Expressive Free Speech, the State and the Public Sphere:
A Bakhtin-Deleuzian Analysis of 'Public Address' at Hyde Park[1]

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Abstract

In this paper I explore how struggles around free speech between social movements and the state are often underpinned by a deeper struggle around expressive images of what counts as either 'decent' or 'indecent' discussion. These points are developed by exploring what is arguably the most famous populist place for free speech in Britain, namely Hyde Park. In 1872 the state introduced the *Parks Regulation Act* in order to regulate, amongst other things, populist uses of free speech at Hyde Park. However, although the 1872 Act designated a site in Hyde Park for public meetings, it did not mention 'free speech'. Rather the 1872 Act legally enforced the liberty to make a 'public address' and this was contrasted to the construction of an expressive image of 'indecent' speakers exercising their 'right' of free speech at Hyde Park. Once constructed the humiliating image of 'indecent' free speech could then be used by the state to regulate actual utterances of speakers. But the paper shows how in the years immediately following 1872 a battle was fought out in Hyde Park over the expressive image of public address between the state and regulars using Hyde Park as a public sphere to exercise free speech. For its part the state had to engage in meaningful deliberative forms of discussion within its own regulatory framework *and* with the public sphere at Hyde Park in order to maintain the legal form, content and expression of the 1872 Act. To draw out the implications of these points I employ some of the theoretical ideas of the Bakhtin Circle and Gilles Deleuze. Each set of thinkers in their own way make valuable contributions for understanding the relationship between the state, public sphere and expressive images.

Keywords: public sphere; free speech; Hyde Park; Bakhtin; Deleuze

Introduction

The public sphere has become in recent years an attractive way for many to think about how individuals activate a 'sense of ordinary and efficacious citizenship' (Eley 2002: 231) in society. In this regard, continues Eley:

> The 'public sphere'…is a space between state and society in which political action occurs with real effectivities, whether in terms of the local effects, in building a sense of political agency, or in behaving ethically in one's social relations and allowing some notion of collective goods to be posed, and thereby contributing to the wider process of political mobilization (Eley 2002: 231).

The public sphere, as a space in which strangers, comrades, friends and acquaintances can talk about issues of concern to themselves and the wider community, grants individuals the opportunity to reflect upon the world, their relationships with others in it and possible solutions to perceived ills.

An important attribute of the public sphere is that it can assume many different forms. There are global public spheres with a radical political agenda and associated with the likes of the anti-globalisation movement (see Cammaerts and Van Audenhove 2005; Chesters and Welsh 2006; Downey and Fenton 2003; Hardt and Negri 2004), along with more policy orientated global public spheres dealing

with policy issues and associated with the likes of NGOs (see Chandler 2005; Ilcan and Lacey 2006). Yet there also exist local public spheres embedded in popular culture, styles and identities (Hartley and Green 2006) which are frequently related to everyday (new) media and associated with the likes of emotional populist public forums such as Reality TV (see Lunt and Stenner 2005; Terranova 2004; Virno 2004). There are of course other varieties of public spheres, not least those dealing with formal parliamentary politics (see Coleman 2005), but what is noticeable in many accounts is the expressive, affectual, cultural and aesthetic sensibilities that the public sphere unleashes into political debate. Think for a moment of the way in which popular culture can actively engage people in political and social debate. For example television can create critical populist public spheres around expressive images such as charity telethon events like Red Nose Day in the UK which raises money and awareness for social causes in Africa and Britain. Or think about public spheres associated with the anti-globalisation movement. On many occasions anti-globalisation movements act through deeply expressive and symbolic forms of protest that help to create a carnivalesque atmosphere at many strategic sites of demonstration; the meeting of the World Trade Organization, Seattle, 1999, being perhaps the notable example (McGuigan 2005; see also Jones 2007).

But while the various strands of debate about the role that expression plays in the public sphere is still ongoing there is at a present two areas that remain problematic in much of the relevant literature. First, when the expressive and symbolic characteristics of the public sphere are thought about this is often done so in relation to wider and more substantial social relationships operating within *civil*

society. This is because civil society is itself frequently theorised as a realm of freedom and autonomy in which individuals and groups can express their unique identities and ethical standpoints at some distance from what is perceived to be the coercive nature of the nation-state. Under this scenario the nation-state is conceptualised as a somewhat corrupt and spent political force that institutionalises 'purposive-instrumental' rationality based upon means-ends calculations. As a result the nation-state, and other 'systems' of social action like the economy, are said to fail to engage in meaningful discursive communicative relationships with expressive and affectual public spheres in civil society (Habermas 1987).

Yet when one empirically examines how the nation-state confronts the expressive activity of public spheres in civil society it soon becomes clear that far from proceeding upon 'instrumentally' rational lines the nation-state in fact regularly engages along the lines of meaningful, reflexive, expressive and 'communicative' action with those in civil society. Indeed the nation-state not only engages along 'communicative' lines of action with public spheres in civil society it also engages in meaningful and reflexive 'communicative' debate within its own mechanisms of power and authority about how best to regulate expressive public spheres outside of its boundaries. To think otherwise, to still insist that the nation-state primarily employs instrumental reason, wrongly implies that only public spheres in civil society can engage in expressive forms of debate.

