The shaping of colonial liberalism : John Fairfax and the Sydney Morning Herald, 1841-1877.

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The Shaping of Colonial Liberalism:
John Fairfax and the *Sydney Morning Herald*, 1841-1877.

A Thesis submitted for the Degree of Doctor of Philosophy
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Stuart Buchanan Johnson

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ABSTRACT

The goal of this thesis is to examine the editorial position of the *Sydney Morning Herald*, Australia's oldest continually produced newspaper, as a way of examining the character of colonial liberalism. Analysis will proceed by way of close scrutiny of key issues dealt with by the *Sydney Morning Herald*, including: state-aid to churches; education policy; free trade; land reform; the antitransportation movement; issues surrounding political representation; and the treatment of Chinese workers. Such analysis includes an appraisal of the views of John Fairfax, proprietor from 1841 to his death in 1877, and the influences, particularly religious nonconformity, which shaped his early journalism in Britain. Another key figure in the thesis is John West, editor 1854-1873, and again his editorial stance will be related to the major political and religious movements in Britain and Australia. Part of this re-evaluation of the character of colonial liberalism in the thesis provides a critical study of the existing historiography and calls into question the widely held view that the *Sydney Morning Herald* was a force for conservatism. In doing so, the thesis questions some of the major assumptions of the existing historiography and, while doing justice to colonial context, attempts to contextualise colonial politics with the broader framework of mid nineteenth-century Western political thought.

ABBREVIATIONS

ADB	*Australian Dictionary of Biography*
AHS	*Australian Historical Studies*
AJPH	*Australian Journal of Politics and History*
Chronicle	*The Leamington Chronicle and Warwickshire Reporter*
Herald	*Sydney Morning Herald*
LA	Legislative Assembly
LC	Legislative Council
ML	Mitchell Library, State Library of NSW
MP	Member of Parliament
NSW	New South Wales
HS	*Historical Studies*
JACH	*Journal of Australian Colonial History*
JRAHS	*Journal of the Royal Australian Historical Society*
YMCA	Young Men's Christian Association

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INTRODUCTION

For more than one hundred and fifty years the *Sydney Morning Herald* has been the leading newspaper in NSW and arguably Australia. Established in 1831 as the *Sydney Herald*, the (from 1842) *Sydney Morning Herald* is also the oldest continually published newspaper in Australia.[1] For most of its history the *Herald* was owned or under the controlling interest of the Fairfax family. These were direct descendants of John Fairfax (1805-77)[2] who, along with Charles Kemp, purchased the *Herald* in 1841. Kemp sold his share to Fairfax in September 1853, when Fairfax's eldest son Charles joined him in partnership. In 1856 second son James joined them and 'John Fairfax and Sons' was born.[3] Lasting five generations until 1990, Australia's greatest commercial dynasty had begun.[4] As the oldest and arguably most distinguished daily newspaper in Australia, the *Herald* is of enormous historical significance. To chart the story of its rise to dominance and to assess its character and content, is to explore the very foundations of the city of Sydney, the colony of NSW, and the early history of the Australian nation. It is one of the great primary sources of colonial history.

Although an icon of Australian journalism, a vast historical repository, and the vehicle through which Australia's most enduring commercial dynasty was established, the *Herald* remains curiously unexamined.[5] The same is true of John Fairfax, its dominant early proprietor and dynasty founder. Bankrupted in England, Fairfax arrived in Sydney in 1838 and from this most unlikely beginning rose to become one of the most prominent figures on Sydney's

[1] V. Isaacs and R. Kirkpatrick, *Two Hundred Years of Sydney Newspapers: A Short History*, Rural Press. Ltd, Richmond, 2003, p. 4.

[2] There has been uncertainty as to whether Fairfax was born in 1804 or 1805. Although descendent J. O. Fairfax proffers 1804 in his *ADB* entry for Fairfax, Souter is persuasive in outlining a preference for 1805. See Gavin Souter, *Company of Heralds: a century and a half of Australian publishing by John Fairfax Limited and its predecessors, 1831-1981*, Melbourne University Press, Melbourne, 1981, pp. 7 and 621. Fairfax's tombstone at Rookwood cemetery has 1805 as the year of birth.

[3] See 'Chronology 1831-1981' in Souter, *Company of Heralds*, p. 592.

[4] Given the success of Rural Press, wherein Fairfax family members on the Sir Vincent Fairfax (1909-93) side possess a controlling influence, it is perhaps remiss to date the end of the dynasty at the loss of family control of the *Herald*. Still, for the time being at least, its dominance on the Australian media scene has been overtaken by the more recent dynasties of Murdoch and Packer.

[5] Henningham noted in 1988 the irony of the neglect of journalism history, given the dependence of historians upon the media and 'particularly newspapers, as sources'. J. P. Henningham, 'Two Hundred Years of Australian Journalism: A History Waiting to be Written', *Australian Cultural History*, no. 7, Australian Academy of the Humanities, Australian National University, 1988, p. 49. One area of great improvement in recent years has been the study of the provincial press. See Rod Kirkpatrick, *Country Conscience: A History of the New South Wales Provincial Press, 1841-1995,* Canberra, Infinite Harvest, 2000 and Elizabeth Morrison, *Engines of Influence: Newspapers of Country Victoria, 1840-1890*, Melbourne University Publishing, Melbourne, 2005. The formation of the Australian Newspaper History Group (ANHG) and its newsletter also augers well. Isaacs and Kirkpatrick, *Two Hundred Years of Sydney Newspapers*, pp. 28-34, provides a bibliography of histories relating to Sydney newspapers.

commercial scene. Fairfax was a foundation director of the AMP Society and a director of the Sydney Insurance Co., NSW Marine Insurance Co., Australian Joint Stock Bank, Pyrmont Bridge Co., Australian Gaslight Co., and a Trustee of the Savings Bank of NSW. Late in life he served on the Council of Education and was a Member of the NSW Legislative Council. Fairfax was also a founding deacon and Sunday School superintendent of the influential Pitt Street Congregational Church, a leading member of the Congregational Home Mission Society, foundation president of the YMCA in NSW, a key supporter of the non-sectarian Sydney Ragged Schools movement and involved in the promotion of the arts, adult education and other philanthropic endeavours.

Despite his status as the 'father of Australian journalism'[6] and other achievements, Fairfax has never been the subject of detailed historical analysis. No detailed published work places Fairfax in his historical context amidst the great issues of an often turbulent, always interesting, colonial society. No published work provides a critical, sustained account of the circumstances behind his success and the personal qualities, abilities, relationships and values that underlay his fame. Perhaps the conservative image attached to Fairfax and the colonial *Herald* has been a contributing factor in this neglect.[7] Of course, Fairfax shares this distinction of neglect with many other notable, interesting Australians.[8] However, few Australians were as prominent and respected in their own day as John Fairfax,[9] and even fewer possess the iconic status of remaining a household name more than one hundred and twenty five years after their death. It is a remarkable fact that John Fairfax awaits a biographer.

Structure and Conclusion of Thesis

There are three interconnected themes which make up this thesis. One is the contribution of John Fairfax to the colonial *Herald*. Chapter 1 outlines Fairfax's heritage and early life in

[6] *Goulburn Herald*, as recorded in 'In Memoriam: obituary notices and funeral services having reference to the late Hon. John Fairfax Esq., M.L.C., who died 16th June, 1877', collated and reported by members of the literary staff of the *Sydney Morning Herald*, p. 31 (see also comments of the *Dubbo Despatch*).

[7] G. P. Shaw comments on the neglect of bourgeoisie Protestants in 'Themes in Australian Historical Writing', *AJPH*, vol. 41, Special Issue 1995, p. 16 .

[8] These include at least three of his own descendants, Sir James Reading Fairfax (1834-1919), Sir Warwick Oswald Fairfax (1901-1987) and Sir Vincent Charles Fairfax (1909-1993).

[9] C. Simpson, *John Fairfax 1804-1877*, (no details of publisher) Sydney, 1977, p. 2 suggests Fairfax's death provoked the greatest public interest in any funeral in the history of the colony to that date. Furthermore, the flags of ships in Sydney harbour were at half-mast in Fairfax's honour. *In Memoriam: Obituary Notices and Funeral Services (1877)*, p. 3.

England. His early forays into journalism are noted but not examined in detail (chapter 2 is devoted to this task). It then traces Fairfax's move to the colony of NSW and acquisition of the *Herald*, and considers the extent of Fairfax's editorial control of the *Herald*. In chapter 2 Fairfax's journalism in England is assessed, with the conclusion drawn that he stood squarely within the British liberal[10] reform movement of the 1830s. Fairfax is also placed within the context of religious Nonconformity. That Fairfax was unambiguously committed to Evangelical Protestant Nonconformity has been established in publications devoted to that task.[11] With respect to the *Herald,* the fact Fairfax was a Protestant Nonconformist is of greater significance than the fact he was an Evangelical.[12] At various points throughout the thesis the connection between Nonconformity and liberalism is highlighted as a crucial interpretative grid required to understand both Fairfax and the colonial *Herald*.[13]

The second and primary theme is the editorial position of the *Herald* under Fairfax. Chapters 3-10 form the main body of the thesis and provide a survey of the editorial stance of the *Herald* in the period of Fairfax's ownership (1841-77). A prominent figure within this survey is the *Herald's* first official editor, John West (1809-1873). West joined the *Herald* in November 1854, remaining editor until his death in December 1873. West is introduced in chapter 1 and his towering presence is rarely absent thereafter.[14] Emphasis within the editorial survey is placed on the 1850s and 1860s. Reasons for this include: it is the period of John Fairfax's senior proprietorship (from September 1853); the period of John West's time as editor (from November 1854); and it is a period of enormous significance in the history of NSW and Australia. The Constitutional debate, gold rushes, the beginning of responsible government, manhood suffrage, land reform, the termination of state-aid to churches, secular schooling, free trade, each major topics in themselves, arose in this period. For several reasons land reform has been given extended treatment in the form of a three-chapter assessment. It was the most contentious issue of the period and is among the more difficult to

[10] A brief definition of liberalism is offered later in the introduction.
[11] Fairfax was a convinced Evangelical who poured a vast amount of time and money into home mission and theological education. See S. Johnson, '"Busy for Both Worlds": John Fairfax as a leading Evangelical Layman, part 1', *LUCAS* 27 & 28 (2000) pp. 41-63 and '"Busy for Both Worlds": John Fairfax as a leading Evangelical Layman, part 2', *LUCAS*, forthcoming. The second article outlines Fairfax's enormous contribution to the development of the Congregational church in NSW.
[12] This is exemplified in the participation at the *Herald* of Andrew Garran who, unlike Fairfax was liberal in theology (as discussed in the Literature Review under Robin Walker).
[13] The connection between religious Nonconformity and liberalism is emphasised in chaps. 2, 3 and 4 below.
[14] More particularly, ch. 4 includes comment on a major public address of West's on free trade and ch. 8 traces West's leadership of the antitransportation movement and activities in Tasmania before joining the *Herald*.

contextualise and explain. Furthermore, the colonial *Herald's* remorseless opposition to the Robertson land acts has had a lasting influence upon its reputation.[15] In addition to land policy, themes explored include religion (such as state-aid to churches and sectarianism), education, free trade, transportation, the ballot, the treatment of Chinese workers, and the many issues surrounding political representation and democracy, such as manhood suffrage.

The overall conclusion presented is that the conservative stereotyping of the *Herald* by many historians (see Literature Review) has been unhelpful. It has obscured an obvious mainstream liberalism behind much of the *Herald's* ideology. While never radical, the colonial *Herald* under John Fairfax was never conservative in a capital 'C' sense. Instead, the *Herald* of this period was an articulate voice of urban mercantile liberalism. While conservative in temper, expressed in its rejection of what it saw as needless, rash or ill-considered change, it nonetheless remained a clear voice of mid nineteenth-century liberalism, properly defined. This thesis contends that on most social and economic issues the *Herald* is best described as having been 'liberal' (such as on free trade, education, and state-aid). On matters of political representation, although relatively conservative in the colonial context, the best description is 'liberal-conservative', rather than the unqualified use of 'conservative'. There were also several issues, such as secret ballot in the 1850s, the treatment of Chinese workers in the 1860s, and education in the 1870s, where the *Herald* could fairly be described as 'progressively liberal'. This overall conclusion as to the character of the *Herald* is reflected in the title of the thesis: 'The Shaping of Colonial Liberalism: John Fairfax and the *Sydney Morning Herald*, 1841-77'.

The third theme flows out from the editorial assessment of the *Herald* and concerns the nature of colonial liberalism, both at the time and in its subsequent depiction within Australian historiography. Having determined that the historiography was often inadequate in its portrayal of the colonial *Herald*, I was led to an assessment of the historiography itself. I

[15] Other topics gaining some editorial expression include: Aborigines (e.g., *Herald*, 8, 16 July 1841 and an article on the rights of Aborigines 16 March 1841 and a sympathetic letter 8 July 1842), prison reform, lunacy, justice (*Herald*, 21 September 1875), the nascent labour movement (*Herald*, 7 September 1861), proposed divorce legislation (*Herald*, 24 June 1858, 31 October, 1 November 1861), railways (see Robert Lee's comments on the *Herald* in John Whitton, *Colonial Engineer: John Whitton 1819-1898 and the Building of Australia's Railways*, UNSW Press, Sydney, 2000, pp. 151-168, 178, 321-5), British foreign policy, slavery (*Herald*, 23-25 December 1856, 10 May 1861), the American civil war. Non-editorial material, letters (for example, D. Ritchie of Paterson Public School who wrote on the certainty of animal life and vegetation on Mars, 16 September 1875) and articles are plentiful and invaluable. Additionally, given the tendency of colonial denominations and religious societies to publish annual reports and accounts of the proceedings of notable events in newspapers, the *Herald* abounds with accounts of a religious societies.

reached the conclusion that although inadequate descriptions of the *Herald* were partly the result of a lack of research about the *Herald*, they were also a due to a wider malaise within colonial historiography. Despite many fine works on colonial history several interrelated factors have limited historians' ability to accurately capture and portray the colonial period. Colonial politics has been at times portrayed in largely local terms, with colonial liberalism a mere creation and plaything of colonial political faction and personality. This has left it bereft of ideology and quarantined from its natural context within British and wider European and American liberalism.[16] This is seen in the way the historiography tends to uncritically accept and perpetuate the partisan use of political nomenclature established by popular colonial politicians. One jarring result has been far too neat a division between so-termed colonial liberals and conservatives. It has also led, at points, to a parochial and subjective interpretation of colonial politics. Policies such as protectionism in Victoria or the pursuit of political power through civil service patronage in NSW are not described for what they were: transparent departure points from liberalism. This is because they were the policies of self-designated liberals whose liberal credentials the historiography rarely calls into question. Furthermore, democracy and liberalism tend to be confounded, as seen in the requirement to support manhood suffrage in order to be regarded a colonial liberal. In contrast, this thesis contends that colonial historiography needs to more critically evaluate the political nomenclature of colonial politicians and more substantially acknowledge the ideological context of colonial liberalism within British liberalism. Without doing this, neither the editorial stance of the *Herald* nor the worldview of leading contributors such as John Fairfax and John West can be understood and described.

Liberalism

Liberalism was the defining political creed of the nineteenth-century. As this thesis explores a leading daily newspaper through the middle decades of the nineteenth-century it is unsurprising that liberalism, British and colonial, figures as its heart. Because of this,

[16] As discussed in ch. 10 below, some historians have criticised each of these tendencies.

liberalism requires a brief definition.[17]

In a word, liberalism was (and remains) about liberty. In its early to mid nineteenth-century form, often termed classical liberalism, this particularly meant liberty from the undue interference of the state. Liberals were concerned with the end or curtailing of privileges associated with hereditary government and an established church. Associated with this was a redefining of citizenship which enshrined liberty of conscience. In practical terms in England, this meant the full participation in the affairs of the state by non-Anglicans, most notably Protestant Nonconformists and Catholics but also Jews, Atheists and others. This eventually allowed for non-Anglicans to be Members of Parliament, and awarded degrees from Oxford and Cambridge universities, and for the raft of other Nonconformist grievances to be alleviated.

Closely linked with conceptions of political freedom was the central liberal belief in a market as free from political interference as possible. The political traditions of limiting state power, which went back to John Locke in the late seventeenth-century, merged in the late eighteenth-century with Adam Smith's espousal of the economic principles subsequently termed '*laissez-faire*'. Both traditions shaped liberalism as it was understood for most of the nineteenth-century. A vital part of free trade at home and abroad was a liberal anthropology of the brotherhood and interdependence of mankind. Liberalism sought as free a market as possible in both the movement of goods and ideas. It rejected the paternalism of conservatism, which saw a small, hereditary aristocracy, a benevolent elite, as the basis of government. But if paternalism, patronage and protection were the enemies of liberalism on the right, then anarchy and socialism were its enemies on the left. Regarding political representation

[17] More detailed discussion of the term 'liberalism' is provided in chaps. 2, 4, 8, 9 and 10 below, with citations from seminal liberal thinkers and leading secondary works. In addition to many leading colonial thinkers and politicians, other eighteenth and nineteenth-century (mostly) liberal thinkers and identities cited or discussed, include: Adam Smith, Alexis de Tocqueville, Henry Hetherington (journalist), Jeremy Bentham, Daniel O'Connell, Robert Peel, Richard Cobden, John Stuart Mill, William Gladstone, and David Wedderburn (British Liberal MP). Secondary sources cited include: A. Arblaster, *The Rise and Decline of Western Liberalism*, Basil Blackwell, Oxford, 1984; Richard Bellamy, *Liberalism and Modern Society: an Historical Argument*, Polity Press, Cambridge, 1992; Ian Bradley, *The Strange Rebirth of Liberal Britain*, Hogarth Press, London, 1985; E. K. Bramstead and K. J. Melhuish, *Western Liberalism: A History in Documents from Locke to Croce*, Longman, London, 1978; H. K. Girvetz, *The Evolution of Liberalism*, London, 1969; J. Gascoigne, *The Enlightenment and the Origins of European Australia*, Cambridge University Press, Cambridge, 2002; J. Gray, *Liberalism*, second edition, Open University Press, Buckingham, 1995; A. Howe, *Free Trade and Liberal England, 1846-1946*, Clarendon Press, Oxford, 1997; D. Irwin, *Against the Tide: An Intellectual History of Free Trade*, Princeton University Press, Princeton, 1996; T. Larsen, *Friends of Religious Equality: Nonconformist Politics in Mid-Victorian England*, Boydell Press, Woodbridge, 1999; S. Macintyre, *A Colonial Liberalism: the Lost World of Three Victorian Visionaries*, Oxford University Press Australia, Melbourne, 1991; D. J. Manning, *Liberalism*, J. M. Dent & Sons Ltd, London,1976; G. Melleuish, *Cultural Liberalism in Australia: a Study in Intellectual and Cultural History*, Cambridge University Press, Cambridge, 1995 and *A Short History of Australian Liberalism*, The Centre for Independent Studies, Sydney, 2001.

liberalism was wary of manhood suffrage, preferring instead incremental extensions of the franchise. It thought suffrage a privilege to be earned through education and responsible behaviour rather than a natural right.

In its early phases liberalism was essentially negative, in that it was about the negating or removal of legal impediments to social and political progress. However by the 1880s, spurred on by the effects of industrialisation and urbanisation, powerful calls arose for a more ameliorative form of liberalism, one which, far from being wary of the state, called for an ever increasing intervention and regulation by the state to further the interests of the working and middle-classes and to curtail the worst hardships of industrialisation. Termed 'New' or 'Social' liberalism, some liberals saw this as the trojan horse of socialism, fearing that the recently disposed tyranny of the aristocracy was about to be replaced by the tyranny of the working class. The welfarist, income redistribution policies of most twentieth-century Western governments stood squarely within the New Liberal tradition.

As the leading journal of colonial New South Wales, the *Herald* was vitally concerned with the application of liberal principles in a new society. Free from the hereditary principle in government and an established church, colonial societies were, for their period, case studies in advanced liberalism. Governor Bourke's Church Act of 1836 (NSW), which amounted to the multiple establishment of all major creeds willing to accept state support, illustrated this perfectly. However, the hegemony of liberal values in the Australian colonies created its own issues and problems. How ought liberalism gain constitutional, parliamentary and administrative expression? How ought liberal values inform vital socio-economic decisions on land reform and trade and education policies? What temptations did colonists face to abandon liberal values in return for political or financial advantage, especially in the era of self government? Who was a liberal in the new society, or, perhaps more pertinently, who wasn't? In many respects these were the defining questions of colonial society and were among the issues most commonly addressed in the editorials of the *Herald*.

Methodology

Being primarily an account of the *Herald's* editorial policy, the thesis is mainly about the *Herald*'s response to issues and events, rather than the issues and events themselves. Although abstract political theory is drawn upon, the methodology is more *a posteriori* than *a priori*; working back deductively from the *Herald* into its social context in order to understand

and interpret its editorial perspective. In considering a major daily newspaper through several decades, theme and focus become obvious challenges. This is partly met by focusing on the editorial stance of the *Herald.* Letters and articles are drawn upon but editorials remain the focus. Other worthwhile areas, such as advertising content, or the mechanics of communication, production and distribution are not considered in detail.[18] Yet even with the focus limited to the editorial stance of the *Herald,* a near limitless array of worthy options remains. The *Herald* could be usefully scrutinised in the examination of religion, race, gender, Marxism, imperialism, and colonisation, to suggest only a few. The methodology used in selecting which editorial themes to assess is simple, while not being, it is hoped, simplistic. It is to answer the question: 'What did the *Herald* itself deem of major importance?' Consequently, the themes which gained the most prominent expression in the editorial space of the *Herald* are the themes examined in this thesis. This approach allows us to examine colonists on their own terms and forces us to mould our sympathies to their context and perspective, rather than the other way around. It is also an appropriate platform for a thesis providing the first academic assessment of the colonial *Herald*. Hopefully this thesis will stimulate not only further treatment of the editorial themes explored herein, such as land reform or free trade, but nuanced gender, labour, race and other more perspectival assessment of the *Herald* as well.[19] Furthermore, this thesis will serve as a good basis for comparative research. Although the *Herald* is contrasted at times with other journals, especially the *Empire*, a more detailed comparison with the *Empire*, or the *Argus* or *Age* of Melbourne, or other contemporaries within the British Empire, presents itself as an obvious opportunity for future research.

Contribution

Given these emphases, this thesis makes an original, threefold contribution to Australian historiography. Firstly, it sheds long overdue light on the person of John Fairfax and his contribution to the *Sydney Morning Herald,* and also highlights other key contributors, most notably John West. Secondly, its discussion of the editorial stance of the *Herald* points the

[18] Morrison deals well with issues such as the telegraph and technology and their effects on distribution and production in her survey (cited above) of the provincial press in Victoria, *Engines of Influence*.

[19] The approach to topic selection taken in this thesis is similar to that outlined by Michael Bentley in the introduction to *Politics without Democracy, 1815-1914*, Second Edition, Blackwell, Oxford, 1999 (first published 1996). In the preface, Bentley noted objection to the first edition on the basis that it did not adequately discuss the working classes and women. In response, Bentley suggested the book aimed to provide 'an account of what [leading political] contemporaries thought was happening around them'.

way towards a fuller and much needed revision of our understanding of colonial liberalism, conservatism and democracy. And thirdly, and most of all, this thesis furthers our knowledge of the *Herald* itself, one of the great primary sources of colonial history. It is hoped that even readers who disagree with some of the revisionist aspects of this thesis, might nonetheless find it a valuable window into the colonial *Herald* and a springboard for further and fuller debate regarding both the *Herald* and the writing of colonial history.

LITERATURE REVIEW: Sources and Historiography

Introduction

The literature review is in two parts. The first is a standard literature review highlighting major primary and secondary sources. The second is a survey of descriptions of the colonial *Herald* within Australian historiography. This is perhaps demanding in that it anticipates discussion within the thesis proper. However, it also serves as a vital backdrop to subsequent historiographical discussion and introduces many of the *Herald's* major editorial themes considered in chapters 3-10. It includes a preliminary discussion of the use of the terms 'liberal' and 'conservative'.

General Literature Review

Primary Sources

Fortunately, the lack of consideration of John Fairfax and the *Herald* is not due to an absence of primary sources. The most important is, of course, the *Herald* itself; a vast historical repository. Other important items are held at the Mitchell Library, Sydney. Of these, the Fairfax Family Papers are crucial, with letters to and from John and Sarah Fairfax and an 1887 memoir of John Fairfax by son and chief successor at the *Herald* Sir James Reading Fairfax (1834-1919, knighted 1898) the most prominent items.[1] This last item by James Fairfax is one of three draft memoirs of his father held within the Fairfax Family Papers. These eventually made it into print in the form of *A Short Memoir of the Life of John Fairfax*. Undated and marked 'For Private Circulation Only', this was published around the year 1900.[2] It is important to emphasize this printed memoir, as it contains information not found in the early drafts within the Fairfax Family papers and is not cited by Souter or J. F. Fairfax (it appears

[1] James Reading Fairfax, 'A History of John Fairfax and Family by James Reading Fairfax: Oct. 24 1805 - Oct. 28 1871', 1887, Fairfax Family Papers. As for the dates, 24 October 1805 is John Fairfax's birth date and 28 October 1871 the date of the accidental death of James' only sister Emily. Why the latter date was chosen, and not the date of John Fairfax's death 16 June 1877, is not stated. In addition to James Fairfax's primary 1887 draft account of his father, there are two other brief unfinished drafts within the Fairfax Family Papers. For referencing purposes, the major draft will be termed 'A History of John Fairfax' and the briefer drafts will be titled as 'Unfinished Memoir' and 'Chapter 1 of a Life of John Fairfax'. These reflect the provisional titles used by James Fairfax.

[2] Support for a ca .1900 date comes from the copy held by Rare Books at the Fisher Library, University of Sydney. This was signed by James to his son Charles B. Fairfax (1859-1941) and dated 6 September 1903.

to have been been lost).[3] Other valuable ML items include: two extant addresses of Fairfax, 'The Colonies of Australia' (a lecture delivered on his return to Warwickshire in 1852) and 'What Should the Young Men of the Colonies Be?' (an address delivered before the YMCA in Sydney in 1856); letters of Fairfax to Henry Parkes preserved in the Parkes Correspondence; 'In Memoriam: Obituary Notices and Funeral Services' which contain widespread testimony regarding the character and contribution of John Fairfax upon his death in 1877; the records of the Pitt Street Congregational Church, so central in Fairfax's life; plus items catalogued under the names of ministers or friends of Fairfax and John West such as Rev. Dr. Robert Ross, Rev. John Graham, David Jones, Thomas Holt, and G. A. Lloyd (to name only a few). One crucial item was a microfilm from the British Newspaper Library of Fairfax's *Leamington Chronicle*. This was the newspaper owned by Fairfax in the mid-1830s prior to his emigration to NSW and is examined in ch. 2. Near the margins of what can be considered a primary source are two important works by Bruce Smith regarding free trade and liberalism: *Liberty and Liberalism* (1887) and *Free Trade and Liberal Associations, their True Provence* (1889).[4] More broadly, Brian Dickey's *Politics in New South Wales 1856-1900*, an edited and introduced selection of primary documents, proved most useful.[5]

Secondary Sources

The most comprehensive and scholarly work on both John Fairfax and the *Herald* is Gavin Souter's group history of John Fairfax and Sons, *Company of Heralds* (1981). It provides an accomplished survey of the life of Fairfax as it pertained to the *Herald* and provides an excellent springboard into a fuller treatment of Fairfax. *The Story of John Fairfax* (1941) provides a semi-biographical treatment of Fairfax.[6] This was compiled by Fairfax's great-grandson, John F. Fairfax (1904-1951), and contains much useful information, particularly citations from letters and diaries. It is especially noteworthy as the repository of the oral

[3] Of particular importance, is James Fairfax's claim: 'When Responsible Government was introduced, Mr. Donaldson, afterwards Sir Stuart Donaldson, consulted my father as to the formation of the first Ministry, and offered him a seat in the Upper House, which he declined'. James Fairfax, *A Short Memoir of the Life of John Fairfax*, p. 24. I have found no other mention of this significant claim that John Fairfax was offered an Upper House seat in 1856. *A Short Memoir* also sheds extra light on the basis of John Fairfax's decision to move to Sydney instead of more popular destinations in North America. Both points are referred to within the thesis.

[4] B. Smith, *Liberty and Liberalism A Protest against the growing tendency toward undue interference by the State, with individual liberty, private enterprise, and the rights of property*, George Robertson and Company, Melbourne, 1887 and B. Smith, *Free Trade and Liberal Associations, their True Province: a lecture delivered at the Glebe, Sydney, on August 19th, 1889*, Jas. Smith & Co., Sydney, 1889.

[5] B. Dickey (ed.), *Politics in New South Wales, 1856-1900*, Cassell Australia, Melbourne, 1969.

[6] J. F. Fairfax, *The Story of John Fairfax: commemorating the centenary of the Fairfax proprietary of the Sydney Morning Herald 1841-1941*, John Fairfax & Sons, Sydney, 1941.

history of John Fairfax's granddaughter, Miss Mary Fairfax (1858-1945). She remembered Fairfax well and her testimony builds on the surviving records and memoirs of her father, John's second son and main successor at the *Herald,* James Fairfax.[7] Yet, although useful, it tends more to hagiography than critical analysis. The voluminous *A Century of Australian Journalism,* published by John Fairfax and Sons in 1931, furnishes many details regarding the *Herald's* managerial, editorial, and mechanical evolution. A work of description, rather than analysis, it sketches the main 'players' and many of the notable or controversial contributions of the *Herald*. Without criticising John Fairfax or the *Herald's* editors, it rehabilitates some whom the *Herald* of the day dismissed, including Governor Sir George Gipps and leading emancipist and politician Dr. William Bland.[8] These three works, *A Century of Journalism* (1931), *The Story of John Fairfax* (1941), and *Company of Heralds* (1981), form the backbone of published material focusing John Fairfax and/or the *Herald*. It is striking to note that each was commissioned or produced by John Fairfax and Sons. This forms the most eloquent testimony to the lack of interest of Australian historians not only in John Fairfax but the entire Fairfax dynasty.[9]

Among other works on the *Herald* or Fairfax, a 1931 article by G. B. Fletcher provides a brief survey of the founding of the *Herald*,[10] and Caroline Simpson, Fairfax's great-great-granddaughter (1930-2002), produced a brief, well-illustrated booklet on Fairfax on the centenary of his death in 1977.[11] Among broader works on journalism, R. B. Walker's *The Newspaper Press in New South Wales, 1803-1920* (1976) stands out.[12] It is an excellent study of the ownership, ethos, editorial stance, and commercial success — or lack thereof — of the newspaper press in New South Wales (its account of the *Herald* is described below).

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[7] See introductory comments, J. F. Fairfax, *The Story of John Fairfax*, pp. ii-iii.
[8] *A Century of Journalism*, Sydney Morning Herald Office, Sydney, 1931. On Gipps, pp. 124-127; Bland, pp. 91, 152. J. F. Fairfax felt the same obligation regarding Governor Gipps. See, *The Story of John Fairfax*, pp. 103-4.
[9] Of course, lack of interest in the Fairfax dynasty did not extend to events surrounding its loss of the *Herald* in 1990. B. Griffen-Foley's Macquarie University 1996 Ph.D. thesis, 'The Packer Press: A History of Consolidated Press, 1936-1974' is the great exemplar of a thesis surveying a media dynasty. This would be more difficult with the Fairfaxes, given the much greater period of time 1828 to the present (1828 being John Fairfax's first venture into print and the Fairfax family remain in the media through Rural Press Ltd).
[10] G. B. Fletcher 'Centenary of the 'Sydney Morning Herald', *Royal Australian Historical Society*, 1931, vol. xvii, part ii, pp. 89-111.
[11] C. Simpson, *John Fairfax ,1804-1877*, Sydney, 1977. This provides a very brief survey of Fairfax's life, based largely on primary materials from J. F. Fairfax, *The Story*, and the Fairfax Family Papers.
[12] R. B. Walker, *The Newspaper Press in New South Wales, 1803-1920*, Sydney University Press, Sydney, 1976.

Several books were helpful on various aspects of colonial society and politics,[13] with some of the most useful commentary within the biographies of leading colonials[14] and journal articles.[15] Several works were especially helpful regarding liberalism, its origins and British political context,[16] as were others on the connection between Nonconformity and liberalism.[17]

Special Literature review: Descriptions of the colonial *Sydney Morning Herald* within Australian Historiography

The term 'conservative'

The most common term used to describe the *Herald* has been 'conservative'. However, the term is inherently problematical. At times it seems to carry a largely relative or comparative

[13] These include: A. Atkinson, *The Europeans in Australia, A History*, vol. two, *Democracy*, Oxford University Press, Melbourne, 2004; C. M. H. Clark, *A History of Australia*, Melbourne University Press, Melbourne, vol. iii, 1973 and vol. iv, 1978; Gascoigne, *The Enlightenment*; J. B. Hirst, *The Strange Birth of Colonial Democracy: New South Wales 1848-1884*, Allen & Unwin, Sydney, 1988 and *Australia's Democracy: a Short History*, Allen & Unwin, Sydney, 2002; P. Loveday and A. W. Martin, *Parliament Factions and Parties: the First Thirty Years of Responsible Government in New South Wales, 1856-1889*, Melbourne University Press, Melbourne,1966; Macintyre, *A Colonial Liberalism*; G. Martin, *Bunyip Aristocracy: the New South Wales Constitution Debate of 1853 and Hereditary Institutions in the British Colonies*, Croom Helm, Sydney, 1986; W. G. McMinn, *Nationalism and Federalism in Australia*, Oxford University Press, Melbourne, 1994; Gregory Melleuish's, *Cultural Liberalism in Australia* and *John West's 'Union Among the Colonies'*, Australian Scholarly Publishing, Melbourne, 2001 and *A Short History of Australian Liberalism*; G. Nadel, *Australia's Colonial Culture: Ideas, Men and Institutions in Mid-Nineteenth Century Eastern Australia*, Cheshire, Melbourne, 1957; G. D. Patterson, *The Tariff in the Australian Colonies, 1856-1900*, F. W. Cheshire, Melbourne,1968; and M. Roe, *Quest for Authority in Eastern Australia,1835-1851*, Melbourne University Press, Melbourne, 1965.

[14] These include: D. W. A. Baker, *Days of Wrath: A Life of John Dunmore Lang*, Melbourne University Press, Melbourne, 1985; S. G. Foster, *Colonial Improver: Edward Deas Thomson, 1800-1879*, Melbourne University Press, Melbourne, 1978; A. W. Martin, *Henry Parkes: a Biography*, Melbourne University Press, Melbourne, 1980; J. N. Molony, *An Architect of Freedom: John Hubert Plunkett in New South Wales, 1832-1869*, Australian National University Press, Canberra, 1973; A. Powell, *Patrician Democrat: the Political Life of Charles Cowper, 1843-1870*, Melbourne University Press, Melbourne, 1977; and J. M. Ward, *James Macarthur: Colonial Conservative, 1798-1867*, Sydney University Press, Sydney, 1981.

[15] These include: D. W. A. Baker, 'The Origins of Robertson's Land Acts', *Historical Studies Selected Articles*, J. J. Eastwood and F. B. Smith (eds), Melbourne University Press, Melbourne, 1964, pp. 103-126; C. N. Connolly, 'The Origins of the Nominated Upper House in New South Wales', *HS*, vol. 20, 1982, pp. 53-72 and 'The Middling-Class Victory in New South Wales, 1853-62: A Critique of the Bourgeois-Pastoralist Dichotomy', *HS*, vol. 19, no. 76, April 1981, pp. 369-387; B. Dyster, 'The Fate of Colonial Conservatism on the Eve of Gold-Rush', *JRAHS*, vol. 54, part 4, 1968, pp. 329-355; and Bill Gammage, 'Who gained and who was meant to gain, from Land Selection in New South Wales', *AHS*, vol. 24, no. 94, April 1990, pp. 104-122.

[16] These include: Arblaster, *The Rise and Decline of Western Liberalism*; Bellamy, *Liberalism and Modern Society*; Bradley, *The Strange Rebirth of Liberal Britain*; Girvetz, *The Evolution of Liberalism*; Gray, *Liberalism*; Irwin, *Against the Tide*; Manning, *Liberalism*.

[17] These include: D. W. Bebbington, *Evangelicalism in Modern Britain, 1730-1980*, Unwin Hyman, London, 1989; D. Hempton, *Religion and Political Culture in Britain and Ireland: from the Glorious Revolution to the Decline of Empire*, Cambridge University Press, Cambridge, 1996; Larsen, *Friends of Religious Equality*; H. McLeod, *Religion and Society in England, 1850-1914*, Macmillan Press, London, 1996; P. Pickering and A. Tyrrell, *The People's Bread: A History of the Anti-Corn Law League*, Leicester University Press, London, 2000; S. Piggin, *Evangelical Christianity in Australia: Spirit, word and world*, Oxford University Press, Melbourne, 1996; and David M. Thompson, *Nonconformity in the Nineteenth Century*, Routledge and K. Paul, London, 1972.

meaning. Used in this manner we might describe John Fairfax and the *Herald* as conservative when compared with Henry Parkes and the *Empire,* or Henry Parkes as conservative when compared to another contemporary, Karl Marx. Alternatively, the term conservative may carry a more clearly defined ideological meaning in a particular place and time. The most obvious early to mid nineteenth-century example is the Tory or Conservative Party in Britain. There is no doubt that the *Herald's* relative conservatism on some issues in the colonial context, most notably on political representation, made it an easy target for the accusation of holding to a more thoroughgoing ideological conservatism. Competitors such as Robert Lowe at the *Atlas*, Parkes' *Empire*, and J. D. Lang's *Colonist* seized this opportunity. Additionally, in the colonial period, mere opposition to the policies of certain colonial politicians was sufficient to earn the epithet conservative. Indeed this was a shrewd political device on the part of the self-proclaimed liberals. But political tactics aside, the use of political nomenclature was also complicated by a genuine lack of consensus among colonists as to the colonial application of British political terms. This is nowhere better illustrated in the development and use of the term 'liberal-conservative' among colonists, a term not widely used in Britain.[18] This term is pertinent to the colonial *Herald's* views on political representation and was generally applied to those who, in terms of British political nomenclature, were liberal but in the colonial context found themselves at the more conservative end of the liberal spectrum.[19]

Given these difficulties it is not surprising that a blurring of the distinction between a

[18] The only reference I have found is to a Working Men's Liberal-Conservative Association in Birmingham in 1867, within the following article: 'Political and Administrative History: Political History from 1832', A History of the County of Warwickshire: Volume 7: The City of Birmingham (1964), pp. 298-317. URL: http://www.britishhistory.ac.uk/report.asp?compid=22972&strquery=liberal%20conservative. Date accessed: 12 December 2005. 'Liberal-Conservative' did, however, find mainstream use in Canada, where the 'Liberal-Conservative Party' was the name of the main Canadian conservative party until 1873. The principal difference between Canadian 'Liberal' and 'Conservative' parties from the 1870s into the twentieth-century was trade policy, with the liberals favouring free trade and the conservatives imperial preference. See Wikipedia contributors, 'Liberal-Conservative Party', Wikipedia, The Free Encyclopedia, 15 November 2005, 22:07 UTC, <http://en.wikipedia.org/w/index.php?title=Liberal-Conservative_Party&oldid=28440647> [accessed 12 December 2005] and Wikipedia contributors, 'Conservative Party of Canada (historical)', Wikipedia, The Free Encyclopedia, 29 November 2005, 03:28 UTC, <http://en.wikipedia.org/w/index.php?title=Conservative_Party_of_Canada_%28historical%29&oldi d=29554538> [accessed 12 December 2005].

[19] A possible objection to this use of the term 'conservative' is that any use, comparative or otherwise, is a judgment based on ideology. This is true. However, the point is not that someone deemed relatively conservative lacks ideology, far from it. Instead the point is that with a purely relative use of 'conservative' the goal posts are always moving; it is a purely comparative construct. Once again the example of British mid nineteenth-century conservatism is helpful. Henry Parkes might indeed be conservative when compared to Karl Marx but this does not make him a conservative, in the generally accepted use of the term in Britain in the 1850s. Furthermore, we can define 'conservative' in terms of a specific set of values or institutions which conservatives in that time and place sought to preserve.

comparative conservatism, limited to the colonial context, and a more rigourous ideological conservatism plagues colonial historiography. Consequently, exactly what an historian is implying in describing the *Herald* as conservative is not always readily apparent. Does it simply mean conservative when compared to other colonists? Or does it infer a more determined resistance to change and a desire to maintain existing social and political structures? These are important questions, as often the *Herald* did not so much oppose change but sought either a more measured approach to change or proposed a different way forward altogether.

Often, in the absence of any qualification or definition of the term conservative by historians, context and tone are the only guide. At times the word 'conservative', although remaining undefined, is used as a pejorative term, which perhaps tells us more about the historian and their cultural context than it does about the colonial *Herald*. At other times the use of 'conservative' as a descriptor of the *Herald* appears more neutral and comparative. This theme of colonial political nomenclature is frequently returned to throughout the thesis and suggestions are offered in the final chapter as to the development of a more nuanced political nomenclature within the historiography.

Summary Descriptions of the *Herald* (1840s to 1870s) by Historians

Gavin Souter

Souter's *Company of Heralds* (1981) is an award-winning company history of John Fairfax Ltd. The first two chapters (of sixteen) are devoted to the company until the death of John Fairfax in 1877. It narrates the story of John Fairfax's early life and acquisition of the *Herald* and surveys the editorial position of the *Herald*. Souter's description of colonial life reflected established trends within the historiography. This included the ready dichotomy between colonial liberals and conservatives presented by influential works such as Loveday and Martin's *Parliament, Factions and Parties* (1966) and Roe's *Quest for Authority in Eastern Australia* (1965). Souter acknowledges the progressive effect of new *Herald* proprietors Kemp and Fairfax from February 1841 but, consistent with the use of political nomenclature within the historiography, describes the *Herald* as 'conservative'.[20] Souter also identifies a difference between the *Herald* of the 1840s during the Anglican Kemp's co-proprietorship,

[20] For example, Souter, *Company of Heralds*, pp. 41, 50, 57.

and that of the *Herald* under the Fairfaxes (for example, with respect to state-aid to churches and education). Most often, the meaning Souter places on the term 'conservative' is that of a comparative conservatism within the colony.[21] This failure to clearly attribute an ideological conservatism to the *Herald* led to Souter being criticised by Denis Cryle, historian of the colonial press in Queensland.[22]

Souter is careful to contextualise Fairfax's journalism in England, most notably his time as proprietor of the *Leamington Chronicle* in Warwickshire,[23] within the framework of 1830s British liberalism. Indeed, 'Leamington Liberal' is Souter's first subheading for the chapter dealing with Fairfax in England.[24] Although Souter goes on to describe Fairfax and the colonial *Herald* as conservative in the comparative sense, he does at times hint at the ambiguities explored in this thesis. For example, although generally describing Henry Parkes as a 'liberal', Souter designates the Parkes of 1848 a 'radical-liberal'.[25] This is certainly a more appropriate description of the young Parkes, then essentially a Chartist and a republican. Souter also acknowledges the terms 'conservative' and 'liberal' had become subject to widely variable definitions in NSW in the 1850s and that John Fairfax, during his failed legislative assembly by-election candidature of December 1856, 'could rightly lay claim to a somewhat renovated form of conservatism'.[26]

It is especially interesting to note that Souter pauses to wonder what attracted John Fairfax to the *Herald* in the first place. In terms of how the *Herald* might have appeared to John Fairfax, the newly arrived 'Leamington Liberal', Souter describes the *Herald* as having been 'as Tory as the *Courier* which he [Fairfax] had not been able to stomach in Leamington'.[27] As the first historian to consider the unambiguously liberal contents of Fairfax's *Leamington Chronicle,* Souter must have been struck by the incongruity between this and stereotypical descriptions of the 'conservative' colonial *Herald.* At this point, Souter is stuck between the proverbial 'rock and a hard place'. Working within the established historiography of the colonial period, Souter is unable to label Fairfax or the *Herald* as being

[21] A possible exception is the statement that after the hand over from Frederick Stokes to Kemp and Fairfax, 'the new era would still be decidedly conservative, but less frequently ultra-Tory', Souter, *Company of Heralds*, p. 29. However, it is likely that the reference to 'ultra-Tory' owes as much to rhetorical flourish than anything else.
[22] D. Cryle, *The Press in Colonial Queensland: A Social and Political History, 1845-1875*, University of Queensland Press, Brisbane, 1989, p. 2.
[23] Fairfax was co- and, subsequently, sole proprietor of the *Leamington Chronicle* in the mid-1830s. See ch. 2 below.
[24] Souter, *Company of Heralds*, p. 3.
[25] Souter, *Company of Heralds*, p. 40.
[26] Souter, *Company of Heralds*, p. 50.
[27] Souter, *Company of Heralds*, p. 27.

'liberal' at any point. Souter's only recourse was to suggest Sydney was not Leamington and that Fairfax's views may have become more conservative after emigrating:

> its [the *Herald's*] Toryism was changing, if only slightly; John Fairfax's own views may have changed by this time; and Sydney, with it fettered past and burgeoning middle class, was certainly not Leamington. Fairfax may also have been attracted by the aphorisms of Pope,[28] which, although largely ignored by the *Herald* to date, chimed well with some of the non-party sentiments he had expressed in the *Leamington Chronicle*.[29]

Here Souter airs the possibility that Fairfax's views may have become more conservative by the time of his purchase of the *Herald* in February 1841. Yet no suggestion is offered as to how the events of bankruptcy and emigration may have altered Fairfax's liberal convictions. The point that Fairfax would have liked the ethos suggested by the mottoes of Pope is probably true but of marginal importance. More important was the fact the *Herald* was the leading paper in the colony and had the most potential for financial viability and development. Its social and political views could be modified as required, as Fairfax himself well knew from the change in direction the *Leamington Chronicle* took upon his departure.[30] However, Souter's point that Sydney was not Leamington is the most relevant. People and their ideas are irretrievably changed by their context, with John Fairfax no exception.[31] Most of the items on Fairfax's 'Leamington Liberal' agenda were won battles in NSW. There was no established church or Nonconformist grievances, a cause of much rejoicing to colonial Congregationalists. However, it remains to be seen whether colonial context alone is sufficient to propel a man of the impeccable liberal credentials of the John Fairfax of Leamington into the ideologically conservative, even Tory, John Fairfax of much Australian historiography.

R. B. Walker

R. B. Walker is best known for his invaluable survey histories of the newspaper press. In *The Newspaper Press in New South Wales, 1803-1920* (1976) the *Herald* is reviewed and contrasted with other papers. Walker describes the *Herald* as by 1833-34 veering away from Governor Bourke, adding: 'The *Herald* thus became and for long remained a Tory organ

[28] The *Sydney Herald* carried the mottoes of Pope, 'In moderation placing all my glory, While Tories call me Whig and Whig's a Tory' and 'Sworn to no Master, of no Sect am I'. Souter notes that the first was removed from the *Herald* in January 1847 and the second in January 1854. Souter, *Company of Heralds*, pp. 17, 40.
[29] Souter, *Company of Heralds*, p. 27.
[30] The new proprietor of the *Chronicle* made clear that the 'leading feature of the *Chronicle* will be that of a local, fashionable, journal' with 'a perfect neutrality on Political subjects'. *Chronicle*, 14 June 1838.
[31] Fairfax's acquisition of the *Herald* is examined in ch. 1 below.

supported by landowners in the country and mercantile interests in the city'.[32] Regarding the *Herald* of Kemp and Fairfax, Walker suggests it 'was still conservative, but without the brutal harshness towards Aborigines and convicts'.[33] Walker notes the *Herald's* robust opposition to the renewal of transportation, and how, for the *Herald*, 'the word "democracy" had a pejorative ring'.[34] Walker suggests the *Herald* both supported 'the conservative constitution making of Wentworth against his liberal critics in 1853-54' while opposing Wentworth's plan for an hereditary upper house.[35] Walker gave the following summary assessment of the *Herald* of the 1850s:

> As a whole-hearted admirer of free trade and free enterprise, its sympathies accorded well with the dominant characteristics of the period, but at the same time it felt nervous, sometimes panicky, about the influence of radicals and 'demagogues'.[36]

Walker then stressed the *Herald*'s disapproval of manhood suffrage.[37]

Also relevant is Walker's treatment of Henry Parkes' *Empire*.[38] Walker suggests 'Parkes' politics united the radical and liberal factions'[39] and depicts the *Empire's* support for manhood suffrage as a voice of colonial liberalism against the conservative but business savvy *Herald,* to whom it ultimately succumbed. However, in an interesting and more nuanced comment, Walker says this of the *Herald* of the 1860s and 1870s:

> Not without cause the *Herald* was long to remain a critic of the Robertson Land Acts, but it accommodated well to the period of faction politics and colonial liberalism. To its Congregationalist owners and editor the abolition of state aid to religion in 1862 and the encouragement of public at the expense of denominational schools by the Public Schools Act of 1866 were measures of deep satisfaction. Parkes, the author of the Act, was on friendly terms with Fairfax whom he invited to stand for East Sydney in 1869. Fairfax declined, but when Parkes was Premier in 1874 he accepted nomination to the Legislative Council ... Colonial liberalism was not so bad, after all.[40]

Walker is one of the few historians to (rightly) emphasize the significance of Congregationalism to the editorial stance of the *Herald*, though he does not identify religious

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[32] Walker, *Newspaper Press*, p. 26.
[33] Walker, *Newspaper Press,* p. 36.
[34] Walker, *Newspaper Press*, p. 58.
[35] Walker, *Newspaper Press*, p. 58.
[36] Walker, *Newspaper Press*, pp. 58-59.
[37] Walker, *Newspaper Press*, pp. 58-60.
[38] The *Empire* was a newspaper founded in 1850 by Henry Parkes and managed by him until it became insolvent in 1858. Samuel Bennett resurrected it the following year. The *Empire* is considered at various points throughout this thesis, most notably on land policy.
[39] Walker, *Newspaper Press*, p. 62.
[40] Walker, *Newspaper Press*, p. 71.

Nonconformity with liberalism as readily as he might.

Although best known for his newspaper history surveys, Walker's assessment of the *Herald* is not limited to this. Of particularly interest is an excellent article on Andrew Garran, deputy editor of the *Herald* 1856-1873 and editor 1873-1885.[41] Following an introduction to Garran, including a fine survey of his radical religious views,[42] Walker suggests the *Herald's* conservatism was especially seen in its 'guarded and critical attitude towards colonial democracy'.[43] In particular, Walker stresses the *Herald's* opinion that an upper house was required as a check on the universal suffrage lower house and its 'strongest opposition to John Robertson's land bills'.[44] However, this thesis argues that most colonial politicians, including acknowledged liberals, viewed the upper house as a check on lower house democracy, thus making it hardly an indicator of conservatism.[45] It also rejects outright the common assumption that the Robertson land laws were any more 'liberal' than several other proposals for land reform in NSW or laws enacted in other 'liberal' colonies (all notable for the absence of free selection before survey).[46]

To this point Walker's assessment is not materially different to that presented in his *Newspaper Press*. However, perhaps due to an empathy and appreciation cultivated for Garran, Walker in fact goes on to offer a more nuanced view of the *Herald* in this 1972 article than in his subsequent 1976 *Newspaper Press*. Walker claimed the *Herald* believed that it 'had a superior claim to true liberalism because it considered only the good of the colony, not the particular interests of any one class in it'.[47] Walker suggests that, from the 1860s, the *Herald's* handling of Henry Parkes 'well exemplified the liberal virtue of independence, for it praised or censured ... according to particular issue and circumstance'.[48] Walker notes that Parkes nominated Garran to the LC in 1887, just as he had invited John Fairfax to stand for a lower house seat in 1869 and appointed Fairfax to both the LC and the Council for Education in the 1870s. Of particular interest is that, after describing a number of Garran's political views as

[41] R. B. Walker, 'Andrew Garran; Congregationalist, Conservative, Liberal Reformer', *AJPH*, vol. XVIII, No. 3, December 1972, pp. 386-401. Although it focuses on the period after Fairfax's death, it does comment on the *Herald* before this and suggests its editorial stance remained largely unchanged in the succession from editor John West to Andrew Garran (p. 391). Consequently, it is of direct relevance to this thesis.
[42] My reading of Garran's diaries within the Sir Robert Garran Papers at the National Library supports the theological trends identified by Walker.
[43] Walker, 'Andrew Garran', p. 393.
[44] Walker, 'Andrew Garran', pp. 393-4.
[45] See chaps. 9-10.
[46] See chaps. 5-7.
[47] Walker, 'Andrew Garran', p. 392.
[48] Walker, 'Andrew Garran', p. 396.

conservative, Walker nonetheless says Garran:

> might as justly be termed liberal as conservative. Garran did not label himself as either ... and in fact rarely used these terms. He rejected Professor Pearson's division between liberals and conservatives in Victoria, and in 1884 employed a threefold classification of protectionists, theoretical radicals, and moderate statesmen ... Probably he would not have been displeased if he had been called both a liberal and a conservative. The consistent free trade policy of the *Herald* was certainly liberal in the contemporary sense, as was also its approval of the abolition of state aid to religion and its preference for public rather than denominational schools. Equally liberal was Garran's [and formerly John West's][49] persistent advocacy of the extension of local government.[50]

Walker offers one further reflection on colonial conservatism (or is it liberalism?) in this excellent article which is of particular interest to this study. Walker suggests in England Congregationalists were of 'the Liberal Party' whereas in the colony Congregationalists such as 'the Fairfaxes and their editors, the Rev. John West and Andrew Garran ... were to incline to the conservative side'.[51] Walker contends colonial conservatism was associated primarily with wealth, lacking the 'ancient claims of birth, title, privilege' of British conservatism.[52] With the separation of church and state upon the end of state-aid to churches in 1862, which, as Walker notes, was a 'cherished principle' of Congregationalists, Walker suggests: 'Subject to no social or legal disabilities, they lacked the spur to become severe critics of the *status quo*'.[53] Walker's conclusion is correct but raises a question central to this thesis. If, as no one disputes, the colony of NSW was effectively a liberal society, why should it be considered a prerequisite of being 'liberal' to be a 'severe critic of the *status quo*', as Walker's logic requires?

In summary, Walker in his *Newspaper Press* tends to describe the *Herald* without qualification as conservative (even Tory). When doing so, Walker exhibits the aforementioned weakness in colonial historiography and its tendency to uncritically accept the nomenclature of the political victors of the period immediately following the granting of responsible government. However, in the Garran article, Walker is more open to the ambiguities involved in descriptions of colonial conservatism and liberalism and acknowledges many liberal views expressed by the colonial *Herald.*

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[49] See Melleuish, *John West's 'Union Among the Colonies'*, pp. xxi-xxiii.
[50] Walker, 'Andrew Garran', pp. 395-396.
[51] Walker, 'Andrew Garran', p. 397.
[52] Walker, 'Andrew Garran', p. 397.
[53] Walker, 'Andrew Garran', p. 397.

Manning Clark

In his multi-volume *A History of Australia,* Manning Clark cites the *Herald* on many occasions but does not comment at length regarding its character. However, two somewhat incongruous trends emerge. Clark compliments Fairfax as:

> a gentleman of clear discernment and strong character, a deacon of the Congregational Church in Sydney, a director of commercial companies, prime mover for the formation of the Australian Mutual Provident Society, and strong advocate for the introduction of railway and steam communication between England and Australia.[54]

Clark adds that Kemp and Fairfax were:

> models of the bourgeois virtues. They were affectionate in their family lives ... upright in business, incapable of anything tortuous or mean, liberal in the use of their wealth, firm in friendship and active promoters of benevolence to the poor.[55]

However, in stark contrast to this stands Clark's assessment of the *Herald,* and in particular its editor from 1854-1873, John West. With few exceptions, such as the *Herald's* response to the Lambing Flat riots in 1861,[56] quotations from the *Herald* are presented as pejorative evidence of an ideological conservatism, most commonly regarding transportation, emancipism and manhood suffrage.[57] An example is the following description of West's involvement in the antitransportation movement:[58]

> That unctuous John West, with his ridiculous countenance and all his spirituality, his Protestant cheerfulness and his buffoonery, should be shown up for what he was — a gentleman in the lying line who was prostituting the image of Christ to help the men from 'the swell mob' to go on ... filling their pockets.[59]

West's leadership of the antitransportation movement incensed Clark. This is, it seems, because West and most antitransportationists sought the end of transportation without the concurrent release of existing convicts. Clark viewed this as self-evidently hypocritical and the hyperbole flowed afresh in the following portrayal of West and the antitransportationists:

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[54] Clark, *A History*, vol. iii, pp. 403-404.
[55] Clark, *A History*, vol. iii, p. 404.
[56] Clark, *A History*, vol. iv, p. 132.
[57] For example, see Clark, *A History*, vol. iii, pp. 286, 415, 423 and vol. iv, p. 99.
[58] West and the antitransportation movement are considered in ch. 8 below.
[59] Clark, *A History*, vol. iii, p. 442. Perhaps Clark's personal experience of Protestantism is tied up with such outlandish descriptions of 'Protestant cheerfulness and ... buffoonery'? Without this it is hard to account for such bizarre and subjective terminology. How did 'Protestant cheerfulness' differ from anyone else's? G. P. Shaw touches on Clark and Protestantism in 'A Sentimental Humanist', *Manning Clark: Essays on his Place in History*, C. Bridge (ed.), Melbourne University Press, Melbourne, 1994, pp. 30-31. More broadly on Clark, see J. Hirst, *Sense and Nonsense in Australian History*, Black Inc. Agenda, Melbourne, 2005, pp. 57-60.

> Despite all their high-minded protestations that they were unable to serve both God and Mammon, they had no intention of dispensing with the use of convicts. They accepted the moderate policy of gradual extinction ... This was merely to add to all those humiliating contradictions with which men encumber themselves when they try to reconcile the claims of God and Mammon.[60]

Given the short length of many convict sentences, and that those with marketable skills were liable for early release,[61] Clark's suggestion that antitransportationists 'had no intention of dispensing with the use of convicts' has little merit. A romantic view of convicts and emancipism appears to have governed Clark's response to West and the antitransportation movement. This is disappointing given the antitransportation movement's significance as the first great unifying intercolonial movement.

Less colourful, though more imaginative, is Clark's description of West as forsaking an early radicalism in order to become editor of the *Herald*. Clark claims West was 'so swayed by success that the one-time radical turned his coat inside out and embraced a mawkish conservatism'[62] when he 'inexplicably' became 'editor of the *Sydney Morning Herald'*.[63] Yet there is no evidence to suggest West had ever held radical (i.e., Chartist) views. Certainly Clark offers none. Nor was West's decision to join the *Herald*, a prominent event in the history of colonial journalism, 'inexplicable'. A. G. L. Shaw's survey of the *Launceston Examiner* under West, its cofounder, argues for a continuity between West's thinking in Launceston and Sydney, claiming West maintained his 'liberal-conservative' views.[64] Unfortunately all that Clark achieved here was to give voice from the grave to the libellous claims of J. D. Lang.[65] As Hirst notes of Lang, 'falsehood on a grand scale was one of Lang's

[60] Clark, *A History*, vol. iii, pp. 425-426.
[61] J. Kociumbas, *Possessions 1770-1860*, vol. 2, *The Oxford History of Australia*, Oxford University Press, Melbourne, 1995, p. 159.
[62] Clark, *A History*, vol. iii, p. 423 and vol. iv, p. 99.
[63] Clark, *A History*, vol. iv, p. 99.
[64] J. West, *The History of Tasmania,* A. G. L. Shaw (ed.), Angus & Robertson, Sydney, 1971, pp. xiii, xix.
[65] Clark, *A History*, vol. iii, p. 423. The only relevant reference Clark provides in support of his attack on West is documents in libel of West by Lang. Lang attacked West in a letter published in the *Empire* in February 1853. Lang claimed that West, a Congregationalist minister, was a 'discreditable turncoat' for working in journalism and not as a minister of religion (Wesleyan minister Ralph Mansfield, unofficial editor of the *Herald* before West was similarly described by the *Atlas* of 5 April 1845 as 'the turncoat parson'). Lang also linked West, prior to his 1838 arrival in Van Diemen's Land, to the deist and Chartist views of George Thompson and suggested West only worked at the *Herald* for a high salary. West was awarded £100 for libel at the *Empire*'s expense. Souter, *Company of Heralds*, p. 56, notes that Lang's claims were 'demonstrably false'. See also P. Ratcliff, *The Usefulness of John West: Dissent and Difference in the Australian Colonies*, The Albernian Press, Launceston, 2003. p. 418. Given Clark's exemplary and unique role in promoting the study of Australian history, his failure to acknowledge West's contribution to the development of Australian historiography through his two volume *A History of Tasmania* (1852) is disappointing. West's weighty contribution to protofederation thought in his *Union Among the Colonies* articles published in the *Herald* in 1854 is also overlooked.

ways with his enemies' and this was no exception.[66] Clark's uncritical use of Lang is, in fact, highly illustrative of Lang's influence in effecting a negative portrayal of Fairfax and West within Australian historiography. This extends not only to the *Herald* but, even more remarkably, to Fairfax's reputation within the historiography of Congregationalism.[67] Although West and Fairfax gave Lang at least 'as good as they got' in their own day, Lang has (to date) defeated them in the hearts and minds of historians.[68] After thirty-plus years of antagonism between Lang and the *Herald*, in the 1870s Fairfax wrote in somewhat bemused fashion to son James, 'I shook hands with Dr. Lang for the first time in my life'.[69]

In short, alongside complimentary descriptions of John Fairfax, Clark's *A History of Australia* discredits John West and presents the *Herald* as a force for an unthinking, reflex conservatism. Although not developing these themes at any length, Clark's interpretation of the *Herald* was influential, passing directly onto Clark's students, such as Michael Roe.

Michael Roe

One of the more remarkable treatments of the *Herald* is provided within Michael Roe's *The Quest for Authority in Eastern Australia*. Based on careful and informative primary research, the book is structured around the original proposal that by 1850 a powerful 'new force'[70] had emerged within colonial society. Roe terms this force 'moral enlightenment', a broadly inclusive moral philosophy of self-improvement. Roe presents the 'new faith'[71] as a synthesis or by-product of the main social forces of the age, such as liberalism, utopianism, the idea of progress, and individualism.[72] However, Roe's thesis unravels somewhat in its discussion of the *Herald's* conservatism.

Targeting the period 1835-1851, Roe's *Quest* provides one of the few surveys of the

[66] Hirst, *Strange Birth*, p. 259.
[67] See Johnson, '"Busy for Both Worlds": John Fairfax as a leading Evangelical Layman, part 2', forthcoming, which comments on leading Congregational historian Lindsay Lockley's dismissive portrayal of John Fairfax and his generation of the Home Mission Society of NSW of the Congregational church, based on criticism by associates of Lang. Regarding Lang and the *Herald's* reputation, see subsequent comment below regarding Dennis Cryle and Lang biographer D. W. A. Baker.
[68] The *Herald's* long antagonism toward Lang is discussed further in ch. 9.
[69] In J .F. Fairfax, *The Story*, p. 160. This is a remarkable fact given Fairfax and Lang's shared evangelicalism and support for groups such as the Sydney City Mission. For example, Wilsie Short, *Benjamin Short 1833-1912: A Migrant with a Mission,* UNSW Press, Sydney, 1994, p. 35 notes the attendance of Lang and Fairfax at the inaugural meeting of the Mission in 1862. Likewise Fairfax and Lang both supported the mission to seamen of the Bethel Union (see John & William R. Gainford, *Memoir of Incidents in the Life and Labours of Thomas Gainford*, George Allen, Kent, 1886, pp. 218-220).
[70] Roe, *Quest*, p. 1.
[71] Roe, *Quest*, pp. 204, 206.
[72] Roe, *Quest*, p. 149.

editorial stance of the *Herald*. Roe portrays the *Herald* as a key proponent of conservative ideology opposed to moral enlightenment. The 'two pillars' of 'Conservatism' are described as the Church of England and a landed gentry.[73] Conservatism was personified by the Earl of Bathurst, Secretary of State 1812-27 and J. T. Bigge, both of whom, Roe suggests, provide 'the criterion for describing a person or institution as 'conservative''.[74] The first subheading within 'Part 1: Conservative Ideology' is 'The Church of England'. Discussion here highlights Anglicanism's longing for establishment rights and opposition to national schooling. Then, in an interesting juxtaposition, a second subheading within 'Conservative Ideology' emerges: 'The *Sydney Morning Herald'*.[75] In introducing the *Herald*, Roe admits 'secular thought offered no true counterpart to the Anglicans' social theory', adding that in the colony there were 'no age-glorified interests or hallowed institutions'.[76] Roe states, 'the many magazines and newspapers published throughout the colonies offered little doctrine that can properly be labelled "conservative"' but of this the *Herald* 'supplied by far the greater part'.[77]

Roe describes the period prior to Kemp and Fairfax as proprietors, 1835-41, as the period when the *Herald* was most 'firmly opposed to radical ideas'.[78] The discussion of the *Herald* under Kemp and Fairfax includes a generous introduction to Kemp, Ralph Mansfield (unofficial *Herald* editor before John West) and Fairfax. Roe notes 'all three leaders were notable men' and describes Fairfax as 'an active Congregationalist, a trained compositor, and splendid man of business'.[79] Without explicitly identifying the *Herald* with liberalism, Roe notes the 'new editors drew their inspiration from the political economy of Adam Smith and his school' and were 'very anxious lest government become over-active'.[80] Then follows a most helpful survey of the *Herald.*[81]

Roe begins with a range of views expressed by the *Herald* which he concedes were *not* conservative. These included the *Herald's* opposition to an anti-rioting measure, the 'Party Processions Prevention Act' (a bill aimed at preventing assisted migration to California), and the idea of prohibiting the local distilling of spirits. Roe rightly suggests the *Herald* opposed these as 'all threatened excessive interference with civil liberty'. Furthermore, the *Herald*

[73] Roe, *Quest*, p. 6.
[74] Roe, *Quest*, p. 6.
[75] Roe, *Quest*, p. 23.
[76] Roe, *Quest*, pp. 23-24.
[77] Roe, *Quest*, p. 24.
[78] Roe, *Quest*, p. 24.
[79] Roe, *Quest*, p. 28.
[80] Roe, *Quest*, p. 28.
[81] Unfortunately, most citations from the *Herald* in Roe's *Quest* are undated.

opposed both Broughton's Sabbatarian proposals and Perry's regarding diocesan structure, claiming they were not appropriate items for government legislation.[82] On land reform, Roe shows the *Herald* in the 1840s wrestling with this 'ever-vexed problem'.[83] On the one hand, the *Herald* described squatting as a 'gigantic anomaly' and opposed the development of a quasi-gentry landed elite. Nor did it support Gipp's pricing of land in 1842 at £1 per acre, viewing it as inordinately high.[84] Yet Roe rightly shows the *Herald's* pragmatism on land policy. Although it thought squatting far from ideal and the landed call for the renewal of transportation reprehensible, it emphasized that squatting generated wealth essential for the colony. This was all the more true given the recession of the early-mid 1840s. Roe also notes the *Herald* opposed Dennison's dismissal of Judge Montagu in Van Diemen's Land as limiting judicial independence[85] and its jubilation at Sir Robert Peel's repeal of the Corn Laws in 1846. In particular, Roe describes as a 'most unconservative comment' the *Herald's* response to proposals in 1842 for a Corn Law in NSW:

> on this great national question, 'the wisdom of our ancestors' is but another term for the power and self-interest of the landed aristocracy ... to introduce this ancient tissue of blunders into a new country, is to sin against the light and knowledge of modern times.[86]

Roe then provides evidence to support his description of the *Herald* as a key exponent of 'conservative ideology'. The *Herald's* dismissal of a 'quasi-Chartist' address as a 'precious morsel of rant' is one item.[87] Roe also cites the *Herald's* opposition to the establishment of a separate colony in Port Philip Bay and its depiction of the separationist's campaign as 'radical' and 'O'Connellite'.[88] Yet use of the term 'radical' in a disparaging manner hardly qualifies the *Herald* to be considered ideologically 'conservative'. Mainstream liberals like the *Herald* and Fairfax were neither 'radical' nor traditionally 'conservative', fearing the former and disdainful of the latter. The reference to 'O'Connellite' is more interesting given Fairfax's voluble promotion of O'Connell ten years earlier in the *Leamington Chronicle*.[89] Yet even here, there is no great mystery. The O'Connellite agenda in the 1830s centred upon an alliance with Melbourne's Whig-liberal administration. However, in the 1840s and frustrated by the lack of progress, O'Connell began mass agitation for a repeal of the

[82] Roe, *Quest*, p. 29.
[83] Roe, *Quest*, p. 29.
[84] Roe, *Quest*, p. 29.
[85] Roe, *Quest*, p. 29.
[86] Roe, *Quest*, pp. 29-30. From the *Herald*, 22 July 1841, as discussed below in ch. 4.
[87] Roe, *Quest*, p. 30.
[88] Roe, *Quest*, p. 30.
[89] See ch. 3 of the thesis.

Anglo-Irish Legislative Union.[90] Thus the *Herald's* 'O'Connellite' reference served merely to highlight the danger of the (potential) new colony being swayed by radical and republican thought into severing ties with Britain. Further evidence of conservative ideology is the *Herald's* failure to oppose Master and Servant legislation, its failure to support the abolition of capital punishment, and its disapproval of ex-convicts on the hustings and at Government House. Most of all, Roe identifies the *Herald's* ideological conservatism in its disapproval of the (from 1842) £20 franchise, which it saw as too low, its insistence on maintaining Imperial ties, its description of the purpose of a bicameral legislature in terms of it being a check on both the '*movement* spirit of the people' and the 'conservative spirit of the Government', and its preference for a part appointed upper house.[91] Additional evidence of conservatism is also suggested from the *Herald's* preference for orderly and steady economic development, as seen in its statement of New Year's Day 1850 that the colony had made excellent progress without the benefit of 'extraordinary accidents' such as the discovery of gold.[92] In concluding, Roe suggests the *Herald* 'appealed to an intelligent, disinterested *elite* against the ravages of greed and mobocracy'.[93]

During the 1840s there were aspects of the *Herald's* thought that warrant description as 'conservative', particularly its tenacious support for the Anglican Bishop W. G. Broughton and its rejection of national schooling.[94] However, in harnessing the above points as evidence of a 'conservative ideology', Roe is representative of much Australian historiography in describing as ideologically conservative those opposed to democracy. Yet the most significant force in British and colonial society was mainstream liberalism, which was neither traditionally conservative nor radically democratic.[95] This thesis maintains that several of the above supposedly conservative pointers are, in fact, indicative of liberalism. These include the *Herald's* concern at a low franchise qualification, support for maintaining Imperial ties, viewing an Upper House as a check on a more democratic Lower House, and a preference for orderly economic development.

To summarise, Roe provides one of the few surveys of the editorial stance of the colonial *Herald*, focusing on the period 1835-1851. Thus Roe's *Quest* deals with the period before Fairfax's senior-proprietorship, which is prior to the focus of this thesis and a period

[90] N. McCord, *British History, 1815-1906*, Oxford University Press, Oxford, 1991, p. 163.
[91] Roe, *Quest*, citing the *Herald*, p. 31.
[92] Roe, *Quest*, p. 32.
[93] Roe, *Quest*, p. 33.
[94] This is discussed in ch. 3 below.
[95] See the extended discussion in chaps. 9 and 10 below regarding liberalism and manhood suffrage.

regarding which Fairfax himself claimed that the *Herald* had been more conservative than when under his full control.[96] But despite Roe's chronological marker, it remains likely that some of the subsequent conservative stereotyping of the colonial *Herald* of the decades *after* 1851 has arisen as a result of its place within Roe's *Quest* as a key exponent of 'conservative ideology'.[97] Overall, Roe's account is a helpful and largely sympathetic description of the *Herald.* The main difficulty lies not so much with Roe's detailed discussion of the *Herald*, although it remains debatable whether 'conservative' is the best term to describe the *Herald's* view on several issues. Instead, the primary difficulty posed by *Quest* arises from its overly strict categorising of the purported friends and enemies of moral enlightenment.[98]

Barrie Dyster

Barrie Dyster's 1965 MA(Hons) thesis[99] provides significant comment on the *Herald*. Dyster describes Kemp and Fairfax as a 'bold, energetic, responsible, duo'[100] and notes the *Herald's* dominance in content and circulation.[101] Due to 'stability, size, salaries and continuity', the *Herald* was able to gather the 'best writers from the wreckage of other papers' (such as T. J. Oliver and E. K. Sylvester from the *Australian*).[102] Dyster suggests the *Herald* of the 1840s claimed a 'moderate conservatism of an eclectic type', seeing itself as 'the organ of moderation, progress, and common sense'.[103] Dyster supports the *Herald's* self-analysis by pointing to its periodic rebuke of the working class admixed with a defence of trade unions, its acceptance of large scale grazing but opposition to a landed elite, and its praise of Sir Robert

[96] On the hustings in December 1856, Fairfax argued that since he had 'the entire control of the *Herald* in his own hands' (October 1853) there had been a 'gradual turning to liberal principles of a determined cast and progressive character'. See the *Herald*, 29 December 1856.
[97] For example, see Cryle, *The Press*, p. 4.
[98] For discussion of Roe's central thesis, or works relevant to it, see: Gascoigne, *The Enlightenment*, pp. 6-8, 13-14, 21-25, 34, 104, 115, 170-71; Dyster, 'The Fate of Colonial Conservatism on the Eve of Gold-Rush', pp. 333-335 (Dyster, correctly in my view, suggests Roe's 'crucial pitting of "conservatism" against "moral enlightenment" is excessively schematised' p. 333); L. L. Robson's review of Roe's *Quest* in *AJPH*, vol. xi, no. 3, August 1966, pp. 259-260; Melleuish, *A Short History of Australian Liberalism*, pp. 5-6; G. Melleuish, 'Beneficent Providence and the Quest for Harmony', *Journal and Proceedings, Royal Society of New South Wales*, vol. 118, 1985, pp. 167-173; A. Atkinson, 'Time, Place and Paternalism: Early Conservative Thinking in New South Wales, *AHS*, vol. 23, no. 90, April 1988, pp. 1-5; and George Shaw, 'Judeo-Christianity and the Mid-Nineteenth Century Colonial Civil Order', *Re-Visioning Australian Colonial Christianity*, M. Hutchinson and E. Campion (eds), Centre for the Study of Australian Christianity, Sydney, 1994, pp. 29-37.
[99] B. Dyster, 'The Role of Sydney and the Roles of its Citizens in NSW, 1841-1851', unpublished MA(Hons) Thesis, University of Sydney, 1965.
[100] Dyster, 'The Role of Sydney and the Roles of its Citizens in NSW, 1841-1851', p. 180.
[101] Dyster, 'The Role of Sydney and the Roles of its Citizens in NSW, 1841-1851', p. 176.
[102] Dyster, 'The Role of Sydney and the Roles of its Citizens in NSW, 1841-1851', p. 184.
[103] Dyster, 'The Role of Sydney and the Roles of its Citizens in NSW, 1841-1851', pp. 184, 186.

Peel as a 'man of progress, not of change'.[104] Dyster suggests that (in the 1840s) the *Herald* appealed to businessmen and some liberals, including barrister and *Herald* court reporter Archibald Michie and Charles Cowper.[105] Dyster describes the *Herald* and its supporters as 'progressive conservatives' with little political influence.[106]

Dyster begins his *JRAHS* article, 'The Fate of Colonial Conservatism', by highlighting the 'slipperiness of political classifications'. Dyster cites the generous eulogies to Sir Robert Peel by both the *Herald* and Edward Hawksley's Chartist-inspired *People's Advocate*.[107] Both acknowledged Peel as the greatest British statesman of the century, with the *Advocate* describing Peel as 'in every respect the friend of progress'.[108] Generally, in this article, Dyster moves toward the description of the *Herald* presented in his MA(Hons) thesis. However, Dyster's interpretation of colonial conservatism (developed within his 1965 thesis but not published until the 1968 *JRAHS* article) appears to have become more pointed due to the publication of Roe's *Quest* in 1965. Dyster, not without cause, suggests Roe's 'crucial pitting of "conservatism" against "moral enlightenment" is excessively schematised' and that Roe's underlying idea of there having been a 'quest for authority' at all as 'unduly energetic'.[109] In contrast, Dyster suggests there was no 'monolithic conservatism' conforming to Roe's criterion of commitment to hierarchical society and an established church. Rather, there was a 'broader and more flexible' colonial conservatism in the British tradition which was 'increasingly one of adjustment and accommodation'.[110] Dyster even manages to salvage something of the *Herald's* reputation from Roe's classification of it as a force for ideological conservatism. Dyster suggests of the 1840s, the:

> *Herald*, the Macarthurs and Edward Hamilton can all be said to exemplify conservative assumptions, which in a simplified and idealised form included distrust of faction and distrust of speculation. This did not add up to a 'conservative ideology'.[111]

Dyster develops the notion of a 'progressive conservatism', a term used by Dr Alick Osborne in 1845 whom Dyster cites:

> Progressive conservatism: by which all that is valuable in our laws and institutions may be preserved, at the same time that such modifications and improvements may be adopted as

[104] Dyster, 'The Role of Sydney and the Roles of its Citizens in NSW, 1841-1851', pp. 184-185.
[105] Dyster, 'The Role of Sydney and the Roles of its Citizens in NSW, 1841-1851', p. 186.
[106] Dyster, 'The Role of Sydney and the Roles of its Citizens in NSW, 1841-1851', p. 225.
[107] Dyster, 'The Fate of Colonial Conservatism', p. 331.
[108] Dyster, 'The Fate of Colonial Conservatism', p. 332.
[109] Dyster, 'The Fate of Colonial Conservatism', pp. 333-334.
[110] Dyster, 'The Fate of Colonial Conservatism', pp. 333-334.
[111] Dyster, 'The Fate of Colonial Conservatism', p. 332.

the lapse of time and the progress of knowledge may render expedient and necessary.[112] Over against Roe, Dyster rightly emphasizes that these progressive or liberal conservatives promoted 'that evolution of institutions and that esteem for responsible virtues which Dr Roe presents as marks of the open-ended society of 1851'.[113] This is true of Fairfax and the *Herald*, pillars of Roe's 'conservative ideology' yet unambiguously and energetically committed to building the very institutions and habits promoting self-improvement that underlay what Roe termed 'moral enlightenment'.[114] Dyster emphasizes that 'no obvious ideology' united the progressive conservatives and suggests they were more about respectability, education and proven competence than a landed gentry or church establishment.[115] Dyster also highlights that they were open to the idea that education could replace owning property as a prerequisite to voting privileges.[116]

A strength of Dyster's scholarship is that it reminds us how different mid nineteenth-century conceptions of society were to our own. Our instinctive repulsion at the thought of suffrage being linked to anything other than personhood betrays a completely different set of cultural and philosophical assumptions to that of our colonial forebears. Dyster reminds us that an emphasis on social distinction was not merely a feature of conservatism but natural to the colonial mind (a point Melleuish brings out well with regard to dandy-democrats like Daniel Deniehy and Bede Dalley).[117] Dyster poignantly expresses this in the following quotation from colonial radical W. A. Duncan: 'I would not place anyone who held the rank of gentleman in the same position as a hired servant'.[118]

In summary, Dyster provides a cogent (and in my view accurate) corrective to the superstructure and categorising advanced by Roe's *Quest*. Dyster argues that within a colonial context the *Herald* of the 1840s was characterised by a progressive conservatism. It is to be regretted that Dyster's more nuanced interpretation of colonial politics did not gain greater currency in the decades following its publication.

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[112] Dyster, 'The Fate of Colonial Conservatism', p. 335.
[113] Dyster, 'The Fate of Colonial Conservatism', p. 335.
[114] Dyster describes the *Herald* as a 'leading promoter of societies' in 'The Fate of Colonial Conservatism', p. 349. On Fairfax, see Johnson, '"Busy for Both Worlds": John Fairfax as a leading Evangelical Layman, part 1', pp. 44-45, 55 and '"Busy for Both Worlds": John Fairfax as a leading Evangelical Layman, part 2', forthcoming.
[115] Dyster, 'The Fate of Colonial Conservatism', pp. 347-448.
[116] Dyster, 'The Fate of Colonial Conservatism', p. 347.
[117] G. Melleuish, 'Daniel Deniehy, Bede Dalley and the Ideal of the Natural Aristocrat in Colonial New South Wales', *AJPH*, vol. 33, no. 1, 1987, pp. 45-59.
[118] Dyster, 'The Fate of Colonial Conservatism on the Eve of Gold-Rush', p. 348.

