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Abstract

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**Enduring Signs and Obscure Meanings:
Contested Coats of Arms in Australian Jurisdictions**

Richard Mohr

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Introduction

In the Australian state of New South Wales judges have sat under the coat of arms of the British monarchy since the nineteenth century (figure 1). Having been accustomed to seeing this symbol over the course of many years doing research in New South Wales courtrooms I was surprised to notice, during some research into the physical form of courts in 2000, that a different coat of arms had appeared above the bench in a new court building. This was the State arms of New South Wales. This change had been officially introduced into new courtrooms by an executive decision in 1995, in the midst of a controversy over Australian republicanism and allegiance to the British monarchy. Further developments saw a bill supporting the use of the State arms introduced into the New South Wales Parliament in 2002, and the whole matter referred to a parliamentary committee which took public submissions on the subject and reported in December 2002.

In January 2002 Aboriginal protestors removed the Australian coat of arms, which features the native kangaroo and emu, from the old Parliament House, located in the centre of the national capital, Canberra. They objected to the use of sacred animals on the symbol of Australian government sovereignty, while this government does not recognise the prior rights and sovereignty of the Indigenous people of the continent.

These events provide the cultural background and framework within which I interpret the meanings of these contested coats of arms. Coming across these contemporary contests over coats of arms in a short space of time, I became interested in the meaning of these ancient and obscure symbols. They offer the possibility of investigating the ways in which meanings change over time. This investigation in turn suggests some insights into the relationship between signs,

their objects and their interpretive context. Coats of arms have the quality that they endure over long periods of time, as a result both of their formalised specificity and their material existence. While the sign remains (physically) the same, the context in which it is interpreted and hence its meaning can change.

The process of interpreting a sign may be understood through the context of meanings by which a sign is connected with various other cultural manifestations. The changing cultural, social and political context refigures the the meaning which we attribute to a sign. In other words, its meaning depends on the associations, cultural contexts and broader meaning frameworks by which we interpret it. Some of these contexts derive from referents to other words, symbols and objects. In the case of heraldic symbols these may be well documented, if not widely understood. For instance, the harp on the British coat of arms refers to Ireland, by long historical association.

In the pragmatic semiotic tradition signs can also be understood by their effects. Following Peirce, Eco observes that we may best understand a military command by observing how the troops respond to it (Eco 1976a). Likewise, we can find valuable clues to the social role of signs by considering the uses to which they are put. The process of connecting the sign to various other meanings is a complex semiosis which may expand infinitely.¹ Since this cultural context changes over time and between cultures, situations where meanings change or are contested are particularly instructive for semiotic research. The following discussion examines the changed and contested meanings surrounding some unchanging physical symbols. Their meaning is considered from the point of view of their cultural referents, including both antecedent associations and actual or intended effects.

¹ 'At this point there begins a process of *unlimited semiosis*, which, paradoxical as it may be, is the only guarantee for the foundation of a semiotic system capable of checking itself entirely by its own means.' (Eco 1976b, 68)

The cultural specificity and political salience of these interpretants draws attention to the social dimension of interpretive communities. In social semiotics, we may gain considerable insight into different people's interpretations if we can analyse the cultural baggage they bring to bear on an interpretive task. Looking at the New South Wales coat of arms (figure 2), classically trained lawyers may read the Latin motto, while Indigenous people may recognise the kangaroo as a sacred totemic animal. Neither of these interpretants may be in the least relevant to the issue of republicanism which, from another point of view, may appear to drive the recent debate over courtroom symbolism. This discussion leads through the various ways in which coats of arms are interpreted and used in the context of New South Wales law courts, to conclude with some reflections of the different ways they may be interpreted. It is suggested that a discrepancy between the cultural associations of particular signs and their pragmatic impact may present a 'gap', or a certain obscurity, which may in itself have semiotic significance.