By focusing upon a specific empirical example of a public sphere, that of Hyde Park, London, the paper will show how from 1872 a dialogic struggle was fought

out between the state and various social movements using this public space for debate and discussion. This seems a particularly apt example if for no other reason than the fact that Hyde Park has for many years been known as a populist public space to practice free speech in the UK (see Roberts 2001; 2004). Indeed, as Cooper (2006) suggests, Hyde Park represents three public-speech metaphors: the right to enjoy unrestricted utterances; the right to participate freely in a marketplace of ideas; and the right to engage in serious and meaningful debate (Cooper 2006: 756-757). However, free speech at Hyde Park is regulated by an Act of Parliament, the 1872 *Parks Regulation Act*, which also incorporates the Rules of Hyde Park. Subsequently the three public-speech metaphors that have grown up at Hyde Park are themselves subject to specific forms of regulation. Moreover, these regulatory forms have been created *historically* through *expressive performative* struggles between the state and groups using Hyde Park to exercise free speech.

Mediating these struggles was an underlying expressive struggle around 'decent' and 'indecent' images of free speech performances at Hyde Park. While the meaning of 'decency' is usually thought of as encapsulating 'civil', 'respectable' and 'norms' of behaviour, its meaning at Hyde Park was somewhat different. During the late nineteenth century a new type of dialogue had arisen in Victorian England specifically related to 'indecent' and 'verminous' people inhabiting London's Royal Parks. Primary attached to middle-class fears about the desecration of the capital's green public spaces by the 'underclass', 'indecency' in this instance expressed an image of London's green landscapes being polluted by some of its more 'vulgar' and 'unhealthy' inhabitants. The in/decency dualism at

Hyde Park was therefore integrally related to everyday material objects associated with the Royal Parks such as the grass, trees, paths, recreational pursuits, and so on; material objects that were seen by some as being contaminated by others. It was this expression that the authorities drew upon when they passed the *Parks Regulation Act* in 1872 to regulate populist struggles around free speech at Hyde Park. After 1872, however, further performative events and struggles around free speech managed to separate the in/decency dualism from the form and content of the 1872 Act ensuring that the Act remained inconsistent in its application by the state. But such was the flexibility of the meaning of in/decency at Hyde Park that the state could re-order this expression in a manner that once again ensured the consistency of the 1872 Act. The paper suggests that to undertake this task successfully the state had no choice but to understand, reflect upon and engage in dialogue with the intentions and meanings of protestors at Hyde Park.

Second, if the critical points above have some truth about them then we require a new way of thinking about meaningful expressive images and dialogue between public spheres in civil society and that of the nation-state. While many accounts do look theoretically at how the nation-state regulates the public sphere this is often achieved through an explicit and implicit division between the 'instrumental' rationality of the nation-state and the expressive 'communicative' rationality of public spheres in civil society. To overcome this theoretical dualism it will be argued that communication is embodied in intense expressive aesthetic images that operate in a quasi-autonomous manner. Expressive images can also therefore be adopted by states and mechanisms of governance to define and give legal form to

right-claims like free speech during unique *events* in which contestation arises over the right-claim in question. Indeed, as we will see, right-claims like free speech are never meaningful in an *a priori* manner but rather only come to be defined in a meaningful sense through dialogic events. To make these theoretical observations the paper draws upon the work of Gilles Deleuze and the Bakhtin Circle[2]. Both set of thinkers in their own way provide fruitful avenues to construct an alternative theory of the public sphere and its relation to expression and images. To begin to think through these points the next section firstly, although briefly, explores some issues on the public sphere, culture and expressive images.

The Public Sphere and Intense Expression

The public sphere, as a space that elicits debate and discussion amongst strangers and acquaintances in society through flows of information, has itself been the object of much discussion (for surveys see Calhoun 1992; Crossley and Roberts 2004; Goode 2005; Hill and Montag 2001; Johnson 2006; McKee 2005). Some have focused their attention upon the relationship between the public sphere, culture and expression. This is to be expected especially since the most prominent thinker of the public sphere, Jürgen Habermas, observes that the emergence of the bourgeois public sphere in western Europe was itself based within expressive and emotional forms like newsletters, diaries, letter writing, novels, newspapers and journals, many of which entertained and fostered critical opinions between

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[2] For the purposes of this paper the Bakhtin Circle includes the work of Mikhail Bakhtin, Valentin Voloshinov and Pavel Medvedev.

strangers (Habermas 1989). Indeed it was through information gained in these expressive forms along with the cultivation of a particular individual critical rationality that encouraged (white male) strangers to meet in urban public spaces like coffeehouses and salons and engage in debate and discussion about matters of social and political importance.

But while Habermas's early work has proved immensely attractive for many as a way of thinking about the modern public sphere, culture and expression, others have remained critical of it. Negt and Kluge (1993), for example, claim that Habermas only ever highlights the expressive cultural sensibilities of the bourgeoisie in *Structural Transformation*. Negt and Kluge seek to go beyond Habermas in this respect through their term 'block of real life' (Negt and Kluge 1993: 22ff.). Designating the space where production and cultural experience meet the 'block of real life' is a site of struggle between different groups over the control and regulation of communication, fantasy, intense images, and possibilities. Accordingly, from this perspective, conflicts in the public sphere are frequently struggles around iconoclasm, or the struggle to control images about what can be discussed in civil society (Finnegan and Kang 2004). For example, Asen (2002) notes that countless social situations and contexts are mediated through 'collective imagining' that often operate as taken-for-granted 'shared assumptions, values, perceptions, and beliefs for matters identified explicitly as topics of discussion' (Asen 2002: 351). Many of these assumptions are popular images related to everyday beliefs such as 'family values' which can in turn be related to contested social policies like policy provision for teenage pregnancy. Active engagement

occurs in collective imaginings when 'participants in public discussions explicitly reflect on the rights, responsibilities, and obligations granted, entitled and owed to one another' (Asen 2002: 351). As part of the process of active engagement participants draw upon past images and past narratives of rights and entitlements and the association of these rights with specific issues and groups in order to question and reinterpret those images and narratives in the present and perhaps project future images of how rights should operate and affect others (see also Minow 1987). Rights, on this understanding, are not merely associated with how we 'see' injustice. Rather, rights are part of a wider progression of *visuality*, of images and imaginings in everyday life, which can act as the social precondition for activating new right-claims (see Woodiwiss 2001).

