the British trade seemed to confirm Britain's commercial destiny, especially since this was bolstered by the indispensable and universally acknowledged supremacy of the Royal Navy on the sea-routes of the world after 1815.'[57] 'Any state aspiring to universal empire, whether benign or malign, therefore should look to sea for its domination.'[58] Armitage cites Nicolas Barbon, who in 1690, wrote:

> *Trade* may be Assistant to the Inlarging of Empire: and if an Universal Empire, or Dominion of very Large Extent, can be raised in the World, It seems more probable to be done by help of *Trade*; By the Increase of Ships at Sea than by Arms at Land. For those Things that Obstruct the Growth of Empire at Land, do rather Promote its Growth at Sea. The Monarchy is Dominion over all the Great Ocean: An Empire is not less glorious, and of a much larger Extent, than is either *Alexander's* or *Caesar's*. [59]

Clearly in the early eighteenth century, France and England had different national ideas of space: France concentrated on an empire on land, whereas England's was for an empire of the sea. Schmitt's observation that the new perception of the globe gave rise to 'a wholly new and hitherto unimaginable problem: the spatial ordering of the earth on terms of international law,'[60] suggests that the first attempts to establish the dimensions and demarcations of a global spatial order were lines drawn to divide and distribute the earth as a whole. In 1472, Europe was still seen as the "Old World", and the Americas as the "New

[54] Kumar, "Britain, England and Europe, Cultures in Contraflow", p.16.
[55] David Armitage, *The Ideological Origins of the British Empire*, Cambridge University Press, Cambridge, 2000, pp.143–144.
[56] P.J.Cain, "Economics and Empire: The Metropolitan Context", in *The Oxford History of the British Empire – The Nineteenth Century,* Vol.III, Andrew Porter (ed.), *Oxford* University Press, Oxford, 1999, p.31.
[57] Armitage, *The Ideological Origins of the British Empire*, pp.195–197.
[58] *Ibid*, p.143.
[59] Nicholas Barbon, *A Discourse of Trade,* printed by Tho. Milbourn for the Author, Goldsmith'–Kress library of economic literature: No. 2803, London, 1690, 40–1,57,60,61, cited by Armitage, in *The Ideological Origins of the British Empire*, p.143.
[60] Schmitt, "The Land Appropriation of a New World", p. 29.

World" – an area that appeared as 'free space' – open to European occupation and expansion.[61] Schmitt states that 'the first attempts in international law to divide the earth as a whole within the new geographical concept began immediately after 1492', when a line was drawn vertically from the North Pole to the South Pole, west of the meridian of the Azores and Capt Verde, by Pope Alexander VI's edict.[62] The two Catholic powers of Spain and Portugal agreed that all newly discovered territories west of this line would belong to Spain and those east of the line to Portugal. Although this division ('*partition del mar océano*') sanctioned by Pope Julius II in 1494, these demarcation lines were not yet global but a sea barrier.[63] Maps and globes were produced and the first scientific concept of the true form of the planet and the New World in the West was established. Later the Molucca Line[64] gradually became the border on the other half of the globe. After the Treaty of Saragossa (1526), a raya line was drawn through the Pacific Ocean. At first along what is now the 135th meridian, through eastern Siberia, Japan and the middle of Australia.[65]

On 1 July 1634 Cardinal Richelieu made a declaration in the name of the French King forbidding French seafarers to attack Spanish and Portuguese ships on this side of the Tropic of Cancer, but permitting them to do so beyond this line if the Spanish and Portuguese refused them free access to their Indian and American lands and seas. All mapmakers and globe makers were forbidden to shift the western meridian beyond the Azores as the lines essentially belonged to the age of religious civil wars between land-appropriating Catholic powers and Protestant sea powers. Schmitt notes that at this 'line' Europe ended and the New World began, allowing free rein for looting at sea, especially to English 'privateers'. Sanctioned by the French government and the Catholic French King, who had aligned himself with pirates, freebooters and buccaneers, against the Catholic Spanish King, the French pillaged Spanish cities in the Americas in the seventeenth century with the action being explained as undertakings 'beyond the line'. The general understanding was that

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[61] *Ibid*, p.30.
[62] *Ibid*, pp. 30–37. Pope Alexander VI's edict *Inter caetera divinae* (May 4, 1494) drew a line from the North Pole to the South Pole, running 100 miles west of the meridian of the Azores and Cape Verde. Schmitt recount that the first distinction becomes apparent with the great historical transformation leading from the Spanish-Portuguese divisional lines–*rayas*–to the French-English friendship lines *amity* lines. For a *raya* line, two princes recognising the same spiritual authority and the same international law, had to agree on the acquisition of land belonging to princes of another faith, and this shared authority was also and expression of a spatial order between spheres of influence of Christian and non-Christian princes and peoples. In the 16th and 17th centuries, *amity* lines reveal two types of "open" spaces: first, an immeasurable space of free *land*, and second, the free *sea*, and thus became of utmost importance in international law.
[63] *Ibid*, p.32.
[64] Joan Bautista, "First Circumnavigation of the Globe", recounts that Portuguese Ferdinand Magellan offered to find for Spain the Moluccas, in the Malay Archipelago, and to prove that they were within the Spanish and not the Portuguese lines of demarcation. in http://history-world.org/magellan.htm. p.1, accessed 14/6/2007.
[65] Schmitt, "The Land Appropriation of a New World", p.32.

everything that occurred 'beyond the line' remained outside the legal, moral and political values recognised on this the European line.[66]

Michael Wintle states that maps are interpretations of 'facts' and can document a history of power over space. Wintle cites J.B.Harley's description of maps as part of a visual language by which specific interests, doctrines, and even worldviews are communicated. In this sense they can document a social history of power, especially power over space. [67] Similarly, Daniel Clayton observes that cartography was an important tool of imperial expansion. Maps captured far-flung places on a grid of latitude and longitude, enabling politicians and merchants to visualise imperial and commercial prospects, and the British certainly worked with a perception of commercial access.[68]

Harvey Starr brings 'time' to the discussion, noting that time and space are obvious and immediate aspects of human existence and provide the fundamental context of all experience. Experience must be located in time, and locating an event is the first step in ordering the experience of it.[69] Within spatiality, the question of 'distance' – how close or far apart units are within some concept of space – [70] orders and makes visible a space; surveying a space determines what it contains, or if it is occluded; and what it could potentially contain by opportunity and willingness. Opportunity requires states or territorial units, that possess adequate resources, decision makers, or human agents who are aware of the extent of capabilities available to them. Willingness follows, concerned with the motivations that lead people to avail themselves of the opportunities, goals and motivations of the decision makers within the context of global exploration.[71]

From the end of the fifteenth century, European spatial attention turned to the globally empty spaces of the New World of the Americas. First contact with the local residents confirmed European belief in their own cultural, political and technological superiority over 'savage' civilisations – a constant in future expansion – with the Europeans spatially visualising hopes of finding hordes of precious metals and other riches.[72] Although the English possessed a

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[66]Schmitt, "The Land Appropriation of a New World", pp.36–37.
[67] Michael Wintle, "Renaissance maps and the construction of the idea of Europe", *Journal of Historical Geography*, 25 (2), 1999, p.137.
[68] Daniel Clayton, "The creation of imperial space in the Pacific Northwest", *Journal of Historical Geography*, 26 (3), 2000, p.329.
[69]. Harvey Starr, "Territory, Proximity, and Spatiality", Department of Government & International Studies, University of South Carolina, http://www.cla.sc.edu/poli/faculty/starr/Research/ISA2003a.htm, p.6. Accessed 2/8/2004.
[70] *Ibid*,, p.3.
[71] http://www.cla.sc.edu/poli/faculty/starr/Research/ISA2003a.htm, p.9. Accessed 2/8/2004..
[72] Robert Aldrich, *Greater France – a History of Overseas Expansion*, Macmillan Press, London, 1996, p.10.

theoretical claim to the North American continent, when explorer John Cabot landed in Newfoundland off the coast of Nova Scotia in 1497, England did not become a significant intruder in North America until the late sixteenth century.[73] England relied on private trading companies that were interested principally in commercial rather than territorial expansion, to defend its interests in the expanding European world.[74]

Mercantilism was an old economic theory that money is the only form of wealth – fostered by a school of economic thought interested in the relation between the nation's wealth, primarily measured by its reserves of gold and silver, and the balance of foreign trade.[75] In 1608 Cardinal Armand-Jean *du* Plessis Richelieu (1585–1642) as chief minister, had convinced French King Louis XIII about the importance of North America to the mercantilist system prevailing in Europe during the sixteenth, seventeenth and eighteenth centuries. This system promoted governmental regulation of a nation's economy for the purpose of augmenting state power at the expense of rival national powers. Thus governmental control was exercised over French industry and trade in accordance with the theory that national strength is increased by a preponderance of exports over imports, and the belief that exports to foreign countries were preferable to trading imported commodities within the home country. In 1665 Jean Baptiste Colbert (1619–1683) as controller general of finances, believed that France needed to produce manufactured goods rather than importing them; to achieve this mercantilist goal, protected tariffs were imposed. Richelieu, believing that the state was supreme, posited that the wealth of a nation depended primarily on the possession of gold and silver to aid in the economic growth of the nation. Likewise, European nations argued that governmental interference in the national economy was justified if it tended to implement the attainment of the objectives of wealth in the form of money, gold and silver; believing that it was the wealth of the nation that made it great. [76] Eli F. Heckscher writes that the first object of mercantilism was to make the State's purposes

[73] Anthony Pagden, "The Struggle for Legitimacy and the Image of Empire in the Atlantic to *c*.1700", in *The Oxford History of the British Empire – The Origins of Empire*, Vol.I,Nicholas Canny (ed.), Oxford University Press, Oxford, 1998, p.34, and p.39. See also Peter C. Mancall, "Native Americans and Europeans in English America, 1500–1700", p.330.

[74] Michael J. Braddick, "The English Government, War, Trade, and Settlement, 1625–1688", in *The Oxford History of the British Empire – The Origins of Empire*, Vol. I, Nicholas Canny (ed.), Oxford University Press, Oxford, 1998, pp. 296–297.

[75] Alan Bullock, Oliver Stallybrass and Stephen Trombley (eds.) *Fontana Dictionary of Modern Thought*, (second edition), Fontana Press, and Imprint of Harper Collins *Publishers*, London, 1988, p.520. It was believed that the State was powerful and should intervene to discourage imports, through imposition tariffs and other measures, and encourage exports through providing subsidies. A surplus on the balance of foreign trade would lead to a net inflow of precious metals, either directly or because of the relation between these metals and money. This inflow would, it was noted, increase the nation's wealth.

[76] David Parker, *The Making of French Absolutism*, Edward Arnold (Publishers) Ltd, London, 1983, pp.73–79. In 1640, Richelieu's main interest lay in commerce and the navy, and the now well established pattern of government intervention in manufacturing.

decisive in a uniform economic sphere, to make all economic activity subservient to considerations corresponding to the requirements of the state, and to strengthen the state's authority itself. Thus national strength (and wealth) increased due to greater exports over imports.[77]

Jeremy Smith notes that France was driven to colonisation by the mercantilist economic policy logic prevailing in Europe during the sixteenth, seventeenth and eighteenth centuries; and that for the French, empire building was more a strategic move than a colonial enterprise.[78] Focus on the exploitation of natural commodities like the fur trade and minerals to exchange for gold and silver to finance their European wars occurred in preference to a spatial view of putting the foreign land to use. Though strategic considerations set the parameters of French imperialism [79] in the New World of the Americas, its long imperial reach was beneficial but also a burden to the Crown, as the maintenance of the North American Empire came at great expense to the French State.[80] Brunschwig, maintains that the colonial policy of France in its origins was explained rather by the search for prestige than profit, but it remained subsidiary and subordinated to the continental policy, which alone made for great successful achievements**:**

> People the new land with French and Catholic colonists, by means of large chartered companies in order to build up the political and commercial grandeur of France against Spain to 'serve the interests of God' – seemed to be the formula for colonial action in the first half of the seventeenth century.[81]

T.O. Lloyd states that by the 1680s the power of France was beginning to alarm Englishmen. From 1066 to 1558, England had fought the majority of its wars with France. Most of these wars were European issues, and lay behind, for instance, the belief that Louis XIV of France hoped to become the overlord of Europe. King William III's accession to the English throne in 1689 marked a return of hostility to France, and for all of the following one hundred and twenty-five years, England was either at war, or preparing for war, or recovering from war with France. Of the seven wars with France that occurred between 1690 and 1815, only one was indisputably a war about colonies, yet at the end of the period France had lost almost

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[77] Eli F. Heckscher, *Mercantilism – the World Economy*, Vol. I, Garland Publishing Inc., New York, 1983, p.22, and p.108.
[78] Jeremy C.A.Smith, "A Deliberate Imperialism", in *Revolution, Society and the politics of memory, The proceedings of the Tenth George Rudé Seminar on French History and Civilisation, University of Melbourne History Conference*, M Adcock, E Chester, J. Whiteman, (eds.), *Series 4; 10th, 1996,* p.56.
[79] Alan Bullock, Oliver Stallybrass, and Stephen Trombley (eds.) *The Fontana Dictionary of Modern Thought*, p.409. Imperialism in general, the extension of the power of a state through the acquisition, usually by conquest, of other territories; the subjugation of their inhabitants to an alien rule imposed on them by force, and their economic and financial exploitation by the imperial power. Imperialism in this general sense of 'empire' is as old as history.
[80] Smith, "A Deliberate Imperialism", p.57.
[81] H.Brunschwig, "The Origins of the New French Empire", in *Imperialism and Colonialism*, G.H.Nadel and C.Perry (eds.), The Macmillan Company, New York, 1964, p. 112.

every colonial possession, whereas Britain had lost only the American colonies. Effectively French imperial history began over again in the late nineteenth century well after questions of Australia's settlement were resolved.[82]

Lloyd also notes that one of the attractions for Englishmen in the long wars with France had been the prospect of conquering and ruling new territories. Setting up so many colonies in the seventeenth century gave people a chance to practice religion in their own way, and they also had to manage their own affairs. In comparison with the rulers of France, the King of England's control over his colonies was tenuous. The attitude of the New England colonies was probably well suited to the commercial and industrial society that was emerging, whereas people in France saw the advantages of colonies most easily when the colonies produced something valuable that could not be produced at home.[83] The British East India Company was able to turn itself into a distinctly royalist body and was given a wider range of political power primarily concerned with profit in exporting textiles, in particular, Indian cotton goods.[84] Later of course, as textile industries developed in England, industrialists were able to press successfully for prohibitive tariffs on finished Indian textiles, effectively killing the colonial industry.

In a similar context to Britain, Robert Aldrich notes that the most straightforward and unquestioned assumption about the French colonies was that they should serve France; return profits by providing useful raw materials, purchase French goods, attract French investment, cost as little as possible to conquer and administer, as well as to raise revenues necessary to cover their own expenses. Perhaps more importantly, they were expected to extend France's power and prestige against international rivals, thus securing benefits in the balance of power in Europe. In contrast to Britain, if colonies were not useful the French traded, sold or abandoned them. Critically, French metropolitan interests had to take precedence over the concerns of indigenous peoples or overseas settlers.[85] France set out to develop an empire and wage European wars at the same time, and unlike Britain, colonies were often costly and unprofitable.

Long before the exploration and colonisation of Australia, both France and Britain had interests in the New World of North America. Aldrich noted that in 1603 the French monarch gave the *Huguenots* (French Protestants) a monopoly on the fur trade in Acadia, (the original name of the parts of Canada now known as Nova Scotia). Traders in furs and

[82] Lloyd, *The British Empire 1558–1995*, pp.53–54.
[83] *Ibid*, pp.28–29.
[84] *Ibid*, p.34.
[85] Aldrich, *Greater France – a History of Overseas Expansion*, p.91.

skins obtained their wares from Native Americans for eventual shipment to France[86] as a very profitable source of income to the French government**.** Lloyd notes that by 1649 the fur trade was no longer profitable and the French considered abandoning it. The French settlements along the St Lawrence River could no longer produce enough revenue to support the fairly lavish military, civil and ecclesiastical establishments.[87]

As the colony of Nova Scotia (Acadia) developed, it was caught up in the imperial sovereign state rivalries of England and France, and henceforth passed back and forth between England and France until 1713. In 1670, Britain had formed the Hudson Bay Company in North America [88] to occupy the lands adjacent to Hudson Bay as an adjunct to trade,[89] giving it a monopoly over fur trade in the region. The trade consisted primarily of barter with the Native Americans of British goods in exchange for furs and skins until challenged by the Montreal traders, organised into the North West Company, who were competing for space and trading opportunities.[90] Conflicts with the French over the fur trade broke out into open war. The War of the Spanish Succession (Queen Anne's War) between 1702 and 1713 culminated in the 1713 Treaty of Utrecht which settled in favour of the Hudson Bay Company, and secured title of Nova Scotia, Newfoundland and Hudson Bay for Britain. This confirmed access to valuable trade in fish and furs and extended British North America's territorial claims north-west to the Rocky mountains. British authorities, doubting the loyalty of the Nova Scotians, removed them from their lands, seized the lands thus gaining permanent possession of Nova Scotia. As a separate British colony, Nova Scotia prospered from its forestry, fisheries, and shipbuilding for the first two-thirds of the nineteenth century.[91]

H. Brunschwig opines that no Frenchman had the impression of a national failure when in the 1763 Treaty of Paris France ceded Canada, which had no colonial products, to the English. The colony's role had been to dispute with England the mastery of the sea and to affirm before the world the presence, the grandeur, and the expansion of France.[92] In the eighteenth century, in the course of the French Revolution and Empire, Europe was more important to France; therefore, colonies were no longer important elements in French

[86] *Ibid*, p.11.
[87] Lloyd, *The British Empire 1558–1995*, p.46.
[88] Braddick "The English Government, War, Trade, and Settlement, 1625–1688", p.295.
[89] *Ibid*, p.297.
[90] Peter Marshall, "British North America, 1760–1815, in *The Oxford History of the British Empire – The Eighteenth Century*, Vol. II, P.J. Marshall (ed.), Oxford University Press, Oxford, 1998, p.391.
[91] Richard R. Johnson, "Growth and Mastery; British North America, 1690–1748", in *The Oxford History of the British Empire – The Eighteenth Century*, Vol. II, Oxford University Press, P.J. Marshall (ed.), Oxford, 1998, p.281.
[92] Brunschwig, "The Origins of the New French Empire", p.116.

prestige.[93] Moreover, France did not require more land as internal population factors were not an issue and therefore, colonial expansion for emigration purposes had never been necessary.[94] Jeremy Smith notes that the loss of Canada, the dilemma of whether to open up France and its empire to strengthen the state in Europe, and the growing French concern over imperial fortunes, all contributed to the lack of a robust colonial order up until the 1760s bearing testament to the limits of France's capacities and inclinations to colonise. [95]

Most essential and decisive for imperial policy in the following centuries was the fact that the emerging New World appeared as free space – an area open to European occupation and expansion, rather than a new enemy. Schmitt refers to Thomas Hobbes' "state of nature", where he locates 'no-man's land' in the newly discovered area of freedom in the New World (of America).[96] Schmitt also refers to John Locke's doctrine of the 'state of nature' that best elucidates the historical and spatial context of Locke's thought that in the beginning 'all the world was America'. Further, Schmitt opines that the astonishing transformation of consciousness that occurred toward the end of the seventeenth century affected notions of the state of nature as well as their location in America – the New World. [97] Somewhat similarly, as mentioned in Chapter two, *terra nullius* (empty land or no one's land) was the legal concept adopted by the British in discovering, claiming in 1770, and settling Australia from 1778. Henry Reynolds observes that as a base for possession, one can only discover that which is ownerless, that which doesn't belong to anyone'.[98]

In England however, offers of free land attracted immigrants from the British Isles and New England, and by the time of the American Revolution New Englanders constituted roughly half of Nova Scotia's population. Lloyd argues that while the British colonies in North America were steadily increasing along the Atlantic seacoast of America, the French were not. Dependent on the support and sympathy of their home government, their settlements aroused very little public enthusiasm in France, with few feeling encouragement to emigrate. But while the French did not feel encouraged to emigrate in large numbers, the 50,000 inhabitants of New France moved inland.[99]

The recognition of a maritime trading empire and the diagnosis of England's fitness to capture it, identified the success of a trading nation with the liberty of its government and

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[93] *Ibid*, p.113.
[94] *Ibid*, pp.119–120.
[95] Smith, "A Deliberate Imperialism", pp.60–61.
[96] Schmitt, "The Land Appropriation of the New World", p.39.
[97] *Ibid*, p.40. Note 20 – Schmitt cites John Locke, *On Civil Government*, Bk. II, 49; also Emil Roos' dissertation on John Locke's contractual theory and the state of nature (1943).
[98] Henry Reynolds, *The Law of the Land*, Penguin Books Australia Ltd, Victoria, 2003, p.11.
[99] Lloyd, *The British Empire 1558–1995*, pp. 69–70.

distinguished territorial conquests from the unlimited potential of empire upon the sea, laying the foundation for a blue-water policy designed to enrich England while defeating universal monarchy in Europe.[100] Britain's acquisition of a world empire together with worldwide responsibilities and interests was bound to intensify further the sense of a difference from Europe.[101] Although Britain lost her North American colonies in the American War of Independence, it became apparent that her sea routes should be protected to enable continuation of exports. France had lost most of the navy in the final defeat in 1815; therefore the British Navy could dominate the seas of the whole world and effectively global empty spaces at this time. The energetic sweeping of the seas by the British Navy kept all French coastal ships in harbour for the next four years.[102]

Thus attitudes in relation to lands newly discovered and possessed, differed as a result of European and English experiences and conceptions of spatiality. Schmitt writes that:

> English law has preserved a better sense for the particularities of different territorial statuses than continental legal thinking, which even in the nineteenth century was obtained only in a single territorial status: the state. The diversity of colonial possessions and the distinction between dominions and non-dominions, kept alive the English sense for specific orders and variations of territorial status.[103]

And further that:

> Only after the new spatial order based on states was achieved in Europe did the third and last global line of the Western Hemisphere appear. With it, the New World autonomously opposed the traditional order of Europe and of Eurocentric international law. In so doing, it radically challenged the basis of the old spatial order.[104]

Different conceptions of spatiality between the French and the English were noticeable because of political structures where the French focus was on national interest and more Eurocentric, whereas the English focus was more international, seeing in the world space necessary imperatives for trade and the migration of surplus populace.

Geography as an adjunct to cartography is the study of the earth's surface. Alexander von Humboldt (1769–1804) laid the groundwork for modern geography, with its emphasis on direct field observation and accurate measurements as the basis for generalisations of the relationship between natural and human worlds; the spatial distributions exhibited between

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[100] Armitage, *The Ideological Origins of the British* Empire, p.144.
[101] Kumar, "Britain, England and Europe Cultures in Contraflow", p.16.
[102] Evan Luard, "The Balance of Power", in *The Origins of National Interests*, Chafez et al (eds.), Frank Cass Publishers, London, 1999, p.123.
[103] Schmitt, "The Land Appropriation of a New World", p.40.
[104] Schmitt, "The Land Appropriation of a New World", p.43.

natural and human phenomena. Immanuel Kant (1724–1804) in his 1781 *Critique of Pure Reason*, provided a reasoned statement about the place geography had among fields of learning, by noting that geography dealt with phenomena associated in space, just as history dealt with events occurring together in time.[105]

Early English geographer, Richard Hakluyt (1552–1616), was known as 'the younger' because he had a cousin also named Richard Hakluyt (the elder) who was a lawyer.[106] Both were noted for their persistent political influences, and promotion of Elizabethan overseas expansion especially the colonisation of North America.[107] Pagden writes that the Hakluyts rigorously expounded the establishment of England's claim to possession based on the discovery of North America by English explorer John Cabot who had landed in Newfoundland in 1497.[108] They also constantly urged the exploration of North America and the foundation of a 'plantation' to foster national trade in conjunction with the search for the Northwest Passage. Hakluyt the younger was not blind to the profits arising from global empty space for the establishment of foreign trade, advising the Queen on colonial affairs.[109] James Horn recounts that Hakluyt the younger considered that America:

> 'will yelde [sic] unto us all the commodities of Europe, Affrica [sic] and Asia, as far as wee [sic] were wonte [sic] to travel, and supply the wantes [sic] of all our decayed trades'.[110]

Williams cites Hakluyt the younger:

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[105] *Encyclopaedia Britannica* Inc. file:///EB/_2.htm.
[106] Glyndwr Williams, *The Great South Sea*, Yale University Pres, London, 1997, p.15.
[107] Nicholas Canny, "The Origins of Empire: An Introduction", in *The Oxford History of the British Empire – British Overseas Enterprise to the Close of the Seventeenth Century*, Vol. I, Nicholas Canny (ed.), Oxford University Press, Oxford, 1998, pp.4–5.
[108] Pagden, "The Struggle for Legitimacy and the Image of Empire in the Atlantic to *c*.1700", p.34. John Cabot had received his instructions from Henry VII in 1496, but for all the symbolic weight which later generations were to place upon this unprofitable voyage by a migrant and his son, no serious attempt was made to settle in the Americas until Sir Humphrey Gilbert's expedition of 1583. Further on p.39, Pagden writes that Henry VII's letters patent to John Cabot had echoed exactly the terms of Alexander VI's Bulls of Donation by granting him rights to 'conquer and possess' as cited in *Transactions of the Royal Historical Society*, XXVI (1976), p.180.
[109] Canny, "The Origins of Empire: An Introduction", p.22. It became widely accepted in England in the decades after the Restoration that colonies were essential to the economic well-being of the community. As this reality became established, officials and merchants began to cast covetous eyes on places on the map that should be brought under the British Crown, either because they were economically desirable or because they were strategically important for the maintenance and development of existing colonies and trading routes across the globe.
[110] James Horn, "Tobacco Colonies: The Shaping of English Society in the Seventeenth - Century Chesapeake", in *The Oxford History of the British Empire – British Overseas Enterprise to the Close of the Seventeenth Century*, Vol. I, Nicolas Canny (ed.), p.174. Horn cites in note 8, E.G.R.Taylor, ed., *Original Writing and Correspondence of the Two Richard Hakluyts*, 2 vols, II, London, 1935, pp.211, 327–35, 347. The northern parts would supply timber, masts, clapboard, pitch, tar, cordage, and naval supplies, and the southern parts wine, silk, fruits, oil, sugar, and salt.

> For the conquering of fortie [sic] or fiftie [sic] miles here and there and erecting certaine [sic] fortresses , [they] think to be Lordes [sic] of halfe [sic] world.[111]

Harvey notes that the introduction of the Ptolemaic map into Florence in 1400 and its immediate adoption there as a means to depict geographical space and store locational information, was arguably the fundamental breakthrough in the construction of geographical knowledge, as we now know it. Thereafter, it became possible in principle to comprehend the world as a global unity.[112]

S.R.Freitas has expanded on the geographical concept of a unified landscape as it relates to spatiality, heterogeneity, and interaction between elements, and in so doing distinguishes it from physical geography that is characterised by focusing on spatiality and relationships between natural and cultural processes. Freitas further notes that differences between the natural and cultural approaches focus mainly on the perspective of morphological, functional or symbolic dimensions used to study the same object landscape. Accordingly, landscape can be defined as a composition of spaces created or modified by men, always representing a material expression of sense given to the environment by the interaction of men and nature, while the value given to landscape depends on its direct relation to geological forms, types of soil, local fauna, and land use.[113] Godlewska looks for links between the developing 'science' of geography and French imperialism and nationalism, with the construction of a centralised state both within France and in conquered and colonial territories.[114] The science characterised by French geographers played a central role in the development of cartography (then known as geography) was embraced as a sub-discipline. Critically, cartographic developments fundamentally altered notions of space: how people conceived it and how it was incorporated into the imperial endeavours. In addition to adopting more rigorous mapping techniques, the beginnings of social scientific inquiry that so characterised modern human geography, developed.[115] Consequently, from early in the history of nation state formation, geography has been closely controlled by the powerful and particularly by the state. In the periods of extreme state expansion and aggression, with conquests in the European Napoléonic wars, geographers became the most vociferous imperialists.[116] Indeed, Napoléon exemplified the connections between science, space and imperial activity. For

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[111] Glyndwr Williams, *The Great South Sea*, p.33. Williams in note 68 cites Hakluyt *Principal Navigations* VI, p.141, referring to the Spaniards grandiose pretension to dominion.
[112] David Harvey, *Justice, Nature and the Geography of Difference*, p.239.
[113] S.R. Freitas, "Landscape: Where geography and ecology converge", in http://ns.rc.unesp.br/ib/cea/holos/ms0503.htm, HOLOS Environment, v.3 m.2, 2003, pp.150–155. Accessed 2/8/2004.
[114] Godlewska and Smith, (eds.), *Geography and Empire*, p.13.
[115] *Ibid*.
[116] *Ibid*, p.14.

instance in his writings, he saw geography as a critical scientific activity concerned with facts and not interpretation or style.[117] In sum, within the most powerful of French quarters, geography's domain was a changing and expanding one by virtue of exploration, the growth of human understanding, and the constant changing political and physical nature of the world.[118]

More than supporters of national aggression, these geographers became instruments and advocates of imperialism, seeing themselves as both advancing French civilisation and heralding a new and better order.[119] Thus science and technology played an increasingly important part in the space-annihilating science of cartography, which had embraced concepts of spatialisation;[120] an image shaped by France merely as a launching pad for Napoléon's boundless military and imperial ambition as militarism became the defining quality of the Napoléonic regime, in contrast to the ideals of the French Revolution. Godlewska notes that geographers played a significant role in the early aggressive stages of the development of the modern western state and, further, that 'the imperialistic participation of the Napoléonic geographers was above all shaped by the spatial nature of many of the problems engendered by imperial conquest'.[121] Napoléon's increasing emphasis on rapid movement of troops gave the geographers new importance. Cartography and road construction developed, using a strategic sense of the implication of certain terrain features as well as human landscapes and combinations of both for offensive and defensive operations, 'extending into social scientific preoccupations'.[122]

Harvey states that geographical knowledge was deeply affected by imperial and colonial practices, coupled with the exploration of commercial opportunities and markets. Thus, while France and Britain may have conceived of space in ways that were shaped by differing ideas of geography and politics, both stood against the New World in the somewhat converse position of empire acquirers or colonisers. From such positions the many forms of geographical knowledge were complicit with those politics, and concerned anthropogenic influences in changing the face of the earth, by recognising the extensive role played by human settlement and action.[123] Without the possibilities inherent in geographical expansion,

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[117] *Ibid*, p.32.
[118] *Ibid*, p.38.
[119] *Ibid*, p.53.
[120] John L.Berquist, "Critical Spatiality and the Uses of Theory" in http://www.cwru.edu/affil/GAIR/papers/2002papers/berquist.html. Accessed 28/1/2003.
[121] Godlewska and Smith, (eds.), *Geography and Empire*, p.34
[122] Godlewska and Smith, (eds.), *Geography and Empire*, p.35.
[123] David Harvey, *Spaces of Capital*, p.228.

spatial organization and uneven geographical development, capitalism would long ago have ceased to function as a political economic system.

Nonetheless, the main impulse behind the western Imperial phenomenon was economic: the desire of the West to expand markets, provide opportunities for investment, and secure access to needed raw materials for the production of marketable goods. Other impulses necessarily intruded; powerfully shaped by ideas of cultural, intellectual and economic superiority, which regarded non-western races as backward and lacking civilisation. As a consequence of the latter notions, it became easy for powerful countries, such as Britain and France, to visualise spatially 'free' lands, and to embark on programs of colonial conquests that would serve both the national economic interests, and a civilising mission.

Exclusion of colonies from trade with other nations eventually produced the American War of Independence over the period 1776 to 1783, in which colonists asserted their desire for freedom to seek economic advantage. At the same time, European industries that had developed under the mercantilist system became strong enough to operate without mercantilist protection, resulting in a philosophy of free trade. During this time Britain was engaged in trying to retain the colonies of Nova Scotia and Florida was well as the thirteen colonies that subsequently became the United States of America. After losing the American War of Independence (1775–1783), Britain formally ceded independence to the colonies and pledged to withdraw their troops from the territory of the new nation,[124] under the Treaty of Paris, signed on September 3, 1783 at Versailles.

Fieldhouse writes that the establishment of permanent settlements was not always the desire of British home governments and that territorial expansion in this period was a direct response to French economic and strategic ambitions.[125] Nevertheless, it was apparent that Britain should protect the sea routes to enable the continuation of exports, particularly to India. In 1815, by the end of the long wars with Britain, France had lost most of her navy, while the British navy retained three historic roles – making the country safe from invasion, protecting trade and the defence of British colonies. The strength of Britain's navy and the almost complete loss of interest of all other European powers in any sort of overseas expansion in the early nineteenth century meant that settlers in British colonies were unlikely

[124] Stephen Conway, "Britain and the Revolutionary Crisis, 1763–1791", in *The Oxford History of the British Empire – The Eighteenth Century*, Vol II, P.J. Marshall (ed.), Oxford University Press, Oxford, 1998, p.343.
[125] D.K. Fieldhouse, *The Colonial Empires: A Comparative Survey from the Eighteenth Century*, pp.75–76.

to meet an enemy equal to them in military strength.[126] Thus Britain at this point effectively dominated known global 'empty' spaces.

Other European countries did not embrace the principles of the new concept of production until the middle of the nineteenth century. Arguably the industrial imperative of increasing wealth through productivity did not occur to them until the Industrial Revolution began in Britain. Throughout much of the period between 1525 and 1885, France was in domestic turmoil or involved in European conflicts. Official interest in financing overseas exploration and conquest waxed and waned. The French were not willing colonisers, and unlike Britain French industry did not develop at the same rate as did the Industrial Revolution in England from the end of the eighteenth century. English merchants were leaders in developing a commerce that increased the demand for more goods, and the increasing production of goods in turn required new markets for the realisation of profits. Until 1815, France was busy with the Napoléonic wars and had not proceeded far with the transition to industrial machine manufacture and related activities. Even when peace did come, the pace of Europe's progress towards large scale industrial production was still relatively slow and in consequence neither France nor Germany yet appeared as a competitors for Britain, who thus remained as the dominant exporter of manufactured commodities within and from the region. Only from the latter quarter of the nineteenth century did continental nations including France begin either to approach England's industrial output or to show their desire to establish colonial empires.

Harvey notes that the role given by the sixteenth and seventeenth centuries Renaissance thinking to human observation and experience, quantification of facts and values and the emergence of science were consonant with ideas that were to penetrate and reinforce one another as capitalism developed. They were also interrelated with the changes occurring in the conceptions and uses of earth, space, territory, and time.[127] As the predominant conception of territoriality in the Old World before Renaissance was one of social definition, the transition to awareness of territorial definition to accompany the rise of mercantile and then industrial capitalism would have been far more gradual if it were not for the discoveries of the New World.

Sack theorises that these mental explorations are quests for the explanation of the world and its places,[128] with questions of the formalisation of space into entities defined as territory. Territoriality is intimately related to how people use the land, how they organise themselves

[126] *Ibid,* pp.138–139.
[127] Harvey, "Territory, Proximity, and Spatiality", p.84.
[128] Sack, *Homo Geographicus*, p.8.

in space, and how they give meaning to 'place' and space. It is the key geographic component in understanding how society and space are interconnected.[129] Circumscribing things in space or on a map, identifies places areas or regions, but does not by itself create a territory until its boundaries are used to affect behaviour by controlling access, which are in turn affected by access to resources and power. Both natural and human cultural activities are called 'spatial' because they occur in space and have special properties such as locations, shapes and orientations.

As such, history is closely bound to the history of space, time and social organization, the interconnections and especially between the rise of civilisation and the rise of capitalism.[130] Sack notes that an important requirement for the rise of capitalism is an extensive market system for buying and selling commodities, and also that capitalism has increased the geographical mobility of the general population as well as to make labour and capital dependent on commerce. With trade and mobility came a geographical extension of political power, which helped to secure access to new markets, and raw materials, which in turn helped to maintain reliable transportation and safe conduct within the domain**.**[131]

The 'Old World' of Europe did not encounter vast empty tracts of land as for any land to be of value it had to be occupied by cultivators; and most land in the 'Old World' was so occupied.[132] The purpose of clear territorial demarcations is to establish different degrees of access to things in space,[133] for as Sack notes, territoriality involved the attempt by an individual or a group to influence or affect the actions of others by delimiting and asserting control over a geographical area. In this definition, territoriality establishes control over an area tending to be a fixed geographical space, whereas the convention among ships of war not to come too near foreign naval vessels on the high seas is an example of moveable territory.[134]

The New World, and especially North America, presented European powers with a vast, distant, unknown and novel area. With the limited technology and political power at their disposal, Europeans could still 'clear' much of the space and form territories at all geographical levels, with an intensity that was impossible to match in the Old World. Sack notes that the changing attitude toward territory and space resulted in thinking of territory not only as emptiable space, but also that the land was virtually uninhabited. There arose a

[129] Sack, *Human Territoriality*, p.27.
[130] *Ibid*, p.52.
[131] *Ibid*, p.82.
[132] Sack, *Human Territoriality*, p.87.
[133] *Ibid*, p.8.
[134] *Ibid*, p.19.

gradual change in definition of community, from one in which new settlers were admitted only by consent of the community, to one in which admission requires only residence within the community's territory.[135] Territories therefore are socially constructed forms of spatial relations and their effects depend on who is controlling whom and for what purpose**.** [136]

The chief motives for establishing or winning colonies had been to obtain control of trade already existing between a territory and the rest of the world; to look for and take possession of precious metals, gems or raw materials; to establish markets in the colony; to provide an outlet in the colony for the home country's surplus population; to take advantage of the cheap labour of native peoples; and to establish naval and military bases. A colony was formed by the establishment of a group of settlers in a new country or region in a definite space, whether or not already inhabited, and fully or partly subject to the mother country. Settlement made by emigrants from the mother country involved territorial annexation, whereas under imperialism, control and influence was exercised either formally or informally, directly or indirectly, politically or economically by the mother country.