The value of coats of arms as objects of semiotic study derives from their physical existence and their old and well documented provenance. Physical objects persist over long periods of time and may acquire various different interpretations. Coats of arms exist in many physical forms, etched into metal, or made of painted iron or wood. More recently they have taken new forms, such as plastic film or bytes on a government computer server. They follow ancient conventions of heraldry, and they may depict mythical beasts or long past events as well as more modern conventions.² The original interpretive context of heraldic symbols of ancient origin may well be quite obscure to contemporary observers. So they are notable both for their persistence over time and for their semiotic obscurity. However, as will be seen, they also come to be invested with different meanings as a result of changing historical contexts and political

² The old coat of arms of the Basque province of Gipuzkoa depicts cannons seized in a battle in 1512. (Mohr 2001). On the other hand, submissions to the Standing Committee on Law and Justice (2002) proposed that the New South Wales coat of arms be 'updated' in ways discussed below.

projects. The meaning of coats of arms may be understood by their history, by the political contests to which they are enlisted, and by their impacts within particular social settings. To the extent that there is a hiatus between the ancient referents of coats of arms and their contemporary political and social roles, it is possible to investigate the part played by obscurity and endurance in their interpretation.

Lost traditions

To try to 'read' any of these coats of arms in a literal sense leads to several difficulties. We find their languages—visual or verbal—obscure. What are we to make of these lions and kangaroos; of old French and Latin mottos? Even if we understand the words, some of the mottos seem to make little sense, and convey no sense of the power they wield or any apparent meaning of the symbols. A natural response to this obscurity is to try to understand the interpretive framework of the time and mentality which created them. There are cues to this and it is possible to discover quite a lot of their original referents, some of which are considered below. I also inquire into the shifts of meaning which the same symbol can undergo in moving to a new context in time and in place.

First I will consider the content of the two coats of arms which are the subject of the New South Wales Government's change of courtroom symbolism, and the Legislative Council's Inquiry into Regulating the Use of Coats of Arms in New South Wales.



Figure 1

British Royal Coat of Arms displayed in a NSW courtroom (c 1880s)

The coat of arms of the British monarchy, currently still displayed in most courtrooms in the State, depicts animal and floral emblems of the constituent 'nations' over which it rules in the British Isles. For instance, the lion and the rose are English; the unicorn and thistle, Scottish. The Irish get a harp and a shamrock, while the Welsh must make do with the Prince of Wales.³ 'Honi soit qui mal y pense' is written on a garter (naturally) because it is the motto of the Order of the Garter. 'Dieu et mon droit', at least, makes sense to a legal semiotician. The possessive tells us that the monarch is the source of right, and whatever the connective 'et' signifies exactly, she is obviously connected in some way with God.

Experts in heraldry who gave evidence to the Inquiry into the Use of Coats of Arms in New South Wales pointed out that the British monarch has distinct arms in her capacity of Queen of Scotland and of Canada. The arms used in New South Wales courts are those of Great Britain and Northern Ireland (as can

³ 'The special position of Wales as a Principality was recognised by the creation of the Prince of Wales long before the incorporation of the quarterings for Scotland and Ireland in the Royal Arms. The arms of the Prince of Wales show the arms of the ancient Principality in the centre as well as these quarterings.' *The Monarchy Today*, <http://www.royal.gov.uk/output/page400.asp> website of the British Royal Family, accessed 22 April 2002. In evidence to the public hearings of the NSW Standing Committee on Law and Justice (12 August 2002), Michael McCarthy put it less delicately in referring to the bloody English conquest of Wales, by comparison with the merger of the English and Scottish kingdoms.

be seen by the symbolic references to those places). One witness, Michael McCarthy, maintained that arms are 'territorial and specific to certain places only'. In his view, to use British arms in New South Wales is to risk the most populous Australian state being mistaken for 'one of the lost counties of England' (evidence, 12 August 2002). On the other hand, the Garter King of Arms (the chief officer of heraldry in England) maintains that this coat of arms is the 'Arms of The Queen as Sovereign of Australia: they are used throughout the Commonwealth where The Queen is Head of State.' He adds that Scotland and Canada are exceptions.⁴

These interpretations of the Royal coat of arms may have been available to the educated classes at the time of its inception, hundreds of years ago, and still exercise a few heraldic experts today. However, as I am emphasising in this discussion, the interpretive world we live in, and over which this coat of arms may still preside, has changed. When I discussed this research with a magistrate from South Australia, another state where the Royal coat of arms is displayed above the bench, he told me of a fellow magistrate who had been sitting in a remote South Australian town. There he observed that an Aboriginal child who was appearing on a criminal charge had his gaze fixed throughout the proceedings on the ornate coat of arms above the bench. The magistrate hearing the case concluded that this symbol was making a profound impact on the child. Whatever impact this object of rich colours, mythical animals and an unknown language had on the child, it would have had nothing to do with the interpretants or semiotic framework of the originators of the symbol. Through the continuing processes of colonisation to the other side of the earth, that symbol of British unity and Royal power has persisted and been transported into a completely different interpretive world.