Obviously in his later work Habermas develops his ideas and in the process addresses some of the criticisms directed at *Structural Transformation*. In particular Habermas's use of the terms lifeworld and systems attempt to make more theoretical sense of 'economic as well as political interactions and dynamics at the heart of contemporary Western societies' (Crossley 2003: 290) in relation to everyday public communication. The lifeworld is the sphere through which individuals engage in 'communicative action' with one another through three distinct expressive realms: cultural reproduction (associated with culture), social integration (associated with society) and solidarity (associated with personality) (see Habermas 1987: 219-220). Each of these expressive domains is informed by speech acts based upon three normative 'validity claims' through which individuals locked in disagreement can reach understanding, agreement and settlement.

In contexts of communicative action, speech acts can always be rejected under…three aspects: the aspect of the rightness that the speaker claims for his action in relation to a normative context…the truthfulness that the speaker claims for the expression of subjective experiences…finally, the truth that the speaker, with his utterance, claims for a statement…(Habermas 1984: 307).

Systems on the other hand refer to those realms like the economy and the state directed by strategic, instrumental and utilitarian reason. Systems primarily serve to 'stabilize nonintended interconnections of actions by way of functionally intermeshing *action consequences…*' (Habermas 1987: 117). On this understanding systems eschew rational-critical action in preference of means-ends calculations about how best to achieve a goal. Strategic action can also arise when one person confronts another and tries to 'achieve their ends by way of an orientation to and influence on the decisions of other actors' (Habermas 1984: 87).

According to Dahlberg (2005), Habermas's reworking of the public sphere concept in his later work grants us the opportunity to explore different normative claims in civil society along with their culturally expressive emotions. Ordinary cultural attributes like 'feeling' are for example crucial for a normative and rational approach to the public sphere. After all Habermas now argues that participants must attempt to place themselves in the position of the other who is being addressed and respectfully listen and understand another person's passionately held

opinions and feelings if they are to reach an understanding between one another. Thus there is no reason why debate and discussion through normative claims cannot be said to arise through aesthetic means like storytelling, narratives and populist styles of behaviour such as 'Mock Parliaments' in which excluded groups gain a political and public voice by expressive acts (see also Habermas 1996: 355).

Be this as it may, while it is possible to argue that Habermas's later work relates expression more coherently with normative values in the public sphere than his earlier work this is not achieved without its own problems. In particular Habermas insists that the form of the public sphere, 'the universal public appealed to in moral-practical claims about justice' (Dahlberg 2005: 112), is directly related to its content – three validity claims of normative rightness, subjective truthfulness and the truth of statements. The form and content of the public sphere is in turn directly related to its expression: cultural reproduction, social integration and solidarity. The unifying force that brings all of these elements together is that of *authenticity*, of the ability of individuals to utilise their rational-critical faculties, ensuring that normative expressions of subjectivity can be created without recourse to instrumental rationality (Sitton 2003: 105). But it is highly questionable to conceptualise the public sphere in such a way. As we have seen, expressive narratives and images can obtain a degree of independence from their exercise in concrete interactions. Expressive images are thus points of struggle between public spheres in civil society *and* regulatory authorities like the state. As a result, and this is a detail often overlooked even in those accounts of the public sphere that take expressive images seriously, so-called 'systems' likewise operate along expressive

'communicative' lines of action. Far from being mediated by 'instrumental rationality', an approach which incidentally implies that what actors think within a 'system' is of no lasting relevance because an actor's motivations are simply tied up 'in an action that helps the organization function' (Sitton 1998: 75; see also Cook 2005), 'systems' are perfectly capable of engaging in the richer, more reflexive and critically-based 'communicative' rationality both within (e.g.) departments in its own regulatory body and with (e.g.) forces in civil society. Thus we need an alternative set of theoretical ideas to develop these points that sets us free from previous theoretical dualisms (Roberts 2003).

The work of the Bakhtin Circle and Gilles Deleuze provide such a set of ideas. But rather than simply develop their insights on the public sphere and expression at a theoretical level the paper will instead elaborate upon them, and demonstrate their usefulness, through an empirical example. The empirical example will focus upon free speech struggles at Hyde Park at the turn of the twentieth century. By drawing upon the ideas of the Bakhtin Circle and Deleuze, it will be argued that the state sought to regulate the *form* and *content* of free speech at Hyde Park by drawing upon a specific though contingent *expressive image* in order to contain populist utterances therein. Expressive speech performances and the meaningful 'communicative' dialogue it calls forth have then been practised by both a diverse array of individuals at Hyde Park *and* by the state seeking to regulate the utterances of these individuals. As a result there is little sense in separating dialogue between the two at Hyde Park into 'communicative' and 'instrumental' rationality. The example of Hyde Park is therefore also useful because it highlights the point that

'free speech' does not exist as a norm irrespective of its use but rather gains 'normative' purchase through its instantiation at *expressive events* of contestation and/or struggle. It was during such events at Hyde Park that 'free speech' was (re)defined through dialogue between contesting forces.

Hyde Park, Speech and the Expressive Intensities of the 1872 Act

From the twelfth century up until 1783 Hyde Park was the home of Tyburn hanging tree, the most notorious place of public execution in Britain, at which felons were allowed to give a 'last dying speech' (Sharpe 1985). During the seventeenth and eighteenth century, however, 'last dying speeches' at Hyde Park became a place for public dialogue about diminishing customary rights against the growing imposition of capitalist social relations and the rule of private property (cf. Linebaugh 1991). The repetitive nature of watching people dangle by their necks on the end of a rope for, in a large number of cases, petty crimes against private property, had installed a *habit* of using 'last dying speeches' to engage in highly expressive, emotional and sometimes riotous public dialogue about the perceived unjust nature of the law (Brooke and Brandon 2005; Gatrell 1994; McLynn 1991).