A. W. Martin

A. W. Martin's biography of Henry Parkes includes many references to the *Herald* and several to John Fairfax. Martin highlights the ambiguous use of the terms 'liberal' and 'conservative' and, as with his book co-authored with Loveday,[119] applies neither label to the *Herald.* Without elaboration, Martin notes the *Herald's* distaste for democracy[120] and the *Empire's* claim to a relative radicalism. However, Martin also notes the *Empire* acknowledged there were no true conservatives or radicals in NSW as there was nothing to conserve or overthrow.[121] Martin presents a less sentimental description than Walker's *Newspaper Press* of the competition between the *Empire* and the *Herald.* Martin highlights the political success of Parkes and his associates and the failure of those supported by the *Herald* (though Martin describes Fairfax's nomination speech for J. H. Plunkett in 1856 as 'powerful and well-reasoned').[122] In return Parkes' commercial ineptitude is canvassed, in contrast to the commercial acumen of the *Herald.*[123] Martin acknowledges the friendship of the fellow Warwickshire-men Parkes and Fairfax, particularly after the demise of the *Empire*.[124] Martin notes that thereafter Parkes was a frequent contributor to the *Herald* and that his letters from England of 1861-62 published in the *Herald* (October 1861, August 1862, reissued 1869) 'display Parkes at his journalistic best'.[125]

To summarise, Martin refers to the *Herald* on many occasions without allocating to it a particular label along the conservative-liberal-radical continuum. However, the *Herald's* relative conservatism on manhood suffrage in comparison with the *Empire* is made clear. Fairfax's friendship and political association with Parkes is acknowledged, though perhaps

[119] Loveday and Martin, *Parliament, Factions and Parties*. This book makes frequent reference to the *Herald* but mainly as a primary source. Its discussion of political events and personalities was enormously helpful, as was A. Martin and P. Wardle (eds) *Members of the Legislative Assembly of New South Wales, 1856-1901*, Australian National University, Canberra, 1959.
[120] Martin, *Henry Parkes*, pp. 51-52.
[121] Martin, *Henry Parkes*, p. 76.
[122] Martin, *Henry Parkes*, p. 138.
[123] Martin, *Henry Parkes*, pp. 71, 146, 258.
[124] Martin, *Henry Parkes*, p. 177.
[125] Martin, *Henry Parkes*, p. 195.

underestimated.[126]

J. B. Hirst

J. B. Hirst's superb book, *The Strange Birth of Colonial Democracy*, presents a major revision in the interpretation of colonial politics. It demystifies and deromanticises the attainment of manhood suffrage in NSW. Most histories offer no account for the anomaly of manhood suffrage having been achieved, without serious agitation, more than a generation before Britain. Instead, Hirst charts the unlikely and semi-accidental manner in which it arrived.[127] Hirst also highlights its subservience to the dominant issue of colonial politics, land policy.[128] Hirst then goes on to mercilessly expose the often unprincipled character of post-manhood suffrage politics in NSW and how it undermined true democracy. This is summarised in Hirst's epilogue, which scathingly depicts the emergence of an anti-liberal state with a 'centralized bureaucracy' and the tragic, life-shortening impact it had on three of the colonies' democratic idealists: Daniel Deniehy, democracy's 'orator and man of letters'; Charles Harpur, 'its poet'; and Adelaide Ironside, 'its artist'.[129] Hirst laments: 'Democracy came, but it had no use for these three'[130] and 'made public life something to be ashamed of'.[131]

Though written from the perspective of the tragically marginalised democratic 'true believers', Hirst's account also represents a potent and ironic vindication of the colonial *Herald's* fierce critique of colonial 'democracy'. Hirst stresses the political opportunism and cronyism of 'Slippery Charlie' Cowper, just as the *Herald* had done. As early as the mid-1850s, the *Herald* wrote 'Mr. Cowper is subtle, ingenious, prompt in details; but he has no clear plans, no strong political attachments, and nobody can form the slightest notion of where

[126] When Parkes resigned as Colonial Secretary in October 1868, in support of W. A. Duncan (then a senior civil servant in customs sacked in a dispute with Treasurer Geoffrey Eagar), Martin notes letters of sympathy from T. A. Murray, J. L. Montefiore, J. D. Lang and James Byrnes but omits reference to a fascinating letter of support from Fairfax (discussed in ch. 3 below). The evidence suggests a genuine friendship between Parkes and Fairfax and substantial political agreement. Fairfax's note and reference to gifts on Parkes' birthday in 1870 suggests this. Fairfax wrote: '"Many happy returns for the day". It must be very satisfactory to receive from your children and friends so many proofs of affection and esteem. The books from Mr Halloran are my choice and replaceable. Yours faithfully'. Fairfax to Parkes, 27 May 1870, Parkes Correspondence. So too, does Parkes' description of the *Herald* later in life. See H. Parkes, *Fifty Years in the Making of Australian History*, Longmans Green, London, 1892, vol. 1, p. 112. More significant again was the *Herald's* support for Parkes on secular schooling and Parkes' request for Fairfax to stand for the LA in 1869, plus his arranging of Fairfax's appointment to the LC and the Council for Education in the 1870s. In declining Parkes' proposal to be a candidate for East Sydney in 1869, Fairfax assured Parkes with, 'my views would generally be with your party'. Fairfax to Parkes, 24 November 1869, *Parkes Correspondence*, vol. 14.

[127] Hirst, *Strange Birth*, pp. 17-25.

[128] Hirst, *Strange Birth*, p. 177.

[129] Hirst, *Strange Birth*, p. 267 (see also pp. 2-9).

[130] Hirst, *Strange Birth*, p. 267.

[131] Hirst, *Strange Birth*, p. 273.

he will be next year'.[132] Yet Hirst presents an unreconstructed description of the *Herald*. In most of the (albeit few) explicit references to the *Herald*, Hirst treads the well-worn path of depicting it as a staid repository of unthinking, reflex conservatism. Consider Hirst's account of the *Herald's* unsympathetic response to the forming of the Constitutional Association in December 1848:

> The appearance of the colony's first democratic organization and newspaper was sufficiently noteworthy to attract the attention of the staid, conservative *Sydney Morning Herald*, the colony's only daily paper and already known as Granny *Herald*. It declared that the democrats were bound to fail because there were no grievances to bring them popular support ... The *Herald* took the democrats to task for importing the old-world talk of the oppressors of the people into a society where there was no leisured, privileged class living off the labour of others.[133]

Given Hirst's own account of how the term 'democracy' was then linked to ideas of direct popular rule and republicanism,[134] one wonders on what basis Hirst expected the *Herald* to more positively respond to an association of colonial republican-democrats in December of the (revolutionary) year 1848.[135] The *Herald's* reaction was, in fact, indicative of liberalism.[136]

Unlike A. W. Martin's portrayal in *Henry Parkes*, the picture of the *Herald* in *Strange Birth* is that of a staid conservatism.[137] Hirst reviews positively the *Herald's* progressive defence of Chinese workers relating to the Lambing Flat riots in 1861. Yet he attributes the *Herald's* stance solely to John West having 'rested his case for the decent treatment of the Chinese on Christian teaching'.[138] This interpretation has some merit but overlooks an even more significant factor: liberal ideology.[139]

Robert Travers

In his pithy and accessible portrait of Henry Parkes, *The Grand Old Man of Australian Politics*, Travers paints an even starker conservative picture of John Fairfax and the *Herald* than most. Travers describes the *Herald* as 'the most conservative newspaper in the

[132] Cited in R. Travers, *The Grand Old Man of Australian Politics: The Life and Times of Sir Henry Parkes*, Kangaroo Press, Sydney, 1992. p. 124.
[133] Hirst, *Strange Birth*, p. 4.
[134] Hirst, *Strange Birth*, p. 2 and also Hirst's 'Egalitarianism', *Australian Cultural History*, S. L. Goldberg, F. B. Smith (eds), Cambridge University Press, Cambridge, 1988, p. 59.
[135] The group included Edward Hawksley, who used to wear the French tricolour on his hat at public meetings! Hirst, *Strange Birth*, pp. 3-4
[136] A claim examined in ch. 9 below.
[137] Hirst, *Strange Birth*, pp. 22, 52, 68-69, 189.
[138] Hirst, *Strange Birth*, p. 161.
[139] This point is pursued in ch. 8 below.

Australian colonies'.[140] He links Fairfax with Wentworth as 'conservatives' for their depiction of the youthful Parkes as a Chartist[141] and their preference for a non-elected upper house.[142] Further evidence of the ideological conservatism of Fairfax and the *Herald* is seen in their concern with 'dangerous ideas about "democracy"'.[143] Travers inappropriately describes Parkes' appointment of Fairfax to the LC in 1874 as a 'masterstroke of patronage', suggesting that thereafter the *Herald* 'discovered hidden virtues in the erstwhile Robespierre'.[144] In fact, the appointment reflected strong prior support by the *Herald* of Parkes for several years, most notably on national schooling. This was also why Parkes asked Fairfax to stand for East Sydney in 1869 and appointed him to the Council for Education in 1871.[145] With respect to the *Herald's* treatment of Parkes, A. W. Martin is more reliable.

Characteristic of Travers' depiction of Fairfax and the *Herald* is subjective stereotyping. Without a whit of evidence, Travers caricatures Fairfax as humourless, suggesting his joke during his nomination speech for J. H. Plunkett in 1856 was 'perhaps the solitary jest of a life of sober rectitude'.[146] Similarly, Travers describes Fairfax and West as 'dour' Congregationalists.[147] Presumably this is linked to the tired old stereotype that religious belief instils a certain grimness.[148] Travers describes Fairfax as an 'elder of the kirk'[149] (read, deacon of the chapel) and West as a Wesleyan (perhaps a mix-up with Ralph Mansfield).[150] Consistent with the ideas of a humourless Fairfax, Travers writes like a time-traveller when describing the 'gloomy editorial offices' of the *Herald*.[151] Surprisingly, Travers claims *Herald* readers would have been surprised by its passionate response to Gipps' land policy

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[140] Travers, *Grand Old Man*, p. 37.
[141] Travers, *Grand Old Man*, p. 20. The young Parkes was a Chartist and republican, repudiating the latter in the mid-1850s. See Hirst, *Strange Birth*, pp. 51-53.
[142] Travers, *Grand Old Man*, p. 74.
[143] Travers, *Grand Old Man*, p. 62.
[144] Travers, *Grand Old Man*, p. 9.
[145] These points are pursued in chaps. 3 and 9 below.
[146] Travers, *Grand Old Man*, p. 111.
[147] Travers, *Grand Old Man*, pp. 135-136.
[148] Chaired by Fairfax, the farewell dinner for G. A. Lloyd, long-time friend of Fairfax, fellow Congregationalist and, along with Thomas Holt, an intimate supporter of Henry Parkes (see Martin, *Henry Parkes*, pp. 258, 276, 282), seems to have been a jolly enough affair. See *Proceedings of the Farewell Dinner to George A. Lloyd Esq. JP*. See also M. D. Stephen, 'Review of D. Rosman, Evangelicals and Culture, London, 1984', *Journal of Religious History*, vol. 14, no. 1, June 1986, pp. 107-8, which claims Rosman renders the caricature of Evangelicals as killjoys as 'historically indefensible'.
[149] Travers, *Grand Old Man*, p. 111.
[150] Travers, *Grand Old Man*, p. 107.
[151] Travers, *Grand Old Man*, p. 8. Contrast this with the evident excitement in Charles Fairfax's letter to brother James, in which he describes the competition between the *Herald* and the *Empire* as 'first rate competition now, and we are ready for anything they like'. Cited in J. F. Fairfax, *The Story*, p. 138.

proposals in 1844, claiming it was unlike the 'sedate language of its ordinary fare'.[152] As a rule, 'sedate' is not a term that could be applied to a mid nineteenth-century newspaper and the *Herald* was no exception. A random selection of virtually any editorial of the *Herald* demolishes the suggestion they were written in some kind of boorish, aloof, genteel, anaesthetised atmosphere. Yet for all this, Travers nonetheless provides a useful presentation of the *Herald's* view of a good many issues. Additionally, he is one of a few writers who attribute to John Fairfax substantial credit for the ethos of the *Herald*. However, as is characteristic of much popular Australian history writing, Travers' presentation is needlessly tainted by a prejudicial stereotyping of men and women with institutional religious affiliation or a less than radical political stance.

Denis Cryle

Denis Cryle in his book on the press in colonial Queensland highlights the contribution of Dissenters to the press in England, and the 'considerable cultural and political achievement of Protestant sects' in Australia. Cryle also notes the desire of Nonconformist and Presbyterian editors and proprietors to 'raising the status of colonial journalism' and to make 'a significant contribution to the practice of effective responsible government'.[153] However, Cryle does not consider Nonconformists John Fairfax, Ralph Mansfield (Methodist minister and unofficial *Herald* editor in the 1840s), John West, or their newspaper, among them. Instead, Cryle presents the *Herald* as an influential proponent of conservative ideology and provides added sting by suggesting the *Herald's* conservatism was mercenary, aimed at securing maximum profit.

Along with Manning Clark, Cryle is an undiluted apologist for J. D. Lang's venomous interpretation of the *Herald.* Cryle claims that for 'Liberal idealists like Lang, the "pounds, shillings and pence" approach of the *Herald* was a travesty of the press' true vocation'.[154] Cryle suggests, the '*Herald* was at its most effective when it relentlessly attacked the political reputations of leading Liberal politicians' and that the 'biblical self-righteousness of the *Herald* was never more apparent than during the protracted feud' with Lang.[155] Cryle summarises his understanding of the role of the *Herald* of the mid-1850s, just prior to manhood suffrage, as follows: 'the *Sydney Morning Herald* and its Tory supporters were

[152] Travers, *Grand Old Man*, p. 37.
[153] Cryle, *The Press*, pp. 26, 38.
[154] Cryle, *The Press*, p. 38. See also p. 139.
[155] Cryle, *The Press*, p. 4.

preparing a vigorous counter-offensive to the proposals of successive Liberal administrations'.[156] Later, he refers to the 'strident anti-Whig views' of the *Herald*.[157] The *Herald* gains brief admission to the ranks of creditable journals for its opposition to the introduction of Melanesian labour into Queensland in the late 1860s.[158] To summarise, Cryle regards the colonial *Herald* to have been a champion of conservative ideology, like Roe, whom he acknowledges.[159] However, unlike Roe, he attributes the editorial stance of the *Herald* to an unprincipled thirst for profit. Despite the many other virtues of Cryle's *The Press in Colonial Queensland*, its virulent assessment of the *Herald* is inadequate.

Stephen Alomes

Stephen Alomes' study of Australian nationalism, *A Nation at Last?,* advanced the historiographical habits of stereotype and neglect regarding the colonial *Herald*. It managed to both further the myth of the *Herald's* unalloyed conservatism while studiously avoiding any meaningful engagement with it.[160] Despite each being significant to the formation of Australian nationalism, the fact that the *Herald* was the leading colonial journal advancing the quest for responsible government, the antitransportation movement (the first major intercolonial liberal movement) and that it promoted unity between the colonies when few else were interested, is ignored. The *Herald* fares no better in Alomes and Catherine Jones' subsequent *Australian Nationalism: A Documentary History*.[161] Not a single primary citation from the mid nineteenth-century *Herald* was salvaged. It quotes an address from the antitransportation league in Launceston, without reference to its leader and likely author John West, and cites the report of the select committee of Victoria advising a federal union of the Australian colonies, without references to either West's influential *Union* series or any of the *Herald's* regular promotions of this theme.[162] It is surprising that such a thoroughly useful study of Australian nationalism could overlook John West, the leader of the first intercolonial political movement, a founder of Australian historiography, the most prolific mid nineteenth-century writer on

[156] Cryle, *The Press*, pp. 40-41.
[157] Cryle, *The Press*, p. 46.
[158] Cryle, *The Press*, p. 97.
[159] Cryle, *The Press*, p. 4.
[160] S. Alomes, *A Nation at Last?: the changing character of Australian Nationalism, 1880-1988*, Angus & Robertson, Sydney, 1988, p. 15.
[161] S. Alomes and C. Jones, *Australian Nationalism: A Documentary History*, Angus & Robertson, Sydney, 1991.
[162] Alomes and Jones, *Australian Nationalism: A Documentary History*, pp. 33-43.

intercolonial unity and federation, and the designer of Australia's first national flag.[163]

Gregory Melleuish

Gregory Melleuish provides the most provocative and sustained revisionist critique of colonial politics and liberalism. In a similar manner to Hirst, Melleuish argues that self-styled colonial 'liberals', such as Charles Cowper, were decidedly illiberal in their institutionalising a centralised bureaucracy, their building a system of political patronage, their disinterest in local government, and their populist instinct to deny non-Europeans equality before the law. However, Melleuish carries Hirst's thesis to its logical conclusion by seeking a more nuanced use of political nomenclature to describe colonial politics.

In a series of articles and books published from the mid-1980s,[164] Melleuish has grasped the liberal baton from the skeletal fist of Bruce Smith (1851-1937). Smith was one of the intellectual doyens of the free-trading NSW liberalism so comprehensively defeated by Victorian protectionism in the make-up of the newly-federated Australia. In *Liberty and Liberalism* (1887),[165] Smith argued that inherent to liberalism were ideological tenets, such as free trade, without which no person or party could properly be termed 'liberal'. In particular, Smith considered 'absolutely paradoxical' the use of the term 'liberal' to describe Victorian politicians who instituted protectionism in the 1860s and thought it offensive the way true liberals were parodied as conservatives.[166] Melleuish suggests that 'Smith was right but lost the ideological battle. True liberals in Australia found themselves saddled with the description "conservatives" while the Victorian protectionists ... appropriated the term "liberal"'.[167]

Similarly, in his interpretation and description of colonial politics and society, Melleuish seeks a mature contextualisation of mid to late nineteenth-century colonial

[163] Ratcliff accounts for the origin of West's flag as the banner for the Australasian Anti-Transportation League in *The Usefulness of John Wes*t, pp. 408-409.
[164] These include: 'Beneficent Providence and the Quest for Harmony', pp. 167-180; 'Daniel Deniehy, Bede Dalley and the Ideal of the Natural Aristocrat in Colonial New South Wales', pp. 45-59; 'Distributivism: The Australian Political Ideal?', *Journal of Australian Studies*, no. 62, 1999, pp. 62, 20-29; *Cultural Liberalism in Australia; The Packaging of Australia: Politics and Culture Wars*, University of New South Wales Press, Sydney, 1998; 'Metahistory Strategies in Nineteenth Century Australia', *Journal of Australian Colonial History*, vol. 1, no. 2, August 1999, pp. 80-102; *A Short History of Australian Liberalism*; *John West's 'Union Among the Colonies'*; 'Australian Liberalism', *Liberalism and the Australian Federation*, J. R. Nethercote (ed.), 2001, pp. 28-41; 'The Strange Birth of Colonial Democracy revisited: The NSW 1859 election', Refereed paper presented to the Jubilee conference of the Australasian Political Studies Association, ANU, October 2002.
[165] Smith writes in an accessible manner and the book and has recently been reissued by the Centre for Independent Studies, Sydney, with an introduction by Melleuish.
[166] Smith, *Liberty and Liberalism*, pp. 4-5.
[167] Melleuish, *A Short History of Australian Liberalism*, p. viii.

liberalism within its heritage in wider classical and British liberalism. A failure to do this, Melleuish argued in 2001, has led to the 'misleading nature of the studies of Australian liberalism that have been produced to date'.[168] Generally, the account of mid nineteenth-century colonial liberalism has taken two directions. Firstly, it reads back into mid nineteenth-century liberalism the New or Social Liberalism of late century. Secondly, and more significantly, has been a tendency to quarantine colonial liberalism from its British context and consequently to detach it from any ideological tradition. The most ardent expositor of this approach has been Stuart Macintyre, who repudiates the idea of defining liberalism 'canonically by assembling a group of seminal figures who articulate its core principles'. Instead, 'colonial liberalism embodied colonial circumstances' and was 'more a code of conduct than a precise political programme'.[169] This debate over the defining of colonial liberalism is of enormous significance to the study of the colonial *Herald* and is pursued throughout the thesis.

Against this backdrop of historiographical debate, Melleuish presents the *Herald* and editor John West as principled proponents of liberalism attempting to ameliorate the worst features of the colonial administrations of the post responsible government period. This represents the antithesis of Cryle's understanding of the *Herald*. Ignoring the all too common mistake of making support for manhood suffrage a prerequisite to being designated a colonial liberal, Melleuish says of manhood suffrage:

> More thoughtful liberals were aware that unrestricted, or what might be termed populist, democracy could lead to selfish, unjust and unfair policies including restrictive trade practices, maltreatment of the indigenous people, and racist immigration policies. John West advocated federalism as a means of guarding against the excesses of populist democracy that he discerned in demagogues such as the Rev. Dr John Dunmore Lang ... West was right to be worried.[170]

Melleuish has also done much to reacquaint us with the fertile mind and energetic life of John West, a contribution reinforced by Patricia Ratcliff's *The Usefulness of John West* (2003), an account of West's life prior to becoming editor of the *Herald*. Melleuish describes West as an 'ethical liberal'[171] who epitomised the liberal stress on voluntary associations, local government and free trade, and whose protofederation thought was an expression of liberal

[168] Melleuish, *A Short History of Australian Liberalism*, p. vii.
[169] S. Macintyre, *A Colonial Liberalism*, Oxford University Press, Melbourne, 1991, pp. 5, 8 and 11.
[170] Melleuish, 'Australian Liberalism', pp. 29-30. See also, Melleuish, *John West's 'Union Among the Colonies'*, pp. xxv-xxvi.
[171] Melleuish, *John West's 'Union Among the Colonies'*, p. xiv.

idealism.[172.] Melleuish also describes West as being one of the most significant 'public intellectuals' and perhaps the finest political theorist in colonial Australia.[173] Although Melleuish presents West as a decided and lifelong liberal, he places West at the conservative end of the liberal spectrum, describing him as a 'liberal-conservative'.[174]

Other

A. G. L. Shaw's introduction to John West's *The History of Tasmania* served for many years as the best summary of the life and thought of John West. It presents West and the *Herald* as moderately conservative in a colonial context. As noted above, Shaw suggests that West as editor of the *Herald* continued to espouse 'liberal-conservative views' similar to those he had expressed in the Launceston *Examiner*. However, Shaw emphasizes how the *Herald* defended free trade, the civil rights of Chinese workers and that West retained his 'liberal's trust in education and enlightenment'.[175] Shaw also notes West's belief in progress as characteristic of a nineteenth- century liberal.[176] Consequently, although relatively brief, Shaw's approach does justice to both the *Herald's* comparative conservatism on some issues in the colonial context, without failing to appropriately anchor it within the context of mainstream British liberalism.

Similar to Dyster, John Manning Ward describes the *Herald* of 1841 as 'moderately conservative'[177] and, like A. W. Martin, generally describes the *Herald's* view on a particular issue without placing a political label upon it.[178] A. Powell's biography of Charles Cowper regularly cites the *Herald* and generally apportions to it a qualified or moderate conservatism, although our intrepid Warwickshireman John Fairfax is unfortunately dubbed 'the cautious Scot'.[179] Similarly, Ged Martin's *Bunyip Aristocracy* makes frequent reference to the *Herald* and apportions to it a moderate conservatism in its colonial context.[180] Martin wrote: 'In Sydney, the radical *Empire* was forced to chase after the moderate *Herald* in the struggle for

[172] Melleuish, *A Short History of Australian Liberalism*, pp. 5-7; *John West's 'Union Among the Colonies'*, pp. x, xviii, xxi-xxxi.
[173] Melleuish, *John West's 'Union Among the Colonies'*, p. vii.
[174] Melleuish, *John West's 'Union Among the Colonies'*, p. viii. See also Melleuish's 'Metahistory Strategies', p. 89.
[175] West, *The History of Tasmania*, A. G. L. Shaw (ed.), p. xx. See also pp. xii-xiv and xix.
[176] West, *The History of Tasmania*, A. G. L. Shaw (ed.), p. xix.
[177] Ward, *James Macarthur*, p. 104.
[178] See Ward's biography of Macarthur, as well as his *Earl Grey and the Australian Colonies, 1846-1857: a study of self-government and self-interest*, Melbourne University Press, Melbourne, 1958 and *The State and the People: Australian Federation and nation-making, 1870-1901*, D. M. Schreuder, B. H. Fletcher, R. Hutchison (eds.), The Federation Press, Sydney, 2001.
[179] Powell, *Patrician Democrat*, p.13.
[180] For example, see Martin, *Bunyip Aristocracy*, pp. 4, 93, 97-98, 131, 151,

circulation and influence'.[181] Although Stuart Macintyre's *A Colonial Liberalism* makes few direct references to the *Herald*, it remains crucial to the historiographical discussion in this thesis. In particular, Macintyre's spirited defence of David Syme's liberal credentials,[182] in spite of an avowed protectionism, is examined in chapter 3.

In contrast, D. W. A. Baker's biography of J. D. Lang furthers the momentum seen with Manning Clark and Denis Cryle, that sympathy for Lang leads to a distorted view of the *Herald*. Baker claims John West as *Herald* editor 'denigrated' the 'liberal institutions' of NSW 'such as manhood suffrage, vote by ballot, the abolition of state aid and Robertson's Land Acts'.[183] In fact, the *Herald* supported the ballot and the termination of state-aid, and this thesis argues that the Robertson land acts were no more liberal than several other proposals for land reform in NSW. Ruth Knight's biography of Robert Lowe cites the *Herald* on many occasions without description of its character, although it does once refer to the *Herald's* 'Tory eyebrows'.[184] Finally, in a different vein altogether, is a booklet by Kit Hesy, the title of which says it all: *Vicious Old Lady (Sydney Morning Herald): A Century of Property against the People*.[185]

Conclusion

Given the frequent use of the *Herald* as a major primary source for colonial history, the *Herald* itself has been subject to surprisingly little critical analysis. Some historians have used the appellation 'conservative' in a mostly comparative sense (such as Souter, Walker some of the time, A. W. Martin, Loveday, Powell, Ged Martin, Ward). This thesis concludes that it is not unreasonable to attribute to the colonial *Herald* a comparative or moderate conservatism in its colonial context, particularly so on issues of political representation. However, it also suggests that, on its own, this is an inadequate portrayal; half of the story at best. This is because reference to the *Herald's* relative conservatism, left unqualified, obscures an obvious and mainstream liberal ideology on many issues. It fails to capture those areas of the *Herald's* thinking, even when limited to a colonial context, that was liberal by any definition, such as its views on responsible government, the ballot, state-aid, education (in the 1860s and 70s),

[181] Martin, *Bunyip Aristocracy*,, p. 151.
[182] Macintyre, *A Colonial Liberalism*, pp. 88-96.
[183] D. W. A. Baker, *Days of Wrath*, p. 456.
[184] R. Knight, *Illiberal liberal: Robert Lowe in New South Wales, 1842-1850*, Melbourne University Press, Melbourne, 1966, p. 25.
[185] Kit Hesy, *Vicious Old Lady (Sydney Morning Herald): A Century of Property against the People*, Current Book Distributors, Sydney, 1946. With little comment, Hesy presents a series of quotations from the colonial *Herald*.

sectarianism, the Lambing Flat riots, and free trade. A few historians, such as A. G. L. Shaw, Dyster, Walker (in the Garran article) have taken steps in this direction. They identify the *Herald* as expressing some liberal values (as does Roe at points). Dyster accepts the traditional nomenclature surrounding the terms liberal and conservative but infuses into the notion of 'progressive conservatism' some decidedly liberal values. Melleuish goes even further, daring to use the term 'liberal' with respect to editor John West and the *Herald*. Although only one voice, given the strength of Melleuish's revisionist critique of colonial liberalism and his interest in *Herald* editor John West, it is a significant voice. Melleuish places the *Herald* within the context of wider liberal thought, and thus readily makes connections between the *Herald* and liberalism. This does not prevent Melleuish, however, from identifying John West and the *Herald* as having been on some issues, most notably political representation, at the conservative end of the liberal spectrum. When doing so, Melleuish utilises an appropriate description such as 'liberal-conservative'.

In contrast, some historians identify the *Herald* as a purveyor of ideological conservatism (Clark, Roe — albeit limited to the years 1838-1851 — Baker, Walker some of the time, Hirst, Knight, Travers, Cryle). This thesis contends that such descriptions of the colonial *Herald*, particularly from the 1850s, are at best misleading and the product of several factors. Firstly, given the lack of sustained examination of the *Herald* and the key figures behind it, the interpretation of its contemporary enemies, such as J. D. Lang, has prevailed. Secondly, with few exceptions, Australian historians have not adequately contextualised colonial conservatism, liberalism and radicalism in its British setting. British colonies such as New South Wales and Victoria are all too often treated as closed, largely self-referencing, political systems. This has led to a profound skewing of the fundamental meanings of colonial liberalism and radicalism in the writing of Australian colonial history. Consequently, radicals and chartists like the young Henry Parkes of the late 1840s are described as 'liberals', despite the jarring dissonance with any use of the term in Britain and Europe at the time, while mainstream liberals like Fairfax and West, open to reform but fearful of democracy, are classified as 'conservatives' or even 'Tories'. As noted, the theme of colonial political nomenclature is frequently returned to throughout the thesis, with summary conclusions offered in chapter 10 as to a better use of political nomenclature within colonial historiography.

Chapter 1: John Fairfax in England, 1805-1838; Migration to NSW; Acquisition of the *Herald*; Editorial Influence.

Introduction

This chapter begins by outlining Fairfax's heritage and early working life in England. This serves a secondary aim of the thesis, to shed long-overdue light on the founder of the Fairfax dynasty. However, it is also vitally connected to the primary theme of the thesis, the editorial position of the *Herald* under Fairfax. This is because Fairfax's British liberal Nonconformist heritage is crucial to understanding the subsequent position of the colonial *Herald* on many issues, such as proposed Sabbath and temperance legislation, state-aid to churches, Ireland and Roman Catholicism more generally, political representation, and free trade (a theme more fully explored in the next chapter which examines Fairfax's journalism in England). This opening chapter also outlines Fairfax's acquisition of the *Herald*, the early development of the *Herald* under Fairfax, and considers the extent of Fairfax's control of the editorial position of the *Herald* and his relationship with editor John West.

John Fairfax of Warwickshire

Although John Fairfax's immediate heritage was in middle-class Nonconformity, Fairfax was only two generations removed from a lineage of Warwickshire Anglican gentry. Dating back to at least Robert Fairfax (d. 1545), the Fairfax estate had been lost through the dissolute life of Fairfax's great-uncle (also John Fairfax).[1] William Fairfax (1763-1835), John's father, was an artisan in building, furnishings, and upholstery, and of either no mind or opportunity to reverse this loss. However, John Fairfax knew his great-aunt well, widow of the great dissolute one. She made Fairfax well aware of his heritage. Fairfax recalled:

> I used to visit her in a cottage at Barford. Because I was John Fairfax also she left me all she had of her husband's. This consists of the Bible, printed in 1657, a large silver watch (17th century), with his name engraved on the back, a hunting coat, a cap and whip. She was ... continually urging my father to sue for the recovery of the estate. He had a lot of parchment deeds ... but they were declared to be of no value. They remained at home and were sometimes looked at as the remains of grand but bygone Fairfaxes.[2]

[1] John Fairfax's heritage and early family life in Warwickshire is outlined in Souter's *Company of Heralds*, pp. 3-13, J. F. Fairfax's, *The Story of John Fairfax.*, pp. ix-33, and among James Fairfax's published and unpublished records regarding his father.
[2] J. F. Fairfax, *The Story*, pp. xvii-xviii.

Although not living to see it, the old woman had unwittingly selected the right target for her hopes of family restoration. The significance of this is well summarised by J. F. Fairfax:

> What effect this had on his mind is a little hard to guess. Clearly, from his subsequent life, no one could have thought less than did John Fairfax of social distinctions, or could have thought more of the ennobling dignity of hard work in any trade or calling. His talks with his old great-aunt, however, may well have fired within him a desire to make more of a mark in the world than his father or grandfather. His great-grandfather had been Mayor of Warwick, and a wealthy man. A Mayor of Warwick may, or may not, be a better man than an upholsterer, but for doing good or ill he has greater opportunities.[3]

We can go no further than this, except to conjecture that, given John Fairfax spoke of it, he had been in some measure motivated by an appreciation of his heritage. Yet, be this as it may, John Fairfax was born in 1805 into a family whose transition into the emerging world of early nineteenth-century middle class Dissent was complete.

Particularly noteworthy in this regard is the impact of Fairfax's mother. There is no doubt that she, rather than father William, had been the dominant figure in the home. Elizabeth Fairfax (nee Jesson) was from a Dissenting family in Birmingham and upon her marriage to William Fairfax convinced him to leave the Established Church for the Dissenting Chapel.[4] John Fairfax's second son and main successor at the *Herald,* James Reading Fairfax (1834-1919), remembered her well. Elizabeth had emigrated with John and Sarah Fairfax and lived with them in Sydney until her death in 1861 (aged 84). James wrote 'my Grandmother and I were specially attached to each other for I was her constant charge during my childhood'.[5] James records both his grandmother's faith and her influence. He wrote that 'Grandma Fairfax' had an accident in 1861 and 'lingered in patience and in faith in that Redeemer she had loved and served for over seventy years'.[6] Elsewhere, James claimed she had been a 'woman of strong religious convictions ... [who] ... exercised a strong influence on her son John, and [that] it was her teaching, and inheriting her strong character, that led to his success in life and in placing her sons and grandsons where they are'.[7] That she chose the danger and discomfort of emigration at 61 years of age in 1838 with second son John, rather than remain in England with eldest son William (she had no other children), may suggest a peculiar affection or

[3] J. F. Fairfax, *The Story*, p. xviii.
[4] J. F. Fairfax, *The Story*, p. xviii.
[5] James Fairfax, 'A History of John Fairfax', p. 31.
[6] James Fairfax, 'A History of John Fairfax', p. 31.
[7] J. F. Fairfax, *The Story*, p. xvii.

concern for John.[8] Regarding his grandfather, William Fairfax, James wrote 'I never heard much of ... [him] ... but think he was a good, respectable man, and did not make much stir in his native town'.[9] Fourteen years older than his wife Elizabeth, William died in 1835 from an eye infection following surgery.[10]

At twelve years of age John Fairfax left school and was apprenticed to family friend William Perry, a bookseller, bookbinder and printer. Fairfax's time with Perry provided both a sound apprenticeship and a hospitable environment, with Fairfax living with his Master and enjoying the opportunity for self-education afforded by Perry's library. Fairfax digested *Gulliver's Travels*, *Robinson Crusoe*, and works by Goldsmith, Austen and Scott, as well as prominent English poets, religious works such as *Pilgrim's Progress* and biblical commentaries.[11] Fairfax made excellent progress and was permitted by Perry to finish his apprenticeship one year ahead of schedule in 1825 in order that he could go to London 'to gain a greater knowledge of his business'.[12] He worked at a general printing office by day and as a typesetter with the *Morning Chronicle* in the evening, thereby gaining exposure to the standards of best practice of a major London newspaper. Consistent with his religious convictions, Fairfax spent Sundays 'attending the various places of worship where the most celebrated preachers were to be heard'.[13]

Early Commercial and Journalistic Endeavour in Leamington, 1827-1838

After two years in London, Fairfax returned to Warwickshire in 1827 and married chapel and childhood friend Sarah Reading.[14] The Fairfax family grew with the births of Charles John (1829), Emily (1831) and James (1834), and John and Sarah became heavily involved in the development of the Congregational witness in their area.[15] During these years Fairfax pursued a variety of ventures, including, life assurance, printing, stationery, book-selling, journalism and newspaper proprietorship. In 1827 he started his own business in Clemens Street,

[8] John's brother William was trained after his father in building and furnishings and immigrated to Sydney in 1853, where he established a successful saw milling and furniture making business. Souter, *Company of Heralds*, p. 623.
[9] J. F. Fairfax, *The Story*, p. xvii.
[10] James Fairfax, 'A History of John Fairfax', p. 1.
[11] J. F. Fairfax, *The Story*, pp. 3-4.
[12] James Fairfax, 'A History of John Fairfax', p. 1.
[13] James Fairfax, 'A History of John Fairfax', p. 1.
[14] This was the beginning of a long and happy marriage. Fairfax wrote in his dairy on the death of his wife: 'August 12, 1875. Calmly and peacefully my precious wife entered into Rest. Our married life commenced July 31, 1827. A happy and fine union of 48 years and twelve days'. Cited in J. F. Fairfax, *The Story*, p. 159.
[15] See Johnson, '"Busy for Both Worlds": John Fairfax as a leading Evangelical Layman, part 1', pp. 47-48.

Leamington, as a printer, bookseller, and stationer. Fairfax was also an agent for the Atlas Insurance Company, forging an interest culminating in him being a long-serving director of the Australian Mutual Provident Society.[16] Fairfax's business grew and he moved to larger premises. In April 1828 he launched his first journalistic endeavour, the *Leamington Spa Sketch Book*, which focused on social news and information including the comings and goings of the 'rich and famous' to the fashionable resort town. Famous for its mineral springs, since the turn of the century Leamington had been transformed from a rural hideaway of five hundred people to a fashionable health resort with eight hotels and a population larger than the ancient nearby town of Warwick.[17] Fairfax's decision to live in Leamington had probably been in part motivated by the fact Warwick was already well served by printers, including his own former Master, William Perry. However, this decision also suggests an aspect of Fairfax's innate business instinct soon to be replicated in the colony of NSW. Fairfax chose the commercial risks and opportunity associated with a newer and growing environment, rather than those of a well established location.

In August 1828 the *Sketch Book* was transformed into Leamington's first full-fledged newspaper, the *Leamington Spa Courier.* Fairfax was one of three co-proprietors but the partnership was short-lived, with Fairfax gone by December. Fairfax's religious Nonconformity and political liberalism was irreconcilable with his partners, who were both established churchmen and political conservatives. Local Leamington Spa Historian, J. C. Manning, wrote 'The difference between the parties was of political faith, two out of three being distinctly Conservative, and the third Liberal'.[18] Manning added: 'It was always such a mystery how such antagonistic elements could have gravitated towards each other in the first instance'.[19] On withdrawing, Fairfax concentrated until 1834 on his printing, bookbinding, stationery and pharmaceutical business, by then located in Bath Street, Leamington.[20] However, the desire to publish remained and during this time Fairfax produced *Fairfax's New Guide and Directory to Leamington-Spa and its Environs.*[21]

Fairfax's major return to publishing came in 1834 as the senior co-proprietor of the

[16] See 'Great Australians who built A.M.P: John Fairfax, Newspaperman', in the AMP House Journal, *News and Information*, vol. iii, no. 2, May 1962, p. 12. Also, J. F. Fairfax, *The Story*, p. 15.
[17] Souter, *Company of Heralds*, pp. 4-5.
[18] J. C. Manning, *Glimpses of Our Local Past: incidental to the rise and progress of Royal Leamington Spa*, F. Glover, Leamington, 1895. Cited in Souter, *Company of Heralds*, p. 9.
[19] Souter, *Company of Heralds*, p. 9. This experience of business disharmony no doubt added to Fairfax's appreciation of his subsequently excellent relationship with *Herald* partner (1841-1853) Charles Kemp.
[20] See Souter, *Company of Heralds*, pp. 8-9.
[21] Souter, *Company of Heralds*, p. 9.

Leamington Press. From 1835 he was sole proprietor, with the revamped title *The Leamington Chronicle and Warwickshire Reporter*.[22] Consistent with the description of Fairfax's political views by Manning, the editorial position of the *Chronicle* shows Fairfax to be decidedly liberal, though by no means radical, a stance replicated at the colonial *Herald*. He described the 1832 Reform Act as 'infinitely short of that which is still required'.[23] Of Peel's loss to Melbourne in 1836, the *Chronicle* reported that 'the last pillar has fallen away from the Temple of Tory greatness' and that 'the vile superstructure lies in ruin and desolation at our feet'.[24] Souter notes the *Chronicle* called for a further extension of the suffrage, more frequent election, the secret ballot, local government reform in Ireland, the end of unmerited pensions, and the removal of all religious-based civil disabilities.[25] Such a description of Fairfax and the *Chronicle* is certainly representative of the well documented liberal views of Nonconformist owned newspapers, which David Hempton notes had a 'formidable grip on the provincial press' of nineteenth-century England.[26]

Disaster and Departure

The journalistic and printing enterprises of John Fairfax in fashionable Leamington Spa were terminated by costs Fairfax suffered in the successful defence of two libel suits.[27] In 1835 the *Chronicle* published a letter written by Weston Hatfield exposing the tyrannical actions of a wealthy and prominent Leamington lawyer, W. C. Empson, against a local hotelier. Initially, Empson sued Hatfield. That failing, he twice pursued Fairfax and his former co-Proprietor Richard Weaver (of whom nothing is known).[28] Anecdotal evidence suggests revenge rather than genuine legal redress motivated Empson's legal action.[29] Yet however unpleasant such motives may have been, this in no way abated their effectiveness. Though exonerated, the legal

[22] J. F. Fairfax, *The Story*, p. 23. A full account of what the *Chronicle* reveals of Fairfax's political views in England is provided in ch. 2 below.
[23] Cited in Souter, *Company of Heralds*, p.11.
[24] Souter, *Company of Heralds*, pp. 9-10.
[25] Souter, *Company of Heralds*, p. 11.
[26] D. Hempton, *Religion and Political Culture in Britain and Ireland*, p. 129. See also Larsen, *Friends of Religious Equality*, pp. 31-33, 108-114, 139, 146. The differences between colonial and British contexts notwithstanding, a valuable comparison would be a study of the editorial positions of the *Leeds Mercury* owned by the Nonconformist Baines family with Fairfax and the *Sydney Morning Herald* under Fairfax's senior proprietorship from 1853. E. F. Biagini, *Liberty, Retrenchment and Reform: Popular Liberalism in the Age of Gladstone, 1860-1880*, Cambridge University Press, Cambridge, 1992, p. 229, described the *Mercury* as the 'unofficial organ of Northern moderate Nonconformity'.
[27] For a fuller account of the libel suits, see Souter, *Company of Heralds*, pp. 11-12 and J. F. Fairfax, *The Story*, pp. 24-28.
[28] Souter, *Company of Heralds*, pp. 11-12.
[29] Empson is attributed with saying he would make Fairfax pay one guinea for every shilling he had paid himself. Souter, *Company of Heralds*, p. 12.

costs had the desired effect and Fairfax was declared bankrupt on 20 April 1838. Friends formed a committee to raise funds to assist Fairfax but this was either insufficient or Fairfax was unwilling to use it.[30] Many years later James Fairfax surmised of his father: 'I do not think he accepted the proffered aid of his fellow townsmen and had to take shelter on the Bankruptcy court'.[31]

Fairfax's bankruptcy raises the issue of the degree of commercial success he enjoyed in the years prior to his move to NSW. Souter conjectures:

> Assuming that some help was forthcoming from the sympathetic and well-publicized committee, it is hard to see how Fairfax's legal costs could have had the disastrous effect they did upon his financial situation unless he declined to accept indemnity or his business affairs were already in some disarray.[32]

Certainly care is needed, as no record of either the legal costs incurred or the health of Fairfax's business interests prior to the legal action remain. However, it is unlikely friendship alone would have inspired the formation of a public committee to assist a businessman whose business acumen was dubious or whose 'affairs were already in some disarray'. Presumably Fairfax enjoyed a measure of commercial success in order to become sole proprietor of the *Chronicle.* That two of his four apprentices followed him to NSW to work on the *Herald* suggests a favourable impression of Fairfax both as a businessman and a person.[33] The only surviving description of Fairfax as a businessman in this period comes from close friend, Rev. Joseph Beasley, who described the Fairfax of Leamington as 'pre-eminently the accomplished man of business and the faithful servant of Christ'.[34] On balance, it is likely Fairfax had made at least steady progress between 1827 and 1838 in his newspaper, book selling and printing endeavours. However, in his early thirties, with a young family, and having probably used all his capital in becoming sole-proprietor of the *Chronicle,* Fairfax was in no position to meet the costs of successive legal defences. Consequently, of Souter's two options the first is the more likely, and fits with James Fairfax's opinion his father had refused to accept support. Perhaps Fairfax was frustrated by the difficulties, commercial and otherwise, of making progress in England?

[30] Souter, *Company of Heralds*, p. 12. For an account of events leading to Fairfax's bankruptcy, see Souter, *Company of Heralds*, pp. 11-12 and J. F. Fairfax, *The Story*, pp. 23-25.
[31] James Fairfax, 'Unfinished Memoir', Fairfax Family Papers. Also, James Fairfax provides the minutes of a public meeting held in support of Fairfax in *A Short Memoir of the Life of John Fairfax*, pp. 33-35.
[32] Souter, *Company of Heralds*, p. 12.
[33] J. F. Fairfax, *The Story*, p. 23. Two apprentices, Joseph Alliband and William Preston, worked with the *Herald* until their retirement.
[34] Cited in Souter, *Company of Heralds*, p. 11.

Local Leamington historian, J. C. Manning, hinted at this when suggesting Fairfax wanted a 'broader, freer atmosphere, a bolder and more ambitious flight'.[35] Comments by Fairfax soon after his arrival in the colony support this interpretation. Fairfax lamented that 'thousands of good, honest men are staying in England to be starved, in love with the beloved country which is taxing and grinding them to rags'.[36] Additionally, James Fairfax reports the following episode. In the midst of his distress over the legal costs, Fairfax saw on the streets 'a man he had well known seeking help, and it struck him what a dreadful thing to be a seeker for charity, in whatever form, and he said to himself, "Leamington is no place for me"'.[37] This also sits well with the broad assessment of W. K. Hancock that 'Men do not emigrate in despair, but in hope'.[38]

Fairfax's bankruptcy led to the decision to immigrate to Sydney. Cable suggests of the 1830s that with the United States a more developed society and a cheaper and safer two-week journey from Britain, as against five or six months to Australia, 'most British migrants who had any choice at all went to America'.[39] Cable adds assisted passage was the primary means NSW attracted migrants.[40] Yet Souter has established that the Fairfaxes did not travel to Sydney by assisted passage.[41] Fairfax's *Leamington Chronicle* reported in January 1838 that in the pervious year from the port of Liverpool 28,737 people had emigrated to the United States, 2,264 to the 'British Colonies in North America', and only 202 to the 'Australian Colonies'.[42] Why then was Sydney the favoured destination? Souter notes English Nonconformists promoted and were involved in the establishment of South Australia in 1836.[43] This had the effect of creating a greater general awareness of Australia among English Nonconformists. Souter also offers a more probable influence, Fairfax's nephew, Alfred Fairfax, who had been in Sydney since 1837 and presumably reported well of it.[44] However,

[35] Cited in J. F. Fairfax, *The Story*, pp. 27-28.
[36] Cited in J. F. Fairfax, *The Story*, p. 62.
[37] James Reading Fairfax, *A Short Memoir of the Life of John Fairfax*, pp. 12-13.
[38] W. K. Hancock, *Australia*, 1st Australian Edition, Ernest Benn Ltd, London, 1945, p. 47.
[39] K. J. Cable, *Religion in Colonial New South Wales*, Baptist Historical Society, Sydney, 1993, p.18. See also: J. Jupp, 'Migration from the Midlands', *The Australian People: An Encyclopedia of the Nation, Its People and Their Origins*, J. Jupp (ed.), Cambridge University Press, Cambridge, 2001, pp. 297-300; R. Haines and R. Shlomowitz, 'Emigration from Europe to Colonial Destinations: Some Nineteenth Century Australian and South African Perspectives', *Working Papers in Economic History*, No. 63, August 1995, pp. 7-10.
[40] Cable, *Religion in Colonial New South Wales*, p. 18.
[41] The possibility of assisted passage is interesting but Souter notes their names are not on the list of passenger subsidies for their voyage. Souter, *Company of Heralds*, p. 13. Perhaps the cost of passage was one expense that Fairfax allowed his Leamington friends to provide for?
[42] *Chronicle*, 18 January 1838.
[43] Souter, *Company of Heralds*, p. 12.
[44] Souter, *Company of Heralds*, p. 12.

James Fairfax's (long-lost) *Short Memoir* sheds light by claiming his father had met in Leamington 'one or two officials' who had 'served for a short time in Sydney — one a commissariat officer, named Tomm'.[45] James Fairfax believed Tomm's description of 'the new colony' was influential and noted that Tomm gave his father letters of introduction to 'prominent people' in Sydney.[46]

The departure of the Fairfax family from Leamington was memorable. John and Sarah were established identities at the young Clemens Street (from 1837 Spencer Street) Independent Chapel. Fairfax had played a major role in its establishment and was a deacon, lay-preacher and Superintendent of the Sunday School. James Fairfax claims 'many years after his departure many young people spoke with trembling voices of the day John Fairfax left Leamington'.[47] The official farewell took place on 1 May 1838, two days before their departure for London. Farewells concluded, the Fairfaxes left Leamington and their pastor Alfred Pope accompanied them to London. Their party included Fairfax's widowed mother, Elizabeth, and Sarah's brother, James Reading. When the Fairfaxes boarded the *Lady Fitzherbert* for Sydney in May 1838, John was 32 years of age, Sarah 30 (and seven months pregnant), Charles 9, Emily 6, and James 3.[48]

Early Life in New South Wales; Acquisition and Development of the *Herald*

The voyage aboard the *Lady Fitzherbert* lasted nearly five months. The Fairfax party travelled second class in a cramped steerage area, later described by another Warwickshireman Henry Parkes, who came the following year, as 'a most miserable place'.[49] The Fairfaxes arrived in Sydney in September 1838. Their party included new-born Richard Pope Fairfax, born en route, who died the following year. Fairfax arrived with £10, half of which he had won in the ship's sweepstake predicting their arrival date. Though without capital, Fairfax came to the colony a mature and vigorous man of (nearly) thirty-three years, replete with technical and professional skills and of considered religious, social and political convictions. But no one,

[45] James Fairfax, *A Short Memoir of the Life of John Fairfax*, p. 12.
[46] James Fairfax, *A Short Memoir of the Life of John Fairfax*, p. 12.
[47] James Fairfax, 'A History of John Fairfax', p. 5. Presumably the origin of this claim arose from James' experience when visiting England, which he did on several occasions.
[48] Souter, *Company of Heralds*, p. 12, suggests Fairfax was 33 while James Fairfax, *A Short Memoir of the Life of John Fairfax*, p. 12 suggests 35. Fairfax was born 24 October 1805 and the ship left London 17 May 1838 and arrived 26 September 1838, a month before his 33rd birthday. Some Fairfax family members claim John Fairfax was born 24 October 1804. As discussed in the introduction, 24 October 1805 is the preferred date.
[49] H. Parkes, *An Emigrant's Home Letters*, Angus & Robertson, Sydney, 1896, p. 83. The leading research on the experience of migrants has been provided by Haines. See R. Haines, *Life and Death in the Age of Sail: the passages to Australia,* UNSW Press, Sydney, 2003, pp. 11-42, 81-165.

least of all Fairfax himself, could have envisaged the success and prosperity he was soon to enjoy.

With a population of about 25,000 and a booming economy, Sydney was celebrating its fiftieth anniversary. Blue-blooded Stuart Alexander Donaldson, founder of the Australian Club and subsequently premier, viewed developments with distaste, complaining of the 'utter beastliness of the mass of the people ... [with] hundreds sprung from the common herd who can sport their carriages and their £5,000 a year'.[50] The value of imports into the colony in 1831 had amounted to £490,000 but by 1840 stood at £3,000,000.[51] And although the recession of 1841-43 burst the bubble, it is staggering to note total bank loans in the colony of £646,000 in 1836 grew to £2,616,000 by 1841.[52] An impending correction was not the only down side to such buoyant times. Fairfax, Henry Parkes and their compatriots must have been staggered on travelling to the veritable ends of the earth to discover rents and prices higher than in England.[53] Still, Fairfax found housing and then work with the *Commercial Journal*, prior to winning the position of librarian at the Australian Subscription Library that came with the modest salary of £100 p.a. and accommodation.[54] James Fairfax noted that, through the library, his father 'became acquainted with the best official people in Sydney as well as leading squatters and merchants many of whom afterwards became personal friends'.[55] Fairfax also settled into the Congregational Church in Pitt Street, establishing another network among the likes of David Jones and Ambrose Foss that soon proved invaluable.[56] Out of library hours Fairfax worked as a typesetter for the *Sydney Herald*[57] and the *Commercial Journal,* and from October 1840 edited and printed the *Temperance Advocate* at the *Herald* office on behalf of the Temperance Society.[58]

While Fairfax was gaining a foothold in the colony, *Sydney Herald* proprietor Frederick

[50] 18 May 1838. Cited in Dyster, 'The Role of Sydney and the Roles of its Citizens in N.S.W, 1841-1851', p. 5.
[51] Dyster, 'The Role of Sydney and the Roles of its Citizens in N.S.W, 1841-1851', p. 82.
[52] Dyster, 'The Role of Sydney and the Roles of its Citizens in N.S.W, 1841-1851', p. 82.
[53] J. F. Fairfax, *The Story*, pp. 52, 61. Parkes, *An Emigrant's Home Letters*, p. 87.
[54] J. F. Fairfax, *The Story*, pp. 69-70.
[55] James Fairfax, 'Unfinished Memoir', p. 17.
[56] For further on this remarkable congregation and John Fairfax's vital contribution to both it and Congregationalism in NSW, see Johnson, '"Busy for Both Worlds": John Fairfax as a leading Evangelical Layman, part 2', forthcoming.
[57] John Fairfax is often described as the 'founder' of the *Herald*. However, William McGarvie, Frederick Stokes and Ward Stephens founded the *Sydney Herald* as a weekly in 1831. Fairfax, as co-proprietor, renamed the paper the *Sydney Morning Herald* in 1842 and was chiefly responsible for its rise to prominence in the ensuing decades. Souter, *Company of Heralds*, pp. 18-19.
[58] The full title of this journal was *The Temperance Advocate and Australasian Commercial and Agricultural Intelligencer*. It was 'edited by John Fairfax, the Proprietor, and printed at the *Herald* office'. Its first issue was 7 October 1840. The brand of temperance advocated by the *Advocate* is described in ch. 3 below.

Stokes was finding the management of the *Herald* increasingly onerous. Though only established in April 1831, the *Herald* had already experienced several changes of part-ownership, with Stokes becoming the sole proprietor in December 1839. Throughout 1840 Stokes made several attempts to improve the management and editorial oversight of the (from July 1838) tri-weekly *Herald,* without success.[59] At the *Sydney Herald* was Charles Kemp, a twenty-seven year old court and parliamentary reporter with whom Fairfax had struck up a firm friendship. This friendship included not a little shared ambition, focusing on acquiring the *Herald,* an aspiration known between them as 'The Plan'. Part of the Fairfax-Kemp dialogue included the following excitable comments from Fairfax to Kemp:

> We must have the *Herald*, Charlie. Above all things, we must have the *Herald*. It is the paper for us; the only paper for us. It has the type of reader we want; it has the format we like ... It has the advertisements, which will bring strength of position ... I will watch the management side, you will see to the news, and on matters of editorial policy we will collaborate ... And before and apart from the rigid formal deed of partnership we will be obliged to sign, let us determine that we shall set an example in partnership for all Sydney to learn from, no cross words or, what is worse, bitter thoughts ... We will do our utmost for the improvement and growth of the Colony. We will fight hard for those things which we feel should be brought about, such as self-government and the stoppage of this accursed transportation, and when we meet with adversity we will not complain, and when we are wrong we will admit it.

Kemp replied 'Yes, John, it is a dream I dearly love, and, what is more, I think that Stokes will sell'.[60] Writing in 1892, W. H. Fitchett claims that when Fairfax was working at the Subscription Library and typesetting part-time for Stokes at the *Herald,* Stokes offered him 'control' of the *Herald,* which Fairfax declined. Presumably 'control' meant a position as manager, as Fitchett adds that Kemp and Fairfax subsequently received an 'offer to purchase' which they accepted.[61] Neither company historian Gavin Souter nor J. F. Fairfax make mention of Fairfax being offered 'control' prior to the Kemp-Fairfax purchase. However, it is by no means unreasonable to think that Stokes, in one of several attempts to improve the management of the *Herald,* had turned to Fairfax, an experienced newspaper proprietor and printer. If indeed this transpired, it adds to the intrigue leading up to the sale of the *Herald* to Kemp and Fairfax. Was there a calculated risk involved in Fairfax refusing such an offer? How

[59] See Souter, *Company of Heralds*, p. 26.
[60] J. F. Fairfax, *The Story*, pp. 82-83.
[61] *Review of Reviews* (August 1892), Australian edition, W. H. Fitchett (ed.), pp. 33-34. Unfortunately Fitchett offers no source for this comment. Fitchett, a Methodist minister and writer, was subsequently famous for his patriotic literature, most notably *Deeds that won the Empire* (1897) that sold more than 250,000 copies.

big a gamble had Fairfax and Kemp made in their ambition to go 'one better' and secure ownership of the *Herald*? What if Stokes had made another journalist an offer of management that had been accepted? We will never know.

Whatever the preliminaries, Stokes sold the *Herald* in February 1841 for £10,000 to Kemp and Fairfax. This was a record price for a newspaper in the colony[62] and one which in coming to terms with the prospective partners described as a 'frightening amount' and 'a hushed-whisper sum'.[63] Built upon a value judgement by Stokes that the new proprietors would succeed and thereby honour their debt, the sale was arranged on credit at eight percent over five years, amounting to £12,840.[64] Kemp and Fairfax required financial assistance to meet the first repayment, though details are sketchy.[65] Draper and retailer David Jones, a friend and fellow Congregationalist of Fairfax, is universally attributed with involvement.[66] Others variously acknowledged as backers include Ambrose Foss, Joseph Thompson, Rev. Dr Robert Ross and George Rees (all Congregationalists), Alexander Macleay the renowned public servant, entomologist and supporter of the Australian Subscription Library, and schoolmaster William Cape.[67] This relatively informal and spontaneous method of capital generation remained common in Britain and was the norm in the colony at this time.[68]

The entry of Kemp and Fairfax into such prominent commercial and social positions may have caused some surprise. Kemp noted six and a half years into his partnership with Fairfax in June 1847 that he was debt free and valued the *Herald* at £15,000 and his own fortune at £10,000.[69] Kemp continued:

> independently of the pecuniary benefit there is also the social advantages arising from my being Editor and joint proprietor of the *Herald*, which place me in society in a much higher grade than I had any right to expect to reach when in 1831 I came [to] Sydney and

[62] Walker, *Newspaper Press*, p. 35.
[63] J. F. Fairfax, *The Story*, p. 83.
[64] Souter, *Company of Heralds*, p. 27.
[65] Souter, *Company of Heralds*, p. 27.
[66] The Fairfaxes and Jones developed an intimate friendship, extending for several generations. See J. F. Fairfax,*The Story*, pp. 69-70; Sir Charles Lloyd-Jones, 'The History of David Jones LTD', *Bulletin of Business Archives Council of Australia*, A. Birch (ed.), May 1956, vol. 1, no. 1, pp. 3-4.
[67] J. F. Fairfax, *The Story*, p. 84; Souter, *Company of Heralds*, p. 27; C. Simpson, *John Fairfax,1804-1877*, p. 6.
[68] See H. Kolsen, 'Company Formation in NSW 1828-1851: A Preliminary Report', *Bulletin of the Business Archives Council of Australia (NSW and Victoria Branches)*, A. Birch (ed.), vol. 1, no. 6, [undated but circa. 1960] p. 20. See also McKenzie's stimulating article on the importance of perceptions of reputation and commercial success. K. McKenzie, 'Of Convicts and Capitalists: Honour and Colonial Commerce in 1830s Cape Town and Sydney', *AHS*, v. 33, Special Issue no. 118, 2002, pp. 199-222. In particular, general comment in McKenzie's introduction and conclusion are relevant to Fairfax's social context.
[69] Diary of Charles Kemp, June 2, 1847.

> worked in a carpenter's shop for 14/s a week and my board.[70]

However, it was precisely this kind of opportunity that a successful colony offered, which England could not.[71] We have already considered the possibility that just such an ambition lay partly behind Fairfax's decision to emigrate, rather than to stay and rebuild in Leamington.

An interesting aspect of the new partnership is that Kemp's name always appeared first on the *Herald's* imprint and they were always spoken of as 'Kemp and Fairfax'. This despite the fact Fairfax comes before Kemp alphabetically and Fairfax was eight years Kemp's senior.[72] Precisely what this suggests is difficult to determine. A simple explanation would be if Kemp had put more of his own money into buying the *Herald* than Fairfax. Or does it reflect Kemp's greater editorial involvement,[73] or the fact that Kemp, a political journalist with the *Herald* and the *Monitor* before this, was better known in the colony than the recently arrived Fairfax? If J. F. Fairfax's vivid description of Kemp is even half right, this may well have been the case:

> If ever there was a restless, ubiquitous, lovable dynamo of a man it was Charlie Kemp. He was never still and he was never content; he was known far and wide by every type and class, and when he walked down the street he needed both his arms to wave greetings.[74]

We cannot be sure but it was more than likely due to a combination of reasons such as these.

Despite Stokes' difficulty in managing the *Herald,* it was nonetheless the leading journal in the colony when purchased by Kemp and Fairfax in February 1841. Keenly priced and with good news coverage, from October 1840 the *Herald* had moved from being tri-weekly to a daily affair.[75] As Fairfax said to Kemp, it enjoyed the confidence of advertisers, thus beginning the *Herald's* ascendancy in this area and the coveted 'rivers of gold' it produced.[76] However, depression from mid-1841 to 1843 placed the new proprietors under immediate pressure.[77] Subscription and advertising rates were raised and Fairfax devised an agreement with staff ensuring consistent production and security of tenure. Partner Charles

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[70] Diary of Charles Kemp, June 2, 1847.
[71] As Stuart Alexander Donaldson's disdainful assessment, noted above, affirmed.
[72] Souter comments on this without elaboration, *Company of Heralds*, p. 27.
[73] The editorial influence of John Fairfax is pursued in the next section of this chapter.
[74] J. F. Fairfax, *The Story*, p. 81. Presumably this was based on the oral history of Miss Mary Fairfax and/or James Fairfax who both knew Kemp.
[75] Walker, *Newspaper Press*, pp. 26, 35.
[76] Walker, *Newspaper Press*, p. 26. Governor Fitzroy noted the loyalty of advertisers in dispatches. Fitzroy to Earl Grey, 10.1.48, *Historical Records of Australia*, series 1, vol. 26, pp. 168-169. Speaking of the *Herald's* profitability, Fairfax commented on the gold price in a letter to son James in the 1870s, adding, 'the *Herald* is the best mine'. J. F. Fairfax, *The Story*, p. 160.
[77] Kemp acknowledged the 'hard years' of 1842-1844 in his diary entry of 2 June 1847. Diary of Charles Kemp.

Kemp, without a family to support, often took less than was owed him.[78] But the depression was not all bad news, affording real advantages to those like Kemp and Fairfax who survived. Two older journals folded: the *Monitor* in December 1841 and *Sydney Gazette* in October 1842. With assistance from James Macarthur the *Australian* struggled through the depression and even attempted to challenge the *Herald* as a daily in 1844. James Fairfax recalled with the advent of a 'rival paper, the *Australian* ... it seemed to be a question as to which of the two papers would survive'.[79] However, the challenge soon dissipated, with the *Australian* going thrice-weekly in 1845 before folding (temporarily) in September 1848. This left the (from August 1842) *Sydney Morning Herald* unchallenged for supremacy and the oldest surviving paper in the colony. Its relative age, combined with its more sober brand of liberalism, soon led to the *Herald* bearing the nicknames 'Granny' and 'Aunt'.[80]

Other prominent early developments for the *Herald* included the successful launch of the weekly eight-page *Shipping Gazette* and a move to larger premises, both in 1844.[81] In 1853 Charles Kemp wished to retire from the business and, consistent with the deed of partnership, was bought out by partner John Fairfax.[82]

John Fairfax and the editorial stance of the *Sydney Morning Herald*

One of the more important issues in any consideration of John Fairfax involves clarifying the nature of his editorial involvement with the *Herald.* How representative of the mind of John

[78] J. F. Fairfax, *The Story*, pp. 91-93. This agreement with staff is indicative of the success Fairfax had in securing the loyalty of employees. One former employee wrote on Fairfax's death in the *Dubbo Despatch*: 'He was an unostentacious [sic] man, but none the less one of those who had done in his own quiet way more than any man now living to advance the colony. He was as big-hearted as he was honourable; and his charities were many ... The employer of over one hundred men, the relations between himself and his subordinates were always of the most friendly character ... I could tell you many stories of John Fairfax's kindness ... The father of the New South Wales Press, he was one of whom we could all feel proud'. *A Century of Journalism*, pp. 61-62. Another employee, noted journalist Charles St. Julian, wrote to Fairfax on the occasion of Fairfax's fiftieth birthday: 'I address you, my dear Sir, not as employee to employer, but as friend to friend. Intercourse for many years in the former degree of relationship has created this latter feeling within me, and I am confident with yourself also. Your many acts of practical kindness, and, what has been still better, your manifestation of sound, genuine, warm-hearted consideration ... have proved this ... It seems to me that you ought to be happy if ever man ought. You have no superior in this community either as to social standing or as to moral reputation. The members of your family are all near you, and all, I believe, happy and prosperous ... I have long regarded you as one of my best friends, and it is in this character alone that I now address you. If I should ever quit the *Herald* Office to assume other and different duties I shall carry with me this feeling'. Charles St. Julian to John Fairfax 24.10.1855. Fairfax Family Papers.

[79] James Fairfax, 'A History of John Fairfax', p. 15. On the *Australian* in the 1840s, see Walker, *Newspaper Press*, pp. 34-35.

[80] See Souter, *Company of Heralds*, pp. 38-39, 78, 89. Souter suggests the first use of 'Granny' was made in 1848. See also Walker, *Newspaper Press*, p. 58. *A Century of Journalism* p. 239 suggests these names were used 'affectionately' by some and 'contemptuously' by others.

[81] Walker, *Newspaper Press*, p. 34.

[82] Souter, *Company of Heralds*, pp. 52-53.

Fairfax were the views expressed by the *Herald*? Resolving this issue is crucial to both understanding John Fairfax and determining his place in Australian history; for owning a dominant newspaper is one thing; exercising a vital influence over its ethos and editorial policy is another. Little has been specifically written about Fairfax and the editorial position of the *Herald*. The *Herald* has lacked detailed scrutiny and Fairfax a biographer. Only very limited summary descriptions have existed regarding Fairfax's role as proprietor of the *Herald* and as a director of several leading colonial companies.[83] Recently, Fairfax's religious beliefs and his energetic contribution to the Congregational church have been examined.[84]

More generally, the connection between the personal convictions of a newspaper and its proprietor, and even its editor and editorial team, is inherently challenging. Based on his own experience at the *Herald*, Fairfax's great-grandson John F. Fairfax wrote

> the conduct of a newspaper is a curiously impersonal and unrecorded work. Unrecorded, that is, in the sense that few documents, records or letters give much idea of the passage of events within such an office, which in their most important aspects depend on personal contact and private conversations. It is impersonal in the sense that the outward result of its achievement is the great and anonymous day-to-day work of the newspaper itself.[85]

Unlike a book, where authorial intent is usually ever-present, a newspaper tends to take on a *persona* of its own, as seen in the nicknames given the *Herald*. But, despite this, there is reasonable evidence to believe the *Herald*, especially after Kemp's withdrawal in 1853, reflected the mind and convictions of John Fairfax on major issues.

During the joint partnership in equal share of Kemp and Fairfax (February 1841 to September 1853), Kemp was more actively involved in editorial formation than Fairfax. This is unsurprising. Although collaboration between the partners on editorial position was their stated aimed, and no doubt occurred in good measure,[86] various pressures naturally placed Kemp more on the literary side and Fairfax the production side. Fairfax entered the partnership with experience as an employer, newspaper proprietor, editor, journalist, printer, and typesetter. There was no aspect of the running of the *Herald* in which Fairfax was not experienced. Alternatively, Kemp's experience was as a journalist at the *Monitor* and *Herald*. Prior to his becoming co-proprietor Kemp was already involved in the literary management of

[83] The major companies Fairfax was involved in are listed in the introduction to this thesis.
[84] See Johnson, '"Busy for Both Worlds": John Fairfax as a leading Evangelical Layman, part 1', pp. 44-45, 55 and Johnson, '"Busy for Both Worlds": John Fairfax as a leading Evangelical Layman, part 2', forthcoming.
[85] J. F. Fairfax, *The Story*, p. iii.
[86] See J. F. Fairfax, *The Story*, pp. 82-83 cited above.

the *Herald*[87] and it was natural for Kemp to stay in this role and for the omnicompetent Fairfax to concentrate on its managerial and mechanical side. This would have particularly been the case during the tough early years of the partnership, the recession years of the early 1840s. The *Herald's* eulogy to Fairfax in 1877 acknowledged how, through the early to mid 1840s, the burden of the physical production of the *Herald* had fallen largely on Fairfax, venturing that apart from Saturday evenings Fairfax rarely got to bed before three or four in the morning.[88] This complementary partnership resulted in no aspect of the production of the *Herald* lacking leadership and expertise.

During the Kemp-Fairfax years there was no official editor, although Kemp referred to himself as 'editor' of the *Herald* in his diary.[89] However, Ralph Mansfield, Wesleyan missionary, pioneer social scientist, company director and one of the colony's most experienced journalists and editors, appears to have a greater claim.[90] In any case, it is clear both Kemp and Mansfield were more involved in the editorial and lead-writing of the *Herald* than Fairfax, who was primarily concerned with maintaining and improving the business and mechanical side of the *Herald*. Having said this, who wrote the most editorials, Mansfield and/or Kemp, is not the primary issue but whether they reflected the opinions of John Fairfax. Much of the editorial comment of the *Herald* in the 1840s fits well enough with what we know of Fairfax but there were a few points of departure. Fairfax himself alluded to this during his unsuccessful campaign to win the LA seat of East Sydney against W. B. Dalley in 1856. Fairfax claimed since he had 'the entire control of the *Herald* in his own hands' there had been a 'gradual turning to liberal principles of a determined cast and progressive character'.[91] The most obvious differences at the *Herald* under Fairfax in the 1850s and 60s were over state-aid to churches and education policy.[92]

Of more interest and less ambiguity is the period of Fairfax's senior-proprietorship from September 1853. Walker has speculated about the degree of editorial control of the Fairfax family over the *Herald* and surmised: 'Just how far the Fairfaxes ... allowed editorial

[87] *A Century of Journalism*, p. 21.
[88] *In Memoriam*, p. 8.
[89] Diary of Charles Kemp, 2 June 1847.
[90] Souter, *Company of Heralds*, p. 3, provides an overview of this debate, concluding Mansfield was editor in all but name. See also *A Century of Journalism,* pp. 51-52 and Roe, *Quest*, p. 28. Perhaps the responsibility was shared by Mansfield and Kemp. In view of Mansfield's census work and publications, it is hard to imagine he was always available. However, as Souter highlights, the weight of evidence in favour of Mansfield as editor, at least most of the time, is considerable.
[91] Representation of the City. *Herald*, 29 December 1856.
[92] Kemp's commitment to the preferred education policy of Anglican church leaders and, in contrast, Fairfax's Congregationalism largely explains these differences. This point is expanded in ch. 3 below.

discretion in subordinate matters remains unclear. It is beyond doubt that the *Herald* kept to certain lines on such major issues as the land laws and the education question'.[93] Elsewhere Walker suggested the Fairfaxes took 'an active part in editorial and managerial decisions [and] safeguarded its character'.[94] Walker's comments are a fair minimum position to adhere to.

In the first instance, there is good reason to believe Fairfax would wish for the *Herald* to reflect his own thinking on major issues. This comes from appreciating how seriously Fairfax viewed his calling as a newspaper proprietor. Comments to son James reveal this:

> If God be pleased to spare your life and that of dear Charles, you both have the prospect of a prosperous and honourable course. The position I hold in the community ... is deeply important and responsible. I sometimes tremble to think that I am the instrument of moving for good or evil the mass of mind influenced by the daily reading of the *Herald*.[95]

Fairfax also claimed, the 'mission of the Press is a high and sacred one, and he who makes a bad use of its power and influence commits high treason against society. He is a public pest and a nuisance and ought to be put down'.[96] This was consistent with a keenly felt belief in the moral power of the press at the time. Rev. John McGarvie, writer for the *Herald* and great adversary of J. D. Lang,[97] wrote in his diary in 1844:

> Times are widely different from the last century. Then the church and pulpit were the vehicles of knowledge now it is the daily Press. People are less evangelic for religion. They hear one sermon, but read six newspapers, the Bible never.[98]

When John West died in 1873 (after nearly twenty years as editor of the *Herald*) his successor Andrew Garran claimed West's 'sense of the power of the Press amounted to a passion'.[99] This understanding of the press as vehicle of promoting knowledge and liberal ideology was an especially strong feature of the Nonconformist press.[100]

Furthermore, evidence from the development and success of the *Herald* points to Fairfax being increasingly available for editorial involvement. By the early 1850s Fairfax could

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[93] Walker, 'Andrew Garran', p. 393.
[94] Walker, *Newspaper Press*, p. 80.
[95] Cited in J. F. Fairfax, *The Story*, p.164-165.
[96] Cited in J. F. Fairfax, *The Story*, p. 165.
[97] Lang even made the most of the opportunity afforded by McGarvie's death in 1853 with a demeaning epitaph. See Souter, *Company of Heralds*, p. 28.
[98] Diary of Rev. John McGarvie, 4 January 1844.
[99] Quoted in Souter, *Company of Heralds*, p. 62. West claimed in the first editorial of his Launceston *Examiner* that the press was a 'shield of the people, ... a tribunal before whom the best of rulers and worst of despots tremble'. Cited in Shaw in his introduction to J. West, *The History of Tasmania,* A. G. L. Shaw (ed.), Angus and Robertson, Sydney, 1971, p. xii. For the *Herald's* obituary for West, see 13 December 1873.
[100] As point developed in ch. 2 below.

claim to be one of the largest employers of skilled labour in the colony[101] and all of the mechanical and physical production aspects of the *Herald* had undergone substantial development. Fairfax was able to be away for sixteen months in 1852-1853, making a triumphant return to Warwickshire a wealthy man. He took the unusual step of seeking out and paying his former creditors, though this was not legally required, and also gave £600 toward extensions of his former church in Leamington.[102] Fairfax also acquired a Cowper two-feeder steam press, with the *Herald* becoming the first Australian paper produced by steam power. The following year the *Herald* boasted its circulation had risen to more than 6,600, fifty percent more than all of the other Sydney newspapers combined.[103] In 1860, a £6,000 six-cylinder Hoe rotary press was installed to further their technological edge. This gave Fairfax the capacity to launch the *Sydney Mail,* a condensed weekly version of the *Herald* that proved highly successful.[104] Associated with the mechanical development of the *Herald* was its managerial evolution, with each of Fairfax's three sons entering the business: Charles in 1853 when Kemp was bought out; James in 1856, with the company thereafter called 'John Fairfax & Sons'; and Edward in 1865, after the untimely death of eldest brother Charles.[105] There is no greater example of the value of this increased managerial 'muscle' than the fact that it was Charles Fairfax who conceptualised the highly profitable *Sydney Mail*.[106]

Having established Fairfax's desire and availability, direct evidence of Fairfax's involvement in the literary side of the *Herald* is seen in Henry Parkes' association with the *Herald*. Parkes was proprietor and editor of the *Empire*, a newspaper along more radical lines than the *Herald* that attempted to match the *Herald* in quality and efficiency. The *Empire* provided the only real competition to the *Herald* in the 1850s and their clash for supremacy is a fascinating story in its own right.[107] When James Fairfax visited England in 1855, his brother

[101] Representation of the City. *Herald*, 29 December 1856.
[102] Souter, *Company of Heralds*, p. 42.
[103] *Herald*, 30 September 1854.
[104] Souter, *Company of Heralds*, p. 52.
[105] The partnership structure was John Fairfax as senior proprietor with a fifty percent share and Charles and James each having a twenty-five percent share. Edward became a partner after Charles was killed (felled from a horse) in December 1863. Souter, *Company of Heralds*, pp. 52-53. Charles' tombstone at Rookwood carries the following: 'Sacred to the memory of Charles John Fairfax A Loving Son, Husband, Father and Brother who in the full enjoyment of this life was suddenly called to a better. On the 28th December 1863 Aged 35 Years. "Boast not thyself of tomorrow for thou knowest not what a day may bring forth".
[106] Walker, *Newspaper Press*, p. 71. Within five years it had a subscription of 10,000, more than a single issue of the *Herald*. However as the Sydney *Mail* was only a weekly, condensed version of the *Herald*, the *Herald* remained the 'flagship'.
[107] See Walker, *Newspaper Press*, ch. 6, pp. 58-68. Walker provides a very helpful summary but is, perhaps, a little sentimental in his depiction of the demise of the *Empire*. Equally, his account of the *Herald* provides little evidence of the vibrancy which the younger Fairfaxes no doubt injected.

Charles wrote to him expressing his excitement:

> We send our English news to Parramatta and Windsor by express now. They [the *Empire*] have followed our example ... The news we had by ... 3 o'clock in the afternoon, was up at Windsor by 10 o'clock that night. With all their endeavours, I managed to beat them by two hours. It is first-rate competition now, and we are ready for anything they like.[108]

Charles' confidence was not misplaced and the *Empire,* begun in December 1850, folded in August 1858. During the *Herald-Empire* joust Fairfax and Parkes had been in regular contact, discussing items to their mutual advantage such as wages and subscription prices. For Parkes, the loss of the *Empire* was a personal catastrophe and no one was permitted to mention the newspaper in his household again.[109] Yet, after the *Empire,* Parkes wrote parliamentary summaries and articles for the *Herald.* This included his *Australian Views of England* (1861-2, reissued 1869), which biographer A. W. Martin described as 'Parkes at his journalistic best'.[110] Of particular interest is that it was Fairfax and not the editor John West who co-ordinated Parkes' contributions to the *Herald.* Fairfax arranged the financial terms and payment, and correspondence shows him explaining the basis of the *Herald's* acceptance of some articles and rejection of others.[111] Fairfax outlined to Parkes the ethos required ('after the manner of *The Times*')[112] and indicated that Parkes needed to 'harmonize with the general tone of the paper' but that he (Fairfax) did not wish to prejudice 'fair and legitimate discussion'.[113] Debate as to what qualified as 'legitimate discussion' included the following note to Parkes of May 25, 1870:

> You must not object to the exercise of our own judgement, as to contributions sent to the *Herald.* 'The Plea for Garrett' goes a step beyond the previous verses, and struck us as being a little too personal. But as you press the matter, it shall appear tomorrow.[114]

Even Parkes' initial offer to write parliamentary summaries in August 1859 occasioned a revealing response from Fairfax: 'until the arrival and departure of the Mails my time will be fully occupied. Immediately afterwards I will turn my attention to the subject'.[115] These throwaway remarks demonstrate Fairfax's busy day-to-day involvement with the *Herald.* It

[108] Cited in J. F. Fairfax, *The Story*, p. 138.
[109] H. Parkes, *Fifty Years in the Making of Australian History*, Longmans Green, London, 1892, vol. 1, p. 111.
[110] Martin, *Henry Parkes*, p. 195.
[111] For example, Fairfax to Parkes, 12 July 1860. Parkes Correspondence, vol. 52, pp. 137-139.
[112] Fairfax to Parkes, 20 August 1859. Parkes Correspondence, vol. 52, p. 128.
[113] Fairfax to Parkes, 27 March 1860. Parkes Correspondence, vol. 52, pp. 134-135.
[114] Fairfax to Parkes, 25 May 1870. Parkes Correspondence, vol. 52, p. 147.
[115] Fairfax to Parkes, 8 August 1859. Parkes Correspondence, vol. 52, p. 125.

is also noteworthy that Fairfax added the idea of Parkes writing summaries for the *Herald* had 'been floating in my mind for some time'.[116] Admittedly, Fairfax's handling of the *Herald's* association with Parkes reflects the fact that Parkes was a high profile contributor, a personal friend of Fairfax and, increasingly, a political ally. However, it also suggests Fairfax exercised a genuine, if selective, oversight of the literary and editorial stance of the *Herald*.