⁴ P Gwynn-Jones, Garter King of Arms, to F Nile MLC, 8 May 2002.



Figure 2

New South Wales Coat of Arms, from the Government's website (2001)

The New South Wales coat of arms, which the State Arms Bill 2002 NSW proposes should replace that of the monarchy, is of comparatively recent origin (1906). There are Australian symbols (the kangaroo and the stars of the Southern Cross) and the British lion. The economic bustle of the brash young state comes across in the symbols of agricultural prosperity (wheat and sheep) and the self-congratulatory motto ('Recently risen how brightly you shine'). It has only been in the past generation that the primary industries depicted here have been overtaken by tertiary ones. Even though education now earns more foreign currency than does wheat, and Sydney is a centre for foreign currency exchange, it may be demeaning to have the sheafs replaced by an academic 'mortar board' hat, and the sheep by dollar signs.

Here I have presented interpretations of the coats of arms which I am discussing based on historical research and a little translation from Latin. From this analysis we can see that a lion represents England, a unicorn, Scotland and the whole arrangement represents the British monarchy. These interpretations are available to the scholar of iconography or heraldry, but have little resonance with the interpretive frameworks of the majority of citizens of New South Wales. However, the conflicts and polemics over these symbols suggest that they may be viewed at another level.

Political projects

The polemics associated with these coats of arms, and the alternative versions discussed, indicate that people are identifying these symbols with particular causes. As the State coat of arms is enlisted in support of a republican campaign, the British coat of arms is seen as royalist. Despite their sometimes obscure and ancient symbolism, they have meanings of another type. These cannot be read by simply delving into the historical origins, but must be deduced from the contemporary contexts in which the symbols appear, and from the disputes which they represent.

These disputes are about sovereignty, allegiance, and ethnic identity. In New South Wales a republican project seeks to replace one symbol, representing Royalty, by another which does not. Reaction to this move emphasises an embattled British heritage threatened by multiculturalism. In drawing attention to the prior sovereignty of Australia's Aboriginal inhabitants, Indigenous interests have objected to the cooptation of indigenous animals for a colonising project.

The courts in New South Wales (the first Australian colony) have displayed the Royal coat of arms since they were empowered to do so by the King of England in the 19th century. With one anomalous exception, they did so until at least 1995, when the State Premier proposed a number of changes aimed at modernising the referents of executive power. The Premier, Bob Carr, represents the Labor Party which campaigned for a 'yes' vote in the referendum of 2000 on Australia becoming a republic. While he has sometimes played down the republican motives behind his 1995 moves regarding references to the Crown (in the face of criticism), they must be seen in the light of this recent Australian political history.

Although the last legal and constitutional ties to British institutions were severed by the *Australia Act 1986*, the Queen of England remains the Australian Head of State. In fact, the responsibilities of this office are carried out by a Governor General who is appointed by the Queen on the recommendation of the Prime Minister. However, the continuing ties to the British monarchy constitute an irritation to Australian republicans, and a comfort to monarchists and Anglophiles. Changing these arrangements requires a constitutional amendment to be achieved by approval of a majority of voters in a majority of states in a referendum. Changing the Australian Constitution is difficult at the best of times, for procedural and socio-political reasons. On the question of Australia becoming a republic, a variety of constitutional reforms was canvassed. At a minimum, a constitution would need to specify a process for selecting a President. Republicans were split between popular election and appointment by the legislature. The referendum on a 'minimalist' republic with an appointed President was defeated in 2000. Some of the passions behind this symbolic move may also be seen in the debate over the New South Wales coat of arms.

Similar constitutional arrangements apply to the Australian States such as New South Wales, with heads of State called Governors appointed by the Queen on the advice of the head of government, who is called a Premier. The role of and many of the references to the Queen are largely symbolic. When the New South Wales Premier Bob Carr introduced the Oaths and Crown References Bill into Parliament in 1995 he was explicit in his reference to republican sentiments. This bill, he said, was intended 'to make a number of symbolic changes to remove some of the obvious and significant references to the Crown in State legislation and administration.'⁵ Accused by opponents of representing 'republicanism by stealth', the bill was defeated in the Parliament.