In exploring new spaces, both France and England sought to exploit the spaces of others and often did so for economic reasons. Sack writes that an important requirement for the rise of capitalism is an extensive market for buying and selling commodities, and in addition, the creation needs a dependency of labour and capital upon commerce.[137] Anthony Pagden records that by the mid seventeenth century, the British and French colonies in America were overwhelmingly bases for trade and the production of agricultural produce, although both had their own national histories concerned with commerce and agriculture.[138] As the French continued to extend and mobilise the industrial, commercial, financial and naval resources of their territories, they increasingly viewed these resources as fundamentally limited. The scarcity of coin led to bullionism – the view that all wealth resides in the possession of precious metals – that money had to be secured either by plunder or trade. The establishment of colonies was coveted not from a desire for conquest, honour or glory, but for the products they could supply and the wealth they could generate. This motive is fundamentally distinct from the imperial impulses that were to impel territorial segmentation of the globe in the late nineteenth century during the nationalist era.[139]

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[135] *Ibid*, p.88.
[136] *Ibid*, p.216.
[137] Sack, *Human Territoriality*, p.81.
[138] *Ibid*, p.67.
[139] Glenn Chafetz, Michael Spiritas, and Benjamin Frankel (eds.), *The Origins of National Interests*, Frank Cass Publishers, London , 1999, p.153.

While the wars with France went on, Britain's population had been increasing fast enough to cause alarm. Known worldly space expanded rapidly at the same time as Britain's desire to claim any possible unknown unclaimed territory to expand the empire. At the same time the need to expedite the transport of her felons from overcrowded hulks after the loss of American colonies, as well as for the emigration of the growing population[140] took place when conceptions of space were being powerfully shaped by the voyages of the English seagoing explorers like Captain James Cook. Under the auspices of the British government, developments emerging at the end of the Napoléonic Wars placed Britain in a powerful position. However other European powers showed little interest in annexing colonies.[141]

European countries became increasingly interested in Cook's first report about the unknown free southern continent as the 1797 edition of the *Encyclopaedia Britannica* notes:

> TERRA AUSTRALIS INCOGNITA, a name for a large unknown continent, supposed to lie towards the South Pole, and which for a long time was fought after by navigators. The late voyages of Captain Cook have ascertained this matter as much as it probably ever will be – "I (Cook) have now made the circuit of the Southern Ocean in a high latitude, and traveled [sic] it in such a manner as to leave not the least room for the possibility of there being a continent, unless near the pole, and out of the reach of navigation. By twice visiting the tropical sea, I had not only settled the situation of some old discoveries, but also made there some new ones, and left, I conceive, very little more to be done even in that part. Thus I flatter myself that the intention of the voyage has in every respect been fully answered; the southern hemisphere, sufficiently explored; and a final end put to the searching after a southern continent, which has at times engrossed the attention of some of the maritime powers for near two centuries past, and been a favourite theory amongst the geographers of all ages. That there may be a continent, or a large tract of land near the pole, I will not deny: on the contrary, I am of opinion there is and it is probable that we have seen part of it. The excessive cold, the many islands, and vast floats of ice, all tend to prove that there must be land to the south; and for my persuasion, that this southern land must lie or extend to the north, opposite to the Southern Atlantic and Indian Oceans. I have already assigned some reasons; to which I may add, the greatest degree of cold experienced by us in these seas than in the Southern Pacific Ocean under the same parallels of latitude."[142]

Lloyd recounts:

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[140] Lloyd, *The British Empire 1558–1995*, p.121. Keeping prisoners locked up in the hulks of disused ships moored off the British coast was thought harsh and not very secure; the government turned instead to consider the implications of the voyage of exploration Captain James Cook had made in the Pacific between 1768 and 1770.

[141] *Ibid*, p.112. Britain emerged in a powerful position at the end of the Napoléonic Wars because she was the power that had been fighting most continuously and had been financing the efforts of her allies.

[142] *Encyclopaedia Britannica*, (third ed.), Vol. XVIII, United Kingdom, 1797, pp.389–390.

> Cook had reported that Australia was an island with an attractive and fertile coastline that reminded him of South Wales, and this seemed a very satisfactory place to which to send criminals…no entirely new settlements had been launched for over a century, and the government did not look back to the early days of settlement in North America to remind themselves how difficult it was for a colony to be self-supporting…but the tide of emigration had begun to arise and helped the growth of new colonies of white settlement by the early years of the new (eighteenth) century.[143]

Paul Carter writes that, 'Almost the greatest barrier to Australia's spatial history is the date 1788, after which all is solid'.[144] He further notes that a spatial history takes us back, not to chronological origins, but to the study of intentions.[145]

Brunschwig notes that in the course of the Revolution and the Empire, France lost all her overseas territories and as a consequence, the French realised then they did not need them as demonstrated by Deputy Bessieres' 1829 declaration: 'for what our colonies are worth to us and cost to us, we would gain much more by not having them.'[146] French intention was not to expand or acquire. Ideals adopted after the French Revolution directly influenced the spatial aspirations of the French government who financed explorations to the coasts of the Australian continent. Colonial expansion had never been popular with the French and as emigration had not been necessary France did not need colonial lands for population expansion**.**[147] Philip Curtin notes that although French policy overseas went through an expansionist spurt following the loss of the Napoléonic Wars in an apparent attempt to compensate for losses in Europe, the Chamber of Deputies agreed on the importance of restoring national prestige.[148] Voyages of exploration were conducted with the expectation of restoring the pride of France by adding further knowledge to the world at large about the continent of Australia: charting the coastline and recording the physical attributes of the land.[149]

The principal arguments used in tracing reasons for both French and English voyages of discovery are often flawed in two ways. First, they assume a singular meaning of occupation and space across time, and secondly they rely on a conception of imperialism that conflates

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[143] Lloyd, *The British Empire 1558–1995*, p.121.
[144] Paul Carter, *The Road to Botany Bay*, Faber and Faber Limited, London, 1987, p.34.
[145] *Ibid*, p.351.
[146] Brunschwig, "The Origins of the New French Empire", p.113–114.
[147] *Ibid*, p.119–120.
[148] Philip D. Curtin, *The World and the West, the European Challenge and the Overseas Response n the Age of Empire*, Cambridge University Press, Cambridge, 2000, p.40.
[149] Anthony J. Brown, *Ill Starred Captains: Flinders and Baudin*, Crawford House Publishing Pty Ltd., South Australia, 2000, states (p.12) that: Louis XVI was determined that France should match Cook's discoveries and complete the mapping of the globe, and (p.18) that: Professor Antoine-Laurent de Jussieu and his colleagues of the *Institute National* ordered the preparation for an expedition led by skilful navigators as well as enlightened men of science to study nature.

colonialism with empire building. Imperialism is more properly linked to and defined by the period of the developing industrial revolution in Europe.[150] French observers first used the term in the 1820s as a description of the process in which Britain in the late 18th and early 19th centuries became the first industrial nation.[151] As Eric Hobsbawm argues: 'whatever the British advance was due to, it was not scientific and technological superiority.'[152] Industrial production became heavily dependent upon the intensive use of capital for the installation of plant and equipment for the express purpose of increasing efficiency. Patrick O'Brien writes that with substantial capital of their own, London merchants were able to raise finance as well as to manage the distribution of traded goods around the world.[153] Those who were successful made huge profits with which to buy more machines and purchase supplies in greater quantities at enormous savings. In the textile industry, steam power was used for new spinning machines and looms in the production of cotton, replacing workshops with factories, increasing productivity and manufactured goods. Consequently, capital increased far more rapidly, much of which was re-invested in building canals, roads, and steamships for the distribution of manufactured goods in the developing foreign trade. As technical efficiency increased, the cost of production decreased, and the need for more factory workers involved the migration of people from rural to urban communities where the industrial towns were located. The increasing production of goods in turn required new markets, especially in India, for the realisation of profits. For much of the eighteenth century, London had been at the centre of a complex trade network that became the basis for the growing export trade associated with industrialisation into the nineteenth century, thus contributing additional benefits to the growing economy and consolidating the position of London as Europe's leading financial centre. [154]

Whereas France did not have a problem with overpopulation, Britain did, especially in her overcrowded gaols. Thus a combination of overpopulation, loss of colonies in North America, finding new markets for the export of surplus commercial products, and looking for bases for her navy in protecting the sea lanes to the primary importing country of India, formed reasons for the British government to look at the eastern coast of Australia, which Cook had taken possession of in 1770. Thus Britain's spatial acuity was realised and

[150] E.J. Hobsbawm, *Industry and Empire*, Weidenfeld and Nicholson, London, 1968, Introduction. This latter period is generally referred to as a developing period of 'high imperialism'.
[151] Alan Bullock, Oliver Stallybrass and Stephen Trombley, *The Dictionary of Modern Thought*, p. 419.
[152] Eric Hobsbawm, *The Age of Revolution, Europe 1789–1848*, Weidenfeld and Nicholson, London, 1962, p.45. In the natural sciences the French were almost certainly ahead of the British; and advantage which the French Revolution accentuated very sharply, at any rate in mathematics and physics, for it encouraged science in France while reaction suspected it in England.
[153] Patrick K. O'Brien, "Inseparable Connections: Trade, Economy, Fiscal State, and the Expansion of Empire, 1688–1815 " in *The Oxford History of the British Empire*, Vol II, P.J. Marshall, (ed.), p.62.
[154] Stephen Brumwell and W.A.Speck, *Cassell's Companion to Eighteenth-Century Britain*, p.93.

eventually manifested in 1788 with the establishment of the 'place' and colony of Botany Bay. Of course it also had problems with problematic 'minorities': political dissidents, the Scottish, and the Irish.

Lloyd notes that the British government's main response to the world outside the British Isles was to build a strong navy. This was not done for imperial purposes, but once the navy had been developed it affected everything that happened in English policy. The government had no money to spare to help the colonies, and this introduced the general rule that English colonies had to cover their own costs. The government of the colony had to raise enough revenue to pay its own bills and also there were no subsidies to encourage people to stay in a colony where they could not earn their own living. As a result of these rules of practice, the English set up colonies only in places where it was relatively easy to do so; at first because the places they went to were thinly populated, then because political disintegration in India enabled them to advance there. As a result it was accepted by the 1630s that English colonies could take most decisions for themselves. Because they had to run their local affairs, English colonies were quite different from those the French established between 1500 and 1650.[155] France's colonies were ruled by the sovereign power at home much more directly than was the case in the English colonies.[156] The territorial expansion in the sixteenth, seventeenth, eighteenth and nineteenth centuries by both the French and the British into countries and islands in and bordered by the Indian Ocean, was driven by commercial reasons and by the expansion of trade.

Between 1770 and 1829, both the countries of France and Britain were mounting voyages of exploration to discover New Holland. It is reasonable to argue that French and British national ideas of the world spaces produced differing points of the view and motives in the exploration of the western Australia coast. Much modern history, written from either an English or Australian perspective, has claimed that rivalry between the two countries was the chief motivating factor for the British to lay claim to western Australia in 1829. For instance, Appleyard [157], Brian Fletcher,[158] C.M.H. Clarke,[159] Geoffrey Blainey,[160] E.Scott,[161] and J.S. Battye, [162] have all written along these lines.

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[155] Lloyd, *The British Empire 1558–1995*, p.3.
[156] *Ibid*, p.29.
[157] R.T. Appleyard and Toby Manford, *The Beginning*, University of Western Australia Press, Nedlands, 1979, p.32, note that 'Britain was provoked into quickly annexing the West, thus forestalling the French.'
[158] Brian Fletcher, *Colonial Australia before 1850*, Thomas Nelson (Australia) Limited, Melbourne, 1976, p.97, notes that: when Major Lockyer raised the Union jack in western Australia in October 1826, 'his object was not to found a new colony, but to reinforce British claims to this part of the continent and keep the French out.'

However, the French saw Australia as having defined British boundaries on the Eastern seaboard of the continent, as evidenced by Governor Sir Ralph Darling's Commission dated from December 1825 to December 1826.[163] In regards to Western Australia, the French saw an empty spatial geographical unit, a region, and a landmass with a definite space outside the set boundaries of New South Wales. Driven primarily by scientific motives they believed any exploration taken outside these boundaries would not be antagonistic to Britain. France's conception of spatiality indicated that the coverage of expeditions were formed rather in the pursuit of national pride by accurately mapping the coastline of the western Australia; making scientific observations about the landscape; producing detailed collections and descriptions of the flora and fauna together with documentation about the habits and customs of indigenous inhabitants; all of which contributed to the scientific data they recorded for posterity. Battye cited both contemporary and later French sources to support his assertion that French voyages had the primary objective of collecting scientific information

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[159] C.M.H. Clark, *A History of Australia*, Vol.III, Melbourne University Press, Melbourne, 1973, p.11. Clark writes 'that: To forestall the French he (Stirling) urged that the site be immediately possessed by the Crown.'

[160] Geoffrey Blainey, *A Shorter History of Australia*, William Heinemann, Melbourne, 1994, p.85 states that: 'Botany Bay gave promise of preserving Britain's commerce in those seas from rival nations…and from France, which was increasing its own trade with India and held the island of Mauritius, a base from which its ships in war could plunder British merchantmen on the vital sea land to India.'

[161] E. Scott (ed.), "Australia", *Cambridge History of the British Empire*, Cambridge University Press, Cambridge, 1988, p.207, notes that: Britain occupied King George's Sound through fear of the French.'

[162] J.S. Battye, *Western Australia*, (facsimile edition 1978), University of Western Australia Press, Nedlands, 1978, p.57, wrote that: 'There is very little doubt that the settlements at King George's Sound and the Swan River areas were, in the first place, due to the activity being displayed by the French in Australian waters. These voyages gave rise to the belief that France, recognising that maritime power depended greatly on the possession of suitable colonies, was looking for the opportunity of establishing a settlement in Australia.'

[163] *Historical Records of Australia*, Series I, Governors' Despatches to and from England, Volume XII, The Library Committee of the Commonwealth Parliament, 1919, p.99–100. The Commission covered '…in and over the Territory of New South Wales, extending from the Northward Cape of Extremity of the Coast called Cape York, in the latitude of Ten degrees, thirty seven minutes south, to the southern Extremity of the said Territory of New South Wales, or South Cape, in the latitude of forty three degrees, thirty nine minutes south, and of all the Country inland to the westward as far as the hundred and thirty fifth degree of East Longitude, reckoning from the Meridian of Greenwich, including all the Islands adjacent in the Pacific Ocean within the latitude aforesaid of ten degrees, thirty seven minutes south, and of forty three degrees, thirty nine minutes south, and of all Towns, Garrisons, Castles, Forts, and all other fortifications, or other military works, which might be erected upon the said Territory or any of the said Islands, for and during our Royal Will and Pleasure, as by the said recited Letters Patent, relation being thereunto had, may be more fully and at large appear…and extending from the Northern Cape…to the Southern Extremity…of New South Wales…in the latitude of thirty nine degrees twelve minutes south, and of all the Country inland to the Westward as far as the hundred and twenty ninth degree of East Longitude.

concerning its natural history and inhabitants.[164] Critically, the French explorers did not look at the land from a spatially motivated view that indicated conquests, colonisation, economic interest or indeed a civilising mission for western Australia, but rather an opportunity to record data about a new worldly space.

The British, prior to annexing the west of the Australian continent in 1829, had dismissed it as being unsuitable for occupation; therefore annexation was not attempted until they perceived the possibility that the French might claim that area, bringing rationality to bear in claiming the whole of the land mass rather than allowing another nation to have access to British trade sea routes to India. Because of the British colonial interest in eastern parts of the Australian continent, and with British arguments in 1826 advocating occupation of the western third of the continent, such analysis necessarily requires consideration of British action in relation to their occupation and settlement of the eastern part of Australia. The hypotheses put forward in this argument demonstrate that the motives of France and Britain up until 1829 in relation to western Australia were in fact very different. Whereas Britain was still a monarchy France was now a republic, and in 1829 as the Deputy Bessieres had declared, the colonies were not a benefit. The colonial system once advantageous, is now no longer practicable.'[165]

In contrast Captain James Stirling, in 1827, proposed to His Majesty's Government in Britain that contrary to the previously documented 'space' of the huge area of New Holland as barren, he envisaged the potential for European settlement in the belief that the Swan River had the attributes of a successful colony[166] and a new province by establishing a colony at Swan River with himself as Lieutenant-Governor. Stirling elaborated the case partly by extravagantly praising the soil and climate, noting the commercial and naval advantages, and partly by anticipating similar objectives, [in his perception] which the French nation might also have.[167]

Arguably the primary motive in any argument of Stirling's was to advance the prospect of capital gain through access to land resources. Pamela Statham-Drew notes that Stirling was well aware of the British Government's reluctance to incur expenses.[168] Statham-Drew further observes that the Swan River Settlement was the first British colony in Australia

[164] J.S. Battye, *Western* Australia, p.51. Battye quotes in Note 4, *Biographie universelle* (Paris, 1811), vol. iii, p.538, and *Nouvelle biographie universelle* (Paris, 1853), vol. IV, p.771, and Péron, F, *Voyage de découvertes aux Terres Australes, 1800 –4* (Paris 1807), vol. I, ch. I.
[165] Brunschwig, "The Origins of the New French Empire", pp.113–114.
[166] J.M.R.Cameron, "Patterns on the Land, 1829 –1850*"*, in *Western Landscapes* Chapter 8, p.203.
[167] F.K.Crowley, *Australia's Western Third*, William Heinemann Australia Pty Ltd, Melbourne, 1960. pp. 3–4. See also Clark, *A History of Australia*, Vol. III, p.17.
[168] Pamela Statham-Drew, *James Stirling*, p.88.

founded exclusively for private settlement, and the only one to be founded on the basis of land free land grants. Those who responded included an English group led by Thomas Peel, who in 1828 formed an Association with pooled funds in order to send labour and capital assets to the Swan where food, livestock and raw materials of all kinds would be produced on granted land converted from its virgin state.[169] To secure their investment they needed title to the land, which meant that the British Government would first have to lay claim to the territory. On 2 May 1829 on the south head of the mouth of the Swan River, Captain C.H. Fremantle formally annexed for Great Britain the whole of that part of Australia which was not included within the boundaries of New South Wales.'[170] It had been arranged that land would be granted at one acre for every 1s 6d invested, with prospective settlers bringing their own money, livestock, and agricultural equipment and labourers to start life on granted land[171] with the hope of making the settlement self-supporting – certainly a low-cost way of establishing a new colony. In a letter dated 5 December 1828 to Colonial Under Secretary Twiss, Colonial Office official L.Beauvais, detailed conditions for Land Grants at Swan River:

> Regulations for the guidance of those Settlers who propose to embark, for the new Settlement on the western Coast of New Holland: His Majesty's Government do not intend to incur any expense, in conveying Settlers to the new Colony on the Swan River, and will not feel bound to defray the *expense* (cost) supplying them with Provisions, or other Necessities, after their arrival there, nor to assist their removal to England, or *elsewhere*, should they be desirous of quitting the Colony.[172]

In the *Historical Records of Australia*, correspondence from the Colonial Office dated 5th December 1828, set out conditions for land grants at Swan River:

> Such persons may be prepared to proceed to the Country at their own Cost before the end of the year 1829…all Persons desirous of returning to the British Isles shall be conveyed to their Home at the Expense of the Capitalist by whom they may have been taken out.
>
> Government will be administered by Captain Stirling of the Royal Navy, as Civil Superintendent of the Settlement and in the Nature of a Civil Charter will be submitted to Parliament in the Commencement of its next Session.[173]

However, Cameron notes that 'development had three distinct faces – the evaluation, utilization, and to a lesser extent, regulation of the land – for it was on these that survival

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[169] *Ibid*, p.108.
[170] F. Crowley and B.K.de Garis, *A Short History of Western Australia*, Second Edition, Macmillan of Australia Pty Ltd, Second Edition, South Melbourne, 1969, p.10.
[171] *Ibid*, p.11.
[172] *Historical Records of Australia*, Series III, Vol.VI, Published by The Library Committee of the Commonwealth Parliament, 1923, p.606.
[173] *Ibid*, pp.594–595.

depended'. [174] Pamela Statham-Drew states that D'Urville had shown Stirling a detailed map of the Swan River drawn by Heiresson while on the Baudin exploration in 1801, as discussed in Chapter 3, Voyages.[175]

'Place' is an idea, a mental construct, or a meaning and thus can be imagined and narrated. Therefore, the definite 'space' of Australia's beginnings in 1788 was not houses and dwellings, but rather the explorer's gaze, which conjured them up. Stirling's imagination was to see 'place' in the directions and distances in which houses and clearings may be found or founded and agricultural capitalism established, indicating the cultural place where spatial history begins: not in a particular year, nor in a particular place, but in the act of naming. For by the act of place naming, space is transformed symbolically into a 'place', that is a 'space' in history.[176] So spatial history does not go confidently forward or organise its subject matter into a nationalist enterprise, but advances exploratively, recognising that the future is invented.[177] For instance, Arthur Phillip, commander of the First Fleet, wrote about the preparation for settlement of Botany Bay,

> There are few things more pleasing than the contemplation of order and useful arrangement, arising gradually out of the tumult and confusion; and perhaps this satisfaction cannot any where be more fully enjoyed than where a settlement of civilised people is fixing itself upon a newly discovered or savage coast. The wild appearance of the land entirely untouched by cultivation, the close and perplexed growing of trees…but by degrees large spaces are opened, plans are formed, lines marked, and a prospect at least of future regularity is clearly discerned…and the travelling eye scanned the ground ahead tactically, 'sizing it up' rehearsing spatial hypotheses, adapting itself to conditions**.** [178]

Thus spatial history takes us back not to chronological origins, but to the study of intentions.[179] Perceptions regarding the use and organization of space became constituent categories of identity in the late eighteenth and early nineteenth centuries. Space is more than a backdrop against which the narrative of history is played out; it is itself implicated in that narrative as a perceptual and ideological category.[180] Proclaiming and naming the Swan River Colony of Western Australia on the 18 June 1829 transformed the prior 'empty' space of Australian unoccupied land symbolically into a 'place'.

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[174] Cameron, "Patterns on the land, 1829–1850", Chapter 8, p.204.
[175] Statham-Drew, *James Stirling*, p.60.
[176] Carter, *The Road to Botany Bay*, p.xxiv.
[177] *Ibid*, p.294.
[178] Phillip cited in *Ibid*, pp.304–5.
[179] *Ibid*, p.351
[180] V.E.Thompson, "Telling Spatial Stories", *Journal of Modern History*, No.3, Sept 2003, p.556.

After the creation of the Ptolemaic Map of 1400, a fundamental breakthrough in the construct of geographical knowledge made it possible to comprehend the world as a global unity. Although both France and Britain had became part of the attempted colonisation of the New World, their use of free space differed. France, on the one hand, waged European wars rather than focus on colonial enterprises; therefore, her colonies were often costly and unprofitable. Britain, on the other hand, saw the value of colonies as suited to the commercial and industrial society that was emerging.

With the victory of the British in their duel for empire, the southern sub-continent of India had indeed become a focal geographical and commercial point, placing western Australia, whose shores verge upon the Indian Ocean, as the nearest point in proximity to India. Consequently the western shores of the Australian continent became the basis for discussion about spatial aspirations for France and Britain. In relation to the Australian continent, Britain saw a number of opportunities: to establish a colony in a global free space, as a destination for surplus population especially from overcrowded gaols; to establish a market for the export of surplus products; to establish bases for the navy; to protect sea lanes for export of industrial products to India; and to ensure and establish ownership against the possibility of other countries who might lay a claim. Firstly, with the establishment in 1788 of Botany Bay on the east coast of the Australia, and subsequently the settlements in western and southern Australia, Britain effectively claimed the whole of Australian continent. On 2 May 1829, Captain Stirling's perception of the empty space of western Australia in which to establish a 'place'/ settlement, was partly self-motivated.[181] Nevertheless, his spatial concept was conceived originally because the Imperial Government objected to the expense of establishing a new settlement,[182] resulting in Stirling asking whether there could be any objection to the unsupported employment of private capital and enterprise? [183] Therefore, self-funded emigrants, subject to the mother country of Britain, were the first to establish the new settlement at Swan River, thus countering Stirling's perception that France or any other country may make a claim for the unoccupied (by Europeans) land. Stirling's own employment was a factor, but not the only one, as he made a point to the colonial department that potential profit could be gained from the land.[184] Pamela Statham-Drew writes that 'to Stirling's trained eye, the region held promise as a possible trade or naval base.'[185] In his submission to Sir Ralph Darling on the 14 December 1801, Stirling wrote:

[181] Clark, *A History of Australia*, p.17.
[182] Statham-Drew, *James Stirling*, p.100.
[183] *Ibid.*
[184] Clark, *A History of Australia*, p.17.
[185] Statham-Drew, *James Stirling*, p.57.

> The Swan River lay at the pivot of 'two strong opposing wind forces' that would give ships stationed control over the whole Indian Ocean. An enemy fleet aiming to attack the Indian Station, for example, would be quickly routed by ships, and refreshed men, from a Swan River base.[186]

Conversely, France had for many years mounted expeditions of exploration, sailing around and observing the coasts of Australia, including the western coast, but appeared not to visualise the 'space' as other than of scientific interest. France neither suffered from population overcrowding, nor was in need of establishing a convict settlement to offload surplus production. France's homeland was productive and sufficient to provide for her populace, and as France was not producing goods for export on an industrial scale, there was not the imperative for an export market. The French Navy had been severely depleted by wars and the final loss to Britain in 1815, yet France sent expeditions to explore, map, and scientifically investigate the land, seas and heavens, documenting findings about the Australian coastline, and western Australia in particular, for the benefit of world knowledge, thus attempting to restore national pride. Clearly differences between France and England are apparent. France had attempted to claim global empty space for the expansion of empire outside Europe in the New World, and later Napoléon attempted to expand empire by conquest within Europe during the Napoléonic Wars. Conversely, the British as early as the sixteenth century, claimed global empty space for the expansion of overseas colonies for settlement, commerce and the naval protection of sea trade routes, rather than imperial conquest.

The expression of differences between French law and English law claims to global free space will be discussed in Chapter Five, especially in relation to western Australia prior to the British annexation in 1829.

[186] *Ibid*, p.63.

Chapter Three – Voyages of Exploration

> The expansion of Europe since the thirteenth century has had profound influences on peoples throughout the world. Encircling the globe, the expansion changed men's lives and goals and became one of the decisive movements in the history of mankind. [1]

This thesis, and in particular this chapter argues that it was not the French intention during their exploratory voyages of the eighteenth and nineteenth centuries to claim the western portion of the Australian continent. It contends that their voyages, by charting the coastlines, were taken to add to existing maps as well as to document scientific information about the land and its indigenous people. However, science was not the only motive for French exploration. Frenchman C.P. Compe de Fleurieu in 1785 saw the importance of overseas trade and shipping for building up both the prestige and maritime strength of the nation.[2] Ernest Scott was of the opinion that the 'rulers of France were not without hope that profit would spring from their voyages of exploration in the shape of rich territories or fields for French exploitation.'[3] French explorations to the western Australian coast were generally conducted prior to British involvement, with the exception of Brooke, Dampier and Vancouver. However, Dampier's narratives did not record those parts of New Holland – the west and north of Australia – appear attractive.[4] British explorations became increasingly frequent during the eighteenth and nineteenth centuries, encompassing Britain's sense of competition by exploring the western Australian coastline looking for possibilities of land to colonise, as well as for the exploitation of minerals, spices and raw materials with which to trade.

Early maps showed the possibility of the existence of southern continent of Australia. The possibility of land scarcely touched by Europeans afforded incentives to seek and investigate such land. Voyages of exploration to the western portion of the Australian continent from the fourteenth to the nineteenth centuries were undertaken by a number of European navigators with the objective of adding further knowledge about the largely unknown southern continent for the benefit of future geographical expeditions. Voyages conducted by the

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[1] Holden Furber, *Rival Empires of Trade in the Orient 1600–1800*, University of Minnesota Press, Oxford University Press, London, 1976, p.ix.
[2] Frank Horner, *The French Reconnaissance*, Melbourne University Press, Melbourne, 1987. Horner notes (p.49) that *C.P. Compe de Fleurieu*, the former Minister of Marine, a committee member of the *Institut de France*, and Director-General of Ports and Arsenals, shared the view of de Brosses, the President of the Burgundian Parlement, and author of *Historie des navigations aux terres australes* on the importance of overseas trade and shipping in building up both the prestige and maritime strength of the nation. p.49.
[3] Ernest Scott, *Terre Napoléon*, (second edition.), Methuen & Co. Ltd., London, 1911, p.263.
[4] *Ibid*, p.135.

Portuguese and Dutch experienced difficulties in exploring the treacherous western coastline of Australia, yet without any perceived attempt on their behalf to claim possession. French voyages are relevant to this thesis, firstly in challenging historical interpretations asserting that in 1772 France could have claimed the western portion of the Australian continent, and secondly that in later French voyages of exploration, Britain's perceptions were that the French intended to claim and establish settlement in western Australia. The French claim to western Australia by St Aloüarn in 1772 is contentious, whereas Britain's motive witnessed by the annexation of the western portion of the continent in 1826, having already claimed and settled the eastern seaboard of Australia in 1788, was to claim to whole of the continent as part of the British Empire. The legality of the St Aloüarn claim will be examined in detail in Chapter Five of this thesis.

Any discussion seeking to deconstruct arguments about French intentions during the exploratory voyages of the sixteenth through to the nineteenth centuries to claim the western portion of the Australian continent must begin with consideration of early charts and the explorations of the Portuguese, Dutch and French. Early maps show Java la Grande, and together with the Dieppe maps show the Great Southland. These maps are critical, for they point up key aspects of the growing interest of Portuguese, Dutch, French and English navigators and explorers in the 'unknown' world of the south.

French geographer Oronce Finé's world map of 1538 shows land surrounding the South Pole and extending in the Pacific and Indian oceans. Finé influenced Gerard Mercator whose world map of 1569 showed *Terra Australis* as the yet unexplored fifth continent.[5] The existence of six planispheres and nine smaller maps contained in six atlases, dating from the sixteenth century, all show a great southern continent called '*Java la Grande'*, (see Map 1, p.iv), roughly in the position of northern Australia.[6] By 1540 a very fine school of cartography was operating in France at Dieppe, where the maps known collectively as the 'Dieppe Maps', show a great southern continent approximately in the position occupied by Australia. The related maps drawn by Dieppe cartographers provide yet more evidence of the Australian discovery in the sixteenth century. Portuguese flags shown on the map of the continent '*Java la Grande'*, indicate that the Portuguese nation was responsible for the discovery sometime in the six years preceding 1541, as noted by Günter Schilder and

[5] Günter Schilder, *Australia Unveiled*, Theatrvm Orbis Terrarvm Ltd., Amsterdam, 1976, p.15.
[6] Glyndwr Williams, *The Great South Sea – English Voyages and Encounters 1570–1750*, Yale University Press, London, 1997, p.9.

Glyndwr Williams. [7] C. Halls states that two of these maps, dated 1541 and 1542, were in fact copied from Portuguese originals.[8] Nicolas Desliens, the French cartographer who in 1541 drew one of the 'Dieppe Maps' – a world map including '*Java la Grande*' upon which Portuguese flags are shown – was also responsible for the last map in the series drawn in 1567.[9] Dunmore writes that knowledge based on the study of the Dieppe maps [10] have helped us to make a number of informed guesses about the first French visitors to the Australian shores.[11] Furthermore, he suggests that that close links between Portuguese and French shipowners and navigators make it even more difficult to disentangle the early history of Australia's discovery; for example by Jean Alfonse Fonteneau is believed to have sailed somewhere along the western coast in 1528, seemingly to have been known originally as Joao Affonso, a Portuguese who became a naturalised Frenchman. Dunmore concludes that 'all the new maps printed between 1477 and 1570 show in one way or another a great southern continent, and although this great continent shrank in size on the maps from time to time, it was not until Captain James Cook had crisscrossed the blank spaces of the maps that theorists were defeated'.[12]

The Great Southland was thus of considerable early interest to a variety of explorers, especially those seeking access to precious metals, spices and luxuries. In the absence of definite proof, the images on early maps and circumstantial evidence suggest that the first Europeans to search in the area were Portuguese crews in their carracks, (large armed merchant ships) encouraged and helped by Prince Henry of Portugal (1394–1460) known as the Navigator. This evidence also suggests that they touched the west coast of the Australian continent while exploring the Indian Ocean. Early exploratory references suggest that the name Abrolhos Islands, seventy miles off Geraldton, is a contraction of the Portuguese *Albrivossos olhos* [sic] – 'Open your eyes' – a warning marked on their maps about the

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[7] Glyndwr Williams, *The Great South Sea – English Voyages and Encounters 1570–1750*, p.41. Also Günter Schilder, *Australia Unveiled*, p.21.
[8] C. Halls, "Java la Grande – the Forgotten Continent", *Westerly*, University of Western Australia Press, Nedlands, February, 1965, pp.31–32.
[9] *Ibid*, Halls cites from Herve's 'Australia' In *French Geographical Documents of the Renaissance*, that the original world map of Nicolas Desliens dated 1541 is in the Dresden Library: Geography. Another world map by the same hand, and dated 1566 is in the Bibliographe Nationale, Paris, while the National Maritime Museum, Greenwich has a similar map, the last in the series, dated 1567. See also Halls note 15, pp.25–26, and p. 33.
[10] John Dunmore, "Sixteenth-century French exploration in our region", French Science and Technology No.27, in http://www.france.net.au/site/science_culture/scient/fst/fst27pl_2.html, p.2. Accessed 1/2/2001.
[11] *Ibid*.
[12] John Dunmore, *French Explorers in the Pacific, The Eighteenth Century*, Oxford University Press, London, 1965, Vol. 1, pp.2–3.

jagged reefs which over the next three hundred years were to claim dozens of ships and hundred of lives, especially those of Dutch explorers and merchantmen.[13]

In the sixteenth century the Portuguese controlled the sea routes via the Cape of Good Hope to the East, thereby monopolising the sea borne trade in spices. Together with the Spaniards, they were the first documented seafarers since the Vikings to abandon coastal routes and strike out boldly across unchartered oceans. The Portuguese were well acquainted with the wind systems of the Indian Ocean, and as Halls notes, it is feasible that they used such winds to reach the Shark Bay or North West Cape areas of Western Australia.[14] Because ancient commercial interests linked France and Portugal, it is likely that the French also had knowledge of the wind systems and areas that the Portuguese encountered in their voyages in the Indian Ocean.

Overseas empires, royal authorities and powers sought to explore the world outside the known areas of Europe and as Clark writes:

> … it was the promise of an extension of commerce which revived European interest in the south seas and the hope that the early Dutch explorers had been wrong in their descriptions of New Holland land as sterile, or that the unknown '*terra australis*' would be discovered…on the grounds that such countries must be extremely rich and valuable, simply because the richest and finest countries in the unknown world all lay within the same latitudes.[15]

Given such imperatives it is critical to examine the explorations, first the French, second the Dutch and finally the English.

As the French royal powers were very aware of the existence of *Java la Grande* from the Dieppe Maps, early exploratory visits to the southern continent became contingent upon earlier documented voyages of other European powers. Glyndwr Williams suggests that the Portuguese might have reached Australia in the first half of the sixteenth century, and that such a voyage or voyages would help to explain the Dieppe maps of the 1540s showing a huge semi-continental landmass, *'Java la Grande'*, roughly in the position of northern Australia.[16] Dunmore writes about the most circumstantial and tantalising account concerning an earlier landfall by a French sailor at the beginning of the sixteenth century. Although the immediate results of the voyage were nil, the account had reported just enough information to make it credible, thus influencing French attitudes during the seventeenth,

[13] Denis Hancock, *The Westerners – the Making of Western Australia*, Text books Pty Ltd., Sydney, New South Wales, 1979, p.12.
[14] Halls, "Java la Grand", p.38.
[15] C.M.H. Clark, *A History of Australia*, Vol. I, Melbourne University Press, Victoria, 1962, p.43.
[16] Williams, *The Great South Sea – English Voyages and Encounters 1570*–1750, p.9.

eighteenth and early nineteenth centuries, giving rise to several expeditions to rediscover it'.[17]

French accounts of discovery of land in the Southern Ocean began with that of Bigot Paulmier de Gonneville in 1504 after he was swept off course from the Cape of Good Hope in the *Espoir*, and was forced to land in an unknown country that he named '*Terre Australe*'. Although Gonneville lost his journals in a pirate attack, after six months he returned to France and was apparently able to verbally report his find to French naval authorities.[18] Dunmore however, noted that a French scholar Pierre Margry in 1847, after analysing documents in the possession of the Minister of the Marine, eventually established the fact that 'there was no evidence of the *Espoir* ever having sailed into the Indian Ocean.' Further that Margry fairly identified Gonneville Land 'with a part of the coast of South America'.[19] Conversely, Russell Ward notes that in a book published in Paris in 1663 it was recorded that Captain de Gonneville had returned from a voyage to the 'Austral Land' that they called 'Southern India', and advised French authorities that it was their duty to claim it for France.[20] G.A.Wood notes that French geographers held that Gonneville's voyage 'secured without difficulty the French national honour of the first discovery of the Austral land sixteen years before the departure of Magellan.'[21] Without accurate navigational aids the alleged claim has not been proven and therefore, the location of 'Gonneville Land' remains subject to considerable doubt.[22] The earliest French endeavour to find the mysterious Gonneville Land, which Paulmier de Gonneville had described in 1505,[23] was Bouvet de Lozier in 1738 in a search for *Terra Australis*.[24] However, France and Britain's major explorations were conducted in the eighteenth and nineteenth centuries when both the nations sent ships of exploration to the Australian continent and the western shores of the Australian continent in particular.