A final consideration in determining the extent of Fairfax's involvement in the editorial management of the *Herald* is his relationship with editor John West. West was a Congregational minister who, in the 1830s, had known Fairfax in Warwickshire.[117] West ventured to Van Diemen's Land as a missionary, arriving in December 1838 (about three months after Fairfax arrived in Sydney).[118] He settled in Launceston as a minister and became a cofounder and editor of the Launceston *Examiner* from 1842. West played a leading role in the formation of a Book Society (1840), the Cornwall Fire Insurance Company (1841), a general cemetery (1841), Mechanics' Institute (1842), Town Mission (1854) and helped start the nonsectarian High School in Hobart (opened 1850), whose main building become part of the University of Tasmania in 1890.[119] West was also promoted art exhibitions and John Glover gave West a beautiful work depicting Nettley Wood in Staffordshire, which West exhibited. West was also an avid horticulturist.[120] In addition to a substantial contribution to the civic development of Launceston and Hobart, West subsequently became the leader of the antitransportation movement, a founder of Australian historiography through his two volume *History of Tasmania* (1852), the most significant mid-nineteenth century proto-federationist, and designer of Australia's first national flag.[121] In particular, Fairfax would have followed

[116] Fairfax to Parkes, 8 August 1859. Parkes Correspondence, vol. 52, p. 123.
[117] Souter, *Company of Heralds*, p. 55, makes note of a connection in Warwickshire between Fairfax and West. Direct evidence came in a speech by West at the wedding of Fairfax's third son Edward in 1866. West proposed the toast to John and Sarah Fairfax, claiming 'My acquaintance with Mr. and Mrs. Fairfax extends over a generation, We were friends before the youthful pair ... were born'. Marriage of Edward Ross Fairfax and Catherine Mackenzie, 9 June 1866. Fairfax Family Papers. Edward having been born in Sydney in 1842 requires that West had known Fairfax in England prior to both emigrating (West to Tasmania) in 1838. A. G. L. Shaw conjectures West and Fairfax met in Sydney in 1851, while West was there on Antitransportation League business (see J. West, *The History of Tasmania,* A. G. L. Shaw (ed.), p. xix). They probably did but it would appear to have been a reunion of old friends.
[118] M. Hutchinson, 'West, John', *Australian Dictionary of Evangelical Biography*, B. Dickey (ed.), Evangelical History Association, Sydney, 1994, p. 402. This entry suggests West died 11 December 1874. However, West died 11 December 1873. See the *Herald's* obituary for West, 13 December 1873.
[119] Ratcliff, *The Usefulness of John West*, pp. 273-9, 341-2, 387, 391-4. John West, *The History of Tasmania*, A. G. L. Shaw (ed.), p. xii. Melleuish also links West with the forming of a public hospital, *John West's 'Union Among the Colonies*', p. x.
[120] Ratcliff, *The Usefulness of John West*, pp. 369-71, 390-1.
[121] Ratcliff accounts for the origin of West's flag as the banner for the Australasian Anti-Transportation League in *The Usefulness of John Wes*t, pp. 408-409.

West's leadership of the antitransportation movement with enormous interest.[122]

One 'red herring' has led at least one historian to think the *Herald* did not reflect the thinking of Fairfax on democracy. Walker suggests West 'was more inclined to conservatism than John Fairfax', and thus the *Herald's* editorial stance on democracy owed more to West than Fairfax.[123] Walker's argument is based upon a comment by West in a libel action against the proprietors of the *Empire* in 1863. West was responding to the claim of J. D. Lang that he had a closet history of political and religious radicalism, a radicalism that, 'like Demas', he forsook for filthy lucre in order to become editor of the *Herald.* In refuting this, West said 'There was no implied condition that I should modify my political opinions when I joined Mr. Fairfax. I looked upon him as being a greater liberal than myself'.[124] This is an intriguing comment and it is difficult to know exactly what West meant by it. However, it was probably a general affirmation of Fairfax's liberalism rather than a pointer to specific areas of difference between them. Certainly West provided no examples. Although it is from twenty years earlier, and a different social context, it is worth noting Fairfax's *Leamington Chronicle* had a stance on suffrage similar to the *Herald's*.[125] But, more importantly, James Fairfax made the following comment about his father's failed attempt to enter the LA at a by-election in 1856: 'It was a curious fact that his defeat was caused to some extent by members of the Pitt-street Church, who thought him too conservative because he opposed in the *Herald* universal suffrage'.[126] Although we should leave room at the margins, it is unlikely there was any appreciable difference between West and Fairfax on political representation.

Although intriguing, more important than a single unsubstantiated comment by West is evidence that Fairfax and West jointly determined editorial policy. Teamwork is suggested in an 1856 letter Fairfax wrote to Premier Stuart Donaldson, about the *Herald* publishing an item. Fairfax stated that no decision had been made because 'West is at home ill with the gout ... [and] I have no opportunity of consulting him'.[127] When absent in England in 1865, Fairfax showed great relief that, when the Roman Catholic St. Mary's Cathedral was destroyed by

[122] West's leadership of the antitransportation movement is discussed in ch. 8 below.
[123] Walker, *Newspaper Press*, p. 60.
[124] West vs. Hanson and Bennett, Supreme Court, 29 May 1863. *Empire*, 30 May 1863. West was awarded a modest redress of £100. See comments in the Literature Review under Manning Clark and also Souter, *Company of Heralds*, p. 56 and Ratcliff, *The Usefulness of John West*, p. 418.
[125] As discussed in ch. 2 below, the *Chronicle* supported the ballot and the further extension of the franchise.
[126] James Fairfax, *A Short Memoir of the Life of John Fairfax*, p. 24.
[127] Fairfax to Donaldson, 1856. Donaldson Papers, p. 211. This letter is quite intriguing. Referring to his role as a Director of the State Bank and attorney for G. A. Lloyd, Fairfax felt the need to say to Donaldson: 'I never will be guilty of obtaining advantages at the expense of what I conceive to be honourable & truthful'. The letter warrants investigative work, though is unfortunately harder to read than most written by Fairfax.

fire, West dealt with the matter charitably and supported the raising of funds for its rebuilding. Fairfax, in a letter to son James, said:

> Mr West's treatment of the whole business ... has not only my cordial approval but most sincere thanks. It was manly and Christian and ... must be instructive and admonitory, both to Protestants and Catholics. I am glad the *Herald* was made to uphold truth and justice.[128]

In a letter to James Macarthur, Fairfax expressed his satisfaction with West, adding that West 'is quite well, and continues to pour forth ... political wisdom ... to some good end and instruction I would fair hope'.[129]

In short, John Fairfax and West entered into an intimate commercial and religious alliance from West's arrival in November 1854.[130] On coming to Sydney, West not only entered into the work of the *Herald* but also maintained a leading involvement within the Congregational church. West preached often around Sydney, never accepting payment, his efforts in effect subsidised by his large salary from Fairfax (reputedly £1000 per annum on commencement).[131] In gaining West as editor, Fairfax gained much. Fairfax had in John West a trustworthy editor with whom he shared similar social, economic and religious ideas and a partnership extending well beyond the *Herald*. Fairfax and West served concurrently on the Home Mission Society of the Congregational Church of NSW and both played a leading role in the development of Camden (Theological) College, serving together on its Council. But they not only worked closely together in various arenas; they and their families were also intimate friends. When John and Sarah Fairfax were in England in 1865, Sarah wrote to son James regarding his children that 'Dear Mr West I should think a good substitute for Grandpa'.[132] High praise indeed. While West, in a speech at the wedding of Fairfax's son Edward, said of John and Sarah Fairfax that 'Outside the circle of my own home, none are dearer to me'.[133] Given that West was Fairfax's employee this was a remarkable friendship, one forged by mutual respect and a common mind on matters vital to both.

As senior proprietor of the *Herald,* Fairfax was very much in command of his paper and a 'hands-on' proprietor. An experienced journalist and editor himself, he ensured that the

[128] Souter, *Company of Heralds*, p. 59.
[129] Fairfax to James Macarthur, 21 May 1863, Macarthur Papers, p. 343.
[130] As outlined by S. Johnson, '"Busy for Both Worlds": John Fairfax as a leading Evangelical Layman, part 2', *LUCAS*, forthcoming.
[131] Johnson, '"Busy for Both Worlds": John Fairfax as a leading Evangelical Layman, part 2', forthcoming. See also Souter, *Company of Heralds*, p. 55.
[132] Sarah Fairfax to James Fairfax, September 1865. Fairfax Family Papers.
[133] Marriage of Edward Ross Fairfax and Catherine Mackenzie, 9 June 1866. Fairfax Family Papers.

editorial stance of the *Herald* met his 'cordial approval'.[134] A fine example of Fairfax's intimate involvement with the *Herald,* and his commitment to it taking each person and issue on its merit, is provided in a letter to son James in 1855. With barely constrained journalistic anticipation, Fairfax informed his son, then visiting England, that Governor Charles Fitzroy had moved on and that 'the great gaoler of Tasmania, Sir Wm [*sic*] Denison, is come. The *Herald* will take a very steady stand. If he behaves himself we shall support his government; but if he commences his old tricks, my wigs, won't he catch it'.[135] Fairfax had the desire and opportunity to oversee the editorial stance of the *Herald*, and comments regarding the ethos of the paper under his sole and senior proprietorship, evidence surrounding Parkes' involvement, and Fairfax's relationship with John West, suggest he fulfilled this desire and opportunity. To Fairfax, the *Herald* was his personal contribution to society, for which not only his readers, subscribers and advertisers but his God would hold him accountable. Particularly after the departure of Charles Kemp in 1853, the *Herald* ought be viewed on major issues as a window into the world, mind and values of John Fairfax. Consequently, the burden of proof rests not on demonstrating from additional sources that the *Herald* reflected Fairfax's thinking on major issues, but on proving otherwise.

[134] From a letter of Fairfax cited in Souter, *Company of Heralds*, p. 59.
[135] Cited in Souter, *Company of Heralds*, p. 46.

Chapter 2. John Fairfax: Journalism and Politics in England, 1835-1838.

Introduction

It is extremely valuable to identify John Fairfax's political views prior to his arrival in the colony, as this establishes elements of continuity and discontinuity between the Fairfax of Warwickshire and the Fairfax of Sydney and helps contextualise colonial discussion in a British context. The primary means of identifying Fairfax's early political creed is a critique of his newspaper, the *Leamington Chronicle*. As noted in chapter 1, Fairfax became senior co-proprietor of the *Leamington Press* in April 1835 and then sole-proprietor, with a new title *The Leamington Chronicle and Warwickshire Reporter* (hereafter the *Chronicle*), in June 1836. Exactly when Fairfax ceased running the *Chronicle* is uncertain. Although Fairfax's name remained on the *Chronicle's* imprint until June 1838, we know Fairfax was formally declared bankrupt in February 1838[1] and left Leamington for London and embarkation to Sydney in May 1838. For our purposes, February 1838 has been established as the cut off point for material from the *Chronicle* used in this chapter. The following survey establishes Fairfax as having fully identified with the British liberal reform movement of the 1830s.

A Liberal Partnership

Fairfax's initial position as senior co-proprietor suggests he had a greater shareholding in the paper than partner Richard Weaver. Nothing is known of Weaver, except that, unlike Fairfax's short-lived involvement with the *Leamington Spa Courier* in 1828, Fairfax now had a partner of similar political convictions. Their first issue, 9 April 1835, proclaimed a triumphal liberal political stance that did not alter upon Fairfax's sole proprietorship. Although the period under review, April 1835 to February 1838, is a brief snapshot of British history, it was nonetheless a time of heated political debate. Coming soon after the repeal of the Test and Corporations Act in 1828,[2] the Catholic Emancipation Bill of 1829, and the Reform Bill of 1832, it formed part of the turbulent build up to the tumultuous political agitation of the

[1] Souter, *Company of Heralds*, p. 12.
[2] The Test and Corporations Act allowed Nonconformists to hold high civic office. Formerly they had been admitted by an annual act of parliament, the Toleration Act, which, for that year only, overturned the original provisions of the Test and Corporations Act preventing Nonconformists from holding civil office.

1840s.[3] And the *Chronicle*, published weekly on Thursday, left its readers in no doubt where it stood.

The new proprietors were delighted that their first issue coincided with the defeat of the Tory government of Sir Robert Peel and the return of Lord Melbourne's Whig administration. Regarding the departure of the Tories, the *Chronicle* proclaimed 'the last pillar [viz., the assumption that royal preference would translate into effective measures to retain a Tory government] has fallen away from the temple of Tory greatness, and the vile superstructure lies in ruin and desolation at our feet'. However, the bulk of the editorial had been drafted prior to learning of Peel's demise and in it the new proprietors claimed 'the sentiments they propose to advocate will be *decidedly liberal.*'[4] The editorial proclaimed:

> A mighty revolution has happily taken place in the state of public feelings and opinions. Reform has ceased to be the name, the watchword, and the banner of a party. It has become the national standard.

The *Chronicle* then pressed the need 'to work out the principles of the Reform Bill in every department of the state — financial, civil, military, and ecclesiastical'.

Early-Mid Nineteenth-Century Journalism

Lucy Brown, in her survey of the British Press 1800-1860, describes the provincial press as largely made up of weekly newspapers featuring some national news but focusing on local news and advertising plus the support of a local or national political group.[5] This accurately describes the *Chronicle*. Unfortunately, we are unsure who wrote the editorials. With no mention of an editor or editorial assistant among references to Fairfax's life in Warwickshire, it is likely the proprietors were solely or largely responsible for writing the editorials. This is supported by the fact that we know the names of Fairfax's four apprentices (two of whom became long standing employees of the *Herald*) and that many years later James Fairfax, although only four years old when leaving England, visited one of his father's former

[3] For discussion of the politics of the 1830s, see: P. Mandler, *Aristocratic Government in the Age of Reform: Whigs and Liberals, 1830-1852*, Oxford University Press, Oxford, 1990 (especially pp. 85-120, 157-193); N. Gash, *Reaction and Reconstruction in English Politics, 1832-1852*, Oxford University Press, Oxford, 1965; and, in particular, J. Parry, *The Rise and Fall of Liberal Government in Victorian Britain*, Yale University Press, London, 1993, pp. 27-141.

[4] *The Leamington Chronicle and Warwickshire Reporter*, 9 April 1835. Emphasis the *Chronicle's*.

[5] L. Brown, 'The British Press, 1800-1860', *The Encyclopedia of the British Press 1422-1992*, Dennis Griffiths (ed.), St. Martin's Press, New York, 1992, p. 26; see also D. Fraser, 'The Editor as Activist: Editors and Urban Politics in Early Victorian England', in *Innovators and Preachers: the role of the editor in Victorian England*, J. Wiener (ed.), Greenwood Press, Westport, 1985, pp. 121-142.

apprentices who remained in England.[6] However, no mention is made of an editor or editorial assistant. Certainly Fairfax was an eloquent man, a speechmaker and lay-preacher, who later in life regularly chaired large social, religious and commercial gatherings.[7] Without being an intellectual like John West or Andrew Garran (editor of the *Herald* after John West), Fairfax was nonetheless well read and viewed his early training as having been both as a printer and a journalist.[8] It would not be surprising if Fairfax had a hand in the writing of the weekly editorial of this relatively modest journal. However, more important than authorship, the *Chronicle* left no doubt that its editorials reflected the political views of its proprietors.[9]

That it did so was very much the order of the day among nineteenth-century newspapers. At this time the principle of identifying with the political position of the newspaper included not only proprietors but other core personnel, most notably printers. This is well illustrated in the example of Isaac Arrowsmith, a radical printer and leader of the Worcester Political Union. In 1837 Arrowsmith accepted a position as a printer with the Tory-aligned *Worcestershire Guardian*. Upon much condemnation, Arrowsmith asserted the autonomy of his political beliefs from the paper he worked for. Yet, however reasonable this argument may sound to modern ears, it proved less than persuasive in 1837.[10] Aled Jones, in a recent survey of the power of the press in nineteenth-century England, says of printers of this period that 'few artisan or professional occupations were so openly demarcated by local or national political loyalties, and few were so wedded to the notion of a collective political voice'.[11] This was reinforced by the likes of Fairfax and fellow Dissenter Edward Baines, founder of the influential *Leeds Mercury*, who made the transition from printer to proprietor.

One reason for this industrywide culture of personal identification with the stance of the newspaper you owned or worked for was the wider place of the newspaper in society. Prior to the development of state-funded elementary education in the 1870s, newspapers were seen as one of the primary vehicles for the promotion of literacy, the increase of which was considered a prerequisite to the general improvement of society.[12] For example, Samuel Smiles,

[6] J. F. Fairfax, *The Story of John Fairfax*, pp. 23-24.
[7] See Johnson, '"Busy for Both Worlds": John Fairfax as a leading Evangelical Layman, part 2', forthcoming.
[8] In seeking leave to spend time in London in 1825, Fairfax said to William Perry, 'there is much I could learn in London as a printer and a journalist'. J. F. Fairfax, *The Story of John Fairfax*, pp. 6-7.
[9] See especially: *Chronicle*, 18 August 1836; 1, 30 September 1836; 4 January 1838.
[10] A. Jones, *Powers of the Press: newspapers, power and the public in nineteenth-century England*, Scholar Press, Aldershot, 1996, p. 140.
[11] Jones, *Powers of the Press*, p. 140.
[12] A. Lee, *The Origins of the Popular Press in England, 1855-1914*, Croon Helm, London, 1976, p. 24; Henry J. Nicoll, *Great Movements and Those who Achieved Them*, John Hogg, Paternoster Row, London, second edition, 1881, pp. 265-268.

famous for his book *Self-Help* (1859) which popularised prevailing social theory on the opportunity and necessity for self-improvement, wrote in 1846, 'we would mainly employ that mighty educator, the Press, to teach working men that they must be their own elevators, educators, emancipators'.[13]

In the 1830s, Henry Hetherington's *The Poor Man's Guardian* was the best known and most influential of the illegal 'unstamped' (i.e. not registered and taxpaying) periodicals. Appearing weekly from 1831-1835, around five hundred people, including Hetherington, were imprisoned for involvement in its publication or distribution.[14] At its peak it had a circulation of 15,000. This was remarkable given that (except for *The Times*) the London dailies had circulations of 3-5,000, while large provincial papers, appearing two or three times a week, had between 2-3,000.[15] With the average nineteenth-century newspaper thought to have been read by eight people, we can but wonder how widely the *Guardian* was heard throughout the public houses of England.[16] The *Guardian* carried the motto 'Knowledge is Power', under which came the words 'Published in Defiance of the Law, to try the Power of the Right against the Might.[17] This radical periodical encapsulated the connection between agitation for cheaper newspapers and the cry for reform and education.

In contrast, Fairfax's *Chronicle* was a stamped, taxpaying newspaper, appealing more to the emerging merchant middle class while the *Guardian* represented and appealed to the working class. The *Chronicle* placed more emphasis on the removal of all religious-based civil disabilities, political and religious reform in Ireland and an end to unmerited pensions. The *Guardian* had a greater emphasis on factory legislation and the repeal of the Poor Laws. Yet, despite these differences in emphasis, and even greater differences in presentation, culture and ethos, the liberal *Chronicle* and radical *Guardian* sought similar ends. Both sought vote by ballot, more frequent elections, an extension of the franchise (the *Guardian* favoured manhood suffrage, the *Chronicle* further extension). The *Chronicle* also championed the phrase 'knowledge is power' and rejected the idea of the franchise being limited to those with a

[13] Lee, *The Origins of the Popular Press*, p. 26.
[14] D. Griffiths (ed.), *The Encyclopedia of the British Press 1422-1992*, St. Martin's Press, New York, 1992, p. 309.
[15] Brown, 'The British Press, 1800-1860', p. 26. *The Times* had a daily circulation of about 40,000 in the early 1840s.
[16] Brown, 'The British Press, 1800-1860', p. 32.
[17] See entries under 'Hetherington, Henry (1792-1849)' and '*The Poor Man's Guardian*' in Griffiths (ed.), *The Encyclopedia of the British Press*. For general comment on the unstamped press see S. Koss, *The Rise and Fall of the Political Press in Britain: the Nineteenth Century*, vol. 1, University of North Carolina Press, Chapel Hill, 1981, pp. 52-59.

certain standard of education. This is one area of discontinuity between the *Chronicle*/Fairfax of the 1830s and the *Herald*/Fairfax of the 1850s. Although both the *Chronicle* and *Herald* rejected manhood suffrage, the *Herald* linked the franchise to education.[18]

Another similarity between Hetherington's *Guardian* and Fairfax's *Chronicle* was a fierce commitment to having the taxation of newspapers lessened or abolished. Taxation of newspapers had been in place since the beginning of the eighteenth century and took three forms. The first was a tax on each sheet of newsprint paper and was commonly referred to as 'stamp duty'. The second was a tax on advertisements. The third was an excise duty on paper.[19] From 1815 the stamp duty was 4d a sheet, 3s 6d per advertisement (of any size), and the paper duty was 3d per pound.[20] One of the primary reasons the *Guardian* was 'Published in defiance of the Law' was to protest against this taxation regime. Newspaper taxes were identified as taxes on knowledge and a form of censorship aimed at supporting the social and political *status quo*.[21] The *Chronicle* believed the counties would continue to return Tories until education and newspapers were more widespread and the ballot available. Until then the £50 voting tenantry would remain enslaved. The *Chronicle* declared it is 'the fear of the landlord's frown and the notice to quit, that enslaves the mind'.[22]

The first round of reform came between 1833 and 1836. In 1833 the advertisement duty was halved, as was the paper duty in 1836. Most important of all, the stamp duty was slashed in 1836 from 4d to a penny.[23] Reason for reform was in part the success of the unstamped press, such as the *Guardian*, plus the pressure of advocates connecting newspapers with literacy, education, knowledge and reform. In the 18 August 1836 edition of the *Chronicle*, the impending reduction in the stamp duty (to take effect 15 September 1836) was announced. The largest London daily, *The Times*, fell from 7d to 5d and the standard price of the *Chronicle* (delivered) fell from 7d to 4&1/2 (Fairfax reduced the price a farthing lower than the reduction in duty).[24] The *Chronicle* proclaimed the 'grand design in reducing the duty' was 'to afford every man an opportunity of obtaining cheap knowledge'.[25] Though twenty years before the true beginning of the 'cheap press', the 2d and then 1d daily papers

[18] See discussion on manhood suffrage in ch. 9 below.
[19] Brown, 'The British Press, 1800-1860', p. 24.
[20] Brown, 'The British Press, 1800-1860', p. 25.
[21] Brown, 'The British Press, 1800-1860', p. 25. Koss, *The Rise and Fall of the Political Press in Britain*, pp. 52-55.
[22] *Chronicle*, 17 August 1837.
[23] Brown, 'The British Press, 1800-1860', p. 25.
[24] Brown, 'The British Press, 1800-1860', p. 26; *Chronicle*, 15 September 1836.
[25] *Chronicle*, 15 September 1836.

from the mid-1850s, it was nonetheless a great milestone. The *Chronicle* predicted a great future for the press now 'freed from the trammels of a heavy stamp duty':[26]

> Our hereditary Legislators did their best to stifle this measure ... It is now beyond their reach and we predict that it [the Press] is destined to become the lever which will accelerate the progress of Reform, despite the phalanx of power which is arrayed against it.[27]

The *Chronicle*, 'Party', and the Need for Further Reform

The proprietors of the *Chronicle* saw the reduction in newspaper duties as an appropriate time to restate their political convictions. These are worth quoting at some length as they highlight the content of the post-Reform Bill liberal agenda and articulate the *Chronicle*'s mainstream liberalism. Having argued the 'distinctive feature of a newspaper is necessarily political', the *Chronicle* of 18 August 1836 claimed it was 'not the slave of a party ... "Reform" is our watchword'.[28] Regarding this, Souter suggested 'Fairfax reserved the right to change coaches'.[29] However, in the 1830s the 'coaches' were not aligned in the modern sense of 'party' and not being a 'slave of a party' was simply another way of saying its focus was on reform. The *Chronicle* defended the Whigs against the attacks of some liberals and radicals disappointed with the speed and depth of reform. It claimed, 'there is something extremely uncharitable in denouncing the Whigs as equally oppressive and unjust, with the Tories',[30] adding, that although we:

> are not apologists for the errors and misdoings of the Whigs; we are bound to no party; but we cannot forget, nor should others, that it was the Whigs ... who broke down the barrier to Reform, and who were instrumental in giving the people the control to which they now possess over their own House.[31]

For those committed to liberal reform, political affiliation was not the principle issue at hand.

[26] *Chronicle*, 16 August 1836.
[27] *Chronicle*, 16 August 1836. Similarly, a month later the *Chronicle* exuberantly linked cheaper newspapers with education and the inevitable progress of reform: 'if our Press, hitherto but partially free, was able to oppose a wholesome check upon Aristocratic usurpation, and at last to liberate the people from the bond of oppression; if our Press was able, by recording the determination and the will of the many, to wrest from the mighty few, Catholic Emancipation and the reform of the Commons' House, what barrier to the public improvement and public happiness shall be able to withstand its denunciations now that it is free ... If the Press has already had some influence, its power is most amazingly increased; corruption will quail before it, tyranny will not dare lift its head, the progress of reform will no longer continue its snail-like pace, or we are much deceived'. *Chronicle*, 22 September 1836.
[28] Reprinted 1 and 15 September 1836.
[29] Souter, *Company of Heralds*, p. 10.
[30] *Chronicle*, 12 January 1837.
[31] *Chronicle*, 12 January 1837.

Consequently, in order to retain the votes of liberals, Whig parliamentarians needed to do more than be the lesser of two evils.

The editorial of 18 August 1836 then listed recent liberal achievements as well as specific reforms it deemed urgently required:

> The Reform Bill of 1831 broke down a mighty barrier to the correction of abuses ... From that time the great struggle commenced; and the result down to the present hour has been, Municipal Reform in England and Scotland, the destruction of the East India Monopoly, the Abolition of Slavery, partial reforms in the Law, the Poor Law Amendment Bill, Bills for the Registration of Births, Marriages, and Deaths, and the Reduction of the Stamp Duty on Newspapers. Important and as valuable as these are, they fall infinitely short [of] that which is still required. Municipal Reform must be given to Ireland ... the annihilation of an unmerited PENSION LIST is demanded ... To give the people that legitimate control over their Representatives which is their inalienable right ... the LEGAL DURATION OF PARLIAMENTS [must be] SHORTENED ... an EXTENSION OF THE SUFFRAGE is demanded ... it is absolutely necessary to obtain VOTE BY BALLOT ... In the CHURCH Reforms are needed ... in ... ECCLESIASTICAL POLITY and REVENUES ... The charters of our Universities want remodelling — pluralities and non-residence must be abolished — ... Bishops must be removed from their seats in the House of Lords ... And as an act of justice to all classes ... EVERY RELIGIOUS EXACTION affecting the conscience, and every CIVIL DISABILITY arising out of religious belief, must be utterly and for ever abolished. We are the advocates of peace ... We abhor slavery, and shall take all suitable opportunities of advocating the cause of universal freedom. Such are the principles of our political creed.

This is a fine summary of the liberal reform agenda of the mid-1830s. Many of its foundational principles were shared with the more radical movement of Chartism, such as liberty of conscience and a rejection of the hereditary principle in government. Yet there were real differences: liberals sought franchise extension, Chartists male suffrage; liberals a shorter duration of parliament, Chartists annual parliaments; liberals did not seek the payment of MP's, Chartists did; many liberals favoured a reduction in property qualifications for MP's, Chartists sought its abolition; liberals retained a commitment to the political representation of interests (with population only one interest among many), Chartists pursued the principle of political representation by population alone, combined with equal electoral districts. Most liberals and all Chartists sought vote by ballot. Chartism was also more instinctively ameliorative in intent, as seen in the quest for the payment of members. In contrast, early to mid nineteenth-century liberalism sought the removal of inherited advantage but was highly

suspicious of ameliorative measures.

Robert Peel, the Reinvention of the Tory Party, and the Fear of Anarchy

Gavin Souter acknowledges the *Chronicle's* liberalism by listing its support for municipal reform, the abolition of slavery, bills promoting religious equality, the further extension of the franchise, secret ballot, reform in Ireland and the end to unmerited pensions.[32] However, it is interesting to note that Souter's most interpretative comment came when suggesting that although 'poles apart' from 'high Tories', 'Fairfax's liberalism was not so far removed from the more pragmatic Toryism which in the last few years had begun changing into conservatism'.[33] This verdict has limited credence in that the ideals of Tories, Whigs, and middle-class liberals of the 1830s overlapped in a shared commitment to avoid anarchy and violence. Liberals like Fairfax preferred to wait out periods of disappointment rather than foster agitation, which once underway might, as exemplified in France as recently as 1830, lead to unpredictable and unwelcome outcomes. They sought constitutional solutions to constitutional problems. But apart from this unity against the revolutionary impulse, it is misleading in the context of the mid-1830s to posit too close a correlation between middle-class liberals like Fairfax and any expression of Toryism, 'high' or 'pragmatic'. As the *Chronicle* was at pains to emphasize, the Tories had collectively attempted to block, or that failing delay, every proposal for reform.

Souter's verdict is perhaps unduly influenced by a desire for greater consistency between the Fairfax of Warwickshire and his subsequent description of the Fairfax of Sydney, whom Souter depicts as a conservative. It also reveals the difficulties presented by the historian's power of retrospect, which tends to grant an air of inevitability to past events. Certainly, the move to a reconstructed or 'pragmatic' Toryism, retagged 'Conservatism', was flagged in the 1830s. The shift is personified by Sir Robert Peel and marked by a speech made in his electorate of Tamworth in December 1834, subsequently termed the 'Tamworth Manifesto'. Furthermore, Peel's subsequent repeal of the Corn Laws (1846) marked the end of old Toryism and gained Peel wide praise and acknowledgement among liberals. But up to the mid-1830s Peel represented a consistent face of Toryism alongside Lord Wellington.[34] Both opposed the Reform Act of 1832 and Catholic Emancipation, Peel having been

[32] Souter, *Company of Heralds*, pp. 10-11.
[33] Souter, *Company of Heralds*, p. 10.
[34] Mandler, *Aristocratic Government in the Age of Reform*, p. 112.

nicknamed 'Orange Peel' by Daniel O'Connell years earlier. However, as Fairfax's *Chronicle* emphasized, it was only 'under the lash of necessity', namely a fear of anarchy, that Wellington and Peel passed the Emancipation and Reform bills.[35] To Peel's liberal contemporaries of the mid-1830s, his Tamworth Manifesto was empty rhetoric. Nor did Peel offer a substantive programme for reform at that time.

The critical issue during the three or four years after the Great Reform Bill lay in interpreting the Bill's significance. Were the reforms to be regarded as: unfortunate concessions of a (hopefully) temporary nature ('high', ultra, or unreconstructed Tories, such as Lord Lyndhurst); unfortunate concessions of a permanent though final nature (many Whigs and 'pragmatic' Tories like Peel); or merely the first of a much needed avalanche of reforms (the view of the *Chronicle* and held with varying intensity by some Whigs and all liberals and radicals)?[36] The 'pragmatic' Tories saw the 1832 Reform Act, in the words of Peel's Tamworth Manifesto, as 'a final and irrevocable settlement'.[37] However, Peel added with great political astuteness a seed of ambiguity, namely, that the conserving Tories would not hinder 'the correction of proved abuses and the redress of real grievances'.[38] Given Peel's leadership in opposing earlier reforms, this theoretical openness to further reform, unsupported by concrete proposals, was greeted with unbridled contempt by the liberal press.[39] Peel's subsequent conversion[40] to economic liberalism in the mid-1840s was no more inevitable or foreseeable in the mid-1830s than had been the conversion to economic rationalism of the labour parties of Australia and New Zealand in the 1980s from the vantage point of the 1970s. To liberals of the mid-1830s, Peel represented unprincipled pragmatism at best and, more likely, mischievous disingenuity at worst. Withering depictions of Peel, the 'Conservative

[35] *Chronicle*, 14 September 1837.
[36] For discussion of how various factions viewed the Reform Act at the time, see Mandler, *Aristocratic Government in the Age of Reform*, pp. 123-131.
[37] J. A. Cannon, 'Tamworth manifesto, 1835', *The Oxford Companion to British History*, J. Cannon (ed.), Oxford University Press, Oxford, 1997, p. 908.
[38] J. A. Cannon, 'Tamworth manifesto', p. 908.
[39] On Peel, see Mandler, *Aristocratic Government in the Age of Reform*, pp. 111-112, who notes that even aristocratic Whigs of the mid-1830s, let alone the liberal and radical press, viewed Peel as unlikely to sanction modest reforms given their experience of working with Peel in the 1820s and early 1830s. Mandler suggests they viewed him as 'a permanent captive of the high Tories' (p. 112).
[40] J. Droz, *Europe Between Revolutions 1815-1848*, Fontana, London ,1967, pp. 138-139, argues that Peel's conversion was a purely 'practical' affair. This is correct though not particularly relevant to our discussion. My point is not to contest the basis of Peel's more liberal politics in the 1840s but to argue this was by no means an obvious direction for him to have taken from the vantage point of the mid-1830s. Peel's Tamworth Manifesto was ambiguous and allowed for this direction but by no means demanded it. See Mandler, *Aristocratic Government in the Age of Reform*, pp. 111-112, 118. For Peel in the 1840s, see Mandler, *Aristocratic Government in the Age of Reform*, pp. 200-205, 282 and Parry, *The Rise and Fall of Liberal Government in Victorian Britain*, pp. 155-166.

Idol',[41] abound in the *Chronicle*. It described Peel as 'a false Prophet and a presumptuous boaster',[42] as 'Janus-faced and double-tongued',[43] and claimed Peel exerted a 'malignant' and 'pernicious influence' in parliament.[44] Peel's purported disingenuity was met with sarcasm: 'try for once in your life to be straightforward — if only by way of novelty'.[45]

The *Chronicle* offered a particularly interesting liberal critique of the politics of Peel in its editorial of 19 January 1837. This was precipitated by Peel's inaugural address as Lord Rector (Chancellor) of the University of Glasgow, which was reprinted in the *Chronicle*. The proprietors published it 'fearless of consequences' because in their opinion neither 'a Tory waverer has not been, nor will be, confirmed by it, nor a radical converted'. Peel said he was committed to the 'machine of Government ... beating with healthful and regular pulses, animating industry, encouraging, protecting, rewarding toil, and *purifying wherever there is stagnation*' (*Chronicle's* emphasis). Peel also admitted that during the past ten years many 'improvements' had been made in British institutional life. The *Chronicle* believed Peel left 'a loop hole wide enough to admit a 24-pounder', noting the 'Peers' had 'opposed ... every one of the measures which are now regarded by the Right Hon. Baronet as improvements'. It stressed the inconsistency of Peel professing to remove all 'stagnation' while refusing to consider any reform of the House of Lords. The *Chronicle* laid waste to the idea of a genuine reinvention of the Tory party. It acknowledged the Tory party had 'taken its stand on the principle of exclusion, under the more modern name of Conservatism' but added its 'object' remained to 'uphold and perpetuate systems which are adverse to the spirit of the age'. [46] It continued:

> It is darkness resisting light; it is error opposed to truth; it is bigotry against charity; it is the hand of despotism attempting to strike down the rising freedom of the nation; it is the spirit of monopoly, which would exclude all participation in the enjoyment of civil and religious rights, except as doled out by its monopolising hand.[47]

Also provocative was the ever-eloquent Peel's championing of a Tory interpretation of the times that labelled liberal reformers as 'Destructives' and the new Tory party as 'Conservatives.' In this interpretation, the policies of the former would lead to a levelling-

[41] *Chronicle*, 8 October 1835.
[42] *Chronicle*, 7 May 1835.
[43] *Chronicle*, 15 December 1836 in an extract from the *Sun*.
[44] *Chronicle*, 8 September 1836.
[45] *Chronicle*, 24 August 1837 in an extract from the *Sun*.
[46] *Chronicle*, 1 September 1836.
[47] *Chronicle*, 1 September 1836.

revolutionary outcome, whereas those of the Tory Party, the 'Conservatives', would conserve 'established rights'.[48] As both the *Chronicle* and historians since have argued, this was a difficult argument to maintain given the parliamentary leaders of the reform movement were aristocratic Whigs like Melbourne and Palmerston.[49] Nonetheless, Peel became a particularly antagonising figure to the liberal press because of his masterful use of the politics of fear. As noted, Tories, Whigs and middle-class liberals were united in their fear of anarchy. This fear, plus a reluctance among the newly enfranchised to admit the need for further franchise extension, combined to inhibit further liberal reform.[50] As a result, a considerable admixture of editorial angst and flair went into the *Chronicle's* rebuttal of the claim that to promote reform risked anarchy. The *Chronicle* rejected the notion that the Conservatives were in fact the 'conserving' party and instead assigned to them the label they conveyed on liberals and radicals, the 'destructives'.

This issue gets to the heart of the single greatest feature of political propaganda of the period: fear of disorder.[51] The *Chronicle* met the formidable challenge of a reinvented Toryism head on. The labels were fine, just misapplied. The Tories were the 'destructives' and the liberals more likely to ensure that all which was good and true in British society would be preserved. The theme that unbending Toryism represented the greatest risk to civil order in Britain was repeatedly stressed. A particularly eloquent statement to this effect appeared in the *Chronicle's* editorial of 8 September 1836:

> Among the numerous misnomers of modern times, none is more strange and absurd, than the use of the terms Conservative and Destructive; the former as applied to all thorough-paced advocates of ancient abuses, and the enemies of all reform; the latter, to those who seek, by timely concessions to public opinion ... to restore and preserve all that is valuable in our venerable Institutions ... The history of the Stuarts, of the recent revolutions in France, the late popular movements in the Peninsula, and the present position of political

[48] Cannon, 'Tamworth manifesto', p. 908.
[49] *Chronicle*, 5 May 1836, said of the Whigs, that their 'virtues, their large and comprehensive views, and their immense wealth and consequent anxiety to protect the rights of property, indemnify the country against any organic and ruinous results'. See also McCord, *British History, 1815-1906*, p. 142.
[50] McCord, *British History, 1815-1906*, pp. 142-143; Parry, *The Rise and Fall of Liberal Government in Victorian Britain*, pp. 18-19, 128, suggests the major difficulty facing liberal governments in the 1830s and 1840s, often criticised by historians for lacking zeal and ideological fervour, was being ahead of public opinion.
[51] W. E. Houghton argues, 'Victorian society, particularly in the period before 1850, was shot through, from top to bottom, with the dread of some wild outbreak of the masses that would overthrow the established order and confiscate private property'. W. E. Houghton, *The Victorian Frame of Mind, 1830-1870*, Yale University Press, New Haven, 1978, p. 55. This fear was expressed in, and fuelled by, writings such as Burke's *Reflections on the French Revolution* (1790), Southey's, *Colloquies on the Progress and Prospects of Society* (1829), Carlyle's, *French Revolution* (1837), the fiction of Dickens and others, plus the obvious presence of radical writings such as those by Thomas Paine. See Houghton, *The Victorian Frame of Mind*, pp. 54-58.

> and ecclesiastical affairs in Ireland, all furnish pregnant evidence, that the boasted Conservatism of modern times is, in fact, the most active element of Destruction.

Another excellent illustration came prior to the general election of 1837, when the *Chronicle* made this appeal:

> Electors of Great Britain! your choice lies between the advocates of your rights and those who would suppress them. It is not, as is represented, between the levelling Whigs, and the conservating Tories, but between the advocates for wise, salutary, and judicious reform, and those who have resisted all Reform, and who are prepared to resist it, whenever it shall interfere with their monopoly of place, profit, and power ... Let your watchwords be "The Queen and Liberty! The Queen and the Constitution! The Queen and Reform!"[52]

Here the *Chronicle* picked up on the partiality of the recently enthroned Queen Victoria towards Lord Melbourne, as well as pressing the constitutional nature of its call for reform. Using the Conservative's terminology against them was a constant feature of the *Chronicle*. For instance, it introduced the rejection by the House of Lord's of Melbourne's first bill of civil reform for Ireland (1836) in the following terms: 'The work of destruction is going on most gloriously in the House of Lords'.[53]

As for the likelihood or revolution, the *Chronicle* made clear it did not think revolution likely, even if the Lords blocked reform. This confidence was hinged upon a feisty affirmation of the unique qualities of the Englishman.[54] Indeed, the *Chronicle* attacked both Tory and radical for recklessly 'talking up' the possibility of revolution:

> There are two classes of politicians, who are perpetually prophecying that we are fast verging towards revolution and anarchy. The one pretends to foresee, in the wise and salutary reforms which have been effected, and in those which are still contemplated, the inevitable breaking up of the British Constitution in Church and State, the destruction of the three estates of the realm, the ascendancy of a fierce and lawless democracy, to be

[52] *Chronicle*, 20 July 1837.
[53] *Chronicle*, 12 May 1836.
[54] 'We fear no revolutionary violence from the progress of reform; and we have a powerful reason for the absence of fear. It is derived from the comparative intelligence of the people, which creates a permanent desire for the preservation of peace. If the uncivilised barbarians feel oppression, they have recourse to the tomahawk or the scalping knife. If a Mussulman population desire to redress a real or fancied grievance, they strangle the author of it. If Spaniards wish for free Institutions, they fly to civil war. If Frenchmen feel oppressed, they turn assassins, or depose their sovereign. These are either buried in barbarism, or are under the influence of a spurious Christianity, or a false and specious philosophy. Not so Great Britain. Her civilization and her philosophy are based on genuine Christianity; her teeming population are impregnated with a consciousness that "knowledge is power;" she has become skilful in the use of moral weapons, and feels that these can be properly and successfully wielded only when directed to the promotion of the general liberty, happiness, and stability; that it is not by dethroning kings, by assassinating opponents, or by tumultuous gatherings, that these things can be accomplished and preserved, but only by the force of truth, the employment of reason and the steady application of the laws and the lawmakers to the test of correct principles of government'. *Chronicle*, 18 May 1837.

> followed by a long dark reign of terror and of blood. The other ... imagine they perceive, in the dogged obstinacy of the Lords ... a collision which can end only in ... civil war. Thus from opposite causes the same effects are anticipated ... Those who are now foremost to sound the toscin of alarm ... are the very parties whose conduct would soonest lead to anarchy and confusion.[55]

Although considering revolution unlikely, the *Chronicle* made clear that were revolution to arise it would come from the denial of reform and that it feared 'no revolutionary violence from the progress of reform'.[56] Without a doubt the shadow of France hung over all discussion of reform, with major disruption in Paris having occurred as recently as 1830. The *Chronicle* stressed the character and station of leading Whigs as a defence against the fear mongering and 'self-created horrors'[57] of the Tory party. This defence was placed alongside the peace-loving qualities of the British people[58] and the commitment of liberal reformers to work within a constitutional framework.

British Toryism and the new Conservatism: Reinvention or Capitulation?

A particularly powerful critique of the reconstructed Tories came in the *Chronicle's* editorial of 17 August 1837. The *Chronicle* asked 'what prospect have the Tories ... of obtaining the Government?' To which it replied 'none; unless they will consent to more extensive Reforms than the Whigs, and then they will be no longer Tories'.[59] This simple comment cuts to the heart of a remarkable feature of human affairs; a mercurial capacity for pragmatic reinvention. The presence of institutional realities or proponents, such as the name of a political party or a leading politician such as Peel, can combine to obscure landmark shifts in political influence and the carriage of ideas. If ideas rather than institutions and reputations are the more significant realities, then there can be no more complete victory than for one's opponents to reinvent themselves in your image. No finer, recent example can be found than the Labour Party of New Zealand. In the 1980s, this party comprehensively reinvented itself and so zealously applied the policies of economic rationalism it became the envy of right-wing political leaders and economists the world over. Although in institutional terms electoral victory may be ascribed to a (so-termed) left-wing party, it nonetheless represented a victory, albeit ironic and obscured, for right-wing free-market ideology. Similarly, it could be argued

[55] *Chronicle*, 18 May 1837.
[56] *Chronicle*, 18 May 1837.
[57] *Chronicle*, 20 April 1837.
[58] *Chronicle*, 18 May 1837.
[59] *Chronicle*, 17 August 1837.

that in the 1830s Toryism was not so much reinvented but disassembled. This appears to have been the opinion of the young Benjamin Disraeli (1804-1881). In 1844 Disraeli wrote of Peel's accommodating policies and the new conservatism:

> the awkward question naturally arose, what will you conserve? The prerogatives of the crown, provided they are not exercised; the independence of the House of Lords, provided it is not asserted — everything, in short, that is established, as long as it is a phrase, and not a fact.[60]

Yet when later faced with what was required to secure electoral success in the midst of a liberal century, Disraeli himself became an accelerated 1860s version of the 1840s Peel he had once despised.[61]

Between 1828 and 1832 the theoretical foundations of Toryism, the hereditary principle and the relationship between church, state and citizenship, were demolished. Toryism was not reinvented; Toryism died. Conservatism was a new creed propped up by former Tory personalities, such as Peel, willing to admit that a new society, not of their preference and which they had done all in their power to prevent, had nonetheless irretrievably arisen. A Coleridgean view of Christian Commonwealth was gone, replaced by an embryonic pluralistic society drawing upon enlightenment, utilitarian and liberal ideologies.[62]

The *Chronicle* and the House of Lords

The *Chronicle's* most radical and vivid language gained expression in hostility toward the House of Lords and hereditary privilege. After acknowledging shortcomings among liberals, such as a failure to register to vote and disunity among liberal parliamentary representatives, the *Chronicle* argued the 'insurmountable obstacle to the progress of Reform' had been 'the dogged obstinacy of the House of Lords'.[63] The *Chronicle* felt that among Whig parliamentarians 'a spirit too conciliatory has been manifested towards the Upper House'.[64] With municipal reforms passed in England in 1835 and an Ecclesiastical Commission established in 1836 to supervise revenue in the Church of England, the reform agenda shifted to attaining church and corporation reform in Ireland. The *Chronicle* sought for 'Reformers of

[60] Cited in Cannon, 'Tamworth Manifesto', p. 908.
[61] This is most poignantly seen in Disraeli's manoeuvring to keep the Derby Conservative ministry in power in 1867. Disraeli's involvement led to the Second Reform Bill being passed with greater franchise extension than proposed by the Liberal Party. For a good survey of this see McCord, *British History, 1815-1906*, pp. 255-262.
[62] Of course, the pre-eminent example of this transition is seen in the thinking of William Gladstone, a point discussed later in this chapter and also in ch. 9 below.
[63] *Chronicle*, 12 January 1837.
[64] *Chronicle*, 12 January 1837.

all shades of opinion to unite in passing these bills in the Commons, and thus to throw the onus of their rejection upon the Lords', leading to an 'appeal to the people'.[65] Then, if 'the combined voice of the United Kingdom fail to make an impression on the Hereditary Peerage, then, we say, "Reform the Lords"'.[66] The *Chronicle* argued the British constitution was built upon a tripartite basis of 'King, Lords and Commons' and added, in debt to Bentham, these 'were created for the public benefit; and when either of those parties ceases to answer the purpose for which it was originally created, our obligation to venerate and support it ceases also'.[67] It continued with a rationale built upon the notion of the social contract as variously formulated by Hobbes, Locke, Rousseau and Jefferson:

> A contract is made between two parties — the one is to govern — the other is to submit on — the one hand the governor has a right to expect obedience ... *so long* as those commands are given with a due regard to justice, and *so long* as he endeavours to promote the interest of the party governed ... The Lords have broken the agreement. They were created for the purpose of legislating so as to promote the interest of the nation — they have ceased to do so — and they can no longer therefore claim our respect.[68]

The most sustained commentary regarding the nature of a reformed upper house came in the *Chronicle's* edition of 2 June 1836. It came in response to a motion led by Daniel O'Connell for reform of the Lords, following its rejection of bills for Irish Municipal reform. The *Chronicle* first acknowledged, in sound utilitarian fashion, that the 'true end of all government, is the promotion of the happiness of the governed'. Elsewhere, it described the 'will of the people' as 'the only source of legitimate power'.[69] However, this did not mean 'that every wish of the people should be immediately gratified', for 'experience has ... shown that a pure democracy possesses many disadvantages; one of the chief of which is, that the multitude are led by caprice, or by the designs of an artful leader'.[70] It then claimed that 'experience' also highlighted the 'benefits society has derived from the existence of a body of men ... independent altogether of popular clamour'. However, the *Chronicle* noted that this too was ineffectual where such a group, as with the House of Lords, served 'only their own advantage, or the interests of their own order'. An elected upper house was seen as no alternative to a hereditary one, as 'two houses of the same kind' seemed to them unhelpful

[65] *Chronicle*, 12 January 1837.
[66] *Chronicle*, 1 September 1836.
[67] *Chronicle*, 3 September 1835.
[68] Emphasis the *Chronicle's*.
[69] *Chronicle*, 18 May 1837.
[70] *Chronicle*, 2 June 1836.

and undercut the supposed value of a nominated upper house, namely its independence. Instead, it suggested:

> Our idea is, that a House of Lords should consist of men, on whom the adventitious circumstances of birth, wealth, or station, should have no influence; but whose intelligence, and moral worth, should be their patents of nobility, — that the only true aristocracy, which demands the respect and reverence of an enlightened people, is the aristocracy of talent ... We find no difficulty, then, in concluding that the time is come when a reform should take place ... Perhaps a peerage conferred *for life*, on men of real worth, would be the most desirable.[71]

The *Chronicle* described the reform of the Lords a 'perfect constitutional right' of the people, noting that if parliament can change laws affecting the succession of monarchs then it can surely alter the entry into its own ranks to reflect contemporary thought.[72] The hereditary principle ought no longer be the basis of entry to the upper house. Added to this, the *Chronicle* favoured the removal of bishops from the House of Lords.[73] This was hardly surprising given Fairfax's Nonconformity and voluntaryism and the bishops recent instrumental role in the failure of the second reading of the Reform Bill in 1831, which sparked the riots and burning of the bishop's palace in Bristol.[74] The *Chronicle's* support for the reform of the House of Lords, particularly in the context of it being promoted by Daniel O'Connell, represents the soundest possible evidence that it ranked, as it proudly claimed, among 'the most respectable of Provincial Liberal Journals'.[75] The arguments of Fairfax's *Chronicle* also bear a strong resemblance to those advanced by the *Sydney Morning Herald* in the early1850s regarding the nature of the upper house in NSW.[76]

Liberalism and Manhood Suffrage

The relationship between manhood suffrage and liberalism is vital to discerning the true character of mid nineteenth-century liberalism. For instance, the *Sydney Morning Herald's* rejection of manhood suffrage in the 1850s is the primary basis upon which many historians have (erroneously) labelled it as a 'conservative' or even 'Tory' journal. To insist on or presume a link between liberalism and support for manhood suffrage is to confound the two.

[71] *Chronicle*, 2 June 1836. Emphasis the *Chronicle's*.
[72] *Chronicle*, 2 June 1836.
[73] As quoted above from 18 August 1836 (repeated 1 and 15 September 1836). On bishops, see also the *Chronicle*, 5 May 1836.
[74] G. Clark, *The Illustrated History of Britain*, Treasure Press, London, 1982, p. 216.
[75] Proprietor's comment. *Chronicle*, 4 January 1838.
[76] As discussed in ch. 8 below.

Though this will be entered into more fully in the context of the *Herald's* response to manhood suffrage in NSW, a few anticipatory comments are appropriate.

In the mid nineteenth-century, universal male suffrage was not on the reform agenda of most liberals.[77] Mid nineteenth-century liberals, although preferring the notion of power residing in the 'will of the people' to power residing in hereditary privilege, nonetheless appreciated that the 'will of the people' was also vulnerable to manipulation and error, a fact which came to the fore on a grand scale a century later in Western Europe.[78] Most mid nineteenth-century liberals rejected universal male suffrage. Only radicals, like the Chartists and Henry Hetherington of the *Poor Man's Guardian*, sought manhood suffrage. Liberal theorists, like J. S. Mill and de Tocqueville, emphasised the potential dangers arising from a more popular, representative approach to parliamentary representation. McCord writes of the 1860s, three decades after the *Chronicle* under Fairfax, that even 'the keener reformers of 1866 did not see the franchise as a natural right which ought to be enjoyed by every adult male; instead, they aimed at an extended but selective electorate'.[79] However, while rejecting population as the sole basis for political representation, liberals increasingly accepted population as the primary interest requiring parliamentary representation. And they were in no doubt that incremental extensions of the franchise, alongside growth in education and literacy, were more likely to achieve the primary end of government, that of 'governing for the happiness of the governed',[80] than would the perpetuation of parliamentary government dominated by hereditary privilege. Although Fairfax's *Chronicle* claimed the 'will of the people' is the only 'legitimate source of power',[81] this did not translate into support for manhood suffrage. Consistent with liberal opinion, the *Chronicle* opposed manhood suffrage but sought an (unspecified) extension of the franchise (a position similar to the *Herald* twenty years later).

[77] Parry, *The Rise and Fall of Liberal Government in Victorian Britain*, p. 13. Further discussion and evidence is provided for this point in ch. 8 below.
[78] Today there is much discussion as to how the values and practices of liberal-democracies might be nurtured throughout the world. However, what is rarely acknowledged is that of the terms 'liberal' and 'democracy', the former is the more important in that it is a prerequisite and foundation of the latter. There is little value in fair and democratic elections if the people who vote lack a prior commitment to liberal values, such as freedom of speech, association, religious belief and the press.
[79] McCord, *British History, 1815-1906*, p. 256.
[80] *Chronicle*, 2 June 1836.
[81] *Chronicle*, 18 May 1837.

The *Chronicle's* support for Daniel O'Connell and Ireland

Nonconformists, especially Protestant Dissenters of various shades such as Quakers, Unitarians and the more numerous Congregationalists or Independents like Fairfax, made a unique and crucial contribution to the development of British liberalism. Indeed David Thompson suggests that 'Nonconformity was largely responsible for the freedom of religion and the freedom of thought enjoyed in nineteenth century Britain'.[82] Gladstone claimed in 1877, 'Nonconformity supplies the backbone of English Liberalism'.[83] In particular, Nonconformity bequeathed a fierce commitment to the notion of the individual's freedom of conscience and of religious equality before the law. As would be expected, the amelioration of Dissenting grievances, such as the payment of Church Rates, figured prominently in the *Chronicle*.[84] Another fine example of Nonconforming liberalism in action was the *Chronicle's* opposition to proposed legislation to enforce the Sabbath. This is especially interesting as it prefigures the identical response of the *Herald* under Kemp and Fairfax to similar proposals in NSW in the mid-1840s.[85] While affirming the 'laudable anxiety' of those seeking to promote Sabbath Observance, the *Chronicle* nonetheless asserted (in somewhat Jeffersonian tone) that we 'hold it as an incontrovertible proposition, that no man, or set of men, can be made religious by compulsion'.[86]

Yet in the *Chronicle's* summary list of the liberal reform agenda, it put at the top: 'Municipal Reform must be given to Ireland'.[87] It is striking that a newspaper run by convinced Protestants listed Ireland before all other reform claims, such as pensions lists, the

[82] D. Thompson (ed.), *Nonconformity in the Nineteenth Century*, p. 16. See also Bradley, *The Strange Rebirth of Liberal Britain*, pp. 29-31; L. Davidoff and C. Hall, *Family Fortunes: men and women of the English middle class, 1780-1850*, revised edition, Routledge, London, 2002, pp. 74-75, 97-99; G. I. T. Machin, *Politics and the Churches in Great Britain, 1832-1868*, Clarendon Press, Oxford, 1977, pp. 39-62, 99-111; J. Munson, *The nonconformists: in search of a lost culture*, SPCK, London, 1992, pp. 1-6; D. Hempton, *Religion and Political Culture in Britain and Ireland*, pp. 33-37, 60, 128-134, 169; McLeod, *Religion and Society in England, 1850-1914*, p. 2. McLeod says, English 'liberalism, the major emancipatory movement of the middle decades of the century, was heavily shaped by religious Dissent, and the kind of secular liberalism that was so important in many continental countries remained of minor importance in England'. On the dominant contribution of Dissenters to the Anti-Corn Law League, see also Pickering and Tyrrell's excellent book, *The People's Bread: A History of the Anti-Corn Law League*, pp. 55-59, 69-71, 88-110, 169, 196-197, 210-211. Ch. 4 below, on free trade, further explores the connection between religious Nonconformity and liberalism.

[83] Cited in Bradley, *The Strange Rebirth of Liberal Britain*, p. 31.

[84] On the need for the reform of Protestant Dissenting grievances, see the *Chronicle*: 9 July 1835 and 14 April 1836 (both of which highlight and celebrate the case of Mr. Childs of Bungay, who was imprisoned for refusing to pay Church Rates); 10 November, 15 December 1836; 9 March, 1 June, 9 November 1837.

[85] As discussed in ch. 3 below.

[86] *Chronicle*, 12 May 1836, which continued, 'if conscience fails to enforce regard to any duty, coercion will only stimulate to acts of rebellion'. See also the *Chronicle*, 8 June 1837.

[87] *Chronicle*, 18 August 1836.

duration of parliament, further suffrage extension, vote by ballot, and the end of all religious disabilities. This was a prime example of how Fairfax's Nonconformity influenced his journalism. In contrast to Evangelical Anglicans and Wesleyans, most dissenting Evangelicals were sympathetic to the likes of Daniel O'Connell and supported the disestablishment of the Protestant Church of Ireland.

O'Connell had been the great champion of Catholic emancipation in the 1820s and was at the forefront of further demands for municipal and church reform in Ireland in the 1830s. An Irish-Catholic of aristocratic stock, O'Connell had been a barrister before becoming a political agitator and was (in England) among the most reviled members of the House of Commons in the 1830s. And yet the *Chronicle* promoted the cause of reform in Ireland with more zeal than any other issue during the time of Fairfax's proprietorship. This was not because other issues, such as proposed legislation to abolish Church Rates, were not of passionate concern. Instead, the reason lies in the fact that the subject of Ireland was inflamed by profound and ancient injustices: 'the climax of injustice, oppression, and persecution, has arrived — common humanity pleads for Ireland'.[88] The *Chronicle's* commitment to Ireland was seen in the second edition under Fairfax, 16 April 1835, which, in the process of admitting Sir Robert Peel had done some good in (however unwillingly) supporting Catholic Emancipation, stated Peel:

> had aided to break down that accursed barricade which separated the children of one christian family from those of another — that visited with civil disabilities the man who sought to worship the great Creator of All in the manner which his conscience inclined him to believe would be most acceptable.

In the brief period under consideration (1835-1837), the *Chronicle* was emphatic in support for O'Connell and the causes of Irish municipal and church reform. It published in full O'Connell's letter to the Duke of Wellington of September 1835, plus his two letters to the people of England.[89] The context was proposed local government reform for Ireland, similar to that recently passed in England and Scotland. In England the Municipal Corporations Act (1835) required councillors to be elected by ratepayers, the mayor to be elected by a majority of councillors, and the centralised financial regulation of councils through

[88] *Chronicle*, 15 December 1836.
[89] The letter to Wellington was published in the *Chronicle* 17 September 1835 and the letters to the people of England on 2 and 30 June 1836.

the British Treasury.[90] Melbourne's Whig administration drafted similar reform legislation for Ireland that passed in the Commons in 1836. However, the House of Lords rejected it and drafted a bill effectively abolishing local government in Ireland.[91] In 1837 Melbourne put forward an Irish Municipal Reform bill only to be again denied in the Lords.

The *Chronicle* commented on this carriage of events with fierce rhetoric. After the failure of the bill in the Lords, it asked: 'Where ... can it be found that a nation of seven millions united as one man, ever quietly submitted to be slaves?'[92] An earlier editorial, before the great disappointment of the bill being rejected twice in the Lords, united a number of liberal threads:

> The Tories ... would have annihilated every Corporate Body in the Sister Kingdom, and deprived the people ... of the hitherto much vaunted blessings of Municipal Government. To what excesses will not men's fears and antipathies lead them — rather than risk the increase of Mr. O'Connell's influence, they would sacrifice the advantages of a whole nation ... Is the abuse heaped upon him likely to degrade him in the eyes of the Irish? ... The accumulated wretchedness of Ireland, the produce of continued mis-government, has made Mr. O'C[onnell] what he is, and nothing can or will diminish the power with which he is invested but a succession of wise and just measures.[93]

Here the *Chronicle* argued that ridicule of O'Connell was counterproductive and that to deny municipal reform in Ireland was unjust. The editorial went on to suggest a third point, that were the Lord's to reject the bill again this would reveal a continued enslavement of Parliament to the aristocracy. These points warrant further assessment.

The first point, that the demonising of O'Connell was counterproductive, highlights a steady practicality about many of the *Chronicle's* editorials. This pragmatic, real world, common-sense approach was also a feature of the *Herald* under Fairfax's proprietorship.[94]

The second point, the essential injustice of the situation in Ireland, highlights a foundational liberal Nonconformist commitment to civil equality irrespective of religious belief. The *Chronicle* quoted a speech of O'Connell's in Edinburgh regarding a just legislative

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[90] McCord, *British History, 1815-1906*, pp. 200-202; D. Thomson, *England in the Nineteenth Century, 1815-1914*, Penguin Books, Hammondworth, 1966, pp. 72-73; Parry, *The Rise and Fall of Liberal Government in Victorian Britain*, pp. 116-123.
[91] The *Chronicle*, 16 June 1836 quotes this proposal at length. For context, see Parry, *The Rise and Fall of Liberal Government in Victorian Britain*, p. 140.
[92] *Chronicle*, 14 September 1837.
[93] *Chronicle*, 7 April 1836.
[94] An example of this was the *Herald*'s response to state-aid to churches in NSW. As voluntaryists, they were opposed to state-aid on principle but accepted its graduated removal as a practical necessity (a topic examined in ch. 3 below).

union. While seeming to endorse all or most of O'Connell's speech, it thought the 'part of Mr. O'Connell's speech' warranted 'peculiar attention'.[95] O'Connell had stated:

> Why should not the people of Ireland have the franchise the same as England and Scotland? Why should they not have corporate rights as England and Scotland have? ... why should not the consciences of the Irish people be free and unfettered as, thank God for it, the people of England and Scotland are? Answer these questions in the negative, and ... you drive me to become a Repealer [of the Union] ... Answer them in the affirmative, and Ireland will ... fight your battles ... raise her political stature to the standard of England and Scotland, and then — hurrah for the Union! For six hundred years the iron hoof of misrule has trampled upon the green isles of my lovely land ... Why is Ireland without commerce? — Misgovernment. Why is she without manufactures? — Misgovernment. Why are her sons starving among fields that teem with produce? — Misgovernment. I call upon you to rid your souls of the crime of acquiescing to this mischief.[96]

The *Chronicle* appealed: 'what Englishman is there, with a heart to feel and a pulse to throb with sympathy for liberty, and detestation of slavery and oppression, that will not cordially concur in these animated and eloquent expressions?'[97] It quoted the *Morning Advertiser,* which rebuked dismay at O'Connell's warm reception in Protestant Scotland:

> The people of Scotland know that tyranny is the same, whether it exists in a catholic Cardinal, or a protestant Bishop; and that the best policy is to guard against that which is real and not imaginary ... How is it that they [the Tories] do not expose the corruptions of that church which requires 30,000 bayonets for its support.[98]

Both Conservative and liberal were concerned to maintain the Union. The former by attempting to maintain a social, economic, political and religious superiority within Ireland by time-honoured, oppressive, means. The latter by making the Union a genuine union and trusting that Protestant Christianity, unfettered by its current association with ascendancy and injustice in Ireland, would prosper. Parry well summarises the differences between them: 'whereas the Conservative party was always essentially *English*, the Liberals were a *British* party, a genuinely *unionist* force committed to the integration of all parts of the United Kingdom'.[99]

The third point, that were the Lords to reject municipal reform in Ireland it would

[95] *Chronicle*, 24 September 1835.
[96] *Chronicle*, 24 September 1835.
[97] *Chronicle*, 24 September 1835.
[98] *Chronicle*, 8 October 1835.
[99] Parry, *The Rise and Fall of Liberal Government in Victorian Britain*, p. 4. Emphasis Parry's.

suggest an enslavement of Parliament to the aristocracy, illustrates the above discussion regarding the House of Lords. The *Chronicle* cited the *Morning Advertiser*, which argued that gains won in 1832 regarding entry to the Commons were effectively cancelled if the Lords could reject with impunity legislation passed by large majorities in the Commons.[100] Triggered by the intransigence over Ireland, the *Chronicle* endorsed the sarcasm of O'Connell's Edinburgh address in 1835. It suggested: 'Well may Mr. O'Connell brand with the cautery of his sarcasm the ridiculous absurdity of the pretence to hereditary wisdom set up by the factious knot of lordly oligarchs'.[101] It then quoted O'Connell, who, after expressing his marvel that an hereditary house had lasted so long, asked his hearers: 'Whoever thinks of employing an hereditary lawyer when he goes to law? Or an hereditary doctor when he is sick?'[102] O'Connell's comments fitted perfectly with the *Chronicle's* declaration that 'the only true aristocracy, which demands the respect and reverence of an enlightened people, is the aristocracy of talent'.[103] In 1836 a Bill to remove Church Rates in England was rejected in the Lords. However, it was the rejection of proposed Irish Church and Municipal reform, which, contrary to Souter's suggestion, highlighted the massive gap between Tories like Peel of the 1830s and middle-class Nonconformist liberals like Fairfax.

Upon the civil emancipation of Roman Catholics in 1829 Catholic parliamentarians, such as Daniel O'Connell, could sit in the House of Commons. The Conservative party pictured this and potential extensions of the franchise as sowing the seeds for an eventual re-Catholising of Britain. In the context of strong antipathy and prejudice towards Catholicism many were willing to entertain this unlikely suggestion. But the *Chronicle* dismissed this as 'noisy twaddle about popery'.[104] Dissenting-Liberals, as seen in the *Chronicle*, advanced a series of alternative ideas.

As voluntaryists, Protestant Dissenters opposed any form of established church and, most of all, a minority faith being imposed upon a nation. The *Chronicle* argued:

> Upwards of *seven Millions* of Inhabitants will not be content ... to support ... the ministers of a Church which laid her foundations on the ruins of their own ... The ... anomaly of foisting the support of the religion of the small minority upon the increasingly large majority of the Irish nation, must be completely done away with.[105]

[100] *Chronicle*, 7 April 1836.
[101] *Chronicle*, 24 September 1835.
[102] *Chronicle*, 24 September 1835.
[103] *Chronicle*, 2 June 1836.
[104] *Chronicle*, 23 July 1835.
[105] *Chronicle*, 2 July 1835. Emphasis the *Chronicle's*.

They saw the established Protestant Church of Ireland as not only an unjust imposition upon the Irish people but counterproductive; an imposition upon Protestantism as well. The association of Protestantism with English imperialism and corruption ensured its failure in Ireland: 'Injustice has endowed Popery in Ireland'.[106] And true to the optimism that imbued free-trading Protestant Nonconformity, they believed were Protestantism free of the millstone of an unjust establishment it would flourish. As Melleuish has emphasized, the free-trading philosophy of classic liberalism was but part of a wider notion regarding the free movement of ideas.[107] Religious equality was nothing other than free trade in religion.[108] Competition was never to be feared or suppressed. All things being equal, the truth will triumph. This was well illustrated in the *Chronicle*'s editorial of 2 July 1835:

> the great experiment will first be tried in Ireland, of leaving religion to support itself by its own intrinsic strength — of suffering Truth to try conclusions with Error, unaided or rather untrammelled by the State. Protestantism is now in that country, like David in Saul's armour ... Let the stripling go forth with his own weapons against the Goliath of Popery — let him choose his own stones from the brook ... and see whether the giant who daily frightens our modern Tories do[es] not fall to the ground, smitten and powerless.

But lest anyone be confused by their support of civil and church reform for Catholic Ireland, Protestant Dissenting liberals made clear their disdain for Catholic doctrine. From the description of the *Chronicle's* general support for Ireland, a modern reader might assume the *Chronicle* was at least indifferent toward Roman Catholicism as an ideology. However, in its edition of 15 September 1836, the *Chronicle* cited the following 'admirable' remarks from the *Patriot*:[109]

> We must tell Mr. O'Connell plainly, that the Protestant Dissenters of England rank among the firmest friends to the civil liberties of the Irish, and the most uncompromising antagonists of Popery ... We enter into no compromise with the savage heathenism of Maynooth; but will join heart and hand to raise Ireland from her double degradation, political and religious, oppressed with the incubus of Tory ascendancy, and trodden down by swarms of idle and beggarly friars and priests that bred from its moral corruption.

The vigour of this repudiation of Roman Catholicism accurately expresses Protestant Dissenting sentiment. However, it is also true that it came in the context of countering

[106] *Chronicle*, 15 September 1836.
[107] Melleuish, *Cultural Liberalism in Australia*, p. 30.
[108] Larsen, *Friends of Religious Equality*, pp. 122-123.
[109] The *Patriot* was a Nonconformist journal, edited from 1832 - 1855 by Joseph Conder. See Larsen, *Friends of Religious Equality*, p. 32. See also the *Chronicle* of 21 September 1836, which said 'We are not of the Romish faith. We believe it to be a system abounding in errors'.

Conservative accusations that in calling for Irish Church reform Nonconformists were closet 'Papists'. The *Chronicle* decried the Conservative claim that 'all ... who are not Tories, are Papists at heart, and are combined for the purpose of pulling down the Establishment, and promoting a Catholic ascendancy'.[110]

The essential point, which many Wesleyan and Evangelical-Anglicans at the time (and many historians since)[111] failed to appreciate, is that Dissenting Protestants believed it was a grave error to make a connection between Roman Catholicism as a religion and the civil and religious equality before the law of Roman Catholics. The *Patriot* boasted in 1847 that Dissenters 'alone, as a body' combined a criticism of the teachings of Roman Catholicism with the 'unreserved recognition of the claims of the Roman Catholics to perfect civil equality and protection without patronage'.[112] The difference between Dissenting and other Evangelicals (Wesleyans and Anglicans) was acutely apparent on the issue of religious equality. Fairfax's *Chronicle* blasted the Wesleyans for not supporting the liberal reform agenda and rejected their claim that 'We are not a political people', arguing:

> The general neutrality of which a *Wesleyan Methodist* boasts, is as ridiculous as it is untrue ... To call themselves the *friends* of the Church, and yet dissent *from her* communion, is as paradoxical and unintelligible as it is absurd and hypocritical ... Have the Wesleyans, we speak of them as a body, refused to accept of any portion of religious liberty, as it has been doled out from time to time? We think not.[113]

Consistent with its position on the civic position of Catholics, Nonconformists sought not only equality for Catholics but for Jews. Congregationalist Edward Miall's influential journal, the *Nonconformist,* claimed in 1842 that the full equality of Jews was 'too obvious for argument'.[114] The Congregational Church journal, the *British Banner,* argued for the equality of Jews by simply asking 'Is the Jew a man?',[115] while the *Congregational Yearbook* of 1848

[110] *Chronicle*, 15 September 1836.
[111] See Larsen, *Friends of Religious Equality*, pp. 3-7. Larsen argues that even Michael Watts, in his 'impressive' two volume work *The Dissenters*, volume II, Oxford University Press, Oxford, 1995, does not fully appreciate Nonconformist commitment to freedom of conscience. For example, Watts argues the refusal of Edward Miall (a leading Nonconformist politician and journalist) to participate in anti-Catholic politics was a tactical move aimed at securing the support of Irish MPs in the fight to disestablish the Protestant Church of Ireland. Larsen suggests Watts does not consider 'the possibility that rejecting the politics of anti-Catholicism might actually have been a part of the Dissenting political worldview'. Larsen, *Friends of Religious Equality*, p. 5. See also David Thompson (ed.), *Nonconformity in the Nineteenth Century*, pp. 15-16, who argues Nonconformity 'comes off badly in the general text books' and has been 'misunderstood and distorted'.
[112] Cited in Larsen, *Friends of Religious Equality*, p. 113.
[113] *Chronicle*, 7 July 1836. Emphasis the *Chronicle's*. On Wesleyans and political reform, see Pickering and Tyrrell, *The People's Bread: A History of the Anti-Corn Law League*, pp. 69-70 and Larsen, *Friends of Religious Equality*, pp. 17, 34, 126, 141, 145, 190, 251, 269.
[114] In Larsen, *Friends of Religious Equality*, p. 114.
[115] In Larsen, *Friends of Religious Equality,* pp. 127-128.

lamented the failure of a bill seeking for Jews to be allowed to sit in Parliament (granted 1858), a relief supported by the *Chronicle*.[116]

Nonconformist belief that it was erroneous to make a connection between religious belief and civil and religious equality before the law was well promoted within Fairfax's *Chronicle*: 'The advocates of Toryism appear so unhappily blinded by the prejudices of party, as to be unable, or unwilling, *to distinguish between things that most essentially and evidently differ'*.[117] Similarly, it described the failure to grant civil reform to Ireland, by virtue of its Catholicism, as 'drawing a wide line of demarcation between Irishmen and Englishmen, and between Protestant and Catholic, *on points where no distinction ought to be made*'.[118] Although 'distinction' between Protestant and Catholic was appropriate in the arena of theological debate, it ought to be irrelevant to citizenship and the law. As exceedingly important as religion remained, it was an error to confound religious belief with citizenship.

The *Chronicle* argued in like fashion in support of the establishment of London University, whose charter contained 'no religious test'. This anticipated the colonial *Herald's* support of the non-sectarian University of Sydney in the 1850s.[119] In contrast to the charter's critics, the *Chronicle* thought this 'constitutes its excellency'.[120] In clarification, the *Chronicle* continued:

> Let us not be understood as wishing to depreciate the value and importance of a religious education. We deem it all-important; but *the great error lies in blending things which have no essential connection*, and then making the one a necessary sequence of the other.[121]

Such claims had long been the theme of the Dissenting-Deputies of London in their representation of Protestant Dissent in England during the seventeenth and eighteenth centuries. And the attitude of most early to mid nineteenth-century liberals to Ireland and related issues, buoyed by an Enlightenment emphasis upon freedom and also by Utilitarian thought, is best seen as a just and logical extension of the foundational principles of religious Dissent. Although liberalism was to subsequently express much broader sentiments, in England at least, religious Dissent formed the essential context within which liberalism arose and gained its early momentum. Early liberalism gained intellectual expression and

[116] Larsen, *Friends of Religious Equality*, pp. 127-128. See the *Chronicle*, 20 December 1836.
[117] *Chronicle*, 15 September 1836. Emphasis added.
[118] *Chronicle*, 14 September 1837. Emphasis added.
[119] *Herald*, 24 January 1856.
[120] *Chronicle*, 29 December 1836. Emphasis added.
[121] *Chronicle*, 29 December 1836. Emphasis added.

substantiation within writings such as John Locke's *Letter Concerning Toleration* (1689), with its stress on the liberty of the conscience with respect of religious belief and its promotion of religious voluntaryism. Fairfax's *Chronicle* gave consistent voice to these liberal principles and their application to the United Kingdom of the 1830s.

The Broader Liberal Agenda

Periodic reference to a number of other issues also displayed the *Chronicle's* liberal orientation. These included: voting by secret ballot;[122] the condemnation of foreign rulers or practices in other countries considered tyrannical or unjust (particularly slavery in the United States of America);[123] admonishing the 'Tory press' for its reporting of the Norton v. Melbourne case;[124] regular support for the establishment of Joint Stock Banks (in part in reaction against the 'monopoly' and 'immense power' of the Bank of England);[125] support for Mechanics Institutes;[126] support for national education free of established church control;[127] support for the general notion of the 'honest and honourable combination of workmen to maintain their interests';[128] support for the abolishment of imprisonment for debt;[129] support for Temperance societies[130] (moderation rather than teetotalism); and support for the appointment of Dr. Hampden to Oxford University,[131] as well as various tirades against aspects of the character or governance of Cambridge and (especially) Oxford University.[132]

[122] For example, the *Chronicle*, 21 May, 4 June 1835, 22 February 1838.
[123] Such as: the 'silly and tyrannical bigot' Don Carlos in Spain, *Chronicle*, 22 October 1835, 15 September 1836, 19 October 1837; the 'Russian Despot', Tsar Nicholas 1, *Chronicle*, 10 December 1835, 3 March 1836; slavery in the United States *Chronicle*, 17 December 1835; 29 September, 1 December 1836; 1 February 1838. The 8 February 1838 edition carried an advertisement for a 'just published' statement on slavery by the Liverpool Anti-Slavery Society which could be obtained from 'J. Fairfax' for one shilling.
[124] Norton had brought a legal action against Lord Melbourne for adultery (which was defeated). The *Chronicle*, 30 June 1836, rebuked the Tory press for their judgement of Melbourne prior to his case being brought to trial.
[125] *Chronicle*, 14 January, 18 August, 29 September, 24 November 1836; 5 October 1837.
[126] For example, the *Chronicle*, 20 October 1836, 23 November 1837.
[127] *Chronicle*, 7 December 1837.
[128] *Chronicle*, 18 January 1838.
[129] *Chronicle*, 9 February, 15 April 1837.
[130] The *Chronicle* of 14 January 1836 devoted several pages to the proceedings of the newly organised Temperance Society of Leamington.
[131] Hampden was a supporter of religious equality, which may in part explain the *Chronicle's* support for Hampden who was opposed by some due to his Broad Church theology: *Chronicle*, 5, 12 May, 15, 29 December 1836. See 'Hampden, Renn Dickson (1893-1868)', *The Oxford Dictionary of the Christian Church*, F. L. Cross (ed.), Oxford University Press, London, 1958, pp. 606-607.
[132] In addition to the above references regarding Hampden, see the *Chronicle* 16 April and 23 July 1835. This argued against 'boys' being able to have formed any 'settled judgement respecting the thirty-nine articles' on the basis they contained 'a number of propositions which they could not possibly comprehend'.

Conclusion

The above survey shows that John Fairfax, as proprietor of the English provincial newspaper the *Leamington Chronicle and Warwickshire Reporter,* displayed a knowledgeable and energetic commitment to the liberal reform agenda of the mid-1830s. In the 10 May 1838 edition of the *Chronicle,* the Assignees of Fairfax's estate described the *Chronicle* as having 'gained a very respectable circulation' and as being 'well known and highly esteemed as a judicious and constant advocate of liberal principles'. Given Fairfax's heritage as an earnest Nonconformist, and his background as a printer, any other description would have been very surprising. As such, this survey provides the essential, and hitherto largely unexplored, context of the social and political thought of the John Fairfax who arrived in Sydney in September 1838. Less than two and a half years later, in February 1841, Fairfax became co-proprietor of the *Sydney Herald.* As the literature review has highlighted, the *Herald* during Fairfax's long proprietorship has been widely described by Australian historians as 'conservative'. By examining the editorial position of the *Herald* in Fairfax's lifetime, this thesis offers a critique of that assessment. Did a combination of unexpected wealth, advancing years and the significantly different social context of colonial life propel Fairfax's into a thoroughgoing conservatism? Or are descriptions of the *Herald's* conservatism exaggerated?

Ch. 3. The Editorial Stance of the *Herald*: State-Aid to Churches; Roman Catholicism; Education; Proposed Temperance and Sabbath Observance Legislation.