⁵ Second reading speech 23 May 1995. Hansard p 50-51.
www.parliament.nsw.gov.au/prod/la/lahans51.nsf?open accessed 21 June 2001

The bill did not mention the Royal coat of arms in courtrooms. The Attorney General (the Minister responsible for the courts) raised this issue in a letter to the Premier accompanied by seven pages of advice from the State's Solicitor General. The Attorney General, Jeff Shaw, proposed,

In light of the Government's moves to remove references to the monarchy and the Solicitor General's advice on this matter it would seem preferable for the State Coat of Arms to replace the Royal Coat of Arms in New South Wales court rooms.⁶

The Premier agreed to replace the Royal coat of arms with those of the State 'over time, whenever refurbishment of the various court rooms takes place.'⁷ Courts built or refurbished since 1995 were to have displayed the State coat of arms, but usage has been inconsistent. Currently all New South Wales courts display a coat of arms behind the bench, and very often at the entrance, but this may be either the State or the Royal coat of arms.

The most interesting source of considerations regarding the appropriate symbol of the court's authority can be found in the Solicitor General's advice. Taking issue with arguments in favour of the Royal coat of arms in other documents, the Solicitor General, Keith Mason (1995) made several points in support of its replacement:

- the historical and outdated nature of references to the State's "British heritage";
- the independence of Australian and New South Wales laws from those of Britain, initiated by the *Colonial Laws Validity Act 1865* (UK) and established finally by the *Australia Act 1986* (Cth);

⁶ J W Shaw, Attorney General, to R J Carr, Premier, 10 July 1995.

⁷ R J Carr to J W Shaw, 31 August 1995.

- the provision of the 1986 Act that “unless Her Majesty is personally present in New South Wales, Her powers and functions are exercised by the Governor, on the advice of the Premier”;

In response to a view that the Royal coat of arms signified the independence of the judiciary and the separation of powers, the Solicitor General concluded, “The judiciary is indeed an independent and separate arm of government. But it is nevertheless an arm of government of New South Wales.” (Mason 1995, 5-6)

This is a succinct statement of the social, legal and political sources of judicial authority: it is to be in line with our culture and heritage; it represents the source of laws and the executive power which enforces them; and it is represented as an arm of that same government, while being independent of it.

Submissions to the Public Inquiry into Regulating the Use of Coats of Arms in New South Wales raised several other issues, many of them relating to the referents of the symbols.⁸ Submissions opposing the use of the State arms couched their concerns as a defence of British traditions. While several submissions decried the State Arms Bill as a form of “creeping republicanism”⁹ or “republicanism by stealth”¹⁰ – they were typically keen to protect British heritage rather than the monarchy as such. They opposed multiculturalism, “Britain bashing”, and “vandalism against British heritage”. One suggested that the government should devote more attention to “re-establish law and order amongst ethnic communities”. Another referred to “the likelihood [sic] that yet another part of the Anglo-Celtic culture is to be wiped out, ie the Coat of Arms from all buildings”, and asked, “is the English language to go, also??”

⁸ Forty nine submissions were received by the Public Inquiry between March and May 2002. My references are to those submissions, all of which were made public by the Committee. I have identified the source of those submissions made on behalf of a named organisation.

⁹ Submission of Australians for Constitutional Monarchy.

Those in favour of the State arms sought more appropriate local references. The New South Wales coat of arms includes a kangaroo and the stars of the Southern Cross, as well as the lion and symbols of a colonial economy. Several submissions called for a redesigned coat of arms. For instance, George Poulos of the Australian Iconography Foundation advocated that the State arms should be “more intrinsically New South Welsh”; they should be non British and possess “intrinsic unequivocal State uniqueness”. As an example he suggested that the dexter lion rampant guardant might be replaced by the distinctive Australian duck billed monotreme, a platypus rampant. The submission of the Flag Society of Australia stated, “The current state arms portray sufficient symbols of European provenance, but none specifically of the original peoples,” and cited several local and territorial government arms which do.