But the history of Hyde Park as a public sphere is a history of how 'speech' experienced qualitative shifts into intense struggles around 'free speech'. Thus, up until 1872, the image of Hyde Park as a public space for free speech was a process of creative becoming, in which 'speech' was mediated through a number of

repetitions, or iterations, through time (cf. Deleuze 1994: 127; see also Deleuze 1991). The battle over free speech was moreover a 'virtual' one. Through the years a struggle ensued over the expressive and emotional image of 'free speech' itself at this royal park. And there is good reason for this. Hyde Park was used by left-wing social movements during the nineteenth-century, such as radical artisans and the Chartists, for public protest; groups who capitalised upon the identity of Hyde Park as a public sphere for radical utterances (see Roberts 2001; 2004). Hyde Park was thus becoming in the eyes of radicals what Deleuze and Guattari would no doubt term as one of many 'centres of vibration' for demonstrations in London, 'each in itself and every one in relation to all others' (Deleuze and Guattari 1994: 23) by highlighting connections and movement between spaces of protest and between different social movements. But although 'speech' was a prominent radical utterance at Hyde Park during this period it was only by 1872 that Scotland Yard was reporting to the Home Office that several political organizations were meeting in London to promote and defend 'free speech' in the public parks of the capital, especially Hyde Park (*Public Records Office [PRO]*: HO 45/9490/3239). By 1872 therefore 'free speech' itself had been created as a right-claim during these different events of demonstration in Hyde Park. Such social and political events are always exclusive moments of transition, 'of movement from the past and the present into the future', in which each 'unitary and unique event' of protest is 'perilously and absolutely unpredetermined…' (Bakhtin 1990: 118). The state therefore initially set itself the task of constructing a public space at Hyde Park in which the form, content and expression of free speech *associated with these specific political events* could be *determined* and *regulated* through new

governance mechanisms. Gladstone's Liberal government passed the 1872 *Parks Regulation Act* for this purpose.

The *form* of the 1872 Act, as set out in Regulation 8, was not to establish free speech at Hyde Park but rather to set out the right of 'public address'. According to the First Commissioner of Works 'public address' was designed, in part, to limit the 'annoyance' caused to 'well-disposed people' by demonstrators 'abusing' the Royal Parks for their own political agenda (*Hansard Parliamentary Debates* [*Hansard*] 1872 vol. CCIX: 219-220). Unsurprisingly therefore the *content* of the 1872 Act, encapsulated in a number of Rules, was extremely restrictive in defining the legal remit of public address. Rule 2 for example stated that no public address would be permitted on a Sunday, effectively halting the main day when people had time to exercise free speech. Rule 4 reinforced these measures by stipulating that those wishing to make a public address had to leave a written notice of their intention with the First Commissioner's Office at least two days before the intended address (see *Hansard* 1873 vol. CCXV: 261-262). Yet many still used Hyde Park as a place for public demonstration without informing the authorities of their intent to do so (see for example *Law Reports* 1873 vol. VIII: 121).

Due to mounting pressure from various quarters, including vocal opposition from Parliament, the government revised the 1872 Act.[3] The *Parks Regulation Act* was now designed primarily to introduce the rule of law and order to the Royal Parks by empowering Park Rangers with police powers. Be this as it may, Hyde Park had

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[3] Royle (1980: 286) is therefore not strictly correct to say that the 1872 Act was not subsequently approved by Parliament.

for a number of years already been subject to a considerable police presence. In 1866 the Reform League held a number of mass meetings at Hyde Park in their campaign for greater political rights for sections of the population. In response to these mass demonstrations the government had handed over the main regulatory powers of governing Hyde Park to the police (*PRO*: HO 45 9354/28677). But what was unique about the 1872 Act is that it extended police powers across the royal parks. In addition Parliament now established separate Rules for each Royal Park in London. And the Rules were in turn underpinned by a new *expression* of free speech. 'Public address' was still the form of regulation, as encapsulated in Rules 10 and 11, but it was now more coherently fused with an expressive image concerning what was considered exactly to be 'decent' public address. Rule 12 for Hyde Park, for instance, stated: 'No assembly of persons is permitted in the Park unless conducted in a decent and orderly manner'. And what was considered 'decent' was also implicitly defined through the other Rules, the majority of which firmly established the type of behaviour the state considered to be unacceptable in Hyde Park. For example, fishing in the Serpentine Pond was forbidden (Rule 13), while bathing there was only permitted in the morning and evening and bathers were only allowed to undress in a designated space (Rule 15). A number of Rules (1, 3, 4, 5, and 6) explained what vehicles and other modes of transport were legally permitted and where they could legitimately travel in Hyde Park. And just in case people forgot, nobody was allowed to climb trees, railings or fences (Rule 19).