Introduction

Most British liberal Nonconformists like John Fairfax who emigrated to NSW did so in the quest for greater opportunity. Some, like Fairfax, came due to a reversal of personal circumstances but were nonetheless well skilled. A few, like Henry Parkes, had made little progress worth reporting but came with much latent potential. Virtually all, like Fairfax, arrived with little or no capital. Yet despite arriving in what might politely be termed 'average circumstances', there is a very real sense in which British Nonconformists in NSW were the pauper princes of the new society. The Anglican ascendancy, what there was of it, was short lived and malnourished. It was more a matter of ethos than of fact.[1] British settlement had come fifty years too late, with the Anglican church never legally established in NSW as it had been in several North American colonies in the early eighteenth-century. Governor Bourke established concurrent endowment in 1836 and voluntaryism was just around the corner. And although Oxbridge in style, the University of Sydney (founded 1850) followed the University of London in having no religious test.[2] More broadly, and just as pleasing to liberal Nonconformists, entrenched patterns of institutional and other hereditary privilege did not exist. Although many a battle remained for Nonconformists in Britain, the moment Nonconformists arrived in NSW they came to a society forming after their own image. The satisfaction this brought them is poignantly seen in the life of John Fairfax, who was 'fond of reiterating that in this country there was no Nonconformity and no Dissent'.[3]

This social context of colonial NSW (circa. 1845), bereft of hereditary institutions and intent on institutionalising religious pluralism, is of enormous significance to the study of colonial liberalism. The absence of the traditional bastions of conservatism, the established church and aristocracy, begged the question: what did it mean to be a liberal in a society where nearly everyone was a liberal? Initially, the problem was solved by the united focus to end transportation and to attain responsible government (the *Herald* figured prominently in support of both). But, particularly after the gaining of responsible government, the question emerged again: What did it mean to be liberal in a colonial context? This question forms the

[1] S. Piggin, 'Anglican Church', *The Oxford Companion to Australian History*, G. Davison, J. Hirst, J. Macintyre (eds.), Oxford University Press, Melbourne, 1998, p. 24.
[2] Gascoigne, *The Enlightenment*, p. 112.
[3] *In Memoriam*, p. 11.

essential context to the study of the *Herald's* editorial position. This chapter begins this process by considering the *Herald's* response to four overlapping issues: church establishment and state-aid to churches; Roman Catholicism; the church and national schooling debate; and proposed legislation to enforce temperance and Sabbath Observance.

Church Establishment and State-Aid to Churches

The pre-Fairfax *Sydney Herald* supported Governor Bourke's Church Act of 1836. This terminated the quest among Anglicans for the single establishment of the Church of England.[4] Upon Fairfax's senior proprietorship (from 30 September 1853) the *Herald* spoke out against both church establishment *per se* and the concurrent endowment of the 1836 Church Act.[5] Regarding church establishment, the *Herald* suggested:

> without respect to the source of the revenue, the religious opinions of the people, or their efforts to secure their own religious observances, it is the *duty* of the magistrate — that is, of the majority — to apply the money of the people to uphold ... what the magistrate believes to be divine truth, and what his subjects may detest as atheism and heresy.[6]

Consistent with Fairfax's *Leamington Chronicle*, the *Herald* opposed church establishment on the basis of the anti-Erastianism and voluntaryism inherent to religious independents like Fairfax and West.[7] It bluntly and concisely said 'the support of religion though obligatory on the private citizen is not the business of the state'.[8] The *Herald* published the lengthy proceedings of the *Society for the Abolition of All State Aid in NSW*, a society premised upon the voluntary principle.[9] Indeed, in editor John West the *Herald* had a champion of voluntaryism, with West having published in 1849 *The Voluntary support of the Christian Ministry: alone Scriptural and defensible*. The *Herald* also provided anecdotal evidence of the prosperity of churches maintained without state support. It cited churches in the United

[4] Although, as George Shaw points out, it was of even greater significance for the financial stimulus it gave to all churches accepting of state support. Shaw, 'Judeo-Christianity and the mid-Nineteenth Century Civil Order', p. 31.
[5] The *Herald's* editorial of 8 January 1859 provides a useful survey of the major theories regarding state-aid to churches.
[6] *Herald*, 10 December 1856. Emphasis the *Herald's*.
[7] Walter Phillips briefly notes this in his biography of Congregational minister James Jefferis. W. Phillips, *James Jefferis: Prophet of Federation*, Australian Scholarly Publishing, Melbourne, 1993, p. 124.
[8] *Herald*, 19 March 1866.
[9] For example, see the *Herald*, 4 July 1856 and 16 March 1866. The former included an impassioned quotation from Daniel O'Connell in support of voluntaryism during his campaign against the privileges of the Irish Protestant Church. The latter discussed the possible reintroduction of state-aid for rural areas. Both extol the religious and political virtues of voluntaryism. See also R. Walker, 'The Abolition of State Aid to Religion in New South Wales', *Historical Studies: Australia and New Zealand*, vol. 9, No. 35, 1960, p. 174.

States,[10] the success of the Anglican church in Adelaide upon the end of state-aid,[11] the extraordinary increase in financial giving in England arising from the Oxford Movement,[12] the success of the Free Church of Scotland[13] and the sheer size of Dissent in England as revealed by Horace Mann's 1851 census.[14]

The *Herald* also opposed church establishment on the basis of the pluralistic nature of colonial society. An article published by the *Herald*, 'State-Aid to Religion — Its History and Abolition', suggested:

> whatever may be said in favour of religious establishments has no practical application to the circumstances of a country in which men cannot agree upon the fundamentals of religious belief. To harmonise the conflicting interests is impossible — to give any permanent ascendancy to any one, if it were possible, would be most unjust.[15]

In 1866 a revival of state-aid (abolished 1862) was mooted for rural areas. In response, the *Herald* berated the 'inconsistency' of taking 'money from other people to uphold a faith which not only the persons pillaged detest, but which the persons who pillage do not themselves believe true'.[16]

Finally, it also considered church establishment contrary to the liberal spirit of the age. In tone similar to Fairfax's *Leamington Chronicle* of thirty years earlier, it expounded:

> Vested interests and hereditary opinions may oppose obstacles to the progress of new ideas; but ... Obstruction and defeat give the necessary time for the slow process of popular education. The vitality of sound principles is indestructible, and asserts itself afresh under every possible discouragement ... The great and irresistible tendency towards freedom and activity of thought provokes social and political movements which are antagonistic to the maintenance of State Churches.[17]

As for the (virtual) multiple establishment approach of the 1836 Church Act, the *Herald* under the Fairfaxes acknowledged the desire for fairness and equality exhibited by Governor Bourke: 'We agree with Sir RICHARD BOURKE, "that to endow all creeds where

[10] *Herald*, 14 July 1856 (see the Abolition Society report); 19 March 1866.
[11] *Herald*, 28 September 1866.
[12] *Herald*, 19 March 1866.
[13] *Herald*, 19 March 1866.
[14] *Herald*, 4 July 1856 (see the Abolition Society report).
[15] *Herald*, 13 March 1860. The *Herald's* editorial position often, though not always, concurred with the position of published articles. In this instance it did. See the *Herald* editorial of 6 March 1860. The *Herald* of 10 December 1856 argued similarly: the 'present system [Bourke's Church Act] has entirely set aside the question of religious truth ... because the Legislative body is composed of men who differ respecting the nature of truth'.
[16] *Herald*, 20 March 1866. On the possible resumption of state-aid, see the *Herald* 19 March 1866, 22 and 28 September 1866.
[17] *Herald*, 19 March 1866.

there are many, is nearly impossible, and that to endow only a part is nearly akin to injustice"'.[18] Elsewhere it noted:

> When the Act was passed it was considered a great triumph in the direction of religious liberty, and so it was, in as far as it recognised the religious equality of all Christian sects in respect of a right to aid from the public funds.[19]

The *Herald* also emphasised that Bourke never intended for state-aid to be a permanent feature of colonial life.[20] However, these acknowledgements aside, the *Herald* questioned the rationale of the state as a tax collector for the churches:

> We see nothing possible but to pay back in endowment, to every sect, what every sect pays to the revenue; or to avoid all this machinery of taxation, and leave parties to provide for their own denominations at their own cost.[21]

This was a task, the *Herald* added, which might with 'so much more consistency and simplicity be performed by the Churches themselves'.[22] In addition to being an unnecessary financial and administrative burden upon government, the *Herald* also argued the 1836 Act fostered an unhealthy sectarianism, a point well summarised in the editorial of 6 September 1866:

> If thoroughly investigated, the operation of State-aid in past times could be shown in many cases to have led to the erection of churches and the settlement of clergymen where they were only required for sectarian and not religious purposes. Where one sect goes another sect is immediately stirred up to follow. This jealousy has been fostered and its action assisted by State-aid. But this is aid to sectarianism, not aid to religion, and we ought to avoid calling bad things by good names.

All of this shows the strong connection between religious Nonconformity and political liberalism, with Congregational ministers prominent contributors at 'Anti-State-Aid Meetings'

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[18] *Herald*, 10 December 1856. For comment on the Church Act, see: Walker, 'The Abolition of State Aid', pp. 165-167; Shaw, 'Judeo-Christianity and the mid-Nineteenth Century Civil Order', pp. 31-32; J. S. Gregory, *Church and State: changing government policies towards religion in Australia, with particular reference to Victoria since separation*, Cassell Australia, North Melbourne, 1973, pp. 1-3; J. Barrett, *That Better Country: the Religious Aspect of Life in Eastern Australia, 1835-1850,* Melbourne University Press, Melbourne, 1966, chaps. 1-5; N. Turner, *Sinews of Sectarian Warfare?: State Aid in New South Wales 1836-1862*, Australian National University Press, Canberra, 1972; J. N. Molony, *An Architect of Freedom*, pp. 23-24, 193-197, 208-211, 230-234; Roe, *Quest*, pp. 4-6, 18-19, 118-136; P. Curthoys, 'State Support for Churches 1836-1860', *Anglicanism in Australia*, B Kaye (ed.), Melbourne University Press, Melbourne, 2002, pp. 31-51; R. Border, *Church and State in Australia, 1788-1872: a constitutional study of the Church of England in Australia*, SPCK, London, 1962; Gascoigne, *The Enlightenment*, pp. 30-33; Hirst, *Sense and Nonsense*, p. 13.
[19] *Herald*, 11 July 1862.
[20] *Herald*, 7 January 1859.
[21] *Herald*, 10 December 1856.
[22] *Herald*, 10 December 1856.

in Sydney.[23] Single church establishments as in England and Scotland, and even the multiple establishment principle of Bourke's 1836 Church Acts, were out of keeping with the spirit of liberalism. Liberals believed in free trade in religion as well as commerce.[24] To the Dissenting liberal, state-aid propped up vested interests, led to the state dealing inequitably among its citizens, and encouraged sectarianism. It also imposed an entirely unnecessary administrative burden on the state. Typical of mid nineteenth-century liberalism, the *Herald* preferred small and inexpensive government wherever possible. G. R. Quaife's research into the state-aid debate in colonial Victoria reveals that eighty percent of conservatives and most self-designated liberals supported state-aid, whereas two-thirds of radicals and all democrats and Nonconformists opposed it.[25] The editorial position of the *Herald* (under the Fairfaxes) on state support for churches was of a liberal and progressive nature.

An interesting feature of the *Herald's* stance on the termination of state support to churches is that, although voluntaryist and thus opposed to state-aid, it nonetheless accepted its gradual rather than abrupt removal. It wished 'to see this system ended, with as much expedition as may consist with fairness to all'.[26] Acknowledging the fact that 'many clergymen ... have been bred to the Church as a profession', it sought the end of state-aid 'without exciting religious feuds, or inflicting needless personal suffering'.[27] Although owned and edited by taxpaying voluntaryists whose own denomination refused the offer of state support, the *Herald* under Fairfax and West insisted 'existing facts' could not be overlooked. These 'facts' were that in its own folly the state had bred churches reliant upon it, with many 'trained to believe their own religion a national affair, and its special support the fair inheritance of the majority'.[28] Time was 'required for the adjustment of interests to the real state of facts'.[29] Consequently, the *Herald* supported the Cowper-Robertson bill of 1862 terminating state support to all but existing beneficiaries.[30] This was in line with Fairfax's comments on the hustings for East Sydney in the by-election of December 1856. Fairfax said:

[23] See the *Herald's* account of an 'Anti-State-Aid Meeting' in its edition of 28 February 1860.
[24] A point pursued in ch. 4 below.
[25] G. R. Quaife, 'Religion in Colonial Politics', *Journal of Religious History*, vol. 10, no. 1-4, 1978-79, pp. 190-191.
[26] *Herald*, 10 December 1856.
[27] *Herald*, 10 December 1856.
[28] *Herald*, 10 December 1856. Quaife notes that some voluntaryists in Victoria also supported the gradual removal of state-aid in that colony. See Quaife, 'Religion in Colonial Politics', p. 182.
[29] *Herald*, 10 December 1856.
[30] See the *Herald*, 6, 13 March 1860. See also Curthoys, 'State Support for Churches 1836-1860', pp. 31-51. Curthoys notes the influence of Nonconformists in the ending of state-aid, p. 48. See also Roe, *Quest*, p. 136; Molony, *An Architect of Freedom*, p. 271; scattered references throughout Walker, 'The Abolition of State Aid to Religion in NSW'; and Loveday and Martin, *Parliament Faction and Parties*, pp. 30-36, 67.

> he was a voluntary to the backbone. (Cheers.) But he would never interfere with the vested interests of those clergymen who had come out to this colony with promises of State-aid: they ought be allowed to live out their interests, or to receive a bonus to give them up at once ... He believed, however, that the time was not very far distant when every Church would depend on the earnest voluntary action of its own members.[31]

This acknowledgement of the tension between abstract principle and its real world incarnation is one of the dominant characteristics of the *Herald* under Fairfax and editors John West and Andrew Garran.[32] This is seen most profoundly in the *Herald's* editorial assessment of proposals for land reform and is also evident in its discussion of the formation of a LC under responsible government, a single education board, and manhood suffrage.[33] Although drawing on abstract principle, the statesman had to bear in mind pragmatic realities. This was also a feature of arguably the greatest Victorian liberal, William Gladstone, who, over the course of his own journey on church establishment, concluded that it had to be subject to 'a practical rather than a theoretic test'.[34]

A final aspect of the *Herald's* view on state-aid was its defence of the endowment of Roman Catholic churches under the 1836 Church Act. The Anglican hierarchy opposed multiple establishment and, along with other Protestants such as J. D. Lang, was horrified at the endowment of 'Popery'.[35] However, the *Herald's* Nonconformist and liberal commitment to religious equality before the law sounded loud and clear. Just as the *Leamington Chronicle* had championed the right to free speech and religious equality for Irish Catholicism in the 1830s, the *Herald*, though like the *Chronicle* no friend of Catholic doctrine or state-aid, defended the endowment of Catholicism in NSW. The *Herald* asked, is not 'mutual toleration ... the necessary price which all these churches pay for their separate endowments?'[36] The *Herald* published (and its editorial sentiments were aligned with) a report of proceedings of the society to abolish state-aid in 1856. At that meeting, quite apart from the endowment of

[31] Election for the City. *Herald*, 30 December 1856.
[32] West was editor from 14 November 1854 to his death 11 December 1873. Garran was assistant editor under West from 1856 and succeeded West, staying on until 1885. Walker, 'Andrew Garran', p. 391 says Garran was 'noted for the dispassionate lucidity and judicious weighing of *pro* and *contra* in his editorials (the reader sometimes being left in doubt as to which side of the scale was heavier), conscientious, honest, very well-informed'. Garran was more refined and academic in temper than West. West was also a true intellectual but the preacher in West was never far away. Consequently, although West's editorials were rich and nuanced, he was more inclined than Garran to advance a particular cause and exhort his readers to action.
[33] Each of these points (land reform, the make-up of the LC, manhood suffrage) are discussed at length later in the thesis. The general point of the *Herald's* principled pragmatism is pursued most fully in ch. 7 below.
[34] Gladstone, 'Chapter of Autobiography', *Gleanings of Past Years*, vol. VII, John Murray, London, 1879, p. 150.
[35] Gascoigne, *The Enlightenment*, p. 32.
[36] *Herald*, 10 December 1856.

Catholics, it was noted that a Jewish minster had recently been granted a state stipend. Developing the theme, the speaker, albeit with limited cultural sensitivity, proceeded with a consistency typical of voluntaryists to point out that the Chinese had as much right to state support as anyone else:

> Would not the Chinese, who are rapidly becoming an important portion of the community, and who contribute considerably to the revenue be entitled on the same ground to claim aid for their peculiar religious views, and to squander the public money in the purchase of crackers, and other means of performing their ceremonies.[37]

Horror at Catholic endowment was not restricted to Anglicans and Presbyterians. Some colonial Nonconformists, the strong connection between Nonconformity and the liberal quest for full religious equality before the law notwithstanding, were equally appalled. An example close to Fairfax was the Rev. Lancelot Threlkeld. A remarkable individual, Threlkeld was arguably the most influential missionary to Aborigines in early nineteenth-century Australia and a founder of the science of social anthropology in Australia.[38] After working on behalf of the London Missionary Society with Aborigines from the mid-1820s near Lake Macquarie, Threlkeld was pastor of the South Head (Watson's Bay) Congregational Church 1842-1845 and then at the Sydney Chapel for Seaman. In addition to their Congregational connection, Threlkeld and Fairfax were close due to Threlkeld's daughter Tabitha marrying Fairfax's brother-in-law James Reading, another daughter Elizabeth marrying Fairfax's nephew and namesake John Fairfax, and yet another daughter, Mary, marrying fellow Congregationalist G. A. Lloyd.[39] Fairfax greatly admired Threlkeld as a missionary and ethnologist and wrote of him in a letter to Threlkeld's son, an auctioneer, in 1871: 'What a life of vigour and service for Christ was his. How we busy mercantile men shrink in comparison with such self-sacrifice and pious work and labour'.[40]

However, Threlkeld and Fairfax differed over the endowment of Catholicism. In a

[37] 'Abolition of Religious State Endowments', *Herald*, 4 July 1856. The speaker was a certain 'Dr. Aaron'.
[38] See J. Harris, 'Threlkeld, Lancelot Edward', *The Australian Dictionary of Evangelical Biography*, B. Dickey (ed.), Evangelical History Association, Sydney, 1994, pp. 371-372.
[39] Lloyd was a close friend of Fairfax who subsequently became a prominent supporter of Henry Parkes and Postmaster-General and Colonial Treasurer in the 1870s. In the early 1870s Fairfax wrote, 'G. A. Lloyd is the most go-ahead man in the [cabinet] Ministry'. Fairfax to son James, cited in J. F. Fairfax, *The Story of John Fairfax*, p. 160. Fairfax supervised Lloyd's affairs during one of several periods of financial distress. See J. Fairfax to S. A. Donaldson, 1856, Donaldson Papers. See also the *Minutes of the Proceedings of the Deacons of the Congregational Church, Pitt Street, Sydney* for 5 November 1866 which note Lloyd resigned as a deacon due to financial difficulties. The deacons (which included Fairfax and David Jones) expressed their 'sincere sympathy and unabated affection' for Lloyd, praying that 'the cloud under which he now moves may soon be removed by a gracious Providence'.
[40] Fairfax to L. E. Threlkeld jnr. Threlkeld, 27 January 1871. Threlkeld, Rev L. E. Papers 1817-1871.

letter to W. W. Burton,[41] Threlkeld lamented Bourke's Church Act, writing: 'we protest against the Pope as the Man of sin, and we pay the Pope's minions to promulgate what we call ... "Damnable doctrines"'.[42] Yet sensitive to his Nonconforming heritage, Threlkeld specifically pre-empted liberal objection by adding, 'there is a broad distinction betwixt allowing civil and religious liberty, and supporting and encouraging Apostacy'.[43] To Fairfax and the *Herald* this was an example of confounding unrelated principles. An appropriate (in its mind) dislike of Catholic teaching ought to be separated from the issue of the full citizenship and equality before the law of Catholics. In short, though voluntaryism was much to be preferred, if the state in its folly will endow churches then it must do so in equitable proportion to all who pay taxes.

The *Herald* responded to similar issues in the United Kingdom consistent with its stance on colonial matters. As a voluntaryist newspaper, it deplored the application of Church Rates, especially in Wales, Scotland and Ireland, where the Church of England was an obvious minority. As with Fairfax's *Leamington Chronicle*, it argued for the disestablishment of the Irish Protestant Church describing it as a 'monstrous Institution' which was 'doomed, not more by the opposition of the Irish people, than by its own utter absurdity'.[44] These views place the *Herald* alongside the liberal administrations of William Gladstone, who abolished Church rates in 1868 and managed the more controversial achievement of the disestablishing of the Protestant Church of Ireland in January 1871 (after extensive parliamentary debate and manoeuvring throughout 1869 and 1870).[45] It is interesting to note that (unsuccessful) opposition to disestablishment in Ireland focused on a proposal for

[41] Burton, Judge of the Supreme Court of NSW from 1832 and from 1858 president of the LC, was greatly interested in missionary endeavour to Aborigines.
[42] L. E. Threlkeld to W. W. Burton, 8 February, 1839 in *Australian Reminiscences and Papers of L. E. Threlkeld, Missionary to the Aborigines, 1824-1859*, vol. II, N. Gunson (ed.), Australian Institute of Aboriginal Studies, Canberra, 1974, p. 277.
[43] L. E. Threlkeld to W. W. Burton, 8 February, 1839. In *Australian Reminiscences and Papers of L. E. Threlkeld*, vol. II, p. 277. Later in the same letter Threlkeld questioned support for the Catholic Sisters of Charity on less esoteric grounds: 'to convert our lasses into nuns in a country where the complaint is, there are too few females already?' It is, however, interesting to note the *Herald* of 13 October 1859 suggested that the recently deceased Threlkeld spoke in the 'highest terms of the gentle labours of the Sisters of Charity' and 'asserted the civil rights of his Roman Catholic fellow citizens when they were by no means universally admitted'. Either Threlkeld's views changed over time or the *Herald* was in error.
[44] *Herald*, 31 July 1856.
[45] See D. W. Bebbington, *William Ewart Gladstone: Faith and Politics in Victorian Britain*, Eerdmans, Grand Rapids, 1993, pp. 146-150; J. Parry, 'Religion and the Collapse of Gladstone's First Government, 1870-1874', *The Historical Journal*, 25, 1 (1982), pp. 71-101; Nicholls, *Church and State in Britain since 1820*, Routledge and Kegan Paul, London, 1967, p. 67; H. C. G. Matthew, *Gladstone 1809-1874*, Oxford University Press, Oxford, 1986, pp. 68-73, 142-147, 191-193.; O. Chadwick, *The Victorian Church*, Part 2, A. & C. Black, London, 1966, pp. 427-438; D. L. Edwards, *Christian England*, vol. 3, Fount Paperbacks, London, 1984, pp. 219-230.

concurrent endowment along the lines of Bourke's NSW Church Act.

More strikingly, the *Herald* in the 1850s was also a friend of the highly controversial annual Maynooth grant, which had been greatly supplemented since 1845.[46] This is particularly significant. The *Herald's* owners and editor were not only convinced Protestants but voluntaryists, yet they supported the widely unpopular state sponsorship of a Catholic seminary! In Britain more than 10,000 petitions were raised opposing the grants, with 1,284,296 signatories. This included substantial objection from Dissenters who organised their own Anti-Maynooth Conference, which was required as Dissenting objection to the grant was premised on different principles, such as voluntaryism, to Anglicans.[47] Yet even allowing the force of voluntaryism behind Dissenting objection, it must also have been coloured by strong objection to Catholic teaching, as the colonial example of Lancelot Threlkeld illustrates so well. Regarding the grant, the *Herald* pointed out the 'grievance for which this sum is supposed to be a compensation is infinitely greater than the grant'.[48] Its support for the grant was built upon the same reasoning as its support for the co-endowment of Catholicism in NSW and its general sympathy for Ireland. The *Herald* claimed, 'unhappily, in England, the religious and political elements are intermingled' and noted it was 'notorious that all these questions are surrounded by interests and sympathies which make religion their pretext'.[49] In taking this stance the *Herald* went against the grain of much Dissenting feeling in Britain. From West and Fairfax's perspective, Dissenters who objected to the grant had let their Protestantism get the better of their liberalism.

Although many historians have failed to acknowledge the essential contribution of Nonconformity to liberalism, or have done so only in passing,[50] Nonconformists themselves were in no doubt as to their own status at the vanguard of liberalism. The boast of English Nonconformity regarding its contribution to liberal reform was noted when examining Fairfax's *Leamington Chronicle*. This confidence travelled well to Britain's colonies and

[46] *Herald*, 31 July 1856. Maynooth is a Catholic academy near Dublin founded in 1795. Upon the Act of Union of 1801 it received a modest grant from the British parliament in acknowledgement of the past confiscation of Catholic assets, which would have otherwise sustained it. This grant was increased nearly threefold (from £9,000 to £26,360) by Sir Robert Peel in 1845, amidst tremendous and ongoing controversy. K. Hoppen, *The Mid-Victorian Generation, 1846-1886*, Clarendon Press, Oxford, 1998, p. 443.

[47] See Hoppen, *The Mid-Victorian Generation*, pp. 443-444.

[48] *Herald*, 31 July 1856.

[49] *Herald*, 31 July 1856.

[50] See Larsen, *Friends of Religious Equality*, pp. 3-12. See also David Thomson, who suggests: Nonconformity 'comes off badly in the general text books'; Anglican historians lack knowledge or understanding of Nonconformity; secular historians have 'misunderstood and distorted it'; and Nonconformist historians wrote hagiography. David Thompson (ed.), *Nonconformity in the Nineteenth Century*, p. 15.

gained fine expression at the fiftieth jubilee celebrations of Congregationalism in Australia in 1883, where the Rev D. J. Hamer spoke of the history of Congregationalism. After noting the eventual victory of the 'Free Churches' against the Test and Corporations Act of 1828, Hamer continued:

> It should be noted that through all such struggles for civil liberty Independency has fought no selfish fight — our victories have always been for the common weal ... In the front of the fight against monopoly and injustice, for a broadening freedom our people have always been. They struck the yoke from the slave; they emancipated the Catholics; they destroyed the corn laws; and the taxes on knowledge. We have been foremost in making free England what she is today.[51]

A final point, relating more broadly to the connection between church and state, was the *Herald's* opposition in 1856 to a proposal to appoint denominational leaders to the (soon to be revamped) LC. In keeping with the *Leamington Chronicle's* demand for the removal of Bishops from the House of Lords, the *Herald* thought the presence of church leaders in an upper house of parliament inappropriate and expressed surprise that 'a much more liberal view' of the matter had not been proposed.[52] It pointed out that, as church appointed representatives, church leaders would not be acting 'for the benefit of the whole body of the people' and, to make matters worse, were 'antagonistic to each other'.[53] The latter point expresses a well-worn theme of the colonial *Herald*, that of debunking and warning against sectarianism. One prominent example was the way distaste for sectarianism emerged as a plank in the *Herald's* support for Parkes' plans for national education. This debunking of sectarianism was another expression of the *Herald's* heritage in liberal Nonconformity and its commitment to freedom of the conscience, themes well advanced in the editorial of 4 September 1866:

> Living as we do under all sorts of ecclesiastical systems we ought to cultivate a spirit of forebearance and toleration ... we cannot live in one community, except we resolve to suffer all persons to enjoy the most perfect liberty, so long as they commit no act of violence or incitement to a breach of the peace.

The stance of the *Herald* regarding church establishment and state-aid to churches is an expression of the political thinking of religious Nonconformity and underscores the need to

[51] *Jubilee of Congregationalism in Australia 1883*. Report of the Inter-Colonial Conference, Pitt Street, Sydney, p. 70.
[52] *Herald*, 3 May 1856. See also the *Herald*, 24 March 1856.
[53] *Herald*, 3 May 1856. Apparently the proposal was acted upon and denominational leaders were asked to accept nomination to the Council but all refused. *A Century of Journalism*, p. 191.

appreciate the religious context of nineteenth-century British and colonial society.

The *Herald* and Roman Catholicism

Despite its defence of Catholic endowment, the *Herald* has been accused of being 'anti-Catholic'.[54] Walker counters this by making an appropriate distinction between the *Herald* periodically criticising Catholic doctrine and its opposition to sectarianism and refusal to discriminate against Catholics.[55] Owned and edited by convinced Protestants, the *Herald* did not shrink from denouncing Roman Catholic doctrines. It was also wary of Catholicism for what it perceived to be an 'aggressive, exclusive, all monopolizing principle' within it.[56] But polemical discussion of religious belief is more illustrative of mid nineteenth-century society in general than it is of the *Herald* specifically. Theological and biblical debates were common in the press, and participation was feisty.[57]

Both more interesting and important than whether the *Herald* disputed the immaculate conception of Mary,[58] or denounced Roman Catholicism's (pre-Vatican II) claim of universal jurisdiction and non-recognition of other churches,[59] is the *Herald's* support of the civic rights of Roman Catholics. We have noted that, although against state support to churches in principle, the *Herald* expressed its essential liberalism in supporting the provision of state-aid to the Catholic church. The *Herald* was also proud of its support of the Catholic social reformer Caroline Chisholm. It rebuked those, like J. D. Lang, who accused Chisholm of 'insidiously labouring for the advancement of Popery' and expressed pride that it 'never partook of these suspicions' and had given 'her credit for the motives she professed'.[60] Chisholm was a welcome visitor to the *Herald* Office[61] and the *Herald* stated, 'if ever [a] woman deserved the names of Philanthropist and Patriot, they were deserved by CAROLINE

[54] For example, Michael Hogan, *The Sectarian Strand: Religion in Australian History*, Penguin, Ringwood, 1987, p. 109. Hogan suggests the *Herald* 'had a strong anti-Catholic bias in its reporting'.
[55] Walker, *The Newspaper Press*, pp. 81-82.
[56] *Herald*, 25 September 1841.
[57] For example, consider the amount of space the *Herald* of 15 and 28 March 1854 gave to a series of letters debating the meaning of the difficult 'millennium' text of Revelation Chapter 20. See also its depiction of contemporary Judaism in its editorial of 26 July 1841 (on this evidence the *Herald* could never be accused of anti-Semitism).
[58] *Herald*, 7 and 8 May 1855.
[59] *Herald*, 25 September 1841.
[60] *Herald*, 15 March 1854. On Lang see Kiddle, *Caroline Chisholm*, Melbourne University Press, Melbourne, 1969, pp. 49-54, 65-68, 93-95. Kiddle notes that once underway 'the press, particularly the *Sydney Herald*, rallied to her side and urged the public to support her' (p. 25). This was soon after Kemp and Fairfax assumed control of the *Herald*.
[61] J. F. Fairfax, *The Story*, p. 102.

CHISHOLM'.[62] In a related vein it defended the Sisters of Charity running St. Vincent's hospital, suggesting they were 'models of Christian patience and self-denial' and defended their right, if they had so chosen, to establish a hospital 'from which everything shall be excluded not strictly in harmony with the Roman Catholic system'.[63]

Two particularly notable actions by the *Herald* came in the 1860s. It promoted the rebuilding of St. Mary's Cathedral in 1863 after it had been destroyed by fire, rebuking those calling for Protestants not to support this. Even more significantly, the *Herald* played a prominent role in calming down bitter sectarian feeling in response to the assassination attempt on Prince Alfred by Henry O'Farrell, an Irish Catholic, in 1868. Dean McCarthy of St. Mary's Cathedral ventured so far as to suggest that in doing so John West 'had done more good for the country than what he had done for it on the anti-trasnportation question'.[64] When West died in 1873, the Irish Catholic *Freeman's Journal* was strong in praise of his work as *Herald* editor:

> Who does not remember the sadness that passed over our community when St Mary's Cathedral was on fire ... ? Before those stones were cold, John West's words of sympathy wafted through the land. Again, in the fury of excitement — when all the vials of public wrath were poured upon the fanatic O'Farrell — then it was John West [who] stood by and stayed the public fury and most probably bloodshed. There was no sectarianism in him.[65]

Fairfax had been in England during the fire and upon reading West's editorial wrote to son and fellow proprietor James Fairfax from London:

> Mr West's treatment ... has not only my cordial approval but most sincere thanks. It was manly and Christian and ... under the peculiar circumstances must be instructive and admonitory, both to Protestants and Catholics. I am glad the *Herald* was made to uphold truth and justice.[66]

Anti-sectarianism has been acknowledged as 'a central tenet of colonial liberalism' and that 'colonial liberals viewed sectarianism as a vice of the Old World which had no place in the new'.[67] The *Herald* was the exemplar of this expression of liberalism in NSW. Even before

[62] *Herald*, 15 March 1854.
[63] *Herald*, 6 June 1859.
[64] Cited in Ratcliff, *The Usefulness of John West*, p. 431. See also pp. 418-419.
[65] Cited in Ratcliff, *The Usefulness of John West*, p. 431. Hogan, *The Sectarian Strand*, p. 105 cites Protestant reaction in terms of its stress on the 'dangers of Fenian rebellion and papist domination'. Hogan makes no mention of the *Herald's* reaction, despite it being so highly regarded by Catholics at the time.
[66] Cited in Souter, *Company of Heralds*, p. 59.
[67] Mark Lyons, 'Sectarianism', *The Oxford Companion to Australian History*, G. Davison, J. Hirst, J. Macintyre (eds.), Oxford University Press, Melbourne, 1998, p. 578.

O'Farrell's assassination attempt, the *Herald* had warned the Irish not to introduce national grievances into colonial politics. On 10 March 1868 the *Herald* claimed the Irish 'subject themselves to a great deal of unnecessary hostility ... by making their career in Australia subordinate to the their past history... No class has so much to lose by the fanatical preservation of hereditary hatred'.[68] The *Herald's* response to the cathedral fire and the royal assassination attempt stands in stark contrast to the decidedly illiberal responses of colonial liberals such as J. D. Lang and Henry Parkes, who fuelled sectarian hysteria. The *Herald's* role in calming sectarian feeling after the assassination attempt has been widely acknowledged within Australian historiography.[69] Yet, perhaps due to the stereotyping of the *Herald* as conservative, and a defining of colonial liberalism in NSW which focuses on support for manhood suffrage and the Robertson land acts, the essential liberalism undergirding the *Herald's* antisectarianism has gone unacknowledged. This pattern is repeated in the response of most historians to the *Herald's* defence of the civil rights of Chinese workers after the Lambing Flat riots. The *Herald's* stance is admitted, even admired, but no ideological connection is made to liberal thought. Whatever other factors may have contributed to the response of the *Herald* to these issues, such as the wider Christian humanism suggested by Hirst,[70] the dominant reason was the mainstream British liberalism of Fairfax and West.

Fairfax and West also had a strong association with the distinguished Catholic layman J. H. Plunkett, which was reflected in the *Herald's* support of Plunkett.[71] Plunkett served as solicitor-general and attorney-general of New South Wales (for a time concurrently). He wrote Bourke's Church Act of 1836[72] and against the odds secured the prosecution of those responsible for the massacre of Aborigines at Myall Creek in 1838. Plunkett and Fairfax agreed on many social and political issues. They opposed transportation and sought responsible government and national schooling. Plunkett was more conservative than Fairfax in supporting Wentworth's push for an hereditary upper house in the early 1850s (Fairfax favoured nomination) but more radical in his support for manhood suffrage at the end of the

[68] Cited in Ward, *The State and the People*, D. Schreuder, B. Fletcher, R. Hutchison (eds.), The Federation Press, Sydney, 2001, p. 20. In general support for Ireland the *Herald* claimed: 'From the liberal spirit which animates colonial life, we have no doubt that the mass of the British population entirely sympathise with the moderate views of Irish reformers'. *Herald*, 17 May 1866.
[69] For example, see Ward, *The State and the People: Australian Federation and Nation-Making, 1870-1901*, pp. 4-5, 16-22, 30.
[70] Hirst, *Strange Birth*, p. 161.
[71] For example, for the *Herald* on Plunkett, see: 16 October 1855; 14, 25 January, 19 February 1856; 22 March, 10 August 1858; 6 and 14 June, 27 October 1859.
[72] Molony, *An Architect of Freedom*, pp. 23-24.

decade. The *Herald* regarded Plunkett highly, claiming he 'exercised important influence on general legislation, and ... every measure tending to equalise the social conditions and promote civil and religious liberty... has either been framed or supported by him'.[73] Plunkett biographer John Molony repeatedly emphasises the strong support Plunkett received from Fairfax, the *Herald*, and John West in particular.[74]

Especially interesting was the public support which Fairfax and Plunkett gave one another in their unsuccessful attempts to enter the LA in 1856. Fairfax nominated Plunkett and this, together with the *Herald's* support for his candidacy, was pilloried by some Protestants. Objection to Plunkett's 'Irishness' was met by Fairfax who claimed Plunkett had 'an Australian heart and soul'.[75] Fairfax also said he viewed Plunkett as a 'lover of liberty' and that in 'the present instance he put religion out of the question, and ... despised ... objection ... to Plunkett on that ground'.[76] This was an example of the criticism Fairfax had laid out in the *Chronicle* about 'drawing a wide line of demarcation between Irishmen and Englishmen, and between Protestant and Catholic, on points where no distinction ought to be made'.[77] To any knowledgeable and consistent liberal, it was a mistake to confound religious belief and citizenship. This was also seen in the *Herald's* rejection of J. D. Lang's various attempts to establish migration schemes for an exclusively Protestant yeomanry. Regarding a plan of Lang's for Moreton Bay, Cryle notes the *Herald* 'deplored the "principle of religious exclusiveness" on which Lang's scheme was based'.[78] However, Cryle does not place this position within its essential context: liberalism. The *Herald* further defended its support of Plunkett with liberal notions by saying the 'sword of bigotry is a two-edged sword, that if it strike at Roman Catholicism on the one side, it strikes at numerical weakness and freedom of conscience on the other'.[79] Although it came at the cost of being accused of 'indulging heresy' and 'betraying Protestantism', the *Herald* insisted we 'could imagine no greater curse to this country than the existence of a daily paper animated by a spirit of religious bigotry, declaring hostility against particular forms of religious belief'.[80] Similar to Fairfax's *Chronicle*, the

[73] Cited in T. L. Suttor, 'Plunkett, John Hubert (1802-1869)', *ADB*, vol. 2, p. 338. Similarly, the *Herald* editorial of 14 June 1859 emphasised Plunkett's 'twenty seven years [of] consistent advocacy of religious liberty' .
[74] Molony, *An Architect of Freedom*, pp. xi, 220-235, 242, 255-259, 265-266.
[75] Cited in Travers, *Grand Old Man*, p. 112.
[76] Cited in Souter, *Company of Heralds*, p. 49.
[77] *Chronicle*, 14 September 1837.
[78] Cryle, *The Press*, p. 28. A lucid and panoramic summary of Lang's thinking and contribution remains Hancock's, *Australia*, pp. 41-43.
[79] In Souter, *Company of Heralds*, p. 49.
[80] *Herald*, 24 March 1860.

Herald claimed that the purpose of a newspaper was to 'maintain the civil and religious rights of all, to watch and to resist every form of encroachment, whether intended or not, upon the great principles of religious liberty which should form the basis of modern legislation'.

Later in 1856, Plunkett nominated Fairfax in his by-election attempt against the Parkes-endorsed W. B. Dalley. Plunkett argued that, under the sole proprietorship of Fairfax, the *Herald* was the advocate of 'all necessary and progressive reform' and that Fairfax was the 'consistent advocate of liberal principles'.[81] Consistent with his claim that religious differences were irrelevant to public office, Fairfax in his contest with Dalley never attempted to gain political advantage out of his opponent's Catholicism. Somewhat ironically, Henry Parkes, although supporting the young Catholic Bede Dalley against Fairfax, had successfully played the 'Catholic card' against Plunkett earlier that year. Along with fellow jurist Roger Therry, Plunkett was the most prominent Catholic layman in the colony (1830s to the 1850s). It would have been surprising for him to have so publicly identified with Fairfax if Catholics had generally viewed the *Herald* as 'anti-Catholic' in a manner at odds with accepted parameters of religious debate and comment. [82]

The support given to Plunkett was matched by that offered to Charles Gavan Duffy. Duffy was an Irish Catholic who had been tried for sedition for his part in the nationalistic Young Ireland movement. After a brief stint in the House of Commons, Duffy emigrated to Australia and oversaw land reform in Victoria in 1862 before becoming premier (1871-72).[83] The *Herald* devoted a long editorial in response to Protestant critics of Duffy. In a John West antisectarian classic, the *Herald* admitted it 'is useless to disguise the fact that in the dregs of all denominations there is that intense bigotry and religious hate which have so often filled the world with desolation and blood'.[84] West then reminded his readers that Duffy's Irish radicalism had come in the context of horrific famine and suggested that in view of 'the graves of innumerable victims to misgovernment and faction of the past ... there should be an amnesty proclaimed for the future'. West added: 'Mankind owes to the rebels of their own epochs almost every blessing we now inherit'.[85] West then made a distinction between rebels with a true and great grievance and those in a place like Australia 'where no such grievances exist'. The latter deserved nothing but 'distrust and execration — for good government is an

[81] *Herald*, 30 December 1856.
[82] Suttor, 'Plunkett, John Hubert', *ADB*, p. 339.
[83] H. Doyle, 'Duffy, Charles Gavan', *The Oxford Companion to Australian History*, G. Davison, J. Hirst, J. Macintyre (eds.), Oxford University Press, Melbourne, 1998, p. 198.
[84] *Herald*, 12 May 1857.
[85] *Herald*, 12 May 1857.

ordinance of God'.

Fairfax and the *Herald* of his generation can only be described as 'anti-Catholic' in the sense that they occasionally highlighted a rejection of distinctive Catholic doctrine. However, in view of the *Herald's* unstinting support of the civil rights for Catholics, the general appellation of 'anti-Catholic' is inappropriate. Certainly the Orange *Protestant Standard* didn't think the *Herald* anti-Catholic, accusing it of 'Popish proclivities' in 1869.[86] It is also inappropriate in view of the *Herald's* sympathy for Ireland, a subject inseparable from Catholicism, as seen in its support for the disestablishment of the Protestant Church in Ireland, the Maynooth grant and its acknowledgement of 'the great O'Connell'.[87] It was also seen in other forms, such as support of university reform in Britain. Discussion in the mid-1860s included the removal of a declaration of faith in order to secure college fellowships or take a seat in the senate. Objection to this included the charge it was 'contrary to the will of the [college] founders'. The *Herald* met this by suggesting it was a 'convenient method of making the dead responsible for the bigotry of the living'. Furthermore, and in evident enjoyment of the irony, it pointed out that the 'founders' of these (pre-Reformation) colleges had been Catholics.[88] If anything, it is the sympathy of the *Herald* for Ireland and Catholicism under Fairfax and West which requires explanation, rather than any anti-Catholic feeling. The reason for this sympathy is, however, not hard to discern. West and Fairfax were part of a broad stream of Dissenting liberals whose support for the civic rights of Catholics was worn as a badge of liberalism. To their minds, the fact that they were convinced Protestants magnified, rather than diminished, this liberal pursuit of religious equality.

The Denominational and National Schooling Debate in the 1840s

Although we are focusing on the *Herald* under Fairfax's senior-proprietorship, an assessment of its views on education prior to this provides helpful background. The pre-Fairfax *Herald* supported Governor Bourke's Church Act but did not support Bourke's attempts to introduce National Schooling along the Irish model. This proposed the reading of Scripture in the classroom supplemented by weekly visits from clergy to instruct the children of their adherents.[89] The Irish model was roundly condemned on all sides, although many Protestants,

[86] *Protestant Standard*, 6 November 1869. Cited in Walker, *The Newspaper Press*, p. 148.
[87] *Herald*, 27 October 1855. A reference to Daniel O'Connell, so warmly praised and supported by Fairfax in his *Leamington Chronicle* in the mid 1830s.
[88] *Herald*, 20 June 1866.
[89] Souter, *Company of Heralds*, p. 22.

including J. D. Lang and unofficial *Herald* editor and Methodist minster Ralph Mansfield, later claimed to have been misinformed about it.[90] Bourke's successor, George Gipps, favoured what was termed the 'British and Foreign' system, which proposed state funding for a general Protestant strand of schools and a Catholic strand.[91] The *Herald* (of Kemp and Fairfax) opposed this, as did Anglican and Catholic clergy, but it received tepid support from Presbyterians and Dissenters.[92] Gipps was succeeded by Fitzroy in August 1846. In October 1846 the LC voted (again) for the introduction of national schools alongside denominational ones, a position opposed by the Anglican leader Bishop Broughton and the *Herald*. However, Broughton was under serious financial strain and agreed in May 1847 in return for financial concessions.[93] Fitzroy acted quickly with an announcement that funds would be allocated for the introduction of national schools.[94] The *Herald* maintained its opposition to the plan.[95] In January 1848 a twin-board model was established, with the National Board of Education and the Denominational Schools Board. This twin system lasted nearly twenty years until it was replaced by Henry Parkes' Council of Education in 1867.[96] Thus the position of the *Herald* in the 1840s generally paralleled the Anglican position and Foster fairly described the *Herald* of this period as a 'powerful supporter of Episcopalianism'.[97]

This avid support for Broughton on education begs the question of Fairfax's thinking at this time, all the more given his *Leamington Chronicle* had expressed sympathy for a plan

[90] On Lang see A. G. Austin (ed.), *Select Documents in Australian Education 1788-1900*, Sir Isaac Pitman & Sons Ltd, Melbourne, 1963, p. 56. Regarding Mansfield, see his comments at a public meeting in 1859 recorded in the *Herald*, 19 October 1859. Mansfield's role as unofficial editor of the *Herald* is touched on in ch. 1.

[91] A. Barcan, *Two Centuries of Education in New South Wales*, New South Wales University Press, Sydney, 1988, p. 43. For further discussion of the differing systems proposed for elementary education see: Nadel, *Colonial Culture*, pp. 185-213; A. G. Austin, *Australian Education 1788-1900: Church, State and Public Education in Colonial Australia*, second edition, Sir Isaac Pitman & Sons Ltd, Melbourne, 1965, pp. 33-48; Austin, *Select Documents in Australian Education 1788-1900*, pp. 36-100; J. F. Cleverley, 'Governor Bourke and the Introduction of the Irish National System', *Pioneers of Australian Education*, C Turney (ed.), Sydney University Press, Sydney, 1969, pp. 34-41; S. C. McCulloch, 'The Attempt to Establish a National System of Education in New South Wales, 1830-1850', *Pacific Historical Review*, vol. XVIII, February 1959, no. 1, pp. 19-37.

[92] Austin, *Australian Education*, pp. 42-43, Barcan, *Two Centuries*, pp. 44-47.

[93] See Barcan, *A History of Australian Education 1788-1900*, pp. 52-53 and Austin, *Select Documents in Australian Education*, pp. 39-40, 100.

[94] Barcan, *A History of Australian Education 1788-1900*, p. 53.

[95] *Herald*, 8 September 1847.

[96] For general discussion of education policy in the 1840s, see: Barrett, *That Better Country*, chaps. 6-10; Barcan, *Two Centuries*, chaps. 4 and 5; Austin, *Australian Education*, second edition, ch. 2.

[97] W. Foster, 'Education in New South Wales, 1838-1847', *Royal Australian Historical Society Journal*, vol. 49, part 4, December 1963, p. 289 (see also pp. 277, 285, 295). See also McCulloch, 'The Attempt to Establish a National System of Education in New South Wales, 1830-1850', p. 33.

along the Irish National model.[98] It is possible that Fairfax subsequently developed misgivings about the application of state finances to education. Due to their voluntaryism, most Nonconformists in Britain opposed state funding for education until the mid 1860s.[99] However, it is more likely that Fairfax simply gave way to partner Charles Kemp on this issue. Kemp was a leading Anglican layman with strong views on education and a strong affiliation with Bishop Broughton.[100] This is perhaps supported by Fairfax's claim in 1856 that once he had 'the entire control of the *Herald* in his own hands' there had been a 'gradual turning to liberal principles of a determined cast and progressive character'.[101] With education policy being the most striking change at the *Herald* after Kemp's departure,[102] it is reasonable to attribute the *Herald's* editorial policy on education in the 1840s to Kemp and not Fairfax.[103]

The Education Debate in the 1850s

In the 1850s the system of separate education boards administered the development of primary education in NSW. With responsible government in action since 1856 and the Electoral Act of 1858 (manhood suffrage, secret ballot) behind them, colonists were ready to enact new legislation. Although land reform was an even larger and more controversial matter, and took the limelight until the passing of the Robertson land bills (1861), there was nonetheless enormous debate during the late 1850s regarding education.

[98] *Chronicle*, 7 December 1837. This involved the public reading of scripture with supplementary religious instruction according to creed. The *Chronicle* claimed the 'Dissenter wished to have religious instruction imparted, but free from sectarian bias'.

[99] A position exacerbated by the decidedly Anglican-favouring, albeit ill-fated, proposal put forward in Sir James Graham's Factory Bill of 1843. See Larsen, *Friends of Religious Equality*, p. 138 and McCord, *British History*, pp. 178-179. It should, however, be added that this was not the uniform position of Nonconformists. For example, Robert Vaughan, editor of the prominent Dissenting journal the *British Quarterly Review* and a Congregational minister, was an early supporter of state funding for education in the mid-1840s. Ironically, Vaughan changed sides in 1861 only to find that within a year or two the mood within Dissent had changed quickly and decisively toward all that he had previously advocated. See Larsen, *Friends of Religious Equality*, p. 153.

[100] Barcan, *Two Centuries*, 51 notes Kemp's contribution to an 1844 Committee on education policy. See also: Souter, *Company of Heralds*, pp. 30-31; Walker, *The Newspaper Press*, p. 36; and Roe, *Quest*, p. 31 who generally notes of the *Herald* under Kemp, Fairfax and Mansfield that their 'journal was far more pro-Anglican than the sum of their own predilections'.

[101] Speech recorded in the *Herald*, 29 December 1856.

[102] See Walker, *The Newspaper Press*, p. 36; Souter, *Company of Heralds*, p. 59 who notes with reference to education the 'altered course' of the *Herald* after Kemp's departure and the arrival of Fairfax's fellow Congregationalist John West as editor; Barrett, *That Better Country*, pp. 67 and 113 which notes Kemp's support for Broughton; and R. Fogarty, *Catholic Education in Australia, 1806-1950*, vol. 1, Melbourne University Press, Melbourne, 1959, p. 160 which attributes the change in the *Herald* of the early 1840s to the 1860s to a 'strong Congregational influence'.

[103] This is not a wholly satisfactory conclusion and raises intriguing questions about the Kemp-Fairfax partnership. However, often a simple explanation is the more likely one and it is probable that Kemp was the more passionate on this issue and thus prevailed. In the absence of more evidence, including possible cases where Fairfax had had his way over Kemp, anything further is pure conjecture.

Various attempts to adapt the the twin board model (1857 by W. M. Manning) or replace them with a single Board of General Education (1857 by H. W. Parker and 1859 Charles Cowper) failed. Cowper's plan proposed an Executive Council, an advisory group appointed by the Governor, that would function as the (sole) Board of Education. Unfortunately for Cowper his bill attracted virtually no support and was opposed by the *Herald*. This was in part due to a belief that Cowper, a zealous exponent of the denominational system, would use the Executive Council to crush the national schools movement.[104] The *Herald* candidly remarked: 'The friends of the National Schools ... cannot trust a Board composed of Mr. COWPER and others holding similar prejudices. It would be madness to do so'.[105] On 18 October 1859 John Fairfax chaired a large public meeting on public education in response to Cowper's bill.[106] Most speakers preferred the idea of a single board but harangued against the obvious government control entailed in Cowper's scheme.[107] Pitt St. Congregational pastor William Cuthbertson said when he heard Cowper promised the 'introduction of a comprehensive educational measure' he 'thought the days of statesmanship were at hand'. But on reading the bill and seeing the Executive Council as the Board of Education, Cuthbertson claimed: 'All his hopes vanished immediately. It was like passing from a tropical district into a region of eternal snows'.[108]

There was also debate as to whether the national system was providing a satisfactory standard of Christian instruction. Ralph Mansfield defended the national schools on this score, as, in robust fashion, did the *Herald* which exclaimed: 'It is false, utterly false, to say that the National schools do not teach Christianity'.[109] The *Herald* also acknowledged that earlier attacks by itself and church leaders in the 1840s against Governor Bourke's proposal of the Irish model had been 'a fierce and certainly unjust denunciation ... because it represented that system as hostile to religion'.[110]

[104] Cowper was a former member and Chairman of the Denominational Schools Board who had derided the national schools as 'practically an infidel system' and thought the denominational system the 'best and only sound system'. See Molony, *An Architect of Freedom*, p. 207. For the *Herald's* response to Cowper's Education Bill and the debate at this time see the *Herald*, 30 September; 11, 27, 29 October 1859.
[105] *Herald*, 11 October 1859.
[106] The meeting is reported in full in the *Herald* of 19 October 1859 under the header 'Public Education'. Speakers, movers and seconders included the Rev's. A Salmon, Barzillai Quaife (Congregational then Presbyterian), James Voller (Baptist), Ralph Mansfield (Methodist), M'Skimming, and Congregationalists, Pitt St. pastor William Cuthbertson, Joseph Beasley (Fairfax's long-time friend), and William Slatyer. Others included Geoffrey Eagar MLC and Messers. Bardsley, Dunlop and John Lucas.
[107] James Voller claimed, 'The system as laid down in this measure of the Premier's could only result in a gigantic ironbound system of ecclesiastical domination'. *Herald*, 19 October 1859.
[108] Public Education. *Herald*, 19 October 1859.
[109] *Herald*, 11 October 1859. See also the *Herald* under editor Andrew Garran, 10 September 1875.
[110] *Herald*, 20 October 1859.

Argument in the period focused on the need for a single secular Education Board (i.e., government rather than denominationally controlled). Many in support of a single Board were animated by the thought of education being administered free of 'ecclesiastical influences' (the intent of the subsequent 1866 legislation).[111] In contrast, others, like Cowper, argued for a single secular Board in the belief such a board could be constructed to favour denominational schools over national schools.[112] Despite its subsequent strong support for a single Board in 1866, the *Herald* as late as 1863 still supported the twin Board policy.[113] This came at the expense of an abstract preference for a single Board clearly stated in 1859: 'We should be glad to see any plan by which there could be a united government of the schools'.[114] Furthermore, it decried the manner in which the twin board system advanced sectarianism and inefficiency:

> The rival sects establish hostile schools of inferior quality; they set up in the immediate vicinity of each other — one has a good master, another a good school-room; the commodious room is empty, while the popular master draws his students into a [cramped] place of physical torture.[115]

However, the *Herald* believed 'public feeling'[116] was too divided between denominational and national schooling to allow for a single board. The *Herald* feared 'endless quarrels and contests for supremacy' on a single board[117] and asked:

> How is it possible that systems so influenced by a spirit so antagonistic can be worked with anything like success or harmony under a single Board? How is it possible that the minority of that Board should effectually protect the interests of the less powerful sections of the community?[118]

Classic liberal concern for the protection of minorities is evident here, as is a concern for the maturation of public opinion. For a liberal of the sophistication of John West, being sure of principle and having the political power to implement it were not of themselves a sufficient basis for action. It might be sufficient for a conservative or a radical but liberals were

[111] As the *Herald* described it, 20 October 1859.
[112] *Herald*, 20 October 1859.
[113] Souter, *Company of Heralds*, p. 59.
[114] *Herald*, 20 October 1859.
[115] *Herald*, 16 May 1857. For other comment on education in the 1850s, see the *Herald*, 3, 22, 28 July 1856 and 16, 22 May 1857.
[116] The *Herald's* concern for public opinion is evident in most editorials on this topic. The editorial of 11 October 1859 uses the phrase 'public feeling' while the comprehensive editorial of 20 October 1859 discusses a variety of sincerely held opinion.
[117] The *Herald* in 1863, cited in Souter, *Company of Heralds*, p. 59.
[118] *Herald*, 20 October 1859. Similarly, William Cuthbertson said at the public meeting of 19 October he 'agreed with the [bill's] preamble that it would be desirable to vest the control in one Board; but he did not want to see the two systems in antagonism with each other'.

more patient, preferring, wherever possible, for public opinion to be strongly in support before reform was enacted.[119] And this is, in fact, precisely what occurred in NSW. Parkes' Education Bill, with its single board, came after legislation in Tasmania, Queensland and Victoria, by which time the momentum in its favour had become irresistible.[120] Consequently, although the *Herald* retained a purely pragmatic support of the twin boards in the late 1850s and early 1860s, the conceptual framework for the *Herald's* support of Parkes' educational reforms was firmly in place well before 1866.

Henry Parkes' Education Bill of 1866

The *Herald* was a strong supporter of Parkes' Public Schools Act (December 1866) and acknowledged this as a complete turnaround from its position of twenty years earlier.[121] Parkes' bill abolished the twin boards, replacing them with the Council of Education which oversaw the funding of all schools and supervised teacher training and placement.[122] Denominational schools could still receive state funding provided they accepted new regulations. These included: accepting children of other denominations; providing four hours of secular education a day; satisfying a new inspection regime; minimum enrolments; and provisos regarding their proximity to public schools.[123] West provided an accurate assessment of the intent and likely effects of the bill when writing:

> Mr. PARKES'S bill ... does not extinguish Denominational schools, but gives a preference to common schools wherever the unanimity of parents will allow of them, at the same time permitting separate schools wherever there is room for them, and wherever Denominational fervour is sufficiently urgent to insist on them.[124]

In support of the bill the *Herald* put forward the memorable view of Macaulay regarding state involvement in education, namely, that 'the right to teach goes with the right to hang'.[125] In the editorial of 24 September 1866 the *Herald* posed the question: 'Is the State to

[119] This characteristic of liberalism is discussed by J. S. McClelland, *A History of Western Political Thought*, Routledge, London, 1996, pp. 436-7 and is pursued more fully with respect to the *Herald* in chaps. 7 and 9 below.
[120] Barcan, *A History of Australian Education*, pp. 101-113.
[121] *Herald*, 11 October 1866.
[122] Barcan, *Two Centuries*, pp. 108-127; Martin, *Henry Parke*s, p. 225.
[123] See Austin, *Australian Education, 1788-1900*, p. 118; Barcan, *A History of Australian Education*, pp. 112-113; P. D. Davis, 'Bishop Barker and the Decline of Denominationalism', *Pioneers of Australian Education*, C Turney (ed.), Sydney University Press, Sydney, 1969, pp. 133-154; D. Morris, 'Henry Parkes -Publicist and Legislator', *Pioneers of Australian Education*; C Turney (ed.), Sydney University Press, Sydney, 1969, pp. 155-192; and C. Turney, William Wilkins — Australia's Kay-Shuttleworth, *Pioneers of Australian Education*, C Turney (ed.), Sydney University Press, Sydney, 1969, pp. 193-245.
[124] *Herald*, 24 September 1866.
[125] *Herald*, 27 September 1866.

educate the youth directly and through agencies established by itself, or ... through the agency of the separate Churches?'[126] In response it argued: 'Religious instruction is a part of clerical labour, but secular instruction is not'. It thought the Parkes Bill preserved the contribution of clergy in their appropriate sphere, religious instruction, and argued that to entrust secular education to clergy was anachronistic, given that 'literature and science are now mainly in the hands of the laity, and even theology is largely indebted to them'.[127] It also claimed that among 'the laity there is scarcely any disagreement'[128] over the bill and that the 'laity of all denominations are weary of ecclesiastical contentions'.[129] This was only a minor exaggeration, as the laity of the Anglican church along with the laity and clerical leadership of other Protestant denominations, were among the leading advocates of Parkes' Bill.[130] Some Catholics such as Plunkett, who served as Chairman of the National School Board 1848-1858, were in favour, but of all denominations the Catholics were the most opposed, their clergy vehemently so.[131]

The *Herald's* editorial coverage of the bill and the amendments required to secure its passage was extensive, dominating the editorial leaders and letters of September and October 1866.[132] The *Herald* argued at length on matters of principle and issues of practical and financial expediency. It argued the twin Board approach was inefficient and, as with state-aid to churches, encouraged an unhelpful sectarianism which promoted an inefficient use of resources and poor educational outcomes. With clear free-trade nuances applied, the *Herald* saw state-aid to schooling as having fostered a protected uncompetitive environment. It

[126] *Herald*, 24 September 1866.
[127] *Herald*, 24 September 1866.
[128] *Herald*, 20 September 1866. See also 26 September 1866.
[129] *Herald*, 24 October 1866.
[130] Evangelical clergy were more likely to support national schooling than non-Evangelical clergy, see: Austin, *Australian Education*, pp. 117-120 and K. C. Cable, 'The Church of England in New South Wales and its Policy towards Education prior to 1880', unpublished MA Thesis, University of Sydney, 1952. Davis, 'Bishop Barker and the Decline of Denominationalism', p. 143 stresses lay-Anglican opposition to the Bill while Cable, Austin and Barcan emphasise lay support. Piggin, *Evangelical Christianity in Australia*, pp. 31-32, emphasises the decisive contribution of lay evangelicals to state schooling. More generally on lay Christian support for national schooling, see Hirst, *Sense and Nonsense*, pp. 14-15.
[131]For discussion of the Roman Catholic perspective on education in the colonial period, see: Fogarty, *Catholic Education in Australia 1806-1950*, vol. 1, chaps. 2-6; T. L. Suttor, *Hierarchy and Democracy in Australia, 1788-1870*, Melbourne University Press, Melbourne, 1965, ch. 7; Naomi Turner comments a good deal about education in her *Sinews of Sectarian Warfare*; P. O'Farrell, *The Catholic Church and Community: An Australian History*, third edition, New South Wales University Press, Kensington, 1985, ch. 3; J. S. Gregory, *Church and State*, pp. 125-143, 174-188; Barcan, *Two Centuries*, p. 106; F. Clarke, *Australia: A Concise Political and Social History*, Harcourt & Brace Jovanovich, Sydney, 1992, pp. 148-150; J. Barrett, *That Better Country*, pp. 87-163; Davis, 'Bishop Barker and the Decline of Denominationalism', p. 144; and Austin, *Australian Education*, pp. 117-118. On Plunkett see Molony, *An Architect of Freedom*, pp. 251-60, 271-74.
[132] See the *Herald*: 22 August 1866; 6, 10, 12, 17, 20, 24, 26, 27 September 1866; 2, 4, 6, 11, 12, 15, 17, 20, 23-27 October 1866.

observed that 'in the matter of education ... the rivalry of two Boards has multiplied small schools in localities where one good school would be far more efficient'.[133] True to its Nonconformist roots the *Herald* freely criticised Anglican and Catholic clergy, stating that in the struggle to advance the need for general primary education the 'clergy of the two great Churches were, to say the least, not the friends of this struggling doctrine' and that, as a consequence, 'popular education is safer in the hands of statesmen than it is in the hands of the clergy'.[134] It also sustained arguments it had advanced in the 1850s regarding the need to greatly advance teaching as a profession.

An especially notable editorial appeared in the *Herald* of 11 October 1866. In it, the *Herald* deeply lamented the lack of sympathy of many involved in the instruction of children and the uncompetitive sectarianism promoted by state-aid. It called for the establishment of teaching as a profession. With stunning eloquence, the *Herald* asserted the public would no longer accept the *status quo* or maintain:

> a worthless rivalry which rarely rises to the dignity or force of competition. They will not permit a number of schools to stand side by side at the common expense, conducted by feeble masters, the *debris* of all professions ... These helpless, incompetent, distracted men, who know nothing of boyhood; who know none of the avenues to the mind of a child ... do as much, and no more, than is necessary to keep open their doors. These are the men who are invariably supplied by a system ... where they are instructed rather to watch against the straying of any sheep from a particular fold than to gather in carefully those who need instruction ... We ... shall never have good instructors until the functions of education constitute a profession, *and teachers are taught to teach*.[135]

Here West showed himself in tune with debate in Britain. The following year John Stuart Mill, in his inaugural address as Rector to the University of St. Andrews, remarked:

> A few practical reformers of school tuition, of whom Arnold was the most eminent, have made a beginning of amendment in many things: but reforms, worthy of the name, are always slow, and reform even of governments and churches is not so slow as that of

[133] *Herald*, 6 September 1866.

[134] *Herald*, 24 September 1866. For further on aspects of pedagogy and securing the best teaching and inspecting staff see B. Smith, 'William Wilkin's Saddle-bags: State Education and Local Control', *Family, School and State in Australian History*, M. R. Theobald and R. J. W. Selleck (eds), Allen & Unwin, Sydney, 1990, pp. 66-90; Davis, 'Bishop Barker and the Decline of Denominationalism', pp. 137-141; Barcan, *Two Centuries*, pp. 90-91, 106-114.

[135] *Herald*, 11 October 1866. Emphasis the *Herald's*. The antisectarian emphasis was a common theme in the *Herald*. Another fine example came in an editorial review of a Church of England report into schooling in Victoria, see the *Herald*, 16 May 1857. For discussion on education policy in Britain at that time, see the *Herald* 22, 28 July 1856; 22 May 1857. Other editorials also advanced the need for teaching to become professionalised, with training and much increased salaries. In 1859 it objected, 'Most trades require to be learned, but any one makes a schoolmaster' 30 September 1859. See also the *Herald*, 11, 20, 27 October 1859.

> schools, for there is the great preliminary difficulty of fashioning the instruments: of teaching the teachers.[136]

As in debate over the state support of churches, the *Herald* published editorials outlining the history of public and church education policy[137] and provided favourable anecdotal evidence and research from places where policies similar to the Parkes' Bill had been implemented.[138]

The strategic nature of the *Herald's* role in the success of Parkes' legislation, and the sincerity of Fairfax's personal support for it, was seen in Fairfax's appointment in 1871 to the five member Council of Education. The significance of Fairfax's presence is highlighted by a letter of J. A. Cunneen to Henry Parkes in 1873, where Cunneen notes the 'opposition congratulate themselves on Mr. Fairfax leaving the Council of Education'.[139] Parkes' earlier suggestion that Fairfax stand for a lower house seat in 1869 and his appointment of Fairfax to the LC in 1874 also bears witness to the support of Fairfax and the *Herald* to Parkes' education policy.

In addition to the *Herald*, Fairfax's correspondence with Henry Parkes reveals both how strongly he felt about education policy and how close he was to the machinations of political power in the colony. Two months before refusing Parkes' suggestion that he stand as a LA candidate, Fairfax wrote to Parkes 'I hope the time is not distant when Government schools will be purely secular'.[140] Souter claims that Fairfax and his mercantile set were not as influential politically as they were commercially.[141] This was especially true in the first five years of responsible government leading up to the Robertson land acts in 1861. In that period the *Herald's* preferred candidates for election to the LA were frequently rebuffed at the polls. But Fairfax and the mercantile liberals were not completely without influence. Certainly by the mid-1860s Fairfax's brand of liberalism was more in vogue. It is also likely Souter was unaware Premier Donaldson offered Fairfax a place in the first LC of responsible government and sought Fairfax's opinion of its composition.[142]

But correspondence reveals the more informal political influence men like Fairfax had

[136] J. S. Mill, 'Inaugural Address Delivered to the University of St. Andrews Feb. 1st 1867', Second edition, London, 1867, pp. 14-15.
[137] For example, *Herald* 27 September 1866.
[138] *Herald*: United States, 12 September 1866; California, 17 September 1866; Upper Canada, 2 October 1866; Various European and Canadian, 27 September, 11, 26 October 1866.
[139] J. A. Cunneen to Parkes, 7 January 1873. *Parkes Correspondence*, vol. 50, p. 476. We do not know why Fairfax retired from the Council. However, it may have been due to the heavy workload placed on Council members at a time when so many new schools were being built.
[140] Fairfax to Parkes, 11 September 1869. Parkes Correspondence, vol. 14. See also the *Herald*, 22 August 1866.
[141] Souter, *Company of Heralds*, p. 48.
[142] As discussed under primary sources in the Literature Review above.

in the colony. In a revealing letter, Fairfax wrote to Parkes on 6 October 1868:

> I beg to return Mr. Duncan's letters ... Poor fellow, he is evidently smarting under the treatment of Mr Martin as well as Eagers. Allow me to say that you can do nothing to conciliate the Irish. Consistent perseverance in your manly course on the Educational question will in time beat down all opposition. As to your position, from all I hear, from both sides of the house, you cannot be long out of office, and the next will be the highest. I am told that Martin means to go home shortly. I don't think this is mere rumour.[143]

This letter is of unusual significance for two reasons. Firstly, it is notable that Fairfax was intimately aware of the Duncan/Eagers dispute. Eagers was treasurer in the Martin-Parkes ministry elected in 1866 while Duncan was the collector of customs.[144] After a dispute, Duncan was forced to resign. Martin backed Eagers and Parkes used his sympathy for Duncan to justify a strategic decision to pull out of his coalition with Martin.[145] It is remarkable that Parkes passed on to Fairfax personal correspondence from Duncan outlining Duncan's feelings and actions during the dispute. Perhaps Parkes did so hoping that his decision to quit the coalition with Martin might be sympathetically portrayed by the *Herald*. But in view of the personal nature of their correspondence and Fairfax's political support for Parkes, seen in his barely disguised hope for Parkes to become premier, it is likely Fairfax was a trusted confidant of Parkes. It was soon after this, in November 1869, that Fairfax rejected Parkes' invitation to stand as the candidate for East Sydney, although he assured Parkes that 'my views would generally be with your party'.[146] Secondly, the letter shows Fairfax's frank and personal encouragement of Parkes to 'consistent perseverance' in the ongoing push for a coherent and well funded approach to public schooling.

National Schooling in the 1870s

In the early 1870s the push began to end all government funding of denominational schools. This was an extension of the state-aid to churches debate and reflected growing disquiet and impatience with several aspects of church schooling. This included irritation at the way denominational school funds could be used to advance local sectarian ambitions, as with a

[143] Fairfax to Parkes, 6 October 1868. Parkes Correspondence, vol. 52, pp. 145-146.
[144] For example, see Parkes to Eagers, 27 August 1868. Parkes Correspondence, vol. 1, p. 325.
[145] For an account of the problems between Duncan and Eagers, see: Loveday and Martin, *Parliament Factions and Parties*, pp. 69-71; Martin, *Henry Parkes*, p. 245; D. Day, *Smugglers and Sailors: The Customs History of Australia 1788-1901*, Australian Government Publishing Service, Canberra, 1992, pp. 396-400; and most recently and comprehensively, Hilary Golder, *Politics, Patronage and Public Works*, *Volume 1: 1842-1900*, UNSW Press, Sydney, 2005, pp. 166-168.
[146] Fairfax to Parkes, 24 November 1869. Parkes Correspondence, vol. 13, p. 409.

schoolroom being used for church meetings. It also reflected anti-Catholic feeling after the assassination attempt on Prince Alfred in 1868.[147]

The *Herald* played a lead role in promoting the further development of national schooling in this period. Its most prominent contribution came through publishing a series of lead articles by prominent Baptist minister and controversial education campaigner James Greenwood. Indeed, Greenwood was employed by the *Herald* from July 1876 until the elections of October 1877.[148] Greenwood was the dominant figure behind the Public School League, which had been formed at a meeting held in the Pitt Street Congregational schoolroom in 1874.[149] It was Greenwood's League which led the push for the (subsequently) famous description of a schooling system which was 'national, free, secular, and compulsory'. The League also campaigned for the end of all funding to denominational schools. At the time, the term 'secular' meant to be free of sectarian or denominational control rather than free of religious instruction (which was amply provided for in the Education Acts of 1866 and 1880).[150] Christians, most of them evangelicals, were so dominant in the League and in general support for national schooling that historian of Australian evangelical Christianity, Stuart Piggin, has described public schooling as 'arguably evangelicalism's greatest achievement in the realm of social engineering'.[151] J. C. Kirby, a young Congregational minister who had been mentored by Fairfax, was a member of the League's Executive Committee and travelled throughout NSW championing Public schools.[152]

The League was considered by many to be overly radical and progressive; even Henry Parkes feared it was ahead of public opinion.[153] Indeed, at this time Parkes was in an odd alliance with the Catholic church, as he needed Catholic votes, and in 1875 led opposition to proposals in the LA to remove state funding of denominational schools.[154] However, any view of the League as being ahead of public opinion was demolished in the elections of 1877, when Greenwood campaigned as a League activist and ousted Parkes from the seat of East Sydney.

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[147] Barcan, *A History of Australian Education*, pp. 137-139.
[148] Walker, 'Andrew Garran', p. 393.
[149] A point noted in passing by E. S. Kiek, *An Apostle in Australia: The Life and Reminisciences of Joseph Coles Kirby*, Independent Press LTD, London, 1927, p. 108.
[150] See Barcan, *Two Centuries*, pp. 123-125; Austin, *Australian Education*, pp. 187ff; D. Morris, 'Henry Parkes — Publicist and Legislator', pp. 178-180; Martin, *Henry Parkes*, p. 306; and Kiek, *An Apostle in Australia,* p. 108.
[151] Piggin, *Evangelical Christianity in Australia*, pp. 32-33.
[152] Kiek, *An Apostle in Australia*, pp. 111-112.
[153] Kiek, *An Apostle in Australia*, pp. 111-112.
[154] J. Burnswoods and J. Fletcher, *Sydney and the Bush: A Pictorial History of Education in New South Wales*, NSW Department of Education, Sydney, 1980, p. 89.

The staggered nature of polling allowed Parkes to gain nomination and election for the seat of Canterbury and remain in parliament.[155] By the end of the decade Parkes supported the League position, which gained expression in the Public Instruction Act of 1880, which, among other things, ended state-aid to denominational schooling.

Despite its employment and promotion of Greenwood, the *Herald,* in its editorial position, took a more gradualist approach to the ending of state-aid to denominational schools than Greenwood and the League.[156] It argued for the funding of denominational schools to be restricted but not abolished.[157] It did, however, support the Public Instruction Act in 1880 abolishing state-aid to church schools. The most likely explanation for this is that, in principle, the *Herald* supported the position of the Public Schools League in 1876-77. Without this it is difficult to explain its employment of Greenwood and its mass promotion of the League. However, it is possible the *Herald* shared Parkes' opinion in the mid-1870s that the League was ahead of public opinion, a concern dispelled by the October 1877 election results. Tied as the subject of education was to intense religious feeling, the *Herald* would have been just as concerned for 'public feeling' in the 1870s as it had been in the 1850s.[158]

The *Herald* and proposed Temperance and Sabbath legislation

In addition to church/state relations and national education, it is difficult to list Fairfax and the *Herald* among colonial conservative ranks on the issue of temperance.[159] Then, as now, substance abuse was devastating in its effects and a major health issue. Due to the high incidence of drunkenness in public places and alcohol related crime and health problems, temperance was a major issue in colonial society. With one quarter of deaths and eighty percent of crime considered alcohol related,[160] the *Herald* claimed 'intemperance fills our gaols, our hospitals, and our poor-houses'[161] and emphasised the value of reducing the abuse of alcohol.

As the term 'temperance' itself suggests, early temperance groups sought moderation,

[155] Kiek, *An Apostle in Australia*, p. 111-112.
[156] See Walker, 'Andrew Garran', p. 393.
[157] Walker, 'Andrew Garran', p. 393.
[158] *Herald*, 11 October 1859.
[159] For general commentary on Temperance, note: Gascoigne, *The Enlightenment*, p. 116; Roe, *Quest*, pp. 165-174, 187-190; Kociumbas, *Possessions 1770-1860*, pp. 219-222 who highlights the leadership of women in Temperance societies; Barrett, *That Better Country*, pp. 182-183; and B. H. Fletcher, 'Christianity and free society in New South Wales 1788-1840, *JRAHS*, vol. 86, Part 2, December 2000, p. 101.
[160] J. F. Fairfax, *The Story*, p. 80.
[161] *Herald*, 10 March 1854.

or temperate consumption, rather than teetotalism. They hoped, in particular, to limit the consumption of spirits, or 'strong drink' as the *Herald* referred to it. However, advocates of total abstinence or teetotalism soon became vocal, particularly among Protestants.[162] The *Herald* supported the ultimate aim of all temperance societies, which was to rid the colony of its most pressing social and health dilemma: alcoholism. Yet the *Herald* maintained its moderate temperance stance and was particularly insistent that any improvement would not be achieved by legislation and law enforcement unless it had overwhelming community support.[163]

By private custom the Fairfax family consumed wine at meal times, although this was not the basis of the *Herald's* war against the *Total Abstinence Society* of the Rev. T Adam.[164] In 1841, the *Herald* published a series of articles directly opposing the Society and its push to enforce compulsory abstinence. The *Herald* reasoned:

> so long as the vast majority of the people are wedded to any particular article of daily consumption, the legislature can no more stop the supply of that article, than it can stop the people from shutting their eyes when sleepy.[165]

The *Herald* challenged those calling for compulsory abstinence to consider seriously whether the 'Council will be imbecile enough to pass a law for a compulsory change in the national taste?'[166] Indeed the *Herald's* July 1841 campaign against compulsory temperance was so withering it felt obliged to apologise if their 'exposure of this error was more sarcastic than ... called for'.[167]

The *Herald's* campaign against compulsory abstinence was consistent with the reasoning of the *Temperance Advocate* which Fairfax edited until September 1841. The *Advocate* stated 'we have no expectation of producing moral reform, except ... by moral means'.[168] Similar to its stance on education policy, the *Herald's* view on temperance also

[162] An address by Chief Justice Sir Alfred Stephen in 1857, to a joint gathering of moderation and teetotaller temperance groups regarding the possible erection of a new Temperance Hall, is recorded in the *Herald* of 2 May 1857. A subsequent *Herald* editorial of 5 May 1857 highlighted the obvious difficulty of traditional temperance people like Stephen working with the newer teetotaller advocates.
[163] Regarding the Maine Anti-Liquor laws, which prohibited the sale but not the manufacture of liquors, the *Herald* said 'the enactment of such a law can never take place, still less ... [be] ... carried out, until its principle be approved, and approved cordially, by the great majority of the people ... before such a law can exist and be carried out, the bulk of the community must have become staunch Teetotallers' *Herald* 4 March 1854. For discussion of the contrast between total abstinence societies and temperance groups see the *Herald*, 5 May 1857.
[164] Souter, *Company of Heralds*, p. 47.
[165] *Herald*, 6 July 1841. See also the *Herald*, 16 April 1841.
[166] *Herald*, 8 July 1841.
[167] *Herald*, 20 July 1841.
[168] *The Temperance Advocate and Australasian Commercial and Agricultural Intelligencer*, 21 October 1840, no. 3, vol. 1, p. 2.

expressed a liberal instinct regarding public opinion. In 1854 the *Herald* claimed: 'In the present state of public opinion, a coercive Liquor Law would ... be a dead letter' and those advocating legislation first needed to 'enlighten, persuade, [and] convince the masses of the community'.[169]

One final perspective of Fairfax and the *Herald* should not be overlooked. They observed that the drunkard was not only failing himself but his unspoken concord with society, not the least of which was economic. The ever mercantile-minded *Herald* went on to suggest: 'Five hundred teetotallers are ... worth a thousand drunkards, viewed merely in the light of industrial capability'.[170]

When the subject of temperance was revived in the mid-1850s and early 1870s, the *Herald's* stance was unchanged. It stated in 1856: 'In our opinion, society would gain nothing by any violent crusade against drunkenness ... The example of America has not yet afforded much encouragement to those who propose the extinction of intoxication by *main* force'.[171] The *Herald's* contribution to colonial debate regarding temperance showed a consistent espousal of liberal principles. Self-regulation through encouragement, education and persuasion, were the only practicable means consistent with civil liberty by which intemperance could be overcome. The *Herald* even aided the educational cause, advising its readers against the 'unnatural habit of tippling between meals'.[172]

Sabbath Observance

The position of the *Herald* on Sabbath observance is similar to its views on temperance. It valued the ideal of the Sabbath as necessary for physical and spiritual rest and well being but insisted this ought only be promoted by enlightenment, education and persuasion. It eloquently opposed legislation enforcing the Sabbath proposed by the *Sabbath-Observance Report* of 1841. The *Report* recommended the punishment by law for any act performed on the Sabbath 'with a view to profit'. The *Herald* highlighted the quagmire of defining 'profit', asking, do not the 'cooks who prepare the Sunday banquets of our gentry... do so "with a

[169] *Herald*, 10 March 1854.
[170] *Herald*, 10 March 1854. The other economic aspect the *Herald* highlighted in response to the proposal to enforce total abstinence was that 52 percent of state revenue came from the taxation of alcohol. *Herald* 4 March 1854.
[171] *Herald*, 29 March 1856. Emphasis the *Herald's*. The same editorial also suggested: 'While we entertain the most respectful sense of the labours of teetotallers, our chief hope of the extinction of drunkenness is in the growing intelligence and purer taste of society. If working men can once be induced to aspire to the possession of property they will certainly forsake the haunts of dissipation'.
[172] *Herald*, 20 February 1854.

view to profit?"'[173] But the *Herald* probed more deeply than the simple impracticability of such proposals. In a devastating critique, the *Herald* isolated the Christian element within society from the remainder, naming the main denominations. It then briefly noted subsets within these denominations and the different views each held on the Sabbath, asking: 'what power on earth could compel these eccentric bodies to move in any one prescribed orbit. By what stretch of legislative ingenuity could their opinions be consolidated ... ?'[174] Civil legislation could not even be formulated to represent the Christian community let alone to satisfy the colony as a whole.