This too could be contentious. Aboriginal representatives have opposed the use on Australian arms of indigenous animals which have a special significance and totemic power. Australia Day, 26 January 2002 marked the 214th anniversary of white settlement, and the thirtieth anniversary of the establishment of an Aboriginal Embassy in front of the old Parliament House in the heart of the national capital, Canberra. A distinguished Aboriginal leader wrote, under her preferred nickname Mum Shirl (1995, 117) that this Embassy “was to mean that we were treated as strangers in our own country.” During celebrations to mark the embassy’s thirtieth anniversary, protestors removed the Australian coat of arms from the old Parliament House. That coat of arms has an emu as well as a kangaroo. Kevin Buzzacott, one of the protestors, called for the removal of these native animals from the coat of arms. He suggested replacing them with more appropriate introduced species, such as a monkey or a rabbit. “It’s about taking back what’s ours. ... These judges, these coppers ... are trying to use our sacred animals for their power, their mad power.” (Brine 2002, 1)

¹⁰ Submission of Rev. Fred Nile, Christian Democratic Party.

The power of the object

Why is it that coats of arms, as physical objects of ancient origin, come to be associated with sovereignty and state jurisdiction? Do they bring any additional authority to the government, court or political project which they represent? Apart from the traditional symbolism of these objects, their physical presence in places of power suggests they may play other roles. Having considered, above, some of the historical associations of these symbols, and their enlistment in political projects, I now turn to another aspect of the effects of these symbols.

It appears that in New South Wales court rooms the physical presence of coats of arms invokes authority. The coat of arms is always displayed above the judge or magistrate. In older courts this was often on a canopy which projected out from the wall above the judge (as seen in figure 1). In newer courts it is usually on the wall behind the judge so it is seen above his or her head from the body of the court. The coat of arms occupies a unique place in most New South Wales courtrooms as the only ornament or symbol. Unlike the courts of many countries, there are no flags and no portraits or pictures of any kind. What is more, the position of the coat of arms unambiguously identifies it with the power of the judge. Controversy over the State Arms Bill mainly surrounds the use of the coat of arms in courts.

The power of this symbol has been noted in two official documents and has further been suggested to me by magistrates. A New South Wales magistrate who generally sits under the Royal coat of arms said that it represents the authority which the community invests in the magistrate.¹¹ Referring to a copy of a document which he had been involved in drafting, and which he endorsed, headed "Standards of Court Design"¹² we may find a slightly different interpretation: the (Royal) coat of arms indicates "the sovereignty of the court"

¹¹ Interview, 2 February 2001.

¹² Undated photocopy, probably from the 1980s.

(4.6). The Solicitor General finds that the New South Wales coat of arms represents the independent and separate judicial power of the government.

Magistrates, the Solicitor General and a group responsible for drafting court design standards have found various diverse sources for the power of the coats of arms: that of the community, of the sovereignty of the courts' power, or of a separate judicial power of the State. These interpretations reflect the symbolic position of the coat of arms above the judge. However, whether they are referring to the State or the Royal coat of arms, and whatever the source of the power they see it as symbolising, all identify the coat of arms with power:

One of the motivations behind the State Arms Bill appears to be the profusion of coats of arms in New South Wales courts. While it was approved practice until 1995 to use the Royal arms, a major refurbishment of several courts in 1975 used the State arms.¹³ Since 1995 heritage buildings use Royal arms, while new buildings use State arms. At least one major refurbishment since 1995 has used the Royal arms.¹⁴ The Chief Judge of the District Court wrote to the Public Inquiry into Regulating the Use of Coats of Arms in New South Wales,

I advise that the criminal business of this Court is conducted, under the present constitutional arrangements, on behalf of the Crown. For that reason, it is my view that the coats of arms as presently used are appropriate and the use of the State coat of arms would be inappropriate.

The submission was written on letterhead bearing the New South Wales coat of arms.

In furnishing every court with one or the other coat of arms above the judge it is clear that interchangeable symbols are made to do the job of invoking

¹³ Level 5, Downing Centre, Castlereagh Street.

the authority of the court. Whether the symbol is the Royal or State coat of arms, and however it is interpreted, it takes the same place and is seen to be indispensable to the exercise of judicial power.

How is it that the coat of arms, whether that of the British monarch or that of the State of New South Wales, acquires this power? What is apparent about the coat of arms is its presence, whatever it represents. In the spatially loaded but iconographically sparse New South Wales courtroom the coat of arms is powerfully conspicuous, simply by being there: *there*, above the judge's head. The use of a particular symbol is decided by practice, or occasionally by some controversy, and continues by custom. As a physical object, the coat of arms is an enduring presence over time. It appears that a physical object conveys messages rather differently to other signs, particularly verbal ones.