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[17] Dunmore, *French Explorers in the* Pacific, Vol. 1, p.4.
[18] "France's role in exploring Australia's coastline", in http://ambafrance-au.org/article.php3?id_article=475, Embassy of France in Australia. Accessed 9/2/2007.
[19] Dunmore, *French Explorers in the* Pacific, Vol. I, p.6.
[20] Russel Ward, *Finding Australia – A History of Australia to 1821*, Heinemann Educational Australia, Melbourne, 1987.
[21] G.A. Wood, *The Discovery of Australia*, (revised by J.C.Beaglehole), The Macmillan Company of Australia Pty Ltd., South Melbourne, 1969, pp. 242–243. Here Wood argues that (in Note 3 of De Brosses, vol 1. p.103) Frenchmen began to grow ashamed that they had so long delayed to make good the claim conferred by the first discovery. The trouble, however, remained that, while the Land of Gonneville certainly belonged to France, no one knew where the land of Gonneville was.
[22] "France's role in exploring Australia's coastline" in http://ambafrance-au.org/article.php3?id_article=475, Embassy of France in Australia– About France fact sheet. Accessed 9/2/2007.
[23] L.R. Marchant, *France Australe*, Artlook Books, Perth, 1982, p.16.
[24] *ibid*, p.37.

The subsequent French exploration of the world outside Europe coincided with conflicts and tensions between France and England over a more or less continuous period of time in the seventeenth, eighteenth and nineteenth centuries. The Nine Years' War (1689–1697) was followed by the War of the Spanish Succession (1702–1713), and with the debatable exception of the Anglo-French alliance of 1716–1731 relations remained strained. Meanwhile France continued to engage in war, commencing with the War of the Austrian Succession between Austria and Prussia (1740–1748) in which Britain sided with Austria, and France and Spain sided with Prussia. Then in 1744, Louis XV formally declared war with Britain. The Peace of 1748 proved precarious and was broken eight years later at the commencement of the Seven Years' War (1756–1763), a global conflict, where fighting took place not only in Europe but also in India, North American and the Caribbean, with the focus clearly upon domination over territory. Although both powers in North American colonies reinforced their possessions with regular troops after the official declaration of war between Britain and France, by 1763 France was defeated. This war not only exhausted France economically and ended French domination of Europe under the *ancien regime* but also ended the French colonial development of Canada and India, resulting in the British securing domination of both territories[25] as discussed in Chapter Two,' Spatiality and Territoriality'.

Historians Ward, Wood and Dunmore note that during this period of tension Jean Baptiste Charles Bouvet *de* Lozier conducted the first major French voyage of exploration to western Australia in 1738.[26] Horner concludes that Bouvet had advanced an expedition plan to look for Gonneville Land in 1740, 'then thought to be somewhere south-east of the Cape of Good Hope', but that his scheme to visit southern New Holland failed to interest the French India Company.[27] Russell Miller suggests that the victories of Englishman Robert Clive over the French holdings in India – Arcot in 1751, Plessey in 1757 and Pondicherry in 1761 – could have influenced the French to delay their plans for exploratory visits to the Australian continent to search for commercial interests to replace those lost in India.[28]

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[25] Dunmore, *French Explorers in the* Pacific, Vol. I, p.57. 'Although to some the loss of the two empires was of little consequence, to many Frenchman the new situation appeared both humiliating and dangerous. Their British rivals were not longer laying the foundations for an overseas empire; they were consolidating it. It was a fear that was to come to the forefront during the Revolutionary and Napoléonic wars. One obvious step was the occupation of unsettled territories at key points on sea routes in order to forestall some of the colonial moves of the British and to provide new bases to make up for the old ones that had been lost. It was a policy rendered even more desirable by the closing of Canada to French immigration, and by the restricted opportunities for trade expansion in the Indian Ocean.'

[26] Dunmore, *French Explorers in the Pacific*, Vol. I, pp.1–7, and Wood, *The Discovery of Australia*, (revised by J.C.Beaglehole), 1969, pp. 345–51.

[27] Horner, *The French Reconnaissance*, p.47 and p.49.

[28] Russell Miller, *The East Indiamen*, Time-Life Books, Amsterdam, 1981. The year 1757 marked the end for French territorial ambitions in India, and by April 1761 there was not a single French military

It was the 1772 French expedition that left the Ile de France (Mauritius) in search of the elusive southern continent that has created the most controversy among historians. Dunmore writes that the 1772 French expedition comprised the *Fortune* captained by Yves Kerguelen-Tremarec and the *Gros Ventre* under the command of Saint-Aloüarn. Kerguelen in the *Fortune* thought that he had discovered Australia when sailing between Cap Bourbon and Ile Mingaud.[29] He convinced Governor *de* Roches of the *Ile de France* (Mauritius) that he indeed had found a southern France vastly more extensive though no less fertile than their own country. In turn *de* Roches wrote to the Minister of Marine in Paris:

> If one considers the latitude of the land which has been discovered one cannot fail to attribute to it the mildest and most felicitous climate…All that the eyes have been able to see is intersected by wood and greenery, which seemed to indicate a country which is inhabited and carefully cultivated.[30]

Kerguelen's account was no less rosy and certainly couched in terms that would favour further exploration:

> Southern France [so called western Australia] will provide grain crops suitable for man, building, and masting timber…salt works…the soil of Southern France, the same as that of the metropolis…will grow the same crops. [31]

Although in contrast with other less positive accounts, such glowing speculations combined with advice that they would in all probability find precious stones there – diamonds, rubies, sapphires, emeralds, as well as marble and alabaster:

> …the need to forestall the English, or any other nation which, following the rumours that have been circulating concerning this discovery, might seek to disturb in its principle the possession which the commander of the flute (Kerguelen) will, presumably, have claimed on behalf of His Majesty.[32]

In fact he had sighted what is now called Kerguelen Island far to the south of Africa, and thousands of miles from Australia. Kerguelen had reported an archipelago in the southern Indian Ocean (Kerguelen Islands), thinking it was Gonneville's land. Unable to land due to the strong current, Saint-Aloüarn did land and took possession by burying a bottle containing

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post left in India. The French East India Company continued to trade on the subcontinent, but only on English sufferance. In 1769 the French Company was so obviously bankrupt that King Louis XV ordered its liquidation and turned over the Eastern trade to private merchants. By its conquest of province of Bengal in 1752, John Company (British East India Company) had acquired the foundation of an empire. pp.107–111.

[29] Dunmore, *French Explorers in the Pacific*, Vol. I, p. 208.

[30] *Ibid.* Dunmore cites a memo "*des Roches* to the Minister, 20 Mar. 1772, B.N., N.A.F. 9438–78, p. 212.

[31] *Ibid*, Vol. I, p.213–214, cites *Réflexions sur les avantages que peut procurer La France Australe*, B.N., N.A.F. 9438–93, p.2.

[32] *Ibid*, Dunmore cites *Armement pour les terres australes, 'Minute de la feuille pour le Roy remise à Monsieur le 2 août'*, B.N., N.A.F, 9438–100, p.215.

the usual document – a landing that Kerguelen was never to achieve.[33] He returned to the Ile de France reporting to the Governor impressions about the land Saint-Aloüarn had discovered.

Captain Cook's journal of his last voyage noted that in 1769, the French fitted out another ship from Mauritius. Captain Kerguelen in command of two ships, *La Fortune* and *Le Gros Ventre*, had found some barren islands between the Cape of Good Hope and Van Dieman's Land. Captain Cook reported that the discovery was indeed true, having found some memorials that had been left there.[34] A letter found in a bottle, stated that in January 1772 M. de Kerguelen had discovered the island. This is corroborated in a similar report made by Midshipman George Gilbert on Cook's last voyage, noting that there they found a bottle including a note. After reading the French note the Englishmen then enclosed their own note, 'mentioning our Country, the name of our ship, the Commander (Cook), the time we were there, and returned the bottle to where we had found it'.[35]

Notwithstanding the doubts of French naval authorities who preferred to rely on other reports that held that the southern ocean was only an area of fog, snow and bad weather, Kerguelen departed on a second fruitless exploratory mission in 1772, the failure of which was proof enough for the naval authorities that Kerguelen's land was a desolate land and that his fanciful reports of 1772 were totally unreliable.[36] After a storm separated his ship *Fortune* from Saint-Aloüarn's *Gros Ventre*, Kerguelen returned to *Ile de France* (Mauritius) never reaching the Australian continent.

Dunmore quotes from an anonymous note on the voyage, B.N., N.A.F, 9439–90:

> The cold, the fog, and the bad weather encountered by M.de St. Allouarn [sic] during the few days that he had sight of this land, where he even sent his boat, betoken a country hardly suitable for a settlement. This officer, after having covered 200 leagues to the east-north-east from the point where he landed up to the 47th parallel, then came back to the south up to the 50th approximately, without having seen any land, which indicates that the part of the southern coastline seen by this officer, far from extending into a more temperate climate, runs southwards as one travels eastwards.[37]

[33] Dunmore, *French Explorers in the Pacific*, Vol. I, p.209.
[34] Bibliotheca Australiana # 16, John Rickman, Journal of Captain Cook's Last Voyage to the Pacific Ocean, Frank Cass & Cy, London, 1967, p xxxv.
[35] Christine Holmes (ed.), *Captain Cook's Final Voyage – The Journal of Midshipman George Gilbert*, Caliban Books, 1982.
[36] Dunmore, *French Explorers in the Pacific*, Vol. I, pp.236–237.
[37] *Ibid*, Vol. I, p.212.

Captain Cook also reports that the Captain of the *Gros Ventre*, Saint-Aloüarn, was cut adrift due to bad weather and shaped his course to New Holland. Cook reported that Saint-Aloüarn had indeed found a bay where 'he ordered his yawl to take possession'.[38] Saint-Aloüarn continued sailing in the *Gros Ventre* reaching Cape Leeuwin on the western coast of the Australian continent. Bypassing the Swan River, he continued sailing further north keeping close to the coast[39] conscientiously correcting charts that he had been given, preparing the way for later French expeditions.[40]

Dunmore states that on 29 March 1772 Saint-Aloüarn anchored off Dirk Hartog Island[41] and dispatched Maingaud to take possession of the strip of coast.[42] While contemporary historians have mentioned the story of Saint-Aloüarn's annexation of western of Australia in 1772, reports vary; for instance, John Dunmore's,[43] Frank Horner's,[44] R.T.Appleyard and Toby Manford's,[45] and Marchant's.[46]. Appleyard and Manford recount that Saint-Aloüarn too possession for France of 'the land to the north-west of their anchorage.[47] Marchant writes that 'the party under Ensign Mingela landed at Turtle bay and took possession of the country in the name of the French King'.[48] Turtle Bay (now called Dorre Island) is, however, some distance north of Dirk Hartog Island. Marchant further notes that 'a bottle containing a parchment recording the event was buried at the foot of a tree, together with two French coins'.[49] The Embassy of France in Australia's fact sheet also gives their version of Saint-Aloüarn's claim, noting that he continued north to Shark Bay, where it is generally thought by historians that he buried an Act of Possession claiming the west coast of New Holland for the King of France. [50]

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[38] Bibliotheca Australiana # 16, John Rickman, Journal of Captain Cook's Last Voyage to the Pacific Ocean, p.36.
[39] Dunmore, *French Explorers in the Pacific*, Vol. I, pp.*210*–211. Dunmore cites entries in *Extrait du journal du Vasseau Le Gros Ventre*, 18 Mar. to 30 Apr.1772. This contains little beyond navigational details.
[40] *Ibid*, p.211.
[41] *Ibid, p.210 where Dunmore cites Rosily, Extrait de mon journal*, p.9.
[42] *Ibid.*
[43] *Ibid*, p.209.
[44] Horner, *The French Reconnaissance*, p. 48.
[45] R.T.Appleyard & Toby Manford, *The Beginning*, University of Western Australia Press, Nedlands, 1979, p.21, and p.84, and Horner, *The French Reconnaissance*, p.48.
[46] Marchant, *France Australe*, p.64.
[47] R.T.Appleyard and Toby Manford, *The Beginning*, p.221 and p.84.
[48] L.R.Marchant, *France Australe*, Artlook Books, Nedlands, 1982, p.64.
[49] *Ibid*.
[50] "France's role in exploring Australia's coastline", in http://ambafrance-au.org/article.php3?id_article=475. Embassy of France in Australia. Accessed 9/2/2007. The fact sheet notes that Saint-Aloüarn continued north-wards and reached Cape Leeuwin in western Australia in March 1772, then sailed north to Shark Bay where he buried an Act of Possession, claiming possession of the west coast of New Holland for the King of France.

Thus the legend has been perpetuated, surfacing again in 1988 when the Western Australian Museum was given a bottle allegedly found in the vicinity. Examination conducted by experts found that the alleged annexation parchment supposedly contained therein, was in fact a small section of tree root,[51] consequently the argument remains a contentious issue. Regardless of any intent, the expedition's results were not followed up in France, nor documented. The Embassy of France in Australia notes that Saint-Aloüarn died in Mauritius in September 1772,[52] which agrees with both Cook and Dunmore writings that Saint-Aloüarn returned by way of Timor and Batavia to the Ile de France (Mauritius), reaching Port Louis of 5 September 1772, where he died soon after.[53]

The strongest advocate of the significance of Saint-Aloüarn's was L.R. Marchant who rightly stated that the discovery and annexation was based on prescriptive rights in International Law. France's law in relation to claiming possession of land was based on prescriptive law. As Oppenheim states, 'the basis of prescription in International Law is nothing else than general recognition on the part of the States'.[54] This simple statement of possession would not constitute a claim to land under British law, whereas occupancy of land would. Moreover, as Oppenheim states, the principle of extinctive prescription, that is, the bar of claims by lapse of time is recognised in International Law.[55] The contested annexation of the west of the Australian continent, the rule of prescription under which the annexation was made, and the difference between the two law concepts will be discussed at greater length in Chapter 5, Law.

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[51] Myra Stanbury, "French Explorers: Saint Alloüarn", in www.mm.wa.gov.au/Museum/march/dhibottle/dhbot2.htm. Accessed 9/2/2007. Also Western Australian Maritime Museum, 2001. Accessed 11/4/2001. 'Procedures were conducted by Chris Papadopoulos, and medical assistants from the StrykerDivision, Stubber Medical Pty Ltd, and local surgeon Dr. Simon Turner. The operative procedure involved the examination of the inside of the bottle using a fine cystoscope, connected via a digitally enhanced camera to a VCR unit, a Toshiba PC computer and colour video printer. The annexation parchment hoped for, was rather a small section of tree root. Sand deposit viewed under a high-powered microscope failed to identify any organic material of a parchment or paper nature. However, a few 'spore' type objects and a small number of pollen grains and 9 species of plants were identified which may be compared with Dampier and Phillip Parker King's accounts of the vegetation on Dirk Hartog Island prior to and soon after Saint-Aloüarn's visit. Evidence suggests that organisms had penetrated the bottle and likely devoured whatever organic material was inside. However, the placement of bottles and stone markers was a common practice among French and English explorers. Stanbury recounts that 'James Cook must have sent almost as many bottles ashore with Maudy, silver, two-penny pieces dated 1772 and annexation documents inside them as his French counterparts. pp.2–3

[52] "France's Role in Exploring Australia's Coastline", in http://www,ambafrance-au.org/article.php3?id_article+475. p.1. Embassy of France in Australia. Accessed 0/2/2007.

[53] Bibliotheca Australiana # 16, John Rickman, Journal of Captain Cook's Last Voyage to the Pacific Ocean, p.36, and Dunmore, *French Explorers in the Pacific*, Vol. I, p.211.

[54] L. Oppenheim, Vol.I, *International Law*, (ed. H. Lauterpacht), (eighth ed), Longmans, Green and Co. Ltd., London, 1967, §243, p.576.

[55] *Ibid*, §155c, p.349.

Horner states that Marion *du* Fresne's voyage (1771–73) was a commercial venture, but also undertaken to search for the mysterious Gonneville Land that Bouvet failed to find in the Indian Ocean. *Du* Fresne intended to approach from the Indian Ocean by sailing along the southern coast of New Holland.[56] However the expedition continued on to Van Diemen's Land (Tasmania) and as Horner notes, the voyage was in fact followed by a proposal for a French settlement there. A plan was drawn up probably between 1781 and 1790, possibly by the Baron de Gonneville, a member of the same family as the discoverer of the elusive Gonneville Land. It became the first of three French visits to Van Diemen's Land, which alarmed the British.[57]

In 1783 the Comte *de La* Pérouse was commanded to lead an expedition to the Australian continent. Sailing from France in command of *La Boussold* and *L'Astrolabe* in June 1785, his exploration plan was to look at Rottnest Island and the Swan River area of western Australia. After surveying Norfolk Island in January 1788, he arrived on the east coast at Botany Bay, set up a camp on the northern shore (now known as the suburb of La Perouse in Sydney) where he made contact with the British settlement. After staying six weeks he set sail, disappearing somewhere at sea in the New Guinea area. [58]

The western Australian coast remained largely unexplored until late in the eighteenth century when the French conducted another voyage of exploration. Under the command of Joseph Antoine Bruny d'Entrecasteaux, two ships the *Recherche* and the *Espérance* were to survey the western coast of Australia (1791–1794) and also to search for the missing La Pérouse. Marchant writes that the French King had requested D'Entrecasteaux to plant grain while in western Australia, however when ashore his crew did not do as requested because the area where they landed seemed arid.[59] Further, that 'these particular plans to cultivate western Australia raises the question about whether France at that time had designs on the region which had been annexed to France'[60] by Saint-Aloüarn in 1772. This interpretation contrasts with Horner's account that when Nicolas Thomas Baudin's ship *Géographe* anchored north of Wonnerup Inlet, he and his party went ashore for about four hours, during which time they collected as many specimens as they could as well as finding time to plant 'maize, apple

[56] Horner, *The French Reconnaissance*, p.47.
[57] *Ibid*, pp.47–48.
[58] "France's role in exploring Australia's coastline", in http://ambafrance-au.org/article.php3?id_article=475. Embassy of France in Australia Accessed 9/2/2007.
[59] Marchant, *France Australe*, p.82. Marchant states that 'the planting of grain was planned as a type of French "foreign aid" for what was believed to be the most unfortunate depressed people existing. It was also planned to make the area more useful for European visitors, as a place of refreshment.'
[60] *Ibid*, Marchant, in note 15, refers to Chapter 8 of A.N.Série marine BB4, 992, instructions 16.9.1791.

and pear seeds, apricot and peach stones and various types of vegetable' for the benefit of the inhabitants.[61] Overlooking any indigenous agricultural practices, cultivation or 'mingling labour with land' was understood to provide a basis for territorial occupation,[62] although many explorers planted seeds when they explored land for water and food, not only to test the suitability of the land for agriculture, but also for the sustenance of any other persons shipwrecked in that area.[63]

Repeated conflicts between the two nations of France and Britain generated deep-seated animosities resulting in a desire by the French to avenge their humiliating defeat in the Seven Years' War, in which France lost most of the overseas possession to the British and confirmed Britain's status as the leading European power. French desires largely motivated them in 1778 to join with the Spanish and the Dutch to fight against the British in the 1775–1783 American War of Independence. However the fight resulted in American victory and Britain's loss of the American colonies.

From the commencement of the French Revolution in 1787 until the First Republic of 9 November 1799 and the year of Napoléon's Coup d'Etat, no thought of further voyages of explorations had been entertained. However Napoléon was a staunch supporter of the sciences, arts, education, and also a member of the *Institut de France*. In early 1800 this fresh and favourable attitude to scientific investigation, together with Napoléon's personal interest in Australia, developed after he had read the narratives of Dampier and James Cook's expeditions. The combination of scientific interest and the two explorers' narratives inspired Napoléon to endorse new proposals for voyages of exploration in the Southern Seas. Chapter Four,'Science', will more fully discuss the scientific influence in the voyages.

The French Revolutionary and Napoléonic Wars (1793–1801) were a series of conflicts between France and its allies and Britain and its allies. This first phase of the wars ended with the Treaty of Amiens in 1802, and provided a brief period of peace lasting just over a year before the Revolutionary and Napoléonic Wars broke out again in May 1803 between the two countries. In this inter war period the *Institut de France* was impressed by Baudin's plan for a scientific expedition they forwarded the report to Napoléon and M. Forfait (the

[61] Horner, *The French Reconnaissance* p.147.
[62] Pagden Anthony, "The Struggle for Legitimacy and the Image of Empire in the Atlantic to c.1700", *The Oxford History of the British Empire*, Vol. I, Nicholas Canny (ed.), Oxford University Press, 1998, p.49.
[63] See Chapter Two for discussion of this aspect of occupation.

Minister of the Navy). Napoléon subsequently forwarded a memo authorising the expedition:[64]

> On the 24th April 1800, a Commission appointed by the *Institut de France* presented to the First Consul (Napoléon) a plan for an expedition of discovery under the command of Captain Baudin. This project, which had been previously delayed through lack of finance, has now the approval of the First Consul. The expedition should have as its principle aim, the exploration of southwest coasts of New Holland in those areas where Europeans have not, as yet, penetrated. [65]

In the period of post revolutionary patriotic fervour the French voyage was promoted as an event of national prestige. This most important French voyage led by Baudin in the ships *Géographe* and the *Naturaliste*, commenced after Napoléon ordered the exploratory expedition to the South Seas.[66] France and Britain were at war, and after Baudin's expedition had left France, the French Marine applied for and received from the British Admiralty in 1800 the issue of special scientific passports to be respected by both the British Navy and British Colonial Administrators. Such concessions came because the expedition was stated to be purely scientific.[67] Interesting that the French didn't return the compliment in Flinders' case.

Baudin commanded the *Géographe*, and J.F.E. Hamelin took command of the slower *Naturaliste*. Sub-Lieutenant François-Antoine Boniface Heiresson accompanied by the mineralogist Bailly, as part of the scientific compliment on Baudin's ship the *Naturaliste*. He explored the Swan River from 17 to 22 June 1801 with orders to chart the river to establish whether the river could be used as a convenient port of call for vessels as well as to search for sources of fresh water.[68] Pamela Statham-Drew writes that Heiresson and Lieutenant Freycinet had travelled inland and a great distance up the Swan River before finding fresh water.[69] Heiresson's chart now resides in the West Australian Museum. Also in the West Australia Museum another chart drawn during June–July 1801 details part of the outline of Garden Island, the first known mapping of any part of the island.[70] During the period 27 May 1800 to 1804 they explored the coasts of Australia, sighting Cape Leeuwin on May 27 1801, then continued north along the western Australian coast where the two ships became

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[64] Colin Wallace, *The Lost Australia of François Péron*, Nottingham Court Press, London, 1984, pp.20–21.
[65] *Ibid*, p.21.
[66] Dunmore, *French Explorers in the Pacific – The Nineteenth Century*, The Clarendon Press, Oxford, 1969, Vol. II, p.9.
[67] Anthony J. Brown, *Ill Starred Captains: Flinders and Baudin*, Crawford House Publishing Pty Ltd., South Australia, 2000, p.18.
[68] http://www.liswa.wa.gov.au/freycinet/pages/chartswan.html.
[69] Pamela Stathem-Drew, *James Stirling*, p.60.
[70] http://www.liswa.wa.gov.au/freycinet/pages/chartswan.html.

separated. Baudin had left Hamelin during a storm at Cape Naturaliste, but neither checked to ascertain his safety, nor kept the first pre-arranged rendezvous at Rottnest Island. After the second pre-arranged rendezvous at Shark Bay, they did not meet again until the ships arrived at Timor.[71] Although Baudin's scientists concentrated on exploring Bernier Island north of Shark Bay, Hamelin found that Middle Island, referred to by both Dampier and Saint-Aloüarn, was in fact a peninsula that he named Péron Peninsula.[72] Hamlin also charted Shark Bay, having entered by the channel north of Dirk Hartog Island, Naturaliste Channel, and conducted a very thorough exploration of the large bay and its extremely indented coastline.[73]

M.F.Péron, one of the scientists on Baudin's voyage recorded in his book *A Voyage of Discovery*, that Cape Leuwin [sic] forms the most western point of New Holland, which we were to explore:

> The characters of a sandy soil which seemed to belong to the whole of this unknown coast, and notwithstanding the prodigious variety of trees and shrubs of which the vegetation chiefly consisted, there was not to be seen any fruit that seemed at all proper for food, either for men or animals. We had the occasion to make the same remark on all the rest of the vast continent of New Holland, and this almost without any exception. Is it not owing to this extraordinary scarcity of eatable fruit that we must attribute the non-existence of animals, which are entirely fructivorous, on the continent, which we are now describing?[74]

The specific spatial objectives of Baudin's mission were to make a fuller exploration of the western and northern shores.[75] Baudin also headed east and charted over 600 kilometres of Australia's coastline that had previously remained undiscovered by Europeans, and besides

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[71] Marchant, *France Australe,* p.125.
[72] Dunmore, *French Explorers in the Pacific,* Vol. II, p,18
[73] *Ibid,* pp.19–20.
[74] M.F.Péron, *A Voyage of Discovery to the Southern Hemisphere,* Performed by Order of the Emperor Napoléon during the years 1801,1802,1803, and 1804. Prepared for the Press by M.F.Péron, one of the Naturalists appointed for the Expedition, & Member of the National Institute, &c, &c, and published in consequence of an Imperial Decree. (trans. from the French). Printed for Richard Phillips, by B. McMillan, Bow Street, Covent Garden, London, 1809. This edition published by Marsh Walsh Publishing, Melbourne, 1975. pp.56–57, and p.65.
[75] Nicolas Baudin, *The Journal of Post Captain Nicolas Baudin*, (trans. by Christine Cornell), Adelaide Libraries Board of South Australia, Adelaide, 1974, records that Baudin was required to examine parts of the western coast of New Holland, starting from the *Zwaan* [Swan] *River*. (p.3). He 'sighted land from the 7th to the 29th June, 1801, but due to 'bad weather, had permitted us to do only very little good work up till then. Except for the coast from the western point of Leeuwin Land to the point forming the entrance to the beautiful bay which I called Géographe Bay'. (p.195),[which lies between Busselton and Bunbury.] Baudin anchored there, finding it 'good and solid'. (p.196) Although he did not land there, he 'resolved to retrace my steps… and complete the exploration of this coast'. (p.196). Baudin notes that Hamelin's exploration of the Swan River 'offers no resources at all' and 'some fresh water found in the streams that enter it, but they are very small'. (p.503).

contributing to a greater knowledge of geography, Baudin's scientists added significantly to the knowledge of Australia's flora and fauna.[76]

Although at no time did the French in the nineteenth century make any claim to western Australia, their presence aroused British suspicion about their intentions. Philip Gidley King, the Governor of New South Wales, reported on 21 May 1802 to The Duke of Portland that:

> Those ships (the *Naturaliste* and the *Geographe*) first destination was the *Ile de France* (Mauritius) from thence to the land of Lyon on New Holland, the Western and North West coast of New Holland which they examined minutely.' Baudin was then observed to have proceeded to Timor. [It was] Two Months before they made the Coast of New Holland again; they anchored & lay some time in Shark Bay, named by them "*Chein Marin* Bay"…but describe the Land about it, to be Sterile and Sandy. We also learned that they had discovered a very spacious Bay, where they had anchored situated between Swan River & the Point of the Land of Lyon.[77]

Governor King in a later letter to the Right Hon. Lord Hobart dated 9th November 1802 reported that:

> Monsieur Baudin intends to repass through Basses Straits & from thence he sends the *Naturaliste* to France with the very extensive collections in every Branch of Natural History that he has made on different coasts of this Country…The Bay he discovered on the Land of Lyons & named by him "*Bai de Geographe*" is the only opening they saw either on Llewens Edle of the Land of Endraght except Shark's Bay, and Swan River; Monr. [sic] Baudin as well as his Officers describe the Coast on the SW & W sides hardly accessable [sic] from the Number of small islands & Tocks [sic] with which they are lined, & every appearance of Sterility. King reported that this was verified by the drawing made of every part of the coast Baudin had visited, which I have seen and are most accurately delineated.[78]

Scott writes that Baudin was unaware that the Treaty of Amiens was negotiated and signed in 1801–2 during a brief respite of the Napoléonic Wars, and further notes that although Britain was very desirous of peace, all her maritime conquests of recent wars had been surrendered with the exception of Ceylon (Sri Lanka) and Trinidad. Had Napoléon desired to secure a slice of Australia for the French he could have easily done so at this time.[79] The subject furthermore, was not mentioned during negotiations nor was it mentioned by Napoléon during the years of his captivity at St. Helena. What is chiefly significant is the absence of any reference to Australia and Baudin's expedition.[80] This can be seen therefore,

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[76] "France's role in exploring Australia's coastline", http://ambafrance-au.org/article.php3?id_article=475. Embassy of France in Australia. Accessed 9/2/2007.
[77] Public Records Office Documents (PRO), *The National Archives*, Kew, Richmond, Surry, U.K. CO 201–21, Report No. 7, May 21st 1802, Ref 211.
[78] Public Records Office Documents (PRO), CO 201–22 (2), ref.109, November 9, 1802.
[79] Scott, *Terre Napoléon*, (second edition), p.268.
[80] *Ibid*, pp.269–270.

as compelling evidence that the French government was not interested in the enactment of a west Australian settlement. Had a site been selected for settlement rather than research, it would have been directed to the north coast of Australia where a harbour such as Darwin, could have been used as a base in the Indian Ocean. One of the directors of the East India Company had earlier expressed a hope 'that the French ships of discovery will not station themselves on the north coast of New Holland, as this would have been seen as a direct competition to trade.' [81]

The Treaty of Amiens represented no more than a brief pause in the continuing conflict between Britain and France, for in May 1804 Britain reopened hostilities. As a result French voyages of exploration to the southern continent ceased. The Napoléonic Wars finally ended with the British and Prussian victory at the Battle of Waterloo in 1815. France not only lost the war, but also lost all her colonies including those in India. As the French Navy was all but destroyed at the Battle of Trafalgar in 1805, (as discussed in pages 13 –14) France could not have defended a western Australian outpost if indeed there had been an intention to lay a claim. After the loss of territories, France was further isolated from a close base for refurbishment and supplies for an outpost in western Australia, and absence of a strong navy for defence made it improbable should there have been any intention to lay a claim. Port Jackson had the British Navy close at hand, as well as fairly regular victualling ships arriving from Britain and India. By the close of the Napoléonic Wars, Britain had consolidated her position on the subcontinent of India, thus eliminating France's ability to regain trading posts. Britain had represented the most consistent and determined opponent of French territorial expansion.

In the aftermath of the Wars however, the French soon resumed their scientific expeditions to the western parts of the Australian continent. Louis Claude de Freycinet in charge of the *Uranie*, arrived at Shark Bay on 12 September 1818, set up a camp on Péron Peninsular,[82] carried out botanic scientific observations and sent out a party to investigate Dirk Hartog Island.[83] Freycinet recorded (in recovering the Vlamingh plate):

> …that such a rare plate might again be swallowed up by the sands, or else run the risk of being taken away and destroyed by some careless sailor, I felt that its correct place was in one of these great scientific depositories which offer to the historian such rich and precious documents. I planned, therefore, to place it in the

[81] *Ibid*,, pp.268–272.
[82] http://www.liswa.wa.gov.au/freycitet/pages/campperon.html.
[83] "The Uranie Voyage", in http://www.eyeinthesky.com.au/treasures/uranie/rose_etc.html, p.5. Accessed 2/6/2002.

collections of the *Académe Royale des Incriptions et Belles-Lettres de L'Institut de France*.[84]

After presenting gifts to a group of Aborigines they encountered[85] on 26 September they headed north to Timor.

Captain Dumont D'Urville left Toulon in April 1826 in the *Coquille-Astrolabe*, sighting Cape Leeuwin on October 1826. Two days later he dropped anchor in King George's Sound, where the party conducted botanic research, after which he sailed eastwards.[86] In a despatch to Government House in New South Wales, R. W. Hay, the Under Secretary of the Colonial Office in London, noted that Captain Dumont D'Urville 'would lead me to believe that the object of the expedition is solely for the purpose of general science'. Dunmore also notes that the purpose of the proposed expedition 'was scientific research rather than exploration'.[87] When reaching Port Jackson on 2 December 1826, D'Urville discovered that his desire for quiet uninhabited bays had given rise to suspicion, noting that New South Wales Governor Sir Ralph Darling was polite, but cool.[88] Before D'Urville left Port Jackson, he dined several times with James Stirling and showed him a copy of a detailed map of the Swan River completed by Heirisson during the Baudin exploration in 1801.[89] Although cognizant of published reports about Baudin's expedition in the region[90], which were unfavourable,[91] maps had not been included. Although D'Urville continued on to New Zealand, colonial authorities clearly had been disturbed by renewed French activity in Australian waters.

Shortly after D'Urville's voyage to Australia, British settlements were established at Western Port in Victoria, and Albany, in the southwest of Australia.[92] While these settlements may well have appeared as a response to the French, there was little in subsequent French actions that indicated any serious intent to establish settlements, and

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[84] *"de Freycinet, Voyage Historique"*, Vol.I, p.449, cited in http://www.eyeinthesky.com.au/treasures/uranie/rose_etc.html, p.5. Accessed 2/6/2002.
[85] *Ibid*, p.7.
[86] Scott, *Terre Napoléon*, (second edition), p.253.
[87] Public Records Office Documents (PRO), CO 201–174 (4) ref.157–159, 4th November, 1826. Also Dunmore, *French Explorers in the* Pacific, Vol. II, p.110. Dunmore notes that Dumont D'Urville, who assisted Duperrey, was to carry out the proposed 1821 plan for scientific research rather than exploration: to report on natural history, meteorology, magnetism and together with hydrographic work towards perfecting existing maps.
[88] Dunmore, *French Explorers in the* Pacific, Vol. II, p.182.
[89] See Marchant, *France Australe*, pp.286–287. See Also Pamela Statham-Drew, *James Stirling*, p.60.
[90] See Pamela Statham-Drew, *James Stirling*, pp.60 – 61.
[91] Appleyard & Manford, *The* Beginning, p.100.
[92] Clark, A *History of* Australia, Vol. III, Melbourne University Press, Melbourne, 1973, p.3.

nothing more was heard of the French plan for a convict settlement in the west. Indeed, as they had already begun to turn their attentions further east to the Pacific.[93]

The French had given up thoughts of occupying Gonneville Land. Instead, as exploratory expeditions such as those of Kerguelen's indicate, they sought to examine and understand the southern continent for scientific purposes rather than any related to occupation, the latter being the substance of vague unsubstantiated rumours arising out of British interpretations of their motives. [94] France's prospects in the region were closed, as Major Lockyer founded a settlement at King George's Sound in December 1826. The founding of Swan River Colony followed in 1829.

The second European power to seek access to the Great Southland was Holland, a great seafaring nation in the late 16th and early 17th centuries. In 1596 the *Company van Verre* – in 1602 re-named The Dutch East India Company – had established regular trade routes to the Spice Islands of Indonesia for the wealth of rare spices much in demand in Europe, were curious to other sources of wealth and the possibility of alternative routes to Batavia. Schilder writes that the reason for the frequency with which Dutch ships came accidentally on the west coast of Australia, was the new route captains bound for the East Indies were obliged to sail after the issue by the VOC (*Vereenigde Oost-indische Compagnie* in old Dutch spelling)[95] of the 'seynbrief' that committed all ships to sail from the Cape of Good Hope due east for one thousand miles using the prevailing westerly winds until they reached the longitude of Java, and then to turn north.[96] Clark opines that the Dutch seafarers found that by sailing north along the west coast of the Australian continent they could find prevailing winds which would carry them east to Djakarta. J.H. Parry notes that from an early date the Dutch used the alternative entrance to the Java Sea, through the Sundra Straight and into the belt of the southeast trade winds that are readily accessible at all times for sailing ships coming from the south.[97] As a consequence, the directors of East India Company in Amsterdam issued sailing instructions, which prescribed this route to be followed by all Dutch ships sailing to the East Indies.