In Victorian Britain the term 'public decency' was also associated with those who were considered to express 'public indecency', 'fecklessness' and 'immorality'. And it was the 'great unwashed', those in poverty, who were said to possess these latter character traits (Johnson 1993). Within public parks themselves 'decency' was motivated by middle class fears about public health in public spaces. Through rational recreation, however, especially sports, picnics and an interest in nature, it was believed that one could demarcate and protect themselves from 'unclean' and 'unhealthy' persons who roamed urban parks (Dreher 1993; 1997). In many respects the state was playing an old hand in constructing the binary opposition of in/decency in London's urban parks by the 1872 Act. The state had been increasingly concerned during the late eighteenth century and early nineteenth century of maintaining 'a controlled environment of winding paths and closed cropped flower borders that fulfilled bourgeois fantasies of a tamed natural landscape' (Taylor 1995: 386) in London's public parks. This was a city that ordered the 'circulation' of where people walked, 'a "sanitary city" concerned with securing the order felt to be immanent to, if threatened by, circulation' of indecent and amoral inhabitants (Joyce 2003: 155). Those who were seen by some commentators as engaging in unproductive leisure in the city, usually those who remained in the 'lower classes', were deemed 'wretches' whose salvation lay in becoming productive again through work, Church or forms of schooling (Banks 2005: 249). Administering civil society from afar was thus achieved through the liberal state by amongst other things collecting statistical information about the moral failure of individuals, 'particularly the failure to support oneself and one's family through independent wage labour' (Firth 2003: 71; see also Clarke 1988). In

London's public parks decency was also to be maintained by ensuring that the 'indecent' did not spoil the surrounding 'clean' landscape. It was in this sense that in/decency was integrally bound up with material items and objects inhabiting the royal parks; objects like the grass, fresh air, solitude, recreation, flowers, ponds, and so on.

There was of course no necessary relation between legal regulations bound up with the form of 'public address' and its regulation by new policing mechanisms, the content encapsulated in the Rules for Hyde Park and the expression of 'public decency'. Indeed, 'public decency', associated as it was with middle class preoccupations of healthy bodies, really had little to do with free speech. But this is not the important point. Rather, just as a sculptor draws upon a virtual image and utilizes certain materials to realise a new version of this virtual image in the actual creation of a statue, so the state drew upon a virtual image of decency and utilised certain material objects of Hyde Park (e.g. the police, individuals employing Hyde Park for demonstrations, the pleasant greenery) in order to realise a new evaluative and intense expression of in/decency in relation to free speech at Hyde Park (cf. Voloshinov 1988: 20). This is why the words 'decency' and 'indecency' had a special meaning in the royal parks during this time which differed from their normal everyday meaning. From the perspective of the state, linking all three together (form, content and expression) meant that 'free speech' could be brought under a new regulatory formation that responded to unique spatial and 'green' confines of Hyde Park. Thus the Board of Works remained in charge of the Rules

for each park and could supplement the Rules with bye-laws approved by the Home Secretary (Richter 1981: 90).

But, as Deleuze reminds us, we can only ever encounter virtual expressions in the event of here and now, the world of the 'actual', ensuring that virtual expressions will never be experienced in all of their complete form. 'This is why virtual objects exist only as fragments of themselves: they are found only as lost; they exist only as recovered' (Deleuze 1994: 127). One way in which expression changes is as it *moves* through different events and their associated unique objects and social relations (Deleuze 1989: 34). Everyday language for example typically reveals movement in this manner. Think of intonation as a type of expression. Sounds engage particular audiences during actual events and express specific movement amongst participants such as shifting social balances between 'the hierarchical distance' of speaker and hearer (Bakhtin and Medvedev 1991: 53). As we will now see the expression of in/decency moved through events, objects and words at Hyde Park and, as a result, became detached from its relationship of consistency to the form and content of the 1872 Act. To combat this inconsistency the state engaged in meaningful dialogue within and through its own ranks and with regulars using Hyde Park for 'free speech' in order to ensure that the 1872 Act remained consistent through new expressions of in/decency.

The Green, Green Grass of Hyde Park

In March 1886 a notable challenge to public address emerged. The Commissioner of Public Works wrote to the Under Secretary of State at the Home Office complaining that during particular events speakers and their immediate friends were transgressing the actual territorial boundaries of public address by driving across Hyde Park's lush grass in order to use their vehicles as speaking platforms. According to the Commissioner, such disregard for the Park's expressive greenery circumvented the Fourth Rule for Hyde Park which had stated: 'No person shall drive any vehicle except on the roads set apart for carriages'. Yet, continued the Commissioner, the Rule had not been enforced in the case of public meetings since July 1884. Unless a strict observance of the Rule was soon enacted the Commissioner was of the opinion: 'There is a danger that, little by little, the introduction of vehicles for the purposes of delivering addresses may be regarded as a right' (*PRO*: HO 45/9490/3239). If this happened the danger was that the Fourth Rule's contribution to the expression of in/decency, an expression unique to Hyde Park, would be inconsistent with the other Rules and their contribution to the legitimacy of the in/decency dualism.

In this instance the intensity of in/decency, while present in the various Rules of Hyde Park and underpinned by the 1872 Act, was also cast free from the 1872 Act. Once formalised through law in/decency drifted, moved through, and was actualised in, a number of 'minor' objects at Hyde Park like speaking platforms. Importantly such minor objects gained their own specific identity through the creative energies of particular *performing events* associated with speakers and regulars at Hyde Park rather than through the state and 1872 Act. If, as Volsohinov

says, speech performances are those typical or habitual actions 'of identifying oneself and of identifying one's position in society, and so on' (Voloshinov 1973: 19-20), which also denote changing sensibilities, transitory alliances, shifting social status, breakdowns in roles and expectations that will be present with 'a certain typical kind of expression' during an event (Bakhtin 1986: 87; see also Bakhtin 1981: 312; Voloshinov 1973: 20), then the *actual* event of using vehicles for platforms was a 'typical' moment for many to use speech performances to gain greater expressive political rights *against* those of the state. If this is the case then the 1872 Act represented the *failure* of the authorities to formalise and render consistent new political relations at this particular public space.