Some of these differences may be observed by comparing the ways in which the New South Wales Government and the Parliament have approached the different issues of the physical coat of arms and the verbal judicial oath. The 1995 decision to change the coat of arms in New South Wales courtrooms was a relatively informal process compared with that required to change the oath or the other references to the Crown, proposed by the Premier around that same time. The Oaths and Crown References Bill 1995 failed to pass into law, and New South Wales judges still swear allegiance to the Queen even though they may now sit under the coat of arms of the State. In legal terms, this is explained by the fact that the use of one or another coat of arms was a simple executive decision not requiring legislation.

The current inconsistency in the use of various coats of arms shows that executive decisions can be ignored by members of the executive government, especially if they are advised by the head of the jurisdiction for whom they are building or refurbishing courts. The introduction of the State Arms Bill 2002 by a

¹⁴ Land and Environment Court, Mena House, Macquarie Street.

private member of the Legislative Council calls attention to an otherwise quiet but incomplete process. In response the Legislative Council referred the bill to its Standing Committee on Law and Justice, in the hope of gauging public reaction rather more carefully than in 1995. The possibility of quietly introducing the new physical coat of arms, and of then using an earlier version on various occasions may be compared with the formal legislative change to the judicial oath, drawing attention to the weight which that legal system places on words compared with visual symbols.

The difference in fortunes of the verbal oath and the physical coat of arms points to some interesting aspects of the use of symbolism and text in contemporary law. The words of the oath can be written out and debated by legislators. The coat of arms is more elusive. Its meanings are more ambiguous, its presence perseveres over time in a particular place. However, it is not an event enacted at a specific point in time like the swearing of an oath. Gagliardi has suggested that these are characteristics common to physical objects.

The possibility that artefacts evade censorship depends on two intrinsic features present in different measure in the various artefacts: the tendency, proper to matter, to endure over time – something not always easy to manipulate – and the characteristic they have of being "ornament", of being "innocent forms", apparently without influence on the "important things" which are said and done. (Gagliardi 1990, 26-7)

The persistence of the Royal coat of arms in most New South Wales courts is an example of this endurance over time. The decision to change to the State coat of arms was made relatively easily—they were more "innocent" than the wording of an oath—but the objects will last for many decades. Hence, as Pasquale Gagliardi points out, physical objects have qualities of innocence as well as endurance. Their innocence, in his terms, derives from their lack of explicit influence on important utterances and actions. This in turn derives from the facts that objects are inert (and thus not active) and their meanings are inexplicit, or at

less amenable to exegesis than texts. The meaning of the coat of arms is all the more obscure through its tangential reference to ancient interpretants. A judicial oath of allegiance to the Queen is more explicit than a coat of arms in the court room because it uses the English language to pledge that allegiance. It is more immediate since it is spoken in the here and now—in “real time”—it is a current commitment rather than an enduring presence. Apparently the coat of arms as a physical object acquires power from both these qualities, of endurance and of obscurity.

Obscurity

Australian lawyers commonly believe that the obscurity of the symbols of the common law adds to their mystique and to the authority which they wield. This viewpoint was illustrated in my earlier discussion of the magistrate who believed that an Aboriginal child was suitably impressed by the coat of arms. Lawyers of a more modern or critical persuasion find these arcane ancient symbols, including the wigs and gowns of many Australian judges and barristers, to be an embarrassment: the law should be expressed in plain English and lawyers should dress like anyone else. Even a distinguished Aboriginal leader, Mum Shirl (1995, 121), invited to the Prime Minister’s Lodge, was turned away by this symbol of authority.

I looked around the outside a bit; it was a big and fancy place, and I was curious about it. When I walked in, though, there was this big coat of arms and it didn’t feel like a house at all, so I just turned around and walked right back out of there.¹⁵

¹⁵ Mum Shirl here describes her arrival at the Lodge in response to an invitation from the Prime Minister Gough Whitlam and Margaret Whitlam to a tea party on the lawns of the official residence.

This suggests that these symbols may be effective in impressing those who are expected to submit to imperial or judicial power. There is also evidence that the powerful believe they are effective. The Solicitor General's advice and the political debate which formed its context discussed the referent of the symbols, i.e. the British monarch or the State government, which I considered above. What was left out of his discussion, indeed of any of the debate around which coat of arms should be used in New South Wales courts, is the seeming necessity to have *some* coat of arms. The different symbols of the State and the Royal arms signify different places (Britain or New South Wales) and different sovereign powers (the Queen or the New South Wales government). What is it about a coat of arms which makes it, as I noted above, the sine qua non of judicial power in New South Wales?