Schilder writes that a small vessel, the *Duyfken* captained by Willem Jansz, undoubtedly visited Australia in 1606. Further, that although the *Duyfken's* original charts and logs were

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[93] Horner, *The French Reconnaissance*, p.370.
[94] Dunmore, *French Explorers in the* Pacific, Vol. I, pp. 352–355.
[95] VOC Historical Society, http://.voc.iinet.au/. Accessed 7/8/08.
[96] Schilder, *Australia Unveiled*, p.206.
[97] J.H. Parry, *The Age of Reconnaissance*, The World Publishing Company, Cleveland, Ohio, 1963, p.198.

lost, a 1670 manuscript chart was found and published.[98] The *Duyfken* had sailed on a south and subsequently a southeast course encountering the west side of Cape York Peninsular. Jansz had sent on shore men to trade at the mouth of the Batavia River, but nine were killed after an encounter with aborigines.[99]

The first ship to make landfall on the Australian west coast was the *Eendracht* while outbound from Holland to the East Indies. On 25 October 1616, under the command of Dirck Hartog, the *Eendracht* sailed into an island later named after him, off the western coast of Australia.[100] He inscribed a pewter plate with details of his visit and nailed the plate to a post. It was the usual procedure for navigators of seafaring vessels to leave a record of their visit to any unoccupied territory. C.Halls notes the details (translated) of this visit:

> 1616
> The 25th October is here arrived the ship "Eendracht" of Amsterdam, the upper merchant Gilles Miebais of Liege, skipper Dirk Hatichs of Amsterdam. The 27 ditto we sail for Bantum, the under merchant Jan Stins, the upper steersman Peter Doores of Bil. Anno 1616.[101]

A number of other Dutch ships made sightings of the western coast of Australia: *Zeewolf* in 1618; *Mauritius* also in 1618; and *Dordrecht* and *Amsterdam* in 1619 after whose commander the Houtman Abolhos Islands are named. Later came *Leeuwin* in 1622; *Leijden* in 1623; *Tortelduyff* in 1624; *Gallius* and the *Utrecht* in 1627; also *'t Gulden Zeepaard* in 1627; *Vianen* in 1628; *Batavia* in 1629; and *Geelvinck* in 1697.[102] In June 1629 the *Batavia* under the command of François Pelsaert was wrecked on the Houtman Ablohos about 50 miles off the western Australian coast. In the absence of Pelsaert who had left to seek assistance, a seaman, Jeronimus Cornelisz, fearing scarce provisions planned a mutiny and murdered 125 survivors. Pelsaert hearing about the atrocities, returned and captured all of the rebels, most of whom were eventually hanged.[103]

The investigations became more purposeful when in 1644, the Governor of Batavia, Anthony Van Diemen, commissioned the notable Dutch explorer Abel Tasman to examine the coast of the southern continent for several reasons: the first to verify if New Guinea was connected to the Southland, the second to verify whether the Southland was connected to Van Diemen's Land, and the third, to find gold or silver. The Council in Batavia was bitterly disappointed when the expedition proved fruitless on each account.[104]

More successful Dutch exploratory visits followed between 1657 and 1672; however, the Dutch suspended subsequent voyages because of the continuing war between Holland and

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[98] Schilder, *Australia Unveiled*, pp.43–44.
[99] *Ibid*.
[100] *Ibid*, p. 60 and p. 206.
[101] Halls, "Two Plates", *Westerly*, University of Western Australia Press, Nedlands, March (1), 1964, p.33.
[102] Schilder, *Australia Unveiled*, pp.206–207.
[103] *Ibid*
[104] Clark, *A History of Australia*, Vol. III, p.35.

England (1672–1678) lasting until the *Peace of Nijmegen* in 1678. Clark writes that early Dutch explorers held unfavourable opinions[105] of the western Australian landscape.[106] In order to avoid the wrecks left by previous explorers who had attempted to navigate the unknown western coastline, it became imperative to chart obstacles that lay on the new route at the end of the eastwards turn. In so doing, investigation further encouraged interest in the territory and inevitably, landing and investigation of the land itself. Notwithstanding the amount of effort and cost that the Dutch expended during these exploratory voyages, they neither desired nor attempted to claim for Holland any part of the western Australian coast or land on which they set foot by concluding that there was little of commercial value to be gained from the land.[107]

The Dutch had been frequent visitors to the west coast during the seventeenth century, but their collective experience did not lead them beyond visiting or cursory examinations of the land as their intentions were chiefly commercial, although their voyages added greatly to European geographical knowledge.[108] The Dutch East India Company, (VOC) merchant vessels continued to make landfall on the western coast, often disastrously. The VOC lost interest in the bleak coasts of the fifth continent but seeing no scope for trade or colonisation, deliberately gave up the idea of exploring it any longer[109] and the Dutch took no further interest in the west of the Australian continent.

The superiority of French knowledge and the English reliance upon it was also demonstrated in the case of the so-called 'Dauphin' map,[110] (see Map 1, p.iv). Perhaps the most important extant map of the period regarding Australian discovery, and although anonymous, scholars have attributed the map to either Rotz or Pierre Desceliers. It is sometimes referred to as the 'Harleyan' map, so named as once belonging to Edward Harley, Earl of Oxford, one of the principal Lords of the English Admiralty. Halls argues that it is not known whether these maps ever exerted any influence on English theories concerning the existence of a southern continent, or the subsequent exploration of the South Seas, and further, that this seems very likely citing the fact that this valuable manuscript was owned by one of the principle Lords of the Admiralty responsible for sending Dampier in 1699 on a voyage of discovery to New

[105] *Ibid*, p.391. 'Dutch seamen had described the west coast of New Holland as a coast of iron, inhabited by exceedingly black, barbarian savages'.
[106] *Ibid*, 'The Dutch sailors in the seventeenth century had recoiled in horror from an arid, barren and wild land'.
[107] Clark, *A History of Australia*, Vol. I, p.26. ' …the Southland they knew was barren, while the land some of their merchants believed they would discover in the great south sea where their ships would obtain rich cargoes, eluded those who searched for it'.
[108] J.H.Parry, *The Age of Reconnaissance*, The World Publishing Company, Cleveland, 1963, p.200.
[109] Schilder, *Australia Unveiled*, p.208.
[110] *Ibid*, p.35.

Holland.[111] On his voyages (1768–1771) to the eastern coast of Australia, James Cook carried a copy of the 'Dauphin' map; Sir Joseph Banks, who had accompanied Cook, later purchased the map and presented it to the British Museum in 1790, indicative of its importance and the scientific regard with which it was held.[112]

Certainly, this appears to be the case in the contemporary publications of Jean Rotz, (John Ross) [113]a skilled and well-renowned sea captain of Scottish descent whose work also pointed to the comparative paucity of English knowledge of the east and south. Halls notes that Rotz presented to English King Henry VIII his *Book of Hydrography* compiled in 1542, containing three maps dating from 1535–42, showing the continent '*Java la Grande'*. As founder of the Royal Navy, Henry VIII was eager to employ Rotz, as this Frenchman had expert knowledge, maps and valuable information regarding Portuguese discoveries and trade in the East. During the 1540s when Henry VIII was building up his navy, the English lacked charts and authoritative information, as for many years they had been almost solely dependent upon French and occasionally Portuguese navigators. Indeed Rotz's *Book of Hydrography* seems to have been the only up-to-date manuscript atlas then available to English sea captains and pilots.[114]

England had some early exploratory experience, namely with John Brooke in 1622, Dampier in 1686–1688, 1699–1701, and George Vancouver in 1791. In regard to early English explorers, Hancock cites Dampier writing to the Lords of the Admiralty in 1699:

> The Land of new Holland is dry, rocky and barren. There are but few animals. The inhabitants are of the most unpleasant looks and the worst features of any people I ever saw, tho' [sic] I have seen a great variety of savages. We were pestered with the flies which were more troublesome to us than the Sun, tho' [sic] it shone full and clear upon us all the while, very, very hot. Having ranged about a considerable time upon this Coast without finding any good fresh water…and my men growing Scorbutick (scurvy) for want of refreshments, I had little Incouragment [sic] to research

[111] George Collingridge, *The Discovery of Australia*, Hayes Bros., Sydney, 1895, p.167, as cited in C. Halls 'Java la Grand", p.31.
[112] Halls, "Java la Grand", p.41.See also R.H. Major, *Early Voyages to Terra Australis*, Hakluyt Society, London 1859, Introduction p. xvi as cited in C. Halls 'Java la Grand", p.35.
[113] *Ibid*, p.32, cites G.R.Taylor, *The Haven-Finding Art*: *history of navigation from Odysseus to Captain Cook*, Hollis and Carter, London, 1971, pp.187–189: Sixteenth century pilots were highly skilled specialists who owned their own charts and had personally acquired their knowledge from long study and experience. Rotz had visited Paris, where he studied the works of the most learned cosmographers and astronomers and was also interested in the magnetic variance of the compass and the possibility of using variation to calculate longitude accurately. Rotz sought the patronage of English King Henry VIII and was duly appointed as Royal Hydrographer and remained in service of the English Crown from 1542 to 1547.
[114] Halls, "Java la Grand", p.32.

> further. I resolved to leave this coast and accordingly set sail for Timor.[115]

Vancouver, the first Englishman since Dampier to set foot on western Australian soil, sailed from England with two ships, the sloop *Discovery* and the armed tender *Chatham*. In 1791 he entered a spacious sound on the south west coast of the Australian continent, which he named King George's Sound. He reinforced Dampier's negative view of the west by coming to the same melancholy conclusion about New Holland as had the Dutch explorers in the seventeenth century. Sailing along the south coast east of Cape Leeuwin Vancouver noted how:

> …the country consisted of a range of dreary hills, producing little grass… a country of milk-white barren sand, beyond which boundary the surface of the ground seemed covered by a deadly green herbage, with here and there a few grovelling shrubs or dwarf trees.[116]

Nevertheless, Horner records that Vancouver took formal possession of King George's Sound in September 1791, however this was not followed up in England. To the benefit of his successors, Vancouver planted 'watercress, vines, almonds, oranges, lemons and pumpkins on a small island (Green Island) in north harbour, the only verdant spot in sight'.[117]

After making his first landfall at the place he subsequently named Shark Bay on the mid-west coast, Dampier collected many plants, shells and other specimens and was the first Englishman to make full and detailed descriptions of the plant and animal life he encountered.[118]

Matthew Flinders, the distinguished British navigator, was exploring Australian coasts in the *Investigator* at the same time as Baudin's voyage of exploration (1800–1803). Flinders had been commissioned to examine the coast of New Holland, more particularly between King George's Sound in the southwest and Cape Howe in the southeast. Flinders sighted Cape Leeuwin, on 6 December 1801, redoing some of the surveys made by Vancouver a decade earlier. During his successful voyage (1801–1803), Flinders met with Baudin's scientific expedition in *Le Géographe* at Encounter Bay on the south coast of Australia, and 'it was from Flinders that Baudin learned the secret of the unknown south coast's long-held mystery

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[115] Hancock, *The Westerners*, p.8.
[116] Clark, *A History of* Australia, Vol. III, pp.1–2, also Scott, *Terre Napoléon*, (second edition), p.26, and Horner, *The French Reconnaissance*, p.288.
[117] Horner, *The French Reconnaissance*, p.288.
[118] Dr Michael McCarthy, Curator Maritime Archaeology Department, Western Australian Maritime Museum, Presentation Paper, *Heritage at sea and abroad*, State Heritage Convention, 2001, p.5.

– no north-south strait had been found: New Holland was indeed one continent'.[119] In a subsequent voyage in 1803, Flinders circumnavigated Australia, and must rank as the greatest of explorers of the Australian continent by sea.[120] France however, claimed ownership of the first complete map, the 1807 *Carte Générale*, showing a more accurate representation of Australia, with its coasts fairly delimited and the island of Tasmania shown in its proper position in relation to them'.[121]

Subsequent maps published as a result of French and British explorations became a contentious issue in 1807. Flinders was fated not to return to England as he planned because in 1803 en route to England, the leaky condition of his ship *Cumberland* forced him to seek refuge at the *Ile de France* (Mauritius). There the French Governor of the island Charles de Caen, suspicious of Flinders' intentions because of the hostilities between the French and the British, assumed him to be a spy placing him in detention for a period of six and a half years (1804–1810), and kept Flinders' charts and journals from him. It has been alleged that during his incarceration, the French navigator Freycinet, having access to the charts and journals, plagiarised parts of them in his atlas.[122] Scott notes:

> …the French chart of the so-called Terre Napoléon coasts was in large measure defective, with many capes, islands and bays being represented that had no existence in fact, and a large portion of the outline being crudely and erroneously drawn**.** The south coast – the most important part – since here the field was entirely fresh, was very faulty in outline; and in other parts, as Baudin's exploratory voyage had good grounds and opportunities for doing complete work, important features were missed. **[123]**

While still in detention Flinders wrote on 2 February 1811 to his friend Charles Desbassays in London:

> M. Péron, Naturalist on Baudin's expedition, published in 1807 the first volume of the account of their voyage; wherein possession is taken of all my discoveries on the south coast of Australia, as having been made by them; pretending, that I had been driven off and had not seen those parts, although it was I who gave them information of the principal points, when we met on the south coast. No charts of their voyage have been yet published, and some people here think, that they wait to see mine first; that after

[119] Horner, *The French Reconnaissance*, p.219.
[120] J.N.L.Baker, *A History of Geographical Discovery and Exploration*, George G. Harrap & Co. Ltd., London, 1931. pp.418–419.
[121] Scott, *Terre Napoléon,* (second edition), p. 259.
[122] *Ibid*, p.94–99. Scott refers to the fact that during Flinders' time of imprisonment on the Ile de France (Mauritius) Governor Decaen in fact had all Flinders' charts, journals, letters and official packets put in a trunks and sealed. However, the third logbook was the only document pertaining to Flinders' discoveries which Decaen had in his possession and which was never returned to Flinders. In 1811, after Flinders returned to England, the Admiralty, at Flinders insistence, requested the French Government to insist upon its restoration, without success. Freycinet was ready to publish the first and hurried edition of his atlas in 1812. pp. 94 – 99.
[123] Scott, *Terre Napoléon,* (second edition), pp.101–102.

> robbing me of the honour of a first discovery, they may also pilfer me of the details; indeed it appears extraordinary, that Péron does not complete his account, and that no charts or nautical details should yet have been given, now so many years after their arrival in France. [124]

When released from imprisonment, Flinders used his own charts and accounts of his voyages to publish his atlas on 18 July 1814[125] in England,[126] making a bold claim for a new name for the entity he had just delineated, *Terra Australis*. The volume was accompanied by his charts and he entitled the overall map: *General Chart of Terra Australia or Australia.* [127] In a letter to Joseph Banks dated 17 August 1813, Flinders wrote:

> You, Sir Joseph, were the first person whom I thought it essential to consult, upon the propriety of calling the new continent Australia, and it appeared to be approved…that Australia, as a general name for the Continent, was judged a proper one by the gentlemen present.[128]

Although some texts indicate French interest in obtaining settlement in some portion of western Australia, it appears that the French government was indeed reluctant on several grounds to proceed. Firstly, they perceived the nature of the land as arid, sterile and unproductive for agriculture.[129] Secondly, there were neither tradeable commodities, nor valuable minerals indicated.[130] Thirdly, as discussed in Chapter 1, western Australia was

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[124] Paul Brunton (ed.), *Matthew Flinders– Personal letters from an extraordinary life*, Hordern House in association with the State Library of New South Wales, Sydney, 1922, pp. 208–209. François Péron died on 14 December 1810, and the official account of the Baudin expedition was completed by Louis de Freycinet with the last volume being published in 1816, as cited in Note 5, p.208.

[125] *Ibid*, p.8.

[126] Scott, *Terre Napoléon* (second edition), p.95. Also refer to Brunton, *Matthew Flinders' personal letters*, 1922, p.105, in a letter to G. Bass dated 8 August 1803 while imprisoned in the Ile de France (Mauritius): 'It might be that the presence of the French upon these coasts would be much against me; but I consider the circumstances as favourable in as much the attention of the world will be more strongly attracted toward New Holland, and some comparisons will no doubt be formed between our respective labours. Now in the department of geography or rather hydrography, the only one where the execution rests with me, they seem to have been very vague and inconclusive, even by their own testimony; by comparison, therefore, my charts will rise in value. It is upon these that I wish to rest my credit…I hope to your satisfaction, which you will see on their publication'.

[127] Miriam Estensen, *The Life of Matthew Flinders*, Allen and Unwin, NSW, 2002, pp.468–469. The full title of Flinder's book was: *A Voyage to Terra Australis; Undertaken for the Purpose of Completing the Discovery of That Vast Country, and Prosecuted in the Years 1801,1802, and 1803, in his Majesty's Ship the Investigator, and Subsequently in the Armed Vessel Porpoise and Cumberland Schooner, With and Account of the Shipwreck of the Porpoise, Arrival of the Cumberland at Mauritius, and Imprisonment of the Commander during Six Years and a Half in That Island.*

[128] Brunton (ed.), *Matthew Flinders– Personal letters*, pp. 235–236.

[129] D'Urville, Jules S-C Dumont, *Two Voyages to the South Seas*, Translated from the French by Helen Rosenman, Melbourne University Press, 1987, Vol. I – Astrolabe 1826–1829, pp.xxiii –xxiv. . Saint-Aloüarn sailed north along the west coast that had already been visited and rejected as useless for any purpose by Dutch navigators, and Dampier in 1688 and 1699.

[130] Dunmore, *French Explorers in the Pacific*, Vol. I, The Eighteenth Century, p. 356. French exploration consisted in the main of a search for precious minerals, or attempts to find natural products to trade.

located a long way from French holdings, that is the *Ile de France* (Mauritius). Therefore, they would be unable to protect a settlement in case of problems. Lastly, Hyacinthe de Bougainville and the French ministers knew that the possibility of a French Colony being tolerated in western Australia was very remote. [131]

However, Dunmore writes that the French Government's main concern was the need for a convict settlement to be established in western Australia, similar to the British establishment in Port Jackson. [132] Jules Blosseville, a French navigator, explorer and geographer, did spend a month in New South Wales in 1824 where he worked at Governor Brisbane's Observatory using his training in astronomy. Britain's colonising technique impressed him, for it pointed to what he felt was a weakness of Bourbon France. On his return to France he kept up his correspondence with acquaintances in New South Wales and in 1826 was asked by the French Government to report on the suitability of southwest New Holland as a French penal colony.[133] The British government had been advised by their ambassador in Paris that the French were thinking of establishing a penal settlement in New Holland. British possession of the whole of Australia had neither been officially challenged, nor officially recognised over areas where physical occupation had either taken place or been occupied.[134]

Prior to 1824, some masters of small trading vessels carrying on a traffic with the islands in the Indian Archipelago had found a profitable market among the islands along the northern coast of New Holland trading European goods for *bêche de mer* (trepang), pearl and tortoise shell. Thus, the merchants concluded that a British settlement along that west coast of the Australian continent might materially facilitate a commercial intercourse with the inhabitants of the numerous islands in the Indian Archipelago. Subsequently two settlements were formed between (1824–1828), one at Melville Island in 1824 and the other in Raffles Bay in 1827.[135] However, neither settlement was sustained.

Marchant notes that unlike the British, France did not rush to establish settlements overseas, being cautious colonisers preferring to make careful methodical surveys of the resources

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[131] D'Urville Jules S-C Dumont, *Two Voyages to the South Seas*, p.xxxiii. Hyacinthe de Bougainville reported to the French Minister for the Navy and the Colonies that "Without a safe port in the region, any infant French colonial initiative would be helpless, and moderately cordial as English–French relations might be for the present, the accord could easily be broken".
[132] Dunmore, *French Explorers in the Pacific*, Vol. II, p.111.
[133] www.asap.unimelb.edu.au/bsparcs/biog/P000240b.htm. Blosseville, Jules Poret De (1802–1833), biography. Accessed 19/9/2006.
[134] Dunmore, *French Explorers in the* Pacific, Vol.II, p.169.
[135] http:/www.jstor.org.dbgw.lis.curtin.edu. JSROR, Journal of the Royal Geographical Society of London, 23/9/04,Vol.4, p.130, "Memoir of Melville Island and Port Essington".

before sending settlers to live in strange places abroad.[136] Thus he seeks to leave the door open on questions of settlement, stating that it was the French Revolutionary wars (1793–1801) that prevented that type of expansion abroad. Nevertheless, Marchant argues that some revolutionaries were favourably inclined to the suitability of western Australia for establishing a convict colony even though the land was seen as arid. [137]

Other writers, however, hold that there was neither specific commitment nor detailed examination of the sites on western Australian land. Horner argues that in 1819, with the support of Forestier and Rossel at the Ministry of Marine, the French had considered a plan for a convict settlement on the Port Jackson model at Swan River. Although both the French exploratory missions of Duperrey in 1822 on the *Coquille*, and Bougainville in 1824 on the *Thétis*, had been given instructions to make a close inspection of the Swan River area, neither explorers in their respective voyages touched the Australian coast at any point except Sydney.[138] Dunmore also recounts that 'the most Duperrey was enjoined to do by his instructions was to report on the possibility of establishing a settlement in western Australia, which was not yet recognised as a British possession'.[139] Duperrey reported that he had not discovered a suitable site for a convict settlement and it should have been obvious that the British would raise immediate objections if a French attempt were to be made to send convicts to western Australia'.[140] Dunmore also notes that France's search for territories in order to settle surplus population, including the poor and criminal elements, was half-hearted at best, as the French suffered from the lack of consistent policy towards overseas expansion with French exploration consisting in the main of a search for precious metals or attempts to find natural products.

Although England had commenced transportation of convicts to New South Wales in 1788, it was not until rumours of French colonising activities that a British force occupied King George's Sound in 1826. Thus in March, Governor Sir Ralph Darling sent secret and confidential letters instructing 'Major Edmund Lockyer to take fifty convicts and a party of soldiers to start a settlement at King George's Sound.' Similarly he 'instructed Captain Samuel Wright to take twenty convicts and eighteen soldiers to start another settlement at Western Port and to employ the convicts to clear the land for future settlers.' [141] In a letter dated 4th November 1826, Governor Sir Ralph Darling instructed Lockyer that:

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[136] Marchant, *France Australe*, p.4.
[137] *Ibid*., p.83.
[138] Horner, *The French Reconnaissance*, p.370.
[139] Dunmore, *French Explorers in the Pacific*, Vol. II, p.111.
[140] *Ibid*, p.111, and p.153.
[141] Clark, *A History of Australia*, Vol. III, p.13.

> …should it so happen that the French have already arrived, You will, notwithstanding, land the Troops agreeable with your Instructions, and signify that it is considered the whole of New Holland is subject to His Britannic Majesty's Government, and that orders have been given for the Establishment of King George's Sound as a Settlement for the reception of Criminals accordingly.[142]

Keen to establish a legally defensible claim to the area based on settlement of the land, and then generally viewed as underpinning a sovereign claim, Sir Ralph Darling despatched a secret and confidential letter to the Earl of Bathurst (Secretary of State for War and the Colonies (1812–1827) [143] stating:

> Your Lordship will observe the explanation which directed might be given should any information be necessary with respect to the Western Boundary of this Government; though, as the published Maps are marked through the Centre from North to South, and my Commission adopted the line as the Western Boundary, it would be difficult to contend, or to satisfy any Nation desirous of making a settlement on the Western Coast, that we have an indisputable right to the Sovereignty of the whole Territory. I therefore beg to repeat the suggestions contained in my Private Letter to Mr. Hay, dated the 9th October, that I may receive a Commission describing the whole Territory as within this Government. If generally known that we had actually assumed the Sovereignty and were proceeding to settle the Western Coast, it might be possible to prevent the intercourse of any Foreign Power and might set the matter at rest. [144]

The British were seriously contemplating annexing western Australia to the rest of the Australian continent, a concern driven at least in part by French presence. Only in 1828, again as a result of rumored French plans for this area, steps were taken to settle the Swan River district, which had remained unsettled until early 1829. However, despite continuing fears about its vulnerability, the Colonial Office's *Parmelia* sailed from London to Swan River taking the civil establishment, this time not to forestall the French but to found a colony of free settlers.[145]

Despite their charting and seaborne prowess, the British did not immediately seek to extend their formal claim to territory in the west of the continent. As late as 1824, British administrators in New South Wales had not laid claim to jurisdiction beyond the Nullarbor Plain; and as shown earlier, it was not until 1826 that an attempt was made to establish a

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[142] *Historical Records of Australia*, (H.R.A), Series I, Vol. XII, p.701.
[143] Neville Thompson, *Earl Bathurst and the British Empire 1762–1834*, Leo Cooper, an imprint of Pen & Sword Books Ltd., South Yorkshire, 1999, p.viii.'From the time he [Bathurst] entered cabinet as President of the Board of Trade in 1807, he played a role in government far beyond the requirements of his offices. In particular, the Prime Minister and Foreign Secretary decided almost all foreign, military and colonial questions with scant reference to their colleagues.'
[144] Public Records Office Documents (PRO), CO 201–174 (4), ref 103–107, 24th November, 1826.
[145] Pamela Statham-Drew, *James Stirling*, p.122.

settlement in King George's Sound. Yet the British still saw little of economic value in the area. In an 1826 despatch to Earl Bathurst K.G. Secretary of State for Wars and Colonies from 1812 to 1827, Sir Ralph Darling stated that:

> I am informed that the Country around both Shark Bay and King George's Sound is perfectly barren and destitute of vegetation. The French would therefore find it difficult to maintain themselves at either of these places and I understand that the part of the Coast about Shark's Bay is frequently under water.[146]

Yet in 1829 Captain James Stirling sent a warning about a possible French settlement on the west coast of New Holland, as well as reporting to the colonial department on the eligibility of a certain portion of the same coast for a British settlement. Although he delivered a glowing report on land near the Swan River, the British Government clearly stated that they did want to expend money to finance such an operation, so Stirling put up his plan for colonisation. The scheme would be privately financed by a number of men in London including Thomas Peel, Solomon Levey and Daniel Cooper.[147] Clark notes that Peel devised a plan:

> …to transplant four hundred gentry, including their dependants, servants, their stock, seed and worldly goods to an unspecified site near the Swan River. [148]

Clark outlines the conditions regarding the distribution of land as being:

> The Colonial Office undertook to grant him (Peel) priority of choice of 250,000 acres on the south bank of the Swan and Canning Rivers, an additional 250,000 acres after he had landed four hundred settlers. After twenty-one years a further 500,000 acres was to be granted…on improvement of the two original grants. [149]

Peel then formed an association which:

> …undertook to grant two hundred acres to every person who brought out one male and one female, Individuals who paid their own passages were to receive one hundred acres each. [150]

Stirling was to be made Lieutenant Governor responsible for the supply of necessities. To comply with legalities of possession, the British Government annexed the west of the continent in order to claim possession of the whole of the Australian continent. Prior to 1829, the British Government had not formally annexed that portion of continental Australia west of 129° east longitude. Thus on 2 May 1829, Captain Charles Howe Fremantle took possession in the name of His Britannic Majesty of the west coast part of New Holland not

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[146] Public Records Office Documents (PRO), CO 201/331, Dispatch No. 77, 19th October, 1826.
[147] Clark, *A History of Australia*, Vol. III, p.18.
[148] *Ibid.*
[149] *Ibid*
[150] *Ibid.*

included in the territory of New South Wales.[151] On 18 June 1829 Stirling proclaimed that His Majesty had been pleased to command that a settlement should be formed within the Territory of Western Australia. Clark records that on 12 August 1829, a Mrs. Dance gave one blow with an axe to a large tree, [152] christening the site Perth in honour of the Member for Perth in Scotland and the Secretary for War and the Colonies – Sir George Murray.[153] Justice Evatt demonstrates that great importance is attached to such acts of possession as further discussed in Chapter Five 'Law'. Clark notes that the fear of the French had evaporated almost as soon as Stirling had christened the colony.[154] Although Stirling's initial motive was one of opportunity and personal aggrandisement, the eventual gain was to add another colony to the British Empire. Clark observes the belief that 'a "mighty Colony" would arise linked to the Mother Country by strong ties of common origin and mutual interest.'[155]

Western Australia's early free settlers as opposed to convicts, were of the same persuasion as those free settlers who came out in the First Fleet to New South Wales: people in hope of making a new start by developing their grants of land, thus maintaining a class system with themselves becoming the gentry in the new land.[156] Finally, there emerged in the early decades of the nineteenth century, schemes for settlement based on grants of land taken up on the basis of private capital (though those such as the Swan River plan were criticised by Edward Gibbon Wakefield [157] and much later, by Marx for their want of a basic necessity –

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[151] *Ibid*, pp. 20–21. Also John D. Lines, *Australia on Paper*. Fortune Publications, Victoria, who quoted the *Official Yearbook of the Commonwealth of Australia*, No.2, 1901–1908, p.14,

[152] *Ibid*, p.23. Clark cites: Proclamation by His Excellency James Stirling…Lieutenant-Governor of His Majesty's Settlement in Western Australia, 18 June 1829, appendix 2 in J.S. Battye, *Western Australia*, pp.456–8; J. Stirling to W. Stirling, 7 September 1829 (Stirling Letters, typescript in M.L.); Marnie Bassett, op. cit., pp.92–5.

[153] Statham-Drew, *James Stirling*, p.103 and p.142.

[154] *Ibid*, p.391.

[155] *Ibid*, p.349.

[156] Statham-Drew, *James Stirling*, p.120. 'Regulations for the guidance of those who may propose to embark, as settlers, for the new Settlement on the Western Coast of New Holland' had stipulated that grants would be allocated with occupation rights only, full title being dependent on 'improving' the whole area to the value of 1s 6p. Grants were to be allocated only on settlers arrival, with an allocation of 200 acres per person.

[157] Clark, *A History of Australia*, Vol. III, p.42. Clark writes that 'the method used in Western Australia of making land grants to men of capital had not been attended with moral evils but with economic stagnation.' 'The problem was to find a method of transplanting civilisation to a wilderness without the moral evils of using slave labour or causing civilised people to fall back into a primitive way of life.'

labour.)[158] Cameron writes that 'As no accurate map of either river [Swan and Canning] existed, Stirling personally marked the frontage to each grant'.[159]

Maps were instrumental in instigating the search and exploration of new lands, none more so than the Continent of Australia. Historically the Portuguese, Dutch, French and British from the fourteenth to the nineteenth centuries participated in voyages of exploration to the Australian continent, and contributed to mapping the coastlines including the west coast. Because maps convey perceptions of nationality, power and space, the importance in 1826 of securing western Australia as part of the total continent of British Australia, became the focal and urgent point of British Imperial strategy in the Australian continent.

Although at no time in the nineteenth century did the French make any claim to western Australia, their presence was viewed with suspicion by the British, resulting in steps being taken in 1826 to secure the western part of the Australian continent as a settlement. While French voyages of exploration continued after 1826, any further speculation about France wanting to claim any part of the Australian continent became obsolete, as Britain had claimed the whole of the Australian continent in 1829 (see Map 4, p.vii). According to F.K.Crowley and B.K.de Garis, Captain C.H. Fremantle on 2 May 1829 formally annexed for Great Britain the whole of that part of Australia that was not included within the boundaries of New South Wales.[160]

On the one hand, Britain was able to protect her colonies west of 129º east longitude (see Map 3, p.vi) by having a navy positioned in New South Wales, as well as the ability to send merchant ships with necessities to generally maintain the necessities required to support settlers. On the other hand, France had neither a large fleet near enough to offer protection to a settlement in case of conflict, nor the support from a nearby outpost to supply settlers, should indeed a claim to the west of the Australian continent have been contemplated as discussed in Chapter 1. Citing Ch. de Brosses (*Histoire des navigations aux terres australes*) Dunmore notes:

> Indeed, the stress throughout is on commerce, and not on conquest. Colonies and establishments abroad can be a source of wealth and strength. For one thing, they require a large fleet to maintain trade

[158] Karl Marx, *Capital*, Vol. III, Penguin Classics, Penguin Books, London, 1981, p. 904. Marx states that 'land which was considered poor…because mechanical and physical obstacles stood in the way of its cultivation, was turned into good land as soon as the means for overcoming these obstacles were discovered'.
[159] J.M.R.Cameron, "Patterns on the Land 1829 –1850", in *Western* Landscapes, Chapter 8, p.205.
[160] F.K.Crowley and B.K.de Garis, *A Short History of Western Australia*, Macmillan Australia, Melbourne, 1969, p.10.

> and contacts and 'he who is master of the sea is master of the land'. [161]

When reviewing the problems encountered by the British colony of Western Australia, it would seem to be obvious that after their numerous expeditions to the west coast, the French would also have taken into account the difficulties associated from their point of view, in any attempt by them to establish and maintain a settlement. Such difficulties were of course, quite apart from their awareness that the east coast of the continent had been claimed and settled by the British Crown. The fact that Sir Thomas Brisbane was appointed as Captain General and Governor in Chief in and over the territory of New South Wales and west of the 135th degree of East Longitude, and thus made responsible for western Australia. [162]

The French explorers had already noted the barren land and arid soil, the lack of any natural edible produce as well as, in their perception, the complete absence of precious minerals. Therefore, the west did not present a commercial viability or indeed, suitable land for settlement of any of their citizens.

The French voyages to the west of the Australian continent may have had the appearance of a preliminary investigation with intent to occupy, but as Duperrey, Bougainville and the French Government ministers knew, the possibility of a French colony being established in western Australia had always been very remote.[163] It is reasonable to assume therefore, their purpose was not one of attempting occupation of any portion of the Australian continent, but one of exploration, charting and the collection of scientific data for the benefit of knowledge.

The following Chapter Four, 'Science', will document the important part science played in both the French and the English voyages of exploration, adding additional support to the thesis that France neither envisaged nor attempted to lay claim to western Australia.

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[161] Dunmore, *French Explorers in the Pacific*, Vol. I, p.47.
[162] *Historical Records of Australia*, Series I, Vol. XII, The Library Committee of the Commonwealth Parliament, Sydney, 1919, p.99.
[163] Dunmore, *French Explorers in the Pacific*, Vol. II, p.170.

Chapter Four – Science.

> The Diffusion of general knowledge, and of a taste for science, over all classes of men, in every nation of Europe, or of European origin seems to be the characteristic feature of the present age.
> James Keir 'Dictionary of Chemistry', 1789.[1]

A scientific view of something is always an intimate view of theories and observed facts. It is not an inert mixture, but a seething and growing one. Theories therefore, are broad general ideas together with arguments based on them often suggesting new things to look for, and are continually subjected to tests of comparison with facts based on observation**.** In this chapter, science not only constitutes an idea but something manifest in human activity that may be linked to or indicative of, other national activities or priorities, and which in part contributed to both France and Britain's motivation to mount voyages of exploration to the Australian continent and western Australia[2] in particular, in the late eighteenth and early nineteenth centuries.

This chapter argues that intellectual and technological developments and the evolution of science were major contributory reasons for the exploration of unknown lands. Historians W.H.G. Armytage, J.D.Bernal, and Maurice Crosland have written about the period under consideration, and their interpretations about the scientific aspects provide support for the thesis' hypothesis that France's intentions were not to claim the West of the Australian continent. Historically, such theorists provide support for the propositions that these nations had very different objectives in relation to voyages of exploration undertaken during the period 1772 to 1829 to both Australia (and to western Australia), and that these differences were shaped at least in part, by different emphases each nation placed on science.

France emerged from the Thirty Years War (1618 – 1648), as the leading power in Western Europe, with its autocratic feudal state strengthened. King Louis XIV greatly concerned about the establishment of a bourgeois republic in England promoted the construction of roads, canals and ports to allow France to compete against Holland and England, while declaring himself "*L'état, c'est moi"* (I am the state). The feudal state, based on the absolute power of the king whose subjects could only follow the rules determined to them by birth

[1] James Keir, *Dictionary of Chemistry* (1789), cited in W.H.G Armytage "The Technological Imperative – Scientific Discoveries in the Service of Man", in *The Eighteenth Century – Europe in the Age of Enlightenment*, Alfred Cobban (ed.), Thames and Hudson, London, 1969, p.95.
[2] Note: The use of (w)estern Australia is used in reference prior to 1929, then (W)estern Australia is used after the official founding in 1829.

and class, thus survived in France until 1789 when it was swept away through the French Revolution.[3]

In contrast, England's progress towards constitutional monarchy commenced in 1215 when the Magna Carta liberatum, granted by King John I after the Baron's demand for a solemn grant of liberties and respect for the laws, became the 'Bible of the Constitution'. The Stuarts, James I, and Charles I 1603–1648, with their concept of the "divine right of kings", negated the parliamentary progress that had been made by their predecessors. Consequently, the Civil War (1642–1648) was the outcome of the Stuart's high handedness. The 1649 execution of Charles I, ended the feudal regime of the monarchy [4] when Acts were passed for the abolition of the monarchy and the House of Lords, vesting political power in the Council of State, the Rump Parliament and the army, until the Stuart Restoration (1660–1688) put an end to the political chaos. Subsequently the 1689 Bill of Rights, a charter that primarily established the rights of nobility and great landowners in relation to the king, determined legislation's purpose to make it the king's obligation to govern with the assistance of parliament. Thus by the end of the seventeenth century, England was the first country in which freedom of thought had been legally established [5] with a constitutional monarchy and elected parliaments. Along with political changes came changes in the intellectual landscape, and without turning to religious belief, the use of the inquiring mind attempted to know and understand the landscape through reason based on evidence and proof. The great triumph of the seventeenth century scientific revolution was the rejection of knowledge based on teleological ore metaphysical explanations.