In the debate over both temperance and Sabbath observance, it must be emphasised that the most cutting and persistent opposition to calls for legislation came from the *Herald*. Roe says of the proposed Temperance legislation that 'criticism found clearest expression in the *Herald* ... [which] ... treated Adam and his abstainers in much the same fashion as Lang and his democrats'.[175] This is a most revealing statement, for indeed the *Herald* renounced precisely what one would expect a mainstream liberal journal to renounce in the 1840s and early 1850s. A rejection of legislation to enforce personal morality and, likewise, a scathing dismissal of the republican and democratic ideology of J. D. Lang. Roe also identifies the *Herald's* response to the temperance issue as an economically liberal one, in suggesting the '*Herald* had no doubt that the principles of Adam Smith were right in this matter, and the prohibitionists wrong'.[176] Fairfax, Kemp and West practised temperance (i.e., moderation) and observed the Sabbath as they understood it. They accepted the rationale behind them, appreciated their value and saw them as stemming from a higher authority. However, they saw as impracticable and immoral the attempt to implement them by force. The only way to bring about proper and lasting social change, reasoned the *Herald,* was 'the more laborious but safer path of persuasion'.[177]

It is likely that in embryonic fashion, the *Herald's* emphasis on voluntaryism and freedom of conscience contributed to the emerging Australian ethos of wariness of enforced moral codes and censorship. The *Herald* told its readers: 'the days of parliamentary preachment have long since passed away ... Penal laws may make hypocrites in abundance,

[173] *Herald*, 21 August 1841.
[174] *Herald*, 21 August 1841. See also the comments of the *Herald* of 23 October 1855 in response to popular outcry against the performance of work by government railway workers on the Sabbath.
[175] Roe, *Quest*, p. 173.
[176] Roe, *Quest*, p. 174.
[177] *Herald*, 23 October 1855.

but they never did and never will make good Christians'.[178] It depicted the *Sabbath-Observance Report* as: advocating 'summary jurisdiction with a vengeance'; for a 'magistrate to sit in judgement upon men's consciences'; and that this would revive the 'old barbarous doctrine of persecution for conscience sake ... the age of racks and thumbscrews, of fire and faggot'.[179]

Such views reflected fears of Erastianism, common not only to religious independents like Fairfax, but other Christians, as seen by the Oxford Movement of the 1830s and 1840s.[180] For the *Herald*, church and state had their proper spheres and it was not for the state to attempt to interpret, let alone enforce, spiritual truth. This was seen in the *Herald's* strong support for the non-sectarian establishment of the University of Sydney and the absence of a religious test.[181] On Sabbath observance the *Herald* exhorted that legislators had 'better let it alone. The Church of CHRIST is the best, the *only* competent conservator of the spirituality of the Lord's day'.[182] Yet real as this anti-Erastian concern was, it was secondary in emphasis to the *Herald's* liberal commitment to individual freedom.

Drawing on Timothy Larsen's groundbreaking study of Nonconformity we can contextualise the *Herald's* rebuttal of proposed legislation to enforce Temperance or Sabbath observance as consistent with the mainstream political expression of mid nineteenth-century British Nonconformity. In 1855, Edward Miall's newspaper the *Nonconformist* argued the 'trade in alcoholic liquors should be free as the trade in bread'.[183] Later it argued against proposed Sabbath legislation urging it was a 'matter of individual preference, not of State command'.[184] Another Dissenting journal, the *Eclectic Review*, claimed proposed Sabbath legislation in 1847 promoted the 'worst forms of tyranny', adding:

> ...the whole system from which this legislation proceeds, is evil. We regard it with undisguised suspicion and dislike, as an attempt to appropriate the prerogatives of the Holy One, and overrule the dictates of conscience towards God.[185]

Of particular interest is a citation from J. A. James, a prominent Congregational minister in

[178] *Herald*, 21 August, 1841.
[179] *Herald*, 21 August, 1841.
[180] For a brief account of the Oxford Movement and its concerns about government interference in the affairs of the church see: 'Oxford Movement', *The Oxford Dictionary of the Christian Church*, F. L. Cross (ed.), London, 1958, pp. 1001-1002.
[181] See the *Herald*, 24 January 1856 and 18 May 1858.
[182] *Herald*, 21 August 1841. Emphasis the *Herald's*.
[183] Larsen, *Friends of Religious Equality*, p. 179.
[184] Cited in Larsen, *Friends of Religious Equality*, p. 201.
[185] Cited in Larsen, *Friends of Religious Equality*, p. 192.

England and a friend of Fairfax's.[186] In 1848 James published a book called *The Sabbath* in which he claimed: 'Men cannot be made pious by Acts of Parliament, nor compelled by statute to worship God'.[187] James' personal commitment to Sabbath observance was unquestionable; indeed he believed the nation would be judged harshly if it failed to observe the Sabbath. But true to the Nonconformist emphasis on the liberty of the conscience, shaped by two centuries of grievances, James would not condone legislation.[188]

This stood in stark contrast, increasingly so throughout the nineteenth-century, to the approach of other Evangelicals. For example, Larsen argues that Wesleyans were 'the most zealous for legislation', as they combined a Nonconformist zeal for personal practice with 'the legislative zeal of a churchman'.[189] Yet as the century progressed even Congregationalists increasingly left their liberalism behind. Indeed it is likely that the study of nineteenth-century evangelical Christianity mirrors the wider pattern of decline in commitment to the classical-liberal tenet of the liberty of the conscience from state control. David Hempton has argued: 'By the end of the century ... many Nonconformists had lost confidence in evangelical individualism' and turned to the state to enforce principles regarding 'alcohol, sexual ethics and gambling'.[190] Larsen agrees and claims that the caricature of Nonconformists as 'legislative kill-joys' is more relevant to late-Victorian Nonconformity but has been 'projected backwards ... to haunt' the study of mid nineteenth-century Nonconformity.[191] These trends were seen in colonial temperance groups, with Fairfax's generation of temperance supporters, who sought moderate consumption, overwhelmed by a younger generation by teetotallers.[192] Larsen also contends that historians have failed to understand that Nonconformity promoted and defended the liberty of the conscience out of a strong commitment to principle rather than some other situational or pragmatic motivation.[193] However, leaders of the Lord's Day Observance Society in Britain, formed in 1831, knew better, making Nonconformists ineligible

[186] It was in the company of James that Fairfax overheard James' use the expression of being 'busy for both worlds', which Fairfax loved and used often. See J. F. Fairfax, *The Story of John Fairfax*, p. 21.
[187] Cited in Larsen, *Friends of Religious Equality*, p. 202.
[188] Larsen, *Friends of Religious Equality*, p. 205.
[189] Larsen, *Friends of Religious Equality*, p. 190.
[190] Hempton, *Religion and Political Culture*, p. 169.
[191] Larsen, *Friends of Religious Equality*, p. 171.
[192] The matter even came to a head at the Pitt Street Congregational Church. Henry Brougham Lee and J. C. Kirby formed a teetotaller 'Band of Hope Union' and hoped to use of church facilities. However, as Kiek notes, Fairfax, David Jones and their fellow deacons 'looked askance at teetotalism' to whom it was 'almost as bad as Socianism or Arminianism'. Kiek, *An Apostle in Australia*, p. 53. Kiek's claims are corroborated by the *Minutes of the Proceedings of the Deacons of the Congregational Church, Pitt Street, Sydney* which for 4 April 1864 note that a request to use the School room by a formation of the 'band of hope' was rejected.
[193] Larsen provides several striking examples in his *Friends of Religious Equality*, pp. 1-7, 204-205.

for membership of their leadership committee.[194]

Conclusion

The *Herald's* views on church establishment, state-aid to churches, national schooling (from the 1850s), Roman Catholicism, and proposed temperance and Sabbath observance legislation, were consistent with the Dissenting liberal origins of John Fairfax and John West. With the exception of the *Herald's* approach to education policy in the 1840s, these social policies offer no evidence of the ideological conservatism which much colonial historiography attributes to the *Herald*. The *Herald* was an advocate of church disestablishment throughout the United Kingdom and supported the Maynooth grant. Regarding NSW, it was a strident critic of proposed colonial temperance and Sabbath observance legislation, promoted the end of state support of churches, supported the absence of a religious test for the University of Sydney, supported the abolition of the Denominational Schools Board in 1866, opposed the appointment of denominational leaders to the LC, and was the primary literary and promotional vehicle of James Greenwood's campaign to implement 'national, free, secular, and compulsory' schooling. If this was conservatism, it was a very strange expression of it.

[194] Larsen, *Friends of Religious Equality*, p. 189.

Chapter 4. The *Sydney Morning Herald*, Free Trade and Intercolonial Union.

Introduction

Living post-federation obscures the fact that the study of mid nineteenth-century colonial Australia is the study of infant nations whose federation was by no means inevitable. From the vantage point of the 1860s, the widely used terms 'Australia' and 'Australian' could have remained geographical or wider-cultural terms, such as 'Europe' and 'European'. Instead, they went on to also become terms of nation and citizenship. One of the finest exponents of proto-federation thought was John West. And the *Herald*, before, during and after West's time as editor, can rightly claim to have been among the most compelling and consistent contributors to the momentum toward federation.

Federation involved accepting or overcoming differences. One of the great divides between the two most populated colonies, NSW and Victoria, concerned free trade. NSW was committed to free trade, Victoria to protection: both passionately so. This chapter examines the *Herald* in the light of both free trade and the impulse for greater unity between the colonies. This is not a straightforward task as the place of free trade within colonial politics, and colonial liberalism in particular, is a point of conjecture. For example, Stuart Macintyre in a study of David Syme, proprietor of the colonial Melbourne *Age* newspaper and advocate of protection, insists that not only ought protectionism be admitted within the rubric of colonial liberalism, it ought to be identified and showcased as a leading principle of colonial liberalism (in Victoria at least).[1] In contrast, Gregory Melleuish, with equal vigour, rejects the liberal credentials of Victorian protectionists such as David Syme.[2]

This debate is made difficult by tensions within nineteenth-century liberalism itself, which allows protectionism in Victoria to be portrayed in different ways. Was it an incipient expression of the new or social liberalism of the late nineteenth-century, with its appetite for government intervention? Alternatively, was it some sort of creative, colonial adaptation of liberalism? Or, was it a contra-liberal development, which revealed a colonial political class in debt to mercantilism and populism? These represent stark differences of interpretation

[1] Macintyre *A Colonial Liberalism*, pp. 4-12, 88-107, 198. In a subsequent work, Macintyre presents Syme as 'the most advanced in his liberalism' of all of the colonial newspaper proprietors. See S. Macintyre, *A Concise History of Australia*, Cambridge University Press, Cambridge, 1999, p. 118.

[2] Melleuish, 'Australian Liberalism', *Liberalism and the Australian Federation*, J. R. Nethercote (ed.), The Federation Press, Sydney, 2001, pp. 28-34. See also Melleuish, *A Short History of Australian Liberalism*, pp. v-viii, 1-25 and Melleuish and I. Salusinszky, 'A Broad but Not Infinite Church: The Meanings of Liberalism', *Policy*, vol. 20, no. 2, Winter 2004, pp. 39-41.

regarding the place of protective tariffs within colonial politics and society. Given that the *Sydney Morning Herald* was the leading free trade journal of colonial Australia, this debate is of great importance to our understanding of the colonial *Herald*. The issue is made even more pointed by the fact that the period of (this thesis's) enquiry includes both the apex of British free trade liberalism[3] and the triumph of protectionism in the colony of Victoria.

This chapter seeks first to identify the place of free trade within British liberalism. It then highlights the *Herald's* contribution to colonial debate concerning free trade and identifies this as an unambiguous expression of liberal ideology. It then considers the *Herald's* quest for colonial customs union and an eventual federation of the colonies. To conclude, the wider place of free trade within within colonial liberalism is considered, including an assessment of Macintyre's promotion of David Syme's liberal credentials. It is argued, contrary to Macintyre, that protection in the context of the 1860s is best understood as a departure from liberal thought, rather than a unique colonial variation or an expression of proto-new liberal thought.

British free trade Liberalism

It is difficult to overemphasise the importance of free trade as a feature of nineteenth-century British liberalism. The sheer strength of free trade ideology was remarkable, such that Howe contends 'free trade was the most commonly held of all Victorian values'.[4] This is, however, perhaps unsurprising given that British liberalism had its origins as a protest movement against protection and privilege in religion and trade.

Free trade was the most distinctive aspect of British liberalism. Nineteenth- century Britain had indeed been, as Karl Marx put it, the era of 'classical economics'.[5] In the eighteenth-century Britain had been an exemplar of mercantilism, an economic system built upon a fiscal theory thinking world trade was finite and state assistance in the form of tariffs and monopolies beneficial. Mercantilism gained expression in giant monopolies such as the East India Company and the Navigation Laws.[6] However, many thinkers came to see these

[3] McCord writes, 'The third quarter of the nineteenth century was the heyday of Free Trade in Britain'. N. McCord, *Free Trade: Theory and Practice from Adam Smith to Keynes*, David & Charles, Newton Abbot, 1970, p. 98.
[4] A. Howe, 'Free Trade and the Victorians', *Free Trade and its Reception, 1815-1960*, Freedom and Trade, Vol. 1, A. Marrison (ed.), Routledge, London, 1998, p. 164.
[5] Irwin, *Against the Tide*, p. 97.
[6] The Navigation Acts required imports into Britain to come on British ships or ships owned by nationals of the country of origin. Exports from Britain were treated similarly. See I. Keil, 'Navigation Acts', *The Oxford Companion to British History*, J. Cannon (ed.), Oxford University Press, Oxford, 1997, p. 673.

measures as restricting the volume of world trade. It raised production, trading and consumer costs, which in turn inhibited capital formation and discouraged investment. In limiting competition it also hindered the otherwise natural quest for improvement, instead rewarding and abetting inefficiency.[7] Howe surmises that 'Protectionism meant high costs of production, a high cost of living, and wealth concentrated in the hands of the few'.[8] Although venturing nothing new, Adam Smith put the anti-mercantile theory into its most coherent and robust form in his famous *Wealth of Nations* (1776).[9] British liberals believed that in most instances state interference led to 'misappropriation and inefficiency'.[10] Protection also made government more vulnerable to nepotism, cronyism and corruption, as various interests courted government favour. It was also inequitable as the privilege of state sponsorship was not extended to all. Freedom from interference and a 'principle of competition' lay at the heart of liberalism,[11] with free trade its most striking manifestation. Such was the dominance of free trade ideology that by the mid nineteenth-century only one professor of political economy in Britain had any sympathy for protection.[12]

One of the most influential expressions of the British liberal reform movement was the Anti-Corn Law League headed by Richard Cobden and John Bright. The League's success in the repeal of the Corn Laws in 1846 became the great symbol of free trade ideology in nineteenth-century Britain. Close behind was the abolishing of the Navigation Acts in 1849, an achievement Lord Clarendon at the Board of Trade likened to overcoming the '40th article of the National Creed'.[13] Within the League, the remarkable connection between religious Nonconformity and liberalism was on display. Six of the seven founders of the League came from a single Dissenting congregation in Manchester[14] and the wider membership and local committees of this mass movement of Great Britain was built upon religious Dissent.[15] This was true of British liberalism more broadly and Bradley suggests the 'nurseries of Liberalism in this country were not smart salons and pavement cafes but ... Nonconformist chapels and temperance halls'.[16] And the connection was far closer than a mere aligning of personnel; it

[7] Bramstead and Melhuish, *Western Liberalism*, p. 15.
[8] Howe, *Free Trade and Liberal England, 1846-1946*, p. 77.
[9] McCord, *Free Trade*, pp. 9-10, 15-17.
[10] Manning, *Liberalism*, p. 20.
[11] Manning, *Liberalism*, p. 20.
[12] Irwin, *Against the Tide*, p. 97. Even this exception to the rule was a dubious advocate of protection as they only sought special consideration for Ireland.
[13] Howe, 'Free Trade and the Victorians', p. 170.
[14] Larsen, *Friends of Religious Equality*, p. 117.
[15] Pickering and Tyrrell, *The People's Bread*, pp. 56-94. See also McCord, *Free Trade*, pp. 77-78.
[16] Bradley, *The Strange Rebirth of Liberal Britain*, p. 29.

extended to principles and rhetoric. By definition, liberalism was 'an attack on state-created privilege', religious and economic.[17] The quest for religious equality was the quest for free trade in religion[18] and the quest for free trade was based on the same antimonopoly, anti-privilege thinking under girding the rise of religious Dissent as a potent political force. Pickering and Tyrrell stress this in their history of the League:

> In the most literal sense religious voluntarists and Corn Law repealers could speak the same language: the Church of England, like the Corn Laws, was an inefficient, corrupt and discriminatory monopoly; both were upheld by the same politicians; and the same remedy should be applied to both — competition in a free market.[19]

Religious Dissent and provincial radicalism went to war against 'religious and economic protectionism'.[20] To most Dissenting political agitators, the quest for religious equality and the quest for free trade were indissolubly linked. One agitator and pamphleteer, the Rev. Adam Thomson of Scotland, could not have been more explicit: 'Everything in trade and legislation, in the church and in the state, must one day come to this, — the best article at the lowest possible price!'.[21]

It is important to emphasize that the liberal commitment to free trade was built upon more than a new fiscal theory. Free trade was also part of the wider liberal emphasis on 'improvement' and 'character'. John Stuart Mill wrote at length of the futility of gaining personal freedoms apart from the development of character and Mill expressly identified free trade as essential to the development of character and individual morality.[22] Protection fostered all of the old world evils which liberals had fought so hard to remove: patronage, privilege, inefficiency, and corruption. Richard Bellamy's *Liberalism and Modern Society* brings out the moral liberal emphasis on character better than most. Bellamy notes 'economic activity ... reflected moral discipline'[23] and laziness within both the working class and the aristocracy was rebuked.[24] The landed aristocracy was lampooned for hiding behind hereditary and state sponsored privilege, such as the Corn Laws.

[17] R. Barker, *Politics, Peoples and Government: Themes in British Political Thought since the Nineteenth Century*, St. Martin's Press, New York, 1994, p. 47.
[18] Larsen, *Friends of Religious Equality*, pp. 122-123. Arblaster, *The Rise and Decline of Western Liberalism*, p. 261, suggests the 'Manchester School saw freedom of religion, politics and free trade as part of the same movement'. See also Machin, *Politics and the Churches in Great Britain*, pp. 100-101.
[19] Pickering and Tyrrell, *The People's Bread*, p. 92.
[20] Bradley, *The Strange Rebirth of Liberal Britain*, p. 30.
[21] Pickering and Tyrrell, *The People's Bread*, p. 57.
[22] See Bellamy, *Liberalism and Modern Society*, pp. 9-12, 22-35 (p. 29 especially). See also Gray, *Liberalism*, pp. 29-31.
[23] Bellamy, *Liberalism and Modern Society*, p. 11.
[24] Bellamy, *Liberalism and Modern Society*, pp. 11-12.

More particularly, historians describe free trade ideology as having had a basis in both a more narrowly fiscal or 'secular' economics, built on thinkers such as Ricardo, combined with a more expansive 'moral' and 'religious' anthropology, leading to an international humanitarianism[25]. The latter was often expressed through an understanding of humanity that saw trade as the divinely appointed way through which the human reflex toward prejudice, bigotry and war, might be circumscribed and even entirely overcome. A fine example of this was provided by Philip Harwood's lecture *The Economics and Morals of Free Trade* (1843). Harwood said:

> The cause of free trade is the cause of *peace*; peace at home and peace abroad; peace between class and class, and between nation and nation. The very language of monopoly savours of war. The whole monopoly argument bristles with jealousy, suspicion and enmity. "Independence of foreigners," it cries ... Better, ten thousand times better, that mutual dependence of free, natural and healthy interchange ... The beneficent mutualities of free commerce are the best guarantee that the world's peace can have. The wide brotherhood of nations, knit together in the reciprocal relief of wants by the reciprocal exchange of superfluities.[26]

Harwood continued, emphasising the primacy of innovation to progress:

> All the discoveries and inventions by which the course of civilisation is marked ... are but so many expedients for bringing man near to man, for uniting the distant and remote, minimising the disjunctive power of time and space, and pouring the diversified treasures of all the nations of the earth into the lap of each. No wonder monopoly *hates machinery* ... It is by free trade that man must fulfil the destiny assigned to him in the original plan of the Creator, of replenishing the earth and subduing it.[27]

This was a part of the wider impulse of many liberals in early to mid Victorian Britain away from empire and nationalism toward the brotherhood of all mankind.

This was exemplified most famously in the career of Richard Cobden, who after the success of the Anti-Corn Law League effectively championed the cause of free trade. Cobden

[25] See Boyd Hilton, *The Age of Atonement: The Influence of Evangelicalism on Social and Economic Thought, 1785-1865*, Oxford University Press, Oxford, 1988, pp. viii-ix, 39, 64-70, 88, 135, 188-201, 260-265, 375-376; Irwin, *Against the Tide*, pp. 16-23; Anthony Howe, 'Free Trade and the Victorians', p. 164 and *Free Trade and Liberal England*, pp. 1-37; John R. Davis, *Britain and the German Zollverein, 1848-66*, Macmillan Press, London, 1997, pp. 14-17. Davis (in summary of Hilton) suggests, 'there were two models of free trade which were most influential at the mid-century. One was the pure, Ricardian, economics-based version of professional economists; the other was the moralistic version more widely subscribed to by Liberal observers of all hues' (p. 16).

[26] P. Harwood, 'The Economics and Morals of Free Trade', 1843, in C. Schonhardt-Bailey (ed.), *The Rise of Free Trade*, vol. II, *Assault on the Corn Laws, 1838-1846*, Routledge, London, 1997, p. 297. Emphasis Harwood's.

[27] Harwood, 'The Economics and Morals of Free Trade', p. 298. Emphasis Harwood's.

proclaimed 'the triumph of free trade was the triumph of pacific principles between all the nations of the earth' (as had Thomas Paine a generation before him).[28] Elsewhere Cobden said:

> I see in the Free Trade principle that which shall act on the moral world as the principle of gravitation in the universe — drawing men together, thrusting aside the antagonism of race, and creed, and language, and uniting us in the bonds of eternal peace ... I believe that the desire and the motive for large and mighty empires; for gigantic armies and great navies ... will die away; I believe that such things will cease to be necessary ... when man becomes one family, and freely exchanges the fruit of his labour with his brother man.[29]

In getting a handle on the breadth of the free trade worldview, Melleuish has identified three interconnected foundations of free trade liberalism: Firstly, 'natural religion', the idea that God rules through laws understandable to human reason; secondly, 'beneficent providence', the idea that the world is moving toward a positive preordained goal; and thirdly, 'ultimate harmony', the optimistic belief that the goal of history was the end of conflict.[30] There is no doubt that free-trade ideology, as in the examples of Harwood and Cobden, reflected these beliefs and that each gained strong expression in the *Herald.*

The blending of religious, moral and economic motifs was characteristic of the mid-nineteenth century mind. It was a time when the 'interrelatedness of all knowledge was emphasized'.[31] As seen in Harwood's praise of technology, developments in science, far from representing some kind of 'new star' displacing age held religious belief,[32] showed forth God's existence in a world of divine order and superintendence. A typical example is provided by the Sydney *Empire,* which, in 1859, declared that the resources of the land could be developed by a 'thorough acquaintance with those great truths of Science which are the Laws of the Creator, and a knowledge of which serves at once to preserve from superstition, and to form the solid

[28] Arblaster, *The Rise and Decline of Western Liberalism*, p. 261.
[29] Richard Cobden, Manchester Free Trade Hall, January 1846. Cited by McCord, *Free Trade*, pp. 73-74.
[30] Melleuish, *Cultural Liberalism in Australia*, pp. 29-30.
[31] Melleuish, 'Beneficent Providence and the Quest for Harmony', p. 167. For example, in an address advancing the need for a foundational education in the liberal arts, John Stuart Mill in his Rector's address to the University of St. Andrews in 1867 stated: 'At least there is a tolerably general agreement about what an University is not. It is not a place of professional education. Universities are not intended to teach the knowledge required to fit men for some special mode of gaining a livelihood. Their object is not to be made skilful lawyers, or physicians, or engineers, but capable and cultivated human beings ... What professional men should carry away with them from an University, is not professional knowledge, but that which should direct the use of their professional knowledge'. Mill went on to list the study of Greek and Latin, classical literature, mathematics, logic, the physical sciences, psychology, history, political economy, international law, theology and the fine arts as conspiring 'to the common end, the strengthening, exalting, purifying, and beautifying of our common nature'. J. S. Mill, *Inaugural Address Delivered to the University of St. Andrews Feb. 1st 1867*, Second Edition, London, 1867, pp. 5-7, 11.
[32] M. Cannon, *Life in the Cities: Australia in the Victorian Age*, vol. 3, Nelson, Melbourne, 1975, p. 79.

basis of true religion'.[33] For most liberals, colonial and British, notions of divine providence and future harmony were not merely an aspect or adjunct of their understanding of progress; they were its basis.[34] Consistent with this, Manning suggests the 'Protestant individualism' of Britain, while joining the sceptic in wishing to see scientific understanding flourish, nonetheless parted company [with sceptics] over the 'criticism of revealed religion'.[35] Similarly, McLeod argues British liberalism was so 'heavily shaped by religious Dissent ... the kind of secular liberalism that was so important in many continental countries remained of minor importance in England'.[36] This reminds us, to use Gascoigne's words, that there were 'many Enlightenments'.[37] For post-Enlightenment British society was never possessed of the anticlericalism and distaste for religion of France, whose experience of the Enlightenment has come to typify the definition of 'the Enlightenment' in popular thought.[38] In short, the anthropology of British free trade liberalism was for many liberals interwoven and premised upon a Christian anthropology, built upon the idea of God as the creator and father of all mankind. The interdependency inherent to free trade was seen as the divine means of unleashing human unity from the bonds of localism and prejudice.

Free Trade and the Australian Colonies

Given the centrality of free trade within British liberalism, the British government naturally expected the Australian colonies upon self-government to apply the principles of free trade. When considering responsible government for the Australian colonies in 1849, the British government mooted the possibility of a federal authority to ensure a uniform tariff.[39] Even more pronounced was British colonial secretary Earl Grey, who promoted a federation of the

[33] Cited by Melleuish, 'Beneficent Providence', p. 169.
[34] See Melleuish, 'Beneficent Providence', pp. 168-169.
[35] Manning, *Liberalism*, pp. 43-44. Manning continues: 'scepticism and materialism had no historical affinity with the politics of liberalism' and instead 'the new spirit in philosophy and science, in a diluted form, far from eroding religious faith provided it with fresh support' (p. 44).
[36] McLeod, *Religion and Society in England*, p. 2.
[37] Gascoigne, *The Enlightenment*, p. 6.
[38] See Gascoigne, *The Enlightenment*, pp. 1-16. Gascoigne suggests, 'what is striking about the Enlightenment in its English-speaking and, more particularly, Australian guise is the extent to which the impulses of the Enlightenment and Christianity could coalesce. This is particularly true of Evangelicalism — the most dynamic form of Christianity which helped shape early colonial Australia' (p. 6). See also J. Gascoigne, *Cambridge in Age of Enlightenment*, Cambridge University Press, Cambridge, 1989, pp. 1-3, 1-22; Bradley, *The Strange Rebirth of Liberal Britain*, pp. 28-31; Hempton, *Religion and Political Culture in Britain and Ireland*, pp. 33-37, 60, 128-134, 169; Bebbington, *Evangelicalism in Modern Britain*, pp. 50-60; Colin Russell, *Science and Social Change 1700-1900*, Macmillan Press, London, 1983, pp. 41-48, 254-259.
[39] Day, *Smugglers and Sailors*, p. 415.

colonies largely to ensure intercolonial free trade.[40] As events transpired, the only restriction the British government placed upon the Australian colonies was a prohibition on differential duties.[41] At the British Treasury, William Gladstone had been instrumental in implementing fiscal free trade in the 1850s and 1860s and both Gladstone and Grey lamented protectionism in Australia.[42] Howe notes, that 'Gladstone in the 1870s was appalled to discover the extent of colonial tariffs and their increasingly protectionist nature'.[43] Gladstone, 'the commanding figure of English liberalism',[44] discussed colonial protectionism in a letter to NSW politician George Reid in 1875. In it, both Gladstone's disappointment and a singularly ironic feature to this chapter of colonial history is expressed:

> It is rather sad to reflect that after the Mother Country has with so much difficulty and struggle relieved herself from the mischiefs of Protection [that] the moral weight of her example, which has been so powerful in Europe, should not have been more effective in checking the disposition of some of her youngest colonies to create for themselves similar mischiefs. At the same time I am glad that Governments at home have respected their freedom and left them, with whatever regret, in a condition to purchase experience, like every other commodity, in the best or the worst market as they please.[45]

It was the liberality of British liberalism that allowed colonial governments the freedom to dabble with policies the British government itself considered less than liberal.[46]

It is well known that Victoria from the mid-1860s developed a highly protectionist trade policy, whereas NSW pursued a policy of free trade. However, as NSW retained a significant reliance upon tariffs (usually termed customs duties), some historians have suggested the difference between the two colonies has been exaggerated. For example, Loveday and Martin affirm free trade as a key element within NSW liberalism but add 'the custom-house was habitually resorted to as a source of state income — more extensively, indeed, than

[40] Melleuish (ed.), *John West's 'Union Among the Colonies'*, pp. x-xi. J. M. Ward, *Earl Grey and the Australian Colonies, 1846-1857: a study of self-government and self-interest*, Melbourne University Press, Melbourne, 1958, pp. 355ff; McMinn, *Nationalism and Federalism in Australia*, pp. 47-52.
[41] This meant that custom duties (tariffs) had to be applied equally to all trading partners, including other Australian colonies. The British government was sufficiently disturbed by subsequent intercolonial customs feuding that it removed this clause in 1873. However, even with this restriction removed, no intercolonial trade agreement was achieved.
[42] Howe, 'Free Trade and the Victorians', pp. 167, 170.
[43] Howe, 'Free Trade and the Victorians', p. 170.
[44] Macintyre, *A Colonial Liberalism*, p. 56.
[45] Cited by G. Reid, *My Reminiscences*, Cassell and Company, London, 1917, p. 25.
[46] G. D. Patterson notes the irony that it was the 'same spirit' in Britain in the 1840s which both introduced free trade and encouraged the development of responsible government among the colonies, some of whom rejected free trade principles. Patterson, *The Tariff in the Australian Colonies, 1856-1900*, pp. xi-xii.

those who boasted of their free trade principles cared to admit'.[47] Yet, having said this, later in the same paragraph Loveday and Martin admit the 'protective incidence' of the NSW tariff was 'negligible'. The point here is that not all tariffs were protective in intent. NSW generally applied a revenue-raising customs duty to items of wide consumption not produced in the colony, such as tea, sugar and spirits. As these items were not produced in the colony there was no protective intent behind the duty. In contrast, Victoria applied high custom duties to items produced in the colony. As a result, although NSW raised large sums in customs duties, economic historians identify colonial NSW as a free trading colony and Victoria as protectionist.[48]

The *Herald*, Free Trade and the Corn Law proposal of 1841

The first instance of robust free trade discussion came early in the partnership of Kemp and Fairfax. In 1841 petitions were submitted to the Governor and LC seeking the introduction of a 15% duty on imported corn and flour. From July through September the *Herald* denounced the proposal. Similar to the vitriolic tone of Fairfax's *Leamington Chronicle* against the aristocracy, the *Herald* reviled the British corn laws as a doctrine of 'aristocratic dictators', a 'corn-growing class' who subsidised their extravagance and indolence at the expense of the nation.[49] The *Herald* slammed the proposed tariff as an 'anteduluvian creed',[50] a 'fiscal blunder, a fiscal crime, without a single point of mitigation'.[51] Roe admits the 'most unconservative'[52] nature of the following attack by the *Herald* on the petitions:

> on this great national question, the 'wisdom of our ancestors' is but another term for the power and self-interest of the landed aristocracy ... to introduce this ancient tissue of blunders into a new country, is to sin against the light and knowledge of modern times. The corn-laws ... are a species of invidious favouritism towards one branch of industry, at the expense of all other branches. They are a patent of monopoly in an article which,

[47] Loveday and Martin, *Parliament, Factions and Parties*, pp. 121-122.
[48] For example, see Patterson, *The Tariff in the Australian Colonies, 1856-1900*, pp. 31-32, 64, 97; R. V. Jackson, *Australian Economic Development in the Nineteenth Century*, Australian National University Press, Canberra, 1977, p. 165; J. J. Pincus, 'Liberalism and Australia's Economic and Industrial Development', *Liberalism and the Australian Federation*, J. R. Nethercote (ed.), The Federation Press, Sydney, 2001, pp. 245-266; Day, *Smuggler and Sailors*, p. 405. The *Herald* itself gave strong emphasis on the distinction between revenue duties and protective duties: see the *Herald*, 3 October 1855; 28 April, 1857; 20 September 1873.
[49] *Herald*, 22 July 1841.
[50] *Herald*, 4 September 1841.
[51] *Herald*, 31 August 1841.
[52] Roe, *Quest*, p. 29.

> next to the air we breathe, ought to be free, open, uncircumscribed to all.[53]

A subsequent editorial charged petitioners with 'an erroneous apprehension of the ends of civil government', arguing the purpose of government was the protection of its citizens, the 'stability of their property'.[54] If government grants relief to one industry it would be obliged to do so for all: 'if the sufferings of the agricultural branch attract ... support, it is bound to extend the same kindness to the pastoral, the mercantile, the trading, and the monetary branches'.[55] In true liberal fashion the *Herald* saw protection as an 'artificial' stimulant to industry whereas competition and the 'healthy circulation of commerce' was its 'natural stimulant'.[56] Alexander Berry of the Shoalhaven was acknowledged as the colonial 'corn-law giant' and, probably satirically, the *Herald* declared Berry's speech in the LC promoting a corn law as a 'brilliant masterpiece'. The *Herald* continued:

> his elaborate oration did not ... harmonize with time and place ... Mr. BERRY['s] ... habits of thinking were formed some forty years ago, when England was governed by monopolies ... He spoke as one risen from the dead ... whose philosophy never dreamt of the mighty revolutions in the science of legislation and government which the last quarter of a century has witnessed.[57]

In its opposition to proposed corn laws the *Herald* in 1841 expressed the liberal momentum toward free trade.[58] However, the editorials of 1841 lack the more elegant and nuanced perspectives of those to come written by John West. In particular, they lack West's liberal anthropology, his emphasis on the brotherhood of man, and the potential globalisation of liberal ideals.[59]

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[53] *Herald*, 22 July 1841. In part cited by Roe, *Quest*, p. 29.
[54] *Herald*, 28 August 1841.
[55] *Herald*, 28 August 1841.
[56] *Herald*, 28 August 1841. See also the *Herald* 11 May 1857. Here the *Herald* affirmed the value of competition in the great majority of commercial situations but warned against 'spiteful competition'.
[57] *Herald*, 4 September 1841. Berry claimed 'in the whole world there was no such thing as absolute free trade' and that 'absolute political freedom is impossible'. The *Herald* described these points as the time-honoured recourse of Conservatives, with the first used to insist 'the shackles of commerce must not be loosened' and the second that the 'oligarchical domination over popular rights must not be questioned'. *Herald*, 4 September 1841.
[58] The *Herald* also rejected the traditional idea that corn was more of a staple than other vegetables or meat and that fear of disruption in trade in time of war justified tariffs. *Herald*, 28 August 1841.
[59] Another example of the *Herald's* commitment to free trade prior to West as editor came in 1850. A bill was proposed seeking a duty on brandy and spirits distilled in the colony to be abolished in order to 'encourage colonial agriculture'. The *Herald* replied that to remove the duty on colonial spirits but continue it on foreign spirits 'would in effect be making a present to the colonial distiller, out of the public funds'. It asked why 'should the wine-grower and the grain-grower be allowed to fatten on the rights and interests of all other classes'. *Herald*, 27 June 1850.

The *Herald*, John West and Free Trade 1854-1873

In November 1854 John West moved from Launceston to Sydney to become editor of the *Herald.* West came fresh from his leadership of the antitransportation movement and the issuing of his two-volumed *History of Tasmania* (1852). West had also been a founder and leading editorial contributor to the *Launceston Examiner* from 1842. Prior to his appointment as editor, West made a substantial contribution to the *Herald.* Under the pseudonym of 'John Adams', West, in the form of no less than eighteen articles, discussed and advanced the theme of a 'Union Among the Colonies'.[60]

As in so many other ways, Fairfax and West were well matched on free trade and there is no doubt West's free trade credentials were a prerequisite to his appointment. A few years later John Fairfax wrote in his published statement to the electors of East Sydney:

> I would abide strictly by the principles of Free Trade, and to supply any deficiency in the revenue of the country I would prefer a direct tax on property rather than an increase of Customs duties on the necessities of life.[61]

Similarly, on the hustings, Fairfax said he was a 'free-trader to the backbone' and, citing Berry, suggested a land tax on unoccupied estates in place of increased customs duties. Fairfax was a committed free trader and suggested what were for the day progressive alternative taxation measures. In contrast, the politicians of post-responsible government in NSW placed customs duties on general items of consumption and would hear nothing of a tax on property (broadly defined) or land.

The *Herald* under West's editorial leadership was scathing in its denunciation of protection. It did so on the basis of a principled commitment to liberalism expressed as free trade:

> It is necessary to obtain and preserve our commercial pre-eminence that we should throw ourselves entirely into the spirit of the age, and cast off resolutely all those old trammels which originated in class interests, and which have assumed the absurd designation of "protection".[62]

Protection was described as a form of state-sponsored privilege and inherently unjust: 'to shelter one trade from the competition of the world and to leave another exposed, is so

[60] These were published in 1854, with most reissued in 1867. For comment on West's choice of pseudonym see Melleuish (ed.), *John West's 'Union Among the Colonies'*, pp. xix, xxix, 3.
[61] *Herald*, 29 December 1856. Similarly, on the hustings Fairfax said in order to supplement general revenue he 'was strongly in favour of a property-tax; he cared not what the property might be — cattle, sheep, houses, land' though he would not tax 'articles of general consumption'. Election for the City. *Herald*, 30 December 1856.
[62] *Herald*, 22 December 1860.

palpably unjust'.[63] It was a return to an 'artificial system' of 'vested interests' vying with each other for government preference.[64] West claimed 'Protection, as a class cry, is a piece of selfishness — as a theory, it is a delusion'.[65]

Regular attention was drawn to the recent free trade history of England.[66] The relatively minor agitation for protection within NSW was met with a variety of serious or, in the following case, semi-satirical responses from the *Herald*:

> To those who paid attention to the progress of free-trade doctrines in the mother country since the memorable corn law agitation, and who call to mind how fallacy after fallacy, as set up by the Protectionist interests, was in turn exposed, until at length an anti-free trader became a lost variety of the human species, it must be a marvel that any advocates for a Protectionist policy can be found in this colony.[67]

In tune with the general thrust of the Manchester School of economics, the *Herald* stressed the inflationary dangers of tariffs: 'Everything which tends to *cheapen* production increases the wealth of the world'.[68] Alternatively, with protection, 'Everything is dearer — raw material is dearer, implements are dearer, labour is dearer'.[69] Similarly, 'Protection, doubtless, fosters a local production; but it does so at the expense of every consumer of the article produced'.[70] This in turn excited a call for even greater protection as the higher costs of local production, ironically a result of tariff policy, inadvertently favour the importer.[71] In its reply to a publication of David Syme in the British *Fortnightly Review*, the *Herald* claimed: 'Mr. SYME omits to take into account that there is no better stimulus to manufacturing industry than general cheapness, and that there is no better security for general cheapness than free trade'.[72] On another occasion, in tune with liberal tradition, the *Herald* argued that 'liberty of industry and liberty of commerce are the true sources of national wealth'.[73] And similarly: 'For half a century the great authorities on liberal questions have vindicated the freedom of

[63] *Herald*, 28 April 1857. See also the *Herald,* 16 February 1864.
[64] *Herald*, 23 February 1869.
[65] *Herald*, 5 January 1857.
[66] *Herald*, 7 May 1857; 28, 30 April 1857; 9 February 1864 includes reference to Gladstone's speech at the Wedgewood Institute; 16 February 1864 included: 'Year by year, as England has abandoned the delusions by which her trade was once obstructed ... she has maintained her commercial prestige'; 3 July 1866.
[67] *Herald*, 7 May 1857.
[68] *Herald*, 27 April 1859. Emphasis the *Herald's*.
[69] *Herald*, 30 June 1866.
[70] *Herald*, 5 January 1857.
[71] *Herald*, 30 June 1866. See also the *Herald*, 30 April 1857 which argued that it was better to make items 'universally accessible' than to tax them with a tariff and 'limit them to the wealthy classes'.
[72] *Herald*, 7 July 1873.
[73] *Herald*, 9 September 1873.

human industry as the grand secret of national prosperity'.[74]

All of this formed part of the *Herald's* broader commitment to defend commerce and trading. It saw some colonists, such as J. D. Lang, as disparaging commerce and wanting to defy progress and return to some kind of idealised, agrarian society: '"Ships, colonies, commerce," — that is our motto', cried the *Herald*.[75] It stressed the natural greatness of Sydney as a port[76] and claimed 'three-fourths of the people of this city are living upon commerce and its subsidiary callings'.[77] It argued the two primary 'conditions of commercial success' were 'the security of capital and the sacredness of personal property' and 'the steadiness of a tariff'.[78] The effect of any insecurity to either was a 'discouragement of future investment'.[79] Moreover, it thought post-manhood suffrage parliaments liable to undermine investor confidence due to their members lacking commercial experience.[80]

Colonial liberals in NSW commonly held the free trade ideas presented by the *Herald*. An excellent example is provided in the *Athenaeum*, a short-lived journal edited by Harold Stephen which included contributions from literary notables such as Marcus Clarke, P. J. Holdsworth and Henry Halloran. In its first edition G. S. Searle provided a fine statement of free trade liberalism:

> the question between free trade and protection is something much more than a merely economic one, though it is eminently that. It is one in which the social interests of humanity are involved ... there is ... a compact of all mankind commended by nature, or by Providence to the whole human race.[81]

Ad Valorem Duties

One form of custom duties intensely decried by the *Herald* were *ad valorem* duties. This was a tax applied to an imported item at a percentage of its declared value. Other duties were applied to weight or bulk, with some attempt to objectively assess the value of the goods. No system was free of corruption. The dishonesty of some traders and the dishonesty or lack of

[74] *Herald,* 27 July 1861.
[75] *Herald*, 3 February 1864.
[76] For example, the *Herald*, 22 December 1860, said: 'We have a port which combines every advantage nature can confer upon a commercial people'.
[77] *Herald*, 3 February 1864. See also the *Herald*, 9 February 1864.
[78] *Herald*, 22 December 1860.
[79] *Herald*, 22 December 1860.
[80] *Herald*, 7 January 1864 provides a pithy example: 'The present House, the creature of universal suffrage, cannot be safely trusted to spend an income which would come from the pockets of people who have no practical authority in its expenditure'.
[81] *The Athenaeum: A Journal Specially Devoted to the Encouragement of Australian Literature, Science, and Art*, Harold W. H. Stephen (ed.), vol. 1, no. 1, 3 July 1875, pp. 88-89.

resources of customs officials rendered any system imperfect. However *ad valorem* duties, being tantamount to an honesty system, were plagued by endemic corruption. A dual invoicing system became rampant, with one false invoice sent to customs and another with the true value sent to the importer for payment.[82] One letter to the *Herald* was given the heading: 'The New *Ad Valorem* Tax a Premium to Promote Roguery and Fraud'. It posed the question, 'are you aware that in Adelaide and New Zealand the system of duplicating invoices is systematically practised, until now it has become a custom of trade?'[83] In Britain a move away from *ad valorem* duties was in place by the 1850s and the *Herald* vigourously opposed their introduction in NSW.[84] The system was used expansively in Victoria and Day describes this as a policy which invited evasion and the corruption of public officials.[85]

Herald editorials of December 1865 trace the unlikely passing of *ad valorem* duties in the free trade NSW parliament. Treasurer Saul Samuel put forward a revised customs duty list that would have alleviated the pressing need for revenue without resorting to an *ad valorem* duty. Samuel's proposal was more consistent with both former and subsequent policy in NSW but was lost amidst rivalry between Cowper and Parkes. Samuel resigned as treasurer after his proposals were rejected. With Samuel's proposal shafted, and as direct taxation took too long to take effect, *ad valorem* duties were approved at modest rate of 5% (with a free list). The *Herald* somewhat derisively noted how a 'free trade Parliament within twelve months of its election had voted for *ad valorem* duties, and its excuse is that it was obliged to do so because it had refused additional duties on tea and sugar!'[86] Patterson suggests that even the *Herald* agreed to its introduction, which requires qualification.[87] The *Herald* conceded that 'a*d valorem* duties, bad as they are, are better than hopeless financial embarrassment'. However, it also made clear 'we might and should have done without them'.[88] A good summary of the *Herald's* opposition to *ad valorem* duties came in the editorial of 8 February 1862:

> *Ad valorem* duties ... are of a nature so objectionable that they naturally incur the opposition of all enlightened economists. In proportion as they are high they are

[82] Day, *Smugglers and Sailors*, p. 168.
[83] *Herald*, 26 December 1865.
[84] For example, see the *Herald*: 10 January 1852; 3 October 1855; 2 May 1857; 8 February 1862; 23 February 1869; 20, 23, 26, 28 December 1865; 3 July 1866; 24, 25, 31 October 1873.
[85] Day, *Smugglers and Sailors*, pp. 168, 247-249.
[86] *Herald*, 26 December 1865.
[87] Patterson, *The Tariff in the Australian Colonies, 1856-1900*, p. 31. Patterson cites the *Herald* editorial of 20 December 1865.
[88] *Herald*, 20 December 1865.

> unproductive from constant evasion, and if they are low they are scarcely worth the collection.

Alternatives to *ad valorem* duties were direct taxation on land or income, or treasurer Saul Samuel's proposed adjustment to the existing duty schedules. To much acclaim by the *Herald* the *ad valorem* duties were abolished in 1873.[89]

In the context of the small *ad valorem* tariff in NSW, John West wrote editorials on the theme of government responsibility. West developed the theme of 'the State conscience' and claimed *ad valorem* duties were just one of several pieces of legislation undermining 'public morals'.[90] West argued that government had a duty of care to create legislation that encouraged compliance rather than evasion. In contrast to this, West felt NSW had enacted laws which made it in the people's 'interest always to do something which is forbidden them'.[91] West expressed sympathy with the honest trader who 'will find men [competitors] who can deprive him of his trade unless he imitates their example' and defrauds the Customs.[92] West also saw the same avoidable shortcomings in legislation regarding distillation and, most regrettably of all, the Robertson Land legislation of 1861. Regarding the land laws West wrote: 'On all hands cheating is the ordinary interest. There are conditions not to be enforced. There are restrictions upon the right and power of sale inconsistent with upright dealing'.[93] West thought the 'dummy' system deployed by squatters was unjust yet a direct result of the legislation. West lay partial blame for demoralising legislation upon a pessimistic view of human nature: 'It is a frightful thing when statesmen arrive at the conviction that ... all men are rogues — that there is no reason, therefore, for guarding the public morals as if they were at all capable of deterioration'.[94] This expressed a characteristically liberal commitment to the moral potential of humanity.

John West's 'On the Friendly Intercourse of Nations', 1857

Free trade is one area where we are fortunate to have an extended account of John West's thought beyond the editorial pages of the *Herald*. John West's free trade liberalism was on display in an address at the Mechanics' School of Arts, titled 'On the Friendly Intercourse of

[89] See the *Herald*, 24, 25, 31 October 1873.
[90] *Herald*, 28 December 1865. See also the *Herald*, 10 May 1860.
[91] *Herald*, 28 December 1865.
[92] *Herald*, 28 December 1865. See also the *Herald* 25 October 1873, which claimed *ad valorem* duties rob the honest trader of market share.
[93] *Herald*, 28 December 1865.
[94] *Herald*, 28 December 1865.

Nations'.[95] Themes observed in the above overview of British free trade liberalism all gain clear expression in West's address. West taught that the 'Creator' had 'made of one blood all the nations of man' and that the 'mutual dependence of nations is the result of design, not of accident'. It was the 'decree of Providence as well as of nature'.[96]

A main theme of West's address, seen also in many *Herald* editorials, was that free trade promotes liberty. Despotic regimes were characterised by restrictions on trade and limitations upon personal travel. They were often xenophobic and promoted the fear and loathing of foreigners. In contrast, freedom of commerce created a context for the healthy interchange of ideas and social customs. West believed: 'Commerce and freedom act upon each other with reflex benefits — whichever gains the field, both share the triumph' and that 'liberty and commerce breathe the same air'.[97] Trade was essential to liberty: 'No nation enjoys freedom which is not at the same time commercial'. Although much of the social and cultural benefit of trading was semi-accidental in nature, a result rather than the purpose of trading, West maintained 'commercial rights form the foundation of constitutional liberty' as 'Intercourse implies some degree of personal independence'. Inherent to trading was liberty of movement and engagement with the foreigner. As more people became involved in trading the demand for liberty of movement and interaction would increase. For example, although the *Herald* criticised the harsh methods used by Britain to open China to foreign trade,[98] it nonetheless contended that if 'the trade of China were opened ... it is possible that liberal sentiments would grow up, which would react upon their social and political life'.[99]

Free trade also promoted peace. West believed the 'progress of knowledge and liberty' would ensure that 'bigotry and prejudice will decline'. West described the individual of pre-liberal old Europe as 'pent up within the narrow circle of his district, his mind reduced to the narrowness of his condition, he grew up in a love for his country, which was often hatred to mankind'.[100] West believed that as an educated class arose with a greater appreciation of the

[95] J. West. 'On the Friendly Intercourse of Nations'. Delivered by West, 7 July 1857. Published in the *Herald*, 8 July 1857.
[96] Walter Phillips notes that prominent Congregational minister James Jefferis frequently referred to God having made 'of one blood all the nations of man', *James Jefferis*, pp. 176-177. This is a direct quote from the Apostle Paul in Acts 17:26. Primarily due to the efforts of Fairfax, Jefferis became pastor of the Pitt St. Congregational Church in 1877. See also the *Herald*, 1 April 1861, which speaks of that 'Divine charter which entitles all nations to have intercourse one with another'.
[97] Cited by Melleuish, 'Metahistory Strategies in Nineteenth Century Australia', p. 90.
[98] *Herald*, 9 October 1860. The *Herald* was strongly critical of British government policy toward China, see the *Herald*: 14 July 1857; 2 July, 7 August 1858; 25 May, 3 July, 13 September, 19 October 1861.
[99] *Herald*, 19 May 1857. See also the *Herald*, 1 April 1861.
[100] J. West, 'On the Friendly Intercourse of Nations'. *Herald*, 8 July 1857.

wider world, national governments would be pressured to become less despotic and warmongering. The liberalising power of informed public opinion and the press augmented free trade: 'the commerce of nations tends to check oppression and injustice, by establishing a public opinion, independent of national creeds and local passions'. Where free trade went, liberty and peace would follow. The implications were global. Similar to Harwood and Cobden (above), West thought the mutual interdependence created by free trade favoured peace: 'It is by commerce a mutual dependence is established ... [and] ... when the merchants are stronger than armies, the ties of mutual dependence become too firm for the sword of ambition to sever'.[101]

The theme of brighter prospects for international peace was also linked to that of innovation. West said developments in communications were not 'resigned' to 'simple mechanism or animal speed', as 'there is no terminus to human ingenuity'.[102] This reminds us of Harwood's 1843 address connecting innovation with the competition arising from free trade. As the *Herald's* editorial of 8 February 1864 stressed, competition, innovation, and progress were inseparable:

> It is almost impossible to overrate the extent to which mechanical inventiveness is stimulated by competition ... To diminish that stimulus by diminishing the pressure of competition is to dam the stream of progress at one of its principal fountains.[103]

In homage to the greatest mechanical symbol of progress in the nineteenth-century, the railroad, West proclaimed that even 'the most narrow-minded expand under the exercise of locomotion' and conjectured 'When railroads connect all Europe together, will not their projectors feel a new interest in peace?'

The optimism continued and West concluded his address with a remarkable fusion of religious idealism and liberal optimism. In a syncretism of postmillennial Christian theology and the theory of progress, West presented Christianity and liberalism advancing together in global triumph:

> We see the dawn, but life is too short to enable us, except by divine instruction, to guess at the meridian glory. For this, "every valley shall be exalted, and every mountain shall be laid low: the crooked shall be made straight; the glory of the Lord shall be revealed, and all flesh see it together." Then shall the idols be utterly abolished; then shall the dark places of the earth, now full of cruelty, be enlightened and renewed: the castes of India shall be

[101] J. West, 'On the Friendly Intercourse of Nations'. *Herald*, 8 July 1857.
[102] J. West, 'On the Friendly Intercourse of Nations'. *Herald*, 8 July 1857.
[103] On the value of competition, see the *Herald*, 11 May 1857 and 8 February 1864.

> broken, and the iron rod of despotism melt away: then kings shall reign in righteousness, and princes shall decree judgement: violence shall be heard no more.

Given the events of the first half of the twentieth century in Europe, it is excruciating in hindsight to reflect on West's utopian Christian liberalism. The railroads were indeed built across Europe but carried men and munitions in two world wars and millions of innocents to concentration camps; a downward spiral into a degradation as unimaginable as it was unprecedented.

The *Herald,* Federation and a colonial Customs Union

John Manning Ward suggested that in the 1850s the *Herald* 'established itself as a somewhat tepid advocate of federal union for the sake of uniformity in tariff policy'.[104] This comment underestimates the breadth and strength of both West's scholarship in his 'Union Among the Colonies' series of 1854 and the editorial perspectives advanced in the *Herald*. McMinn is nearer the mark in claiming John West was one of the leading proponents of proto-federation thought in colonial Australia.[105] Melleuish, in his introduction to West's 'Union' articles, describes West as one of the most significant 'public intellectuals' in colonial Australia and perhaps its finest 'political theorist'.[106]

An aspect of West's liberalism was an emphasis on the need for checks and balances in and between levels of power and decision-making within society.[107] West argued for strong local or 'municipal organizations' yet also warned against a 'narrow localism' which became 'irrational and dangerous'.[108] Written before responsible government in 1856, West's 'Union' series expressed grave and to some degree prophetic concern that had the colonies already been independent of Britain:

> we should assuredly find petty legislators covering the tables of their respective Assemblies with bills for the restriction of commerce, for the protection of native industry — meaning their own — for the control of labour, for the encouragement of a slave trade, and for every encroachment, monopoly, impertinence, and folly which covetousness of

[104] Ward, *Earl Grey and the Australian Colonies, 1846-1857*, p. 128. It is also difficult to reconcile with Ward's numerous references to the lead role of the *Herald* in stirring union debate in the mid-1850s. For example, see Ward, *Earl Grey and the Australian Colonies, 1846-1857*, pp. 348-355 and Ward, *The State and the People*, p. 31.
[105] McMinn, *Nationalism and Federalism in Australia*, pp. 64-67, 71-72. See also Melleuish (ed.), *John West's 'Union Among the Colonies'*, pp. xxi-xxxiii.
[106] Melleuish (ed.), *John West's 'Union Among the Colonies'*, p. vii.
[107] Adams had written 'power is always abused when unlimited and unbalanced'. Melleuish (ed.), *John West's 'Union Among the Colonies',* p. xix.
[108] Melleuish (ed.), *John West's 'Union Among the Colonies'*, Article No. 1, p. 4.

caste and class have ever clothed in the garb of patriotism.[109]

John West's 'Union' series was amply augmented by the *Herald's* wider editorial emphasis on federal union and related themes. An aspect of this was the *Herald's* opposition to new colonies in Port Philip Bay (achieved 1850), Moreton Bay (1859) and agitation for a new colony in the Riverina or the entire western half of NSW (its supporters offered the name 'Central Australia').[110] Under the header 'Union is Strength', the *Herald* in 1844 harangued one of its regular sparring partners, J. D. Lang, for advocating the separation of Port Philip Bay.[111] The *Herald* reasoned that fewer, more prosperous colonies would be more likely to achieve responsible government and the end of transportation. In typically liberal fashion it also eschewed the greater cost to the British government in forming new colonies with their layers of government and British representatives. More subjectively it also made the appeal: 'the people are of one race; the country is one territory; our pursuits and resources, our habits and our interests, are all identical. Then why should we split?'[112] Although the *Herald* opposed the separation of Moreton Bay it temperately suggested that 'separation will neither be productive of the good nor the evil that many imagine'.[113] The *Herald's* instinctive opposition to the dismemberment of NSW was of the same spirit that sought a legislative union among the (all too numerous!) colonies. When arguing for a uniform tariff among the colonies, the *Herald* also made the simple but rather striking point that in the agitation leading to the separation of Victoria or Moreton Bay no one had put forward the tariff policy of NSW as a basis for separation.[114]

More than a century after federation the reasonableness of the *Herald's* concern with the dissecting of NSW is easy to miss. The Australian colonies were infant nations and there was nothing inevitable about Australia becoming, to use Barton's famous phrase, a 'continent for a nation'. Not without cause the *Herald* feared an escalation of localism and a push for yet further new colonies in addition to Victoria and Queensland. It believed destructive commercial policies, such as opposing tariff schedules, exacerbated localism and promoted

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[109] Melleuish (ed.), *John West's 'Union Among the Colonies'*, Article No. 5, pp. 23-24. See also the *Herald*, 16 March 1863.
[110] L. Frappell, *Lords of the Saltbush Plains: Frontier Squatters and the Pastoral Independence Movement, 1856-1866*, Australian Scholarly Publishing, Melbourne, 2003, pp. 1-3; B. Pennay, *From Colonial to State Border*, Charles Sturt University Press, Albury, 2001, pp. 11-13.
[111] *Herald*, 20 August 1844.
[112] *Herald*, 20 August 1844.
[113] *Herald*, 14 May 1857. See also the *Herald*, 10 October 1857 and articles: 'Democracy Tempered by Dismemberment', 18 March 1863; and 'Democracy Tempered by Dismemberment — No. 2', 1 April 1863.
[114] *Herald*, 23 February 1869.

agitation and resentment against distant colonial parliaments.[115] This in turn could, and indeed did, foster calls for the further dismemberment of NSW. Frappell notes that although the *Herald* was opposed to the independence of remote districts in NSW it remained their staunchest ally in Sydney by promoting their progress and the resolution of their grievances.[116] Had the Australian federation story been one of failure instead of success, the mid nineteenth-century *Herald's* advancement of the need to cultivate federal unity might be richly hallowed as unheeded wisdom. And given the eventual success of federation the *Herald* ought to be warmly acknowledged for having been decades ahead of its rivals, such as the Melbourne *Age*, in advancing this foundational aspect of Australian nationhood.

In addition to publishing and republishing West's 'Union' series, the *Herald* promoted greater legislative unity among the colonies in its editorials. A pre-West editorial of 14 February 1854 came with the header 'A GENERAL ASSEMBLY FOR AUSTRALIA'. It sought the 'establishment of a General Assembly for the whole group of Australian colonies, to be charged with legislation on matters of inter-colonial interest'. A *Herald* editorial of 23 October 1856 is acknowledged as the primary instigator of the formation of the General Association for the Australian Colonies in 1857, headed by W. C. Wentworth and E. Deas Thomson.[117] The Association unsuccessfully sought a British parliamentary bill 'giving the Australian colonies power to form a federal assembly'[118] and was the last concerted effort among colonists toward intercolonial union for more than thirty years.[119]

Melleuish has highlighted one difficulty which those promoting colonial union in the pre-Responsible government era faced; that federalism was linked to and tarnished by republicanism.[120] This was true, despite the fact the British government itself, hardly an advocate of republicanism, encouraged the colonies to form a General Assembly.[121] But the greatest difficulty with any expression of intercolonial unity was the indifference of popular

[115] *Herald*, 22 December 1860. Pennay provides the following references to the *Herald's* opposition to, and discussion regarding, a separate colony in the Riverina: 11 May 1858; 15 June 1865; 2 June 1870; 12 February, 23 November 1871; 13 February 1872; 17 May 1877. Pennay, *From Colonial to State Border*, pp. 11-13. On the formation of Victoria and Queensland, see also the *Herald*: 13 and 20 October 1856; 27 September (reprinted 10 October) 1857; 18 March, 1 April 1863. See also the article 'Democracy Tempered by Dismemberment' in the *Herald*, 18 March 1863.
[116] Frappell, *Lords of the Saltbush Plains*, pp. 44-45.
[117] McMinn, *Nationalism and Federalism in Australia*, pp. 71-72. See also Foster, *Colonial Improver*, p. 146.
[118] From an Association Announcement published in the *Herald*, 10 July 1857. See also the *Herald*, 22 May 1856.
[119] See Melleuish (ed.), *John West's 'Union Among the Colonies'*, p. xiii and Ward, *Earl Grey and the Australian Colonies, 1846-1857*, p. 355. See also the *Herald*, 10, 21 October 1857.
[120] Melleuish (ed.), *John West's 'Union Among the Colonies'*, p. xv.
[121] Melleuish (ed.), *John West's 'Union Among the Colonies'*, pp. xv. See also, McMinn, *Nationalism and Federalism in Australia*, p. 52.

colonial parliamentarians. As Melleuish put it, 'the principal advocates of federation were often discredited conservatives such as Wentworth or Deas Thomson; the liberals and democrats such as Charles Cowper were far more interested in establishing the new regimes and pursuing power within their own colonies than in the "high ideals" of an Australian union'.[122] Similarly, Ward argued that many colonial politicians were 'inexperienced, incompetent and too jealous of their new powers to wish to surrender a particle of them to a federal authority'.[123]

The most tangible pursuit among more federally and liberally-minded colonists was for a colonial customs union (or uniform approach to custom duties). This was viewed as a possible precursor to federation. In its 10 May 1860 editorial the *Herald* observed the growing intercolonial rivalry with exasperation:

> Are we to imitate the wretched policy of the small German States, where once no man could move fifty miles without having to pass through a series of Custom-houses ... Is this really worth the while of colonists having the same origin?

The *Herald* readily conceded the difficulties associated with a customs union but stressed the greater good:

> It is not ... pretended that all the colonies have exactly the same interests in the matter, or that the proposed change will be all gain and no loss in every respect to each one ... every artificial system creates certain vested interests ... the removal of which will be looked upon as an injury, but the existence of which is a greater injury to the community, considered as a whole. But, whatever may be the local and temporary inconveniences of a Customs-Union, this general principle may be maintained, that the union would be a benefit and the Customs-Division is an evil.[124]

In complete agreement with the *Herald,* Searle claimed in the *Athenaeum* that 'local jealousies might indeed render the establishment of an Australian Customs Union a little difficult; but the great work could be done, and would certainly serve as a preliminary to complete federation'.[125]

The need for a customs union was also fuelled by the obvious stimulant to smuggling and corruption arising from differing tariff schedules. The *Herald* correctly predicted that without a uniform tariff smuggling would become endemic. That David Day's customs history

[122] Melleuish (ed.), *John West's 'Union Among the Colonies'*, pp. xxxi-xxxii.
[123] Ward, *Earl Grey and the Australian Colonies, 1846-1857*, p. 348. See also McMinn, *Nationalism and Federalism in Australia*, p. 86.
[124] *Herald*, 23 February 1869. See also the *Herald*, 19 December 1862, 22 and 24 September 1875.
[125] *Athenaeum*, 3 July 1875, p. 89.

is titled *Smugglers and Sailors: The Customs History of Australia 1788-1901*, says much about the prominence of crime and evasion in the history of Australian customs. Day's history emphasizes how the different tariff schedules between the colonies facilitated smuggling and evasion.[126] It is also noteworthy that at the same time Fairfax, West and the *Herald* advanced free trade and sought, over many years, for an intercolonial customs union, Day argues that David Syme's *Age* 'helped to incite the breach between the two colonies [Victoria and NSW]'.[127]

The *Herald* thought the best solution to all border problems was federation. In 1876 it argued that in order to 'destroy the boundary line for Customs' purposes once and forever, the territory on both sides must be placed under one and the same control; and that would be done by establishing a federal government'.[128] Although well aware that few shared its foresight on the matter, the *Herald* offered the following prediction:

> We cannot go back to the absolute unity which existed before separation commenced; but we may come round practically to the same result ... if ever we secure a thorough federation. The only road to unity now lies not in retracing our steps, but in going forward; and just as separation was advocated as a remedy for the evils of unity, so unity will one day come to be the remedy for the evils of diversity.[129]

If there was anything 'tepid' (as Ward put it) about the *Herald's* call for a federal union or intercolonial customs union, it came from the discouragement of being a near lone voice. Its editorial of 10 July 1857 admitted that 'we quite agree with a contemporary, that the form of a federal union of the colony should have some better inspiration than leaders in the *Sydney Morning Herald'*.

The *Herald*, the Manchester School of Economics, *laissez-faire* and Free Trade

Although in broad sympathy with it, West and the *Herald* were not hard-nosed, uncritical proponents of the Manchester School of Economics or *laissez-faire*. In the editorial of 22

[126] Day, *Smugglers and Sailors*, pp. 415-426. See also Pennay, *From Colonial to State Border*, pp. 20-27. Pennay (pp. 21-23) lists not only smuggling but other problems associated with border customs regimes, including: markets were cut off to border populations; the cost of imported supplies was higher; it hurt local retailers; it was inconvenient; it subjected citizens to the indignities of questions and searches (Pennay cites the *Herald* of 11 November 1856 which lampooned officials 'dipping hands into old women's teapots or sugar bowls'); and 'fostered a petty bureaucracy'.
[127] Day, *Smugglers and Sailors*, p. 428.
[128] Cited by Pennay, *From Colonial to State Border*, p. 34. Pennay cites the *Herald* of 1, 3, 10, 11 November 1876. For further on proto-federation thought, and especially that of Charles Gavin Duffy in Victoria, see Ward, *The State and the People*, pp. 30-36.
[129] *Herald*, 23 February 1869.

September 1873 (only eleven weeks before his death), West reflected on James Fitzwilliam Stephen's *Liberty, Equality, Fraternity* (1873), a critique of John Stuart Mill. In it West anticipated the rationale of the emerging 'new' or 'social' liberalism, subsequently developed by writers such as T. H. Green and L. T. Hobhouse. West readily admitted that the (classical) liberal emphasis on equality before the law only to a 'very small extent' established 'equality of condition'.[130] However, the *Herald* also suggested that 'equality of position' will remain unattainable until 'Communists have found out how to cause every person to be born ... with an exactly equal amount of physical, intellectual, and moral force, and how so to regulate the training that this shall receive an exactly equal amount of development'.[131] This was similar to an editorial in 1857 which described socialism as a fanciful short-cut to a 'mellenial condition'.[132] Yet the more striking comment in this editorial came in the following critique of untempered *laissez-faire*:

> ... on the other hand [to socialism], we have the school of rigid and heartless economists, who bid us leave the laws of commerce alone to work out their own results, irrespective of their social effects, and who assure us that whatever evils are developed, will be cured in time by some compensating force, if only we leave the great machine to work on free and unhampered. The great bulk of mankind recoil alike from both extremes.[133]

West had written in the context of employer-employee relations and granted the possibility that some form of 'arbitration' might in the future be required. A year earlier Fairfax, in an address to the YMCA (of which he was foundation president), expressed support for the 'early closing movement' in Britain and its quest to end 14-15 hour working days. Fairfax also expressed a concern for the colony that 'as [the] population increases, as competition becomes sharper, and the struggles of business augment ... the circumstances of the employed will much resemble that class of evils which still exists in the old country'.[134]

Classical liberalism was primarily concerned with the removing of impediments to individual progress by gaining full equality before the law.[135] Yet, although wary of government intervention, early liberalism nonetheless promoted a limited ameliorative function

[130] *Herald*, 22 September 1873.
[131] *Herald*, 22 September 1873.
[132] *Herald*, 11 July 1857.
[133] *Herald*, 11 July 1857. See also the *Herald*, 3 July 1856.
[134] John Fairfax, *What Should the Young Men of the Colonies Be?*, pp. 6-7.
[135] David Conway, *Classical Liberalism: The Unvanquished Ideal*, Macmillan Press, London, 1995, p. 9.

for government.[136] Against its caricature, Gray writes that most classical liberal theorists never sought a minimum state which only protected negative rights. Instead, Gray contends, 'all the great classical liberal writers, acknowledge that the liberal state may have a range of service functions, going beyond rights-protection and the upholding of justice'. Gray surmises that classical liberals are better described as advocates of 'limited government' rather than the 'minimum state'.[137] This acceptance of the role of government is most notably seen in the trend toward the provision of state education in the nineteenth-century. Despite both its enormous expense and compulsory character, liberals saw as a paramount need the development of school education and accepted that only government could manage its provision. In an 1858 editorial about legislating standards for lodging-houses, West summed up several issues of principle:

> We have ... no disposition to encourage over-legislation ... Nor have we any sympathy with that paternal theory of Government which does everything for the people ... which destroys all self-reliance by officious help, and leaves little or no scope for the independent exercise of judgment, prudence, and thrift. But ... it is necessary sometimes to protect individuals against the tyranny of social institutions they have no power to combat, and ... society itself from the unrestrained operations of self-interest. Thus we see educational systems as a protection against ignorance, poor-laws to prevent starvation, and factory-laws to regulate the employment of those of tender years.[138]

Regarding the lodging-houses, the *Herald* added the '*laissez faire* system has been tried, and its results are before us' and, in consequence, 'some interference on the part of the Legislature' was required.

The main tension for liberals was over what constituted a valid area for government interference and how this was to be applied without injury to the core values of liberalism, such as, individual responsibility and the liberty of the individual from state tyranny. Manning notes that all liberals affirmed the 'principle of competition' but differed on the issue of 'equality of opportunity' and its application.[139] Mill has been described as having possessed a 'flexible agnosticism' regarding his overall understanding of the relationship of the

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[136] Gray, *Liberalism*, pp. 70-71. See also Bramstead and Melhuish, *Western Liberalism*, p. 16; Bradley, *The Strange Rebirth of Liberal Britain*, pp. 20-21; Barker, *Politics, Peoples and Government*, pp. 47-61; L. Magnusson, *Free Trade: 1793-1886*, vol. i, *Early Sources in Economics*, Routledge, London, 1997, pp. 1-4; G. Bresiger, '*Laissez-Faire* and Little Englanderism: The Rise, Fall, Rise, and Fall of the Manchester School', *Journal of Libertarian Studies,* 13:1 (Summer 1997), pp. 45-79 passim.
[137] Gray, *Liberalism*, p. 71.
[138] *Herald*, 4 May 1858.
[139] Manning, *Liberalism*, p. 20.

individual to the state.[140] Much the same could be said of West, whose liberalism was strongly communitarian, as seen in the above comments and even more so in his views on land policy and on local government.

But what, in particular, of protective tariffs? Did nineteenth-century liberals believe these were areas of valid government interference? In short, the answer is a clear 'No'. As discussed above, and as is not contested, the decades after the repeal of the Corn Laws in 1846 were marked in Britain by the enthusiastic embrace of free trade as a cornerstone of liberal identity. The high point of optimism regarding the future of international free trade was the early to mid 1860s, following the Anglo-French Commercial Treaty of 1860. However, this climate of optimism and inter-European co-operation was dashed by the German-Austrian (1866) and German-French (1870) wars, with inter-European co-operation not seen again on this scale until after World War Two.[141] Yet despite these setbacks, and the ever-increasing calls for government regulation in other spheres, British commitment to free trade remained nonnegotiable. Howe describes late nineteenth-century free trade as having 'become an essential part of popular identity, the firmest link between the "old" Radicalism and "new" Liberalism'.[142] Similarly, Cain argues that British 'New Liberalism responded by combining free trade with a programme of income and wealth redistribution'.[143] Thus, far from being the first plank of classical liberalism to wilt under the weight of the new liberalism, free trade was the strongest link between mid nineteenth and early twentieth-century liberalism in Britain. Davis has argued:

> Liberals of all persuasions could ... agree that free trade was an attractive policy, and to a great extent the domination of free trade, from the mid-nineenth century into the twentieth, can be explained by it value as a rallying point for the various disparate Liberal factions.[144]

Even in European countries, where nationalism and protectionism advanced, the liberal intelligentsia still identified with free trade.[145]

What then of free trade in a colonial setting? J. S. Mill, an opponent of protection, conceded in his *Principles of Political Economy* that protection might be briefly required in a

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[140] Bradley, *The Strange Rebirth of Liberal Britain*, p. 21.
[141] Howe, *Free Trade and Liberal England*, p. 101. See Howe's wider discussion on pp. 92-105.
[142] Howe, *Free Trade and Liberal England*, p. 113.
[143] P. Cain, 'British Free Trade, 1850-1914: Economics and policy', *ReFresh* 29, Autumn 1999, p. 3. This article provides an excellent survey of free trade and the rise of liberalism.
[144] Davis, *Britain and the German Zollverein*, p. 15.
[145] A point emphasized by Howe, *Free Trade and Liberal England*, p. 120.

new society. The *Herald* accurately described this in the following terms:

> Mr. J. S. MILL, though an ardent free-trader, always admitted that every general rule is liable to exceptions, and that protection might occasionally be legitimate where an industry natural to a country required assistance for a short time; but he stipulated that it should only be short, and that protection should cease when its object was accomplished.[146]

West likewise allowed the possibility of protection in a colony for industries likely to be quickly established and to require no further state patronage.[147] However, to the antagonism of Mill and other liberals, Mill's exception became one of the better-known items of political knowledge, utilised by protectionists the world over.[148] No doubt it was with great pleasure that the *Herald* received notice of a February 1866 letter of Mill. In it, Mill debunked the use of his exception clause by American protectionists, adding the 'passage has been used for a similar purpose in the Australian colonies, erroneously in my view'.[149]

It is interesting that historians have acknowledged the importance of David Syme's *Age* in the development of Victorian protectionism without attributing to the *Herald* a similar causal contribution to the dominance of free trade thought in NSW.[150] This may be in part due to the general neglect of the *Herald.* But perhaps it also represents an inadvertent acknowledgement of the anomaly of protectionism in colonial Victoria. Support for free trade in a mid nineteenth-century British colony is hardly surprising; whereas rampant protectionism requires an explanation. But more surprising is the reluctance within Australian historiography to concede that Victorian protectionism, and its main proponent David Syme, represent an obvious departure from liberal thought. In fact, far from conceding, Stuart Macintyre eloquently advances Syme's liberal credentials on the basis of his protectionism, a claim which requires examination.

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[146] *Herald*, 24 October 1873. On Victoria, see also the *Herald*, 30 September 1875.
[147] *Herald*, 24 October 1873, 30 September 1875. Nor did West rule out the possibility of 'interests which it may be the duty of Government specially to foster'. *Herald*, 30 April 1857.
[148] R. Murray Smith, 'The Victorian Tariff', *Victorian Review*, vol. 1, November 1879 - April 1880, pp. 96-97, commented on meeting many who knew of Mill's 'exception' but were entirely ignorant of the remainder of Mill's writings. See also Macintyre, *A Colonial Liberalism*, pp. 91-92.
[149] *Herald*, 5 July 1866. Mill conceded the case for protection in Australia, while inadequate, was a little more plausible than in America, given America had been established for longer. For further on American protectionism, see the *Herald*, 7 July 1857, 7 July and 9 September 1873.
[150] The *Herald's* role is meekly hinted at by Kym Anderson and Ross Garnaut, *Australian Protectionism: Extent, Causes and Effects*, Allen and Unwin, Sydney, 1987, pp. 41-42. Syme's key contribution to protectionism in Victoria is widely acknowledged and suggested by the title of one biography: A. Pratt, *David Syme: The Father of Protection in Australia,* Ward Lock, London, 1908.

Stuart Macintyre and the liberal credentials of David Syme

In *A Colonial Liberalism* (1991) Macintyre suggests that the analysis of historians such as Loveday and Martin, C. N. Connolly and J. M. Ward has been overly pessimistic in presenting (post-responsible government) colonial politics as marked by a regression from 'genuine liberalism' and an embrace of faction politics driven by the 'pragmatic pursuit of personal advantage'.[151] Macintyre argues that the verdict of these 'sceptics' stems, in part, from defining liberalism 'canonically by assembling a group of seminal figures who articulate its core principles', leading to a view of colonial politics as 'a mere distortion or degeneration of the original stock'.[152] In particular, Macintyre claims this leaves 'no room for the creative contribution of nineteenth century Australians'. Macintyre appears to suggest that colonial liberalism need not look much like liberalism elsewhere to still be termed liberal, as 'colonial liberalism embodied colonial circumstances'.[153] Furthermore, Macintyre argues that with 'few traditional forms and no established ruling class' there was little for 'liberals to contest' or conservatives 'to conserve'. As a result, 'In such a setting liberalism shed its oppositional connotations and became a constructive endeavour' possessed of a 'freedom to invent the future'.[154] Colonial liberalism was about 'moral progress, prosecuted in the name of the people'[155] and 'more a code of conduct than a precise political programme'.[156] This certainly allows for a broad definition of liberalism, including, we are left in no doubt, protective tariffs.

Appropriately, Macintyre's discussion of colonial protectionism comes primarily in connection with David Syme. Macintyre acknowledges that the 'Protection of local industries ... flew in the face of a doctrine that had been handed down from Smith and Ricardo to McCulloch and Mill'. However, Macintyre insists Syme made protection part of a 'coherent liberal discourse' and in doing so 'gave liberalism a distinctively colonial inflection'.[157] Syme's promotion of protection is summarised as follows:

> His system qualified the absolute freedom that economic liberalism celebrated by balancing rights with duties, the liberty of the individual against the interests of society. Yet Syme remained a liberal in his values and assumptions: he regarded history as a movement

[151] Macintyre, *A Colonial Liberalism*, p. 11, endnote 12 p. 224. Intriguingly, Macintyre claims John Hirst took 'liberalism more seriously' in his *The Strange Birth of Colonial Democracy.* Hirst's critique is the most devastating of any of the historians mentioned in terms of arguing for a regression of political standards in the post-responsible government colonial era.
[152] Macintyre, *A Colonial Liberalism*, pp. 11-12.
[153] Macintyre, *A Colonial Liberalism*, p. 8.
[154] Macintyre, *A Colonial Liberalism*, p. 12.
[155] Macintyre, *A Colonial Liberalism*, p. 9.
[156] Macintyre, *A Colonial Liberalism*, p. 5.
[157] Macintyre, *A Colonial Liberalism*, p. 88.

forward, of growth and progress; he took pride in the achievements of his own era, the new technologies and unprecedented expansion of output; and he saw these achievements conferring moral as well as material benefits on all humanity.[158]

Its ardent and eloquent nature notwithstanding, Macintyre's defence of Syme's protectionism is problematic. Firstly, it is based upon a description of ideals so broad they are more characteristic of nineteenth-century thought in general, than any group in particular. References to 'moral progress',[159] 'the people', 'universal benefit',[160] regarding 'history as a movement forward', 'growth and progress',[161] 'a way of seeing the world and acting on it',[162] can be used to describe everyone from liberals to socialists.[163] In response to this approach, Melleuish and Salusinszky rightly describe liberalism as 'a broad but not infinite church' and, citing colonial protection, object to the 'weird permutations' inflicted upon liberalism when gutted of its ideological heritage.[164]

Secondly, Macintyre's attempt to define colonial liberalism in largely local terms is ultimately unsatisfying. With Victorian protectionism such an obvious rejection of wider British and European liberalism,[165] the appeal is made to 'colonial circumstances'. Although Macintyre's generalisation that 'colonial liberalism embodied colonial circumstances' is irrefutable, it does not follow that protectionism was necessarily a part of this acclimatisation of liberalism to an antipodean setting. Nor does it require the historian to describe colonial protectionism as liberal policy. It is also true, as Macintyre writes, that with 'few traditional forms and no established ruling class' there was little for 'liberals to contest' or conservatives

[158] Macintyre, *A Colonial Liberalism*, p. 96
[159] Macintyre, *A Colonial Liberalism*, p. 9.
[160] Macintyre, *A Colonial Liberalism*, p. 9.
[161] Macintyre, *A Colonial Liberalism*, p. 96.
[162] Macintyre, *A Colonial Liberalism*, p. 12.
[163] And, his rebuttal notwithstanding, Macintyre's description of liberal virtues accords well with Loveday and Martin definition of a NSW 'liberal' (circa. 1860) as not being attached to a close set of principles but a general commitment to the welfare of society as a whole over that of sectional interests. Loveday and Martin, *Parliament, Factions and Parties*, p. 56. See also A. W. Martin's earlier, 'The Legislative Assembly of New South Wales, 1856-1900', *AJPH*, vol. 11, No. 1, November 1956, pp. 58-59.
[164] Melleuish and Salusinszky, 'A Broad but not Infinite Church', p. 40. A parallel debate appears to be underway within American historiography. In 1980 Murray N. Rothbard critiqued Michael Miles' *The Odyssey of the American Right* in the following terms: 'Miles's conceptual confusion ... is ... painfully evident in his discussion of classical or "true" liberalism. In the United States, he asserts, "true liberalism meant true Republicanism," from which it follows that although in England classical liberalism called for free trade, in the United States "true liberalism was compatible with protective tariffs" ... In tying classical liberalism to the Republican party, Miles could scarcely be more ignorant of nineteenth-century American history. The classical liberal party ... was not the Republican, but the Democratic party, which fought for minimum government, free trade, and no special privileges for business. Moreover, *laissez-faire* is nothing, if not determined opposition to protectionism in any of its guises'. Murray N. Rothbard, 'Requiem for the Old Right', http:/www.lewrockwell.com/rothbard/rothbard101.html, accessed 14 December 2005.
[165] And that of the Southern States prior to the US Civil War.