I have already argued that physical presence is an important attribute of *any* coat of arms. I want now to emphasise another characteristic common at least to these two coats of arms, their ancient and relatively obscure iconography: both heraldic and linguistic. Neither the Solicitor General nor the Ministers nor the magistrate compared unicorns with kangaroos, rising suns with crowns, nor harps with sheep. Nor did they discuss the content of the mottos or their preferences for Latin or old French. These are the elements which differ between the two symbols, yet they also share the common element of heraldic symbols and dead languages. An oath expressed in contemporary, albeit legal or ceremonial, English has contemporary meaning and reference which is avoided by the use of obscure languages.

Both coats of arms are characterised by their relative obscurity, and their curious relationship to law courts and sovereign power. Even translating the mottos from the old French or the Latin, they are senseless in the context of contemporary New South Wales law. The unicorn, lions and the kangaroo only become meaningful when they are identified with a specific monarchy, with a State and its republican aspirations, or with the totemic power of an indigenous animal. The

reliance of Australian law officers, from magistrates to the New South Wales Solicitor General, on obscure symbols of State or Royal authority, suggests that their very obscurity adds to their power.

The gap between the literal referents of the components of these coats of arms (unicorns, dead sheep) and any tangible relevance they may have to sovereignty or judicial power leaves an area of uncertainty. Some social groups or expert interpreters may have access to an interpretive framework in which unicorns indicate Scotland and dead sheep the economic might of a rural colony. Others will be faced with obscurity, or draw on new referents for the interpretation of symbols.

In New South Wales the contested territory of ethnic identity, British heritage, republicanism and Australian cultural symbolism has been fought out over the coat of arms and the appropriate symbol of the power of the state and its courts. Signs have consequences as a result of the meanings which audiences may read into them. While the contest over *which* coat of arms to use indicates the depth of feeling which each can arouse, it has blurred the significance of the coat of arms as such. Indeed the inconsistent usage in recent court buildings and refurbishments highlights the interchangeability of these purportedly distinct symbols.

The gap between the symbol and its apparent, contemporary meaning provides an opportunity for interpretive plurality, and yet obscurity may have other outcomes. Obscurity, like meaning, has consequences. The symbol may be powerful as much for what cannot be interpreted as for what can. Georg Simmel associated secrecy with social power.

The secret gives one a position of exception.... It is basically independent of the content it guards. ... From secrecy, which shades all that is profound and significant, grows the typical error according to which everything mysterious is something important and essential. (Simmel 1950, 332-3)

Eco uses other parts of this passage in his attack on Hermetic interpretation, ie overinterpretation. (Eco et al. 1992, 38) It seems to me that this misses Simmel's point, which is not that obscure symbols may suffer an excess of interpretation, but rather that they gain a certain form of social power through a paucity of interpretants, which leads the powerless to doubt their ability to interpret them. Interpretations may be part of a political project, particularly one which seeks to capture the power of a traditional or ancient symbol and to invest it with new meanings. However, the obscurity of ancient objects, symbols and languages may also gain political power through their lack of contemporary interpretants, and hence their obscurity.

While competing factions of Anglophiles and republicans have recently fought out their causes under the banners of the Royal and the State coats of arms, as symbols of judicial power these symbols have another purchase on political symbolism. Signifying power itself, in ways which appear ancient and obscure to the majority of people, the coats of arms continue to exist as signs. But, as signs which are interpreted through the *gaps* in their referents rather than through some transparent interpretive pathway, they are signs of themselves, signs of their own power.

Endurance

If the efficacy of physical symbols in invoking authority derives from their obscurity, as Simmel suggests of the secret, the analysis of ancient heraldic traditions and of dead languages indicate that obscurity in turn derives from the longevity of objects. Endurance has other effects which are not directly related to obscurity, but rather to physical presence itself.