Although both France and Britain conducted voyages of exploration to the Australian continent, including the west coast in the eighteenth and nineteenth centuries, this chapter will argue that French objectives in investigating new frontiers were primarily to contribute knowledge about regions explored. For instance, Fernand Braudel wrote:

> France was somehow resistant to capitalism, that France was never consumed by the necessary passions for the capitalist model, by that unbridled thirst for profits without which the capitalist engine

[3] Matthias Tomczak, Lecture 20, "Enlightenment, or the Age of Reason", in http://www.es.flinders.edu.au/~mattro,/science+society/lectures/lecture20.html, p.1. Accessed 4/4/2005.
[4] *Ibid*, p.2. 'The main economic activity in England was sheep farming pursued by feudal landlords, but the lucrative wool trade, which strengthened the merchant class, was controlled by the Dutch cities. The large sheep estates had been created during the first half of the 16th century through the expropriation of the villages which – like villages on the continent and elsewhere – had traditionally given their peasants temporary access to land for the planting and harvesting of crops but kept the land as common property. Through the process of progressive enclosure (surrounding of parcels of land with hedges or fences) the English aristocracy had excluded the peasants from the use of their land'.
[5] Matthias Tomczak, Lecture 20, "Enlightenment, or the Age of Reason", in http://www.es.flinders.edu.au/~mattro,/science+society/lectures/lecture20.html, p.2. Accessed 4/4/2005.

> cannot get started. France's charm is that it had had a way of life different from that of many countries; but France's tragedy was that it was not aware of its riches and possibilities, that it never fully took part in the struggle between the great powers of the world.[6]

This chapter argues that the French approach to science was made in order to understand the natural world and humankind's place in it. Reason and natural law had seemed to dictate that powerful monarchs should rule society, believing that the best hopes for positive change lay with a vigorous monarchy through which scientific change could be effected. However, after the 1789 French Revolution and the removal of the monarchy, the key concepts of *liberté, égalité and fraternité* (personal liberty, equality before the law, and brotherhood of man) were adopted together with the encouragement of science, especially natural science. *Liberté, égalité and fraternité* would appear to negate Marchant writings that the French nation had intention of laying claim to western Australia or indeed were motivated to establish a French penal colony in western Australia.[7] For instance, Baudin wrote to Governor King in Sydney on 12 December 1802, reflecting post-revolutionary sentiments of *liberté, égalité and fraternité*:

> To my way of thinking, I have never been able to conceive that there was justice or even fairness on the part of Europeans in seizing, in the name of their governments, a land seen for the first time, when it was inhabited by men who have not always deserved the title of savages, or cannibals, that has been freely given them…it would be infinitely more glorious for your nation, as for mine, to mould for society the inhabitants of its own country, over whom it has rights, rather than wishing to occupy itself with the improvement of those who are far removed from it. [8]

During French voyages of exploration to New Holland, indigenous occupants were both observed and documented as living in the land. Nicolas Baudin noted that his contact with an indigenous community at King George's Sound in February 1803 was on good terms [9] and further, when he visited the Peron Peninsula on 17 March 1803, he originally thought this part of the coast to be uninhabited. On finding this to be not so, he decided to become acquainted with a small indigenous group, instructing his men to be careful not to frighten them. Baudin looked over a large stretch of their territory, observed their dwellings, and left

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[6] Fernand Braudel *The Identity of France*, (trans. by Sian Reynolds), Harper Perennial, a Division of Harper Collins Publishers, New York, 1992, Book 1 – Part II, Chapter 4, p.666.
[7] Leslie R. Marchant, *France Australe*, Artlook Books, Perth, Western Australia, 1982, pp.228–231.
[8] "Freycinet and New Holland", in http.www.museum.wa.gov.au/collections/maritime/march/treasures/uranie/uranie.html. p.1. Accessed 21/9/2007.
[9] Nicolas Baudin, *The Journal of Post Captain Nicolas Baudin, Commander-in-Chief of the Corvettes, Géographe and Naturaliste*, (trans. by Christine Cornell), Libraries Board of South Australia, Adelaide, 1974, p.491.

various presents to persuade them to place more confidence in us (the French).[10] Indeed, Colin Dyer writes that the 'French explorers in Australia in the late eighteenth and early nineteenth centuries…came…and they saw, but made no attempt to conquer.'[11] Further that in contrast, the British confronted by the indigenous occupants not prepared to alter their traditional way of life, saw their culture as buried in the 'stone age'.[12]

Early British interest in the Australian continent was directed to exploration and possession of, in their perception, unoccupied land for strategic reasons – finding natural resources for commercial exploitation and subsequently, settlement. Henry Reynolds writes that based on the doctrine of *terra nullius* (which is discussed more fully in chapter 5, Law), the British viewed the Aborigines as uniquely primitive, having no traditional system of land ownership.[13] However, they were skilled hunters and foragers who positively managed their environment by preserving its geological features, plants and animals, and had a deep emotional attachment to and knowledge of their land.[14] Furthermore, Reynolds argues that the fact that the whole of Australia was occupied had important legal implications when settlers and informed observers in Britain came to understand the nature of Aboriginal land use and tenure.[15]

Furthermore Tomczak writes that while England's aristocracy had gained control over the countryside at home, they also noted the developing colonial trade and were eager to participate in expected colonial windfalls by financing and sending exploratory missions into all parts of the world.[16] It is possible to argue that British advocates of possession and settlement of the west may have used the French presence to further their argument.[17] In the

[10] Nicolas Baudin, *The Journal of Post Captain Nicolas Baudin*, pp.506–7
[11] Colin Dyer, *The French Explorers and the Aboriginal Australians 1772–1839*, University of Queensland Press, 2005, p.1.
[12] Colin Dyer, *The French Explorers and the Aboriginal Australians 1772–1839*, p.12.
[13] Henry Reynolds, *The Law of the Land*, Penguin Books Australia Ltd, Victoria, 2003, p.2.
[14] *Ibid*, pp. 75–79.
[15] *Ibid*, p.38.
[16] Matthias Tomczak, Lecture 20, "Enlightenment, or the Age of Reason", in http://www.es.flinders.edu.au/~mattro,/science+society/lectures/lecture20.html, p.1. Accessed 4/4/2005.
[17] Justice Elizabeth Evatt "The Acquisition of Territory in Australia and New Zealand", in *British Institute of International and Comparative Law, Grotian Society Papers 1968 – Studies in the History of Law of Nations*, C.H. Alexandrowicz (ed.), Martinus Nujhoft, The Hague, 1970, p.34–36. Evatt cites *H.R.A.* I, 12, p. 218, and also p.194: that 'On November 24,1826, he (Governor Darling) wrote to Earl Bathurst requesting that his Commission be amended to take in the whole territory of Australia.' Evatt cites *H.R.A.* I, p.700. 'If generally known that we had actually assumed Sovereignty, and were proceeding to settle the Western coast, it might possibly tend to prevent interference of any foreign power and might set the matter at rest.' Evatt cites *H.R.A.* I, 2, p.701. 'He (Governor Darling) instructed the commanding officer of the King George's Sound garrison', to '…signify that the whole of New Holland was subject to His Majesty, and that he had orders for the settlement of the area'. Evatt notes that this was the first "official" claim to all Australia.

second half of the eighteenth century British interest in the west developed on account of several factors. French exploration, especially when the two powers were at war, aroused suspicion as Britain's traditional rival in Europe was now regularly appearing off the Australian coasts. Partly too it would appear that the trajectory of expanding occupation would inevitably lead to a British presence across the whole region of Australia. Indeed, in Australia there was an expansion westwards of the 135th meridian line set in 1788, which had virtually divided the Australian continent in two at that time.[18] (See Map 2, p.v. and Map 3, p.vi.).

Significant intellectual developments in science and philosophy commenced with Galileo Galilei (1564–1642) the Italian astronomer, natural philosopher and physicist, who defended Nicolaus Copernicus' (1473–1512), theory that the earth revolved around its own axis daily and around a stationary sun yearly. He studied the physical universe as a whole (cosmology), where theories of physics, especially relativity, were invoked to explain the observed distribution and motion of the stars and galaxies.[19] The debate over the structure of the solar system and the incredible consequences of the Copernican system occupied peoples' minds everywhere. In France, René Descartes (1596–1650), philosopher and mathematician, developed the conception that mass and time were fundamental dimensions of the world, and as important as the classical three dimensions of space. His natural philosophy was diametrically opposed to the traditional worldview based on the theories of Aristotle – the doctrine of the changelessness of species and the conception of the sciences as a series of separate disciplines, each with its own methods and standards of precision. Having fought against a medieval system of thought entrenched in the official universities of France, Descartes succeeded only by using a logic that was clearer and intellectually more compelling than theirs,[20] developing his Cartesian system by arguing that general principles provided a basis for deductive enquiry. Descartes held the view that knowledge must be constructed from the bottom up, likened to a tree with its essential unity of knowledge, and

[18] John D, Lines, *Australia on Paper*, Fortune Publications, Box Hill, Victoria, 1992. In 1788 Governor Phillip's jurisdiction was confined to the Territory of New South Wales. Geographers adopted the practice of dividing the continent into New Holland west of, and New South Wales east of, the 135th meridian of east longitude, (see appendix iii) which approximately divides the Australian continent in two between its western and eastern extremities, p.11. In 1825, the western boundary of new South Wales was moved from 135° east longitude westerly to 129° (see appendix iii) east longitude. Prior to 1829, the British Government had not formally annexed that portion of continental Australia west of 129° east longitude until Captain Fremantle, acting on instructions from England, took possession of the Swan River, and formally laid claim to all that part of New Holland which was not included within the territory of New South Wales, p.14.

[19] Alan Bullock, Oliver Stallybrass and Stephen Trombley (eds.), *The Fontana Dictionary of Modern Thought*, (second ed.), Fontana Press-An Imprint of HarperCollins *Publishers*, London, 1988, p.184.

[20] J.D.Bernal, *Science in History*, Watts & Co, London, 1954, p.304.

that nothing can be taken as established until having gone back to the first principle, the laws of nature, by a mechanical approach drawing a logical conclusion.[21]

England also produced many intellectual thinkers. For instance, Francis Bacon (1561–1626), the scientific methodologist, thought a new attitude was needed in employing methodology based strictly on scientific practices, criticizing the church's view of looking forward to the heavenly kingdom of God. Bacon's philosophy emphasised the belief that people are the servants and interpreters of nature that truth is not derived from authority, and that knowledge is the fruit of experience. By using the 'proper' methods of inquiry, and inductive reasoning, humankind could move to greater benefits through the conquest of nature. Bacon's concept of human dominance over nature's elements initiated the development of modern science and technology, by emphasising the essentially practical side in bringing a more common-sense appreciation for every person about the world around them.[22]

In the same year that Galileo died, Isaac Newton (1642–1727) was born. A physicist and mathematician, Newton was the chief figure of the British scientific revolution of the seventeenth century, and his achievement was to provide the physical explanation of the Copernican universe. He made methodological contributions by his acceptance that science should be established on the basis of facts derived from close observation and experimental verification, as only in this way could the mechanism of the natural world be made intelligible and submit to rational laws. Newton's work was both genuinely pioneering[23] and embedded in a broader context of English thought at the time, the doctrine of empiricism that reality is observable and verifiable by sense perception. [24] Empiricism in the sciences suggested a clearly defined and accepted approach to any particular problem by detailed observations of natural phenomena, accurate measurement; study of behavioural changes, description and categorization of phenomena exclusive (in so far as it was possible) of value judgments and in a mode which was recognisable to and accepted by other scientists. The formation from the accumulated data of general principles was to be checked by experiments or re-examination, and through this process, Newton believed would come understanding and eventually the mastery of nature.[25] In contrast, Descartes' deductive method inferred particular instances from a general law, whereas Newton commended the

[21] Robert. Audi, (general editor), *Cambridge Dictionary of Philosophy*, Cambridge University Press, Melbourne, 1995, p.194.
[22] Bernal, *Science in History*, p.305.
[23] Lisa Jardine, *Ingenious Pursuits, Building the Scientific Revolution*, Little, Brown and Company (UK), London, 1999, pp.34–36.
[24] J.M. Roberts, *The Penguin History of the World*, Penguin Books, London, 1995, p.659.
[25] David Mackay, *In the Wake of Cook – Exploration, Science and Empire, 1780–1801*, St. Martin's Press Inc., New York, 1985, pp.5–6.

establishment of induction on the basis of observation and experiment for advancing scientific knowledge, rejecting speculative hypotheses.

Newton studied the mechanics of planetary motion, developed calculus, and discovered the law of universal gravitation, explaining that the force called gravity affects all bodies in space and on earth. The key to Newton's theory of gravity was the idea that one body could attract another across empty space, and his conclusions were set out in a discussion about the movements of planets in his book the *Principia*, or anglicized *The Mathematical Principles of Natural Philosophy*, in which he demonstrated how gravity sustained the physical universe.[26]

> Every particle of matter attracts every other particle with a force varying directly as the product of their masses and inversely as the square of the distance between them. [27]

Newton was destined to provide the final and most lasting world system of the seventeenth century using the Galilean [28] rather than the Cartesian method.[29] Thus it is obvious that in the seventeenth century intellectual thinkers in both France and Britain were deducing that by employing methodology based on strictly scientific practices, knowledge would be acquired for the good of all mankind.

While there were significant intellectual developments in both France and England in the seventeenth, eighteenth and nineteenth centuries and although the driving forces for change were the same and the developments in the two countries intimately linked, the scientific results were very different.[30] For instance during the seventeenth and early eighteenth centuries science was 'pure science', that is science not determined by the needs of society. Scientific development therefore, could be understood and analysed without reference to the

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[26] Roberts, *The Penguin History of the World*, p.659.
[27] Robert Audi (general editor), *The Cambridge Dictionary of Philosophy*, p.530.
[28] *Ibid*, p.291. Galileo defended Copernicus arguing against Aristotle's cosmology. He believed that mathematics is applicable to the real world, and that explanation of natural events appeals to efficient causes alone, not to hypothesized natural ends. His work was studied and developed by Huygens and Newton.
[29] Stephen F. Mason, "Descartes: The Mathematical Method and the Mechanical Philosophy" *A History of the Sciences*, in Stephen F Mason (ed.), Collier Books, New York, 1962, p.174. The Cartesian world is deterministic, God being the primary case of the existence of the material universe and of the laws of nature, but all material events, i.e. the actual movements and interactions of bodies occur as results of secondary causes. God stands merely for the uniformity and consistency of the laws of nature. In contrast the Galilean method amassed evidence that proved the Earth revolves around the Sun (the Copernican theory) and is not the center of the Universe as had been believed.
[30] Matthias Tomczak, "Revival of European science, the new cosmology" in http://www.es.flinders.edu.au/~mattro,/science+society/lectures/lecture19.html,Lecture 19, p.2. Accessed 4/4/2005.

great social upheaval of the time. [31] However, it can be argued that 'pure' science could be tempered by the attention paid to the 'dark side' of science: occult philosophy, magic and witchcraft.[32]

Indeed the great scientist Newton was not driven by the technological problems set by the economic system. Newton had a deep devotion to religion, especially the more mystical variety of it, but as his beliefs would have been misunderstood in English society he kept them well away from public view. In his approach to technology he was fascinated with the medieval practice of alchemy.[33] Strangely, and particularly in his later years, he gave even more time to this pursuit than to science and mathematics.[34] With the success of science came a distrust of metaphysics, and thus science in this period of time was indeed a controversial subject. The divergence between the courses taken by the French and the English was in part responsible for the differences in the patronage of science and culture.[35]

The general tenets of eighteenth century Enlightenment brought to a focus the encouragement of science based on reason and the practical practice of theory. Growing knowledge of the world outside Europe, challenge to old religious orders, and developments in both natural and moral philosophy were among the characteristics of this change. Freedom of thought, belief in intellectual progress, and confidence in nature claimed the allegiance of a majority of thinkers in order to understand the natural world and humankind's place in it.[36] A certain universalism emerged and helped to spread the idea of man learning from nature.

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[31] Matthias Tomczak, "Enlightenment, or the Age of Reason", in http://www.es.flinders.edu.au/~mattro,/science+society/lectures/lecture20.html, Lecture 20, p.5. Accessed 4/4/2005.'This description of the 17th century is correct if one defines the impact of the social and economic system through the demand for technological solutions to practical problems. But for the millennia before the 17th century science and technology had been separate activities, and their close alliance to which we are used today were only just developing during the Enlightenment.'

[32] Peter Elmer (ed.) *The Renaissance in Europe*, Yale University Press, London, 2000. Chapter 6, p.249: 'Critically, it is now commonplace to acknowledge the role which disciplines such as alchemy, astrology and natural magic played in the scientific work of Johann Kepler, Francis Bacon, Robert Boyle and Isaac Newton. Rigid boundaries demarking 'science' from 'magic' or 'superstition' have generally disappeared from the vocabulary of historians of early modern science. Instead we are urged to envisage the roots of the scientific revolution of the seventeenth century in the complex interplay of diverse scientific traditions and methodologies, which proliferated in the Renaissance'.

[33] Lisa Jardine, *Ingenious Pursuits, Building the Scientific Revolution*, pp.326–329. 'The process Newton was eager to get his hands on was a chemical one to produce a mercury compound that, when mixed with a small amount of gold, speedily absorbed it, and became hot to the hand. This 'philosophical' or 'incandescent' mercury was regarded as indispensable for the preparation of the philosophers' stone (the goal and end-point of all alchemical pursuit), as a solvent able to dissolve gold 'radically'.

[34] Miles Hodges, "Isaac Newton (1642–1727), an overview, in http://www.newgenevacenter.org/biography/newton2.htm, pp. 4–6. Accessed 12/4/2005.

[35] Charles Coulston Gillespie, *Science and polity in France at the end of the Old Regime*, Princeton University Press, New Jersey, 1980, p.78.

[36] Maurice Crosland, *Studies in the Culture of Science in France and Britain since the Enlightenment*, Valiorum, Ashgate Publishing, Great Britain, 1995, p.39.

Societies for the development of science were established by both nations. The French Royal *Académies* were created in the second half of the seventeenth century when Cardinal Richelieu founded the *Académie Royale des Sciences* in 1635, originally for the principal purpose of standardising the language. Subsequently Jean-Baptiste, comptroller general of finance of Louis XIV (1643–1715), was encouraged to organise an *Académie* of Sciences in 1666 under the King's patronage, to develop the necessary financial and administrative structures to promote state-directed scientific research.[37] Government regulation of industry and science gave a distinctive stamp to the activity within the *Académie des Sciences* to promote original work in the mathematical sciences such as geometry, astronomy, chemistry, botany, architecture, natural science, medicine and anatomy. Through the *Académie*, the Royal Observatory of Paris was constructed in 1667–8 where its pre-eminence work was in astronomy.[38] Scholars of the Royal Observatory of Paris worked to improve astronomical instruments in furtherance of the belief that discoveries they might yield would enable humans to explain and quantify all that existed in nature.

Various other French academic institutions were founded in the same period. Louis XIV as a patron of the *Académie* of Fine Arts, sought to influence France's history in literature, art, music, and dance. To accomplish this he used a system of royal patronage financially to bind the era's cultural and intellectual figures to his court. Together with his minister Colbert**,** the King also established a network of national institutions to support and expand the scientific revolution, being responsible for establishing a series of academies to study and disseminate information of all kinds.[39] The Royal Gardens (*Jardin du Roi*, or *Jardin des Plantes*) were created as state enterprises in 1635, and under Antoine Jussieu (1685–1718) the scientific dynasty was active for the rest of the century during which time the *Jardin* grew. Within six years rooms had been established for teaching chemistry, astronomy and botany; hothouses, an amphitheatre and laboratories were also constructed.[40] In 1793 under the naturalist historian Georges-Louis Leclerc the Comte de Buffon (1707–1788), zoology was formally made a subject of the study of natural history. Gillespie notes that these professional bodies have been the most significant medium in which transactions between power and knowledge occur**.**[41]

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[37] http://www.asmp.fr/english/part1/texte2.html. Academy of Moral and Political Sciences. "History – two centuries in the Nation's service – The Royal Academies". Accessed 3/6/2002.
[38] Gillespie, *Science and Polity in France at the end of the Old Régime*, p.99.
[39] The Editors, Time-Life Books, *What Life was like during the Age of Reason, Reason – France 1660–1800*, Virginia, USA, 1999, p.20.
[40] W.H.G. Armytage, "The Technological Imperative", *The Eighteenth Century, Europe in the Age of* Enlightenment, (editor Alfred Cobban), Thames and Hudson, London, 1969, p.114.
[41] Gillespie, *Science and Polity in France at the end of the Old Régime*, p.550.

Crosland notes that the *Jardin* was remarkable as the only scientific institution to continue to function throughout the Revolutionary period,[42] continuing to explore the botanical resources of America, patiently describing, identifying, classifying, and sometimes naming thousands of varieties of flowers, trees, plants, fruits, and vegetables.[43] Although France supported mainly by the government, represented the idea of a national science more clearly than that of other countries, it also spread internationally. Crosland writes that: 'A parallel could be drawn between the control of industry in eighteenth century France and the potential control of science' as both were partly helped by government finance, the attraction of foreign experts, the awards from foreign experts, the award of prizes and a certain amount of government direction'.[44]

The revolutionary ideals of liberty, equality and fraternity were generally sympathetic to science. However, after Louis XVI (1754-1793) was overthrown and guillotined in January 1793, and after the establishment of the French Republican government, a wholesale re-ordering of the nation's institutions took place. Royal Academies were suppressed by a decree of the Convention (August 8 1793), on the principle that there were to be no privileged corporations in the new Republic. Yet in the following year, a decree established the *National Institut de France* with a charge to extend the limits of the arts and sciences by discoveries and inquiries,[45] and to have a single multidisciplinary body dedicated to the progress of science and reason. By corresponding with learned societies in foreign countries and promoting scientific labours, this was thought to be conducive to the general utility and the honour of the Republic.[46] The *Institut de France* at the end of the eighteenth century had many scientists; for instance Antoine-Larent Lavoisier (1643–1794) the founder of modern chemistry, Pierre-Simon de Laplace (1749–1827) mathematician, astronomer and physicist, and Adrien-Marie Legrandre (1752–1833) mathematician.

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[42] Maurice Crosland, (ed.), *Science in France in the Revolutionary Era*, The Society for the History of Technology, The M.I.T. Press, Cambridge, 1969, p.64.
[43] Henry Blumenthal, *American and French Culture 1800–1900 – Interchange in Art, Science Literature and Society*, Louisiana State University Press, Baton Rouge, 1975, p.376. Blumenthal cites J. Ewan, *'Lactivitédes première explorateurs français dans le S.E. des Etas-Unis'* in *Les Botanistes français en Amérique du Nord avant 1850* (Paris, 1857), (17–32).
[44] Maurice Crosland, *Science under Control, The French Academie of Sciences 1795–1914*, Cambridge University Press, 1992, pp.17–18. Crosland writes that in France science had more control, helped by government direction and finance, than Britain. In Britain, the regulations of the Royal Academy of Sciences were more restrictive than those of the Royal Society of London, but were not draconian. It was under these very moderate restrictions that science flourished in 18th century France, surpassing British scientific production after the death of Newton in 1727. State funding helped France in both science and industry, but science greatly benefited by its acceptance as a creative activity in its own right and a cultural ornament rather than simply an avenue leading to the market place.
[45] Crosland (ed.), *Science in France in the Revolutionary Era*, p.73.
[46] *Ibid*, p.77.

Furthermore Crosland states that Marquis de Condorcet (1793–94), philosopher and member of the *Académie des Sciences* who supported the goals of the French Revolution, was elected to the Legislative Assembly. For Condorcet, reason and humanity were the driving forces of progress, while progress was itself the hope of humanity.[47] He planned the French educational system submitting a report to the National Assembly in 1792 about the value of science and scientific study. Concorcet's proposals later found expression and influence in Bonaparte's ideas on the value of science:

> …the Natural Sciences…offer a remedy for prejudice, for smallness of mind… Those who follow their course see the coming of an epoch when the practical usefulness of their application will reach greater dimensions than were ever hoped for; when the progress of the physical sciences must produce a fortunate revolution in the arts. And lastly, we have yielded to the general tendency of men's minds, which in Europe seem to incline towards these sciences with an ever-increasing ardour…Literature has its limits, the sciences of observation and calculation have none. Below a certain degree of talent, the taste for literary occupations produces either ridiculous pride or a mean jealousy towards such talents, as one cannot attain. In the sciences, on the contrary, it is not with the opinion of men but with nature that we have to engage in a contest, the triumph of which is nearly always certain, where every victory predicts a new one.[48]

To enhance the ties between the societies, Voltaire, (the pen name of François-Marie Arouet) (1694–1778) and Charles-Louis de Secondat Montesquieu, (1689–1755) described as gentlemen, well known as authors and well skilled in philosophical learning, were elected to the Royal Society in 1744. As Science had little military significance, Banks argued that both nations and Britain in particular could gain from the prestige that scientific discoveries conferred. During the American Revolution of 1775–1783 and as President of the Royal Society (1778 – 1820), Banks tried to keep the channels of scientific communication open between Britain and France, seeing little patriotic difficulty or contradiction in fostering ties with the Académie des Sciences and French science in general, even when the two nations were at war.[49]

The philosophes of the French Enlightenment thought that knowledge was the path to happiness and as an expression of this view in 1751 Denis Diderot (1713–1784) published the first of his 35–volume compendium known as the *Encyclopédie*, imparting all knowledge

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[47] The Editors, Time –Life Books, *What Life was like during the Age of Reason*, p.80.
[48] Crosland, *The Society of Arcueil*, Heinemann Educational Books Ltd., London, 1967, pp.6–7, cites C. Hippeau, "*L'Instruction Publique en France pendant la Revolution*", *European Thought in the Nineteenth Century*, (trans. J.T.Merz), 2nd ed., 1st Series, 1804, pp.203–4, and p.258.
[49] Armytage, "The Technological Imperative", p.113.

known to the general populace.[50] Britain followed in 1768 when the *Enclyclopaedia Britannica* was established, and in 1801 the two-volume supplement to the third edition dedicated to George III stated:

> The French *Encyclopédie* has been accused of having disseminated far and wide, the seeds of Anarchy and Atheism. If the *Enclyclopaedia Britannica* shall, in any degree, counteract the tendency of this perfidious [sic] work, even these two volumes will not be wholly unworthy of Your Majesty's Patronage.[51]

The Royal Society refused to elect Diderot deeming him as an enemy of the Church and the State [52] because he had declared that religion was only superstition. The flourishing state of French science made Banks particularly determined to cultivate an association between the Royal Society and the *Académie des Sciences*, and in 1787 the *Académie* bestowed on Banks the status of foreign member.[53]

In spite of the turmoil of the Revolution, science still held a privileged place in France. During his 1798–1799 visit to France, the Danish Astronomer Royal Bugge reported that he

> …was obviously impressed by the large financial support given to scientific institutions by the French State. It formed an obvious contrast to the situation of other countries, even powerful and wealthy states such as Great Britain. The leading British scientific society, the Royal Society of London, was linked with the head of state in name only. The only new and important scientific institution in Britain in the years following the French Revolution was the Royal Institution, but again its name was misleading, being supported entirely by private subscription. But if it is permissible to make the generalisation that in Britain science depended for its advancement on the interest and patronage of private individuals, it cannot be said that in France it depended entirely on the state. There were a number of societies in private hands.[54]

Claude Berthollet (1748–1822) and Laplace established the Society of *Arcueil* in 1802 that became one of the most important private scientific societies of the Napoléonic period.[55] It became as important in its own way as the *Académie des Sciences* in France or the Royal Society in Britain, by fostering the profession of science [56] for the first time in modern history. Arcueil became a centre for scientific intelligence and discourse through international correspondence with the many French and foreign visitors who went there.[57] Important experimental work was carried out in laboratory facilities, including training

[50] The Editors, Time-Life Books, *What Life was like during the Age of Reason*, p.75.
[51] Armytage, "The Technological Imperative", p.109.
[52] Crosland, *Studies in the Culture of Science in France and Britain since the Enlightenment,* p.171.
[53] Gascoigne, *Science in the Service of Empire*, p.23.
[54] Crosland,(ed.), *Science in France in the Revolutionary Era,,* p.153.
[55] Crosland, *The Society of Arcueil*, p.1.
[56] *Ibid*, p.ix.
[57] *Ibid*, p.3.

young men in methods of research, and forums that provided for full and frank discussion of work among friends. Crosland observes that *Arcueil* is noteworthy not only as the Society but as a group of men of central importance in French science for the whole of the first half of the nineteenth century.[58] One such scientist was German Friedrich Wilhelm Humboldt (1769–1859) a naturalist and explorer. Interested in botany, he traveled to England and was introduced to Banks. Later when visiting France, Humboldt was impressed by the new revolutionary ardour, and was invited to become a member of an expedition to the Pacific region under the patronage of the French government. His scientific aims were:

> to study the formation of the earth and its strata, to analyse the atmosphere, to measure with sensitive instruments its pressure, temperature, humidity, the electric and magnetic charge, to observe the influence of the climate on the distribution of plants and animals, to relate chemistry to the physiology of organized [sic] beings, these are the aims I have proposed to myself. [59]

The large number of scientific posts in official institutions in the early nineteenth century, and the eminence of the men who filled them, gave France unparalleled distinction in most branches of the physical and biological sciences, courting the envy of men of scientific bent in other countries where there were neither educational facilities nor any significant number of posts available to employ scientific talents,[60] France regarded its civilising mission throughout the nineteenth century as a responsibility entrusted to a leading world power especially one in the ranking of intellectual and philosophical pursuits.

Napoléon Bonaparte (1769–1821) was elected to the *National Institut de France* in 1797 as an ordinary member of the Class of Mathematical and Physical Sciences. He took his seat among the leading French savants and reformed the *Institut de France* by a decree of 23rd January 1803. He gave back independence to the four Classes within the *Institut de France*: Physical Sciences and Mathematics; French language and Literature; Ancient History and Literature; and Fine Arts. In this way he recreated the former *Académie Royale des Sciences* that was suppressed by the Revolution.[61] France inherited a tradition of state control, and education became a government responsibility. Crowned as emperor in 1804, Napoléon looked with favour on the pursuit of science and was in the position of a powerful patron.[62] It was his hope that France would be the home of all future science by attracting foreign

[58] Crosland, *The Society of Arcueil*, p.428.
[59] *Ibid*, p.108
[60] Crosland, *Studies in the Culture of Science in France and Britain since the Enlightenment,* p.38.
[61] www.asmp.fr/english/part1/texte2.html. Academy of Moral and Political Sciences. "History – two centuries in the Nation's service – The Royal Academies.
[62] Crosland, *The Society of Arcueil*, pp.4–5.

savants to the *National Institut de France* in Paris, and thus become the international capital of world science.[63]

Robert Gibson cites a letter that Napoléon wrote to Citizen Oriani, France's foremost astronomer, on 26 May 1796 to demonstrate that his interests and talents extended far beyond things military:

> Science, which dignifies the minds of men, and Art, which beautifies life, and transmits its great achievements to posterity, ought to be specially honoured by every free government. Every man of genius, every officeholder in the Republic of Letters, in whatever country he may have been born, is a citizen of France…The French people sets a higher value upon the acquisition of a learned mathematician, a famous painter, or the distinguished exponent of any branch of study, than upon that of the richest and most populous city in the world.[64]

In contrast, Edmund Burke (1729–1797) a Conservative Member of the British Parliament and a representative of the Whig Party during the 1790s, adopted an increasingly hostile attitude, beyond that of most of his party, towards the French Revolution. Crosland writes that Burke saw science and philosophy in the period of intense political, social and cultural change, as threats to the three pillars of social order in Britain: the monarchy, the aristocracy and the Church of England. Further, blaming the revolution on writers, intellectuals, philosophers and men of science, whom he described collectively as 'the enemy',[65] Burke was an articulate chronicler of the fears of the English upper classes in an era when appeals to order and tradition were being replaced by appeals to nature and reason.[66] In eighteenth century England, Newtonian science had traditionally been seen as broadly supportive of the established religion and government, but in the ideas emerging after the French Revolution, Burke began to see dangers in science. [67] Aside from his objections on semi-political grounds he was fundamentally opposed for three main reasons: he had faith in the collective wisdom of established society; he believed that the universe was a divine mystery; and as the process of nature was 'not of our making' he was sceptical of the authority of men to make pronouncements about the natural world.[68] Burke opposed anything linked with the French and the 'taint of atheism' in the French revolutionary character. Crosland writes that Burke approved of 'the simplicity of our (British) national character…and a sort of native plainness

[63] Crosland, *The Society of Arcueil*, pp.38–39.
[64] R. Gibson, *Best of Enemies,* Sinclair-Stevenson, an imprint of Reed Consumer Books Ltd., London, 1995, p.141.
[65] Crosland, *Studies in the Culture of Science in France and Britain since the Enlightenment*, pp.278–279.
[66] *Ibid*, p.278.
[67] *Ibid*, p.305.
[68] *Ibid*, p.306.

and directness of understanding' supposedly based on the natural feelings and good sense of the British as opposed to the foppish sophistication and taint of atheism of the French.[69]

As mathematics most reflected the spirit of rationalism, the French sought a system of measurement that would be in conformity with nature.[70] The French government delegated a Commission to the Royal Academy of Sciences and in 1789 took the initiative of appointing the commission to consider the problem of uniformity in weights and measures,[71] looking to nature to provide a model.[72] Using the main features of nature and its supposed constancy, security and universality as the focus for all discussion about the reform of measurement**,**[73] France remained at the centre of the proposed metric system, which was soon to become the international language of scientific measurement.[74] Charles-Maurice de Talleyrand's (1754–1838) proposals were contained in a pamphlet distributed to the National Assembly suggesting collaboration between the Académie and the Royal Society to be supported by the prestige of the two great powers of France and Great Britain in establishing a natural unit. In 1790 Sir John Riggs Miller spoke in the British House of Commons about:

> …considering the possibility of a 'general standard from which all weight and measures might in future be raised, being itself derived from something in Nature that was invariable and immutable.[75]

Unfortunately the political climate between the two countries deteriorated when the French Revolution intervened and made Britain's political co-operation unlikely. Britain preferred to adhere to the imperial measurement system, whereas the French decided to proceed unilaterally. [76]

Establishing the new metric system in France served as a break with the past and demonstrated national unity,[77] as well as holding the prospect of international recognition. The principles of natural standards whether of length, mass or time, had become a permanent feature of science**,**[78] with scientists giving support for practical rather than ideological

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[69] Crosland, *Studies in the Culture of Science in France and Britain since the Enlightenment*, p.291.
[70] *Ibid*, p.277.
[71] *Ibid*, p.279.
[72] Crosland, *Science under Control*, p.39.
[73] Maurice Crosland, *Studies in the Culture of Science in France and Britain Since the Enlightenment*, Chapter I, p.290.
[74] Cosland, *Science under Control*, p.39.
[75] Sir John Riggs Miller, *Speeches in the House of Commons upon the equalization of the weights and measures of Great Britain*, (London 1790). This pamphlet includes Miller's correspondence with Talleyrand. Cited in Crosland, *Studies in the Culture of Science in France and Britain since the* Enlightenment, p.282.
[76] Crosland, *Studies in the Culture of Science in France and Britain Since the Enlightenment*, pp.288–289.
[77] *Ibid*, p.278.
[78] *Ibid*, p.309.

reasons and permanent contributions to the progress of civilisation.[79] The fact that these measurements became a French tradition with little aid or competition from Britain is largely explained by the differing organisation of science in the two countries. France's scientific institutions were encouraged mainly with government finance, in contrast to Britain having to rely partly on the subscriptions of the Royal Society's private membership.[80] What had been conceived as a potentially international system of measurement had been constructed entirely by Frenchmen,[81] and together with the concept of a decimal scale, was accepted by the Convention in August 1891.[82] Britain did not embrace the metric system.

The British Royal Society located in London, developed from regular meetings held in 1645 by a group of scientists at Gresham College. Formally founded in 1660 during the reign of King Charles II,[83] it was incorporated by royal charter in 1662[84] as an independent body to promote the natural sciences including mathematics. Viscount William Brouncker, Chancellor to Queen Catherine, became the first President.[85]

Gascoigne writes that the Society's spiritual father Francis Bacon (1561–1626),[86] summed up the profoundly important political dimension of the infant scientific involvement with his maxim that 'human knowledge and human power meet in one',[87] although he had little success in enlisting the financial support of the political establishment of his own day.[88] The Royal Society's gentlemen members, not having a strong interest in science for its own sake, regarded the Society as a means of collecting and diverting amusing specimens rather than adhering to Bacon's conception of an ever-expanding frontier of scientific knowledge.[89] The Society did not seek to recruit many of those with the commitment of Bacon with the exception of Newton, recognised by his peers as a professional and holding a chair at

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[79] Crosland, *Studies in the Culture of Science in France and Britain Since the Enlightenment*, pp.299–300.
[80] *Ibid*, p.281. Also see Thomas Sprat, *History of the Royal Society*, reproduction of the original copy (1667) edited with critical apparatus by Jackson I. Cope and Harold Whitmore Jones, Washington University Studies, Saint Louis, Missouri, 1958, p.77: 'Of the Stock, upon which their *Expence* [sic] has been hitherto defraid, [sic] I can fay [sic] nothing, that is very *magnificent:* feeing [sic] they have rely'd [sic] upon no more than fome [sic] fall [sic] *Admiffion* [sic] *–money*, and *weekly Contributions* amongft [sic] themfelves [sic].
[81] *Ibid*, p.375.
[82] Crosland, *Science under Control*, p.370.
[83] Sprat, *History of the Royal Society*, p.xii.
[84] *Ibid*, p,xiii.
[85] *Ibid*, p.136.
[86] *Ibid*, p.35. Sect. XVI, 20-25. Sprat writes that: 'And of thefe, [sic] I fhall [sic] onely [sic] mention one great Man, who had the true Imagination of the whole extent of this Enterprize, [sic] as it is now fet [sic] on foot; and that is the *Lord Bacon*.
[87] Gascoigne, *Science in the Service of Empire*, p.16.
[88] *Ibid*, pp.16–17.
[89] *Ibid*, p.19.