Certainly the Metropolitan Police thought the issue serious enough to make two suggestions to render consistent the form, content and expression of the 1872 Act. First, a number of vehicles would be allowed to enter the Park to be used as platforms but they would have to pass through a designated road. Second, a new Rule could be enacted that officially regulated these makeshift platforms by granting the police supervisory powers over which vehicles could be classified as 'speaking platforms' (*PRO*: HO 45/9490/3239). The proposal for a new Rule is noteworthy for three main reasons. First, the intense expression bound up within indecent public address was now to be defined through a more specific regulatory form insofar that some governance mechanisms, in this case the Metropolitan Police, were to enjoy greater powers of discretion. In fact speakers soon had to obtain a certificate from the Metropolitan Police to get 'official permission' to take a specified vehicle over the grass (*PRO*: WORKS 16/1656). By granting the

Metropolitan Police with the power to judge exactly what constituted a 'speaking platform' a new mode of authorial *performative knowledge* was instantly invoked about what constituted an acceptable expression of public address.

Second, the new Rule explicitly associated public address at Hyde Park with the violation of the 'decent' greenery of this particular royal park. This expressive concern with the desecration of Hyde Park was to become a key dialogic moment in regulating this populist place for free speech. It helped to consolidate the image of indecent and 'verminous' persons desecrating Hyde Park through their embodied utterances. This, in turn, provided a base with which to separate free speech from the public sphere of Hyde Park and to humiliate the former.

Finally, the example of vehicles being used as speaking platforms illustrates how the state found it difficult to anticipate the way in which free speech would be creatively applied by social movements at this public space. That is to say, the state could not invoke a (Habermasian) preconceived legal 'norm' about the right of free speech at this specific public space exactly because each free speech event at Hyde Park was unique and thus creatively produced new questions about free speech that could not be solved within a preconceived legal norm. Free speech therefore enjoyed a sense of 'eventness' about its use at Hyde Park. This was so to the extent that the right-claim of free speech did not contain what Deleuze terms as prior 'ultimate or original solutions' for the actual exercise of free speech at Hyde Park but instead raised 'only problem-questions' (Deleuze 1994: 132) as to the legal modification of free speech in order to address its actual use at specific events (see

also Deleuze and Guattari 1994: 16). In other words, the events of free speech enabled the 'right' of 'free speech' to be subject to dialogue at Hyde Park (see Lefebvre 2000: 411). Subsequently, as we will now see through other examples, it was specific events that went on to legally modify the 'right' of 'free speech' rather than 'free speech' acting as a universal means to justify free speech events.

How Expressions of Indecency Took Flight from the Form and Content of 'Public Address'

The expression of decency was of course defined in relation to indecency. At Hyde Park this dualism became associated with 'decent public address' and 'indecent free speech'. In effect the state acted as a central point that not only created this binary opposition at Hyde Park but also controlled and manipulated the arrangement of this opposition. Deleuze and Guattari's observations seem particularly apt in this respect.

> …(I)t is this central Point that moves across all of space or the entire
> screen, and at every turn nourishes a certain distinctive opposition,
> depending upon which faciality trait is retained: male-(female), adult-
> (child), white-(black, yellow or red), rational-(animal). The central point, or
> third eye, thus has the property of organising binary distributions…and of
> reproducing itself in the principal term of the opposition; the entire

opposition at the same time resonates in the central point (Deleuze and Guattari 1988: 322-323).

By constructing the terms 'decent public address' and 'indecent free speech' the state acted as a 'third eye' at Hyde Park by elevating one side of the binary opposition as being culturally superior. The 1872 Act therefore helped to construct what Deleuze and Guattari term as 'a molar formation' for it sought to 'author' the words of 'minor' utterances at Hyde Park within its own regulatory and binary formation (Deleuze and Guattari 1988; see also Bakhtin 1981: 312). Molar utterances strive to *become* the 'author' of dialogue because they endeavour to maintain a higher degree of knowledge, and a higher propensity to 'see', and to 'talk about', both the actual and virtual intense experience of an issue (see Bakhtin 1990: 6-7). Molar utterances are at the same time 'monologic' utterances because they attempt to obliterate the diverse array of 'accents' within a word and in so doing transform the word in question into a 'uniaccentual' utterance that can be controlled by amongst other things humiliating and denigrating another's utterances (Bakhtin 1981: 312).

The state was emphatic in its wish to maintain the humiliating image of indecent free speech at Hyde Park in opposition to what it preferred as decent public address. Yet speech performances such as those associated with the appropriate platforms to use were part of an ongoing challenge as to the precise meaning of 'public address' and its relationship to other expressions of in/decency. At particular events some confusion had arisen about whether individuals engaged in 'public address' could be prosecuted or evicted from Hyde Park if their speeches

were attached to a 'collection' of money from onlookers, 'entertainment', or 'recitation'. In 1896 dialogue within the state itself – between the Board of Works and Public Buildings and the Under Secretary of State at the Home Office – arose with the purpose of looking at how the creative use of 'free speech' by regulars at Hyde Park was evading and questioning the regulatory form of the 1872 Act. For its part, the Board of Works wanted to stop the expressive performances around 'lectures and dramatic recitations' at Hyde Park and wished to know whether the Rules (i.e. the content of the 1872 Act) could be amended to stop collections for these 'lectures and recitations' either by the Commissioners at the Works or by the Park Ranger of Hyde Park. The Board suggested that the Solicitor to the Treasury should draft a Rule under the Park Regulations to prohibit 'dramatic sketches, recitations, etc.' and the taking of money after any 'entertainment' or 'lecture', 'except by the authority of the Board'. However the Attorney General's opinion was that such a Rule would render the Parks Regulations *ultra vires*. After all, the 1872 Act set out the right for public address and it could prove difficult disentangling the meaning of public address from 'entertainment' if any cases were brought to court (*PRO*: HO 45 10256/X58056). This decision was to haunt the government as questions were later asked in Parliament about these issues (*Hansard*, 30 March 1896). Indeed, it was proving extremely difficult to contain the expression of indecency within the form and content of the 1872 Act. It looked to be the case that indecency was taking flight from its binary form embodied in the 1872 Act through the events of different speech performances by regulars at Hyde Park.