'to conserve'.[166] But there was one glaringly obvious area of difficulty for liberals in a settler society, which was the greatly more powerful role of government and the relative immaturity of social institutions.[167] Yet far from being concerned by this, it was an ever-increasing role for government, spearheaded by protective tariffs, that typified Syme's response to 'colonial circumstances'. Moreover, Macintyre seems almost to make Syme's protectionism a matter of patriotism when inferring that if protection is not deemed a feature of colonial liberalism then there is 'no room for the creative contribution of nineteenth century Australians'. Similarly, the portrayal of Syme's protectionism as having bequeathed colonial 'liberalism a distinctively colonial inflection' borders on the parochial.

To describe colonial protectionism (maintained for decades) as 'liberalism' is to draw a very long bow. No matter how much room is given to a uniquely Australian expression of liberalism, it requires a more familial resemblance to wider liberalism than allowed in Macintyre's presentation. To illustrate this, to argue that colonial 'liberals' were ardent protectionists is similar to suggesting colonial 'socialists' rejected the principle of collective ownership. As has been emphasized, mid nineteenth-century liberalism included a commitment to free trade as one of its most distinctive principles.[168] Macintyre's account of Higinbotham's difficulty in parting with his free trade beliefs[169] and the fact Syme had to force 'Alfred Deakin to cross the fiscal Rubicon as a condition of his [Syme's] political patronage' shows the strength of free trade thought.[170] Furthermore, Syme's protectionism came in the mid-1860s, well before the rise of the new liberalism.[171]

But perhaps the greatest weakness of Macintyre's portrayal of Syme's protectionism as a creative adaptation of liberalism to colonial circumstances is that it overlooks more likely interpretations. Syme's protectionism was neither original nor bereft of ideological tradition: it was rooted in eighteenth-century mercantilism and formed part of a wider rejection of *laissez-faire* on Syme's part. Melleuish suggests Syme's thought was in many ways the antithesis of liberalism and 'had at its core the idea of a society well-regulated and managed into prosperity

[166] Macintyre, *A Colonial Liberalism*, p. 12.
[167] See G. Melleuish, 'The liberal conservative alliance in Australia', *IPA Review*, Melbourne: 1993, vol. 46, Iss. 2, p. 55.
[168] Howe, 'Free Trade and the Victorians', p. 164 and *Free Trade and Liberal England*, pp. 1-37, 75-77, 100-113, 120, 192ff; McCord, *Free Trade*, p. 98; Irwin, *Against the Tide*, pp. 97-98; Cain, 'British Free Trade, 1850-1914', pp. 2-4.
[169] Macintyre, *A Colonial Liberalism*, pp. 103-105.
[170] Macintyre, *A Colonial Liberalism*, p. 103.
[171] Which, in any event, as discussed above with respect to Britain, retained a commitment to free trade. Similarly, P. Groenewegen and B. McFarlane, *A History of Australian Economic Thought*, Routledge, London, 1990, pp. 82-85 discuss late-century colonial free traders, such as B. R. Wise, who were critical of *laissez-faire*.

by the state'.[172] In a concise and complimentary assessment, economic historians Groenewegen and McFarlane conclude of Syme's economic theories that his 'general hostility to *laissez-faire*' placed him among supporters of '"state socialism" and government intervention' and that his economic writings gave him 'appeal to writers of the German historical school, [and] to American protectionists'.[173] Their survey of Syme suggests a powerful and creative mind; just not a liberal one. Syme's economic theories and protectionism were also combined with a ruthless pursuit of power. Syme has been described as having held a 'position of near dictatorship' in Victoria[174] and as having 'ruthlessly built up and destroyed politicians' through the *Age*, which Syme claimed did 'not ask the man in the street what he thinks, but ... tells him what he ought to think'.[175] Even apart from his protectionism, the general picture of Syme is difficult to relate to any widely held understanding of liberalism.

In contrast, Melleuish offers a more credible description of Syme as a 'curious mix of democracy and Tory paternalism'[176] who 'put together a potent mixture of protection, statism and populism, which he spent years propagandising through his newspaper the *Age*'.[177] As John Gray writes, 'anti-Liberal movements had emerged in the 1870s and 1880s in Germany and the United States and had successfully imposed protectionist and interventionist measures on economic life'.[178] David Syme is best understood in this context and indeed Syme himself cited American protectionism in his defence of Victorian protectionism.[179] In the 1880s the *Age* acknowledged its debt to mercantilism and placed itself with the 'Continental idea of the State as an initiator and regulator of industries' in opposition to the British model.[180] It is hard to imagine a more straightforward rejection of liberal ideology. As Kukathas reminds us, mercantilism was the very thing that 'liberalism opposed', as government regulation of the economy was seen as 'the economic counterpart of the political absolutism against which liberals railed'.[181] Lastly, though by no means least, protection was also a gigantic political

[172] Melleuish, *A Short History of Australian Liberalism*, p. 10.
[173] Groenewegen and McFarlane, *A History of Australian Economic Thought*, p. 34.
[174] J. Grant and G. Serle, *The Melbourne Scene 1803-1956*, Hale & Iremonger, Sydney, 1983. p. 84.
[175] G. Serle, 'Syme, David', *The Oxford Companion to Australian History*, G. Davison, J. Hirst, S. Macintyre (eds), Oxford University Press, Melbourne, p. 626.
[176] Melleuish, *A Short History of Australian Liberalism*, p. 9.
[177] G. Melleuish, 'The Liberal Pedigree in Australia', *Policy*, Centre for Independent Studies, v. 16, no. 4, Summer 2000-20001, p. 42.
[178] Gray, *Liberalism*, p. 32.
[179] *Herald*, 7 July 1873.
[180] Cited by Melleuish, *Cultural Liberalism in Australia*, p. 33.
[181] C. Kukathas, 'Liberalism: The International Context', *Liberalism and the Australian Federation*, J. R. Nethercote (ed.), The Federation Press, Sydney, 2001, p. 18.

ruse. Macintyre touches on this when conceding that Syme was 'alert to the opportunity' protectionism provided for political success.[182] With a greater gold-rush labour surplus than NSW, Victoria was vulnerable to the anti-liberal political discourse of protectionism and its appeal to self-interest and localism.[183]

Of value to this discussion are the reflections of British political observer of the Australasian colonies in the mid-1870s, Sir David Wedderburn (1835-1882). Wedderburn was the third Baronet of Balindean, Perth, in Scotland, and Liberal Party MP for Ayrshire South (1868-1874) and Haddington Burghs (1879-1882). A correspondent with Charles Darwin and a prolific traveller, Wedderburn's diaries and notes are held by the Royal Geographic Society. In 1876 Wedderburn wrote for the *Fortnightly Review* 'English Liberalism and Australasian Democracy' (discussed below).[184] In 1881, a year before his death in his mid-forties, Wedderburn published a book titled *British Colonial Policy*.[185] Although not a well-known figure, Wedderburn's comments regarding the socio-political landscape in the Australasian colonies are nonetheless the valuable reflections of a well-educated Victorian and active Liberal Party MP. They also provide precise comment on the very issue at hand: colonial politics in relation to political liberalism.

Rather significantly, Wedderburn acknowledged the impact of colonial circumstances, citing the way land exchanged readily and cheaply and the absence of prior feudal systems, a privileged class, and a standing army. Wedderburn appreciated that there were no 'Liberals or Conservatives' as the terms were understood in Britain.[186] Furthermore, Wedderburn painted a positive picture of colonial society. Wedderburn thought it 'impossible to find a more law-abiding people' and stressed the happiness and vitality of colonial life.[187] When asked if his experience of Australian democracy had made him more conservative, Wedderburn cagily replied: 'a man must be hard to satisfy if he does not consider Australasia to be happy and flourishing'.[188] He also doubted that any American newspaper 'can be favourably compared

[182] Macintyre, *A Colonial Liberalism*, p. 104.
[183] Day writes of Victoria in the mid-1860s: 'With the extension of the democratic franchise, a coalition of convenience was formed between the disappointed diggers, struggling farmers and inefficient manufacturers which easily defeated the old centres of colonial power — the squatters and city merchants — creating an almost permanent protectionist majority in Victorian politics in support of taxation by tariff'. Day, *Smugglers and Sailors*, p. 426.
[184] Wedderburn also wrote for the *Fortnightly Review* 'Mormonism from a Mormon Point of View' (1876) and 'The Dutch in Java' (1879).
[185] Published by Macmillan and Co.
[186] David Wedderburn, 'English Liberalism and Australasian Democracy', *Fortnightly Review*, July 1876, p. 43.
[187] Wedderburn, 'English Liberalism and Australasian Democracy', p. 52.
[188] Wedderburn, 'English Liberalism and Australasian Democracy', p. 59.

with the Melbourne *Argus*, or the *Sydney Morning Herald*'.[189] However, Wedderburn insisted that, although there was 'a great deal in common between ... Liberalism' and the 'democratic institutions' of Australasia, there remained 'important points of distinction' between Australasian political practice and 'the spirit of Liberalism'.[190]

Wedderburn maintained that 'in these countries, where the balance of political power is so adjusted as to secure the ascendancy of popular ideas, there is still *plenty of work for the reformer*' (i.e., the liberal political reformer).[191] In perfect congruity with liberal thought, Wedderburn asserted that 'a democracy can be as conservative as an oligarchy, as eager for the advancement of its own class interests, real or supposed', adding that liberalism and democracy were 'far from being identical'.[192] Wedderburn then highlighted two areas where liberal reform was especially required: the application of free trade and a reduction in government expenditure. On free trade Wedderburn exclaimed:

> the Australian people require instruction, if their views are to be brought into harmony with those of European Liberals and political economists. Upon the subject of Free Trade, Democracy in Australia shows itself to be thoroughly Conservative, and is as much disposed to employ its political power for its own protection against competition, as were ever the landlords of England in the old protectionist days.[193]

Rather strikingly, Wedderburn suggested that any would-be colonial liberal reformer would 'frequently find arrayed against him *there* the very forces which *here* [in Britain] have been his best allies'.[194] Here Wedderburn acknowledged the usurpation of the term 'liberal' by colonists not advancing liberal ideals.

Although a sympathetic colonial observer, Wedderburn was entirely unmoved by the claims of Syme and other protectionists that their policies constituted a colonial expression of liberalism. Instead, he correctly placed them as clear exponents of long-held conservative theories of political economy.[195] Similarly, West and the *Herald* described the protective

[189] Wedderburn, 'English Liberalism and Australasian Democracy', p. 56.
[190] Wedderburn, 'English Liberalism and Australasian Democracy', p. 43.
[191] Wedderburn, 'English Liberalism and Australasian Democracy', p. 43. Emphasis added.
[192] Wedderburn, 'English Liberalism and Australasian Democracy', p. 44.
[193] Wedderburn, 'English Liberalism and Australasian Democracy', p. 50. Wedderburn thought protection in Australasia went well beyond Mill's provision of temporary tariffs for new countries. For more on Victorian protectionism, see J. J. Pincus, 'Liberalism and Australia's Economic and Industrial Development', pp. 248-249; Melleuish, *A Short History of Australian Liberalism*, pp. vii-viii, 2-5, 9-14, 20-25; Melleuish, *Cultural Liberalism in Australia*, pp. 26-34; Anderson and Garnaut, *Australian Protectionism*, pp. 6, 16, 41-42.
[194] Wedderburn, 'English Liberalism and Australasian Democracy', p. 43. Emphasis Wedderburn's.
[195] Regarding government expenditure, Wedderburn claimed: 'Perhaps the besetting political sin of the Australasian Democracies is that of extravagance, and in this respect they are somewhat in sympathy with English Conservatives, under whose auspices the public expenditure is so apt to rise, and a surplus to become a deficit'. Wedderburn, 'English Liberalism and Australasian Democracy', p. 56.

tariffs of Victoria as backward looking: 'It [Victoria] has sought to introduce each form of enterprise which seems to have been suggested by antecedent habits and industry in the old country. It has followed rather blindly, therefore, an instinctive preference than a rational direction'.[196]

In the 1880s, Wedderburn's general assessment was amply filled out by Bruce Smith, a political theorist and cabinet minister in NSW, who forthrightly rejected Victorian protectionism as an expression of liberalism. With protection specifically in mind, Smith argued that nowhere in the world had the term liberalism 'been more constantly, or with more confidence, misused than in ... the colony of Victoria'.[197] Smith emphasized that liberalism 'has for its key note the liberty of the individual'[198] and described protection as a 'deliberate and distinct departure from Liberal principles'.[199]

David Syme may have possessed genuinely liberal instincts in other policy areas, such as land policy, and Macintyre's wider presentation of Syme as one seeking 'a higher motive for commercial transactions than self-interest' may have merit.[200] However, 'liberal' is not a helpful term to use to describe Syme's 'alternative principles'[201] of economics nor, most of all, his protectionism. Unlike free trade, protective tariffs had a long history. Syme's protectionism was in basic continuity with this history and formed part of his wider rejection of *laissez-faire*. This interpretation places far less a strain on credulity than to posit Syme (and Victorian) protectionism as a unique mutation of liberalism.[202]

Conclusion

John West and the *Herald* were in the vanguard of those seeking greater co-operation and even a federation of the colonies. The *Herald* persisted in calling for a uniform tariff between the

[196] *Herald*, 9 September 1873.
[197] Smith, *Liberty and Liberalism*, p. ii. Smith's book has recently been reissued in 2005 by the Centre for Independent Studies and includes an introduction by Gregory Melleuish. Criticism of colonial politics similar to Smith's *Liberty and Liberalism* by other colonists was published in the *Victorian Review* between 1879 and 1882. For example, see: R. Murray Smith, 'The Victorian tariff, *Victorian Review*, vol. 1, November 1879 - April 1880, pp. 94-104; W. Jardine Smith, '"Liberal" Finance in Victoria', *Victorian Review*, vol. 1, November 1879 - April 1880, pp. 441-68; James F. Hogan, 'Manhood Suffrage in Victoria, *Victorian Review*, vol. II, May 1880 - October 1880, pp. 522-33; Stuart Reid, 'Payment of Members', *Victorian Review*, May 1880 - October 1880, pp. 33-43.
[198] Smith, *Free Trade and Liberal Association, their True Province*, p. 36.
[199] Smith, *Free Trade and Liberal Association, their True Province*, p. 42.
[200] Macintyre, *A Colonial Liberalism*, p. 198.
[201] Macintyre's phrase, *A Colonial Liberalism*, p. 92.
[202] This interpretation is supported by Kukathas who has argued that in late nineteenth-century Australia 'liberalism was anything but ascendant' and that 'in the years leading up to and following federation, liberals were hemmed in by protectionists on one side, and the emergent Labour Party on the other'. Kukathas, 'Liberalism: The International Context', p. 24.

colonies, despite admitting this was a 'very remote contingency' such 'is the indifference of one colony to another, and so much closer the financial connection of each with England than with each other'.[203] Day notes Earl Grey's hope that intercolonial trade might be 'as unrestricted as possible', adding that 'unfortunately, no such good sense prevailed'.[204] Instead a long-running customs border war ensued between NSW and Victoria. Some historians, such as McMinn and Melleuish, highlight West and the *Herald's* countercultural role in promoting this proto-federation agenda decades before it became fashionable. But, by and large, the *Herald's* contribution to the emerging sense of national identity prior to federation has been overlooked.

In a related vein, free trade principles gained regular expression in the *Herald*, all the more after Victoria's protectionist tariff of 1866. The *Herald's* commitment to free trade is widely acknowledged within Australian historiography. However, rarely is it identified as an obvious expression of liberal thought. This is partly due to the stereotype of the *Herald's* conservatism, which has made some historians reluctant to the term 'liberal' with reference to the *Herald,* even when its stance was unambiguously liberal (as with free trade, state-aid, the ballot etc.). But it is also because, in order to make room for the anomaly of Victorian protectionism, free trade has been ideologically neutralised within the historiography and disconnected from liberal thought. In part this reflects arguably the greatest mistake of colonial political historiography; to uncritically accept the self-designation of popular colonial politicians and their supporters as 'liberals'. When used in this manner, terms like 'liberal' and 'conservative' become blanket designations linked to personalities rather than ideas. Without neglecting the colonial context, colonial politics needs to be more substantially contextualised within the wider narrative of the history of ideas in their British and European setting.

Some historians have labelled the colonial *Herald* 'conservative' due its rejection of manhood suffrage and the Robertson Land Acts; this despite neither being as unambiguously expressive of liberal thought as free trade. In contrast, this thesis will now go on to argue that it was perfectly reasonable for a 'colonial liberal' to express disquiet regarding manhood suffrage and to prefer alternative land reform measures to those implemented by the Robertson land laws.

[203] *Herald*, 28 April 1857. Regarding a uniform intercolonial tariff, see the *Herald* 28 April 1857; 2, 7 May 1857; 10 July 1857; 10 May 1860 which contains an eloquent appeal to end intercolonial rivalry; 22 December 1860; the editorials of 16 March 1863 and 23 February 1869 focus on this issue; 20 September 1873 includes comment on different types of customs unions.
[204] Day, *Smugglers and Sailors*, p. 415.

Ch. 5. The *Sydney Morning Herald*, Land Policy, Part I: The Background to the Robertson Land Acts.

Introduction

With the advent of responsible government in mid-1856 the management of Crown Lands became the responsibility of the NSW parliament. No issue in colonial society attracted more sustained public debate and controversy than land policy. The land acts of 1861, usually termed the Robertson land acts in honour of their main protagonist John Robertson, were the dominant legislation. They went effectively unamended until the 1890s.[1] Within the historiography of colonial NSW, support for manhood suffrage and the Robertson land laws have often been depicted as being among the essential features of colonial liberalism. The *Sydney Morning Herald* supported neither and has thus been labelled 'conservative'. This thesis contests the validity of this definition of colonial liberalism and its characterisation of the *Herald*. The interpretation of colonial politics emphasising manhood suffrage and the 1861 land acts as essential to colonial liberalism rests on an uncritical acceptance of the partisan use of political nomenclature by self-described liberals of the period, such as John Robertson and J. D. Lang, and by newspapers like Henry Parkes' *Empire*.[2] What they claimed was essential to being a colonial 'liberal' became the benchmark of liberalism. It also represents a failure to adequately contextualise colonial politics in NSW with respect to Britain and, with land policy in particular, trends in other colonies.

As Hirst has effectively shown, one of the purported icons of NSW colonial liberalism, manhood suffrage, is best understood as having arrived more by stealth than by determined ideological commitment and political agitation[3]. However, the same cannot be said of land legislation in NSW. This came after years of torturous debate. The land debate is presented by some historians as a clear-cut contest between colonial liberals and conservatives. Liberals supported the Robertson land acts; conservatives opposed them. The

[1] Gammage, 'Who gained and who was meant to gain, from Land Selection in New South Wales', pp. 120-121, discusses the amendments of 1875, 1884 and 1889 and claims the 1895 provisions of a land tax and compulsory resumptions were the first to effectively redress the advantages afforded the pastoral interest by the 1861 Robertson land acts. See also, J. Ferry, 'Mapping the New South Wales Free Selection Acts in Colonial New England', *The Globe: Journal of the Australian Map Circle*, no. 43, 1995, p. 41. Similarly, Dawson suggests the 1875 amendment merely led to 'more refined methods of dummying'. B. Dawson, 'Striking Out for Independence: Moves Towards Self-Determination and Self-Sufficiency on the Southern Monaro Property of Bibbenluke', 1861-1864, *Labour History*, no. 79, November 2000, p. 137.

[2] These issues are pursued more fully in chaps. 6-10 below.

[3] Hirst, *Strange Birth*, pp. 22-25, 271-272.

following examination of colonial land policy in NSW suggests this interpretation is at best an oversimplification; at worst, it is wrong and trivialises the struggles of many, both for and against, the Robertson land acts.

Three chapters are devoted to land reform due to its enormous significance, the difficulties in assessing it, and its importance to the reputation of the *Herald*. This chapter considers the use of the term 'liberal' in describing colonial land legislation and contextualises the Robertson land acts by examining earlier land reform proposals, including one from the *Herald*. It also discusses squatting and the *Herald's* response to it. It concludes that most participants in the land debate within the LA advanced proposals which are best described as 'liberal' and repudiates the idea that opponents of the Robertson land laws, such as the *Herald*, opposed small freehold settlement and sought the dominance of a semi-aristocratic landed elite. The next chapter (ch. 6) surveys the passage of the Robertson land bills through the NSW LA and LC. It details the content of the legislation and examines the basis of both support and opposition to the legislation. This reveals that even among those LA members who voted for the legislation their support was often qualified. The third chapter (ch. 7) details the *Herald's* opposition to the land laws and discusses the place of land reform within colonial liberalism.

What made Colonial land legislation 'liberal'?

The historiography of the Robertson land laws is marked by a failure to consider them in the light of previous attempts at legislative land reform. This represents a significant oversight, as they were the fourth set of land bills tabled in the NSW LA since October 1857. It has also obscured the fact there were many other 'liberal' land law proposals in the late 1850s, including one from the *Herald*. All might be termed 'liberal' in that they admitted the need and fairness to make freehold land more readily available. Equality of access and free selection were the liberal principles underpinning land reform. Hitherto, only squatters had been able to make any widespread use of the land. Virtually all colonists appreciated that greater access to freehold land was vital to the population growth essential to the future prosperity of the colony. This was all the more true given that NSW competed with the other Australasian colonies, not to mention North America, for British emigrants.

D. W. A. Baker describes the NSW Land Acts as an attempt to remove the 'privileges of the squatters in accordance with the liberal ideals of *laissez-faire* and equality of

opportunity'.[4] Baker suggests that Robertson intended to open the land to small freeholders, though without engineering the reform to ensure their success. More specifically, Baker also suggests that Robertson's preference for selection before survey was an application of liberal theory.[5] According to this logic, selection before survey was 'liberal' in that it took a privilege formerly limited to squatters, namely, utilisation of the land before survey, and granted it to others (i.e., selectors). This is a reasonable claim and would express the antimonopoly and anti-privilege instinct of liberalism. However, it was only one potential 'liberal' response. Liberals in other colonies decided that the difficulties attached to selection before survey outweighed the abstract appeal of extending a privilege formerly limited to squatters. They sided with the *Herald's* view that, although use of the land without survey had worked for squatters, it would not work for selectors, a view vindicated by events in NSW.[6]

It is also notable that Baker does not infer that Robertson believed the reform method of the other colonies, survey before selection, contradicted liberalism by creating too intrusive a role for the state. The simple fact remained that all alienated land had to be surveyed by the Survey Department, be it before, or after, selection. Accurate survey was basic to the private ownership of land. It was also required for important aspects of Robertson's land legislation to work, such as the leasing of adjoining grazing lands. Furthermore, the sheer scale, complexity and importance of land reform, combined with the controversy surrounding it, demanded state participation. Government administration of the alienation of Crown lands was presumed by all models of colonial land reform. In this regard, it was similar to the provision of elementary education. Any liberal would prefer for this to have been provided without state intervention. However, where it was apparent that only the state had the capacity to deliver a necessary reform, liberals warmly embraced state involvement. This was because the cost to society of not implementing reform outweighed the importance of *laissez-faire* in these instances. Consequently, government administration of colonial land reform was seen as consistent with liberal political theory.[7]

The big difference between land reform in NSW and the other colonies was that the timing of survey became politicised. In NSW 'free selection' came to mean 'free selection *before survey*'. The Victorian land reforms of 1860 made no provision for selection before

[4] Baker, 'The Origins of Robertson's Land Acts', p. 122.
[5] Baker, 'The Origins of Robertson's Land Acts', pp. 122-123.
[6] *Herald*, 12 October 1860. Here, the *Herald* argued against the popular idea that 'what is good for the squatters cannot be bad for the agriculturalists'.
[7] The role of government in liberal land reform is further pursued in chaps. 6 and 7 below.

survey (it allowed it from 1869 on condition the selector surveyed the land immediately after selection at their own cost).[8] Selection before survey was considered in Queensland but rejected, with Queensland choosing instead to declare and survey established agricultural districts and open these to free selection. Selection before survey was not even contemplated in South Australia, Tasmania or New Zealand, nor was there selection without survey in Canada. The famous exemplar was the United States, yet this was limited to land where there was 'no prior [i.e. European] occupancy'.[9]

One striking and previously ignored fact is that, despite making tremendous political mileage out of it, even John Robertson admitted that free selection before survey was not the essential principle of his legislation. When introducing his land bills into the LA in October 1860, Robertson said he had rejected Cowper's proposed land reform of 1857 because it 'did not extend to the circumstances of the smaller agricultural occupiers of land advantages which it did to occupiers of land engaged in pastoral pursuits'.[10] Crucially, Robertson then added that since 1857 free selection land legislation had been passed in New Zealand, Victoria and Queensland, each without selection before survey. Yet Robertson claimed, 'Everyone of these [other] bills has admitted that the principle I then laid down [in rejecting Cowper's bill] was a right one, but they took other means than those which seemed to me to be efficient for carrying them out'.[11] Despite the absence of selection before survey, Robertson described the land reforms of neighbouring colonies as 'liberal'.[12] For Robertson, as for most colonists, opportunity and free selection were what made a land bill 'liberal'.[13]

Thus, contrary to well-worn myth, what made Robertson's legislation 'liberal' was not its famous (or infamous) adherence to the principle of free selection before survey. Selection before survey was a means to an end, a means not utilised in other 'liberal' Australasian colonies. As noted, equality of access and free selection were the liberal principles underpinning land reform. All major proposals for land reform in NSW, with the exception of Cowper's, provided for free selection in one form or another. The essential

[8] Hirst, *Strange Birth*, p. 155.
[9] *Herald*, 8 October 1860. See also the *Herald*, 2, 3, 8 October, 29, 30 November, 4 December 1860. On the Victorian land legislation see also the *Empire*, 15 November, 5 December 1859; 9 October 1860.
[10] NSW LA, 4 October 1860. Published in the *Herald*, 5 October 1860.
[11] NSW LA, 4 October 1860. Published in the *Herald*, 5 October 1860.
[12] Cited by the *Herald*, 4 December 1860.
[13] The same could be said of deferred payments, another controversial feature of the NSW legislation (see further ch's. 6 & 7). Deferred payments were not inherent to the principle of free selection, which was freedom from competition and a fixed price. Deferred payments were used in some colonies but not in others.

principles of free selection were non-competition and a fixed price, not the timing of survey.[14] Free selection was 'free' because it allowed the selector to select land without the competition and uncertainty of purchase by public auction.

More broadly, some historians describing colonial land reform present two clearly defined groups of people and politicians: one liberal and democratic in outlook, seeking to 'unlock the lands'; the other conservative, seeking to establish a stratified society built upon a restricted ownership of the land. For example, Gollan suggests:

> The Land Acts adopted in New South Wales and Victoria in 1860-61 were the culmination of a political struggle between two opposed concepts of society. The alternatives were an aristocratic social organization founded on the large-scale possession of the land, and a society in which the radical idea of equality of opportunity would become the 'idea in office'.[15]

Gollan's perspective is more appropriate to earlier times in the colony, as with the recommendations of the Bigge reports of the 1820s and into the early 1840s. However, it is difficult to apportion a quest for 'aristocratic social organization' on any widespread scale in the post-transportation, gold rush and responsible government colonial society of the late 1850s. By then it was widely conceded, in the *Herald's* words, that 'a good agricultural land bill and land administration is the grand want of the colony'.[16] Rather than revealing a tense struggle between politicians in favour of a landed social elite and those seeking equal opportunity, debate in the post-manhood suffrage LA of 1859-61 (outlined in ch. 6) reveals a widespread acceptance of the need for land laws encouraging the settlement of small freeholders. Discussion and disagreement focused not on what was desirable but on how best to achieve it. Indeed, one of the distinguishing features of LA discussion was that those opposed to the Robertson land laws showed the most practical concern for how small settlers might be established on the land. While it is remains appropriate to describe the Robertson land acts as 'liberal', this by no means requires the historian to label opposition to them as illiberal or conservative. To do just that has been the great mistake of much of the historiography of colonial NSW.

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[14] William Bede Dalley made this point in 1857. 'Mr. Dalley's Opinions on the Land Bill'. *Herald*, 1 November 1860. Dalley's views are further alluded to in ch. 6 below.

[15] R. Gollan, *Radical and Working Class Politics: a study of Eastern Australia, 1850-1910*, Melbourne University Press, 1960, p. 33. A similar description is provided by Baker, *Days of Wrath*, p. 427. Another good example of land reform being depicted as a tussle between two opposing and easily definable camps is provided by Martin in his biography of Henry Parkes. See Martin, *Henry Parkes*, pp. 178-181.

[16] *Herald*, 17 June 1857.

Squatting

The backdrop to proposed land legislation in 1857 was twenty years of ardent debate. In broad terms there was strong, widespread objection to both the physical presence of squatters over vast areas of land and the aristocratic pretensions of some. This was exacerbated when the champion of responsible government, W. C. Wentworth, proposed an hereditary upper-house in 1853.[17] A landed elite, dominating an hereditary upper-house, replete with the envisaged University of Sydney to educate their offspring, smacked too much of a return to the illiberal hereditary privileges of Britain. Most were glad to have left such a society behind. The *Herald* warned large squatters that any semi-aristocratic pretensions were unhelpful and to 'seek a fuller identification with their fellow-citizens'.[18] The *Herald* claimed its 'views are not the opinions of the squatters'[19] and described the squatters 'as a class' as '*politically dangerous*' due to their attraction to convict labour and desire to keep the price of land high.[20] Yet although lamenting the lack of a more diversified economy,[21] the *Herald* was quick to admit the economic significance of squatting and of wool, its chief commodity. 'Let us appeal to FACT', it exclaimed, when putting forward a series of statistics for the years 1844 to 1850. This revealed that wool on its own amounted to 76.7% of the total value of colonial exports and pastoral produce (wool, live stock, salt meat, tallow, hides and leather) 93.5%.[22] Little wonder the *Herald* warned fellow colonists that any attempt to recklessly dismember the squatting interest 'would end in failure, *if not in the ruin of the colony*'.[23]

The *Herald* also repudiated the idealism of some attached to the idea of a large class of small farmers, a yeomanry, being established in NSW. The ideal of independence for the working man was an important backdrop to land policy discussion. In an age when the poor were thought of as 'deserving' and 'undeserving', providing the opportunity for independence on the land sat well with the middle-class liberal motif of self-improvement.[24] Few understood this better than John Fairfax — philanthropist, large employer, key supporter of the Sydney

[17] This is discussed in ch. 8 below.
[18] *Herald*, 19 October 1855.
[19] *Herald*, 28 April 1859.
[20] *Herald*, 23 April 1851. Emphasis the *Herald's*.
[21] *Herald*, 23 April 1851: 'What the productive resources of the country may become *hereafter*, from wine, cotton, minerals, and other exportable commodities, is a matter of conjecture and of hopeful anticipation; but that at the *present time* the produce of the pastoral districts is the main source of our prosperity'. Emphasis the *Herald's*.
[22] *Herald*, 4 February 1854.
[23] *Herald*, 3 February 1854. Emphasis the *Herald's*.
[24] Anne Coote, 'Imagining a Colonial Nation: The Development of Popular Concepts of Sovereignty and Nation in New South Wales between 1856 and 1860', *JACH*, vol. 1, No. 1, April 1999, p. 5 touches on this.

Ragged Schools and foundation president of the YMCA in NSW. The only caveat of Fairfax and the *Herald* was its perception of commercial reality. It argued that a lack of population and transport infrastructure rendered the large-scale use of the land for agricultural purposes impracticable. This was a time when it cost four times as much to transport wheat from Goulburn to Sydney than to ship it from South America.[25] It thought proponents of a mass yeomanry were either misguided or wilfully advanced a myth for personal political gain. The *Herald* argued the 'value of a small farm in a new country is greatly overrated ... while men can earn from ten to fifteen shillings a day, they will talk about farming a very long time before they engage in it'.[26] Some correspondents agreed. One writing under the name 'NEW SOUTH WALES' suggested 'talk about promoting settlements, small freeholders, independent yeomanry, flourishing farmers, causing "the wilderness to blossom like the rose," and such like nonsensical stuff is mere bunkum, fit only for city-wise politicians'.[27] Despite this the *Herald* gave space to those advancing the yeomanry ideal. At the height of debate over the Cowper bill, one correspondent wrote 'A Plea for Freehold Farmers', promoting the yeomanry ideal 'once the glory of England'.[28] Powerful indeed were the benefits of owning land: 'the magic of property turns sand into gold'. For the record, this would-be land reformer proposed free selection after survey with deferred payments over five years.[29]

The *Herald* thought squatters ought to have security through a lease/license system but 'whenever another object is contemplated, such as the establishment of farmers, the squatters ought to give way'.[30] The *Herald* commented, 'it is said that the squatters have power to obstruct the settlement of the colony, we believe they are misrepresented both by their enemies and their friends'.[31] The *Herald* believed sound and determined government could survey and release lands suitable for farmers. Yet the *Herald* also strongly opposed

[25] Baker, 'The Origins of Robertson's Land Acts', p. 105.
[26] *Herald*, 17 June 1857.
[27] *Herald*, 26 November 1857. In rather entertaining fashion the correspondent continued, at times expressing liberal sentiment, arguing that Cowper's proposed land reforms were revenue rather than settlement driven: 'The present revenues of the Government are amply sufficient to pay, and to pay well, all the officers and instruments essential to an efficient and respectable Government. More money is wanted, not to promote the general security and happiness — not to pay any debts, but to extend a crotchet system of extravagant and absurd engineering in the shape of railways, that won't pay one percent; telegraphs that will never pay anything whatever; mail steamers, about fifty years before they are wanted; fortifications, mere phantoms against phantoms; elaborate masses of masonry to exalt and adore the rubbish bequeathed to us by antiquity; larger endowments to a church already rich, lazy, and useless ... Seeing all this pretty plainly, people have come to the conclusion that the sooner the Government is impoverished the better'.
[28] *Herald*, 27 November 1857.
[29] This formed part of a nine point plan which went into the finer details of price and the quantity of agricultural land which ought be released.
[30] *Herald*, 20 November 1857.
[31] *Herald*, 20 November 1857.

popular resort to class terminology and prejudice. As Hirst wrote generally of the *Herald*, it 'took the democrats to task for importing the old-world talk of the oppressors of the people into a society where there was no leisured, privileged class living off the labour of others'.[32] In 1854 the *Herald* rejected the idea that 'the Squatting System ... resulted from some preconcerted scheme for the aggrandisement of a class'.[33] Typical of its debt to Nonconformist liberalism it thought no class ought be marginalised by the legislature. In discussion of proposed Victorian land legislation in mid-1857, the *Herald* claimed with regret that it 'has been the fashion to denounce the squatters as a personification of evil' and suggested that those who seek 'to be just should stand on their guard against not only the tyranny of the squatters, but the worse tyranny of prejudice'.[34] The *Herald* was also damning of what it perceived to be vulgar envy behind much demonising of the squatters. It lamented 'a feeling of envy against all in possession of advantages'[35] and suggested 'large squatters' ought to be no more 'pointed at as public enemies ... than large merchants ... manufacturers ... agriculturalists ... ship owners, or even than lucky diggers'.[36] The *Herald* considered rank envy an old-world mindset the colony could well do without, a form of socio-economic sectarianism. In early 1857 it suggested there was nothing to be gained from depicting the 'squatters as enemies ... We leave this noble field to the cultivation of all the unprincipled incendiaries whose sole talent lies in setting one class against another. For all their melodramatic fame we profess an unmitigated scorn'.[37] Certainly envy and class feeling cannot be lightly dismissed. Hirst has described the Robertson land acts as fuelled by 'class hatred, ignorance and folly' and as the 'most vicious attack on private enterprise in our history'.[38]

The 1847 Orders-in-Council

The main legislative background to land reform was the Orders-in-Council of 1847. This categorised land into settled, intermediate and unsettled districts and gave squatters the right to fourteen-year leases in unsettled districts. However, as Baker and Ferry emphasise, due to the lack of administrative provision for survey very few leases were signed, perhaps as few as

[32] Hirst, *Strange Birth*, p. 4.
[33] *Herald*, 3 February 1854. A few weeks later it described the squatting system as 'spontaneous in its origin, and gradual in its development'. *Herald*, 25 February 1854.
[34] *Herald*, 17 June 1857.
[35] *Herald*, 17 June 1857. On class distinction see the *Herald*, 21 March 1844. On envy see the *Herald*, 29 September 1859.
[36] *Herald*, 1 October 1861.
[37] *Herald*, 2 January 1857.
[38] Hirst, *Strange Birth*, pp. 135, 139.

148 out of 3,000 runs.[39] Instead, by late 1851 entitlement to a lease was deemed equivalent to a lease (though termed a license) and was implemented generously. Fourteen-year leases in outlying districts and eight in intermediate districts were granted, effective from 1 January 1852. Further to the advantage of squatters, rents were formulated upon estimates of land use provided by the squatters themselves. Unsurprisingly, many underestimated the size of their runs and reduced their already cheap rents.[40] Alan Williams' study of the origins of land acquisition laws emphasizes the pre-emptive rights granted the squatters at this time.[41] Building on the tradition within English law to compensate citizens facing the forfeiture of Crown Land upon which they had made improvements, a pre-emptive right to purchase improved land was instituted in place of compensation. This *de facto* compensation gave the squatter the right of first offer on any improved parts of their run in the event of the run being put up for sale. Colonial land reform measures did not deal with this right of pre-emption and Duncan Waterson, in his detailed study of the effects of land policy in the Darling Downs in Queensland from 1859, concluded that pre-emption was the greatest human factor in the triumph of the pastoralist over the would-be agriculturalist in that region.[42]

The Cowper Land Bills of 1857

The new responsible government administrations were quick to develop land reform proposals. In 1856 John Hay prepared a land bill which was, however, never tabled as the government fell. In October 1857 Charles Cowper tabled land reform legislation in the LA. In Cowper's bill, would-be purchasers were to apply for available Crown land to be listed for sale and provide and pay for survey if required. After this the land would be put up to public auction. As part of survey the land would be classified as Town lands, Suburban lands, Agricultural lands or Country lands.[43] The minimum price for each category was to be £8, £2, £1 and five shillings respectively. There was no provision for purchase on credit (i.e., deferred payments). Instead, a 10% deposit was required with full payment within one month of sale

[39] Baker, 'The Origins of Robertson's Land Acts', p. 107. Ferry, 'Mapping the New South Wales Free Selection Acts in Colonial New England', p. 36.
[40] Baker, 'The Origin of Robertson's Land Acts', p. 108.
[41] Alan W. Williams, 'Colonial Origins of Land Acquisition Law in New South Wales and Queensland', *Journal of Legal History (Great Britain)*, 1989, 10 (3), pp. 357-358.
[42] D. Waterson, *Squatter, Selector, and Storekeeper: A History of the Darling Downs 1859-93*, Sydney University Press, 1968, p. 29. Maurice French's study of the Darling Downs supports Waterson's conclusion. See M. French, *A Pastoral Romance: The Tribulation and Triumph of Squatterdom*, USQ Press, Toowoomba, 1990, pp. 6, 18-21.
[43] A Bill for Regulating the Sale, Occupation, and General Management of the Crown Lands. Published in full in the *Herald*, 23 October 1857.

or the deposit was forfeited and the land resold. Hirst suggests Cowper hoped his bill would lead to the gradual resumption of squatter runs as such lands became desirable to farmers.[44] Presumably Cowper's rejection of deferred payments was an important means to lessen demand and discourage would be farmers or pastoralists who lacked sufficient resources. The existing provisions for squatters of the Order-in-Council of 1847 would be respected, leaving most squatters in outlying areas secure until January 1866. The most notable feature of the legislation was the absence of free selection. Land was to have only a minimum price and be sold at auction.

Cowper's bill attracted little support (though one wonders whether any first-up bill would have fared much better). Cowper's biographer Alan Powell suggests 'the liberal press at first greeted the bill with cautious approval and the public was silent'. Powell then observes: 'Ironically, the *Sydney Morning Herald* was first to point out that the measure gave no help to poor men, who must still purchase agricultural land for a minimum of £1 per acre. Public opposition sprang to life as the liberal press turned against the bill' (by 'liberal press' Powell means especially Henry Parkes' *Empire)*.[45] At one public meeting Parkes contended the bill 'failed to provide for the permanent settlement of the land, unless, indeed, they wished to see the social prosperity of the colony subside into one great sheepwalk'.[46]

The *Herald's* verdict anticipated and was in tune with popular reaction. It felt Cowper's bill would only benefit those who have 'cash at command' and 'succeed in enriching a few honourable members belonging to the larger class of capitalist, and a few great land speculators'.[47] It 'allows unlimited purchase — it leaves the description of the land to the surveyor — it demands prompt payment — it does nothing for poverty'.[48] Particularly telling was the editorial of 27 November 1857:

> We really are sorry to see the delusions of some who call themselves the friends of the "poor man". It is our solemn conviction that this scheme will put all the land fit for farms in the hands of rich men beyond redemption. They will not sell except at an enormous

[44] Hirst, *Strange Birth*, pp. 136-137.
[45] Powell, *Patrician Democrat*, p. 82. Powell's use of 'Ironically' reflects the conservative stereotyping of the *Herald*.
[46] Public Meeting on the Land Question, Sydney, 23 November 1857. *Herald*, 24 November 1857.
[47] *Herald*, 29 October 1857. Reprinted, *Herald*, 10 November 1857 with the title 'The Cowper Ministry Land Bill — Not the Poor Man's Bill'. Andrew Buck's article, '"The Poor Man": Rhetoric and Political Culture in Mid-Nineteenth Century New South Wales', *AJPH*, vol. XXXXII, 1996, pp. 203-219 makes several citations from the *Herald*. However, Buck does not develop the topic in the context of land policy. Buck's article is considered further in ch. 10 below. The *Herald* expressed on going concern that land legislation might encourage speculation rather than settlement. See the *Herald*, 26 October 1860.
[48] *Herald*, 29 October 1857.

> profit, because they will be able to let their lands to a tenantry. We have no objection to see the relations of landlord and tenant, when they grow up naturally; but we see no reason why the public at large should establish feudalism without any corresponding benefits — why it should assist the transfer of fee simple of the land to great monopolists, who will exert all the rights of the landlord, in the spirit of the usurer.

In criticism just as applicable to the subsequent Robertson land laws (though for different reasons), the *Herald* claimed it was 'childish to say that the projected change is for the "poor man," when ... in practice, it must rather secure his exclusion'. The *Herald* accused those 'who call themselves liberals' of a 'want of fidelity'.[49] Cowper opposed deferred payments and favoured sale by auction and the mercantile-minded *Herald* 'saw the writing on the wall' for the poor man. It ridiculed the idea, as if 'the auctioneer shall regulate his hammer by the wishes of the poorest man in the room'.[50] When the land bill was withdrawn the *Herald* claimed 'none but those who hoped to fill their pockets at the public expense will lament it'.[51]

Four further objections of the *Herald* are worth noting as they are criticisms also pertinent to the subsequent Robertson land legislation. Firstly, it thought any pricing of outlying land arbitrary as it 'is only by the competition arising from settlement that the value can be ascertained'.[52] This showed a classically liberal instinct to allow the market to mature and form its own value. Furthermore, it considered the widespread sale of land to pastoralists inappropriate and unnecessary and preferred a continued pattern of lease or license until, in the natural course of settlement, other purposes for the land emerged.[53] The *Herald* argued the unsettled districts, or as they were often termed the 'waste lands', were best understood as an 'estate' and the 'Legislature is bound in the interests of the future, to treat it as such, and not to dissipate the property recklessly before its value accrues'.[54] Elsewhere it advocated

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[49] *Herald*, 29 October 1857.

[50] *Herald*, 30 September 1857, reprinted 10 October 1857. This editorial pointed out ways the wealthy or commercially savvy operate unknown or unavailable to others, such as with purchasing the land at auction as a cartel and then adjourning to an inn for the real auction among themselves, thereby thwarting real competition and ensuring all participants some benefit. The *Herald* noted 'these are contrivances which rich men adopt, but could a poor man?'

[51] *Herald*, 11 December 1857.

[52] *Herald*, 24 November 1857.

[53] *Herald*, 20 November 1857. See also the *Herald*, 2 October 1857. Although quick to affirm the wealth generated by the squatters, the *Herald* did not acknowledge squatting as one of the 'permanent uses' of the land. This reflects the eighteenth century British understanding of land unimproved by agriculture as belonging to no one — *terra nullus*. *See* Gascoigne, *The Enlightenment*, pp. 8, 69-71, 167.

[54] *Herald*, 26 November 1857. Regarding the 'waste lands', in its 30 October 1877 edition the *Herald* argued the 'term waste lands has a technical meaning, which, in popular discourse, is sometimes misleading. There is very little land in the colony which is absolutely waste; it is nearly all leased, and is bringing in a rental, and might with judicious management be made to bring in a very much larger rental'.

'conserving the estate of the people'.[55] This reflected a British understanding of property wherein, as Buck emphasises, property was 'seen as held in trust for the benefit of those who will inherit it'.[56] In this instance, Crown Lands should be held in trust for future generations of citizens and not disposed of prematurely for the betterment of a few:

> Pending the sale of the public estate, the public will derive a very handsome revenue from the mere leasing of it ... Even unwisely administered, the national estate is so valuable, that it can scarcely fail to yield a good return. If wisely administered, it will for many years continue to furnish a fund which may be usefully appropriated to permanent public improvements, and especially to the construction of roads, railways, and telegraphs.[57]

The *Herald* stood by this perspective for decades and we are left to wonder what the benefits of a more incremental approach to the sale of Crown lands might have been.

Secondly, the *Herald* objected to Cowper's proposal as it made no provision for administrative reforms at the Survey Department.[58] Colonists agreed the Survey Office was in disarray and that its lack of resources, inefficiency and corruption fuelled the land crisis. As one correspondent put it, 'unless some complete reform be introduced to the office of the Surveyor-General ... no legislation will prevent complaint'.[59]

Thirdly, the *Herald* was in favour of deferred payments to small farmers, similar to that proposed by Gavin Duffy in Victoria. The *Herald* said

> We, like Mr. DUFFY, are much inclined ... to try a system of credit to small tenants of Crown lands ... We should think, for instance, that if land were sold for £100, £20 a year, payable one year in advance, would be ... convenient for the Government ... Thus a farmer occupying a 100 acres would make it his freehold in five years.[60]

The *Herald* reasoned that with the provision of credit 'this would place the "poor man" on a level with the squatter, who, unquestionably, has the advantage of deferred payment in

[55] *Herald*, 2 October 1857, reprinted 10 October 1857. William Bede Dalley also expressed this notion well when on the hustings in 1856: 'He [Dalley] believed the public estate was given to them by the Creator for the express purpose of placing on it millions and tens of millions of Europeans who could scarcely, with the severest labour, earn the common necessaries of life at home. The management of the public estate would require the greatest care'. Representation of Sydney. *Herald*, 29 December 1856.
[56] A. R. Buck, 'Property Law and Origins of Australian Egalitarianism', *Australian Journal of Legal History* (1995) 1, pp. 145-166.
[57] *Herald*, 7 April 1863.
[58] *Herald*, 26 November 1857.
[59] *Herald*, 26 November 1857.
[60] *Herald*, 17 June 1857.

another form'.[61] Here the *Herald* acknowledged the advantage of the squatter in paying only a small rent or license fee for an often underestimated run. Also, unlike a farmer, a squatter possessed sheep and cattle which the banks accepted as collateral to secure a loan. This proved a massive advantage to squatters in the decades ahead.[62]

Fourthly, the *Herald* thought Cowper's proposals invested too much independence and power of discretion in the administration of land sales with the cabinet, lands minister and officials. It likened it to a 'means of corruption and intimidation, which not even WALPOLE possessed'. The *Herald* added: 'Better far have rules, although they may be sometimes obstructive and inflexible, than, by leaving a wide discretion, and admitting easy change, afford a field for endless bribery and corruption'.[63] This was another example of editor John West's commitment to the maxim of John Adam's that 'power is abused when unlimited and unbalanced'.[64] This objection was often reiterated during the experience of endemic corruption arising from the ministerial and departmental discretion enshrined in the Robertson land acts.[65] Instead, the *Herald* called for the appointment of a Commissioner for Lands 'under the same tenure as the Judges'. Someone 'independent of the minister of the day' who could only be removed by a vote of both houses of parliament. The Commissioner's powers of discretion were to be limited and the position 'governed by regulations', with all transactions recorded and 'open to inspection'.[66] It suggested a salary equal to a cabinet minister with a main portfolio and thought that although such an arrangement was still 'liable to corruption' that 'the probabilities are against it' and far less than that of a 'Cabinet, dependent upon a popular Assembly'.[67] This was a clear call to depoliticise the administration of Crown lands and was thoroughly liberal in its commitment to transparent and accountable government administration.

Cowper's ability to change sides when it suited had already earned him the nickname

[61] *Herald*, 17 June 1857. The editorial also made death an attractive option by noting the small farmer 'by insuring his life might secure it to his family at once in the event of his death'. This was rather appropriate for a newspaper whose senior proprietor had sold life assurance in England and was a long-serving first generation director of AMP.
[62] See B. R. Wise, *The Commonwealth of Australia*, Sir Isaac Pitman & Sons Ltd, London, 1909, p. 112; Waterson, *Squatter, Selector and Storekeeper*, p. 33.
[63] *Herald*, 2 October 1857, reprinted 10 October 1857.
[64] Cited by Melleuish, *John West's 'Union Among the Colonies'*, p. xix.
[65] The *Herald* never forsook the view expressed in 1841, perhaps by unofficial editor Ralph Mansfield, that public virtue required checks and balances: 'From the days of the Norman Conquest to the present hour, public virtue, when not held tight by statute law, has proved itself an arrant rascal, rioting in favouritism, peculation, jobbery, and abuses of all sorts. Would any man accept public virtue as a security for his private rights — his life, liberty, or property?' *Herald*, 27 July 1841.
[66] *Herald*, 19 November 1857.
[67] *Herald*, 19 November 1857.

of 'Slippery Charlie' (from J. D. Lang).[68] However, on the issue of free selection before survey in 1857, Cowper stood his ground. In a decidedly un-slippery outburst Cowper declared 'he would not withdraw the measure [his bill], no matter what its fate may be'.[69] In reply to criticism that £1 for agricultural land with no provision for credit was too expensive, Cowper suggested agricultural lands be available for sale at the unsettled district rate minimum of 5 shillings per acre. The *Herald* was unconvinced, as this would have made it even easier for those with 'cash at command' to purchase vast estates. It maintained that the sale of the bulk of the unsettled districts was premature and unnecessary.[70] But, most significantly of all, in the backlash against Cowper's bill the call for free selection before survey arose as the anarchic but popular option to side-step the shortcomings of the Survey Department.

***Manifesto of the Land League of NSW*, April 1859**

The Land League of NSW's *Manifesto* of April 1859 sought: 'free selection of a certain portion of land, at a certain price, on condition of residence and cultivation' with or without survey; a deposit of 10% with deferred payments over sixteen years; limited provision for sale by auction under 'specified circumstances' in settled districts; 'the taxation of all alienated land'; the reservation of river frontages and watercourses for public use; 'the leasing by auction of runs in the intermediate and unsettled districts without free pasturage to the selector'; and, most remarkably of all but without elaboration, 'the due recognition of the rights of the aborigines'.[71]

D. W. A. Baker's research suggests that John Black was the primary author of the *Manifesto*. Certainly the *Manifesto* proposed reforms similar to that outlined by Black at a public meeting in November 1857 in response to the Cowper bill.[72] Baker suggests it was a 'composite document, showing both the comfortable liberalism of its chief author, John Black, and the urgent radicalism of most of his supporters'.[73] The *Herald* thought a lack of detail in the *Manifesto* left the League inadvertently promoting 'varieties of legislation entirely at

[68] Powell, *Patrician Democrat*, p. 77.
[69] Powell, *Patrician Democrat*, p. 83.
[70] The *Herald* of 10 October 1857 reprinted a summary of seven editorials or articles opposing the reduction in price.
[71] Manifesto of the Land League of New South Wales. Published in the *Herald*, 27 April 1859. I have not seen any discussion of indigenous peoples in newspaper or parliamentary discussion.
[72] See Meeting on the Land Bill, *Herald*, 19 November 1857. The other main speaker was J. D. Lang who called for electoral reform, a redistribution of seats to better reflect the population. Lang was unhurried about land reform thinking instead that a new assembly reflecting a more appropriate representation would return new members and produce a land bill more reflective of popular opinion than Cowper's.
[73] Baker, 'The Origins of Robertson's Land Acts', p. 116.

conflict with each other ... They may discourage the monopoly of land, or promote it, to an extent hitherto unheard of'.[74] Here the *Herald* clearly signalled the danger of land reform unintentionally alienating the land away from small freeholders.[75]

A Proposal from the *Herald* for the Settlement of Crown Lands

John Fairfax touched briefly on land policy during his attempt to enter the LA. Fairfax said he would 'throw open the land as freely as possible to all'.[76] Fairfax did not nominate a minimum price for Crown Land but thought it should be sold at a price which would deter 'rash investment in sterile lands' and 'wild speculation'. Fairfax thought the price should bear some resemblance to former prices to keep faith with current land holders and yet also bear in mind the cheaper land sales of earlier times.[77] Fairfax claimed the 'present minimum rate is too high' and emphasised the need for infrastructure such as railways.[78] This preference for a modest price and practical support for selectors was considerably fleshed out in the *Herald's* proposal a few years later.

Following discussion aroused by the public meeting of the Land League, the *Herald* put forward its own 'Manifesto' in its editorial of 30 April 1859 (three days after it published the Land League *Manifesto*). To begin with, the *Herald* argued any new legislation ought to be 'limited to the particular object which it is designed to embrace'. The *Herald* thought that land proposals to date lacked a clear statement of purpose. It challenged politicians to clarify how their proposals sat with the potentially conflicting claims of settlement, immigration, revenue raising, and the development of agriculture. In its view, the land issue was a matter of settlement. To this end, it was 'totally opposed to the principle of free selection' as applied to the 'entire territory of New South Wales'. It suggested a system in which districts were set aside for settlement, with the Government indicating 'the lines of road and communication'.

[74] *Herald*, 28 April 1859.

[75] A short postscript to the Land League's *Manifesto* came in September 1860. The League produced a 'Petition of Right'. This put forward three suggestions. Firstly, it sought for an area of land in each municipality to be reserved for public use. Secondly, that every adult male 'have a right of free selection from all the remaining waste lands' of the colony of 80-160 acres within a specified radius of cities and towns and up to 320 acres beyond this. The only price would be to cover the cost of survey. Payment would be made one year after occupation on evidence of occupation and cultivation. Thirdly, it sought for future leases to squatters to be made for short periods with the land open for agricultural use with reasonable notice. The petitioners hoped that this land policy would lead to a 'great influx of capital and labour into the Colony'. *The People's Petition of Right*. Published in the *Empire*, 24 September 1860.

[76] John Fairfax, To the Electors of the City of Sydney. *Herald*, 29 December 1856.

[77] John Fairfax, To the Electors of the City of Sydney. *Herald*, 29 December 1856.

[78] John Fairfax, To the Electors of the City of Sydney. *Herald*, 29 December 1856. See also Fairfax's speech on the hustings, 'Election for the City'. *Herald*, 30 December 1856.

Lots of up to 320 acres ought be available for selection, with survey completed within twelve months at the selector's expense. In doing so the *Herald* proposed a form of free selection before survey. As for payment, the *Herald* suggested no deposit or indeed any payment within the first twelve months, during which time the selector could get established. A license would then be issued, renewed annually, requiring the payment of 1 shilling per acre annually for twenty years. This scheme would have allowed the selector to purchase land with no deposit for £1 per acre over twenty years, though at any time the land could be purchased outright. The *Herald's* plan did not mention deferred payments, as with no deposit and such low repayments none would be required. No conditions of residence or cultivation were mentioned. The *Herald's* proposal, though only presented in broad-brush strokes, was more generous to selectors than any bills tabled in the LA. This stemmed from the *Herald's* conviction that land reform was primarily about settlement, not government revenue. Admittedly, the *Herald's* proposal did not specify which regions ought be set aside for intensive agricultural development or how much land they would make available to individual selectors. However, there is no reason to attribute any disingenuity to the *Herald* at this point. If settlement was its focus, as the proposal suggests, then it would of necessity had to have supported the adequate provision of land, the abundance of which was not in question.

A unique feature of the *Herald's* scheme was that it went well beyond the individualistic emphasis of land legislation tabled in the LA. When 100 licenses had been issued within a district the holders were to assemble and declare themselves 'a rural municipality'. All unsold land was to be administered by the municipality 'for the general benefit of the district', with half of any proceeds from subsequent land sales to be applied to 'local improvements' and half to the 'general revenue'. Land remaining unsold after five years could be auctioned by the Government if requested by the 'local inhabitants'. The *Herald* felt such a policy would 'tend to prevent the capricious dispersion of the people and secure their concentration in agricultural communities'. The *Herald* also fancied selectors under this model would be more likely to attract financial support from banks and 'capitalists', as no one 'would lend one sixpence upon the "free selection" or Arab scheme' of free selection anywhere in the colony. As such, the *Herald's* proposal was similar to those in other colonies with nominated agricultural districts.[79] It was also designed to further settlement rather than generate revenue and linked, as Henry Parkes did, revenue from land sales to local

[79] In particular, the *Herald* claimed much similarity between its proposal and amendments proposed by Gavin Duffy in Victoria in 1862. See the *Herald*, 8 February 1862.

development.[80] In proposing free selection in established agricultural districts, a proposal for local government, no deposit and no repayments within twelve months (and only 1s per acre per annum in repayments thereafter), it was a proposal clearly directed toward concentrated land settlement.

Yet, although generous to selectors, the *Herald* plan would also have prevented the precipitous sale of Crown Lands which occurred under the Robertson land acts. The *Herald's* proposal would have seen less land sold in outlying areas in the early years. Instead, rents would have been collected, perhaps for decades, and the land sold later at higher real prices as settlement advanced. Yet perhaps most striking of all were the regional settlement features, with an emphasis on local government and for half of the sales revenue to stay in the region. This formed part of John West's wider emphasis on the importance of local government, a classic liberal emphasis, one which Hirst notes was crushed by colonial politicians.[81] Fairfax's fellow-Congregationalist Thomas Holt, in a letter outlining his own land scheme, complimented the *Herald* on its proposal. Holt said: it 'must recommend itself to all classes by its extreme liberality and equity. It does, in reality, what other schemes only profess to do — *unlock the land*'.[82] John West, the likely author of the *Herald's* proposal, developed the theme of land reform in a lecture on 6 December 1860 titled 'Internal Colonisation'. It was delivered during the height of the election campaign dominated by the issue of free selection before survey. Similar to Henry Parkes, West stressed the need for wider social and educational infrastructure to accompany the alienation of Crown lands.[83]

A significant adjunct to the *Herald's* proposal for the settlement of Crown Lands was its proposal for a land tax. On the hustings in 1856 John Fairfax addressed the need for general state revenue. Fairfax said he was 'strongly in favour of a property-tax; he cared not what the property might be — cattle, sheep, houses, land'.[84] In addition to proposing a tax on property, instead of increased customs duties on necessities or the unnecessary sale of Crown Land, Fairfax proposed a land tax on unoccupied land. As an example, Fairfax claimed Alexander Berry had 70-80,00 mostly uncultivated acres in the Shoalhaven, and said: 'land of

[80] Parkes argued for land sale revenue to be applied locally to schools and other infrastructure (as discussed in ch. 6 below). East Sydney Election: Nomination of Candidates, 5 December 1860. Published in the *Herald*, 6 December 1860.
[81] Hirst, *Strange Birth*, pp. 195, 244. See also Melleuish, *John West's 'Union Among the Colonies'*, pp. xxi-xii, xxv-xxix.
[82] *Herald*, 12 May 1859. Emphasis Holt's.
[83] 'Internal Colonisation', A Lecture delivered at the Temperance Hall, by Rev. J. West, December 6th, 1860. Published in the *Herald*, 25 December 1860.
[84] Election for the City. *Herald*, 30 December 1856.

that description, which was still unoccupied, that had been given away by former Governments, or purchased at a nominal price, ought to pay something towards supplementing the revenue of the colony'.[85] The *Herald* periodically returned to this theme. For example, although not endorsing the particular land tax proposed by John Black in 1860 (see below), it reiterated its in-principle support for a land tax.[86] The *Herald* saw a land tax as one means of discouraging speculation and preferable to placing onerous conditions of cultivation and occupation upon selectors. It also thought it superior to customs duties on general items or repugnant measures such as *ad valorem* duties. The *Herald* was still calling for a land tax in the mid-1870s.[87] Gammage notes that when a land tax was eventually introduced in 1895 it was one of two 'lethal provisions', the other being compulsory resumption, which finally turned the tide in favour of the small freeholder. Gammage suggests these measures were 'in today's terms ... democratic measures ... meant to assist the small men against the big'.[88]

Given the *Herald's* reputation within Australian historiography for mercantile conservatism, it is ironic to note that Fairfax and the *Herald* were unheeded voices in favour of a land tax forty years before its introduction. Evidently the *Herald* saw this type of government interference as consistent with liberalism, in that government required significant revenues which need not come only from traditional sources, such as customs duties. Even more ironic is the fact that the *Herald's* recommendations for the settlement of Crown Lands were more generous to the selector class than anything considered and legislated by the administrations of Cowper and Robertson.[89] The primary difference between the *Herald's* proposal and that of colonial politicians was that the *Herald* was focused on the settlement of Crown Lands. The *Herald* insisted: 'The price of land, the mode of obtaining it, and the manner of payment, important as they are, are, after all, only means to an end. They are subsidiary to the great question of colonisation'.[90] In contrast, many leading colonial politicians were focused on the sale of Crown Lands for the purpose of generating capital, both financial and political.

[85] Election for the City. *Herald*, 30 December 1856.
[86] *Herald*, 17 February and 26 October 1860.
[87] For example, see the *Herald*, 19 October 1877.
[88] Gammage, 'Who gained and who was meant to gain, from Land Selection in New South Wales?', p. 121.
[89] I have not discovered any reference within the secondary literature to the *Herald's* proposal for the settlement of Crown Lands.
[90] *Herald*, 1 January 1858.

The Robertson Land Bills of 1859

John Robertson tabled three land bills in the LA in September 1859. However, as Cowper's administration was in the death throes of an unsuccessful attempt to pass an Education bill, Robertson's land bills were not even discussed in the LA. The *Herald*, transfixed with the education bill debate, noted the tabling of the bills and summarised their contents without comment on 29 September 1859. Clause 12 of the 1859 Crown Land Sales Bill allowed for the selection before survey of Crown lands not amounting to more than 320 acres, provided they were not close to towns, subject to reservation, or 'containing valuable improvements'. A 50% deposit was required (25% in the 1861 legislation) with the balance required after five years (three years in 1861). Conditions and improvements valued at 50% of the sale price were required (100% in 1861). Where more than one selector applied for the same land it was to be surveyed and auctioned among the applicants (drawn by lot in 1861). As with the 1861 legislation, provision was also made for the sale of land by auction. In 1859 Robertson proposed this at a price of 5 shillings for all non town or suburban land. This was one quarter of the 20 shillings (or £1) required of the selector and came without conditions for improvement or residence.[91] This policy was reversed in the 1861 legislation which required a minimum price of £1 from both sale by auction and selection.

Although Robertson effectively resisted widespread calls to amend his subsequently enacted land laws, the differences between them and his proposed bills of 1859 shows that prior to 1861 Robertson's thinking had been a little more flexible. Furthermore, in March 1860 Robertson was premier (while Cowper had a stint in the LC) and for a time, only six months before tabling his September land bills, agreed to selection before survey to be limited to settled districts. Robertson withdrew from this position due to the objection of members of his cabinet.[92]

John Black's Land Bills of 1860

John Black, former leader of the Land League of NSW, was appointed Secretary of Lands by William Forster, who formed a short-lived administration from October 1859 to March 1860. This was the first elected under manhood suffrage and voting by secret ballot. Baker accounts for Black's appointment in lively terms:

> Black was a Whig by background and rode into colonial politics on the shoulders of the

[91] Clause 18, Crown Land Sales Bill, 1859. *Herald*, 30 September 1859.
[92] Powell, *Patrician Democrat*, p. 88.

> Land League. But a few months later Black was offered the portfolio of Minister of Lands in Forster's Conservative government. He jumped at the chance, forgot all about being a demagogue ... The Land League ... could not survive Black's betrayal. It split, and early in 1860, died.[93]

This account reflects the *Empire's* interpretation. In October 1859 the *Empire*, now owned by Samuel Bennett and William Hanson, described Black as 'an advanced liberal of the best class, a man of character, as well as of ability and education'.[94] However, one year later it described Black's land bill as 'an indelible record of his political treachery. In short, he betrayed the people'.[95]

What, then, of Black's bill? To summarise, in addition to any land already surveyed prior to the Act, it sought for a minimum of 250,000 acres of surveyed land suitable for agriculture to be available 'at all times' for selection. In the event of more than one person selecting the same land it was to be decided by lot, unlike Robertson's 1859 bill where it went to public auction. The price was to be 10 shillings (half a pound) per acre in lots of up to 320 acres. This was half the price of the subsequent Robertson legislation but without provision for deferred payments. All Crown lands (barring towns, reserved areas etc.), surveyed or otherwise, could also be sold by auction after survey at a minimum price of 10 shillings per acre. There was also provision for unsurveyed lands in unsettled districts to be occupied before survey. Here, with no deposit and after one years occupation, the land could be purchased at 10 shillings per acre without competition, provided certain improvements such as fencing had been met.[96] Black's bill also acknowledged the necessity of a major restructuring of the Survey Department in order for the minimum amount of surveyed agricultural acres to be available for selectors.

The *Herald* accurately described Black's bill as a 'Cabinet compromise'.[97] It reflected elements of Black's Land League *Manifesto* and Premier Forster's opinions, who had been as outspoken as Robertson on the land question. However, whether it was a wholesale 'betrayal' of Land League principles, as the *Empire* and Baker suggest, is open to challenge. If we are more concerned with reality than rhetoric, the fact that it did not provide for free selection before survey in all districts does not of itself render the bill a betrayal of the intent of the

[93] Baker, 'The Origins of Robertson's Land Acts', p. 118.
[94] *Empire*, 28 October 1859.
[95] *Empire*, 5 October 1860. See also *Empire*, 6, 8 October 1860.
[96] A Bill to Provide for the Sale and Management of Public Lands, February 1860. Published in the *Herald*, 17 February 1860.
[97] *Herald*, 17 February 1860.

Land League *Manifesto*. The strength of the subsequently popular call for free selection before survey in the election of December 1860 was not primarily due to the fact that others before them, as in the 1830s, had received this privilege. It stemmed primarily from despair at the workings of the Survey Department and scepticism regarding the willingness and ability of government to reform and resource it. More significant to the Black proposal, than its partial provision for selection before survey, is the fact that it did not provide for sale by credit (deferred payments). In doing so it reflected widespread concern in the LA regarding deferred payments and indeed many who ultimately supported the Robertson land acts (which included them) voiced ongoing concern. Yet the facts are that Black's bill would have sold land to selectors at half the price of Robertson's 1861 act, without the mandatory occupation or improvement requirements which proved so onerous to selectors. It also allowed no competition at auction among those who selected the same land, an improvement on Robertson's 1859 bill, and allowed for free selection before survey with no deposit in outlying districts at 10 shillings per acre.

This shows the limitations of historians seeing only the Robertson land acts as 'liberal' in intent, a difficulty perhaps in part arising from over reliance on the *Empire's* interpretation of events. Certainly Black felt hard done by and later that year launched a stinging defence of his bill in the LA when critiquing Robertson's second (and subsequently approved) land bills. Black suggested his bill would have been more liberal in effect than Robertson's and suggested the *Empire* 'existed entirely for the purpose of advertising USQUE AD NAUSEAM, AD INFINITUM, Government announcements' and was guilty of 'mercenary prostitution'.[98]

The *Herald's* response to Black's land bill, the last before the Robertson land laws, was interesting and hinted at the political dangers ahead. Unlike the *Empire*, it did, however, support that it represented a compromise of the formerly entrenched views of Forster and Black.[99] It expressed the frustration common among colonists and sought a land bill as soon as possible. The *Herald* thought genuine compromise was the only way forward and that no one ought 'hope to see their own ideas universally ... acquiesced in'.[100] However, it would not comment upon the detail of the bill unless it made it into committee stage.[101] For to the *Herald,* more important than the minutiae of any of the bills to date, was a growing despair at

[98] NSW LA, 5 October 1860. Published in the *Herald*, 6 October 1860.
[99] The *Herald*, 17 February 1860, suggested of Black: 'Ministerial responsibility softens the rigour of the most dogmatic agitator, and the necessity of co-operating with others enforces compromise'.
[100] *Herald*, 17 February 1860.
[101] *Herald*, 17 February 1860. The *Herald* here includes the bill of Hay of 1856 not tabled in the LA.

the political environment within the legislature. It remarked:

> between the struggles of those who have either actually or prospectively pecuniary interests at stake, and the manoeuvres of those who are more intent on political speculations than land speculations, and who look upon the land question as the ladder by which to rise to power ... it is not easy ... for any Government, still less a weak one, to educe a measure which shall be just to all parties and unjust to none.[102]

Conclusion

Immediately prior to the Robertson land laws there had been enormous debate regarding land reform in NSW. Of the tabled bills, only Cowper's failed to include free selection. This left its liberal credentials in tatters. The *Herald* identified some confusion as to the pre-eminent purpose of land reform and sought for the tension between potentially conflicting claims, such as between promoting settlement and raising revenue, to be clarified. Its own proposal was clearly settlement driven, hence its generous terms to selectors. Although few politicians were prepared to admit it, most colonists were agreed on the aim of giving small freeholders an opportunity to get established on the land. However, this broad but unacknowledged agreement was lost amidst acute differences over the mechanics and details of land reform. This was a situation soon to be adeptly exploited, and inflamed, by the masters of political faction.

[102] *Herald*, 17 February 1860.

Ch. 6. The *Sydney Morning Herald*: Land Policy, Part 2: The Robertson Land Acts.

Introduction

Given the Robertson land bills were the culmination of the most controversial and energetic debate in colonial society, it is surprising more has not been written regarding their context, nature and impact. One aspect of this is a lack of comparative assessment between the land bills of NSW and those of Victoria, Queensland, Tasmania, South Australia, and New Zealand. This is all the more significant given all, bar South Australia, enacted land laws *before* NSW and *none* allowed free selection before survey, the distinctive feature of the NSW legislation.[1] This chapter surveys the passage of the Robertson land acts through the NSW LA and LC. It examines the content of the legislation and surveys the basis of both support for and opposition to the legislation. Combined with the previous chapter, this analysis provides the essential context to understanding the response of the *Herald* to the Robertson land acts (outlined in chapter 7 below).

The Robertson Land Acts

Robertson owned freehold land in the Hunter region and had been a far-ranging squatter. His land acts were passed in the LC in September 1861, when Cowper was Premier and Robertson Land Minister. The 'Crown Lands Alienation Act' provided for the selection of Crown Lands while the 'Crown Lands Occupation Act' provided for leasing options. Anyone could select before survey 40-320 acres of unimproved Crown land at £1 per acre with a 25% deposit. Three years after selection the balance of 75%, or 15s per acre, was to be paid or interest at 5% per annum would be applied. Conditions of selection were residence and

[1] Within the literature, Baker's seminal (1964) article 'The Origins of Robertson's Land Acts' remains valuable and has been effectively updated by Gammage, 'Who gained and who was meant to gain, from Land Selection in New South Wales?', pp. 104-122. See also: B. Dickey, *Politics in New South Wales, 1856-1900*, pp. 131-151, who provides portions of valuable primary materials on land policy; Ferry has assessed the impact of the acts in New England in 'Mapping the New South Wales Free Selection Acts in Colonial New England', pp. 29-42; Dawson considers the impact of the land acts on the inhabitants of one large Southern Monaro property and their region, in 'Striking Out for Independence', pp. 123-139; Frappell makes an important contribution by examining the pastoral independence movement in the wider Riverina region 1856-1866 in *Lords of the Saltbush Plains*; on the land selection acts in south east Queensland, see Waterson, *Squatter, Selector, and Storekeeper* and French, *A Pastoral Romance*; Buck has written about colonial land policy and the idea of egalitarianism in 'Property Law and Origins of Australian Egalitarianism', pp. 145-166; Williams comments on the cultural and legal understandings of the land in Britain and her colonies in 'Colonial Origins of Land Acquisition Law in New South Wales and Queensland', pp. 357-358. Some biographies of major colonial figures provide useful comment on the Robertson land acts. See Powell, *Patrician Democrat*, pp. 82-89, 148; Ward, *James Macarthur*, pp. 195-204, 224-230, 239-243, 256-7, 266-270, Martin, *Henry Parkes*, pp. 148-150,177-180, 331-334. Broader social and political histories provide helpful comment, most notably Hirst, *Strange Birth*, pp. 136-155, 272.

improvements to the value of £1 per acre, which effectively doubled the purchase price. That failing, the land and deposit were forfeited and the land resold by auction.[2] Selectors were able to lease adjoining grazing lands up to three times the area they selected. In addition to free selection there was continued provision for sale by public auction (clauses 21-24). Land sold at auction was available at a minimum of £1 per acre in unsettled districts, although there was mention of 'inferior and back land' being sold by auction at a minimum of 5s. For land sold at auction, a twenty-five percent deposit was required with full payment within three months. There were no conditions.[3] There was no mention of the administrative reform of the Survey Department and the Lands Minister was given unqualified powers in dispute resolution and the interpretation and application of the legislation.

Debate on the Robertson Land Acts

Robertson's land bills were introduced into the LA in late September 1860. Members were acutely aware this was the fifth land bill drafted[4] and that land legislation had already been passed in the neighbouring colonies of Victoria and Queensland. The latter point is significant as those colonies competed with NSW for British migrants, whose numbers had shrunk dramatically after the gold rush.[5] Robertson spoke to his bills on 4 October 1860 and full discussion ensued. John Hay moved an amendment withdrawing provision for selection before survey that was passed by a small majority, 33-28.[6] In response, Cowper and Robertson ensured an election in December 1860 which resulted in a massive show of support for selection before survey. Only nine of thirty-three sitting members who opposed it were returned.[7] Yet few in the LA before or even after this election (except, perhaps, the new

[2] A Bill for Regulating the Alienation of Waste Lands, clause XVIII. *Empire*, 1 October 1860. In the unlikely event of a surplus being realised from the sale this would go to the original selector.
[3] See clauses 21-24.
[4] Land bills were prepared by John Hay (1856, not tabled in the LA), Cowper (1857), Robertson (1859), Black (February 1860) and Robertson (September 1860). *Herald*, 2 October 1860.
[5] See: John William Nott, 'Arrival and Settlement, 1851-1880', *The Australian People: An Encyclopedia of the Nation, Its People and Their Origins*, J. Jupp (ed.), Cambridge University Press, Cambridge, 2001, p. 39; A. Martin, 'Immigration Policy before Federation', *The Australian People: An Encyclopedia of the Nation, Its People and Their Origins,* J. Jupp (ed.), Cambridge University Press, Cambridge, 2001, pp. 39-44; and Frappell, who highlights the revoking of the 1847 Order-in-Council in 1857 by the Victorian parliament as a stimulus to migrant flow from Victoria to the Riverina, *Lords of the Saltbush Plains*, pp. 37-38.
[6] NSW LA, 26 October 1860 lists which members voted for and against the amendment to remove 'before survey' from the free selection cause. Published in the *Herald*, 27 October 1860. See also the *Herald*, 21 November 1860. This editorial accurately predicted that 'great efforts' would be made to make the election a single issue campaign on selection before survey. However, it erroneously predicted that it was 'not likely that the constituencies at large will take such narrow ground, or will displace able and tried representatives for those whose only recommendation is their readiness to meet the popular demand for free selection before survey'.
[7] Loveday and Martin, *Parliament, Factions and Parties*, p. 32.

members) wholeheartedly supported the legislation, a fact not reflected in the historiography. For instance, Allan Martin writes:

> Parliament resumed in September 1860 ... The land reform issue came quickly to a head. Robertson's measures embodied the key principles now orthodox among liberals and radicals: sale of crown lands in small blocks; payment of the purchase price (£1 per acre) by instalments; freedom for settlers to select and occupy blocks on unimproved crown land before official survey.[8]

To suggest the key features of Robertson's bill were 'now orthodox among liberals and radicals' greatly exaggerates the unanimity among (so termed) liberals in the LA. As the following sample of political debate reveals, a willingness to vote for the legislation ought not be confused with its key principles having become 'orthodox among liberals'.