Cambridge University, who was elected in 1703 as president of the Royal Society. Science was viewed as collaborative, directing its activities towards the common good by the promotion of international scientific relations, facilitating the exchange of scientists to encourage scientific research, and provision of independent advice on scientific matters to the British government.[90] Although both the *Académie* and the Royal Society published research results, the French results were published using government finance. In contrast, British results were published by private finance and patronage, demonstrating the difference between the financial structure of the French and British scientific institutions' published British results. [91]

Gascoigne noted that informal links between the Royal Society and government were nevertheless strong. Politicians, courtiers, diplomats, sinecurists and government officials made up 23 per cent of the Society's membership between 1660 and 1685. Sir Jonas Moore, Surveyor-General of the Ordinance persuaded King Charles II (1660–1685) to establish two scientific institutions relevant to the needs of the Navy, the Royal Mathematical School (1673), and the Royal Observatory (1675). Primarily established to produce scientifically trained recruits for the Navy, the institutions were also commissioned to supply astronomical charts for navigation.[92] During this time, as France's navy was substantial and government supported, the scientific support of the School and Observatory was deemed important in expanding the navy's role.

Lunar studies led to the establishment of Greenwich Observatory in 1675, where Newton collected observations on the movement of the heavens and the places of fixed stars. However in calculating the position of the moon, the best methods of observations could not ensure a margin of error of less than two or three degrees which for a ship at sea might mean anything up to 200 miles. Queen Anne in 1710 placed the Royal Observatory in the sole charge of the Royal Society and empowered the Society to publish the results of its research, but only at private expense.[93]

Knowledge was exchanged between nations and academic societies. For instance John Martin and Ephraim Chambers translated and abridged papers from the Académie de Sciences, and published them in 1742 and 1784. The Council of the Royal Society of

[90] Sprat, *History of the Royal Society*, pp.xii–xiii.
[91] Gascoigne, *Science in the Service of Empire*, p.33.
[92] *Ibid*, p.19.
[93] W.H.G. Armytage, "The Technological Imperative – Scientific Discoveries in the Service of Man", *The Eighteenth Century*, pp.95–111.

London also petitioned for the establishment of a geodetic survey to enable the observatories of Greenwich and Paris to work together.[94]

Gascoigne opines that in the eighteenth and nineteenth centuries, the conflict between Britain and France 'prompted each country to jettison engrained traditions in the quest for greater efficiency in the struggle with its rival.'[95] Further that in France, government was taking an increasing interest in science and beginning to draw into its bureaucratic processes professional men who were prominent in science. In contrast, Britain had a relatively smaller and less professionalised bureaucracy [96] until British explorer and naturalist Sir Joseph Banks (1743–1820) became President of the Royal Society in 1778. Despite having only a tenuous formal connection with the apparatus of government, he worked to construct a wider scientific edifice that encompassed the inner workings of the British State.[97]

Objectives in the study of science in France and Britain during the eighteenth and nineteenth centuries indicate that both nations contributed to the earth being investigated in new ways, producing outstanding scientists and scientific discoveries.[98] For instance, France became pre-occupied with the question of measurement of the earth.[99] Alexis-Claude Clairaut, as part of a French expedition to Lapland in 1736 was commissioned to measure the curvature of the earth at the Arctic Circle, thus confirming Newton's theory of gravitation claiming that the earth was shaped like a sphere. Notwithstanding Clairaut's success, between 1785 and 1788 the mathematician astronomer Laplace demonstrated that the solar system was indeed stable despite fluctuations in planetary motion observed over the centuries. Through mathematical equations, Laplace showed that the motions of Jupiter, Saturn, and particularly the Moon were caused by the gravitational pull of the Sun and other planets, laid to rest a question that had plagued Newton. Laplace published his five-volume treatise *Celestial Mechanic* in 1799, declaring: 'astronomy, by dignity of its object matter and the perfection of its theories, is the fairest monument of the human spirit, the noblest of human intelligence.' [100]

Crosland writes that the mathematical sciences were not the only areas in which French scientific thought and activity advanced. Aside from the area of astronomy, of note were developments in chemistry, physics, geology and mineralogy. Chemist Antoine Laurent Lavoisier (1743–1794), considered the founder of modern chemistry, performed the first

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[94] *Ibid*, p.113.
[95] Gascoigne, *Science in the Service of Empire*, p.1.
[96] *Ibid*, p.33.
[97] *Ibid.*
[98] Crosland, *Studies in the Culture of Science in France and Britain since the Enlightenment,* p.102.
[99] *Ibid*, p.280.
[100] The Editors, Time-Life Books, *What Life was like during the Age of Reason*, p.108.

quantitative experiments showing that although matter changes its state in a chemical reaction, the quantity of matter is the same at the end as at the beginning of every chemical reaction, thereby providing evidence for the law of the conservation of matter. Lavoisier also investigated the composition of water, naming the components as oxygen and hydrogen. Together with Berthollet, Lavoisier devised a chemical nomenclature, or a system of names, which serves as the basis of the modern system: *Treatise on Chemical Elements*, 1789.[101] In mathematics, Joseph-Louis de Lagrange (1736-1813) and Laplace were outstanding. In contrast, contemporary English mathematician Charles Babbage (1792–1871) and others have testified to the lack of knowledge, of or interest in, continental mathematics in Cambridge.[102]

Another major French contribution to science was the establishment of the discipline of physics and earth sciences. The Abbé Nollet (1700–1770) helped to establish '*la physique'* as one of the major branches of science where experimental philosophers were pushing back the frontiers of knowledge. The new science of electricity was probably crucial in enlarging the subject matter, and in helping the French academy to decide to grant full recognition to this science.[103] French scientific institutions can also take credit for the recognition of several other branches of science, including geology, mineralogy and zoology. The study of minerals was a well-established subject in the eighteenth century as it was related to a study of the structure and composition of the earth. Together with natural science, incorporating the study of man, the development of systems of nomenclature and classification in botany, zoology also featured prominently.

Other scientists of the period were attempting to unravel the mysteries of living organisms, and by the eighteenth century the science of natural history was experiencing a rebirth. Dominating this science were Swedish botanist and physician Carolus Linnaeus (1707–1778) and French natural historian Georges-Louis Leclerc the Comte de Buffon (1707–1788), bitter rivals in the same period of time. One hundred years before naturalist Charles Darwin (1809–1882) published *The Origins of the Species* in 1859, Buffon had written forty-four volumes of *Natural History* questioning two thousand years of church dogma about creation by proving that the environment acted directly on organisms through what he called 'organic particles'. Although eclipsed by his rival Linnaeus, Buffon could be seen as one of

[101] Crosland, *Historical Studies in the language of chemistry*, 2nd edition, 1978, cited in Crosland, *Science under Control*, p.33–34. In mathematics, Lagrange (1736–1813), French mathematician and astrologer and Laplace (1749–1827), were outstanding, and there could hardly be a greater contrast between the state of mathematics around the year 1800 and that in Britain.
[102] Harvey W. Becher, "William Whewell and Cambridge mathematics", *Historical Studies in the Physical Sciences*, 11 (1980) 1–48 (pp.6–9) cited in Crosland, *Science under Control*, p.34.
[103] Crosland, *Science under Control*, p.34.

the founders of anthropology with his study of man as a species rather than as an individual.[104]

The Linnaean Society notes that Linnaeus developed the binomial nomenclature to classify and organise plants and animals, and in 1751 he published his most influential work, *Philisophia botanica* in which he claimed that a natural system of classification could be derived using his system to classify all plants. Categorising living things in families and by selecting one name for the genus and one name for the species, the naming of specific plants could be achieved. Linnaeus also proved the sexual reproduction of plants, and provided names for most of the flowering parts. In animal taxonomy, his observations of the internal anatomy of animals enabled him to create a classification system that became the best-accepted classification system, particularly in the English-speaking world. Linnaeus helped found the Swedish Academy of Sciences and was named the foreign correspondent of the French Academy of Sciences in 1762.[105]

There was disagreement between Linnaeus and Buffon**.** Based on empirical causes to explain natural phenomena, Buffon's system recognized only species that could produce fertile offspring. His major work, *Histoire Naturelle* (Natural History), a thirty-six volume study published between 1749 and 1789 provided the first naturalistic account of the history of the earth, including a complete description of its mineralogical, botanical and zoological productions. Admitted to the *Académie Royal des Sciences* in 1734, Buffon continued his scientific pursuits until appointed in 1740 as *intendant* (keeper) at the *Jardin du Roi* (King's Garden) that had one of the largest collections of medicinal and ornamental plants in eighteenth century Europe. Notwithstanding Buffon's standing and achievements, Linnaeus' system of organizing plants and animals eventually prevailed.[106]

Gascoigne observes that many of the plant collections obtained during later British voyages of exploration were sent to Kew Gardens in London where Banks as the Director, arranged the central collecting and distributing point of a vast botanical emporium. An early English example of collected botanical specimens came from the travels of William Dampier (1651–1715) in H.M.S. *Roebuck*. A.S.George also observes that in August and September 1699, Dampier landed at three sites on the northwest coast of the Australian continent including Shark Bay, (Edel Land) and was the first to record a naturalist's impression of the country's

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[104] Jonathon Marks, "George-Louis Leclerc, Count of Buffon, French Naturalist", in http://personal.unnc.edu/jmarks/Buffon/Buffon1.htm Accessed 1/5/2005.
[105] http://en.wikipedia.org/wiki/Carolus_Linnaeus. Carolus Linnaeus biography, pp.1–3. Accessed 1/5/2005.
[106] The Editors, Time-Life Books, *What Life Was Like during the Age of Reason*, p.110.

flora, fauna and indigenous inhabitants. His journals contain numerous descriptions and observations of the plants and animals, reflecting a broad knowledge of natural history acquired from other countries he visited, and provided the first broad account of the Australian environment accompanied by notes on the landscape, soils, vegetation, tides and the sea floor, winds and weather.[107] On his return to England Dampier handed his plant collections and drawings to a member of the Royal Society Thomas Woodward, who in turn passed them for study to the leading botanists John Ray and Leonard Plunkenet.[108] Dampier's specimens remain the earliest authenticated collection from the west of the Australian continent and his journals provide the first broad account of the environment,[109] becoming a stimulus to scientists in Europe to undertake further scientific exploration in western Australia.[110] Nevertheless, Neville Green notes that Dampier's report on the coast was to prejudice English opinion for more than a century, as he reported having found nothing of commercial value either to encourage settlement or to attract the attention of a trading company.[111]

Banks' ideas of the economic importance of plant exchange buttressed the British philosophy of empire, as scientific knowledge coupled with enterprise and industry could be utilized to augment the biological resources of the British colonies for the aggrandisement of the mother country.[112] He believed that exploration and voyages of discovery were particularly enlightened activities as they instigated exploring for the possibility of obtaining greater wealth from new lands and products, offering further avenues for British commerce as well being a source of national prestige.[113] Until his death in 1820, Banks kept a firm hand on the Royal Society's tiller and continued to steer the Royal Gardens at Kew along channels which were likely to enhance Britain's scientific and commercial standing.[114] Indeed, Robert Stafford writes that Banks' central role as a power broker between science, exploration and imperialism was reinforced by scholarship based on his surviving papers.[115]

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[107] A.S. George, *William Dampier in New Holland*, pp.1-8.
[108] *Ibid*, pp.22
[109] *Ibid*, pp. 1–2.
[110] *Ibid*, Dutchman Franscisco Pelsaert had recorded the Tamar Wallaby, and in 1697 William de Vlamingh explored Rottnest Island and the Swan River, describing black swans, the Rottnest Island cypress, tea trees, and trees dripping gum and zamia fruit. pp. 2–3.
[111] Neville Green, "Aborigines and White Settlers in the Nineteenth Century", in *A New History of Western Australia*, C.T.Stannage, (ed), Chapter 3.
[112] John Gascoigne, *Joseph Banks and the English Enlightenment, Useful Knowledge and Polite Culture*, Cambridge Univsersity Press, Cambridge, pp.9–18.
[113] *Ibid*, p.32.
[114] John Gascoigne, *Joseph Banks and the English Enlightenment*, pp.7–15.
[115] Robert A Stafford, "Exploration and Empire", in *Oxford History of the British Empire*, Vol. V, (ed. Robin Winks), Oxford University Press, 1998, p.300.

The foundations laid in 1794–1795 and in the succeeding quarter of a century coincided with the greatest period in the history of science in France, representing a national investment in science unparalleled in any other country at the time.[116] On the one hand France's strong desire for individual and national independence in the professions and the arts was sustained by their conviction that the superior political institutions of their country were destined to shape the future course of civilisation.[117] G. Arnold Wood observes that France was being re-surveyed from the points of view of science and humanity. He qualifies his argument by quoting Charles de Brosses (1708–1777), a magistrate by profession and President of the Parliament of Dijon, as an avid student of geography and a gentleman of honour, wrote in 1756 about the possible discovery of Terra Australis, expressing his hope that it would be France to add to the New World, not for dividends but for glory.[118]

The evolution and progression of scientific knowledge in the eighteenth and nineteenth centuries in some respects characterises them as the centuries of exploration, not in the sense as the voyages of discovery two hundred years earlier, but more in relation to scientific investigations of the globe in which all Europe was taking part in one way or another. J.H. Parry has emphasised the connections between science, exploration and trade in the activities of rival European nations.[119] Measuring instruments were invented or perfected, including thermometers, barometers, anemometers, hygrometers, and improved compasses. It had been a hazardous business of navigation on voyages and between 1691 and 1721, England lost five naval squadrons partly due lack of determining longitude while at sea. Developments in scientific instruments were increasingly important in avoiding such losses and in assisting voyages of exploration.

Both France and England set about developing an accurate chronometer essential in measuring longitude at sea.[120] In 1675 Christiaan Huygens sponsored by the French Académie, developed a portable chronometer[121], but it proved unsuccessful during a trial at sea.[122] John Harrison in England, Pierre Le Roy and Ferdinand Berthoud in France [123] were

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[116] Crosland, *Studies in the Culture of Science in France and Britain since the Enlightenment*, p.102.
[117] Blumenthal, *American and French Culture 1800–1900*, p.468.
[118] G.A. Wood, *The Discovery of Australia*, (revised by J.C. Beaglehole), The Macmillan Company of Australia Pty Ltd, South Melbourne, 1969, pp.244–246.
[119] J.H.Parry, *The Age of Reconnaissance*, World Publishing Co, Cleveland, 1963, cited Robert A. Stafford, "Exploration and Empire", in *The Oxford History of the British Empire*, Robin Winks (ed.), Oxford University Press, Oxford, 1998, Vol.V, p. 296.
[120] Vanessa Collingridge, *Captain Cook, A Legacy under Fire*, The Lyons Press an Imprint of The Globe Pequot Press, Guilford, Connecticut, p.110.
[121] Jardine, *Ingenious Pursuits, Building the Scientific Revolution*, pp.145–5.
[122] *Ibid*, p.148.
[123] Mary Kimbough, *Louis-Antoine De Bougainville 1729–1811, A Study in French Naval History and Politics*, The Edwin Mellen Press Ltd, Lampeter, Dyfed, Wales, 1990, p.28.

encouraged by the British Government's 1715 offer of a substantial reward for a satisfactory chronometer, however no real progress was made for twenty-three years until Harrison in 1773, completed his successful fifth remodeled chronometer and received the full reward of £20,000. [124] Captain James Cook took the chronometer with him on his second voyage (1772–1775) reporting that it exceeded expectations and that it improved both the quantity and quality of his voyage.[125] The chronometer changed the face of navigation and placed Britain in a superior position in the competition with French navigators exploring for the Great Southern Continent and unknown lands.

The British Admiralty had commissioned John Byron in 1764, together with Samuel Wallis and Phillip Carteret in 1766, to discover unknown lands.[126] An expedition under the command of Captain Wallis discovered King George III Island (Tahiti) in June 1767. Louis-Antoine de Bougainville under orders from Louis XVI and his advisors reached Tahiti on 14th April 1768, and claimed possession for France by burying a piece of oak on which he had written the act of possession despite obvious signs that Captain Wallis had preceded the French to the island only months before in 1767.[127] Bougainville's report about Tahiti,[128] together with that of Captain Wallis, influenced the Royal Society to recommend the island as one of the scientific sites for observing the transit of Venus across the sun due in 1769, an event that would not occur again until 1874 and 1882.[129] Several governments made plans to send expeditions to various parts of the world with the object of observing the transit and measuring the distance between the earth and the sun. John Montagu, the fourth Earl of Sandwich (and the First Sea Lord), cleared the way for Captain James Cooks' *Endeavour* voyage of 1768–1771, thus helping to forge the tradition of combining scientific enquiry with naval exploration.[130] The Royal Society with assistance from the Admiralty then commissioned Cook to lead the scientific expedition to the Southern Ocean to observe and chart the transit of Venus over the Sun. Part of Cook's voyage was also to aid British navigation in establishing control of the ocean, to discover new colonies, and to find whether the suspected great southern continent, *Terra Australis Incognita* encompassed those

[124] Stephen Brumwell and W.A. Speck, *Cassell's Companion to Eighteenth-Century Britain*, (general editor, Derek Beales), Cassell & Co., London, 2001, p.227.
[125] Collingridge, *Captain Cook,* p.216.
[126] Glyndwr Williams, *The Great South Sea*, Yale University Press, London, 1997, p.272.
[127] Kimbough, *Louis-Antoine De Bougainville, 1729–1811, A study in French Naval History and Politics*, The Edwin Mellen Press, Ontario, 1990, p.95, and p.102.
[128] Mary Kimbrough, *Louis-Antoine De Bougainville, 1729–1811,* p.129.
[129] Anthony J. Brown, *Ill Starred Captains: Flinders and Baudin*, Crawford House Publishing, South Australia, 2000, p.5.
[130] John Gascoigne, *Science in the Service of Empire, Joseph Banks, the British State and the Uses of Science in the Age of Revolution*, Cambridge University Press, Cambridge, 1998, p.36.

stretches of the coasts of New Holland (Australia).[131] This southern area formed a trapezium roughly 1,500 miles east of Australia, with the Marquesas at the top right hand corner and the as-yet undiscovered New Zealand just outside the bottom left.[132] Unfortunately, Cook's observation at Tahiti proved a disaster as 'a dark smudge, a penumbra, surrounded the planet and blurred the outline at the precise moment when Venus began to cross the sun'.[133] Cook continued his voyage, discovered Botany Bay and having claimed the east coast of the Australian continent, returned to England in 1771. On his second expedition (1772–1775), and third expedition (1776–1779), in the *Resolution* Cook continued to search the Pacific for the elusive southern continent, but after discounting the existence of the long conjectured Terra Australis, returned to Hawaii, where the native inhabitants killed him in 1779. [134]

The Peace of Amiens in 1802 provided a brief respite from the conflict between the two nations, and an opportunity for Banks to consolidate his ties with the French scientific world. Scientific interchange between Britain and France resulted in the well-respected Banks being elected to the *Institut de France* in January 1802. Gascoigne notes that the Royal Society, of which Banks was the president, indicated acceptance of the present French regime even though it had resulted from a revolution that had overthrown a monarch and so many other traditional features that Britain had shared. Gascoigne maintains that for all Banks' animosity towards Napoléon as his country's mortal foe, he held a certain admiration for him as a ruler and a generous patron of science**.**[135]

Banks held the view that France might serve as a useful deterrent to would-be reformers about the dangers of unleashing popular discontent. Crosland opines that Napoléon Bonaparte's rise to power, together with the threatened invasion of Britain in 1804,[136] helped to accentuate British nationalistic feelings,[137] but that it neither weakened Banks' determination to maintain scientific links with the French Academy of Sciences, of which he became a member in 1802, nor diminished his belief that where possible, voyages prompted by scientific goals should be kept free from the trammels of national conflict**.**[138] For Banks, science was to be used primarily for the advancement of Britain's national interests, a difference that partly reflects the increasing intensity of national rivalries between Britain

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[131] Glyndwr Wlliams, "The Pacific: Exploration and Exploitation", in *The Oxford History of the British Empire*, P.J. Marshall (ed.), Oxford University Press, Oxford, 1998, Vol. II, p.553.
[132] Collingridge, *Captain Cook*, p.85.
[133] *Ibid*, p.136.
[134] Stephen Brumwell and W.A. Speck, *Cassell's Companion to Eighteenth-Century Britain*, p.100–101.
[135] Gascoigne, *Joseph Banks and the English Enlightenment*, pp.244.
[136] Crosland, *Science under Control*, p.371.
[137] *Ibid*, p.371.
[138] Gascoigne, *Joseph Banks and the English* Enlightenment, p.23.

and France over the course of the eighteenth century.[139] Historian Sir Gavin de Beer pointed out that the 'sciences were never at war', since science transcended national and political disputes even in the revolutionary and Napoléonic wars.[140] Although anxious to disassociate the Royal Society from any sympathy with the French government or republicanism, Banks attempted to secure the release from France of several Englishmen of science. Scott notes that even Napoléon was willing to grant the request of a *savant* (Banks) while English arms and English diplomacy were at war with him.[141] Part of the *Institut de France* First Class 1807 minutes reflects Banks' sentiments:

> M. Delambre read a letter from M.Banks (President of the Royal Society), in which he thanks the Institute for the trouble that it has taken to secure the liberty of several English men of science who had been detained in France. [142]

Banks sought to differentiate between the French political and scientific worlds, and although the threat of invasion persisted, the greater predictability of the French government prompted Banks to attempt to re-establish scientific links with France. In 1806 the French Directory applied to the British government for the return of Labillardiére's vast collection of natural history specimens, captured by the British from Jacques D'Entrecastaux's expedition (1791–1793) while searching for the Compte de Lapérouse who had been missing since January 1788.[143] In his submissions to government, Banks intervened successfully on behalf of French scientists for the return of the specimens, distinguishing sharply between the behaviour of the French political leaders and that of its scientists, and pointing out that France was a country where science was held in immeasurable esteem.[144]

Gascoigne also notes that Banks continued to advance his claim that in the world of science, learning could stand apart from warring nations. His advice however, became increasingly less acceptable and during 1806 in a response from the Admiralty, Banks was forced to accept that a common fraternity between naturalists and explorers could not withstand the pressures of war, partly because the French refused to release Flinders from the Ile de France. On the French side there was increasing suspicion that such fraternisation might be used as a ruse for spying, and by 1807, Napoléon's regulations largely prevented Banks' continuing correspondence with France.

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[139] Gascoigne, *Joseph Banks and the English* Enlightenment, p.23.
[140] Sir Gavin de Beer, *The Sciences were never at war*, Nelson, London, 1960, cited in Crosland, *Science under Control*, note 4, p.371.
[141] Ernest Scott, *Terre Napoléon*, (second edition), Methuen & Co. Ltd., London, 1911, pp.77–78.
[142] *PV.I.*, (*Procès-verbaux des séances de l'Académie des Sciences, tenues depuis la fondation de l'Institut jusqu'au mois d'août 1835, publiés conformément à une decision de l'Académie par MM. les secretaries perpetuels*, 10 vols., Hendaye, 1910–22) 3, 557 (3 August 1807), cited in Crosland, *Science under Control*, note 5, p.371.
[143] Gascoigne, *Science in the Service of Empire*, pp.158–159.
[144] Crosland, *The Society of Arcueil*, pp.242–243.

Explorations were accelerated by advancements in mathematics. New analytical theories were directed at industry and towards revolutionising the design of ships' hulls, sails and anchors,[145] coinciding with the development of navigational assets aimed at increasing accuracy of charting unknown coasts. As both France and Britain advanced their capabilities for long overseas voyages of exploration, several of their objectives were similar, charting coastlines, and studying the natural history of both the Australian continent and western Australia in particular.

In 1754 the British Royal Society of Arts, Manufacturers and Commerce was formed with the express aim of exploiting scientific knowledge for practical purposes; an objective pushed forward with generous offers of premiums and bounties. As a result, the early connection between medicine and botany became of lasting importance when examining plants and land suitable for commercial exploitation. Glyndwr Williams writes that:

> …the still-undiscovered southern continent promised resources of such potential that its exploitation might tip the colonial balance of power. Geographers from the two counties continued to correspond, and the British and French explorers would meet and part amicably enough; but beneath the exchanges of mutual compliments national rivalries ran deep and strong.[146]

Britain's explorations involved using private enterprise, adding to her Empire by settlement or territorial claims as well as expanding commercial opportunities for trade using any natural resources found within regions. For instance, Tomczak writes that while England's aristocracy had gained control over the countryside at home, they also noted the developing colonial trade and were eager to participate in expected colonial windfall by financing and sending exploratory missions to all parts of the world.[147]

In 1771, when Banks returned from the first of Cook's great voyages to Australia, virtually the only agency that could provide government with scientific advice was the Royal Society. Cook had been told to study and make collections of all natural materials, the nature of the soil and products, as well as to take notes about the beasts, fowl, fish and minerals. Thus Cook's ship became a floating laboratory and museum on which naturalist Banks and scientist Daniel Solander made the voyage so remarkable. Their efforts largely outshone the

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[145] The Editors, Time-Life Books, *What Life was like during the Age of Reason*, p.106.
[146] Glyndwr Wlliams, "The Pacific: Exploration and Exploitation", in *The Oxford History of the British Empire*, Oxford University Press, Oxford, 1998, Vol.II, p.555.
[147] Matthias Tomczak, Lecture 20, "Enlightenment, or the Age of Reason", in http://www.es.flinders.edu.au/~mattro,/science+society/lectures/lecture20.html, p.1. Accessed 4/4/2005.

outstanding navigational skills with which Cook carried out his orders.[148] Though the British government had traditionally not found much need to call on the Royal Society, the situation was beginning to change by 1772, when French exploratory expeditions prompted Britain to become more actively involved in exploration. National rivalry had helped to stimulate a growing awareness of the scientific advantages to be derived from these expeditions, as scientific information was valued for its potential commercial and strategic advantages as well as a means of enhancing national prestige, in which the national rivalries of the age could find expression. This is reflected in Cook's 'secret' instructions for the *Endeavour* voyage, which state:

> 'the making Discoveries of Countries hitherto unknown …will redound greatly to the Honour of this Nation as a Maritime Power, as well as to the Dignity of the Crown of Great Britain, and may tend greatly to the advancement of the Trade and Navigation thereof.'[149]

Further 'secret' instructions, dated 30 July 1768, authorised him to take possession of 'a Continent or Land of great extent' thought to exist in southern latitudes, and 'with the Consent of the Natives, to take possession of Convenient Situations in the Country in the Name of the King of Great Britain'.[150] The Instructions provided that in the event that he found the Continent, Cook should chart its coast, obtain information about its people, cultivate their friendship and annex any convenient trading posts in the king's name.[151] On Possession Island on 22 August 1770 Cook declared the east coast a British possession:

> Notwithstand[ing] I had in the Name of His Majesty taken possession of several places upon this coast, I now once more hoisted English Coulers [sic] and in the Name of His Majesty King George the Third took possession of the whole Eastern Coast…by the name of New South Wales, together with all the Bays, Harbours Rivers and Islands situate upon the said coast, after which we fired three Volleys of small Arms which were Answered by the like number from the Ship.[152]

Cook made three voyages between 1768 and 1779 and on each occasion carried 'Secret Instructions' from the British Admiralty; secret in that they held the real intentions and plans for the voyage: that of taking possession of any 'unoccupied land.' Cook's report of his observations along the New South Wales coastline on his first voyage formed the basis for Britain's decision to establish the colony at Botany Bay in 1788.

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[148] Steve Cafferty, "The Voyage in context," British History – Empire and Sea Power. Endeavour's scientific Impact (1768–1771), www.bbc.co.uk/history/british/empire_seapower/endeavour_voyage_01.shtml Accessed 9/1/2007.
[149] Beaglehole, J.C., "Journals of Captain James Cook", I, p. cclxxxii, cited in John Gascoigne, *Science in the Service of Empire*, p.24.
[150] Documenting a Democracy: Secret Instructions to Lieutenant Cook, 30 July 1768 (UK), in http://www.foundingdocs.gov.au/places/nsw/nsw1.htm, p.1.Accessed 4/3/2002.
[151] *Ibid*, p.2.
[152] *Ibid.*

That Britain had an entirely different motive to France in voyages of exploration is instanced again quite clearly in King George the Third's instructions about establishing settlement in Botany Bay.[153] A hand written document addressed to the Attorney General dated 13 January 1785, detailed Captain Sir George Younge's Plan for making a settlement on the coast of New South Wales [154] the King noted of 'the great probability of finding in such an immense country metals of every kind, and for establishing a very extensive commerce and of a consequence greatly increase our shipping'.[155] On his original landing in New South Wales in 1788, Governor Phillip was directed to annex something over one-third of the land of the Australian continent and the adjacent islands;[156] therefore, the Colony's western boundary was set at 135 degrees east longitude.

Both contemporary accounts and more recent historians have observed that Napoléon's aim in ordering expeditions was primarily scientific. Contemporary historian, M.F. Péron, in his *Voyage of Discovery*, wrote about the proposed general Plan and Object of the Voyage of discovery to be made by Baudin:

> Since discoveries in the sciences have been with reason placed amongst the chief records of the glory and prosperity of nations, a generous competition has been established, and a new field opened for such a rivalship among governments; so much the more honourable, as it is of general utility to all. The exertions of England have of late years been particularly distinguished; and in the glorious struggle, it is France alone than has any title to dispute the superiority. …In this state of things, the honour of the nation and the progress of science amongst us combined together to require an expedition of discovery to the Southern Hemisphere,

[153] Public Records Office, (PRO), *The National* Archives, Kew, Richmond, Surrey, U.K., CO 201/1 1783 – 1822 Miscellaneous. George III requests (in ref 34) that: ' the production of all Descriptions acquired by the labouring of convicts at Botany Bay shall be considered as a Public Stock so as to provide food for the convicts and others without incurring cost to the British Government'. (In ref 38) – 'further instructions for the surveying of the land for future grants of land, and for cultivation and improvement of such land at the said settlement.'

[154] *Ibid*, (in ref. 55, dated 13 January, 1785) that: 'A Territory is so happily situated (on the coast of New South Wales) for establishing a very extensive Commerce and of consequence greatly increase our Shipping…and production of Cotton, Indigo, Coffee, Tobacco, Sugar Cane…not to mention the great probability of finding in such an immense Country, Metals of every kind'…'The settlement being thus Established, any Difficulties that may arise from the great Distance of *New South Wales* are obviated in the Manner following: – The *China* ships belonging to the India *Company*, after leaving the *Cape of Good Hope*, and keeping more to the Southward than usual, may land the Felons on the Coast, and then proceed to the Northward round *New Ireland*, etc through *St George's Channel*, and so on to the Island Formosa for *Canton*. With a little Geographical and Nautical Investigation, this passage will be found more short, easy, and a safe Navigation than the general Route of the *China* ships, from *Madras* through the *Streights* (sic) *of Malacca.* Perhaps the Number of the Felons, after the present are disposed of, may not require more that that two Ships in the Course of a Year. Experience thereof attending the Transporting (sic) of them by this method, must certainly be much less than by any other whatever; without even the most distant probability of their Return (sic).'

[155] PRO, CO201/1 1783 – 1822 Miscellaneous. (in ref.55).

[156] J.J. Auchmuty, "1810–30", in *A New History of Australia*, (ed.) Frank Crowley, William Heinemann Australia Pty Ltd., 1974, p.48.

> and the *Institut of France* thought it a duty to lay the proposition before the government.[157]

Other historians, for instance John Holland Rose, records that Napoléon had read the volumes that Cook had written about his voyages of discovery, and when installed as First Consul planned, together with the *Institut de France*, a great French scientific expedition to New Holland.[158] Ernest Scott writes that Napoléon authorised Nicolas Baudin to undertake a scientific voyage of exploration to the South Seas in 1800, although there had been several previous French expeditions to Australia as mentioned in Chapter two, and Chapter three. Further, as Baudin's 1801–1803 voyage was designed to advance scientific knowledge, Scott concluded that it is likely that France posed little threat to British overseas interests in the Napoléonic period.[159]

While the Revolutionary war was still in progress, Professor Antoine-Laurent de Jussieu and his colleagues at the *Institut de France* wrote from Paris on 16 Nat 1800 to Banks, president of the Royal Society:

> The *Institut de France* is desirous that several distant voyages useful to the progress of human knowledge should begin without delay. Its wishes have been endorsed by our Government which has just issued orders for the preparation as soon as possible of expeditions led by skilful navigators as well as enlightened men of science, and will approach the Government of your country for the necessary passports of safe-conducts for our vessels. The *Institut de France* considers that is precisely at the moment when war still burdens the world that the friends of humanity should work for it by advancing the limits of science and of useful arts by means of enterprises similar to those which have immortalized the great navigators of our two nations and the illustrious men of science who have scoured sea and land to study nature.[160]

The passport was:

> Given under our hands and the Seal of the office of Admiralty on the 25th June 1800.
>
> (signed) Spence S.H. Stephens, Hambur H. Young.
>
> To the respective flag officers, Captains and commanders of his Majesty's Ships and Vessels: the commanders of ships and vessels, having letters of marque, and to all others whom it may concern.[161]

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[157] M.F.Péron, *A Voyage of Discovery to the Southern Hemisphere*, Performed by Order of the Emperor Napoleonic, during the Years 1801,1802,1803, and 1804. Prepared for the Press by M.F. Péron, one of the Naturalists appointed for the Expedition, & Member of the National Institute, &c, &c, and published in consequence of an Imperial Decree, (trans. from the French). Printed for Richard Phillips by B. McMillan, Bow Street, Covent Garden, London, 1809. This edition published by Marsh Walsh Publishing, Melbourne, 1975, pp.9–10.

[158] John Holland Rose, *The Life of Napoléon I*, (eleventh edition), G. Bell and Sons Ltd., London, 1935, p.379.

[159] Ernest Scott, *Terre Napoléon*, p.123.

[160] G. de Beer, *The Sciences were never at War*, Nelson, London, 1960, p.238.

[161] Brown, *Ill Starred Captains: Flinders and Baudin*, p.478–9.

The passport allowed the ships *Geographe* and *Naturaliste* under the command of Baudin, their officers, people and effects to pass free and unmolested and to permit them to put into any of His Majesty's Ports in foreign parts in case of stress or weather, as long as they did not commit to any hostilities against his Majesty of his allies, or carry any contraband trade.[162]

The French expedition (1800–1803) under the command of post captain Nicolas Baudin was sent out by Napoléon at the height of his power, reflecting both his personal interest in the great Southland and the achievements of French Enlightenment science. It was equipped with the best scientific materials and savants that France as demonstrated in the 'Plan of Itinerary:

> In order to carry out the Government's design, Citizen Baudin will employ assiduously, and with all the zeal of which he has given us proof, the scientists, engineers, artists and means placed at his disposal, as much to determine precisely the geographical position of the principle points along the coasts that he will visit and to chart them exactly, as to study the inhabitants, animals and natural products of the countries in which he will land. With regard to the products, he will give his attention to the collecting of those which appear capable of being preserved, and he will apply himself principally to the procuring of the useful animals and plants which, unknown in our climate, could be introduced here.[163]

The Plan of Itinerary designed by Charles-Pierre de Fleurieu, a director-general of Ports and Arsenals and a noted navigator reflected The French government's interest in science. The Plan covering the period 1800-1803, was signed by Forfait, the Minister of Marine and Colonies, and commenced with a memoir:

> To serve as particular instructions for Citizen Baudin, post captain of the Republic commanding the (corvettes) *Géographe* and *Naturaliste* on the voyage of observations and research relating to Geography and Natural History, the control and directions of which have been entrusted to him. The aim of the Government in assigning to a special expedition…has been to have examined in detail the southwest, west, northwest and north coasts of New Holland, some of which are entirely unknown.[164]

Further, the memoir noted that:

> The section of coast stretching from the western point of *Leeuwin* to the capes which terminated *Eendracht* (Concord) *Land* to the north, lying between 21st and 22nd parallels and including *Edel Land*, was discovered partly in 1616, partly in 1619 and was

[162] Brown, *Ill Starred Captains: Flinders and Baudin,* p.478–9.
[163] Nicolas Baudin, *The Journal of Post Captain Nicolas Baudin, Commander-in-Chief of the Corvettes Géographe and Naturaliste,* p.1.
[164] *Ibid,* p.1.