In discussing the difference between the verbal oath and the physical coat of arms I pointed out that the former is only uttered in real time, while the latter persists. This is also a function of human agency. The oath must be uttered by a person; it is their commitment to allegiance. It is a performative like the judicial decision. The human agent who carved or painted the coat of arms, or the one who fixed it to the wall of the courtroom, may be long gone from that place, yet the sign remains. It is not apparent who made it or who put it there. In this way it acquires a semiotic power which is not linked to any individual sign-maker.

The impersonal object manifests that basic aporia of jurisprudence, the rule of law and not of men. Should we then conclude that the coat of arms has the effect of masking human agency? If the judge pronounces judgment only in the presence of this obscure and ancient object, it appears that the object lends its impersonal and enduring authority to the performance. In identifying this authority with the state, Michael Taussig calls one of the communicative uses of signs “state fetishism”, and he quotes Philip Abrams.

[T]he state is not the reality behind the mask of political practice. *It is itself the mask* which prevents our seeing political practice as it is. ... The confusing figure of the mask is helpful only so long as, instead of trying to rip it off, we recognize and even empathize with its capacity to confuse, which means we take stock of the fact that what's important is not that it conceals but that it makes truth. (Abrams, quoted Taussig 1992, 113)

The sign's meaning is immanent in its effects. If the sign is found to constitute a social reality regardless of its associations (ancient or contemporary), we know it by its works. Where the sign is the mask which constitutes the power of the state, what does the mask conceal if it is doing this work in front of our eyes?

The symbol which constitutes state power is only a mask if it has a hidden meaning. Interpretation such as that offered by the Solicitor General sees the constitution of power in a semiotics which discovers in the State coat of arms a

transcendent meaning of indivisible separation no less mysterious than the Holy Trinity: the judiciary is part of the combined power of the three arms of government, yet independent. And yet this is not what the object does in the courtroom. The object itself may mean nothing or anything: the monarch, the state or the independent judiciary. If the symbolic object means nothing beyond its invocation of power, then it is a transparent manifestation of power constituted in the here and now of each actually existing courtroom.

To say, as Taussig does, that the symbols which invoke state power are “fetishes” is to associate the modern state with the objects of “primitive” religions. This was Marx’s rhetorical move in associating the bourgeois means of production with the commodity fetish. (Mitchell 1996, 190ff) It is mirrored in the Aboriginal accusation that “these judges [and] coppers” have stolen sacred animals for their own power. I say mirrored, however, and not reproduced, because the Aboriginal protest does not try to diminish the bourgeois order by an association with “fetishism”, but rather tries to reclaim the objects themselves. In the present analysis I have recognised the power of objects and tried to explain it. Used in suitably powerful social contexts, objects are equally efficacious in Aboriginal society and in the colonising society. Indeed the parallels clarify this efficacy, without debunking or denigrating the objects or the beliefs they sustain.

I said above that consequences may flow from the interpretation of meanings. If a sign means a monarchist or a republican New South Wales we understand the content of the sign by the context in which it is used, and the polemics surrounding its use. Yet I have discussed here a case in which it seems that a sign’s efficacy has become detached from its denotation of different sources of authority or allegiance. Different symbols can be used interchangeably to invoke judicial power, even though the signs may “mean” allegiance to a British Queen or a republican cause. In this situation we see that different signs may have the same effect—the invocation of judicial power—despite various different prior associations.

To return to the ways of interpreting signs with which I began this discussion, of course meaning is constituted both through cultural association and pragmatic effect. This example of symbols bearing different associations with the same effect suggests the possibility of disjuncture between the interpretive regimes of antecedent association and consequential effect. By drawing attention to the obscurity of the associations behind these signs, together with the immanence of their physical presence and invocation of power, I have tried to explore the relationship between an exegetical approach to meanings (from prior association) and a pragmatic approach (understanding their effects). Where effect can stay the same despite variations in association, this suggests that the very obscurity of those associations may be contributing to the effect.

The physical coat of arms is an object which endures over long periods and is used to invoke judicial power. Its meaning is apparent in this use. As a physical object of early provenance it not only has ancient, obscure, or ambiguous associations, but it represents the power of entities which are not present. Whether this is the power of a monarch, of the state, or of an independent judiciary, it is not the power of the individual judge qua individual. While the judicial decision may only be pronounced by such an individual, the invariable association of this performative with the coat of arms serves to attach the immediate power of the judge to the enduring power of the object. Likewise, the enduring power of the object invokes an impersonal authority with every judicial pronouncement.

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Figure 2: Digital image by the New South Wales Government.