Parliamentary debate before the December 1860 elections and campaign speeches during the December elections reveals widespread disagreement over the bills. One of the first members to speak was Daniel Deniehy on 4 October 1860. Deniehy, described by Hirst as the 'best-educated and most eloquent of the radical democrats',[9] considered 'deferred payments to be highly objectionable ... in any form' and cited liberal theorist John Stuart Mill's disapproval in support.[10] Deniehy also opposed the conditions to be placed upon selectors as 'he did not see how it was possible to carry out the conditions ... proposed'. Although strongly supporting free selection before survey, Deniehy sought 'more specific provision for survey' and (like the *Herald*) deemed the overhaul of the Survey Department essential. More broadly, Deniehy thought the aim of land reform was 'to bring population upon the lands'. In short, Deniehy supported free selection before survey but opposed deferred payments and the residence and improvement conditions and for this received harsh censure from the *Empire*.[11] Yet, despite significant objections, Deniehy said he would vote for the legislation as he was 'anxious some sort of a land bill should be passed'.[12] But most of all Deniehy was passionate about selection before survey. In debate before voting on Hay's amendment deleting 'before survey' from the free selection clause, Deniehy claimed 'free selection, without previous survey, was the very basis of colonisation'.[13] Deniehy lacked confidence in

[8] Martin, *Henry Parkes*, p. 178.
[9] John Hirst, 'Deniehy, Daniel Henry', *The Oxford Companion to Australian History*, G. Davison, J. Hirst, S. Macintyre (eds), Oxford University Press, Melbourne, 1998, p. 182.
[10] NSW LA, 4 October 1860. Published in the *Herald*, 5 October 1860.
[11] NSW LA, 4 October 1860. Published in the *Herald*, 5 October 1860. For the *Empire's* treatment of Deniehy see its editorial of 8 October 1860.
[12] NSW LA, 4 October 1860. Published in the *Herald*, 5 October 1860.
[13] NSW LA, 26 October 1860. Published in the *Herald*, 27 October 1860.

the ability of government to meet demand for survey and argued 'selection dependent on survey would prove a sham and delusion'.[14] In addition, Deniehy assumed the legislation would be amended as required, suggesting the clause on free selection before survey in its present 'clumsy' form was not final.[15]

John Campbell, merchant and subsequently a large benefactor to the Church of England,[16] 'would not consent to see one class ruined to gratify another'[17] [i.e., squatters ruined for the benefit of selectors] and suggested in place of deferred payments that lots of fifty to one hundred acres of alluvial land be given away on condition of cultivation.[18] In a lengthier address John Black, formerly of the Land League, claimed Campbell's ideas were 'much more liberal than that which had emanated from the so-called liberal Ministry'.[19] In addition to a spirited defence of his own earlier bill of the same year, Black attacked the conditions to be placed upon selectors, suggesting 'free selection' was a misnomer and ought be termed 'enslaved selection'.[20] Black also criticised in poignant fashion the purchase price of £1 per acre in unsettled districts as needlessly high and more than double prices in Tasmania, United States, and Canada:

> There were some who said they could not regard the price of land as a principle. It was difficult sometimes to settle what were principles and what were details, but 999 out of a thousand applicants for land would at once recognise the difference between paying £100 and £50 for the same thing.[21]

Black claimed the 'only object of this bill would seem to be to exact the utmost farthing for the land'. Given the conditions required of selectors, Black described deferred payments as 'another delusive provision' among 'a mass of delusions' and 'thought it was questionable if any system of deferred payments could equal the advantages ... from reducing the price of land to the lowest possible figure'. Black considered the Queensland land bill to be 'infinitely

[14] *Herald* summary of LA discussion, 27 October 1860.
[15] *Herald* summary of LA discussion, 27 October 1860. The impression from Deniehy is not merely that the bills would be modified before reaching the LC, true as that might be. It is more the sense that the legislation more generally would be modified in the light of the experience of its application. Few, at the time, would have envisaged the land acts going effectively unamended for decades. Indeed, the *Herald*, 16 September 1861, on the passing of the laws through the LC erroneously ventured: 'Now, if anything is clear, it is that one Land Bill will lead on to another'.
[16] Martin and Wardle (ed's), *Members of the Legislative Assembly of New South Wales, 1856-1901*, pp. 29-30.
[17] *Herald* summary of LA discussion, 27 October 1860.
[18] NSW LA, 4 October 1860. Published in the *Herald*, 5 October 1860.
[19] NSW LA, 5 October 1860. Published in the *Herald*, 6 October 1860.
[20] At this point it is fascinating to note that Robertson interjected with 'Without survey, that is the freedom!', which may support the Baker thesis of an ideological commitment indifferent to its practical effects for small freeholders.
[21] NSW LA, 5 October 1860. Published in the *Herald*, 6 October 1860.

more liberal'. In addition, and consistent with liberal values, Black expressed a fear of untrammelled executive power, claiming the bill 'reserved far too great a power to the Land Minister of the day'.[22]

Augustus Morris was a pastoralist whose address in the LA of 9 October 1860 provided a succinct and accurate assessment of the legislation and its likely effects.[23] Morris thought the bill needlessly pitted selector against squatter. On the one hand Morris feared the pastoral interest would be undermined, and yet, somewhat paradoxically, then went on to explain several ways by which squatters might nonetheless triumph over selectors. Morris foresaw that as the bill did not alter the generous pre-emption provisions for squatters of the 1847 Orders-in-Council, a squatter could 'secure an enormous area of country'. Morris insisted that without dealing with the pre-emptive rights of squatters the 'poor man would be cheated' and that he would support any measure to remove pre-emptive rights.[24] Morris insisted, 'he was most anxious ... that the agricultural lands should be taken up by an industrious peasant proprietory of small farmers' but believed the proposed bills unlikely to bring this about. Instead, rather presciently, Morris contended 'the squatter himself might, under the provisions of this bill, seize upon the lands of the colony in a manner that probably hon. members opposite had not thought of'.[25]

Morris Asher, a storekeeper and subsequent appraiser of Crown Lands in the Riverina who lost a fortune in land speculation,[26] suggested that due to this bill, Robertson 'would be looked upon as the saviour and redeemer of this country'.[27] Yet even Asher quibbled, arguing the requirements upon selectors for residence and cultivation were 'highly objectionable, and not liberal enough'. William Wild, a Barrister, conceded the phrase 'free selection' was 'very gratifying' as it sounded so 'excessively liberal'. However, Wild thought free selection useless without established agricultural districts. Within such areas the pre-emptive rights of squatters could be abolished and agricultural development would be concentrated rather than scattered. This would result in selectors being more viable and in possession of more valuable land. Wild accurately foresaw that with Robertson's bill as it stood, 'there was no possibility of preventing disputes between the original occupier' and the selector and that 'impoundings [of

[22] NSW LA, 5 October 1860. Published in the *Herald*, 6 October 1860.
[23] Therefore, it was not inappropriate that Morris subsequently co-authored the Morris-Ranken report of 1883 which savaged the Robertson land acts.
[24] On pre-emption, see Waterson, *Squatter, Selector, and Storekeeper*, p. 29 and French, *A Pastoral Romance*, pp. 6, 18-21.
[25] NSW LA, 9 October 1860. Published in the *Herald*, 10 October 1860.
[26] Martin and Wardle, *Members of the Legislative Assembly of New South Wales, 1856-1901*, pp. 6-7.
[27] NSW LA, 9 October 1860. Published in the *Herald*, 10 October 1860.

stock] would commence'. Wild also opposed deferred payments, fearing it would encourage people with inadequate capital to venture onto the land and lose everything. In concluding, Wild claimed 'his objection to free selection was not so much to the principle itself as to the abstract, impracticable, and dangerous mode of applying it, which was contained in this bill'.[28]

J. D. Lang then embarked on an impressive and, by his standards, irenic address. In a rare moment of agreement with the *Herald*, Lang suggested 'members must take the best bill that could be got in the general conflict of opinion'.[29] After elucidating the history of land policy, not merely in NSW and the United States but ancient Israel, Egypt and the Roman Empire, Lang got down to three points: price, free selection, and deferred payments. On price, like the *Herald,* Lang opposed any reduction below £1 for fear men of large capital would be the main beneficiaries. As for free selection in all districts, Lang admitted to having initially opposed it but had changed his mind as he thought agricultural concentration would happen without legislative direction. Lang also thought the agriculturalist would 'have his ends accomplished without trenching on the proper grounds of the squatters'. As for deferred payments, Lang agreed with Deniehy and opposed them.[30] Lang thought the legislation unlikely to assist the underemployed post-gold rush population lingering in Sydney. Indeed Lang doubted 'whether one in ten of ... [those] making so much outcry about the land would ever settle down upon it' and that if they did without prior agricultural experience they would surely fail. Furthermore, on the strength of his experience with migration schemes, Lang thought the reforms would be met with 'indifference' by prospective British migrants.[31] Lang's opinions are rather striking. Although voting for the bills, he disagreed with deferred payments and doubted the legislation would deliver on several of its claimed key benefits. For Lang, as for many, far from seeing the Robertson land acts as some high point of legislative excellence, he believed it warranted support as the issue had dragged on long enough, the bills were an improvement on the *status quo*, they seemed liberal enough in intent, and could be modified as required (or so it was assumed).

[28] NSW LA, 9 October 1860. Published in the *Herald*, 10 October 1860.
[29] NSW LA, 9 October 1860. Published in the *Herald*, 10 October 1860.
[30] Lang argued: 'It would unquestionably raise up a large interest in the shape of Government debtors ... who at every general election would bring their influence to bear upon candidates. The question would infallibly be to every candidate ... "Will you vote for converting our tenancies into freeholds?" ... He feared the pressure would be irresistible and the Government would ... yield'. NSW LA, 9 October 1860. Published in the *Herald*, 10 October 1860.
[31] NSW LA, 9 October 1860. Published in the *Herald*, 10 October 1860. Lang's scepticism on migration was vindicated. See the *Herald* 5 August 1862, 8 September 1875. Lang thought Queensland's land bonus scheme would prove attractive to migrants and strongly advocated it for NSW, as did Henry Parkes.

A strong voice opposed to the bills was William Forster. A supporter of manhood suffrage and former Premier, Forster expressed amazement at hearing eight or ten speeches expressing arguments 'unfavourable' to the legislation by speakers who nonetheless intended to support it. Instead, Forster sought 'further limitation' on the Executive in lands administration as the bills conferred 'dangerous powers'.[32] Forster called for a bill more likely to promote immigration, agricultural settlement and provide 'more protection against the larger capitalists'. More than once Forster insisted the land question was 'no longer a mere party question' or about 'party differences' and denigrated key Robertson supporter James Hoskins for his talk of it destroying the 'conservative party'.[33] Forster disliked the conditions whereby landowners were 'subject to intrusion by the Crown' and generally thought the bills unlikely to 'promote the settlement of the country'.[34] Then, in remarkable fashion, Forster witheringly denounced free selection before survey as proposed by Robertson. Forster reminded the LA of his support for manhood suffrage and that none had better credentials than he regarding the principle of free selection before survey. Since 1855 Foster had 'advocated the principle of free selection before survey in the abstract, and also in its most absolute sense' without limitation to particular districts.[35] Forster 'thought it was a right'. However, Forster insisted 'he could not find the principle of free selection in this bill: if it were there it was stifled by the fetters imposed upon it ... If free selection is worth anything, why not let a man have the land without these demoralising conditions?'[36] Along with many members Forster also opposed deferred payments. In summing up, Forster said he would oppose the bill:

> because it was one that did not carry out the principles which it professed to do ... because it did not limit, but, on the contrary, increased the power of the Executive Government — because it made revenue rather than settlement its prominent feature — and because it altogether mutilated the principle of free selection ... [it was] a mere piece of legislative quackery.[37]

Forster stood by his October LA comments on the hustings in December. He claimed any electors who 'believed that he was the opponent of a liberal land bill' were 'mistaken' and

[32] NSW LA, 9 October 1860. Published in the *Herald*, 10 October 1860.
[33] A point also stressed by James Martin, NSW LA, 26 October 1860. Published in the *Herald*, 27 October 1860.
[34] NSW LA, 9 October 1860. Published in the *Herald*, 10 October 1860.
[35] NSW LA, 9 October 1860. Published in the *Herald*, 10 October 1860.
[36] NSW LA, 9 October 1860. Published in the *Herald*, 10 October 1860.
[37] NSW LA, 9 October 1860. Published in the *Herald*, 10 October 1860.

suggested the 'existing Government was not so liberal as they took it to be'.[38] As for Robertson's free selection, Forster exclaimed: 'The cry was, "free selection." A parrot could be made to utter a similar cry. But what was free selection? ... The spirit of free selection was to purchase without competition'. At this point a voice cried 'That is just what we want', to which Forster tellingly replied, then in that case 'the principle [of free selection] depended upon competition, not survey'.[39] Forster thought that, given the conditions placed upon selectors, the squatter's likely recourse to the law courts, and the impracticability and confusion sure to arise among selectors as to who had selected which land (without a survey who could prove their claim?), that Robertson's bills were 'a delusion — a sham altogether'.[40]

As a supporter of manhood suffrage and a proponent of free selection before survey in all districts, Forster's opposition to the Robertson land acts is significant. Although motives of rivalry or faction were more than likely also at play, it remains difficult to entirely dismiss Forster's comments on these grounds. Forster highlights the folly of readily fixing the political nomenclature of 'liberal' or 'conservative' to participants in the land debate.

Richard Jenkins, doctor and pastoralist, thought unlimited free selection unnecessary and a 'fatal blow to the pastoral interest'.[41] Jenkins favoured free selection after survey in established agricultural districts. However, he had no objection to deferred payments and suggested a more generous scheme to selectors than proposed by Robertson.[42] Another speaker, Henry Oxley, was incensed by a comment of Cowper that opposition members were entering into a 'compact' to oppose the bill. Oxley claimed this was impossible, as 'there were scarcely any two members who agreed on one point'. More specifically, Oxley opposed deferred payments and free selection as he thought it useless without fencing which was impossible without survey.[43]

Noted lawyer John Darvall opposed the bill. Darvall thought the conditions on

[38] Mr. Forster on the Robertsonian land Bill. *Herald*, 17 December 1860. Forster asked why, if they were so liberal, had they arranged candidates to oppose Parkes and Deniehy although both, despite reservations, supported the bill?
[39] Ironically this was a point clearly conceded by Robertson, as discussed in ch. 5 above.
[40] Mr. Forster on the Robertsonian Land Bill. *Herald*, 17 December 1860. Forster was among the casualties in the December 1860 elections but was returned for East Sydney at a by-election in 1861. Loveday and Martin, *Parliament, Factions and Parties*, p. 67, tell us Forster turned down the position of Minister of Lands in 1863 due to there being no scope to substantially reform the land acts. This fits with his strong views in 1860. However, Martin and Wardle, *Members of the Legislative Assembly*, p. 77 note Forster held this position 1868-1870.
[41] NSW LA, 9 October 1860. Published in the *Herald*, 10 October 1860.
[42] Not unlike the *Herald's* proposal of April 1859, Jenkins proposed that selectors enter the land on a ten year lease, pay 2 shillings per acre per year, and receive the title at the expiry of the lease.
[43] NSW LA, 9 October 1860. Published in the *Herald*, 10 October 1860.

selectors 'absurd' and better to give the land away 'unconditionally'.[44] Darvall also opposed deferred payments. Like the *Herald*, Darvall feared the bill would lead to 'the dispersion of the population and social retrogression'.[45] Darvall claimed no-one in the LA denied that squatters ought give way to farmers. Instead, in the light of Hay's amendment, the issue had become 'whether the land was or was not to be thrown open without any survey at all'.[46] Arthur Hodgson, pastoralist and subsequently Minister for Public Works and Colonial Secretary in Queensland, opposed selection before survey and thought the bill would 'annihilate squatting in New South Wales'.[47] James Dickson, merchant and pastoralist, favoured deferred payments but not as proposed in the bill.[48] John Wilson, subsequently Secretary for Lands 1863-5, 1866-8, 1870-2, was happy with the bill.[49] Alexander Campbell, a prominent merchant, and William Walker, a solicitor, opposed deferred payments.[50] John Clements, pastoralist, appeared satisfied with the bill and 'wished to see the question set at rest'.[51] William Cummings was willing to support free selection before survey limited to 'settled districts'.[52] George Oakes, pastoralist, supported free selection before survey and hoped others would benefit from it as he had done.[53] John Lucas, builder and contractor, did not believe Robertson's proposals would be injurious to squatters.[54] Charles Kemp, former co-proprietor of the *Herald,* thought 'if the clause of free selection before survey were carried, it would be very unfortunate for the country'.[55] William Arnold, Secretary for Public Works 1860-63, argued the legislation dealt 'fairly with all interests'. Arnold foreshadowed under the legislation that many squatters would buy freehold land and become 'identified with the progress and welfare of the colony'. Arnold also thought agriculture would pay better than some feared and deferred payments would not lead to the dangers held out by some.[56]

[44] NSW LA, 8 November. Published in the *Empire*, 9 November 1860. See also *Herald* summary of LA discussion, 11 October 1860.
[45] *Herald* summary of LA discussion,11 October 1860.
[46] NSW LA, 26 October 1860. Published in the *Herald*, 27 October 1860. An anonymous article in the *Herald* made the same point. It argued 'free selection is not a disputed point' and 'has been admitted by the Opposition'. The issue was selection before survey in all districts. 'The Robertsonian, or, Free Selection, Crisis'. *Herald*, 8 November 1860.
[47] NSW LA, 26 October 1860. Published in the *Herald*, 27 October 1860.
[48] *Herald* summary of LA discussion,11 October 1860.
[49] *Herald* summary of LA discussion,11 October 1860.
[50] *Herald* summary of LA discussion,11 October 1860.
[51] *Herald* summary of LA discussion,11 October 1860.
[52] *Herald* summary of LA discussion, 27 October 1860.
[53] *Herald* summary of LA discussion, 27 October 1860.
[54] *Herald* summary of LA discussion, 27 October 1860.
[55] NSW LA, 26 October 1860. Published in the *Herald*, 27 October 1860.
[56] *Herald* summary of LA discussion,11 October 1860. See also Arnold's speech NSW LA, 26 October 1860. Published in the *Herald*, 27 October 1860.

Prominent lawyer, solicitor and attorney-general and subsequently vice-chancellor of the University of Sydney, J. H. Plunkett, expressed admiration for the bill but joined Parkes in seeking provision for education. Plunkett did not object to deferred payments or free selection but preferred free selection after survey. Plunkett doubted free selection as proposed would be a 'boon to those for whom it was intended'.[57] Plunkett disputed the value of American land law as a precedent of selection before survey, as in America survey was required soon after selection. Plunkett 'desired the widest range of free selection ... after survey' and thought no expense ought be spared to ensure survey kept ahead of demand.[58] He thought selection before survey as proposed 'would be sowing the seeds of anarchy'.[59] Plunkett supported Hay's amendment to withdraw provision for free selection *before* survey which triggered the December elections and said he had 'little fear of the threatened consequences'.[60] Plunkett was particularly disappointed that Robertson did not back down after the Hay amendment passed, claiming to be 'grieved to think that the Ministry wished to keep this Land Bill as a source of agitation, out of which political capital might be made'.[61] Plunkett thought the 'country was fast dwindling down into a fourth or fifth rate colony through bad government' and that 'if the Ministry were sincere in their desire for a Land Bill, they would send out a staff of surveyors and open all the reserves'.[62] Plunkett's remarks were among the more telling comments of the LA debate.

One potentially mediating voice absent from debate was William Bede Dalley, barrister, subsequently Solicitor and Attorney General, and along with Plunkett, a prominent lay leader of the Catholic Church. Dalley was absent in England and only returned about a month before the December elections which he did not contest. Some claimed Dalley's support for free selection before survey. The *Herald* responded by publishing comments Dalley had made three years earlier in discussion of the Cowper land bill. At that time Dalley argued for large agricultural districts to be reserved, surveyed and open to free selection. Of particular interest is that Dalley argued there were only 'two governing principles' to a land bill, 'the abolition of the auction system, and free selection'. In other words, to Dalley (in 1857) land reform was about fixed price and no competition rather than selection before survey. Unlike Deniehy, Dalley did not see survey as a principle so much as a means to an

[57] *Herald* summary of LA discussion, 27 October 1860.
[58] NSW LA, 26 October 1860. Published in the *Herald*, 27 October 1860.
[59] NSW LA, 26 October 1860. Published in the *Herald*, 27 October 1860.
[60] *Herald* summary of LA discussion, 27 October 1860.
[61] NSW LA, 8 November 1860. Published in the *Empire*, 9 November 1860.
[62] NSW LA, 8 November 1860. Published in the *Herald*, 9 November 1860.

end. Dalley alluded to selection before survey and claimed it would lead to squatters being blackmailed by unscrupulous selectors. Consequently, if Dalley's views were unchanged, and he had been in the LA on 26 October 1860, he would have voted for Hay's amendment deleting 'before survey' from the free selection clause.[63]

Rising political star Henry Parkes agreed with free selection before and after survey but regretted provision was not made to ensure education accompanied settlement. Parkes believed revenue gained from land alienation ought to be applied to the permanent benefit of the country, rather than in funding deficits.[64] Parkes also thought the bill unlikely to lead to great strife between selector and squatter. Nonetheless, Parkes thought 'it better to fix the price at 5s per acre, and have the land sold out and out' to avoid deferred payments.[65] Clearly, although prepared to vote with Robertson, Parkes' ideal was closer in some respects to the 1860 land bill of John Black. On the hustings for East Sydney in December, Parkes affirmed his support for free selection before and after survey but opposed 'the conditions of improvement and residence' placed on selectors as well as deferred payments.[66] Indeed, when the bills were making their final passage through the LA in March 1861, Parkes unsuccessfully sought an amendment for selector improvements to be accepted *in lieu* of further repayments.[67] Parkes also expressed alarm that the land acts allowed for the sale by auction of interior lands at minimum of 5 shillings per acre, suggesting it 'allowed the squatter to buy up gigantic tracts' (the same as the *Herald's* response to Cowper's identical proposal in 1857). Parkes believed 'the bill was an imperfect measure, and he had great apprehension that it would leave the question as unsettled as it was before. Nevertheless he thought it a step in the right direction'.[68] It is apparent that, although Parkes thought Robertson's legislation an advance, it fell well short of his ideal for land reform. This suggests a more critical and nuanced position than that suggested in Martin's biography of Parkes, which describes Parkes as 'four

[63] Mr. Dalley's Opinions on the Land Bill. *Herald*, 1 November 1860.
[64] NSW LA, 10 October 1860. Published in the *Herald*, 11 October 1860. See also Parkes in the East Sydney Election: Nomination of Candidates, 5 December 1860. Published in the *Herald*, 6 December 1860.
[65] NSW LA, 10 October 1860. Published in the *Herald*, 11 October 1860.
[66] East Sydney Election: Nomination of Candidates, 5 December 1860. Published in the *Herald*, 6 December 1860.
[67] Under the land acts, selectors placed a 25% deposit, with the remaining 75% either paid out after three years or thereafter attracting interest at 5% per annum. On the hustings in December 1860 Parkes said that if selectors cultivated their land he 'would be prepared to hand over to the settler the title deeds of his land without any further payment whatever'. Mr. Parkes for East Sydney. *Herald*, 7 December 1860. Parkes' March 1861 amendment was defeated 39-11 and led to interesting discussion about the purpose of land reform. Parkes said he sought to avoid a large debtor class which he likened to a 'semi-serf condition' under the 'Czar of Russia'. NSW LA, 6 March 1861. Published in the *Herald*, 7 March 1861
[68] NSW LA, 10 October 1860. Published in the *Herald*, 11 October 1860.

square with the ministry' on land reform.[69]

Also notable were the views of James Martin, prominent journalist, lawyer, and subsequently three times premier. Although preferring a more diversified economy, Martin saw no point in legislation which might impair the pastoral interest.[70] Martin suggested free selection before survey would prove impractical for selectors, 'give rise to endless litigation' and claimed the 'only way to enable the people to settle on the land was to raise the staff of surveyors to the level of demand, whatever might be the cost'.[71] Survey 'was a mere matter of expense: let them increase the survey department, as had been done in Victoria, where they had already surveyed one half of the ... colony'.[72]

However, Martin's most enduring contribution to land policy debate came not within the LA but on the hustings. When campaigning for East Sydney on 5 December 1860, Martin provided one of the more entertaining moments in colonial electioneering. Speaking after Henry Parkes and before Charles Cowper on a very rowdy occasion, we gain from the written account a feel for the drama of the hustings.[73] Early in his speech, Martin mocked Cowper for seeking 'two dissolutions on the Land Bill within three years — the first time because he was against free selection, and the second time because he was in favour of it. (Laughter, and interruption)'.[74] Martin insisted there would be no effective progress without on overhaul of the Survey Department and 'he would ask any of those howling idiots, who were not fit to have a vote — (groans and interruption) — who were a disgrace to the constituency, and were unfit to be — (the remainder of the sentence was lost in an uproar of deafening shouts, groaning, and howling)'. Martin asked, was it not in the selector's interest to have their own land surveyed?[75] After being jeered Martin roared, 'he was not to be answered by ignorant hooting ... If those noisy idiots intended to vote for Mr. Cowper, he was quite willing to make him a present of them ... as he would consider it a disgrace to be sent into the Legislature by such as those (Cheers, laughter, and interruption)'. Martin went on to say he 'was against free

[69] Martin, *Henry Parkes*, p. 179. Martin's survey creates too neat a division between 'liberal' and 'conservative' politicians, overlooks Parkes' reservations about key aspects of Robertson's legislation and does not mention Parkes' attempt to amend the legislation.
[70] *Herald* summary of LA discussion, 11 October 1860.
[71] *Herald* summary of LA discussion, 27 October 1860.
[72] NSW LA, 26 October 1860. Published in the *Herald*, 27 October 1860.
[73] Nearly six years later the *Herald* recalled the day Martin gave 'the "howling idiots" who hooted him from the hustings a bit of his mind'. *Herald*, 27 July 1866.
[74] East Sydney Election: Nomination of Candidates, 5 December 1860. Published in the *Herald*, 6 December 1860.
[75] East Sydney Election: Nomination of Candidates, 5 December 1860. Published in the *Herald*, 6 December 1860.

selection before survey. (Cheers and groans) ... but ... he was in favour of free selection on the rich alluvial lands where it would be worth ... the working classes to go'.[76] Later, Martin argued that an even greater issue than the details of land reform was the composition of the LA and that, despite claims to the contrary, real differences in policy between the political contestants were minimal. Martin then remarked on his agreement with Henry Parkes regarding Chinese workers, saying, 'we had quite enough of them'. To which comment there came a wily retort from the crowd, 'We've had enough of you'!

To summarise, Martin favoured free selection after survey in established agricultural districts, as enacted in most other colonies and sought by the *Herald*. Martin's point about the absence of any great political distinctives among parliamentarians is not greatly exaggerated. Neither Martin nor the *Herald* were pariahs at the fringe of mainstream colonial thought. Despite losing his seat in December 1860, less than three years after this speech Martin began the first of three terms as Premier of NSW (1863-65, 1866-68, 1870-72).

Last but not least, what of Charles Cowper in late 1860? Cowper was in the vanguard of support for the Robertson land acts and Premier when they were passed in the LC. Cowper's willingness to vote for the land acts was an expression of political pragmatism, reflecting a need for substantial remuneration from politics due to personal financial embarrassment.[77] On the passing of the Robertson land acts in September 1861 the *Herald* made clear its verdict on Cowper: 'The measures he [Cowper] advocates express not his own views, but the views of those whose support is essential to his position. He has had to choose between his integrity and his popularity, and he has preferred the latter'.[78] Be that as it may, it was also an astute reading of the electorate. Cowper spoke after James Martin on that rowdy day on the hustings of East Sydney. Early in his address, Cowper conceded he had not 'Mr. Martin's physical power' and appealed for calm. Cowper admitted his opinions of 1857 were 'not satisfactory with the country in 1860' but asked his hearers if it was a 'very great sin' to

[76] East Sydney Election: Nomination of Candidates, 5 December 1860. Published in the *Herald*, 6 December 1860.

[77] Cowper was the only major politician of his period faced with the prospect of regular 'financial embarrassment'. J. M. Ward, 'Cowper, Charles', *ADB*, vol. 3:1851-1890, p. 477. Powell suggests that in 1863 Cowper's 'official salary kept him barely solvent'. See Powell, *Patrician Democrat*, pp. 107 and 143. Hirst writes: 'Conservatives assumed that poverty alone drove Cowper to accept policies he disagreed with and supporters who were his social inferiors: he had to remain premier no matter what. There is little ground for doubting the correctness of this view'. Hirst, *Strange Birth*, p. 178.

[78] *Herald*, 5 September 1861. See also *Herald*, 21 November, 4 December 1860 for lengthy comment on Cowper and land policy.

change his mind?[79] Amidst cheers and laughter at the suggestion he had sincerely changed his mind, one wag yelled 'Soap it over, Charley'. Another suggested Cowper looked ill and 'that a blue pill might be administered with advantage'. Cowper assured them he did not need a pill of that colour![80] Although a supporter of Robertson's bills, Cowper was shouted down and the returning officer required to appeal for calm. It may well be that James Martin only completed his speech due to an indomitable physical presence but it remains ironic that the greatest commotion on a day of commotion was reserved for Charles Cowper, all the more given that Cowper came comfortably first in the poll.

This survey of LA and election debate regarding the Robertson land bills reveals the inadequacy of depicting two distinct groups of politicians, 'liberals' and 'conservatives', replete with stringent and discordant social visions for the future of colonial society and the settlement of Crown Lands. Virtually all members of the LA thought it best for squatters to make way for farmers as settlement advanced. Furthermore, it was opponents of the legislation who showed the most practicable concern for the settlement of Crown Lands by small freeholders and who suggested more generous policies than the deferred payments and conditions proposed by Robertson. It was also members opposed to the legislation who stressed the difficulties and impracticalities selectors would face due to the lack of survey and the conditions placed upon them. And finally, as illustrated by Augustus Morris' address, it was also from the supposedly pro-squatter 'conservative' opposition benches that unheeded warnings came as to how squatters might even advance their interests under the legislation.

The Passing of the Robertson Land Acts in the Legislative Council

The LA referred the two land bills to the LC less than a month before the Council was to be dissolved on 15 May 1861. Despite reservations, the LC did not attempt to amend the principle of free selection before survey, acknowledging it had been the main point of the December 1860 elections. However, it did suggest other amendments. Most notably, it sought to increase the deposit paid by selectors from 25% to 50%, as Robertson had proposed in 1859, on the assumption the remainder was unlikely to be collected. It also sought to extend the amount of land pastoralists might obtain under the provisions of pre-emption. In response, the Cowper administration arranged for a ramshackle group of twenty to be

[79] East Sydney Election: Nomination of Candidates, 5 December 1860. Published in the *Herald*, 6 December 1860.
[80] East Sydney Election: Nomination of Candidates, 5 December 1860. Published in the *Herald*, 6 December 1860.

appointed to 'swamp' the Council, which could be done under provisions available to the Governor to resolve a deadlock. In terms of British convention, Cowper's attempt to swamp the LC was unconstitutional, as the LC had not formally rejected the land bills once, let alone twice, as convention required.[81] However, Governor Sir John Young agreed, perhaps with shrewd conservative motives.[82] But the President of the LC William Burton and twenty others resigned, thus dissolving the LC and forestalling the swamping. Perhaps sensing things had gotten a little out of hand, Cowper agreed to the appointment of a 'respectable' or conservative Council, presided over by Wentworth, so long as the land bills were passed.[83] Thus, controversial to the end, the Robertson land acts entered the statute books.

The Effects of the Robertson Land Acts

There is no dispute that at the time the Robertson land bills were enacted it was popularly believed they had been designed to benefit small freeholders or selectors.[84] This was clearly attested to in debate during the December 1860 elections. However, there has been debate since as to whether this had ever been Robertson's intention.[85] Consensus has, however, been widespread regarding the effects of the land legislation. Intended or otherwise, the land acts were of minimal benefit to selectors, of great benefit to squatters and pastoralists,[86] and were

[81] Hirst, *Strange Birth*, p. 145.
[82] On Governor Young's motives in agreeing to the swamping, see C. N. Connolly, 'The Origins of the Nominated Upper House in New South Wales', *HS,* 1982, vol. 20, pp. 68-69 and Hirst, *Strange Birth*, pp. 144-146.
[83] Powell, *Patrician Democrat*, pp. 95-97. Ward, *James Macarthur*, p. 268. The forming of the new LC is discussed at more length in ch. 7 below.
[84] Hirst, *Sense and Nonsense*, p. 119, suggests, although this intensity dissipated, that: 'At the outset land reform had been a crusade which had rallied thousands in the towns and goldfields with the hope that the pastoralists would be turned off their land and every man would gain his farm'.
[85] As noted in ch. 5 above, Baker argues Robertson was not trying to put small settlers on the land but to remove 'the privileges of the squatters in accordance with the liberal ideals of *laissez-faire* and equality of opportunity'. In this view, Robertson was indifferent as to who ended up owning the land so long as an equal opportunity had been provided. See Baker, 'The Origins of Robertson's Land Acts', p. 122. Frappell suggests Robertson sought to 'settle' and 'tame' the squatters politically, which was achieved by arming the squatters with sure 'safeguards against the inroads of free selection ... by the exploitation of glaring loopholes in the ... Acts, and providing reserves *against* selection rather than for it'. See Frappell, *Lords of the Saltbush Plains*, p. 186 (emphasis Frappell's). Gammage, despite ardent investigation, remains uncertain that we can be sure what Robertson had in mind. See Gammage, 'Who gained and who was meant to gain, from Land Selection in New South Wales?', p. 122.
[86] The fact that many pastoralists were bankrupt by the end of the century in no way diminishes this fact, a point pursued in ch. 7 below.

dogged by widespread corruption in their administration.[87] Frappell provides a lucid summary:

> There is a startling paradox here. The radical principle of free selection before survey delivered in the event an expanded class of substantial, conservative land owners; its alternative, free selection after survey, denigrated by Robertson, would as in Victoria and South Australia have delivered a more 'democratic' land redistribution.[88]

In his reminiscences, George Reid (Premier of NSW 1894-99) wrote:

> the bushranging excesses of 1861-4 became trivial when compared with the land swindlings of 1870-81 ... Surveys before selection would have prevented many abuses; survey long delayed after selection produced universal chaos ... instead of small settlements flourishing the large estates were assuming immense proportions.[89]

Hirst describes the primary outcome of the land acts as squatters becoming large freeholders and that Robertson's 'land policy ... became associated with every form of sharp practice and corruption'.[90] Hirst suggests free selection as embodied in the 1861 Act was 'not so much a policy as a licence to pillage' and that Robertson 'elevated the anarchy of the frontier into a principle of government'.[91] Free selection was advanced by many in utopian terms and Hirst suggests 'the ignorance of such enthusiasts was as awesome as their visions'.[92] Hirst claims all 'that the opponents of selection before survey had said against it was borne out in the next twenty years',[93] the *Herald* chief among them. Gollan incisively noted that the land laws fulfilled neither the conservatives' worst fear of the undermining of social and economic stability nor the hopes of radicals that they would be a levelling measure.[94] However, Gollan salvaged some joy by suggesting that the land laws, although bereft of democratic substance, were a victory for democratic rhetoric. Gollan claimed the acts 'decided that the language of Australian politics would from then on be the language of democracy'.[95] Ward describes the land acts as having little success and spawning 'still more squalor, more wretchedness and

[87] See: Gammage, 'Who gained and who was meant to gain, from Land Selection in New South Wales?', pp. 112-121; Hirst, *Strange Birth*, pp. 136-155, 272; Baker, 'The Origins of Robertson's Land Acts', pp. 120-124; Gollan, *Radical and Working Class Politics*, pp. 43-44; Ferry, 'Mapping the New South Wales Free Selection Acts in Colonial New England', pp. 26-38; Waterson, *Squatter, Selector, and Storekeeper*, pp. 29-39, 98-102, 111-119; D. N. Jeans, *An Historical Geography of New South Wales to 1901*, Reed Education, Sydney, 1972, pp. 212-213, 276, 283-285.
[88] Frappell, *Lords of the Saltbush Plains*, p. 187.
[89] Reid, *My Reminiscences*, pp. 37-39.
[90] Hirst, *Strange Birth*, p. 272.
[91] Hirst, *Strange Birth*, pp. 141-142.
[92] Hirst, *Strange Birth*, pp. 141-142.
[93] Hirst, *Strange Birth*, p. 147.
[94] Gollan, *Radical and Working Class Politics*, p. 43.
[95] Gollan, *Radical and Working Class Politics*, p. 32.

human suffering'.[96]

Perhaps, worst of all, the land acts fostered and manipulated unrealisable expectations among selectors. This was well expressed by a correspondent to the *Bathurst Free Press* of late 1860, who wrote, 'the good time is coming, boys'.[97] This is a fine example of what Baker describes as the 'juvenille utopianism' nurtured by the legislation.[98] However, others were better informed. Governor Young, in September 1861, captured both the popular mood surrounding land reform and the likely effects of the legislation:

> the agitation on the land question has driven the people wild. They think they have material interests at stake, that somebody is keeping them out of something very valuable, and that they are to make fortunes by the change. That all this excitement will end in disappointment it is not necessary to say. The bills contain no royal road to wealth, and competent persons tell me there is little in them to cause well grounded apprehensions in the squatters.[99]

It was not long before Young's perspective was widely held. However rich the land acts may have appeared to most in democratic rhetoric, they were soon exposed to be empty of democratic reality. By the early 1870s selector associations, like those which rallied in favour of the 1861 land legislation, were organised against it. And their language was the language of betrayal.[100]

To be fair, even the fiercest critics of the land acts in the nineteenth-century conceded that some settlement of selectors occurred under the legislation. In 1875 the *Herald* stated it 'is admitted on all hands that there has been a good deal of settlement upon the land under the land laws of 1861'.[101] In 1882 even John McElhone, a fierce critic and Land Law Reformation

[96] J. M. Ward, 'Colonial Liberalism and its Aftermath: New South Wales, 1867-1917', *JRAHS*, September 1981, vol. 67, Part 2, p. 86.
[97] Cited by Baker, 'The Origins of Robertson's Land Acts', p. 121.
[98] Baker, 'The Origins of Robertson's Land Acts', p. 12
[99] Cited by Martin, *Henry Parkes*, p. 179. This is further illustrated in a letter of James Chisholm to James Macarthur in March 1861, who wrote: 'The Land Bill has just passed the Lower House ... The Free Selector fortunately is saddled with so many conditions and restrictions, that I do not apprehend such great inconvenience to the squatter as is clearly anticipated'. Cited by Dickey, *Politics in New South Wales, 1856-1900*, p. 13.
[100] See the Land Law Reformation League meeting, 29 November 1875, published in the *Herald*, 30 November 1875. In Victoria C. H. Pearson wrote in 1879, 'we have sold nearly two-thirds, and that the better two-thirds of our available land, and we have not the smallest reason for supposing that we have established a yeomanry'. Pearson added the tendency of land laws to 'foster the formation of large estates has, I confess, taken me by surprise'. Professor C. H. Pearson, 'The Liberal Programme,' *Victorian Review*, vol. I, November 1879 - April 1880, p. 525. Pearson then entered into a general lament over the workings and effects of the land laws. Much like the *Herald*, Pearson believed the best way to open the land was to have the land surveyed, to offer land at fair market prices without a single rate being applied all over the state, to create a secure system of land registration and make them accessible by roads.
[101] *Herald*, 30 September 1875. The *Herald* then claimed this would have occurred under 'almost any system', inferring settlement came more in spite of, than because of, the Robertson land acts.

League leader, conceded the acts did some good in coastal districts.[102] However, although more local research of the kind done by Gammage and Ferry is required, three overall results of the Robertson land laws seem certain enough. Firstly, millions of acres of Crown Lands were sold off, largely to squatters. Secondly, the land acts proved a bitter disappointment to the selector class as a whole. Thirdly, the acts nurtured all manner of fraud and corruption in the administration of the land laws. In short, the Crown Lands were flogged off in a generation amidst an ocean of corrupt practice and social strife.

Conclusion

In the lead up to the Robertson land laws an extraordinary variety of opinion as to how best 'unlock the lands' was expressed. This variety of opinion and mixed response to the Robertson land acts is a vital context to the *Herald's* position on land policy. Many members of the LA, including acknowledged liberals like J. D. Lang, Daniel Deniehy and Henry Parkes, voiced real doubts about key aspects of the legislation. Why then did they vote for it? The reasons are clear: it was the fourth land bill to be tabled in less than five years and a bill was urgently required; Robertson's proposal appeared liberal in intent; and it was assumed the legislation would be amended as required. James Martin's comment about the absence of any major political distinctives within the LA is nearer the truth than much colonial historiography suggests. All of this warns the historian against any simplistic categorising of the Robertson land bills as the embodiment of liberal thought on land policy in NSW, a warning only amplified by the outcome of the legislation.

[102] Cited by Dickey, *Politics in New South Wales, 1856-1900*. p. 147.

Ch. 7. The *Sydney Morning Herald*: Land Policy, Part 3: Response to the Robertson Land Acts.

Introduction

The colonial *Herald* devoted much editorial energy to the land debate. This is unsurprising as land reform was the dominant issue of colonial settlement after responsible government. The *Herald* was a consistent critic of the Robertson land bills both before their enactment and for decades thereafter. The *Herald's* initial response to the tabling of the Robertson land bills included a helpful outline of all land bills passed to that date in the Australasian colonies.[1] It then briefly outlined the main proposals in NSW by Hay (1856, not tabled in parliament), Cowper (1857), Robertson (1859), Black (February 1860) and Robertson's most recent effort.[2] It then concluded somewhat laconically:

> Our sole desire is, that the public estate may not be wasted, and that every impediment to colonisation may be removed. It is hard if, with all these schemes, we cannot select one that may meet the requirements of New South Wales.

But the *Herald* soon warmed to the task and its opposition to the Robertson land laws can be grouped under five points. The first was broadly to do with the nature of wise political reform. In particular, the *Herald* advocated a more incremental approach to reform than it thought present in the Robertson land laws. The second and remaining points arose directly from the legislation and were to do with: unrestricted free selection before survey; the conditions attached to free selection; the power and discretion afforded the Lands Minister; and a perceived threat to the pastoral interest. These are discussed in turn, followed by comment regarding the place of land reform within colonial liberalism.

The *Herald* on Political Reform

During early LA debate over the tabled legislation the *Herald* addressed the broader question of the manner in which parliamentary debate ought be conducted. It began with a rather penetrating statement:

> We do not know one thing more ridiculous than dogmatism on the land question. It has a thousand aspects and a thousand details. The wisest, most experienced, and deliberative among us can never be sure that he has calculated correctly the effect of any provision,

[1] *Herald*, 2 October 1860.
[2] The Victorian land bill was passed only a few days earlier. For further comment, see the *Herald* 28 September 1860.

> much less of a measure of such large extent.[3]

In this the *Herald* protested against Robertson's attitude, which it described as viewing 'all dissent ... as impertinence'. In particular, the *Herald* called legislators to admit the complexity of the question and refrain from politicising it. They must be willing to compromise, as 'the colony expects of the House a land bill'.[4]

The editorial of Monday 8 October 1860 advanced the themes of the nature of wise political reform and continued the appeal to Robertson to avoid dogmatism. It is something of a John West classic. The editorial began:

> In projecting reforms it is necessary to consider ... all the effects which will probably be produced by them — the unintended as well as the intended effects. For it is quite possible to cure one evil by a process that will end in creating another, and so make the remedy ... as bad if not worse than the disease. The demand for reform originates in the felt pressure of some evil, and the reformer, in devising his remedy, too often concentrates his attention on the effect that remedy will have in removing the evil, to the exclusion of its other consequences ... The reformer, if candid, is brought to concede that his original proposal was too rude and inconsiderate, — that it would inflict injury as well as repair it, and the upshot generally is a compromise, of some sort, between the interests that claim recognition and the interests that demand preservation. Sometimes a medium course is impossible ... But this is not usual.[5]

This expressed an enduring feature of the colonial *Herald's* editorial stance: a distaste for theory divorced from social and economic reality. New ideas ought normally to be implemented gradually so they could be tested and modified, abandoned or accelerated, depending on performance. Baker identified this practical emphasis of the *Herald:*

> The *Sydney Morning Herald* in a number of leading articles argued very persuasively that these conditions were impracticable; that they would not, in fact, serve to distinguish between the squatter and the small selector, nor would they prevent the squatter from being blackmailed by the unscrupulous. These arguments were never effectively countered

[3] *Herald*, 5 October 1860.

[4] *Herald*, 5 October 1860 (the *Herald* also stressed the need to pass a land bill in view of the disastrous floods of early 1860). Five years later, when the ill effects of the land laws were being felt, the *Herald* claimed the 'existing law was imperiously carried. Our legislation has suffered from being one-sided, and has wanted that moderation which comes from compromise'. *Herald*, 22 August 1866. Similarly in 1873, less than three months before West's death, the *Herald* said an 'obstinate man, whether in the Upper House or the Lower House, is a dangerous counsellor. His defiant raving is the affliction of his colleagues with whom he may be partly in agreement, and it prevents all that adjustment and compromise which is indispensable in constitutional government'. *Herald*, 19 September 1873.

[5] The *Herald* of 22 February 1858 argued similarly: 'the man who vaunts himself as the advocate of progress is often clamourous for changes which would prove retrograde. With more zeal than discretion — with a microscopic eye for faults, and no comprehensive view of the compensating effects of different forces — he would often bring about a great practical evil for the sake of gaining a theoretical good'.

> by the reformers because the *Herald's* objections were not really relevant to the reformers' intentions. The *Herald* was concerned with the mechanics of settlement.[6]

Gregory Melleuish has considered the editorial perspective of the *Herald* under John West and reached similar conclusions. Melleuish suggests that West 'saw himself not so much as a political philosopher or theorist as someone engaged with the art of politics ... He was in the tradition of Machiavelli, concerned with the art and possibilities of politics and not with framing and prescribing political systems and constitutions'.[7] The context of Melleuish's assessment was West's thought on responsible government and the prospects for a federal union of the colonies. However, it accurately characterises the intelligently pragmatic and typically liberal approach of the *Herald* to major issues of colonial political debate, such as land reform. Elsewhere, Melleuish describes West as the:

> first great colonial liberal thinker ... [whose] liberal zeal was tempered by an appreciation of human frailty and of the limits which the real world placed on political ideals ... In place of the heady mixture of zeal and abstract principles exhibited by the liberals of the French Revolution, West pleaded the cause of practical or applied reason.[8]

To West and the *Herald*, the key task of the 'statesman' or 'enlightened politician' was to wisely translate and adapt political theory into government policy and practice.[9] One editorial a few years later identified the task of those writing on the 'philosophy of government' was to 'lay down abstract principles'. However, this was not the task of the statesman who, while drawing on principle, had to bear in mind pragmatic realities.[10] Elsewhere it claimed 'every law which professes to be just must be framed in view of that eternal conflict between theory and fact'.[11] The colonial *Herald* frequently expressed frustration with fine-sounding political rhetoric not anchored to realisable outcomes. The *Herald* lamented that 'unfortunately the land question is a topic on which every one has a theory, and nothing is so cruel, nothing so exacting as a theory'.[12] Earlier, in his *History of Tasmania*, West had warned against the 'extravagance of theory'.[13] Such clear and unabashed rejection of the priority of theory was characteristically liberal. For inherent to liberalism was

[6] Baker, 'The Origins of Robertson's Land Acts', p. 123.
[7] Melleuish, *John West's 'Union Among the Colonies'*, pp. xx-xxi.
[8] Melleuish, 'The liberal conservative alliance in Australia', pp. 55-56.
[9] Melleuish, *John West's 'Union Among the Colonies'*, pp. xx-xxi. See also Gascoigne, *The Enlightenment*, p. 35.
[10] *Herald*, 11 October 1866.
[11] *Herald*, 21 January 1858.
[12] *Herald*, 10 October 1860. A few years earlier the *Herald* of 22 February 1858 described the 'man who vaunts himself as the advocate of progress' was liable to 'bring about a great practical evil for the sake of gaining a theoretical good, to pull down the whole edifice in order to alter the architecture of a porch'.
[13] Cited in Gascoigne, *The Enlightenment*, p. 35,

an empirical streak preferring evidence over rhetoric. Consequently, an incremental and tested approach to reform was the liberal, as distinct from the radical, instinct.[14] But the *Herald's* frustration was not only directed at politicians like Robertson. Presumably with the *Empire* in mind, the *Herald* said of the press during debate over Cowper's land bill in 1857:

> Nothing has been proposed by these oracles of liberalism; no single practical suggestion; no principle avowed in terms precise and intelligible; but an eternal babble about "this great country," "glorious destiny," "would-be aristocracy," "the poor man," "the far-seeing statesman," ... and other such-like words which tell upon unthinking people, who are born to be the prey and instruments of blatherskite and wind.[15]

Despite acknowledgement that Robertson had given 'his whole mind and soul to the task' of land reform, the *Herald* thought him unable to mediate between conflicting interests in society.[16] The *Herald* appreciated both the need for land reform and the intoxicating ill effects of it being too long delayed. However, it also correctly saw the prospect of the reforms being ill-considered and provoking vested interests to rise powerfully in self-defence. It was the task of the statesman to mediate between the volatile extremes;[17] a task, the *Herald* concluded, Robertson was unwilling or unable to accept. In its editorials during the LA debate over the tabled bills, the *Herald* was calling Robertson to a higher level of political leadership. Unfortunately for NSW the political climate of post-manhood suffrage provided few other such clarion calls. Robertson was more a democrat than a liberal. Politics was not about checks and balances, or governing to represent all interests. It was about who had the numbers, or as the *Herald* put it: 'Right and wrong mean being in a majority or in a minority'.[18] As it turned out, Robertson had the numbers and initiated and protected what Patterson has described as

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[14] See McClelland, *A History of Western Political Thought*, p. 436-439. Melleuish notes: 'Australian liberals have traditionally been suspicious of "mere theory"' and sought 'a good practical working system'. Melleuish, 'The liberal conservative alliance in Australia', p. 55. This point is pursued in ch. 9 below in the discussion on liberalism and manhood suffrage.

[15] *Herald*, 21 November 1857.

[16] *Herald*, 6 October 1860.

[17] This was finely expressed in the editorial of 8 October 1860: 'It is natural that those who ... have perhaps felt for some time, the pressure of restrictions, should be prompted to advocate rather violent re-arrangements — to sweep away, not only without compunction, but with a certain grim satisfaction, all the vested interests that have grown up, without sufficiently considering the evils that would result even to themselves and their friends from such an iconoclastic policy. And it is equally natural that those whose rights are thus violently assailed should ... show themselves over-tenacious of privileges to which they have no abstract right, and which they might without danger forgo. It is the business of the statesman to mediate between the two extremes — to benefit both parties by preventing them from injuring each other; to contrive, if he can, the fullest concession to equitable demands with the least disturbance to established forms of industry — to preserve old rights whilst granting new ones — to keep faith with the past while doing justice to the future'.

[18] *Herald*, 16 September 1861.

'the whole reckless land policy of New South Wales'.[19]

More particularly, the *Herald* argued the land acts were out of step with the nature and methods of liberal reform in Britain. The *Herald* on 10 October 1860 argued 'progressive reforms' in Britain were:

> as small as was consistent with an effective remedy of the evils that demand removal. This cautious and graduated policy undoubtedly has its inconveniences ... But the inconvenience ... is found to be more than counterbalanced by certain solid advantages. ... There is more security and more confidence in all the operations of investment and trade where, as in Great Britain, the public know that the spirit of legislation is always conservative, even in the fervour of reform ... Too great a tardiness in reform it may be readily admitted is a great evil, and one which hinders the free progress of a nation. Yet of the two extremes, under-reform, is a less evil than over-reform ... Do what is necessary, by all means, but do not do more.[20]

This quotation establishes extremely well the principle of incremental change and a support for experimentation over bare theory. Indeed, the *Herald* claimed as 'the leading characteristic' of its editorial position 'a preference of the known good to the unknown, the practical to the speculative'.[21] Regarding land reform, the *Herald* thought it would be wiser to establish agricultural districts and test the theory of free selection in a limited sphere, including selection before survey if needs be (as with the *Herald's* 1859 proposal). If it works, enlarge the scheme.[22]

One aspect of the colonial *Herald's* preference for incremental change does not fit with its reputation as a conservative journal. It argued for incremental reform on the basis that no one was able to accurately predict the effects of the inevitable counteroffensive of vested interests.[23] Of squatters the *Herald* suggested it was 'natural that those whose rights are thus violently assailed should ... show themselves over-tenacious of privileges to which they have no abstract right, and which they might without danger forgo'.[24] The *Herald* correctly thought that the Robertson land acts were likely to provoke the pastoral interest to seek more than it

[19] Patterson, *The Tariff in the Australian Colonies 1856-1900*, p. 71. For more on the *Herald's* scathing portrayal of John Robertson, see the *Herald*: 9 June 1858; 8, 10 October, 29 November 1860 (perhaps the most virulent of all); 22 March, 16 September 1861; and 8 February 1862.
[20] See also the *Herald*, 16 May 1859.
[21] *Herald*, 2 January 1857.
[22] *Herald*, 30 April 1859. Similarly, Henry Parkes, in the context of defending the role of an upper house, said on the hustings that normally 'more harm would be done by passing a bad bill than by rejecting a good one'. Parkes warned of the real possibility of 'dangerous legislation'. Mr. Parkes for East Sydney. *Herald*, 7 December 1860.
[23] *Herald*, 6, 8 October 1860.
[24] *Herald*, 8 October 1860.

might otherwise have done. In some public policy areas the *Herald* was progressive, as with its views on free trade, national schooling, state-aid to churches, secret ballot, and the treatment of Chinese workers. But in other areas, at least within the context of colonial NSW, the *Herald* was at the conservative end of the liberal reform spectrum. This was especially true in areas affected by the democratic impulse, such as manhood suffrage. Yet even in these areas it never advocated the *status quo* but either had different ideas for reform, as with land policy, or sought reform at a slower pace, as with the extension of the franchise.

The *Herald* strongly objected to the political culture that arose around the land acts of 1861. It saw the land acts as needlessly brash and an unfortunate departure from the proven approach to reform in Britain. The final insult came with the threat to swamp the LC after it sought amendments to the land bills in May 1861. This led to the dissolution of the LC and the land bills being delayed until September 1861. Unlike the *Empire,*[25] wherein at this time Cowper and Robertson could do no wrong, the *Herald* saw the swamping attempt as 'rough and reckless'[26] and an expression of Robertson's known contempt for the notion of an upper house.[27] The *Herald* thought the LC would have modified its proposed amendments without the threat of swamping.[28] The recourse to swamping was seen by the *Herald* as reprehensible and called into question the future of an upper house.[29] Despite a strong preference to leave colonists to themselves, news of the 'virtual' swamping was poorly received in Britain. The secretary for the colonies, the Duke of Newcastle, recoiled from 'so violent a measure';[30] this from an English aristocrat who in 1853 described Wentworth's suggestion of an hereditary colonial upper house as a 'ridiculous aping' of the House of Lords.[31] In 1866 the *Herald* said of the swamping, many 'who were then carried away by excitement have since been heartily ashamed of the proceeding'.[32]

There is no doubt an irrational 'land-mania' swept the colony in the period leading up to the land acts. In July 1861 the *Herald* lamented how it 'was until lately in vain to insist

[25] See the *Empire*, 6, 8-11,14 May 1861, which gave unqualified support to Cowper and Robertson's handling of the LC.
[26] Political Summary. *Herald*, 21 May 1861.
[27] *Herald*, 27 April 1861. Robertson expressed a preference for a single chamber parliament. With no prospect of this, Robertson later favoured an elected upper house until coming to the opinion that a nominated upper house could be more easily controlled. Powell, *Patrician Democrat*, p. 90.
[28] *Herald*, 11 May 1861. The edition of 21 May 1861 provides excerpts from the *Herald's* editorials of the previous few weeks. See also Hirst, *Strange Birth*, pp. 144-146.
[29] See also the *Herald*, 27 April, 8, 11, 13, 15, 21 May 1861. See also 'Anarchy or Order — That is the Question'. *Herald*, 5 June 1861.
[30] Powell, *Patrician Democrat*, p. 95.
[31] Cited by Martin, *Bunyip Aristocracy*, p. 162.
[32] *Herald*, 27 July 1866.

upon the more obvious doctrines of political economy. All who asserted what would have been deemed truisms among moderately educated radicals at home were set down as enemies of the people'.[33] The *Herald* did, however, issue a rare note of commendation upon Cowper for his role in the formation of the new LC. The *Herald* was happy to concede the 're-constitution of the Upper House has produced a somewhat favourable effect upon the commercial and landed interests'.[34] James Macarthur agreed, deeming the new LC 'men of experience and respectability'.[35] The return to a less aggressive political culture acknowledged at least two facts. Firstly, that Cowper, Robertson and their friends had got what they wanted, their brand of land reform. Secondly, it acknowledged the radicalised rhetoric of the period leading up to the land laws was unsustainable for most participants. Historians have taken them too seriously. However, some liberal-conservatives appreciated this full well at the time. In a letter to James Macarthur in 1863, John Fairfax claimed Macarthur's brother, Sir William, had predicted 'an improved state of political feeling will begin with the democrats themselves', with Fairfax adding 'This is the case'.[36] Politicians like Cowper knew full well they had constructed a temporary rhetoric useful only for short term political advantage, one which greatly exaggerated the real differences between themselves and those opposed to the Robertson land laws. It was now time for squabbling cousins to make up and move on and they knew it.

Free Selection before Survey

The second major difficulty for the *Herald* with the land laws was a cluster of issues surrounding free selection before survey as presented in the legislation. Apart from Tasmania, and then only in unoccupied outlying areas, none of the other colonial land bills allowed for free selection before survey.[37] The *Herald* sought free selection in nominated districts, as already legislated in Queensland, Victoria and New Zealand. It reminded its readers that before any colonial land laws had been passed it had 'strongly recommended the setting apart of *agricultural districts*, where any experiment ... could be fairly and fully tried'.[38] Its proposal of 1859 allowed for selection before survey in nominated agricultural districts, arguing that

[33] *Herald*, 20 July 1861.
[34] *Herald*, 20 July 1861.
[35] Powell, *Patrician Democrat*, p. 95.
[36] John Fairfax to James Macarthur, 21 May 1863. Macarthur Papers.
[37] See the *Herald*, 3 October and 30 November 1860 and 'Free Selection, As It Might Be', an anonymous article published by the *Herald* 5 December 1860. The writer was designated by an 'X' and also wrote 'Will the Squatters be Ruined by Free Selection?', *Herald*, 28 November 1860.
[38] *Herald*, 3 October 1860. Emphasis the *Herald's*.

'within certain limits it may be treated as an irregularity to be tolerated, [and] as being a less[er] evil than the delay caused by the necessity for surveys'.[39] However, it thought that to apply selection before survey to the entire colony was foolish.[40] It declared, 'if the object [of land policy] be to establish agriculture and agricultural communities, it is clear that this unrestricted range of selection will not serve it'.[41] As for the *Herald's* main rival, the *Empire* admitted when discussing Robertson's 1859 legislation that selection before survey attracted objections of a 'weighty character'.[42] However, no such admission was made the following year as it moved toward an uncritical acceptance of Robertson's bills.

More particularly, the *Herald* also argued in favour of policy that encouraged the settlement of agricultural communities. It regarded Robertson's approach to land settlement as too hands-off, or *laissez-faire,* and thought it would see Government 'abandon the responsibility of selection ... and so leave colonisation to itself to scoop out its own channels'.[43] The *Herald* posited many advantages in nominating agricultural districts for free selection, the practice in other colonies. It would: prevent selector-squatter conflict; allow for land in outlying districts to remain Crown land under lease or license;[44] promote the development of wider social and economic infrastructure;[45] was more likely to lead to selectors enjoying a significant increase in the value of their land over a five to ten year period;[46] and, lastly, it would make deferred payments easier to collect.[47]

In addition to the editorial columns of the *Herald*, John West addressed the positive requirements of land settlement in a timely lecture in early December 1860 entitled 'Internal

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[39] *Herald*, 8 October 1860.
[40] *Herald*, 30 April 1859. Later the *Herald* complained that 'Mr. Robertson has but one plan to suit the whole colony, however different may be the natural features of its different parts'. *Herald*, 18 January 1861.
[41] *Herald*, 3 October 1860.
[42] *Empire*, 24 November 1859. Regarding these objections the *Empire* stated that 'space will not permit us to take them into consideration on the present occasion'. The shift in the editorial stance of the *Empire* warrants more research. In 1859, although a supporter of manhood suffrage and Cowper and Robertson, it remained at times a severe critic of the colonial parliament, which it termed the 'Macquarie-street theatre'. *Empire*, 29 November 1859. One particularly contemptuous assessment of the nature of the post-responsible government legislature came in the *Empire's* editorial of 5 December 1859. Yet by late December 1860 unqualified support for Robertson appears to have been the order of the day. For more on the *Empire* of this period see Walker, *Newspaper Press*, pp. 69-78.
[43] *Herald*, 12 October 1860. See also the *Herald*, 21 October 1861, 29 December 1865.
[44] *Herald*, 29 December 1865. See also the *Herald*, 4 October, 17 December 1860; 21 October 1861 and 7 April 1863. It saw Robertson's bills as leading to a land grab 'based on a denial of the doctrine that the unsold lands form a national estate'. *Herald*, 17 December 1860.
[45] *Herald*, 3, 4 October 1860.
[46] *Herald*, 4 October 1860 and John West, 'Internal Colonisation', published in the *Herald*, 25 December 1860. See also 'Legislator' a correspondent to the *Herald*, 8 October 1860.
[47] *Herald*, 4 October 1860.

Colonisation'.[48] West claimed the challenge of forming sound land policy was to enable men of 'slender means' to 'obtain the enjoyments of rural life ... without the sacrifice of the higher interests of human association'. Many colonists, none more than Henry Parkes, shared this conviction. But perhaps the most interesting aspect of West's address was its connection between land and capital. 'Mechanical skill and farming knowledge' were not enough for the talented and industrious farmer of small means to prosper. West emphasized: 'All that is wanted to place the [farming] family in the path of prosperity is some friendly hand. THAT HAND IS THE HAND OF THE CAPITALIST'.[49] Directly after the land acts were passed the *Herald* stressed that to 'tell a man he can step on to the soil ... and subsist without capital or wages, is only to deceive him'.[50] A few months earlier it offered, 'Land without capital will yield but small profits'.[51] West and the *Herald* saw farming concentrated in agricultural districts as more likely to attract finance from banks and private lenders at reasonable rates. West highlighted a simple economic fact that 'in proportion to the risk of repayment must be the price of money' and noted of current borrowing in the colony that only a 'very small portion indeed is devoted to the encouragement of rural industry'.[52] West saw nothing in the Robertson Acts to encourage investor support for selectors. Squatters had collateral in the form of stock and were a far better proposition to a bank or finance company, a fact amply demonstrated in the ensuing decades.[53] To allay this advantage of the squatter, West proposed that groups of fifty or more selectors form small land companies with limited liability to attract finance, gain economies of scale, and enjoy the wider social benefits of collective association.[54]

Eventually the *Herald's* call for a more directed approach to land settlement was accepted by most politicians.[55] Many conceded, in retrospect, that long leases rather than land

[48] John West, 'Internal Colonisation'. *Herald*, 25 December 1860.
[49] Emphasis West's.
[50] *Herald*, 21 October 1861.
[51] *Herald*, 9 May 1861.
[52] John West, 'Internal Colonisation'. *Herald*, 25 December 1860.
[53] Noted parliamentarian of the succeeding generation, Bernard Wise, wrote that however demonised by some, squatters represented 'the principal industry of the colony'. Wise said this was not lost on the banking community and that from the beginning there was nothing more certain than that the banks would aid the squatter 'in defence against selection'. As a result, Wise said, 'Money was poured out like water to secure the runs'. Wise, *The Commonwealth of Australia*, p. 112. See also Jeans, *An Historical Geography of New South Wales*, p. 212.
[54] On this see Melleuish, 'Distributivism: The Australian Political Ideal?', pp. 21-23.
[55] In 1882 John McElhone claimed the 'effect of the [1861] land law has been to scatter the selectors far and wide'. Cited by Dickey, *Politics in New South Wales, 1856-1900*, p. 146.

alienation would have achieved a superior social and economic outcome in outlying districts.[56] Historians quick to see conservatism in the colonial *Herald* might label this desire for greater government co-ordination of land settlement an expression of conservative or Tory paternalism. However, this position would then require the historian to label as conservative the more directed land settlement policies of every other Australasian colony, which is a tall order. Just as it is better to understand protectionism in Victoria as an anomaly rather than a unique mutation of liberalism, it is better to understand colony-wide selection before survey as NSW's own particular absurdity. To describe a more directed land policy as conservative would also be a misreading of classical liberalism itself. Early liberal theory, in spite of its caricature, never extolled pure *laissez-faire*. As Magnusson notes, Adam Smith accepted regulations when 'perfect freedom' threatened the 'general interest', as seen in Smith's support of the Navigation Acts.[57] Similarly, Bentham, Cobden, and other liberals, supported the Poor Laws and Factory Acts. Although liberals held as a general maxim the non-interference of the state, they readily acknowledged that there were issues where the common good required state intervention.[58] Liberal theorists also made special allowances for greater state intervention and direction in settler societies, to the point of conceding temporary trade tariffs.[59]

A further problem for the *Herald* with free selection before survey, as proposed, was that it seemed hopelessly impractical and liable to abuse. Less than six months after the land alienation bill was enacted, the *Herald* predicted that within a year it would be viewed with 'contempt ... by the very people who were loudest for its adoption'.[60] Certainly within five years there was widespread ill feeling toward the legislation among selectors, who began their long quest for amendment.[61] Selectors bitterly resented the way squatters used free selection to their own advantage. Squatters were also able to free select and by the astute use of family members and the practice of 'dummying', wherein a friend, employee or associate selected

[56] For the example of McElhone, an early supporter of the Robertson land acts turned leading agitator for their amendment, see Dickey, *Politics in New South Wales, 1856-1900*, pp. 146-147.
[57] Magnusson, *Free Trade: 1793-1886*, vol. i, p. 3.
[58] John Gray suggests early liberals are best understood as advocates of 'limited government' rather than a 'minimum state'. J. Gray *Liberalism*, second edition, Open University Press, Buckingham, 1995, pp. 70-71 (see also, pp. 27-29, 70-77). See also Bramstead and Melhuish, *Western Liberalism*, p. 16; Bradley, *The Strange Rebirth of Liberal Britain*, pp. 20-21; Barker, *Politics, Peoples and Government*, pp. 47-61; Magnusson, *Free Trade: 1793-1886*, vol. i, pp. 1-4.
[59] See Bradley, *The Strange Rebirth of Liberal Britain*, pp. 20-21; Bramstead and Melhuish, *Western Liberals*, pp. 15-16; Gray, *Liberalism*, pp. 27-38, 72-81. On J. S. Mill's concessions to settler societies, see the *Herald* 5 July 1866 and 24 October 1873.
[60] *Herald*, 8 February 1862. See also the *Herald*, 10 October 1861.
[61] *Herald*, 9 August 1866.

land in their own name with the intention of later transferring it to the pastoralist, many squatters built up large freehold estates. As the *Herald* put it in 1875, 'free selection has been used as a fence to keep out settlement'.[62]

John Ferry's study of land selection in New England paints a vivid picture of how dummying worked in the example of one leading squatter, Henry Thomas:

> To forestall free selectors in some of the choicest land, he had employees and members of his own family select parcels of land and then, after a few months, insisted that these be forfeited because the 'selectors' were not living on their selections. He then insisted that these forfeited conditional purchases be put up for auction [as the legislation required]. Naturally, when they were, he bought the lot.[63]

Gammage highlights an even more ingenious and cunning form of dummying:

> A simple loophole was apparently never discovered, let alone checked. At that time mortgagees of land were registered in the Lands Department as its legal owners [and] ... for example, the lessee Edward Flood could take up a selection, mortgage it, and thereby be left to free select again. By this method and by auction he [Flood] secured hundreds of thousands of acres.[64]

A remarkable sideline to this illustration (not mentioned by Gammage) is that Edward Flood was a stalwart 'liberal' politician, a cabinet minister no less. After the January 1858 election Cowper was Premier and made Robertson Secretary for Lands. However, Cowper had initially sought Flood for the post ahead of Robertson, which was hardly surprising as Robertson had engineered the failure of Cowper's land bill the year before. Flood refused but joined the cabinet as Secretary for Public Works in 1859.[65] It appears Flood found more satisfying the prospect of profiting from loopholes in the land legislation than overseeing it.[66] For reasons such as these, by September 1863 the *Herald* claimed the cry of 'Unlock the lands' was turning into 'Sell no more land' and that 'the poor man', the 'stalking-horse of political adventurers', had 'seen the legislation specially intended to protect him twisted to

[62] *Herald*, 30 September 1875.
[63] Ferry, 'Mapping the New South Wales Free Selection Acts in Colonial New England', pp. 36 and 38. See also an editorial of Andrew Garran's in the *Herald* of 30 September 1875 that provides a devastating survey of the effects of free selection.
[64] Gammage, 'Who gained and who was meant to gain, from Land Selection in New South Wales?', p. 118.
[65] Powell, *Patrician Democrat*, p. 84. Flood was subsequently Minister for Works under Cowper from October 1859, for which see the *Empire*, 3 October 1859. Martin and Wardle note that Flood was a property holder in the Narrandera Shire (the area of Gammage's research). See Martin and Wardle, *Members of the Legislative Assembly of New South Wales 1856-1901*, p. 76.
[66] The significance of Flood's rorting of unamended loopholes in the legislation ought not be underestimated. Gammage suggests that research uncovering the economic interests of Robertson and his supporters is essential to getting to the bottom of the true intent of the land acts. Gammage, 'Who gained and who was meant to gain, from Land Selection in New South Wales?', p. 122.

the aggrandisement of those already wealthy'.[67] An article published by the *Herald*, also in 1863, referred with open contempt to 'prominent "liberals" ... whose "pastoral interests" are doubtless duly conserved and cared for by a friendly Secretary for Lands'.[68]

Another telling argument of the *Herald* against free selection before survey was that it saw it as an attempt to escape the inescapable: the need for reform at the Survey Department. Provision for selection before survey was, as Baker rightly described it, a response to the 'delays and malpractices of the Survey Department'.[69] Of many editorials alluding to this, one written prior to the tabling of the Robertson land acts summarises the issue best:

> The real difficulty in the way of the rapid settlement of the people on the land has been the inefficiency of the surveys, and the diversion of ... surveyors to localities where they were not the most needed. This is an administrative defect which will not be cured by any mere change in the law ... Had land in abundance been kept surveyed, exposed rapidly to auction, and then left open for free selection, as might have been done under the present law, complaints would have been comparatively few, and ... confined principally to the wants of isolated and scattered districts.[70]

In view of chronic maladministration, the *Herald* suggested people ought to stop blaming squatters for lack of settlement and blame the government instead. The popular cry was the squatters were preventing settlement but the *Herald* saw this as 'utter misrepresentations'.[71] The *Herald* claimed the:

> real monopolist is the MINISTER FOR LANDS, who holds it in his power to sell as much land as he likes ... He has every conceivable facility for knowing where the best land lies, and would be allowed any necessary money to survey and bring it to sale, and throw it open to selection.[72]

The truth of the need for administrative reform was painfully seen in the difficulties faced by selectors through the 1860s and 1870s. Jeans describes selectors as:

> hampered by clumsy methods of free selection ... [an] application to purchase a specific piece of land might be held up for months only to have a surveyor find that the land had

[67] *Herald*, 22 September 1863. Later, the same editorial claimed that the 'old auction system was condemned because the auction gave the rich man an advantage. But free selection appears to have given him a still greater advantage, and one of which he has freely availed himself'. See also 'Free Selection, As It Might Be'. *Herald*, 5 December 1860.
[68] 'Liberalism in Apogee'. *Herald*, 10 March 1863.
[69] Cited by Baker, 'The Origins of Robertson's Land Acts', p. 110.
[70] *Herald*, 17 February 1860. See also the *Herald*: 26 November 1857; 31 March 1858; 30 April, 3 May 1859; 17 February, 12 October, 28, 29 November, 5 December,1860; 22 September 1863; 8 September 1875. See also 'Free Selection, As It Might Be'. *Herald*, 5 December 1860.
[71] *Herald*, 28 November 1860.
[72] *Herald*, 28 November 1860.

already been sold or that it was part of a government reserve.[73]

The *Herald* understood that 'free selection before survey was intended to make the *bona fide* free selector independent of all officials' but the absence of survey meant selectors were frequently unable to enforce their rights.[74] One prominent difficulty selectors experienced was in enforcing grazing rights. Ostensibly the land acts gave selectors generous grazing rights on adjoining lands, up to three times the size of their selection. However, when selectors sought to enforce their grazing rights, or to recover impounded stock, often little could be done. As the *Herald* asked: 'How can the Chief Commissioner of Crown Lands withdraw from any squatter a part of his run, without defining what is withdrawn, and what is left?'[75] The plain facts were that survey was a prerequisite to the just resolution of all boundary disputes. This is why free selector associations of the 1870s sought reforms 'to facilitate the survey of lands and secure to selectors the early holding of their selections'.[76]

Finally, the *Herald* opposed unrestricted free selection before survey as it correctly saw it would initiate bitter conflict between selectors and squatters. Gollan notes the *Herald* 'consistently opposed' Robertson's land reform bills and 'came much closer than the reformers to describing the outcome'.[77] Gollan cites the *Herald* editorial of 22 March 1861:

> It is the reproach of Mr. ROBERTSON'S bills, that ... they will tend to create a feud between the two classes of settlers. He pits the two deliberately against one another. He says to the squatter, "If you can hold your ground against these free selectors, by hook or by crook, do so." He says to the free selectors, "If you can screw the squatter off the run, it is in your interest to do so, and you have every opportunity." Under such circumstances it seems almost certain that there must be incessant strife until the contest is ended either by the squatter succumbing and taking his departure; or by his purchasing the whole of the run or its commanding positions.

It thought the land bills 'almost certain to generate bad blood, and to establish a sort of social war on every station'.[78] The context of the editorial was the successful passage of the land bills through the LA.[79] Gollan's choice of editorials was excellent. It was the most succinct and

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[73] Jeans, *An Historical Geography of New South Wales*, p. 212. See also Waterson, *Squatter, Selector, and Storekeeper*, pp. 33-35, who claims the administering of the legislation was as important in ensuring the outcome as the legislation itself.
[74] *Herald*, 9 August 1866.
[75] *Herald*, 6 December 1862. See also the *Herald*, 9 August and 11 October 1866.
[76] Land Law Reformation League meeting, 29 November 1875. *Herald*, 30 November 1875.
[77] Gollan, *Radical and Working Class Politics*, p. 44.
[78] *Herald*, 22 March 1861.
[79] The *Herald* highlighted the irony of after 'five years hopeless effort to legislate on the squatting question' it passed through 'in the fag end of an evening ... with scarcely a remark'. *Herald*, 22 March 1861.

passionate on the matter. Elsewhere the *Herald* affirmed it was 'anxious that every facility should be given for the acquisition of land by small freeholders' but 'retain[ed] the opinion that this might have been effectively done without ... needless social conflicts'.[80] It also described as the 'great objection' to 'indiscriminate free selection' that it 'set every man against his neighbour — that it tended to create civil war on every run, and to make the impounding law a more obnoxious instrument of aggression and of spiteful defence than ever'.[81] It described 'free selection' as 'only another name for a free fight'.[82]

Conditions attached to Free Selection

A third major area of objection by the *Herald* to the Robertson land laws was the conditions of residence and improvement placed on selectors. The acts required selectors to be in immediate and continual residence and to make improvements to the value of £1 per acre during the first three years, effectively doubling the purchase price. The selector then signed a declaration affirming these conditions had been met. Without this declaration the land and deposit would be forfeited.[83] Regarding the conditions, the *Herald* claimed it 'is no statesmanship to announce a principle, and then hedge it round with neutralizing exceptions'. Instead be consistent: 'Let us act as land dealers, and dispose of our commodity to the highest bidder; or if we intend to foster colonization by peculiar inducements let them be real and practical'.[84] In 1859 the *Empire* emphatically rejected similar conditions in Robertson's then proposed bill but was silent in 1860.[85] The *Herald* described Robertson's 1859 bill as leaving selectors 'embarrassed by conditions which are totally inconsistent with the principles of political freedom'.[86] Earlier in 1857 it said to 'force a man to till a certain proportion of his land under the threat of depriving him of the freehold, is an interference with the principles of free trade'.[87] It suggested the 'effect of forced cultivation would often be to ruin the very class it is intended to protect',[88] citing the fickleness of both markets and harvests as a warning against compulsory cultivation. The discretion of the farmer ought be maintained. The *Herald*

[80] *Herald*, 17 December 1860.
[81] *Herald*, 6 December 1862. See also the *Herald*, 9 August 1866.
[82] *Herald*, 12 September 1866.
[83] A Bill for Regulating the Alienation of Waste Lands, clause XVIII. *Empire*, 1 October 1860.
[84] *Herald*, 4 October 1860.
[85] *Empire*, 3 October 1859. The *Empire* thought it a bad deal for the poor man. See also the *Empire*, 15 November 1859.
[86] *Herald*, 27 May 1859. See also the *Herald*, 6 May 1859.
[87] *Herald*, 10 December 1857.
[88] *Herald*, 10 December 1857.

also argued continual residence from date of purchase was ridiculous, as land clearing and other preparation often meant the land 'can hardly be a productive and sustaining property under less than twelve months'.[89] It would be better for many selectors to combine working for an employer with the gradual preparation of their selection. The purpose of conditions was to limit selection to *bona fide* farmers. However, the *Herald* thought other ways of encouraging genuine selectors were required, such as a tax on uncultivated lands.

Not without cause, many members of the LA were also opposed to the conditions applied to selectors.[90] These included members who voted for the legislation such as Deniehy, Parkes, and Asher. John Hay accurately predicted the conditions 'would be found unworkable and very frequently evaded'.[91] Their basic result was to promote widespread evasion of both the residence and improvement requirements. With residency, dummying and false declarations were the main methods. With improvements, false declarations were again prominent plus all manner of ingenious methods such as moving temporary fixtures from site to site.[92] The Act stated the 'Minister shall be satisfied' with a selector's declaration but these were rarely examined.[93] There appears to have been a widespread understanding among selectors, legislators and administrators, that the conditions were unrealistic and not to be enforced. The *Herald* strenuously objected to what it saw as a culture of fabrication and lying promoted by the land acts, asking why was legislation crafted so as to 'offer a direct premium on falsehood or evasion'?[94] Hirst summarised the inevitable result of the onerous demands linked to a statutory declaration: 'the antagonisms which Robertson created ... led to false swearing on a massive scale' such that 'Government ... had to daily sanction corruption, conspiracy and perjury'.[95]

There is no question the system of free selection and its conditions, developed and left unamended by Robertson, Cowper and other leading colonial 'liberals', encouraged the very evasion, patronage, corruption and inefficiency which the British liberal reform movement from the 1830s had worked so hard to dismantle. Morris and Ranken reported in 1883 that 'land selection has been marked by widespread bribery and corruption, by pronounced moral decay, and by evasions of law so great as to disgrace every New South Wales government

[89] *Herald*, 22 August 1862.
[90] As discussed in ch. 6 above.
[91] NSW LA, 6 March 1861. Published in the *Herald*, 7 March 1861.
[92] As discussed at the Land Law Reformation League meeting, 29 November 1875. *Herald*, 30 November 1875.
[93] *Herald*, 8 November 1861.
[94] *Herald*, 8 November 1861. See also the *Herald*, 21 May 1861.
[95] Hirst, *Strange Birth*, p. 155.

since 1861'.[96] Even in the 1870s the *Herald* had no monopoly of opposition to the effects of the Robertson land acts. In 1873 J. F. Mayger, of the Murray District Selectors' Association, wrote in telling fashion to then premier Henry Parkes:

> Your schools are doing well, educating the *next* generation. The Land offices are also doing their work, educating *adults* to the pecuniary value of *fraud* and *evasion*, and bringing the law into contempt on one side, and rendering it the instrument of social corruption on the other.[97]

Henry Parkes, in an address on the hustings for East Sydney the following year, conceded the provisions of 'The Act of Mr. Robertson, from which so much was hoped ... can be defeated at all points by those who do not hesitate to profit by its abuses'.[98] The Land Law Reformation League, representing free selector associations, claimed the 1861 Act, and its ineffectual and in some ways aggravating amending Act of 1875,[99] were 'restrictive and onerous to the class of small farmers'.[100] The League documented a litany of complaints against free selection and the conditions attached to it. It sought among many amendments for the improvement requirement to be halved (reduced from £1 per acre to 10 shillings), crying foul that those with capital could buy land at £1 per acre at auction with no improvement conditions while selectors were compelled to 'throw ... money away on unnecessary improvements'.[101] Once again the *Herald's* objections to the Robertson land acts were sustained and its prediction the land laws would result in 'serious discontent' amply vindicated.[102]

Ministerial Power and Discretion

The fourth major objection of the *Herald* to the Robertson land acts was that it concentrated power and discretion in the Lands Minister and department in a manner which invited corruption, nepotism and cronyism. The *Empire* fiercely opposed similar powers proposed in

[96] Cited by Gammage, 'Who gained and who was meant to gain, from Land Selection in New South Wales?', p. 105.
[97] Cited by Dickey, *Politics in New South Wales, 1856-1900*, p. 137. Emphasis Mayger's.
[98] Cited by Dickey, *Politics in New South Wales, 1856-1900*, pp. 43-44.
[99] On the 1875 amendment see Gammage, 'Who gained and who was meant to gain, from Land Selection in New South Wales?', pp. 120-121; Ferry, 'Mapping the New South Wales Free Selection Acts in Colonial New England', p. 41; Dickey, *Politics in New South Wales, 1856-1900*, pp. 131-132; and Dawson, 'Striking Out for Independence: Moves Towards Self-Determination', p. 137.
[100] Land Law Reformation League meeting, 29 November 1875. *Herald*, 30 November 1875.
[101] Land Law Reformation League meeting, 29 November 1875. *Herald*, 30 November 1875.
[102] *Herald*, 22 December 1860. *Herald* editorials opposing conditions placed upon selectors, include: 10 December 1857; 6 and 27 May 1859; 4, 26 October 1860; 8 November 1861; 22 August 1862; 4 September 1873; 30 September 1875; 19 October 1877. See also Thomas Holt's letter to the *Herald*, 12 May 1859.