> visited by Dampier at the end of last century and by Saint-Allouarn during the present one. Citizen Baudin will see that section of *Edel Land* running from *Rottnest Island* to the western point of *Leeuwin* had not yet been examined, and it is one of the parts of this coast, starting from the *Zwaan* (Swan) *River*, which demands to be investigated…But with regard to Natural History, the sands of which the coast is formed leave little hope that the research…could produce results that would compensate for the time spent upon it.[165]

In another memoir dated 29 September 1800, Forfait instructed:

> Since you are sailing under the flag of truce, and since the sole aim of your labour is the perfecting of the sciences, you must observe the most complete neutrality, and not give rise to your exactitude in confining yourself to the object of your mission, such as it is announced in the passports obtained for you.[166] It is pointless to recommend that you facilitate by every means at your disposal the operations of all those whom the Government has embarked with you. But you should prolong your stay in places that promise a valuable harvest for Natural History and Physics only in so far as there is no inconvenience to the rest of the voyage in doing so…Details will be received with all interest that is aroused by an expedition whose aim is to increase the scientific field, to add, if possible, to what nature has done for the nations that live in another hemisphere, and to form men destined some day to augment the numbers of celebrated mariners and naturalists.[167]

The French Government's directions to the Baudin and D'Urville (1801–1803) voyage of discovery not only exemplify the above sentiments but neither indicate any plans for either claim or occupation of the west of the Australian continent. Nothing of value was found to trade for commercial reasons in a country they considered unsuitable for habitation. Nonetheless the voyage afforded an excellent opportunity accurately to chart the western coastline of the Australian continent, obtain specimens of flora and fauna, observe indigenous inhabitants document and preserve a wealth of natural history, thus adding to world knowledge. Susan Hunt and Paul Carter observe that François Péron collected many specimens, and on his return to France employed Baron Georges-Léopold Cuvier, (1769–1832) a professor of zoology at the Museum of Natural History in Paris, to take charge of the specimens collected during the voyage. [168]

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[165] Nicolas Baudin, *The Journal of Post Captain Nicolas Baudin*, p.3.
[166] *Ibid*, p.8.
[167] *Ibid*, p.9.
[168] S. Hunt, and P.Carter, *Terre Napoléon – Australia through French Eyes*, Historic Houses Trust of New South Wales in association with Hordern House, Sydney, NSW, 1999, p.7. It took Péron weeks to unpack the mutitude of cases of minerals, dried plants, shells, fishes, reptiles, and zoophytes preserved in alcohol, of quadrupeds, birds stuffed or dissected, seventy cases full of plants in their natural state comprising nearly two hundred different species of useful plants, approximately six hundred types of seeds contained in several thousand small bags, and finally about a hundred living animals.

At the beginning of the nineteenth century, France and Britain were more frequently at war than at peace. In 1802, the Peace of Amiens had brought a brief lull in the Revolutionary and Napoléonic Wars, until in 1803 when the war with France resumed. Captain Matthew Flinders sent out by England in the *Investigator* (1800–1803) and Nicolas Baudin sent by France in the corvettes *Géographe* and *Naturaliste* (1801–1803), carried out their expeditions as men of science. Banks' immense prestige together with his wide acquaintance with the leading scientists of the time, helped to organise Flinders' scientific expedition to Australia in the *Investigator*, [169] a ship purchased and outfitted by the Navy.[170] In terms of equipment and personnel, the *Investigator* was one of the most thoroughly equipped survey vessels up to the time to sail into the seas around New Holland. Scientists including Robert Brown, one of the nineteenth century's most distinguished botanists, together with astronomers, landscape painters, botanical draughts-men, gardeners and miners, were recruited by Banks as Britain's largest scientific party since 1760,[171] to collect, document and preserve specimens of flora and fauna. On the quarterdeck of the ship a solid greenhouse was constructed to shelter live plant specimens.

Perceiving that the French were in the region of western Australia in 1801–1803, the British became concerned that the… 'French Corvette *L'Astrolabe* Discovery Ship'…[172] may have had intentions to lay claim to part thereof, although Captain D'Urville in 1826, assured Sir Ralph Darling, the Governor of New South Wales, that…'the object of his expedition is solely for the purpose of general science'…[173] In a letter dated the 4 November 1826, marked secret and confidential, Sir Ralph Darling wrote to Major Lockyer, stationed at King George's Sound on the south west coast of Australia, that England's purpose there was to establish a settlement. Therefore, as a colony of Great Britain he indicated:

> …that in the event of their (the French) touching King George's Sound, that you will carefully regulate your language and communications with the Officers so as to avoid any expression of doubt of the whole of New Holland being considered within this Government any direction of which may be supposed to exist under the designation of New South Wales…should it so happen that the French have already arrived, you will …signify that it is considered the whole of New Holland is subjected to His Britannic Majesty's Government and that orders have been given for the Establishment of King George's Sound as a Settlement for the reception of Criminals accordingly.[174]

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[169] Miriam Estensen, *The Life of Matthew Flinders*, Allen & Unwin, Crows Nest, N.S.W., 2002, pp.441–442.
[170] *Ibid*, p.138.
[171] Mackay, *In the Wake of* Cook, p.3.
[172] PRO, CO 201–174 1826 (4), ref. 158.
[173] *Ibid.*
[174] PRO, CO 201–174, 1826 (4) ref. 105–106.

Similarly, Sir Ralph Darling wrote confidentially to The Earl of Bathurst of the Colonial Office in London on the 24th November 1826 that:

> …with respect to the Western Boundary of this Government…though as the published Maps are marked through the Centre (of Australia) from North to South, and my Commission adopted that line as the Western Boundary, it would be difficult to contend, or to satisfy any Nation desirous of making a settlement on the Western Coast, that we have an indisputable right to the Sovereignty of the whole Territory…I therefore beg…that I may receive a commission describing the whole Territory as within this Government. If generally known that we had actually assumed the Sovereignty and were proceeding to settle the Western Coast, it might possibly tend to prevent the intercourse of any Foreign Power and might set the matter at rest.[175]

In 1788, Governor Phillip's jurisdiction was confined to the Territory of New South Wales 135º east longitude, effectively dividing the continent into two, east and west. It became expedient for Sir Ralph Darling as Governor of New South Wales in 1825 to extend the western boundary of the Australian continent to 129º east longitude, which then became the border dividing western Australia from the eastern seaboard. Prior to 1829, the British Government had not formally annexed that portion west of 129º east longitude, but Captain Fremantle acting under instructions from England, took possession of the Swan River and formally laid claim to 'all that part of New Holland which is not included within the territory of New South Wales'.[176]

With the progression and expansion of scientific knowledge, interest was aroused about the greater world outside Western Europe. While both France and Britain organised voyages of exploration to the Australian continent, their reasons were different. National pride was strong in both nations, but in France, scientific societies became so important that they initially had the support of the Monarchy prior to the 1789 Revolution, and the support of the republican government after the Revolution. Under state control, education became a government responsibility, and with Napoléon Bonaparte as a powerful patron, the state helped to expand the *Institut de France* and other scientific institutions. Thus in this period, France became the premier scientific nation placing emphasis on restoring national pride as demonstrated in French voyages of exploration to Australia and the west of the continent by engaging in accurate scientific mapping of the coastlines, as well as investigating and

[175] PRO, CO 201–174, 1826 (4) ref. 103.
[176] John D Lines, *Australia on Paper, the story of Australian Mapping*. Fortune Publishing, Box Hill, Victoria, 1992, p.14.

studying all aspects of natural science. Flora and fauna and details about the Australian indigenous communities were observed and documented. Writings, paintings and drawings all recorded their findings thus adding to knowledge for posterity and the good of mankind.

Although also having many great men of science, the Royal Society in Britain established in 1660, did not expand as quickly as the French scientific societies. Hampered by lack of government financial assistance, the Society had to rely partly on their gentlemen members' private subscriptions. Despite Britain's great interest in furthering all aspects of science, the disparity between French sentiments and Britain's drive to explore the Australian continent were evident in the secret instructions given to Captain Cook for his three voyages made between 1768 and 1779. These instructions held the intentions and plans for the voyages**:** taking possession of any 'unoccupied land', and searching for possibilities for obtaining greater wealth and products from the land that in turn would offer further avenues for expansion of British commerce as well a source of national pride.[177] Thus Cook's discovery and possession of the eastern shores of the Australian continent formed the basis of the British decision to establish a colony at Botany Bay in 1788. Britain also engaged in similar scientific activities to that of France during the voyages as witnessed by Banks' attention to flora and fauna on Cook's first voyage to the Australian continent, and Flinders' epic circumnavigation and charting of the continent.

The official British settlement in King George's Sound, western Australia, was founded in 1826,[178] and renamed Albany in 1832. A settlement followed at Swan River Colony (Perth) in 1829. Thus, forty-one years after the First Fleet had arrived on the East Coast in 1788 the whole of the Australian continent was claimed for Britain.[179] Prior to 1829, the British Government had not formally annexed that portion of continental Australia west of 129° east longitude. In that year when the colony of Western Australia was founded, Captain Fremantle acting under instructions from England, took possession of the Swan River, and formally laid claim to "all that part of New Holland which was not included within the territory of New South Wales.[180] The major difference between France and Britain in relation to territory is manifest in the fact that Britain claimed and settled Australia for colonial and commercial purposes and expansion of the Empire. Although early French scientific societies advanced with government assistance, as opposed to the lack of government assistance in Britain, it is not of primary importance in this discussion. Rather France's documented history of the scientific revolution is the more important, demonstrating the

[177] Gascoigne, *Joseph Banks and the English Enlightenment*, pp. 7–15.
[178] C.M.H.Clark, *A History of Australia*, Vol.III, Melbourne University Press, 1973, p.11.
[179] Auchmuty, "1810–30", in *A New History of Australia*, (ed.) Frank Crowley, p.48.
[180] John D. Lines, *Australia on Paper*, Fortune Publications, Victoria, p.14.

great value placed on this aspect rather than on an expansionist motive. In relation to western Australia, British motives in contrast were clearly for expansion of empire and commercial prospects, whereas France's aims were to re-establish national pride by attention to scientific investigations of an unknown land.

Having argued points in this thesis under the scientific umbrella, the corollary is that the French neither established a claim to the possession of Western Australia in 1772 as suggested by Marchant,[181] nor attempted to either claim or colonise at any other time. The evidence gathered in an extensive study of the French explorations to Western Australia, all pointing to the conclusion that their purpose was scientific and not colonial or commercial.

The following Chapter Five will focus on discussing differences between France and England in relation to law in respect of 'unoccupied land'. Although the French have contended that in 1772 the west of the Australian continent was claimed under the right of prescriptive law, the well understood bar of claims by lapse of time, in this case over one hundred years, certainly rules out any claim. Britain's formal claim and possession of Australia was made under *terra nullius* or empty land, adhering to the principles of International Law which recognises sovereignty only when a nation is in actual occupation of them and forms settlement upon them, or makes some actual use of them. Regardless, the French 'claim' has not been ratified in a court of law, as documented proof has never been produced.

[181] Marchant, *France Australe*, p.64.

Chapter 5 – Law

> International Law may be regarded as a living organism, which grows with the growth of experience and is shaped in the last resort by the ideas and aspirations current among civilised mankind. He who would accurately describe its present condition must sketch the outlines of its past history and gauge the strength of the forces that are even now acting upon it. [1]

Examination of French and British decisions and actions and their relationship to law relating to unclaimed territory, provides further support for an argument that the French did not have or indeed seek possession, colonisation or settlement as a primary motive for their voyages of exploration. The early French explorer Saint-Aloüarn's claim to western Australia in 1772 was made under "prescriptive" law – "acquisitive prescription". In contrast, British Governor Phillip's formal claim and possession of the east coast of Australia in 1788, followed by Captain Fremantle's formal claim and possession of western Australia in 1826, was made under *terra nullius* or 'empty land', as discussed in chapter 4 Science, adhering to the principles of International Law. Richard H. Bartlett states that, at the time of the British claimed sovereignty over Australia, common law and international principles had established that a mere change in sovereignty was not to be presumed as disturbing the rights of previous owners who may have acquired territories by conquest or cession. However, a different principle held with respect to territories convenient to describe as having been acquired by 'occupation' or 'settlement'. Such territories were originally those found to be 'desert and uncultivated', which could then be peopled 'from the mother country', (England).[2] The difference under International Law between the two modes of claim – conquest and cession and possession and ownership of territory both occupied and unoccupied – become a major point of analysis in relation to the debate on occupation and intent. Underpinning the British claim was the belief, consonant with the construct of *terra nullius* that:

> God and his Reason commanded him to subdue the earth, i.e. improve it for the benefit of Life, and therein lay out something upon it that was his own, his labour. He that is Obedience to this Command of God, subdued, tilled and sowed any part of it, thereby annexed to it something that was his *Property*, which another had not Title to, nor could without injury take from him.[3]

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[1] Thomas Joseph Lawrence, *The Principles of International Law*, Macmillan and Co. London, 1895, reprint by Fred B. Rothman & Co, Littleton, Colorado, 1987, p.v.

[2] Richard H. Bartlett, *Native Title in Australia*, (second edition), LexisNexis Butterworths, Reed International Books Australia Pty Limited, Australia, 2004, [1.2], p.1

[3] Alan Frost, "New South Wales as *Terra Nullius*: The British Denial of Aboriginal Land Rights", *Historical Studies*, Volume Nineteen, Department of History, University of Melbourne, Melbourne, April 1980 – October 1981, p.515. Frost cites John Locke, *Two Treatises of Government*, Peter Laslett (ed.), 1960, pp.321–41.

Frost writes that in occupying New South Wales, the British followed carefully the convention of acquiring overseas territory providing for negotiation with an indigenous population for access to land. Had they known that the aborigines were not truly nomadic, having indeed mixed their labour with the land as well as living in a complex social, political and religious framework, then they would have negotiated for the right to settle the Botany Bay area [4] and subsequently the western area of the continent. This failure shows most the limitations that even a diverse culture can place on the most flexible of its members, especially in the eighteenth century.[5]

International Law, the law under which France and Britain operated in the period under discussion, was the product of a long period of legal evolution and may be defined as 'the rules which determine conduct of the general body of civilised states in their dealings with one another.'[6] T.J. Lawrence notes that although the rules will differ at different times and among different groups, there is one important system that which grew up in Christian Europe,[7] and by common consent appropriated.[8] It is pertinent to briefly document the early developments of International Law in order to track historical changes. Hugo Grotius (1583–1645)[9], Richard Zouche (1590–1661)[10], Christian Wolff (1679–1754)[11], Emmerich de Vattel (1714–1767)[12], L.Oppenheim[13], T.J.Lawrence[14], D.P.O'Connell[15] and J.G. Starke[16], all have written extensively on the subject, and are in accord that the nature and functions of law have varied throughout history and developed as society evolved.

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[4] Frost, "New South Wales as *Terra Nullius*", p.522.
[5] *Ibid*, p.523.
[6] Lawrence, *The Principles of International Law*, p.1, § 1.
[7] L. Oppenheim, Vol. I – Peace, *International Law*, H. Lauterpact (ed.), (eighth edition), Longmans, Green and Co. Ltd, London, 1967, p.78, § 41.
[8] Lawrence, *The Principles of International Law*, p.4, § 4.
[9] Hugo Grotius, *Mare Liberum, 1633*, (ed.) James Scott Brown. Reproduction of the edition of 1633, (trans. with a revision of the Latin Text by Ralph Van Deman Magoffin) Carnegie Endowment for International Peace: Division of International Law, New York, 1916. And *De jure belli ac pacis libri tres 1646*, or The Rights of War and Peace, Vol.2. Reproduction of the edition of 1646, (trans. by Francis W. Kelsey), Carnegie Endowment for International Peace: Division of International Law, London, 1925.
[10] Richard Zouche, *Juris et Judicii Fecialis, or An exposition of fecial law and procedure, or of law between nations, and questions concerning the same.* (ed.) T.E.Holland. Reproduction of the first edition 1650, (trans. by J.L.Brierly, Carnegie Institute, Washington, 1911.
[11] Christian Wolff, *Jus Gentium Method, Scientifica Pertractum*, Vol.II. Reproduction of the edition of 1764. (trans. by Joseph H. Drake). Part of the C.Wilfred Jenks Memorial Collection, The Clarendon Press, Oxford, London: Humphrey Milford, 1934.
[12] Emmerich deVattel, *Le Droit des gens, ou, Principes de la loi naturelle*, or The *Law of Nations or the Principles of Natural Law*, Vol.III, Reproduction of the 1758 edition. (trans. of the edition of 1758 by Charles G Fenwick). Part of the C.Wilfred Jenks Memorial Collection, Carnegie Institute of Washington, 1916.
[13] Oppenheim, *International Law*.
[14] Lawrence, *The Principles of International Law*.
[15] D.P.O'Connell, Vol.I, *International Law*, Stevens & Sons, London, 1970.
[16] J.G. Starke, *An Introduction to International Law*, (seventh edition), Butterworth & Co (Publishers) Ltd, London, 1972.

European tribal society gradually evolved into territorial confederations and modern governmental structures emerged. The most significant early example is that of Roman law. In the eighth century BC the law of Rome was still largely a blend of custom and interpretation that was perceived as the will of the gods.[17] The legal system of both the Roman Republic and the Roman Empire had its beginnings in the code known as the Law of the Twelve Tables covering all categories of the law, and formed the basis of all subsequent Roman private law.[18] The relations the Romans had with foreign states depended upon whether or not there existed a treaty of friendship between them and that State.[19] Oppenheim, best known for his 'Positivist'[20] approach to international law, opines that 'it thus appears that the Romans gave to the future, the example of a State with *legal* – essentially municipal rather than international rules – for its foreign relations'.[21] As legal people *par excellence*, the Romans could not leave their international relations without legal treatment. Roman law considered war a legal institution with four different reasons for war, namely: violation of the Roman dominions; violation of ambassadors; violation of treaties; and support given during war to an opponent by a hitherto friendly state. This legal treatment can not be compared to modern International Law as the Roman Empire hardly knew of any independent states outside the borders of their Empire, yet it constitutes a contribution to the Law of Nations of the future in so far as its example furnished many arguments to those whose efforts we owe the very existence of the modern Law of Nations.[22]

As the centralised empire envisaged by Byzantine emperor Justinian I (527–565) required a uniform legal system, an imperial commission headed by the renowned jurist Trebonianus set about systemising existing Roman law. Justinian arranged for the reorganisation of most of Roman law in his *Codex* and *Pandectae*, a fifty volume set that took three years to compile. Completed in 533, it was considered to be the most influential law work ever written, as it has been on the reading list for legal students in countries using Civil law for over 1500 years. He also produced a textbook *Iustinian Institutiones* (the Justinian teaching manual). The work was incorporated into the enormous *Corpus Juris Civilis* (Body of Civil

[17] Lawrence, *The Principles of International Law*, p.31.
[18] Fritz Schwind, "Roman Law", *Microsoft Encarta'95*, Multimedia Encyclopedia, Microsoft Corporation, 1992-1994.
[19] Oppenheim, *International Law*, p.76, § 40.
[20] *Ibid*, 'Positivists', are the antipodes of the 'Naturalists', relying on logical reasoning in search for the applicable law, denying that moral judgements can be based on observation and rational proof, pp.96–97, § 56.
[21] *Ibid*, p.77, § 40.
[22] *Ibid*, p.77, §40–41.

Law) also called the Justinian Code consisting of four books promulgated in 534 and intended as an overview of Roman law for legal students. [23]

In the early fifteenth century, Northern Europe's international relations were still based on the right of the mighty to claim territory. In opposition to the theory of claim by strength alone, Grotius wrote his book *De jure belli ac pacis, libri iii* (The Rights of War and Peace) published in 1625. The book subsequently obtained such worldwide influence that Grotius is generally styled the 'father of International Law' or the 'father of the law of nations'[24]. Arguably, the science of the modern Law of Nations commences from Grotius's book that for the first time built a fairly complete system of International Law as an independent branch of the science of law. Starting with the Law of Nature**,** Grotius's chief innovation was his insistence that nations are bound by natural law, which he considered to be independent of God and based on man's own nature. To find rules that were eternal, unchangeable, independent of the special consent of single States, as well as noting that the Law of nations is a law between the States, he called his work *De Jure belli ac pacis libri iii*.[25]

The Law of Nations doctrine in both Thomastic (the theory and philosophy of Aquinas) and Grotian versions treats morality as basically a matter of compliance with law. Obligation and duty, obedience and disobedience, merit and guilt, reward and punishment, are central notions. Virtues are simply habits of following laws; though the law is suited to our distinctive human nature and can be discovered by the proper use of reason it is not a self-imposed law. Grotius, unlike Aquinas, conceived of natural law as not to direct us to bring about some definite common good, but to set limits on the ways to pursue our personal aims. Hobbes, Pufendorf and Locke later developed this Grotian outlook along voluntarist lines.[26]

In contrast to Grotius, Englishman Richard Zouche (1590–1661) is thought by some scholars to have been the first 'Positivist',[27] acquiring the title of 'Second Founder of the Law of Nations' with his book *Juris et Judicii fecialis siv*e; an exposition of fecial law and procedure, or of law between nations and questions concerning the same. The distinction between the Natural Law of Nations, chiefly treated by Grotius, and the customary or voluntary Law of Nations, chiefly treated by Zouche, lay in the latter's questioning and explaining the historical reasons about peace and war between nations. Although Zouche did

[23] http://www.absoluteastronomy.com/encyclopedia/R/Ro/Roman_law.htm. Accessed 17/5/2005.
[24] Lawrence, *The Principles of International Law*, p.41, J.G.Starke, *An Introduction to International Law*, p.10, and Oppenheim, *International Law*, p.85, §§43–50.
[25] Oppenheim, *International Law*, pp. 89–92, §52–53.
[26] *The Cambridge Dictionary of Philosophy*, Robert Audi (ed.), Cambridge University Press, 1995, pp.520–521.
[27] Oppenheim, *International Law*, p.96, § 56. Oppenheim writes 'that 'Positivists' defend the existence of a positive Law of Nations as the outcome of custom or international treaties, but consider it more important than the natural Law of Nations.

not coin the phrase *jus inter gentes* (law among nations), he first adopted it as a title more apt for the subject than *jus gentium* (law of nations).[28]

The traditional opponent of the legal positivist is the natural law theorist who holds that no sharp distinction can be drawn between law and morality. This diversion gave rise to three different schools of writers on the Law of Nations in the seventeenth and eighteenth centuries: the "Naturalists" (the system of right or justice held to be common to all humankind and derived from nature, rather than from the rules of society); the "Positivists" (the reliance on logical reasoning in search for the applicable law, denying that moral judgments can be based on observation and rational proof); and the "Grotians" (that the totality of the relations between States is still governed by law).[29] The "Grotians" stand midway between the Naturalists and the Positivists, and although the majority of authors in the seventeenth and eighteenth centuries were Grotians, only two of them have acquired a European reputation – namely the German rationalist Christian Wolff (1669–1754) and Swiss Emmerich de Vattel (1714–1767).[30]

The Law of Nations or International Law, emerged from these developments considered as the name for the body of customary and treaty rules that are considered legally binding by sovereign states who are thus guided in their relations with each other based on mutual consent in their intercourse with each other.[31] The rules actually followed by states in their mutual intercourse can be observed, determined, classified, and arranged by referring them to certain fundamental principles on which they are based.[32]

The French voyage of exploration to western Australia by Saint-Aloüarn in 1772 is the first and only example that demonstrates that France acted under a different International Law rule. In particular, the rule applied was that of Prescriptive law, adding a factor in disputing the general statement that France sought to lay claim to the western third of the Australian continent prior to 1829. The two countries under discussion in this thesis have different laws under which each country operates, not only in International Law but also the fact that France operates under Customary law and Legislation, in contrast to the British system that operates under Common law, precedent and case law.

[28] Oppenheim, *International Law*, p.94, § 54.
[29] *Ibid*, pp. 94–95, §§ 54–55.
[30] *Ibid*, p.98, §57.
[31] *Ibid*, p.4, § 1.
[32] Lawrence, *The Principles of International Law*, p.2, §1.

René David notes that on a French twelfth century legal map the principal distinction is between the Midi, (south of a line extending from Geneva to La Rochelle) that lived under a single customary law based on Roman law – a 'land written law', and the North of France that lived under a variety of customary laws. French King Charles VII (1422–1461) ordered in the *Ordinance of Montil-lez Tours* of 1454, that all customary laws be reduced to writing. This development set French Law apart from other European legal systems, and in an intermediate position between English law and other continental systems, a position it still retains today.[33] By the end of the fifteenth century the French kingdom approximated its modern boundaries as being bordered on the northeast by Luxembourg and Belgium; on the northwest by the English Channel; on the west by the Atlantic Ocean and the Bay of Biscay; on the south by Spain, Andorra, and the Mediterranean Sea (including the island of Corsica); and on the east by Italy, Switzerland and Germany.

When Prime Minister Cardinal Jules Mazarin of the Paris *Parlement* (a powerful French law court) died in 1661, King Louis XIV assumed all responsibility for ruling the kingdom. Although this action was not in accordance with tradition, Louis XIV developed a concept of a dictatorship by divine right. In conformity with the dictum '*L'Etat c'est `a moi*' (the king reigns supreme in his kingdom), Louis XIV established himself as the model of the divine-right absolutist monarch in the European Age of Absolutism.[34] It could not be admitted therefore, that rules promulgated by a foreign sovereign (the Roman Empire) were legally binding in France. The French kings were not concerned with legal reform and the king remained subject to natural and divine law, believing only himself authorised to declare the law by proclaiming existing customary law in the interest of justice and sound administration. René David states that France neither contributed masters of the first rank to the school of natural law nor achieved the universality of Grotius, Pufendorf or Wolff, but attempted to express the principles of natural law within the limited framework of the national legal system.[35] Thus Roman law was applied in France only as customary law and was never regarded as having legislative force. Fundamental law became explicit in French constitutional theory during the sixteenth century, implying that behind the institutions of government was something unalterable by established authority, and it assimilated traditional

[33] Réne David, *French Law*, (trans. by Michael Kindred), Louisiana State University Press, Baton Rouge, 1972, p. 6.
[34] Herbert H. Rowen, "*L'Etat c'est `a moi*": Louis XIV and the State", *French Historical Studies*, Duke University Press, Jstor, Vol.2, No.1 (Spring, 1961), pp. 83–98. http://www.jstor.org. Accessed 10/1/2004.
[35] *Ibid*, p.10.

privileges and liberties into the laws of God and nature. [36] In France during the seventeenth and eighteenth centuries, the authority of *Corpus Juris* (Body of Civil Law) began to decline as its rules were examined in the light of reason. The stage was set for the systematic and comprehensive codification of modern civil law, the term applied to the body of private law used in those countries in which the legal system was based on ancient Roman law.

The English system of Common Law began to develop in the twelfth century when King Henry II (1154–1189) extended the practice of sending the royal judges about the country "on circuit" to deal with crimes and disputes, giving official authority to the best of the local customs, some of which had been in force since Anglo-Saxon days. The French kings did not to use the courts to create a common law for the entire kingdom, nor experienced the English upheavals arising from the discontent of the English barons.

The unity and cohesion of English law was unknown in France, where the French monarchy contended with powerful feudal lords and ruled a country larger and less centralised than England. The French kings neither tried to use the courts to create a common law for the entire kingdom, nor experienced the English upheavals of the early thirteenth century when the English barons revolted against the power of the English king.

Before the reforms of King Henry II, seen as the vital period for the creation of English common law, England had known a legal regime characterised by considerable royal control. Under threat of civil war, in 1215 King John (1199–1216) granted the *English Great Charter–the Magna Carta*, the charter of English liberties.

When English King John (1189–1199) gave large tracts of French speaking Anjou territories, and later, all of his northern French territories including Normandy to French King Philip Augustus, King John's actions in France together with the heavy taxing of the English barons became a major cause of discontent. Perceived abuses by King John, led the barons to revolt. On 10 June 1215 the Magna Carta (or Great Charter), which included the "Articles of the Barons", was signed by King John who agreed to both respect legal procedures and accept that the law restrained what he could legally do. During the reign of King Edward I (1272–1307), the great treatise, *On the Laws and Customs of England*, attributed to the royal

[36] D.P.O'Connell, "Territorial Claims In The Grotian Period", in *Grotian Society Papers*: *Studies in the History of the Law of Nations*, C.H. Alexandrowicz (ed.), Martinus Nihoff, The Hague 1968, pp.1–3.

judge Brocton, followed. A succession of statutes followed in later years, and provided a supplement to the common law.[37]

Magna Carta had little effect on the subsequent development of parliament until the Tudor period (1485–1603). The monarchy, still judged the Charter as an evil document forced out of their forefathers by brute force, until Jurist Edward Coke (1552–1634) interpreted Magna Carta to apply to all subjects of the crown equally. In 1628 the House of Commons forced King Charles I of England to accept Coke's "Petition of Rights", the forerunner of the English Bill of Rights. Subsequently, the 1689 Bill or Rights centralised the administration of justice in the Royal Courts at Westminster and created a common law[38] reflecting the common customs of the English kingdom.

The English common law was in origin the King's law. It was further developed in the fifteenth century with a body of rules supplementary to the common law of 'equity' where in the case of conflicts over property, the rules of equity prevailed over those of the common law.[39] The judges did this by empirical methods – by practical common-sense decisions on the actual cases brought before them and setting out their reasoning in detail. Simple records of the most important decisions were kept from the earliest times. As the centuries passed, the gradual elaboration of a system of law reporting ensured that the facts of significant cases, the reasoned judgements delivered on those facts, and the principles those judgements enshrined, should be recorded and preserved. At the same time the doctrine of precedent – the rule that all courts inferior to it should follow those principles, enunciated by a superior court, – ensured consistency throughout the country. Thus there gradually developed a body of principles living, growing, and adaptable to new sets of facts as they arose. Principles moreover that arose above local differences of custom and became common to the whole Realm, hence the expression Common Law as the legal system of freedom.[40]

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[37] www.bbc.co.uk/history/state/monarchs_leaders/henryII_law02.shtml. Dr John Hudson "Common Law – Birth of a state, Henry II and the Angevins". Accessed 14/4/2002.
[38] René David, *French Law*, p.7.
[39] James Crawford, "The Common Law Background", in *Australian Courts of Law*, (3rd edition), James Crawford (ed.), Oxford University Press, Melbourne, 1993, Chapter 2, pp.6–8.
[40] *Ibid*. Crawford notes that common law was in origin the King's law. From the 15th Century, the power was exercised by the House of Lords alone, and after the Revolution of 1688, and in the eighteenth century it became to be accepted that Parliament's legislative authority was plenary and unlimited. C. Morris, C.Cook *et.al* (eds.), "Laying down the Law", in *The Common Law System in Australia*, Butterworths, Sydney, 1996, notes the following in regards to common law: Traditionally, international law recognised three ways for a country to acquire new territory: conquest, cession, or 'ceding' its sovereignty over territory to another. The reason that Australia was deemed to be settled rather than conquered was that it was considered to be uninhabited. In asserting this, the British were relying on a then well accepted understanding among European nations that people could only be considered to hold land if they used it for agricultural or other purposes. pp. 27–28.

French laws were not significantly altered until the French Revolution of 1789. Thereafter the laws became one of the principal reasons for the subsequent resort to codification, providing the legal unity that England achieved through its courts. [41] The French then sought a complete renovation of society. Those in a position to do so undertook to rectify the shortcomings of legal order, abolishing the duality between the ideal law and the applied law. Prior to the French Revolution, no war was fought in Europe without both sides asserting legal justification for their position, though the justification varied as legal concepts evolved. O'Connell declares that after the French Revolution, France neither argued in terms of power over territory nor of *jus gentium* (International Law), but in the Fundamental Law of France and the sovereign rights of the French Crown. Nationalism constituted the principal justification for territorial conquest.[42]

Subsequent to the French Revolution with its ideal of a rational social order, successful codification to unify the law nationally was made possible by the conquests and prestige of Napoléon. With the codes, the written reason (*ratio scripta*) of the universe relied on natural law theories, proclaiming the existence of moral and legal principles. Thus the Napoléonic Codes were created to satisfy the demands of the school of natural law only insofar as they could safely be admitted to correct and improve the solid tradition that remained their basis.[43]

Codification, a work of logic but also relying on experience, occurred during the Napoléonic era where the French codes were the product of natural law proclaiming the existence of moral and legal principles discerned by human reason.[44] Codification meant improvement, while legislation was deemed a source of law superior to custom. The five Napoléonic codes enacted in France, proposed clear and systematically presented rules of substantive and procedural law. The most influential, although not the first codification effort was the enactment of the five basic codes of France, its Civil Code: Code Napoléon of 1804; the Code of Civil Procedure (1806); the Commercial Code (1807); the Penal Code (1810); and

[41] James Crawford, "The Common Law Background", in *Australian Courts of Law*, pp.5–10.
[42] O'Connell, "Territorial Claims In The Grotian Period", p.2.
[43] Réne David, *French Law*, p.10: Legislation played a secondary role in France until the Revolution. The King of France remained subject to the natural and divine law, as well as to the "fundamental laws of the kingdom". He believed himself alone authorised to declare the law, by proclaiming existing customary law, in the interest of justice and sound administration, and p.14: Codification occurring during the Napoléonic era. Their point of departure was rather the idea that there existed a universal and unchanging natural law and that its principles should be articulated in order to promote justice and the public welfare. In Note 13–Article I of the draft Civil Code said, "There is a universal, unchanging law that is the source of all positive law; this law is the natural reason that governs all peoples of the world."
[44] *Ibid*, pp.14–15.

the Code of Criminal Instruction (1811). Legislation dominates French law and makes France indeed a "country of written law".[45]

The corollary of the laws discussion is the difference between French and English law. In France, a civil law country, judgments were made on legislation based on codification or "written law" with the judge playing a leading role in examining witnesses and experts when needed. In Britain and Australia the primary source is common law and precedent case law, where evidence is presented independently of the judge, and after a jury of twelve laypersons have decided on the questions of facts, the judge then makes his or her judgement on a question of law based on precedent.

International Law became particularly relevant to the discussion when voyages were mounted in an attempt to discover the southern continent. In Chapter Three, discussion has covered the sixteenth century voyages and world maps, which produced clear evidence of a southern continent, despite the scepticism that had grown about its existence. Williams notes that on Oronce Finé's world map of 1531 the southern hemisphere showed a continent called 'Terra Australis'.**[46]** Portuguese, Spanish, Dutch, French and English explorers, continued looking for the great southern continent, and by the late 1620s Dutch cartographer Hessel Gerritz marked 'the coasts of western and southern Australia from 21ºS down to 35º S, with every real discovery drawn and hypothetical coasts deliberately omitted'.**[47]** Throughout the fifteenth, sixteenth, seventeenth and eighteenth centuries, exploration and discoveries continued and resulted in production of more detailed maps. Williams cites Whatley:

> What Countries there may be, nearer the South Pole, or round it, is intirely [sic] unknown; tho' a large Tract of Land is set down in several Maps of the whole World, under the Name of *Terra Australis incognita*, or *The Unknown Southerly Countries*. Well may they be stil'd [sic] *unknown*, since we have no manner of Knowledge of them, and it is still uncertain whether there be any Land, or only an open Sea, from 56 Degree of South Latitude, all round quite to the Pole. (Stephen Whatley, *A Complete System of Geography*, 1747, pp.777, 784.) **[48]**

France, England, and others, showed early interest in the unknown "southerly countries", culminating in mounting of voyages of exploration. Evatt maintains that the discovery of Australia dates back to the early seventeenth century, when Dutch navigators visited the West and North coasts. But the earliest claims to possession of Australia by discoveries of

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[45]Réne David, *French Law,* p.155. See Note 2 –The term "country of written law" (*pays de droit écrit*) is used in another context to describe those parts of pre-Revolutionary France, prior to the Napoléonic codification, where Roman law was applied: its opposite is then "country of customary law" (*pays de coutume*).
[46] Glyndwr Williams, *The Great South Sea*, Yale University Press, London, 1997. p.8.
[47] *Ibid,* p.59.
[48] *Ibid,* p.253.

which written records remain, were those made by Abel Tasman in 1642.[49] Jean Pierre Purry, a Swiss employee of the Dutch East India Company, in 1627 drew up a plan for the settlement of Nuys Land along the southern coast of western Australia, suggesting that 'as the ideal to find the best Countries of the Earth, we should look for them in the Middle of the fifth Climate of the under 33º of Latitude.' On this basis, Purry thought the southern part of New Holland discovered by the Dutch was well worth investigating. After failing to interest the VOC (Dutch East India Company), Purry approached the French Government who referred his scheme to the French *Académie Royale des Sciences*.[50] It was not until the 1750s however, that French scholars took the lead in interpreting discoveries in a way to promote new French enterprise in the South Sea.[51] Meanwhile, great interest in New Holland was also shown by Britain, resulting in Dampier's voyages in the latter part of the seventeenth century, The Royal Society in England, having obtained copies of maps produced by the French, played a part in the expeditions of British Captain Cook after 1760.