The First Commissioner of Works admitted as much when he eventually concluded that the words 'speech' and 'address' could certainly fall under the provision of Regulation 13 though this was not necessarily the case as regards 'performance', 'recitation' or 'representation'. A Magistrate would therefore find it difficult to convict for 'collection' in connection with a speech. As a last resort the expression of indecency could be reinstated through other legal forms, particularly the somewhat humiliating *Vagrant Act*, but the First Commissioner thought that this was doubtful and required further investigation. To render the 1872 Act once again consistent the state eventually passed a new Rule 11 in 1896 which now simply read:

No money shall be solicited or collected in connection with any performance, recitation or representation, except by permission of H. M. Works and Public Buildings'. (*PRO*: HO 45/10256/X58056)

While the authorities may have believed that they had now solved the inconsistent nature of the 1872 Act by authoring a new Rule this was not the case as one particular event will illustrate.

On 3 August 1897 Charles French was arrested in the speaking area of Hyde Park charged with 'soliciting and collecting money in connection with a representation'; otherwise more commonly known as 'begging' (*The Telegraph*, 4 August 1897). In court French disputed the humiliating description given of him given by a reporter as 'rough, dirty and disrespectable-looking'. He claimed that he was speaking

about poverty and his own destitution and had gained the sympathy of a Hyde Park crowd. Some of those listening then rewarded French with 'a shower of coppers'. French got down from his platform, in this instance a chair, and picked up the money. The police justified the arrest of French on the grounds that he transgressed the new Rule 11 of the Rules for Hyde Park and they therefore claimed that he had collected money from his 'performance'. Yet during his trial French argued in his own defence that he was merely 'a servant of the Lord' who certainly did not collect money:

> I did not ask for it; some charitable old lady threw some into the ring. I am not responsible for what other people do. The ordinary meaning of the word 'collect' is that a man goes round with the hat. I get my living by hawking; I don't go about preaching to get money. (*PRO*: HO 45 10256/X58056)

Even though the Magistrate agreed that it was not at all clear that French had solicited money in connection with a performance, he still fined French 10s.

According to Deleuze, minor relations can be viewed as comprising a variety of 'molecules' and these relate primarily to affectual relations, or an expressive sense and struggle to belong, within the binary oppositions installed by a molar formation (see Patton 2000: 43; Thoburn 2003). French was one such 'molecule' existing within the expressive binary opposition embodied in the 1872 Act. French illustrated how speakers could still challenge the monologic image of an 'indecent' speaker contained in the Rules by creatively dissociating and fragmenting its

expressive image from its form and content. French, for example, challenged the meaning of 'collection' and his actual performance created a new sense of free speech. Again, we see how free speech was enacted, defined and questioned within Hyde Park through the very events free speech was meant to adjudicate in the first place. Part of reason why the state struggled to maintain the normative consistency of the 1872 Act was that speakers and regulars at Hyde Park like French produced minor qualitative transformations in the in/decency opposition so that the denigrated part of the opposition was instead extolled and exalted. As a result the 'molecular' activity of people like French also conveyed in an expressive manner aspects of the in/decency molar formation at Hyde Park struggling with its own identity, struggling to retain a normative monologic consistency (cf. Deleuze and Guattari 1988: 300; 357; see also Deleuze 1994: 46).

Perhaps this should not come as too much of a surprise since Hyde Park was by this time an established public sphere that represented, to borrow a saying from Bakhtin, 'the co-existence of socio-ideological contradictions between…different socio-ideological groups in the present' (Bakhtin 1981: 291). Accordingly the 'molecular' activity of speakers like French also folded over into 'heteroglossic' minor public spaces within the public sphere of Hyde Park itself; minor public spaces that became 'meeting- and contacting-points for heterogeneous people' (Bakhtin 1984: 128) in which stories, narratives, images and experiences could be exchanged about issues and where the 'socio-ideological contradictions' of in/decency was questioned through various events. In effect the minor performances of speakers and regulars had challenged the 'uniaccentual' form of

the 1872 Act and as a result rendered the Act 'multiaccentual' by creating spaces for a number of 'indecent' voices to be heard. Indeed, such was the challenge to the 1872 Act by these minor performances and minor public spaces that the First Commissioner of Her Majesty's Work suggested in January 1898 that the words 'performance', 'recitation', or 'representation' could be taken to mean *either* speech *or* address. After several years of the same problem resurfacing the authorities eventually conceded that it was no longer an option to connect 'speech' and 'address' with 'performance', 'entertainment' and 'recitation'. Instead a revised Rule 11 in 1904 simply read: 'No money shall be solicited or collected in the Park except by permission of the Commissioners of H.M. Works and Public Buildings' (*PRO*: WORKS 16/1030). Unfortunately for the state, however, Rule 11 was now so general that its relationship to arrest and/or eviction for 'indecent' acts like 'begging' was ambiguous. To this extent a memo in May 1904 from the Metropolitan Police asked whether those individuals at Hyde Park who were perceived to be 'unclean and verminous' might instead come under the law of trespass even if the individuals in question had not committed any offence. A meeting during the same month attended by First Commissioner of Works, the Secretary of State and the Commissioner of the Metropolitan Police concluded that there was no legal power at present to prevent a 'procession' composed of 'loafers' who might be disposed to 'looting' or 'intimidation' (*PRO*: HO 45 10256/X58056). At this point no clear intense monologic expression of public speaking existed in the form and content of the 1872 Act.

(Re)creating Indecency

After 1905, minor performative events of free speech still consistently problematised the legal form and content of the 1872 Act by challenging the binary opposition of in/decency. In August 1908, for example, a Herbert Blyth stood on a socialist platform and lambasted the Church about its 'reactionary' stance on sexuality, particularly homosexuality (*PRO*: MEPO 2/1211). Blyth effectively conducted his own expressive dialogue that, in its own minor heteroglossic way, helped to once again render inconsistent the 1872 Act about what constituted a decent public address. Such had been the concern about these types of heteroglossic acts that the Ministry of Works drew up proposals for the construction of a new 'lecture area' in order to bring these speech performances within the form of 'public address' once again (*PRO*: WORKS 3186/2). Once constructed, however, speakers merely refused to use the new lecture arena. The state also had to wrestle with the dilemma that more unofficial public spaces had become available for free speech in London and those exercising their 'right' to free speech had established organisations like the 'Free Speech Defence Committee' which formally defended events of free speech (see for example Thompson 1934).

So, how did the authorities respond? An answer came on 15 February 1925. Guy Aldred, an anarcho-communist, delivered a 'public address' in Hyde Park considered by the Metropolitan Police to be contrary to both the 1872 Act and the

1839 Police Act. While Aldred had been arrested and imprisoned before on other free speech related issues (see Aldred 1955), at this particular meeting Aldred gave a performance in which he mocked both Christianity and the police. At one point during his speech Aldred pointed to a Union Jack resting on an adjacent platform and continued:

> That flag stands for all that is rotten. All they want under that flag is to keep you poor and ignorant and you working men fodder for the cannon...I have been locked up several times, that is the liberty we get under that rotten rag (*PRO*: MEPO 3/297).

When the meeting to the right of Aldred closed by singing 'God Save the King', Aldred turned to his audience and announced:

> I thought this was a place for free speech and not for scenes of howling and disorder as we have just witnessed on my right. Fancy anyone taking their hats off to such rubbish (*PRO*: MEPO 3/297).

Lawrence (2006) observes that by the 1920s some commentators and Conservative politicians began to criticise Labour Party public meetings for being the epitome of disorder, 'rowdyism' and unpatriotic feeling (Lawrence 2006: 197-9). These figures of authority were, amongst other things, alarmed by what they perceived to be a decline in deference since 1918 from the newly enfranchised 'ruffian' elements of the electorate. It was thought by some that this 'unruly rabble',

associated not only with the Labour Party but also with Suffragette and other types of popular politics, no longer seemed willing to revere their 'social superiors' and were also increasingly ready to condemn Britain's imperialist greatness. This is a particularly important point because, as Hobsbawn (1987) notes, in post-1873 imperialist Britain a new type of public symbolism, loyalty and obedience from the nation towards authority was now to be captured through 'old and tired evokers of emotion such as the crown and military glory' (Hobsbawn 1987: 105). The Union Jack was such one expression of monologic dialogue associated with the power of imperialist state. Through his heteroglossic performance of 'free speech', however, Aldred associated the Union Jack with an imperialist identity that bred poverty and ignorance. Accordingly free speech was called upon at this event to both critically interrogate these nationalist expressions *and* the sense of free speech at Hyde Park. But according to the police report Aldred's utterances provoked hostility from some audience members and were said to contain 'blasphemous words' that had 'calculated' to breach the peace contrary to Regulation 5 of the 1872 Act and the Rules of Hyde Park. The Metropolitan Police also considered that Aldred had used insulting words, whereby a breach of the peace might have been occasioned, contrary to the *1839 Police Act* (*PRO*: MEPO 3/297).

The use of the *1839 Police Act* was a deliberate move. The authorities knew that the expressive image of indecent speakers as contained originally in the 1872 Act was an increasingly inadequate means to uphold the legal procedures of 'public address' However, the *Police Act* stipulated that a police officer, whether in uniform or in plain clothes, could arrest a person for an offence of using 'insulting

words'. At Aldred's hearing on the 16 February 1925 the Magistrate accepted that Aldred's 'blasphemous' utterances could hardly be called 'insulting' and were unlikely to cause a breach of the peace. Interestingly, however, the Magistrate believed that Aldred's utterances concerning the Union Jack did come within the definition of the words used in the *Police Act* charge. In so doing the *Police Act* was used not only to render the form of the 1872 Act consistent but also to reinforce a new expressive image concerning 'public address' at Hyde Park. This time, however, the monologic expression of indecent speech was brought under an expressive object of Britain's imperial greatness, that of the Union Jack. This, in turn, complexified the intense image of what 'indecency' implied in the public sphere of Hyde Park.

Conclusion

This paper has been concerned to show how free speech at Hyde Park had the appearance of being open to all but, in reality, was a moment of different interlocking intense and virtual images operating within the form and content of the 1872 Act. At Hyde Park it was undoubtedly the case that a public sphere and public space became legally sanctioned in London that enabled individuals to engage in public deliberation. However even though a public sphere was present, free speech did not enjoy any legal legitimacy. Undoubtedly both public address and free speech folded into one another within the same social space, but both also had unique expressive meanings and themes attached to them. One way in which

the state sought to maintain a monologic consistency during this period was to ensure that the virtual image of 'indecent' speech associated with the 1872 Act remained consistent. It accomplished this through a rich, meaningful and reflexive type of debate and discussion within its own regulatory framework. Yet due to the emerging and different events of speech performances at Hyde Park the form, content and expression the 1872 Act constantly broke down at different temporal and spatial points as the binary opposition of in/decency was challenged. At these points the regulatory intense power of 'public address' was rendered consistent by the state through other available Acts and through new intense expressions and images.

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