Marchant writes that the French view of international law states:

> …once a power discovered and annexed a territory, then that territory belonged to the power, which proclaimed sovereignty. If these claims were not taken away by treaty or other legal means, then the territories remained the property of the original claimant, as happened in the case of western Australia. [52]

As contended by Marchant, Saint-Aloüarn claimed and took possession of the west coast of New Holland for the King of France in 1772 under prescriptive rights to overseas territories.[53] Further, this territory was not taken from France by victors of various wars, by treaties, or other legal means, it remained the property of the original claimant. As the claim was not followed up in France, the question of law in relation to the validity of the claim becomes paramount as:

> France's post-Napoléonic empire, established in the Pacific in particular, was fashioned primarily as a result of "prescriptive right", being made up of islands early discovered and claimed for France by explorers such as Bougainville…As a result of their efforts there were few places in the Pacific and Indian Oceans which France could not and did not lay claim to in periods of colonial expansion.[54]

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[49] Justice Elizabeth Evatt, "The Acquisition of Territory in Australia and New Zealand", in C.H. *Grotian Society Papers*: *Studies in the History of the Law of Nations*, Alexandrowicz (ed.), Martinus Nihoff, The Hague 1968, p.19.
[50] Williams, *The Great South Sea*, pp.185–186.
[51] *Ibid*, p.264.
[52] *Ibid*, p.5.
[53] Marchant, *France Australe*, p.5, and p.64.
[54] *Ibid*, p.5.

Basing his argument on Saint-Aloüarn's claim, Marchant argues that 'French officials in the post Napoléonic period believed they had the legal right to establish a colony at Rottnest Island or some other suitable place in western Australia.'[55] He further asks 'whether it remains that France had some form of design on the region already annexed'[56], prior to Britain claiming possession in 1828. However, further investigation into the law of Prescription challenges Marchant's account.

The concept of Prescription goes back to the early Roman Empire, when a need arose for a system whereby provincial land, not held by civil title or acquired by usucapion,[57] could still be "owned" after possession over a longer period of time ranging from 10 to 20 years. Oppenheim notes that in international practice, a State is considered to be the lawful owner, provided that the possessor has been in undisturbed possession for such a length of time as is necessary to create the general conviction that the present condition of things is in conformity with international order. Prescription in International Law may therefore be defined as:

> …the acquisition of sovereignty over a territory through continuous and undisturbed exercise of sovereignty over it during such a period as is necessary to create under the influence of historical development the general conviction that the present condition of things is in conformity with international order.[58]

Although Grotius rejected the usucaption of Roman law, he adopted from the same, *immemorial* prescription[59] writing:

> Now as time immemorial, considered in a moral right, seems to have no bounds, silence for such a length of time appears to establish the presumption that all claim to a thing is abandoned, unless the strongest proofs to the contrary can be produced.[60]

Although this law was valid in France it did not feature in British law, and since the existence of a science of the Law of Nations there has always been opposition to prescription as a mode of acquiring territory.[61]

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[55] Marchant, *France Australe*, p.5.
[56] *Ibid*, p.82.
[57] *Collins Latin Dictionary*, HarperCollins Publishers, Glasgow, 2001, p.227. Usucapio: to acquire ownership of, take over, or ownership by use or possession.
[58] Oppenheim, *International Law*, p.576, § 243.
[59] *Ibid*, p.575, § 242, citing Grotius, ii. c. 4, § 1,7,9.
[60] http://www.constitution.org/gro/djbp_204.htm. Grotius: On the Law of War and Peace: Book II, Chapter 4: "Title to Desert Lands by Occupancy, Possession and Prescripton." Accessed 12/10/2001.
[61] Oppenheim. *International Law*. Grotius rejected the usucaption (the acquisition of a title or right to property by uninterrupted and undisputed possession for a prescribed term) of the Roman law, yet adopted from the same law: *immemorial prescription*, (see Note 2 – Grotius, ii.c.4, §§ 1,7,9) for the Law of Nations, p.575, § 242.

An important factor arises in discussing the question of "possession" of the west coast of New Holland by Saint-Aloüarn in 1772 under the law of Prescription. Marchant writes that:

> …once a power discovered and annexed a territory, then that territory belonged to the power, which had proclaimed sovereignty. If these claims were not taken away by treaty or other legal means, then the territories remained the property of the original clamant, as happened in the case of western Australia.[62]

Marchant argues that Wolff and Vattel '…established that exploring nations had the legal right to possess lands discovered by them if those lands were not in lawful possession'[63]. Christian Wolff writes in *Jus Gentium* about the occupation of sovereignty in uninhabited territory,[64] stating clearly that 'if a certain nation occupies an uninhabited territory, it occupies sovereignty over it at the same time'.[65] Vattel also writes that 'when a nation takes possession of a country which belongs to no one, it is considered as acquiring *sovereignty* over it as well as *ownership.*[66] The difference in emphasis is "occupation" by Wolff, and "possession" by Vattel. However, Vattel explains the difference:

> Hence the law of Nations will only recognise the *ownership* and *sovereignty* of a Nation over unoccupied lands when the Nation is in actual occupation of them, when it forms a settlement upon them, or makes some actual use of them. In fact when explorers have discovered uninhabited lands through which the explorers of other Nations have passed, leaving some signs of their having taken possession, they have no more troubled themselves over such empty forms than over the regulations of Popes, who divided a large part of the world between the crowns of Castile and Portugal. [67]

Points raised by other scholars also tend to disagree with Marchant's argument. Firstly, Oppenheim observes that the law of Prescription states: 'the principle of extinctive prescription, that is, the bar of claims by lapse of time, (in this case over one hundred years)

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[62] Marchant, France Australe, p.5.
[63] Marchant, *France Australe*, see note 1, Chapter 1, page 5,where Marchant cites Christian Wolff's book *Jus Gentium* (1749), was used as a basis for Vattel's treatise, *The Law of Nations* (1758) which established that exploring nations had the legal right to possess lands discovered by them, if those lands were not in lawful possession. (no reference quoted).
[64] Wolff, *Jus Gentium Methodo Scientifica Pertractatum*, p.50, § 85: *Of Occupation of sovereignty in uninhabited territory*: If a certain nation occupies an uninhabited territory, it occupies the sovereignty over it at the same time. For since a nation is a number of men associated into a state, the civil sovereignty also belongs to it, whether it exercised that of itself or through another in some manner, If it then occupies some uninhabited territory, to dwell in it and hold its property in it, there is no doubt but that it desires to have sovereignty over it. But if it desires to have sovereignty for itself in that territory, it is understood not to wish to allow another to exercise in it some right belonging to sovereignty, or not to be subject to it. But since this is adequate for the occupation of sovereignty in an uninhabited territory, it follows that if a certain nation occupies an uninhabited territory, it occupies the sovereignty over it at the same time. Wolff cites § 5, part 8, Jus Nat; §§ 31,32, part 8, Jus Nat; § 37, part 8, Jus Nat; §219, part 3, Jus Nat.
[65] *Ibid*, p.50, § 85.
[66] Vattel, *The Law of Nations or the Principles of Natural Law*, p.84, § 205.
[67] *Ibid*, p.85, §208.

is recognised by International Law.[68] Secondly, Vattel writes that the Law of Nations will recognise ownership and sovereignty of a nation over unoccupied lands only when the nation is in actual occupation of them, and when it forms settlement upon them, or makes some actual use of them.[69] Vattel thereby lends support to the argument of this thesis that France did not intend to annex the western part of the continent, as in International Law, France did not show intention to settle the territory. Thirdly, Starke writes that prescription depends on the continuous and peaceful display of sovereignty over territory for a long period:[70] 'Title by Prescription is the result of a peaceful exercise of *de facto* sovereignty for a very long time,' and, 'it has never been accepted that the mere silence of a State with regard to territory claimed to belong to it could result in the divesting of its claim by anything less than the *idicia* of an effective occupation.'[71]

Fourthly, in more recent times Evatt has clarified this argument outlining several ways in which a State may acquire territorial sovereignty – in particular by way of cession and occupation. Evatt cites Grotius:

> Roman law recognised that property not owned by any person (*res nullius*) could be brought into ownership by occupation (*occupatio*) which involved both the intention to assert ownership (*animus*) and some overt act of physical control (*factum*). (note 2 – Justinian, *Institutes*, II. I. 12; *Digest*, 41. I. 3.) By analogy this rule of private law was extended to cover the acquisition by a State of sovereign rights over uninhabited territory. (note 3 – E.g. Grotius, *De Jure Belli ac Pacis*, 1646, Carnegie, London, 1925, II,III. 4.1. & 2; Vattel, *The Law of Nations*, 1758, Carnegie, Washington, 1916. I. XVIII, s. 204, 205, p.84.) [72]

It would appear therefore, that without written proof various historical writings noting early French discovery and claim to western Australia could not be substantiated in an international court of law – a fact known at the time.

In relationship to equitable factors, the French law quotes a Latin maxim: *Jure naturae aequum est neminem cum alterius detrimento et injuria fieri locupletiorem* (By the law of nature it is not just that anyone should be enriched by the detriment or injury to another).[73] In the nineteenth century, the code *Corpus Juris Civilis* (Body of Civil Law) had been adapted either wholly or in part by other countries, either under the strong arm of Napoléon or on their own initiative, because it was seen as a break with the laws of the *ancien regime* that

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[68] Oppenheim, *International Law*, p.349, § 155c.
[69] Vattel, *The Law of Nations or the Principle of Natural Law*, p.84, § 205.
[70] Starke, *An Introduction to International Law*, p.174.
[71] *Ibid*, p.182.
[72] Justice Elizabeth Evatt, "The Acquisition of Territory in Australia and New Zealand", p.16.
[73] René David, *French Law*, p.198–199, [in note 52 he cites Pomponius, *Digest*, L. 17,*De regulis juris*, 206.]

applied differently to provinces within a kingdom. At the time of Baudin's voyage of exploration to Australia and to the western shores (1800–1803) under the auspices of Napoléon, this dictum indicated the peaceful nature of the French exploration, rather than as an attempt to claim any part of Australia, which on the eastern seaboard indeed appeared to be British by virtue of occupation.

The other body of laws affecting exploration was maritime laws. Owing in part to the rise of nationalism and to greater expansion of shipping, Maritime Law began to become more diverse in the late Renaissance. Portugal and Spain discovered America and claimed sovereignty over the land and surrounding sea to keep foreign vessels out. In spite of their interdictions, opposition by the English, the French, the Dutch explorers and traders, felt they had the right to navigate the Indian and Pacific Oceans. When in 1580 the Spanish lodged a complaint with Queen Elizabeth I against Drake's famous voyage to the Pacific, Elizabeth answered 'that vessels of all nations could navigate on the Pacific, since the use of the sea and the air is common to all and that no title to the ocean can belong to any nation, since neither nature nor regard for the public use permits any possession of the ocean'.[74] Grotius in *Mare liberum* (1609) contended that 'the sea cannot be State property because it cannot be really taken into possession through occupation, and that consequently the sea is by nature free from the sovereignty of any State'.[75]

International law places no precise limit on the open sea or the high seas, with the exception of the maritime belt – in Britain within three miles of Dover – [76] and territorial waters that are part of the sea but not part of the open sea.[77] O'Connell states that 'doubtless this influenced the English prize courts[78] in their development of the three mile rule during the Napoléonic Wars'.[79] The term 'freedom of the open sea' indicates the rule of law of the Law of Nations that the open sea is not, and never can be, under the sovereignty of any State whatever.[80] Maritime law therefore, supports arguments that all the voyages of exploration by the French around the Australian coasts were carried out in peace and in recognition of

[74] Oppenheim, *International Law*, p.584, § 249.
[75] *Ibid*, p.585, § 250.
[76] *Ibid*, p.47, § 25.
[77] *Ibid*, p.587, § 252.
[78] O'Connell, *International Law*, p.457. Also Oppenheim p.32, § 19a, note 2. Prize courts acting as they do in time or under the influence of war, may not always be in a position to preserve an attitude of detached impartiality. [The English High Court of Admiralty originally only dealt with ships and goods captured at sea, but the great maritime wars of the 18th century gave scope to the exercise of its prize jurisdiction.]
[79] Oppenheim, *International Law*, p.41, § 21a, note 2. The rules of International Law are binding upon British prize courts unless they be in conflict with an Act of Parliament…unless they amount to a mitigation of the rights of the Crown in favour of the enemy or a neutral.
[80] *Ibid*, p.589, § 254.

the Maritime Act in International Law, regardless of the British occupation of the eastern part of Australia.

The governments of all states are compelled to comply with International law as it is effective either because the nations of the world recognise that it is to their best interests to accept the law, or because stronger nations are able to force their point of view upon the weaker ones. This concept is particularly relevant when taking into consideration that Post Captain Nicolas Baudin, under the auspices of Napoléon, conducted the French voyage of exploration to Australia (1800–1803) whilst France was at war with England. In a memoir to Baudin, Forfait the French Minister of Marine and Colonies urged that:

> Since you are sailing under a flag of truce, and since the sole aim of your labour is the perfecting of the sciences, you must observe the most complete neutrality and not give rise to a single doubt as to your exactitude in confining yourself to the object of your mission, such as is announced in the passports obtained for you. [81]

Although the Revolutionary Wars were being waged in Europe during his time sailing around the Australia coast, Baudin did not see the wars as a threat to his explorations in the southern continent because he could assume reciprocal acceptance of international law

Evatt writes that great importance has always been attached in practice to claims based on symbolic or ceremonial acts of possession, such as flag raising or reading of proclamations, as in the case of Australia. In explaining about the *Legal Status of Symbolic Acts: Inchoate Title*, Evatt cites Grotius:

> 'No one is sovereign of a thing which he himself has never possessed and which no one else has ever held in his name…to discover a thing is not only to seize it with the eyes but to take real possession thereof…The act of discovery is sufficient to give a clear title of sovereignty only when it is accompanied by actual possession.' (note 31 – Grotius, *Mare Liberum*, N.Y. 1916) p.11 [II].**[82]**

Evatt also noted that Vattel wrote that '…when a Nation finds a country uninhabited and without an owner, it may lawfully take possession of it…in the name of their nation. This title has usually been respected, provided actual possession has followed shortly after'.**[83]** Quoting from Grotius, Evatt cites that 'the act of discovery is sufficient to give a clear title of sovereignty only when it is accompanied by actual possession'.[84] The performance of

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[81] Nicolas Baudin, *The Journal of Post Captain Nicolas Baudin, Commander-in-Chief of the Corvettes Géographe and Naturaliste*, (trans. by Christine Cornell), Libraries Board of South Australia, Adelaide, 1974, p.8.
[82] Justice Elizabeth Evatt, "The Acquisition of Territory in Australia and New Zealand", p.22.
[83] *Ibid*, p.23 cites Vattel, *The Law of Nations, 1758*, Carnegie, Washington, 1916, I XVIII, s 207, 208, pp.84–85.
[84] *Ibid*, p.25.

symbolic acts of possession by Captain Cook however, could not form a valid basis for acquisition of sovereignty unless authorised by the British Government, a rule recognised by Vattel: 'the acquisition of sovereignty is a state act, and if the act of a discoverer is to have any validity in international law it must be endorsed by the state'.[85]

Oppenheim writes that cession is therefore, a derivative mode of occupation, whereas occupation, accretion, subjugation, and prescription are original modes.[86] Further, the territory must be taken into possession by the occupying State accompanied by some formal act, and must establish some kind of administration that shows that the territory is really governed by the new possessor.[87] Further, that occupation is effected through taking of possession of, and establishing an administration over territory in the name of and for the acquiring State. Occupation thus effected is real occupation and in contradistinction to fictitious occupation is named effective occupation.[88] Oppenheim opines that possession can only be done by a settlement of the territory, accompanied by some formal act that announces both that the territory has been taken possession of, and that the possessor intends to keep it under his sovereignty. This usually consists either of a proclamation or of the hoisting of a flag, but only if is left on the territory where a settlement is able to keep up the authority of the flag.[89]

Vattel in *The Law of Nations or the Principles of Natural Law* writes:

> The territory, which a nation inhabits, …forms a national settlement, to which the nation has a private and exclusive right, and, contains two elements: (1) *Ownership*, by virtue of which that nation only may make use of the territory for its needs… (2) *Sovereignty*…by which the nation regulates and controls at will whatever goes on in the territory. When a nation takes possession of a country, which belongs to no one, it is considered as acquiring *sovereignty* over it as well as *ownership*; …the entire space over which a nation extends its sovereignty forms the sphere of its jurisdiction and is called its domain.[90]

Zouche's emphasis is on the origin in law of custom or tradition rather than natural law,[91] as demonstrated by the command of the sovereign, (in this case British King George III) and the rule of recognition. British explorers in their proclamations observed this principle:

> Captain James Cook R.N. at Kurnell, (on the southern side of the entrance to Botany Bay, New South Wales) on 29 April, 1770,

[85] Justice Elizabeth Evatt, cites Vattel, *The Law of Nations, 1758*, Carnegie, Washington, 1916, I XVIII, s 207, 208, p.25.
[86] Oppenheim, *International Law*, p.546, § 212.
[87] *Ibid*, pp.557–558, §§ 222–223.
[88] *Ibid*, p.557, § 222.
[89] *Ibid*, pp.557–558, § 222.
[90] Vattel, *The Law of Nations or the Principles of Natural* Law, p.84, § 205.
[91] *Ibid*, p.94, § 54.

> proclaimed sovereignty and dominion over the east coast on the continent now known as Australia, for and on behalf of King George III and his heirs and successors. [92] On 22 August 1770 on Possession Island off Cape York, Cook took possession of the whole of the eastern coast from latitude 38ºS. to this place, latitude 10.5ºS., in His Majesty's name (King George the Third), naming the area New South Wales, and fired 3 volleys of small arms on the occasion, which was answered from the ship (the Endeavour).[93]

Captain Arthur Phillip made claims in respect of the territory of Australia, as it became known in 1788, on behalf of King George III and his heirs and successors, taking formal possession of the East Coast of Australia. These claims in the continent then known as Australia, established the laws, customs, benefits and usages of the Common Law.[94] Similarly, Captain Fremantle's formal possession of western Australia in 1826 adheres to the principles of International Law.

Captain James Stirling (1791–1865) had long tried to persuade the British Government to take possession of the west coast of New Holland, and heeding Stirling's warnings about a possible French settlement, on the 5 November 1828 the Secretary of State for the Colonies

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[92] http://www.webone.com.au/~bdpalmer/history/legal.htm. Bryan Palmer, "From Indigenous law to English Law." p.1. Accessed 6/3/2002.

[93] G. A. Wood, *The Discovery of Australia*, revised by J.C. Beaglehole, The Macmillan Company of Australia Pty Ltd., Melbourne, 1969.p.305.

[94] www.austlii.edu.au/cgi-bin/disp.p1/au/cases/cth/highct/unrep183.html. Accessed 11/4/2001. High Court of Australia., argued in the case of Coe v The Commonwealth of Australia and the Government of Australia and the Government of the United Kingdom of Great Britain and Northern Ireland, (1979) 53 ALJR 403, (1979) 24 ALR 118 High Court Practice – International Law: That Captain James Cook RN, at Kurnell, wrongfully proclaimed sovereignty and dominion over the east coast of the continent now known as Australia for and on behalf of King George III…contrary to the rights, privileges, interests, claims and entitlements of the aboriginal peoples.(p.2.). Judges Gibbs, .Jacobs, Murphy and Aickin replied to the dismissal of the claim. Judge G.Gibbs stated that they wrongfully treated the continent now known as Australia as *terra nullius* (p.3.); however, these claims established in the continent now known as Australia the laws, customs, benefits and usages of the Common Law (p.4). It is fundamentally to our legal system that the Australian colonies became British possessions by settlement and not by conquest. (p.9). For purposes of deciding whether the common law was introduced into a newly acquired territory, a distinction was drawn between a colony acquired by conquest or cession, in which there was an established system of law of European type, and a colony acquired by settlement in a territory which, by European standards, had no civilised inhabitants or settled by law. Australia has always been regarded as belonging to the latter class, p.10: See Cooper v Stuart (1889) 14 APP Cas 286, at p.291. (p.10). Judge Jacobs said that these claims established in the continent now known as Australia, the laws, customs, benefits and usages of the Common Law. (p.14). Judge Murphy quoted from Cooper v Stuart (1883) 14AC286 that: the colony of NSW was not acquired by conquest, but was 'practically without settled inhabitants or settled law at the time if was peacefully annexed to the British dominions.' Occupation: was originally a legal means of peacefully acquiring sovereignty over territory otherwise than by cession or conquest. It was a cardinal condition of a valid 'occupation' that the territory should be '*terra nullius*' – a territory belonging to no one at a time of the act alleged to constitute the occupation.' Territory occupied by tribes or peoples having a social and political organization cannot be of the nature '*terra nullius*', p.291. (see Prof.J.G. Starke, *International Law*, 8th ed. 1977) at p.185 and generally. Judge Aickin stated that: he was in full agreement with my brother judges and therefore agree that the appeal should be dismissed. (p.17), pp.1–17.

ordered a naval ship to the west coast to take formal possession of the west coast.[95] Western Australia was founded directly from the United Kingdom, and the decision to instruct the Admiralty to take formal possession of the western portion of the Australian continent was an essential preliminary to the initial foundation of the private enterprise Swan River Colony in 1829. This was emphasised by Captain James Stirling, who wrote to the Under Secretary for the Colonies in 1828 that:

> …as His Majesty's (King George IV) right to that country had never been declared, as it is reported that the French Government contemplates the formation of a settlement in New Holland…I take the liberty of suggesting that …by dispatching a ship of war…possession might thus be taken of the country…and arrangements made for the reception of settlers.[96]

J. Battye argues that:

> Whereas by the establishment of His Majesty's Authority in the Territory aforesaid, the Laws of the United Kingdom…do immediately prevail and become security for the Rights, Privileges and Immunities of all His Majesty's Subjects found or residing in such territory…(and are) subject to British Law. [97]

As uninterrupted possession was to be maintained to thwart a perceived possession by the French, the Admiralty despatched the naval ship *Challenger* captained by Captain Fremantle, who landed on the mainland and took formal possession of the west coast of new Holland on 2 May 1829 in the name of His Majesty (King George IV).

Britain's occupation of the whole of the Australian continent was completed with the annexation of western Australia in 1829. South Australia, Van Diemen's Land (Tasmania) and Victoria were both colonies of New South Wales at this time. The concept of annexation is a formal act whereby a state proclaims its sovereignty hitherto outside its domain, and is a unilateral act made effective by actual possession and legitimised by general recognition. Vattel in *The Law of Nations or the Principles of Natural Law* writes:

> The territory, which a nation inhabits, …forms a national settlement, to which the nation has a private and exclusive right, and, contains two elements: (1) *Ownership*, by virtue of which that nation only may make use of the territory for its needs… (2) *Sovereignty*…by which the nation regulates and controls at will whatever goes on in the territory. When a nation takes possession of a country, which belongs to no one, it is considered as acquiring *sovereignty* over it as well as *ownership*; …the entire space over

[95] C.M.H. Clark, *A History of Australia*, Vol.III, Melbourne University Press,, Victoria, 1973, p.20.
[96] http://www,foundingdocs.gov.au/places/wa/wa1.htm , p.2. Accessed 4/3/2002.
[97] J. Battye, *Western Australia*, (facsimile edition), University of Western Australia Press, Nedlands, W.A., 1978, pp.456–7.

> which a nation extends its sovereignty forms the sphere of its jurisdiction and is called its domain.[98]

Thus the whole of the Australian continent was then formally advertised to the world as a British possession.[99]

Oppenheim further explains this concept of annexation; that the Law of Nations is primarily a law for the international conduct of States and not of their citizens. Therefore in the Law of Nations all rights that might necessarily have to be granted to an individual human being are not as rule international rights, but rights granted by Municipal Law**.** The sources of Municipal Law are custom grown up within the boundaries of the State concerned and statutes enacted by the law-giving authority, whereas the sources of International Law are custom grown up among States and law-making treaties concluded by them.[100] As Municipal Laws of different States are frequently in conflict with each other, Oppenheim explains that what is now termed Private International Law may however, at the same time become International Law in proportion as States agree by law-making treaties upon rules the application of which would solve such conflicts.[101]

While Great Britain regards all rules of customary International Law as universally recognised, English statutory law is absolutely binding upon English courts even if in conflict with International law. The fact that International Law is part of the law of the land and is binding directly on courts and individuals does not mean that English law in all circumstances holds the supremacy of International Law. For a long time the position has been essentially the same in many other countries, including France.[102] Thus it should be noted that France in exploring the coasts of Australia, did indeed observe the rules of International Law.

The British claim to eastern Australia in 1788 was based on International law and effective occupation in founding colonies. Founding a colony based on International Law and effective occupation followed the annexation of western Australia in 1829. Australia subsequently adopted all the principles of English Common Law. The reasons Australia was deemed to be settled rather than conquered was that Britain considered the land to be uninhabited, *terra nullius*, and not subject to another state sovereignty. In asserting this, the

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[98] Vattel, *The Law of Nations or the Principles of Natural* Law, p.84, § 205.
[99] http://www,foundingdocs.gov.au/places/wa/wa1.htm , p.2. Accessed 4/3/2002.
[100] Oppenheim, *International Law*, p.37, § 20.
[101] *Ibid*, pp.6–7, §1–2.
[102] *Ibid*, pp. 39–43, § 21a.

British were relying on a Common law understanding among European nations that people could be considered to hold land only if they used it for agricultural or other purposes.[103]

It should be noted that Captain James Stirling had his own interests in forcing the British possession of the west of the Australian continent, by reporting to the Under Secretary of the Colonies in London his perceived threat of the French interest in settlement. Malcolm Uren writes that the wisdom of extending British possession beyond Port Jackson, would not have seemed so urgent had not the French expeditions, certainly without intent, stimulated moves for the asserting of British possession on the northern, southern and western coasts.[104]

Vattel believed in land as existing in its natural state and unchanging moral principles as common to all people by virtue of their nature as human beings.[105] In relation to wandering tribes whose small numbers can not populate the whole country, their uncertain occupancy can not be held as a real and lawful taking of possession; and when the Nations of Europe – too confined at home – came upon lands which the "savages" had no special need of (in their opinion) and were making no present and continuous use of, they may lawfully take possession of them and establish colonies in them. Hence we are not departing from the intentions of nature when we restrict the "savages" within narrower bounds.[106] Further, Vattel's argument together with those of Grotius and the interpretations of Lawrence, Oppenheim, O'Connell, Starke, Wolff and Evatt, have all lent support to the validity of the British occupation of the eastern part of Australia in 1788. It adhered to the principles of natural law, or International Law as observed by both the occupation and settlement of the

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[103] Gwen Morris (et.al.), "the Common Law System in Australia", *Laying Down the Law, the foundations of legal reasoning, research and writings in Australia,* Butterworths, (fourth edition), Sydney, 1996, Chapter 3, p.28. This reflected contemporary European conceptions of property ownership. This being the case, the nomadic Aboriginal groups with which the British first came in contact were not seen as 'owing' Australia. Moreover, the Aborigines were not seen as having a political culture or system of law which could have continued in force. More modern studies have shown this to be false, but by European standards of the time, Australia was not inhabited by civilised people. In 1889, in a case called *Cooper v Stuart* 14 App case 286, the Judicial committee of the Privy Council confirmed that in the eyes of the common law, Australia had been settled. The legal effect was that along with the convicts came common law. The unfurling of the British flag not only introduced British sovereignty, but also English law.

[104] Malcolm Uren, *Land Looking West,* Oxford University Press, London, 1948, p.2.

[105] Vattel, *The Law of Nations or the Principles of Natural Law*. p.84, § 205. The territory, which a Nation inhabits, whether the nation moved into it as a body, or whether the families scattered over the territory came together to form a civil society, forms a national settlement, to which the nation has a private and exclusive right. This right contains two elements: (1) *Ownership*, by virtue of which that Nation only may make use of the territory for its needs, may dispose of it, and draw whatever benefits it may yield; (2) *sovereignty*, or the right of supreme jurisdiction, by which the nation regulates and controls at will whatever goes on in the territory. When a Nation takes possession of a country which belongs to no one, it is considered as acquiring *sovereignty* over it as well as *ownership;* for, being free and independent, it can not intend, when it settles a territory, to leave to others the right to rule it, nor any other right which belongs to sovereignty. The entire space over which a Nation extends its sovereignty forms the sphere of its jurisdiction and is called its domain.

[106] Vattel, *The Law of Nations or the Principles of Natural Law*, p.85, §§ 208–209.

eastern seaboard in 1788, and by the annexation of the western third of the continent in 1829. Occupation was effected by taking possession of the unoccupied land, accompanied by a formal act of proclamation and hoisting the authority of the flag in western Australia, as evidenced by Lieutenant-Governor Stirling's Proclamation of the Colony on 18 June 1829[107] and followed by establishing settlement and administration. At the time, Britain was relying on a then well accepted understanding among European nations that the land was unoccupied, that is, *terra nullius*, (empty land).

During the exploratory expeditions conducted by France in the period under discussion, the French adhered to the Maritime law as stated by Grotius in 1609, under which France had every right to traverse the oceans of Australia. Some historians have argued for a French claim of ownership of western Australia in 1772 by Saint-Aloüarn under Prescriptive law. However this law clearly articulates the requirement of continuous possession over time of at least thirty years. In the case of western Australia and Saint-Aloüarn's claim, the lapse of time was over one hundred years. The principle of extinctive prescription that is, the bar of claims by lapse of time is recognised by International law and accepted by France.[108] As no existing documents prove the French act of possession, it remains suspect at the least that Marchant can argue that French Prescriptive law claims that the territory remain the property of the original claimant. It is indeed not possible to agree with Marchant's assertion that 'French officials believed they had the legal right to establish a colony at Rottnest Island or some other suitable place in western Australia.'[109] Vattel for instance, writes that the Law of Nations will only recognise ownership and sovereignty of a nation over unoccupied lands when the nation is in actual occupation of them, and when it forms settlement upon them,[110] which has not been the case for France. Rights under International law to the discovery and subsequent ownership of territory are proven in the British possession of Australia, while the questionable right of France to the ownership of western Australia is not proven, owing to the lapse of time under Prescriptive law to establish ownership and settlement.

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[107] http://www.foundingdocs.gov.au/places/wa/wa4.htm. Lieutenant-Governor Stirling's Proclamation of the Colony 18 June 1929 (UK). Accessed 4/3/02.
[108] Oppenheim, *International Law*, p.349, § 155c.
[109] Marchant, *France* Australe, p.5.
[110] Vattel, *The Law of Nations or the Principles of Natural Law*, p.85, § 208.

Conclusion

> Of all *Discourse*, governed by the desire of Knowledge, there is at last an *End*, either by attaining or by giving over…. and begins with a Definition of Words, and proceeds by Connextion [sic] of the same in general Affirmations…the End or last summe [sic] is called the Conclusion. [1]

There is a long succession of writing developed from a British perspective that emphasises French colonial ambitions as a single cause for British occupation of western Australia. In such writing the race for annexation of the western third of the Australian continent, together with immediate colonisation occurred in order to forestall suspected French motives of claiming the western coast. In arguing that the French did not intend to lay claim to any part of the western Australian coast during the period 1772 to 1829, this thesis canvasses a number of arguments against the suggestion of rivalry being the main factor contributing to the eventual annexation of the western part of the Australian continent by the British in 1829. In particular the thesis investigates four factors considered to have significantly influenced the motivation and preparation of relevant French and British voyages of exploration. These are: differing British and French concepts of spatiality and territoriality; contrasting aims and orders given to British and French navigators by their respective governments; differing concepts of the value and objectives of science, and the fact that Britain and France operated under two quite different legal systems and thus interpreted laws in significantly varying ways.

Historical events shaping perceptions of prestige, space, territory and the progression of scientific knowledge leading to this period have been discussed with the aim of demonstrating that the primary French aim of exploration was scientific discovery through which they sought to achieve national glory and prestige. Although Dampier in the seventeenth century wrote despairingly about the state of the west coast of the continent, both France and Britain later showed interest in the qualities of the land. Initially, however, after Dampier's visit, it remained for the French to examine and document in detail the natural attributes of the western Australian land mass.

Despite Saint-Aloüarn's claim to the west coast of the Australian continent in 1772, it has been argued here that France and Britain's voyages of exploration around the Australian coast in the latter eighteenth and early nineteenth centuries had vastly different purposes. On

[1] Thomas Hobbes, *Leviathan*, Penguin Classics, Penguin Books, London, 1985, pp.130-131.

the one hand, Britain's population had increased to the extent that unoccupied land presented a welcome opportunity to establish a colony which would add to the Empire, establish a naval base to protect sea routes to India, and provide the space and territory necessary for the exportation of surplus population. The new colony of New South Wales thus afforded a solution to export felons who up to this time (1788) were unsatisfactorily housed in hulks moored offshore in England. The industrial revolution commenced in Britain early in the nineteenth century; therefore, the search for and exploitation of natural products for commercial gain and wealth creation in order to sustain the industries at home was certainly another factor to be recognised. The new French nation did not have a large surplus population, nor indeed were they in favour of establishing colonies so far away from France.

On the other hand, an examination of French and British scientific aims indicates that while scientific discovery was of interest to the British navigators, it was of primary importance to the French, who certainly especially after the Revolution, sought prestige through this means rather than by colonisation. England and France in June 1800 were still engaged in the Napoléonic Revolutionary Wars when French spatial expectations led to the development of scientific voyages of exploration. Furthermore the French government applied for and received from the British Admiralty passports for *Le Géographe* and *Le Naturaliste*, captained by Nicolas Baudin, to voyage to the southern continent on a scientific mission. British statesmen in London and British officials in Sydney however, were convinced that a Napoléonic victory in Europe would be followed by a challenge to British sea power, with an ultimate aim to make the Napoléonic Empire not merely European but world-wide. Although compliance had been received from the British Admiralty, scepticism was generated about Baudin's exploration (1800–3) being conducted only for reasons to add 'scientific knowledge'.

At the Battle of Waterloo in 1815, France suffered a humiliating military defeat at the hands of the British, bringing to an end the Napoléonic Revolutionary Wars. France had previously sustained substantial naval losses at the Battle of Trafalgar in 1805. Any attempts, should indeed had there been intent to colonise or claim the west of the Australia, would have been unrealistic or impossible even if the French had such aims because of their inability to either engage in a conflict or protect the western Australian coast against another Imperial power, mainly because of the British Navy's strength in the eastern portion of the Australian continent. Therefore France had eliminated any thoughts of colonisation they may have had, mounting scientific voyages of exploration with the perception that, accurately charting the coastline and investigating and documenting the natural attributes of the southern continent, French pride would be restored by adding to world knowledge.

Finally, it has been argued that because Saint-Aloüarn's 1772 claim of western Australia for France was made under Prescriptive Law, which clearly articulates the requirements of continuous possession over at least thirty years, the claim did not remain valid. Over half a century elapsed between Saint-Aloüarn's claim in 1772, and the British annexation of western Australia in 1829, made under International Law that recognises claims by lapse of time. Consequently, the argument that the French nation's voyages of exploration around the coasts of the Australian continent at the beginning of the nineteenth century were seeking to claim, make a settlement or to colonise the west of the continent, at best would appear tenuous.

Malcolm Uren best expresses and upholds the sentiment of this thesis that the French did not intend to claim western Australia. He recounts that James Stirling wrote to the Governor of New South Wales, Sir Ralph Darling, painting an attractive picture of a settlement in the region of the Swan River that would not only be of strategic importance for a naval and military store, but also parading the bogey of possible French occupation. Uren quotes the Earl of Ripon (British secretary of State for the Colonies) who wrote in 1833:

> …that any possible French occupation of the western coast of Australia was most certainly a bogey. He [Ripon] wrote: The present settlement at Swan River owes its origin…to certain fake rumours, which had reached the Government of the intention of a foreign power to establish a colony on the West Coast of Australia. The design was for a time given up entirely on grounds of public economy and would not have been resumed but for the offer of a party of gentlemen [led by Stirling] to embark on the undertaking of this nature at their own risk upon receiving extensive grants of land and on a certain degree of protection for a limited period being secured to them by Government. – Parliamentary Paper 1840.[2]

The annexation of western Australia in 1829, followed by proclamation and settlement, emulated a similar pattern to that of the eastern seaboard. The foundation of the Colony of Western Australia demonstrates the importance attached in practice to the symbolic ceremony of annexation, accompanied by the physical presence of occupation. In both cases, the act of possession was based on Common Law *terra nullius*, land seemingly uninhabited. In asserting this, the British were relying on a then well accepted understanding among European nations that people could only be considered to hold land if they used it for agricultural or other purposes. Traditionally, international law recognises three ways for a country to acquire new territory: conquest, cession or ceding its sovereignty over territory to another, thus Australia in fact was settled rather that conquered. The doctrine of *terra nullius*

[2] Malcolm Uren, *Land Looking West*, Oxford University Press, London, 1948, p.25, note 2.

as applied to Australia in 1788 has been challenged in the nineteenth and twentieth centuries. A judicial revolution occurred in 1992 when Australia's highest court overturned *terra nullius* that had stood for two hundred years. Eddie Mabo, (the Mabo case) fought against the notion that Australian Aboriginal people did not have a system of land ownership before European colonisation. The result was The High Court decisively rejecting the concept of *terra nullius*, arguing that it was a totally inappropriate foundation for the Australian legal system.[3] The process of recognising the Indigenous Land Rights is, however, outside the scope of this study.

This thesis concludes, on the basis of the arguments above, that the French nation after 1772 did not have the intention of claiming or colonising the western coast of the Australian continent.

[3] Henry Reynolds, *The Law of the Land*, (second edition), Penguin Books Australia Ltd, Victoria, 2003, p.206.

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