Robertson's bill of 1859: 'It is almost impossible to overestimate the amount of jobbing in the public lands, and the general political corruption, which under an unprincipled Executive, would inevitably arise from the uncontrolled possession of the dangerous powers just adverted to'.[103] Although these powers were unchanged in Robertson's second attempt, there was, once again, a deafening silence from the *Empire* in late 1860. In contrast, the *Herald* was a persistent critic of unregulated Executive power and discretion and, as discussed under Cowper's proposed bill of 1857, called for an independent Commissioner of Lands.

Before the land laws had been in place eighteen months, self-confessed advanced-liberal Charles Harpur claimed in the LA that cabinet ministers had in their administration of the land laws falsified the principles of the land acts.[104] Selector associations in the 1870s expressed great offence at the partiality exercised by the land Minister and land administrators. The Land Law Reformation League reviled the 'indiscriminate power which the Minister for Lands holds' and claimed the 'Minister was frequently cancelling free selections at the instance of wealthy squatters'.[105] The *Herald's* proposal for a Commissioner of Lands was a clear call to depoliticise the administration of Crown lands. In doing so the *Herald* was closer to a liberal understanding of an appropriate separation of powers and the need for transparent regulations and reporting requirements.

Concern the Land Acts would destroy the Pastoral Interest

A fifth area of objection from the *Herald* can be dealt with briefly, as it proved illusory, and that was that the Robertson land acts would greatly injure the pastoral interest. We have noted that the primary outcome of the Robertson land acts was, in fact, the opposite, in that it allowed squatters to obtain enormous areas of freehold land. Although many pastoralists were ruined by the end of the nineteenth-century this was not a direct result of the land legislation but due to a variety of subsequent local and international factors. Globally, it was due to an unforeseen and long-lasting downturn in agricultural produce from the late 1870s followed by the general economic depression of the 1890s.[106] More locally, Gammage notes that although 'by and large the squatters won the selector struggle' they 'were beaten by other

[103] *Empire*, 3 October 1859.
[104] Discussed in the article 'Liberalism in Apogee'. *Herald*, 10 March 1863.
[105] Land Law Reformation League meeting, 29 November 1875. *Herald*, 30 November 1875. For further on ministerial power and discretion in the administration of Crown lands, see the *Herald*: 27 November 1857; 8 November 1861; 22 August 1862; 29 December 1865; 12 September, 11 October 1866; 30 September, 2 December 1875.
[106] McCord cites similar difficulties for British land owners over several decades from the late 1870s. McCord, *British History, 1815-1906*, pp. 280-281, 440-441.

factors', citing 'drought and falling prices' plus changes in government policy in the form of land taxes and compulsory resumption.[107] However, from the vantage point of the early 1860s, the *Herald* expressed grave fears for squatters and the pastoral industry. It referred to the 'madness of damaging the chief industry of the colony'[108] and accused Robertson of 'setting free a force that in its destructive agency must necessarily disintegrate and disperse the present pastoral prosperity of the colony'.[109]

This perspective did, however, reveal something of an unresolved tension in the editorial position of the *Herald* in that, as discussed, the *Herald* also predicted the land laws would not prove beneficial to selectors. To some degree this somewhat contradictory position reflected the sheer uncertainty generated by Robertson's legislation.[110] One factor that made predicting the outcome of the land acts difficult in 1860 was that the huge, profitable squatter runs in settled districts would not be open to free selection until 1866 (when their 14-year leases expired).[111] In one editorial the *Herald* raised the possibility that Robertson was 'partly deceiving' selectors, given these enormous runs were unavailable for at least five years[112] but in another it predicted their probable destruction when the leases expired.[113] Who in 1860 would have foreseen Robertson protecting so many of these runs from selection by reserving vital sections of them by Executive fiat? Certainly the political rhetoric of the December 1860 election campaign did not suggest this and many in 1866 quite justifiably deemed it a betrayal of selectors.[114]

For all its concern for the pastoral interest the *Herald* placed greater emphasis on difficulties faced by selectors. It also published an article at variance with its overall editorial

[107] Gammage, 'Who gained and who was meant to gain, from Land Selection in New South Wales?', p. 121. These factors cannot be blamed on selectors or the land legislation. Although the land legislation enabled squatters to buy vast amounts of land on credit it did not create the circumstances by which land provided diminishing returns. As Gammage neatly argues, it is not as though for 'at least twenty years both squatters and their money lenders so misjudged what the land could repay that they outlaid an uneconomic price for it' (p. 121).
[108] *Herald*, 27 November 1860. On the pastoral interest, see also the *Herald*: 3, 4, 13 February 1854; 19 October 1855; 20 November 1857; 23 June 1859; 8 October, 28, 30 November, 8 December 1860; 18 January, 22 March, 21 May, 13 July, 5 September, 1, 17, 21 October 1861; 6 December 1862; 7 April 1863; 29 December 1865; 4, 8, and 30 September 1875, which exposed the statistics of land sales as a sham.
[109] *Herald*, 27 April 1861.
[110] These leases are discussed in ch. 5 when noting the Orders-in-Council of 1847. Also, the *Herald's* position is akin to the speech considered earlier by Augustus Morris in the LA, wherein Morris warned of the threat to the pastoral interest posed by the Robertson land acts yet also accurately predicted ways in which squatters would evade the legislation and even prosper because of it (see ch. 6 above).
[111] The *Herald* editorial of 27 November 1860 discusses this.
[112] *Herald*, 8 December 1860.
[113] *Herald*, 27 November 1860.
[114] See the *Herald*, 29 December 1865, 12 September, 11 October 1866. See also Powell, *Patrician Democrat*, p. 148 and Ferry, 'Mapping the New South Wales Free Selection Acts in Colonial New England', p. 36.

perspective, which correctly predicted the 'pastoral interest will scarcely be ruined off hand'.[115] It added: 'Property and wealth have a variety of resources against unwise or inequitable legislation' and that the 'pastoral interest is a gigantic whole. It is not to be annihilated in a day'.[116] The article cited the 'very impracticability' of Robertson's proposals for free selection as offering a 'degree [of] security to the squatters'.[117] Within a few years of the legislation taking effect, the *Herald* no longer expressed concern for the pastoral interest. That the *Herald* remained the most persistent opponent of the Robertson land acts long after any fear for the pastoral industry vanished, serves to highlight the *Herald's* genuine concern for the fate of selectors.

Land Reform and Colonial Liberalism

The *Herald's* opposition to the land acts has stood within sections of the historiography as one of the twin pillars of an alleged 'conservatism'.[118] This is well illustrated in Baker's biography of J. D. Lang, which describes John West and the *Herald* as having 'constantly criticised the liberal institutions of New South Wales such as manhood suffrage, vote by ballot, the abolition of state aid and Robertson's Land Acts'. In contrast, Lang is portrayed as having defended 'all those liberal institutions and practices that West had denigrated'.[119] Two striking things emerge here. Firstly, Baker is incorrect regarding West and the *Herald* on two of these four points, vote by ballot and the abolition of state-aid (both of which the *Herald* supported).[120] Secondly, it exemplifies the manner in which some historians have made support for the Robertson land acts a prerequisite to being considered a colonial liberal. A more circumspect approach would be wiser.

The political landscape of the early years of responsible government in NSW was

[115] 'Will the Squatters be Ruined by Free Selection?' *Herald*, 28 November 1860. The article was anonymous with the author designated by 'X'.
[116] 'Will the Squatters be Ruined by Free Selection?' *Herald*, 28 November 1860. It is noteworthy that this view was held by the *Herald* prior to responsible government. In 1854 it claimed: 'The possessors of real property have always, in every man, and under every conceivable form of Government, exercised a paramount influence on the destinies of the State'. *Herald*, 9 March 1854. It seems the early years of responsible government had dented the *Herald's* confidence.
[117] 'Will the Squatters be Ruined by Free Selection?' *Herald*, 28 November 1860. The opinion of the writer appears similar to that offered to Governor Sir John Young, who said he had been advised that Robertson's legislation would not harm the squatters as much as many predicted (as cited in ch. 6 above).
[118] The other being the *Herald's* rejection of manhood suffrage.
[119] Baker, *Days of Wrath*, p. 456. It is perhaps fair to point out that, as noted above, Baker's commentary on the specifics of the *Herald's* response to the Robertson land laws is, in fact, quite insightful. Critical comment here relates only to his positioning of support for the land acts as being a prerequisite for being considered a colonial liberal.
[120] The *Herald* on the ballot is discussed in ch. 9 below and state-aid ch. 3 above.

more notable for factional politics than any clear differentiation based upon policy. This was partly due to an hegemony of liberal values in the colony. Apart from limp appeals from the Anglican hierarchy for church establishment and the brief, unpopular suggestion of an hereditary Upper House, there was little to blight the ascendancy of liberal thought.[121] However, partly out of custom and much more so in the attempt to gain political advantage, familiar old-world terminology such as 'conservative,' 'liberal' and 'radical' were readily utilised by colonial politicians and journalists. Cowper's several administrations[122] were termed 'liberal' at the time and have been described as such by most historians since.[123] But James Martin's comment about the absence of any major political distinctives within the LA is nearer the truth than sections of the historiography suggest. Unless we are prepared to similarly describe the land policy of every other colony in Australia, New Zealand and Canada as 'conservative', that component of the stereotype of the colonial *Herald* as a conservative journal which has rested upon on its opposition to the Robertson land acts can no longer be sustained. Instead, the *Herald* ought to be acknowledged as an example of the fourth estate at its best for persistently exposing the shortcomings of poor legislation and administrative practice. Its arguments regarding the nature of political reform and its opposition to unregulated ministerial power and corrupt administration clearly place the *Herald* within the liberal tradition, properly defined.

The Robertson land acts were only one of a series of land reforms proposed after responsible government in 1856 and the LA record reveals that even many who voted for it disagreed with it at key points. In terms of political philosophy, the *Herald's* position on land policy *vis a vis* liberalism and conservatism (colonial or British) is largely a dead issue. As the practice of other colonies insists and Robertson himself conceded, the essential principles of liberal land legislation was free selection, which was about non-competition and a fixed price, not the timing of survey.[124] The Robertson land acts ought be considered neither

[121] Other lapses from liberalism in NSW included civil-service patronage and the neglect of local government (both are discussed in ch. 9 below).
[122] September 1857 - October 1859, March 1860 to October 1863, February 1865 to January 1866, October 1868 to December 1870. From the helpful chart on the inside cover of Loveday and Martin, *Parliament Factions and Parties*.
[123] Illiberal tendencies within Cowper's administration, in particular his use of patronage and the disdain for local government, are discussed in ch. 9 below.
[124] Gammage is right in suggesting the accounts of some historians have 'tinted with political ideas what was essentially an economic battle for the land'. Gammage, 'Who gained and who was meant to gain, from Land Selection in New South Wales?, p. 104. Waterson concludes similarly with respect to the land laws in Queensland, suggesting 'there was no appreciable difference between so-called "liberal" and "conservative" factions. If anything the former were more dangerous and culpable, as their actions at the desk were at total variance with their speeches in the Assembly'. Waterson, *Squatter, Selector, and Storekeeper*, pp. 34-35.

more nor less liberal than several other proposed bills in NSW and, ironically, considerably less generous to the selector class than the *Herald's* own proposal for the settlement of Crown lands.

Conclusion

As the Robertson land acts neared their final passage through the LC in October 1861, the *Herald* trumpeted a satirical salute: 'It is the off-spring of "heaven-born" intelligence. It is different in its nature from any other land bill in the known world ... the panacea for all colonial disorders ... Let them have its glory! Twelve months will dissipate many illusions'.[125] Yet all was not sarcasm and disapproval at the corner of Pitt, Hunter and O'Connell streets in the spring of 1861. A few weeks later the *Herald* offered:

> We congratulate the country on the passing of the Land Bills ... Time will show whether those who have demanded or those who have opposed the Land Bills as they stand, are the wisest and most patriotic of the colonists. In all questions of this kind people who take opposite sides and strong views are apt to prophecy unbounded advantages or unutterable woes. Time corrects their errors and moderates their confidence or regret.[126]

The *Herald* pursued the issue of land policy with unremitting diligence. Its editorials of 1860-61 contained greater depth of argument than its main competitor, the *Empire*. This was partly because the *Herald* was more concerned about the ill effects of the land bills but it also shows the high editorial standard of the *Herald* under John Fairfax. The major contribution from the *Empire* was that it accurately predicted the pastoral interest would not greatly suffer by the legislation.[127] Its fatal weakness was to so emphatically support the land legislation it failed to predict any of its many serious, indeed endemic, shortcomings. The *Empire's* passionate concern of only a year earlier in response to a similar land bill vanished without a trace. But given the *Empire's* claim to advanced liberalism,[128] its most important failure was in not foreseeing the enormous difficulties awaiting free selectors. In contrast, the *Herald,* although overstating the threat to squatters, powerfully and accurately predicted the troubles in store for selectors.

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[125] *Herald*, 10 October 1861.
[126] *Herald*, 21 October 1861. Mind you, having made its concession, the editorial then went on to soberly summarise aspects of the *Herald's* opposition to the legislation and concluded with the cheerless, though as events turned out largely accurate, prediction that a for the 'poor man' the land acts will prove a 'miserable delusion'.
[127] See the *Empire*: 3 March, 5, 16 October, 7 November 1860; 6, 8 May 1861.
[128] *Empire*, 6 June 1859. On the *Empire* at this time see Walker, *Newspaper Press*, p. 72.

Ch. 8. *The Sydney Morning Herald* and Colonial Politics, Part 1: Antitransportation; the 1851 Electoral Act; the Constitutional Debate of 1853; and the Treatment of Chinese workers.

In 1842 the colony of NSW was granted limited responsible government in the form of a revised LC.[1] The Council was two-thirds elected on a £20 franchise, with the remaining one-third nominated by the Governor. Control of resources, most notably land, was retained by the British parliament. With the ravages of recession behind them, by the late 1840s colonists began their successful campaign to end transportation and obtain full responsible government. The quest for responsible government created enormous debate about the most appropriate form of parliamentary government and the basis of political representation, population or interests. Conservatives sought an hereditary LC. Democrats sought representation on the basis of population alone. But the great majority were liberals of various ilk who lay somewhere in between. While rejecting the democratic notion of representation based upon population alone, most liberals in both Britain and NSW nonetheless acknowledged population as the most important interest requiring political representation.[2] The separation of Port Phillip Bay into the colony of Victoria required the redrawing of electoral boundaries, expressed in the Electoral Act of 1851. This raised many issues of political principle that were even more fully pursued in debate over the constitution in 1853 and again at the time of the NSW Electoral Act of 1858 (which included provision for manhood suffrage and the ballot). Although matters of great political significance, such as state-aid to churches, national schooling, land reform and free trade, have already been considered, none are more crucial than issues surrounding political representation in understanding the character of the *Herald*. This chapter examines the *Herald's* stance on transportation, the 1851 Electoral Act, and, in particular, the constitutional debate of 1853, which focused on whether an upper house ought to be hereditary, nominated or elected. The chapter then concludes with a discussion of the *Herald's* response to the treatment of Chinese workers in NSW and Victoria in the late 1850s and early 1860s.

[1] Responsible government was also termed self-government.
[2] McClelland, *A History of Western Political Thought*, pp. 438-439, 469-471, 668; Hirst, *Australia's Democracy*, p. 343.

The Antitransportation Movement

The quest for responsible government overlapped with and was shaped by the first great intercolonial political movement, the quest to end the transportation of convicts. Transportation to the mainland ceased in 1840 but continued to Tasmania. John West was the key leader of the antitransportation League in Tasmania. This served as a model for Leagues in mainland colonies, which formed upon the threat of renewed transportation in the late 1840s. In August 1850, at a public meeting in Launceston, West declared in Bentham-like tone: 'England has no right to cast out among other nations ... her poverty or her crime. This is not the way a great and wealthy people ought to colonize'.[3] West formed the Australasian Antitransportation League in January 1851. This was little more than a rebadging of his local group, and for a time its intercolonial character existed as an article of faith.[4] West then embarked on an attempt to unite the several colonial antitransportation Leagues under his Australasian banner. To achieve this West conducted the first intercolonial political campaign, speaking at public meetings in Melbourne (February 1851), Sydney (April-May 1851) and Adelaide (September 1851). In Sydney West clashed with J. D. Lang, the first of many sharp disagreements between these eloquent colonists. This came about when Lang sought for the possibility of armed rebellion against Britain to end transportation, if required, to be formally resolved upon. West and others denounced this as counterproductive melodrama and Lang withdrew the motion. The Melbourne *Argus* reported, 'the stream of John West's restrained eloquence over powered his hearers and told with electric effect'.[5] Lang later conjoined his support for antitransportation with appeals for a republic and an end to migration from Ireland. Lang was out of step with popular opinion and McMinn argues that Lang undermined the ambition of those like West for the alliance against transportation to be a harbinger of ongoing intercolonial co-operation.[6] Although Lang has attracted more attention from historians, West's profile in his own time was larger than his subsequent neglect suggests.

The Australasian League gained the support of the colonial parliaments of NSW, South Australia and Victoria[7] and is routinely described as one of the great liberal political

[3] Cited in West, *The History of Tasmania*, A. G. L. Shaw (ed.), p. xvi. On Bentham's antipathy towards transportation see McMinn, *Nationalism and Federation in Australia*, pp. 31-33. The *Herald* cited Bentham in its editorial of 8 December 1856.
[4] See McMinn, *Nationalism and Federation in Australia*, pp. 62-64.
[5] *Argus*, 12 May 1851. Cited by Ratcliff, *The Usefulness of John West*, p. 417.
[6] McMinn, *Nationalism and Federation in Australia*, p. 65.
[7] Ratcliff, *The Usefulness of John West*, p. 411.

movements of colonial Australia.[8] West promoted the united intercolonial League in the belief that united action would be more likely to influence colonial policy in Britain. However, more remarkably, West also incorporated and fostered an appeal to an intercolonial nationalism. West even designed Australia's first national flag as the banner of the Australasian League.[9] This agitation for united action formed the major backdrop to West's *Union Among the Colonies* series, published by the *Herald* in 1854. West's leadership of the antitransportation movement was a natural part of a commitment to the civic good that found broad and energetic expression throughout West's life.

While West was busy promoting the Australasian League, the *Herald*, along with most newspapers, was fervent in support. Historians acknowledge the *Herald* as the leading journal behind the antitransportationists, reflecting both the dominance of the *Herald* in Sydney by 1851 and the zeal of its support of antitransportationism.[10] John Fairfax was a member of the NSW Antitransportation Association's managing Committee.[11]

The 1851 Electoral Act

Driven by the antitransportation debate and the desire to control land policy, colonists were near unanimous in seeking responsible government.[12] Before this was granted, discussion regarding parliamentary representation had been stirred by the Australian Colonies Government Act (1850) of the British parliament. The Act extended representative government to South Australia, Van Diemen's Land and Victoria (a new colony established by the Act) and required for draft constitutions to be drawn up by the colonists as a prerequisite to responsible government. It also lowered the rental qualification required to vote in NSW from £20 to £10 in Sydney and to £5 in rural areas. The reduction was the result of a petition drawn up by a small committee of Sydney democrats under the banner of the Constitutional Association. The main argument in its support had been that £10 was the amount applied in

[8] For example, see Hirst, *Strange Birth*, p. 53; S. Macintyre, 'Liberalism', *The Oxford Companion to Australian History*, G. Davison, J. Hirst, S. Macintyre (eds), Oxford University Press, Melbourne, 1998, p. 388; Loveday and Martin, *Parliament, Factions and Parties*, p. 18.
[9] Ratcliff, *The Usefulness of John West*, p. 409. Ratcliff includes a photograph of the flag, which was similar to the subsequent national flag in having the Union Flag of Great Britain in the top-left corner with the remainder being in navy with the stars of the southern cross in gold.
[10] Dyster, 'The Fate of Colonial Conservatism', p. 345, describes the *Herald* as 'the chief organ of the movement'. See also Knight, *Illiberal Liberal*, pp. 216-217; Powell, *Patrician Democrat*, p. 32; Walker, *Newspaper Press*, pp. 36-37. On transportation see the *Herald*: 20 June 1849; 31 March, 2, 5, 26, 30 April, 3, 5, 6 May 1851; 9 August 1853.
[11] *Herald*, 26 September 1850.
[12] Hirst, *Australia's Democracy*, p. 29.

Britain. The proposal found an unlikely ally in Robert Lowe, recently returned to England from Sydney, who feared that without it wealthy ex-convicts would have the vote and free immigrants from Britain would not.[13] Consequently, as Hirst neatly surmises, 'a respectable electorate required a low qualification'.[14] In 1850, Sydney already had higher average salaries and rents than in Britain, a fact greatly exacerbated by the inflationary pressures aroused by the discovery of gold the following year. As a result, the reduction of the franchise qualification came unwittingly close to manhood suffrage.[15]

Most Legislative Councillors were appalled by the reduction to £10. However, the separation of the Port Phillip district from NSW afforded the LC an opportunity to revise electoral boundaries and limit the impact of the lower qualification.[16] This gained expression in the 1851 Electoral Act, aptly described by Pickering as a 'dress rehearsal' to the constitutional debate of 1853-54.[17] The Act's main framer and protagonist was the distinguished public servant and LC member Edward Deas Thomson. Thomson addressed the great issue of principle, whether representation ought be based upon interests or population alone. Thomson argued for interests and identified three: the town population or mercantile interest; the rural population deployed in agriculture; and the pastoral interest. Representation based solely on population was the democratic ideal. Most politicians rejected population as the sole criterion for representation, without necessarily agreeing with Thomson's allocation. The Act created 30 electorates returning 36 elected members. Four were allocated to Sydney, seven to other towns, eighteen to agricultural areas and eight to pastoral districts.[18] As such, the Act strongly favoured rural over urban representation. Thomson argued it was consistent with the Great Reform Act of 1832, since it expressed the colony's reliance on the pastoral industry, and that Sydney would be better represented than London.[19]

Democrats opposed the bill and their main voice was Edward Hawksley's *People's Advocate*. On the other side, Wentworth said of Sydney that 'such a city was hardly worthy

[13] Hirst, *Australia's Democracy*, pp. 38-39; *Strange Birth*, pp. 17-25. In his political career in England Lowe displayed a genuine conservatism on the franchise, viewing the 1832 Reform Bill as a final measure and opposing the Second Great Reform Bill of 1867. Knight, *Illiberal Liberal*, p. 255. On Lowe's opposition to reform in 1866, see the *Herald* 28 May, 27 July 1866 (reprinted 23 August 1866).
[14] Hirst, *Sense and Nonsense*, p. 293.
[15] For events leading up to the 1850 Colonies Act, see Hirst, *Strange Birth*, pp. 15-25. For Hirst's account of the semi-accidental nature of the arrival of manhood suffrage see pp. ix, 18-55, 99-103, 271-73.
[16] Hirst, *Strange Birth*, pp. 39-40.
[17] Pickering, '"The Oak of English Liberty": Popular Constitutionalism in New South Wakes, 1848-1856', *JACH*, vol. 3, April 2001, p. 10.
[18] Foster, *Colonial Improver*, p. 109; Loveday and Martin, *Parliament, Factions and Parties*, pp. 15, 171 (n. 31).
[19] Foster, *Colonial Improver*, p. 109.

of representation at all'.[20] Although the *Herald* agreed that, due to their dominant economic contribution to the colony, the squatters required representation in the LC disproportionate to their numbers, it thought Thomson had gone too far. It also argued the squatters were 'as a class ... *politically dangerous*', citing their penchant for convict labour and a high price for land, and that it was 'unsafe to entrust them with political power, unless well guarded by trustworthy checks'.[21] While lavishly acknowledging the quality of Thomson's speech in support of his bill, the *Herald* argued the bill did not strike the right balance between urban and rural interests. It thought the representation of Sydney inadequate, describing it as 'disproportioned to the wealth and population of our metropolis,' and suggested the 'number of members allotted for the Pastoral Districts is too large'.[22]

As a point of principle, the *Herald* understood the main issue of LC debate to be 'whether the proper basis of legislative representation was population alone, or population combined with wealth and intelligence'.[23] The *Herald* described debate over the bill as 'readily directed to those great principles by which the whole civilised world has of late years been more than usually agitated — the principles of democracy and conservatism'.[24] Dyster quotes the *Herald* of 1849 as claiming: 'Our conservative principles are well known and we are glad that some members of the community must be conservative by virtue of their status and office'.[25] Such comments are easy to misinterpret, for the way the *Herald* used the term 'conservative' by no means precludes it from advancing liberal or even democratic views alongside it. The *Herald* acknowledged both conservatism and democracy as great principles requiring constitutional expression and was not alone in placing a value on conservatism, in the broad rather than the party sense. When editor of the Melbourne *Argus*, George Higinbotham, a strong supporter of manhood suffrage, readily observed that 'every society must contain the element of conservatism, and the element of progress' and that a 'symmetry' between them was essential.[26] The *Herald* acknowledged democracy as being a great principle, one

[20] *Herald*, 19 April 1851.
[21] *Herald*, 23 April 1851. Emphasis the *Herald's*. It identified four or five members of the LC as supporting 'democracy' (Lamb, Dickson, Nichols, Lang and perhaps Westgarth) and ten 'conservatism' (Wentworth, Martin, Dangar, James Macarthur, Murray, Parker, Donaldson, the Solicitor-General, the Attorney-General, and the Colonial Secretary). Darvall, Plunkett and Thomson would account for the last three.
[22] *Herald*, 31 March, 21 April 1851.
[23] *Herald*, 21 April 1851.
[24] *Herald*, 19 April 1851.
[25] Dyster, 'The fate of Colonial Conservatism on the Eve of Gold-Rush', p. 332. Dyster cites the *Herald*, 13 April 1849 for this quotation. Unfortunately, I can find no reference to it in that edition but it certainly sounds consistent in content and tone with the *Herald*.
[26] Cited by Macintyre, *A Colonial Liberalism*, p. 27.

committed to 'enlarging the powers of the lower orders of society'.[27] In this abstract sense, the *Herald* thought there was a place for democratic theory, in contrast with democracy in the 'objectionable sense of the word'.[28] In objectionable form, democracy was linked by most liberals to 'socialist principles' and the 'foul principles of communism, which would overthrow the foundations of social order, and parcel out the property of the country share and share alike'.[29] It thought, however, in 1851 that there was little basis for democracy in its dangerous, levelling form, to take root in Sydney:

> Here there is nothing to feed its discontent, nothing to provoke its wrath ... We have no national debt, no grinding taxation. We have no overgrown wealth to excite its envy, no abject poverty to call forth its murmurs. We have perfect civil and religious freedom ... The political franchise has been so widely extended, that all but universal household suffrage will henceforth prevail. Our labouring classes have full employment, high wages, and every reasonable comfort.[30]

Given this, the *Herald* found Wentworth's comments about Sydney needlessly provocative, and claimed to suggest that 'Sydney is hardly worthy of representation at all, is to do violence to common sense'.[31] Wentworth had been provoked by 'democratic and socialist principles' and 'improper language' purportedly advanced at public meetings organised by democrats. However, the *Herald,* while joining Wentworth in abhorring such views, did not think them representative of the population of Sydney, claiming four-fifths of the city would denounce them.[32] It did, however, fear conservatives like Wentworth might inadvertently stimulate democratic feeling through overreaction.

As to the basis of representation, the *Herald* rejected the democratic claim to representation based on population alone. In this sense it was aligned in principle with Thomson's bill, which understood representation to be based on interests. However, as noted, it did not consider the 1851 Electoral Act to have found the right balance. The urban interest should have been better represented and rural areas less so. Unfortunately, the *Herald* stayed with generalities and did not nominate a preferred distribution of the 36 elected seats. In taking this position the *Herald's* views reflected the common liberal values and thinking of the time. Hirst gets the balance right in describing colonial liberals as opposed to both a landed

[27] *Herald*, 19 April 1851.
[28] *Herald*, 19 April 1851.
[29] *Herald*, 19 April 1851.
[30] *Herald*, 19 April 1851.
[31] *Herald*, 19 April 1851.
[32] *Herald*, 19 April 1851.

aristocracy and democracy.[33]

The Constitutional Debate of 1853

A Hereditary Upper Chamber?

In May 1853 the LC appointed a select committee, chaired by Wentworth, to frame a constitution for responsible government. In late July the committee presented a draft constitution with two contentious proposals: an hereditary upper chamber; combined with a two-thirds vote of a joint parliamentary sitting to amend the clauses dealing with the upper chamber. Controversy was immediate. The idea of a new LC made up of life-appointees nominated by the Governor and replenished from recipients of hereditary titles was spurned by colonists, and dropped from the draft constitution in December 1853. The most famous rebuff came from Deniehy, who derisively referred to it at a public meeting on 15 August 1853 as a 'bunyip aristocracy'. Gollan claims the proposal was 'opposed by all the press with the exception of the *Sydney Morning Herald*'.[34] However, Gollan is in error and Ged Martin correct in suggesting the 'frosty reaction of moderate conservative opinion, especially from the *Sydney Morning Herald*, had as good as killed the plan before Dan Deniehy's denunciations'.[35]

Yet it remains true the *Herald* was not as quick to denounce the hereditary idea as it might have been. In January the previous year, supreme court judge J. N. Dickinson published an eloquent appeal in support of a hereditary upper chamber. Martin suggests that in its response the *Herald* 'politely side-stepped' Justice Dickinson. This is a fair, perhaps even generous, appraisal.[36] A critic of the intellectual barrenness of NSW,[37] the *Herald* praised Dickinson's pamphlet as 'Mild in temper, dignified in its tone, clear and cogent in its reasonings, and free from the slightest taint of dogmatism or dictation' and warranting 'esteem' irrespective of its conclusions.[38] Yet, for all its deference, the *Herald* did not support Dickinson. It rather lamely opposed him on the premise that 'the feelings of the community are scarcely prepared' for an hereditary chamber. This was a less than forthright expression of

[33] Hirst, *Australia's Democracy*, p. 343, see also p. 57. This theme is more fully explored when considering the *Herald's* response to manhood suffrage and the 1858 Electoral Act in ch. 9 below.
[34] Gollan, *Radical and Working Class Politics*, p. 17.
[35] Martin, *Bunyip Aristocracy*, p. 4.
[36] Martin, *Bunyip Aristocracy*, p. 79.
[37] See *Herald* editorials on the 'Intellectual Barrenness of New South Wales', 12, 23 March 1847.
[38] *Herald*, 10 January 1852.

a liberal reflex against the hereditary principle. Its first opportunity to comment on the draft constitutional proposal for hereditary titles came in its edition of 30 July 1853. This contained the ambiguous comment that it did 'not disapprove of it [an hereditary upper chamber] in the abstract'. However, in the light of subsequent comment, this is best understood as the *Herald* not wishing to appear demeaning of constitutional practice in Britain with its hereditary House of Lords.

Although starting slowly, once warmed up, the *Herald* unambiguously rejected the hereditary principle in a series of editorials from August 1853 through March 1854. On 30 September 1853 Charles Kemp sold his half share to John Fairfax, with eldest son Charles Fairfax becoming co-proprietor.[39] As John West did not start as editor until November 1854, the editorial position on the constitution must be mainly attributed to unofficial editor Ralph Mansfield and John Fairfax, just returned from a sixteen month trip to England in July 1853. At a more superficial level, the *Herald* deemed the hereditary proposal superfluous given the Queen already had the prerogative to 'confer dignities on any of her subjects'.[40] However, this objection missed the point. It is one thing for the Queen to confer titles and another for the composition of the Upper House to be largely restricted to those in possession of a title. More substantially, the *Herald* carefully articulated its principles. It made a distinction between the '*political utility*' of the House of Lords 'as a deliberative body independent alike of the Crown and of the people' and its dignity as an hereditary institution.[41] It said the 'dignity of the House of Lords is derived from its antiquity, from historical associations, and from national habits coeval with the national existence'. This could not be replicated and a hereditary chamber in NSW would be 'valueless'.[42] However, 'it was not at all impossible to emulate its *independence*', which constituted its '*political utility*'. The *Herald* argued a nominated LC would achieve this and claimed: the 'new fangled idea of a colonial aristocracy ... is as unpopular among those in favour of a nominee house as it is among those who have declared against the nominee principle'.[43]

That evening Deniehy made his memorable reference to a 'bunyip aristocracy' and subsequent editorials from the *Herald* continued to denounce the idea. The *Herald* insisted the

[39] Second son James joined John and Charles in December 1856, thus beginning John Fairfax and Sons. Souter, *Company of Heralds*, p. 592.
[40] *Herald*, 23 August 1853. See also the *Herald*, 30 July 1853.
[41] *Herald*, 6 August 1853. Emphasis the *Herald's*. Similarly, the *Herald*, 7 September 1853, argued that the 'political usefulness' of the House of Lords lay not in 'aristocratic splendour or in the antiquity of its origin, but, mainly in its perfect freedom of action, as an estate alike independent of the Crown and of the people'.
[42] *Herald*, 6 August 1853.
[43] *Herald*, 15 August 1853.

'usefulness of the House of Lords' ought not be 'confounded with coronets and ermine, with pompous titles and gorgeous pageantry. This part of the model we cannot copy if we would, and need not if we could'.[44] In basic liberal fashion it rejected the hereditary principle, arguing, as Fairfax had done in his *Leamington Chronicle*, in favour of the 'aristocracy of *talent*'.[45] On 19 August 1853 it claimed to be in no doubt that the hereditary proposal would be withdrawn and on August 23 described it as no longer worth discussing: 'as this [idea] has been virtually given up it is useless to restate the many objections to it'. The scheme was, however, not formally withdrawn until December and the *Herald* expressed regret that Wentworth had waited until the 'eleventh-hour'.[46] The draft constitution was modified and members of the LC were to be initially nominated to five-year terms followed by nomination for life.

A Nominated or Elected Upper Chamber?

An important aspect of the *Herald's* perspective on the constitution in 1853 was its avid support of the nominee principle. Atkinson argues that Wentworth's hereditary plan 'was almost certainly a trick — a decoy for the democrats. It led to compromise [i.e. nomineeism], which was probably it real purpose'.[47] It is difficult to be sure either way. If it were merely a tactic the *Herald* doubted its value, fearing 'the proposal to create "hereditary honors" ... has drawn many into the camp of democracy, who would otherwise have held themselves aloof'.[48] As noted, the *Herald's* preference for nomineeism expressed its belief in the need for the upper house to be independent. It claimed:

> It is not for the sake of honour, dignity, rank, or aristocratic *eclat* ... that we wish to have an Upper House exclusively nominated by the Crown, but for the sake of guarding against democratic violence and impetuosity, and of securing a constitutional watchfulness over the rights of property, and over the general interests of the commonwealth. These great ends can be realised without the aid of titular distinctions or hereditary privileges.[49]

Furthermore, the *Herald* thought two elective chambers:

> objectionable both in theory and in practice — in theory, because anti-British and anti-Monarchical, — in practice, because it would give undue power to democracy, and lead to

[44] *Herald*, 17 August 1853.
[45] *Herald*, 9 March 1854. Emphasis the *Herald's*. *Chronicle*, 2 June 1836.
[46] *Herald*, 9 December 1853. Five years later, the *Herald* of 2 November 1858 made the following comment about discussion of a colonial aristocracy in *Fraser's Magazine*: A 'proposition to create a colonial aristocracy, by favouring those who assume to belong to it, seems so like a dream as scarcely to require analysis or refutation'.
[47] Atkinson, *The Europeans in Australia*, vol. 2, p. 254.
[48] *Herald*, 15 August 1853.
[49] *Herald*, 3 August 1853.

> unseemly and perilous collisions between the Houses and the Executive Government.[50]

This argument expressed the view that population was only one interest at work in calculating an ideal theory of political representation. Along with most liberals and liberal-conservatives (not to mention conservatives), the *Herald* agreed with Wentworth and Thomson that representation ought not be linked to population alone. It argued:

> men are to be represented not as units but as groups — in other words, that the true subjects for legislative representation are the great *interests* into which communities are distributed. Certainly this is the *British* principle, which, as Mr. Wentworth well showed, even the Reform Bill recognised and maintained in all its integrity.[51]

The issue was felt to be particularly acute regarding an upper house. Most colonists, whether supportive of manhood suffrage or not, viewed the lower house as the valid expression of democracy, in the best sense of the term. In support of nomineeism as a check on the lower house, the *Herald* argued 'after all, the real power of the country will lie in the House of Assembly, for to that House will belong the power of the purse'.[52] In the context of British constitutional practice this was a valid point. Even the House of Lords, for all its additional *eclat*, was not viewed as a chamber of perpetual obstruction. The House of Lords was particularly reluctant to hinder the passage of finance or appropriation bills, this despite its formal power to do so not being revoked until 1911. As a last resort the government also had recourse to the Sovereign to appoint more Lords and 'swamp' the House. The threat of swamping was famously used to secure the Great Reform Act of 1832. The NSW LC was envisaged as a 'check' on lower houses demagoguery, not an insurmountable obstacle. Indeed the potential for swamping within the nominee scheme was viewed by its adherents as a strength and not a weakness. They did not want parliamentary deadlock and swamping was viewed as a safety valve.[53]

A further argument from the *Herald* in favour of nomineeism was characteristic of the pragmatic and empirical emphasis of the colonial *Herald* seen with land reform. Regarding nomineeism, it suggested:

> if we start, by way of experiment, with a House of Nominees, and it should be found not to answer our expectations, there would be no difficulty in ... having recourse to the elective principle; but if, on the other hand, we start with an elective House, and it should be found not to answer, it would be difficult in the extreme to disenfranchise the

[50] *Herald*, 3 August 1853. See also Martin, *Bunyip Aristocracy*, pp. 192-193.
[51] *Herald*, 19 August 1853. Emphasis the *Herald's*.
[52] *Herald*, 3 August 1853. See also, *Herald* 2 September 1853.
[53] Connolly, 'The Origins of the Nominated Upper House in New South Wales', pp. 61-63, 66-67, 71.

> constituency, and have recourse to nomineeism ... let us begin our experiment in the form which is not only the most analogous to the unrivalled constitution of our parent country, but will most easily admit of any modifications.[54]

As noted, this approach was expressed a few years later with land reform: create agricultural districts for free selectors as an experiment and, if it succeeds, expand the project. This preference for incremental and thereby tested reforms was a dominant feature of the colonial *Herald*. It reflected a degree of social conservatism inherent to liberalism.[55] It also showed an emphasis on experimentation characteristic of the nineteenth century mind, a period when an emphasis on empirical demonstration was still fresh. That this gained expression at the *Herald* is unsurprising when we remember that the unofficial editor 1841-54, Ralph Mansfield, was a pioneer social scientist, his census work in the 1840s being the first published statistical work in Australia,[56] and its editor 1854-1873, John West, was one of the founders of Australian historiography. The principle was well put forward in 1859: 'A tentative reform, which can be repeated at intervals if need be, and with the constantly growing light of experience, is felt [in England] to be safer than a sudden bouleversement of the balance of power among existing interests'.[57] The *Herald's* support for this approach is well illustrated by a compliment it directed toward William Gladstone, which attributed a 'large part of his influence ... to a happy combination of Conservative temperament with Liberal sympathies'.[58] Although appreciating reform might advance more quickly among her colonies than in Britain, the *Herald* identified with the more gradualist and experimental ethos of British liberalism.

To advance nomineeism the *Herald* reprinted a copy of the Memorialist's letter, written in 1850 to the British secretary of state.[59] Although written too late to influence the Colonies Act of the same year, the letter avowed support for a colonial version of the three British estates of Crown, Lords and Commons and a nominated upper house. Although anonymous, it was widely held that James and William Macarthur and solicitor-general John

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[54] *Herald*, 13 August 1853.
[55] A point pursued in ch. 9 below.
[56] D. Wright, 'Mansfield, Ralph 1799-1880', *The Australian Dictionary of Evangelical Biography*, B. Dickey (ed.), Evangelical History Association, Sydney, 1994, p. 249.
[57] *Herald*, 16 May 1859.
[58] *Herald*, 23 March 1864.
[59] The letter was an appeal for the British Government to pursue the granting of responsible government. It came after the Australian Colonies Bill had been temporarily withdrawn. It stressed the need for a bicameral legislature as some at the time, including Wentworth, preferred a single chamber. See Ward, *James Macarthur*, pp. 178-179.

Darvall were among its leading lights.[60] The *Herald* cited it to encourage liberals not to move from nomineeism to the elective principle. More significantly, the *Herald* also claimed a nominated upper house was more in spirit with the British constitution, declaring it 'as the nearest approximation to the model of the second estate in the parent country'.[61] This was part of an attempt by the *Herald* to position nomineeism as 'British' and the elective principle as 'Yankee'.[62] Unfortunately for the *Herald*, political sentiment at the time in Britain was indifferent as to whether colonial upper houses were elective or nominated.[63] This is seen in the fact that a nominated upper house was approved for NSW and an elective chamber for Victoria. However, as doggedly as any of the politicians it routinely depicted, the *Herald* stood by its argument that a nominated upper house better reflected the British constitution. But more importantly, it was a tangible expression of the dominant paradigmatic subtext to colonial constitutional debate in NSW: the quest to faithfully translate the 'genius' of the British constitution in the colonial context. Paul Pickering has explored this and persuasively sustains the thesis that the British constitution was 'undoubtedly the "master narrative" that shaped the debates about the Australian Colonies Government Act of 1850, the 1851 Electoral Act, and the colony's Constitution itself'.[64] The study of the colonial *Herald* readily supports this conclusion and even Edward Hawksley, despite a penchant for wearing the French tricolour to public meetings, was sincere when claiming: 'What we want is not the *form*, but the *spirit* of the [British] Constitution'.[65]

A feature of the *Herald's* commentary on the debate was an obvious care to avoid inferring that opponents of nomineeism in the Upper House were spurning the British Constitution.[66] It said of debate in both the LC and at public meetings that 'by far the most important feature ... was the thoroughly British character of the sentiments and of the speeches'.[67] So although quick to claim nomineeism as nearer the British model, and the elective principle as American, the *Herald* was careful not to impugn the motives of

[60] Ward, *James Macarthur*, p. 178.
[61] *Herald*, 9 December 1853.
[62] See the *Herald*: 23 August; 5, 7 September 1853. See also Pickering, 'The Oak of English Liberty', pp. 11-14, 21-22.
[63] Hirst traces this theme well and Parkes' use of it in the *Empire*. Hirst, *Strange Birth*, pp. 34-57. Hirst writes: 'The Britain [of the 1850s] which Parkes had created — voracious for reform — was a phantom', p. 57.
[64] Pickering, 'The Oak of English Liberty', p. 3. See also Shaw, 'Themes in Australian Historical Writing', p. 2.
[65] Cited by Pickering, 'The Oak of English Liberty', p. 9. Emphasis Hawksley's.
[66] This is particularly evident in the editorial of 7 September 1853. See also the *Herald*: 2, 5 September 1853; 2, 23 January 1854.
[67] *Herald*, 5 September 1853.

participants in the debate or the genuineness of their claims to be applying the British Constitution. This sensitivity was somewhat out of character with the often fierce manner in which the *Herald* and other nineteenth-century newspapers dealt with opponents. A likely explanation was the *Herald's* concern for the reputation of the colony in Britain, which had previously shaped the *Herald's* repudiation of transportation and an overly socially elastic emancipism. As the leading journal in the colony it took seriously its readership in Britain.

All of this was exemplified in the particularly interesting editorial of 23 January 1854, which dealt with the response of the London *Times* and *Morning Chronicle* to an early draft of the proposed constitution that contained the hereditary upper house idea. The *Times'* scathing response was attributed to Robert Lowe, then a member of the House of Commons and a regular correspondent for the *Times*.[68] Lowe ridiculed the motives of the current LC and the general tone of colonial life. In reply the *Herald* took lengthy and energetic exception. In contrast, it applauded the *Morning Chronicle* (Fairfax's former employer), which described the colonists' hereditary proposal as a genuine attempt to draft a constitution consistent with their British heritage. The *Herald* concluded by suggesting the *Chronicle* had recognised the 'Australian communities are composed neither of republicans nor of radicals, but of men who rejoice in their British name and British connexion, strong in their attachment to British constitutions, devoted in their loyalty to the BRITISH THRONE'. Earlier, the *Herald* said:

> We heartily and deliberately congratulate the country on the Constitutional Debate ... the intricate questions involved have been treated in a masterly manner. Talent of a high order has been displayed. Both the supporters and opponents of the Bill have evinced an amount of acquaintance with the subject, and an earnestness and perspicuity in advocating their views, which is not only highly creditable to themselves individually, but which reflects high honour on this colony.[69]

There were no doubt many contributing factors to the *Herald's* concern for the reputation of the colony in Britain. But its anxiety that the colony be thought of as civilised and respectable was far from sentimental or suggestive of a colonial inferiority complex. It was in good measure hard-headed and pragmatic, as Britain was the colony's main source of migrants and capital, with both essential to its prosperity. In future years the *Herald's* sensitivity to the reputation of the colony in Britain made the lower standard of parliamentary debate and

[68] Hirst, *Strange Birth*, p. 40; Knight, *Illiberal Liberal*, p. 253; Martin, *Bunyip Aristocracy*, p. 102.
[69] *Herald*, 5 September 1853. See also the *Herald*, 17 September 1853 as it provided a summary of the constitutional debate.

conduct of the post-manhood suffrage LA all the more galling.[70]

Three further points regarding the make-up of the LC are worth briefly observing. Firstly, the *Herald* disagreed with the decision to remove the property qualification applied to members of parliament.[71] It noted the irony of Victoria, generally more advanced in its democratic-liberalism, retaining the qualification while at the same time opting for an elected upper house.[72] In 1866 the *Herald* claimed: 'The Upper House in Victoria represents too small a constituency, and the qualification for members and electors is too high'.[73] Secondly, and true to its nonconformist roots, a few years later the *Herald* rejected a proposal to invite church leaders to join the LC.[74] Thirdly, an interesting postscript to the constitutional debate of 1853 is that under editor John West the *Herald* shifted from nomineeism to the elective position. West, as with Cowper and Darvall in 1853, argued for electivism on the basis that a nominee chamber would be impotent to 'resist democratic tendencies' due to the threat of swamping.[75] However, the *Herald* did not pursue the issue with vigour. This shows something of both the uncertainty within the colony on the issue and the fact that the composition of the lower house and electoral boundary reform were significantly more important issues. Many in favour of nomineeism in 1853 shifted to electivism, including James Macarthur.[76] Support for electivism peaked in the late 1850s but by the early 1860s the pendulum had swung even more strongly back towards nomineeism, where it settled.

The Two-Thirds Clauses

A related controversy was the 'two-thirds clauses' within the draft constitution. These required a two-thirds combined vote of the LA and the LC to amend the clauses of the constitution dealing with the make-up of the upper house and the nomination of members. As

[70] A few *Herald* editorials which refer to British opinion or 'our English readers' include: 2 November 1858 which quotes from Fraser's magazine concerning the 'political prospects of the Australian colonies'; 13 August 1859; 21 November 1860; 21 May 1861; 27 July 1866 (reprinted 23 August 1866). For broad context, see A. Hassam, *Through Australian Eyes: Colonial Perceptions of Imperial Britain*, Sussex Academic Press, Brighton, 2000, pp. 9-29.
[71] *Herald*, 6 August 1853.
[72] *Herald*, 9 March 1854.
[73] *Herald*, 16 May 1866.
[74] *Herald*, 24 March, 3 May 1856. As noted in ch. 3 above on the *Herald* and state-aid to churches. More generally on the participation of church leaders in politics, see the *Herald*, 3 June 1858.
[75] *Herald*, 31 May 1856. A strange comment in the change to electivism was: 'We have always foreseen, and frequently stated, that nomineeism would disappoint its friends' 31 May 1856. This seems to belie the *Herald's* position in 1853. It would be interesting to investigate West's editorials with the Launceston *Examiner*. See also the *Herald*: 21 May 1856; 5 March 1857;17 June, 5 September 1859. Regarding the upper house in Victoria, see the *Herald*: 27 May, 8 June 1858; 16 May 1866.
[76] Ward, *James Macarthur*, p. 241.

events transpired the Colonial Office objected to the lack of a general mechanism to amend the constitution. It allowed instead for simple majorities in both houses to amend *all* clauses.[77] Consequently, the first responsible government ministry of Stuart Donaldson in 1856 deleted the now defunct two-thirds clauses. Radical liberals opposed the two-thirds clauses from the outset, correctly seeing them as an attempt to prevent the upper house becoming elective. However, some conservatives and liberal-conservatives (such as Donaldson) were also indifferent to or opposed to the clauses as they lacked precedent in British politics. Indeed in perhaps the greatest irony of the constitutional debate, Wentworth's two-thirds clauses were premised upon the 'Yankee' constitution. For the *Herald's* part, it supported the two-thirds clauses. It did not comment at length on the clauses but made the following general point:

> it is not advisable to be always "reforming" the Constitution: take as much time as you please in its construction; discuss over and over again every clause ... but when passed let it be a measure that is not to be interfered with until ample proof has been given that it really requires amendment; do not let every greenhorn who can get a seat in the House try his 'prentice hand at legislation by tinkering the Constitution.[78]

Elsewhere the *Herald* claimed the two-thirds clauses were less stringent than the American model, where a two-thirds vote of Congress had to be followed up by the ratification of three-quarters of the state legislatures to amend the constitution.[79] The *Herald's* support for the two-thirds clauses in 1853 is best seen as an aspect of its nomineeism, which it did not wish to see altered. It is also worth noting that the postscript to this support for the two-thirds clauses is similar to nomineeism. In 1856, with West as editor and Fairfax as senior-proprietor, the *Herald* supported the removal of the two-thirds clauses.[80]

The *Herald*, Colonial Liberalism and the Constitutional Debate

The proposal to apply an hereditary principle to the upper house was unambiguously conservative. With the exception of a Monarchy circumscribed by parliament, any form of hereditary rule or privilege was inconsistent with liberalism. However, in addition, many historians have also portrayed nomineeism as a conservative principle and electivism as the liberal ideal. This obscures the most obvious feature of debate over the constitution, that apart from a small minority of true conservatives and an equally insignificant number of democrats,

[77] Hirst, *Strange Birth*, pp. 42-43; Loveday and Martin, *Parliament, Factions and Parties*, p. 170, n. 6; Ward, *James Macarthur*, pp. 192-194.
[78] *Herald*, 23 August 1853.
[79] *Herald*, 19 August 1853.
[80] *Herald*, 19 February, 3 March 1856.

the great majority of participants are best identified as liberals. The idea of a upper house as a check, though not an insurmountable obstacle, upon lower house democracy was taken for granted by the majority of colonists.[81] Most assumed the upper house would, by virtue of the greater wealth, education and 'respectability' of its members, be a conserving force. Colonial radical James M'Eachern acknowledged in the *People's Advocate* in January 1853 that wealth as well as talent and character was the 'order of nature, part of its constitution'.[82] As Cowper put it in 1853, an upper house ought be 'conservative [but] popular'. At the time, to Cowper this meant an elected upper house but with a higher property franchise to limit its membership and guarantee its social conservatism.[83] However, soon after this Cowper supported a nominated upper house as he was opposed to an upper chamber being elected by a manhood suffrage electorate.[84]

The idea of an upper house as a check was certainly more transparent within nomineeism. However, as Connolly has shown so well, many of those preferring an elected upper chamber also saw it as a conservative check upon the lower house.[85] Electivism could serve well as a Trojan horse of conservatism and obstructionism. This could be achieved in several ways. Firstly, electivism could be linked with a restrictive franchise limiting who could vote for the upper house. Secondly, as was done in Victoria, a high property qualification could limit eligibility for election to the upper house. Thirdly, James Martin advanced electivism on the basis that the popular election of an upper house would give it greater weight as a check on the lower house.[86] Similarly and fourthly, Cowper, Darvall and others (as with the *Herald* under West) advanced an elected upper house on the basis it would be *more* conservative than a nominated chamber as it could not be swamped. Connolly emphasises that this was the position of many liberals in 1853 and that it was nomineeism not electivism that reflected the liberal-Whig political tradition.[87]

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[81] See Connolly, 'The Origins of the Nominated Upper House in New South Wales', pp. 61-67, 71; Hirst, *Australia's Democracy*, pp. 33-34; Ward, *James Macarthur*, pp. 191-192; Loveday and Martin suggest 'Liberals' opposed to nomineeism nonetheless 'agreed that an Upper House had to be conservative', *Parliament, Factions and Parties*, p. 22; Powell, *Patrician Democrat*, pp. 89-98; J. Jupp (ed.), 'Colonial Upper Houses', *The Australian People: An Encyclopedia of the Nation, Its People and Their Origins*, Cambridge University Press, Cambridge, 2001, p. 329 notes: 'The colonists had chosen a bicameral legislative system in order that an upper house would, as in England, be a brake on the popular house and ensure conservative stability'.
[82] Cited by Melleuish, 'Daniel Deniehy, Bede Dalley and the Ideal of the Natural Aristocrat in Colonial New South Wales', p. 50.
[83] Powell, *Patrician Democrat*, p. 90.
[84] Powell, *Patrician Democrat*, pp. 90-91.
[85] Connolly, 'The Origins of the Nominated Upper House', pp. 61-3, 66-67.
[86] *Herald*, 13 August 1853.
[87] Connolly, 'The Origins of the Nominated Upper House', pp. 61-3, 66-67.

In early 1854, with the draft constitution and Wentworth bound for England, the *Herald* summarised its support for nomineeism as follows:

> Under responsible government, the most distinguished members of the Upper House will, after a time, be men who will have fought their way to political distinction on the floor of the House of Assembly, which every elector is qualified to enter ... The theory of our Upper House admits the aristocracy of *talent*: the only aristocracy that can ever hope to bear away henceforth in a flourishing state.[88]

Here the *Herald* expressed the traditional hostility of liberalism toward inherited privilege. It said of the proposed constitution: 'we were ourselves opposed to the hereditary clauses; but our opposition was assuredly not grounded upon anything anti-conservative, anti-aristocratic, or anti-monarchical'.[89] It regarded the constitution of NSW, along with Britain's, to be 'monarchical, yet free — popular, yet conservative — stable and enduring, yet susceptible of expansion and improvement'.[90] In such comments the *Herald* showcased mainstream mid nineteenth-century liberalism, being equidistant from both traditional Conservatism and Democracy. As it did on many other issues, the *Herald* expressed indifference to the claim that it alone among the colony's journals favoured nomineeism over electivism. It replied:

> If it be so we are sorry for it ... that so many persons should have been led away by claptrap cries to adopt a principle of importance without due consideration, and we have no doubt that before the discussions are concluded we shall have many of them on our side.[91]

Although nomineeism became a feature of the constitution, the *Herald's* optimism regarding an imminent surge of support for it was ill-founded. Many liberals, not to say democrats, maintained a preference for electivism, and the *Herald* itself swung around to it. Yet as with land policy, the *Herald's* 1853 editorial perspective was eventually vindicated, its own about-face notwithstanding. Particularly influential were events in Victoria. There the elected upper house incited the very 'unseemly ... collisions between the Houses and the Executive Government' which the *Herald* feared.[92] Between 1865-68 the Victorian LC rejected appropriation bills three times, leading to 'whispers of revolution'.[93] So appalled was J. D. Lang by the crisis in Victoria that he spurned a long-held espousal of electivism. Connolly

[88] *Herald*, 9 March 1854. Emphasis the *Herald's*. See also the *Herald* 2 November 1858, which considers the issue at length. It supported a new aristocracy based 'not in titular distinctions, but in eminent public services'.
[89] *Herald*, 23 January 1854.
[90] *Herald*, 2 January 1854.
[91] *Herald*, 23 August 1853.
[92] *Herald*, 3 August 1853. See also the *Herald*, 16 May 1866 for discussion of events in Victoria at that time.
[93] Connolly, 'The Origins of the Nominated Upper House', p. 71.

concluded that by 'the early 1870s nearly all who opposed the nominated Council in theory shared Lang's view that it had worked well in practice'.[94] As a result there was little agitation for an elected LC and direct election by the people was not introduced in NSW until 1978.[95]

Colonial Liberalism and the Rights of Chinese Workers

At the height of the *Herald* agitation with the Robertson land acts came legislation proposing a curtailing of the civil liberties of Chinese workers on the goldfields. Indeed, the *Herald's* highly-strung editorial of 24 April 1861[96] opposing manhood suffrage came in the context of its agitation over land policy and the treatment of Chinese workers. The catalyst was a private members bill restricting Chinese immigration. It proposed a £15 tax on Chinese workers entering the colony by land and £10 by sea, required twenty tons of cargo for every worker, and allowed for the banning of Chinese from nominated goldfields.[97] Proponents of the bill expressed base anti-Chinese prejudices held by many colonists. In reply, the *Herald* reported that a select committee of the LC 'entirely refuted all the vague accusations as to the immorality and the filthy diseased condition of the Chinese'.[98] With unremitting intensity the *Herald* claimed the bill:

> could never be accepted by any score of educated Englishmen — barbarians, unchristian, unconstitutional — opposed to the law of nations — disgraceful to the colony among colonies — contemptible for the violence of its spirit and its impracticability in application.[99]

At Lambing Flat (near current day Young) violent anti-Chinese rioting occurred in December 1860, 27 January and 17 February 1861, reaching a crescendo in June and July 1861.[100] Chinese workers were ejected, their property destroyed and many were assaulted. At the height of the unrest diggers fought police and one miner was shot dead. About twenty Lambing Flat rioters were brought to trial. Two received minimal sentences but most were

[94] Connolly, 'The Origins of the Nominated Upper House', p. 71.
[95] Connolly, 'The Origins of the Nominated Upper House', p. 71.
[96] This editorial is considered more fully in ch. 9 below.
[97] Political Summary, *Herald*, 21 May 1861. This was similar to Victorian and South Australian bills which placed a £10 tax on each Chinese immigrant and required ten tons of cargo per immigrant on ships from China. Clarke, *Australia*, p. 108 and Ann Curthoys, 'Men of All Nations, except Chinamen', *Gold: Forgotten Histories and Lost Objects of Australia*, Iain McCalman, Alexander Cook and Andrew Reeves (eds), Cambridge University Press, 2001, p. 106.
[98] Political Summary, *Herald*, 21 May 1861. In one of its final actions before its term expired the LC voted the bill down on 2 May 1861.
[99] *Herald*, 24 April 1861.
[100] Kirkpatrick, *Country Conscience*, p. 39.

acquitted.[101] The *Herald* described the acquittals as a 'deep humiliation' and a denial of the colony's claim to be a fair, English and liberal society.[102]

Against a tide of popular acceptance of the abuse of the Chinese at Lambing Flat, the *Herald* published reports from its special reporter James Henley, an 'Anglo-Chinese linguist'. Henley's eyewitness reports detailed the assaults, even of old men and boys, replete with descriptions of the fear, agony, and open wounds of the Chinese.[103] The editorial of 3 July 1860 was John West's response to the major riot of 30 June. West claimed the 'common laws of Christianity' had been 'trampled underfoot' and expressed revulsion at the support of rioters by many 'liberal' legislators.[104] The *Herald* reminded colonists the Chinese were legally engaged in the diggings, with Government licenses to prove it, and had an equal right to the protection of the law. After the appointment of the new LC, the Cowper-Robertson ministry passed the Chinese Immigration Restriction Act (1861). In draft form it prohibited Chinese from digging for gold but the LC deleted this clause. In rejecting these proposals in the early 1860s, Hirst suggests the 'conservative legislative councillors ... preserved liberalism from its friends'.[105] In combination with a Goldfields Act, the Immigration bill taxed the Chinese on entry and prevented them from digging on nominated fields. The Act was repealed in 1866 after South Australia and Victoria withdrew similar legislation.

More broadly, the *Herald* did not oppose the setting of immigration quotas, affirming 'the right of any people to prevent an immigration contrary to their own well-being'.[106] However, the physical abuse and vilification of the Chinese, and the nature of the immigration and goldfield laws used to restrict their liberty, drew extraordinary and sustained objection from the *Herald*. In fact, West and the *Herald's* response to anti-Chinese violence and legislation amounted to little short of a crusade. High points of engagement included: 1857 and 1858, focusing on riots and illiberal legislation in Victoria; the riots in NSW of 1860-61; and several eloquent appeals leading up to the repeal of the 1861 Immigration Act in 1866. At least four streams of argument were prominent.

Firstly, the *Herald* argued colonial legislation restricting movement or, worse, banning

[101] Kirkpatrick, *Country Conscience*, p. 42.
[102] *Herald*, 21 September 1861.
[103] Souter, *Company of Heralds*, p. 58. Presumably Henley had some knowledge of Cantonese, as most of the Chinese workers were Cantonese.
[104] *Herald*, 3 July 1861.
[105] Hirst, *Strange Birth*, p. 171. Hirst's choice of terminology is discussed in ch. 10 below.
[106] *Herald*, 17 June 1858.

the entry of Chinese, contravened British treaty obligations.[107] It reminded colonists 'the treaties of Great Britain with foreign powers are the laws of this country'.[108] The irony was that Britain, through the Anglo-Chinese wars of 1839-41 and 1857-58, had forced China to accept foreign trade and diplomatic representation, premised upon a 'principle of reciprocity'.[109] The *Herald* exclaimed:

> We are at this moment battering the gates of China with our fleets and armies, in vindication of the rights of nations, and here, a British colony, is enacting laws of exclusion, in obedience to the most barbarous prejudices. The whole thing is a disgrace to our institutions, our religion, and our race.[110]

Secondly, the *Herald* defended Chinese workers and Chinese culture more generally from prejudicial stereotyping. The *Herald* claimed: 'The crimes and excesses attributed to our Celestial visitants are monstrous, and incredible when ascribed to a nation'.[111] This was no exaggeration. The Chinese were widely condemned as dirty, quarrelsome, servile, thieves, drug addicts, idolators, sexually immoral and sodomites. The last claim was inferred from the absence of Chinese women, which the *Herald* highlighted was rather ironic given the gender imbalance among European colonists.[112] More bizarrely, some claimed the Chinese spread leprosy and engaged in vile practices with the dead bodies of white women and boys.[113] One editorial of the *Herald* dealt point by point with common anti-Chinese prejudice.[114] It rejected the fear that the Chinese would 'flood the colony'. West cited as evidence the fact they had not done so in any other Australian colony, California, Central America, or the west coast of South America. It thought absurd, given their hard work and independence, the charge that the Chinese were a 'servile race'. It lambasted the fear that they would 'become a dominant race', highlighting the inconsistency of this claim with the charge of servility (West adding, 'But none of our good democrats are ever daunted by logical difficulties'). The editorial then defended the Chinese practice of working ground left by Europeans, and various issues about the Chinese being 'ignorant', 'heathen', 'unmarried', and 'dirty'.[115] Other editorials defended

[107] This complaint accounts for the above reference to it being 'unconstitutional'. Cited above from the *Herald*, 24 April 1861.
[108] *Herald*, 19 October 1861.
[109] *Herald*, 19 October 1861.
[110] *Herald*, 9 October 1860. See also the *Herald,* 1 April 1861.
[111] *Herald*, 30 July 1858. On the same theme, see the *Herald*, 14 July 1857; 2 July which refers to cannibalism, 7 August 1858; 25 May, 13 September, 19 October 1861.
[112] *Herald*, 20 August 1866. See also the *Herald*, 5 June 1857 and 16 August 1866.
[113] Kirkpatrick, *Country Conscience*, p. 39.
[114] *Herald*, 20 August 1866.
[115] *Herald*, 20 August 1866.

the conduct of Chinese workers as honest and law abiding, citing the evidence of reputable colonists with substantial dealings with the Chinese.[116] As to generalised prejudice against the Chinese as a race, the *Herald* recoiled from popular 'antipathy to one-third of the human race'.[117] It sought to educate colonists by publishing the writings of 'the worthy Chinaman LEAU APPA, who gave such important information with respect to the objects, social arrangements, and condition of his countrymen'.[118] West pointed out that 'China had her philosopher, her statesmen, and her literati, when our ancestors were painted savages' and cannibals.[119] West also debunked the tendency to link civilisation with 'varieties of colour and shade'.[120] Periods of progress, ascendancy, stagnation, or decline were common to all races. With reference to India, China, Egypt, West emphasized how the fortunes of people changed, some being in the forefront of civilisation at one time, and others at other times.[121] Despite West's progressiveness the *Herald* retained some prejudice, accepting common objection to 'the ugliness of the Chinese'.[122] However West, noted for satire, used this to good effect:

> We are no admirers of the Chinese countenance, but ... we could pick from among the parsons, the lawyers, the members of the Legislature, as well as from other classes of society, men as deficient in all the more charming physical qualities, and as perfect specimens of ugliness as ever China in her most hideous efforts was able to produce.[123]

Thirdly, West promoted a vigorous *Christian* anthropology. The argument here was similar to that employed on free trade in West's *On the Friendly Intercourse of Nations* (1857). The Chinese were 'creatures of GOD, endowed with reason, and heirs of immortality as well as ourselves'.[124] The treatment of Chinese in both the riots and in legislation was inconsistent with the brotherhood of man and the 'fatherhood of the Almighty'[125] and a violation of 'the principles of civilization and Christianity'.[126] For West, human liberty was a feature of the divine will: the 'world is man's inheritance, and not that of Englishmen alone'.[127]

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[116] For example, see the *Herald*: 30 July 1858; 13 March, 3 July 1861.
[117] *Herald*, 22 June 1858.
[118] *Herald*, 1 August 1866. West described Leau Appa as 'honourable' and 'respectable' and, interestingly, 'a Christian in the best sense of that word'.
[119] *Herald*, 5 June 1857. See also the *Herald*, 2 July 1858 and 13 March 1861.
[120] *Herald*, 1 August 1866.
[121] *Herald*, 1 August 1866.
[122] *Herald*, 17 June 1858.
[123] *Herald*, 22 June 1858.
[124] *Herald*, 16 August 1866.
[125] *Herald*, 1 August 1866.
[126] *Herald*, 18 July 1857.
[127] *Herald*, 2 July 1858.

Liberty demanded freedom of movement as well as freedom of trade.[128] In 1858, West connected anti-Chinese feeling with earlier anti-immigrant sentiment expressed against Germans the year before.[129] In July 1861 West questioned the response of the churches to the plight of the Chinese, suggesting they failed to 'shown anything like the energy which they display whenever a trifling privilege' was under threat.[130] Perhaps West's rebuke struck home. In September 1861 the *Herald* published a protest from eighty ministers of religion 'against the cruel treatment of the Chinese',[131] and Curthoys notes the role of clergy in the repeal of the Chinese Immigration Act in 1866.[132]

Fourthly, West also promoted a vigorous *liberal* anthropology. The *Herald* was unequivocal: 'in our opinion the defence of the rights of a persecuted race is the sacred duty of every enlightened man, and especially of every advocate of liberty'.[133] Anti-Chinese violence was an attack on 'liberty in its elementary principles'.[134] 'People are not at liberty to tyrannise by majorities'.[135] West was especially scathing in his treatment of Cowper, Robertson and other popular self-styled and proclaimed 'liberals'. Two examples will suffice. West spoke of 'Men whose liberalism has constituted every man a monarch in right of the equality of the human race, have been the first to stamp with their approbation a crusade against other men who have precisely the same right'.[136] Most scathing was the editorial of 13 September 1861. With the Chinese Immigration Restriction Act tabled and under review, West referred contemptuously to:

> our modern mock-liberals — men who have never suffered for liberty, but whose craft is to win popularity by perverting it. They do believe that certain races were born to be oppressed, and that others were born to be their oppressors. They believe that men have different rights according to the colour of their skin, the twang of their language, or the latitude under which they were born. They believe that the Anglo-Saxon has a right to go anywhere ... he can better his condition ... to force entry into China at the point of the bayonet ... But they do not allow any reciprocity ... This is the creed of those screaming orators who, with the cant of equality and fraternity on their lips, have been lately

[128] West wrote: 'We believe that there are sacred rights which belong to human beings. Among them is the right to go anywhere in search of honest subsistence'. *Herald*, 9 October 1860.
[129] *Herald*, 2 July 1858. West taunted that there had been no talk of a tax in that instance, as 'it was rather too much to impose a tax which might possibly be demanded of the husband of the QUEEN'.
[130] *Herald*, 3 July 1861.
[131] *Herald*, 21 September 1861.
[132] Curthoys, 'Men of All Nations, except Chinamen', p. 117.
[133] *Herald*, 9 October 1860.
[134] *Herald*, 18 July 1861.
[135] *Herald*, 21 September 1861.
[136] *Herald*, 3 July 1861.

preaching up an intolerant crusade against millions of their fellow-creatures.

During the Buckland riots in Victoria in 1857 several Chinese workers were killed. The *Herald* was appalled by support for rioters from sections of the Victorian press.[137] It lamented: 'there is a power in that colony before which everything high, manly, and liberal is destined to fall prostrate'.[138] In terms of liberal values, the extremity of the situation surrounding anti-Chinese violence must not be underestimated. It was a test for colonial liberalism, one in large measure it failed. The *Herald* put it baldly: 'persons under the protection of British law, having committed no offence, and pursuing their calling under the license of the Crown, are to be deprived of their property, maltreated and [some] murdered'.[139] Entry taxes are then enacted against the Chinese, in part justified by costs arising from the riots! The *Herald* aptly described this as 'putting upon the injured party the blame of the offence'.[140] There were calls to dismiss a judge who condemned the rioters.[141] Juries would not declare guilty those whom none denied had committed flagrant crimes.

But the *Herald's* liberal anthropology was wider than its concern for the rule of law and the liberty of passage. Of particular interest is the manner in which West rejected an Australian manifest destiny. West wrote: 'Where is the morality of claiming an entire continent as our possession ... It is simply an exercise of power'.[142] Similarly, in 'no sense is this immense continent our property'.[143] Elsewhere on this score West's Christian and liberal anthropology overlapped:

> We abhor with inexpressible indignation the narrow spirit that begrudges human beings, and that of a race endowed with some of the highest qualities of man, a share in the Divine munificence. What on earth can we do with all these vast regions? Or what right have we to refuse that which we cannot use, excepting the right of brute force ... It is not liberty, it is the spirit of Satan himself which stirs up these ferocious prejudices, and animates human beings with such cruel antipathies to one another.[144]

[137] Andrew Messner touches on this in 'Popular Constitutionalism and Chinese Protest on the Victorian Goldfields', *JACH*, vol. 2, no. 2, October 2000, pp. 63-78. For press response to anti-Chinese violence, see Kirkpatrick, *Country Conscience*, pp. 39ff. B. McGowan makes little reference to the *Herald* but considers the broader relationship between Chinese workers and colonists in 'Reconsidering Race: The Chinese Experience on the Goldfields of Southern New South Wales', *AHS*, vol. 36, no. 124, October 2004, pp. 312-331. See also R. B. Walker, 'Another Look at the Lambing Flat Riots, 1860-1861', *JRAHS*, vol. 56, pt. 3, September 1970, pp. 199-200.
[138] *Herald*, 18 July 1857.
[139] *Herald*, 18 July 1857.
[140] *Herald*, 25 October 1861.
[141] *Herald*, 25 October 1861.
[142] *Herald*, 16 August 1866.
[143] *Herald*, 9 October 1860.
[144] *Herald*, 14 July 1857.

It appears that even without reference to its indigenous peoples, West thought immoral an Anglo-Saxon claim to the whole of Australia. These opinions, plus the fact of China's 'teeming millions', contributed to West's solution to the vices attached to the Chinese by the absence of women. West claimed, 'we should be exceedingly glad to see on the northern parts of New Holland a Chinese settlement of a superior cast'.[145] This suggestion was, of course, entirely consistent with British practice in China, with its treaty ports and lease of Hong Kong.

Historians have acknowledged the *Herald's* humane and courageous response to the Lambing Flat riots.[146] Yet it remains a poignant fact that West's views are generally attributed *solely* to his Christian humanism. Hirst suggests, 'West ... rested his case for the decent treatment of the Chinese on Christian teaching'.[147] As noted, a Christian anthropology *was* a feature of West's editorials. However, West's liberal anthropology gained even more frequent editorial expression. Melleuish is one historian who clearly identifies both strands in West's thinking.[148] This blend of Christian humanism and liberalism is exactly what one would expect from the likes of West and Fairfax, given their backgrounds in the Nonconformist liberal-reform movement in Britain. It was also an emphasis found more generally within British free trade liberalism.[149]

With respect to manhood suffrage, the *Herald* interpreted anti-Chinese violence and legislation as a vindication of its fear of democracy and powerful support for its belief that education and liberal values were essential prerequisites to the franchise.[150] As such, the *Herald's* critique of anti-Chinese sentiment formed an important plank in its propaganda against manhood suffrage. As manhood suffrage gave all men equal recourse to parliamentary representation, it became all the more true that 'there is no excuse ... for violence or disorder, and attacks upon, property and life'.[151] The *Herald* similarly condemned the Eureka Stockade of 1854. In this instance, the (pre-John West) *Herald* descended into rank hyperbole and described it as 'the most wanton aggression against authority ever known in any country'.[152]

[145] *Herald*, 14 July 1857.
[146] For example, see Atkinson, *The Europeans in Australia*, vol. 2, pp. 310-317; Hirst, *Strange Birth,* pp. 161-167; Kirkpatrick, *Country Conscience*, pp. 39-43; Souter, *Company of Heralds*, pp. 57-58.
[147] Hirst, *Strange Birth*, p. 161. See also, to a lesser extent, Atkinson, *The Europeans in Australia*, vol. 2, pp. 314, 316.
[148] See Melleuish, *John West's 'Union Among the Colonies'*, pp. xiv, xxii-xxiv.
[149] As discussed in ch. 4 above.
[150] These points are pursued in ch. 9 below.
[151] *Herald*, 6 July 1861. The *Herald*, 3 July 1861, reviled the behaviour of some diggers, claiming: they 'have brought to this country the disorganising principles of the lowest of red Republicanism'.
[152] In Souter, *Company of Heralds*, p. 57.

While an absurd overstatement, it is characteristic of the *Herald's* liberal commitment to law and order, due process, an abhorrence of violence and fear of 'mobocracy'. The *Herald* sought the 'exemplary punishment' of Lambing Flat rioters to show 'all classes of society that they must look to legislation and peaceable administration for the removal of any grievances, however urgent'.[153] The awful rioting and subsequent acquittal of the rioters in 1861, the passage of illiberal immigration legislation (albeit repealed within five years), when combined with the Robertson land laws, marked a low-point in colonial history for John West and the *Herald*. Yet fear of the mob and distaste for manhood suffrage does not come close to accounting for the intensity of the *Herald's* stance on Chinese workers and the Chinese immigration legislation of 1861.[154] In response to the anti-Chinese sentiment and the Lambing Flat riots, the *Herald* provided an eloquent, sustained, passionate, Christian, and, above all, liberal rebuttal of a highly regrettable episode in Australian history.[155]

[153] *Herald*, 6 July 1861.
[154] Hirst acknowledges this when claiming 'West was more principled, broader in outlook, and more genuinely sympathetic to the Chinese' than some Legislative Councillors. Hirst, *Strange Birth*, p. 161.
[155] As for the *Herald's* position after the focus of this thesis, I am indebted to Phil Griffiths who has intimated to me that the *Herald* deteriorated into pedalling popular anti-Chinese prejudice. If this is the case, it represents a tragic decline from the above perspectives advanced when John West was editor.

Ch. 9. The *Sydney Morning Herald* and Colonial Politics, Part 2: The 1858 Electoral Act, the Ballot, Manhood Suffrage and Democracy.

Introduction

The first eighteenth months of colonial self-government witnessed the transient, liberal-conservative administrations of Donaldson, Parker and Cowper. Failed attempts to pass land law reforms were made. Most at cabinet level repudiated manhood suffrage. Had they foreseen what was to come in the Cowper-Robertson years, disunity among the likes of Wentworth, James Macarthur, Henry Parker (Macarthur's brother-in-law), Stuart Donaldson, William Manning, James Martin and John Hay would have evaporated. If Macarthur could describe Martin in 1856 as a 'vulgar low bred fellow' we can but wonder at his description of the wealthier but coarse John Robertson.[1] No doubt Macarthur's return to England in 1860 speaks louder than words. Although Macarthur was one of the foremost political theorists of mid-century colonial Australia, he and other liberal-conservatives could not have foreseen the events of 1858-61. These were the result of an unlikely blend of personal factors, as with Cowper's repositioning, combined with broader, irresistible socio-economic forces arising from the gold rush and the hysteria surrounding land reform. Some moderate-liberals, such as William Forster, supported manhood suffrage. But, as Hirst has shown, there were few enthusiastic supporters of manhood suffrage in the LA in 1856.[2] But one of them, John Robertson, brought about an enormous change in the political landscape by brokering an agreement with the (until then) liberal-conservative Charles Cowper. An able administrator and the most determined politician of his generation, Cowper opposed manhood suffrage, the ballot, free selection before survey, national schooling, and thought state-aid appropriate only for the Anglican Church.[3] Cowper's views before 1856 were thus more conservative than the *Herald's*. However, in 1858 Cowper and Robertson formed the most influential political alliance of the early years of responsible government. Cowper supported Robertson's democratic views and land reforms. In return, Cowper received a block of support upon which

[1] Macarthur to Henry Oxley, 20 October 1856. Cited by Dickey, *Politics in New South Wales, 1856-1900*, p. 8.
[2] Hirst, *Australia's Democracy*, pp. 55-57, 343-344 and *Strange Birth*, pp. ix, 53-53, 99-114, 271.
[3] Baker, *Days of Wrath*, pp. 443-444; Powell, *Patrician Democrat*, pp. 50, 85; Hirst, *Strange Birth*, p. 218.

he could build a political future.[4] Due to this alliance, the years 1858-63[5] became notable for the success of democratic and radical-sounding legislation, including the Electoral Act of 1858 and the land laws of 1861.[6] These events turned the direction of colonial politics on its head. A marginalised and formerly disunited group of liberal-democrats at the fringe of the strong mercantile liberal movement had gained the political ascendancy. The very improbability of this has presented historians with difficulty in accounting for it and wreaked havoc with the political nomenclature used to describe it. This chapter surveys the *Herald's* response to the 1858 Electoral Act and manhood suffrage in particular. Given that, along with its repudiation of the Robertson land laws, the *Herald's* rejection of manhood suffrage has long been the primary basis for its alleged conservatism,[7] this investigation lies at the heart of determining the character of the *Herald* under John Fairfax.

Defining 'Democracy'

Before considering the *Herald's* stance on democracy and manhood suffrage, it is worth considering the term 'democracy' itself. A substantial recent contribution to Australian historiography is Alan Atkinson's *The Europeans in Australia: A History*, volume two. On the title page Atkinson places the word 'Democracy' as a subtext for the title covering the period 1815-1870s. For Atkinson, 'democracy' in this period was more than a 'method [of] electing representatives. It represented a great shift in common imagination and common ties'.[8] Atkinson suggests democratic settlement was three-sided. It was political, as seen by manhood suffrage. Secondly, it was commercial, gaining expression in free enterprise, new technology and science. And thirdly, it was seen 'in the way government worked', with the shift away from the 'dictatorial benevolence' of the early years of British settlement and a commitment to education and communication (e.g., postage and transport infrastructure).[9] Undoubtedly, life by mid-century had become characterised by a breadth of opportunity few

[4] On the Cowper-Robertson alliance, see: Powell, *Patrician Democrat*, pp. 82-97; Connolly, 'The Middling-Class Victory in New South Wales, 1853-62', pp. 376-78.
[5] The only major fracture in the alliance came over Cowper's proposed Education bill of 1859. This was as unpalatable to Cowper's supporters as it was to the opposition and led to the October 1859 election. After the election William Forster formed a short-lived administration before the Cowper-Robertson faction regained the ascendancy.
[6] Loveday and Martin, *Parliament, Factions and Parties*, p. 29.
[7] For example, see: Walker, *Newspaper Press*, pp. 26, 36-37, 50, 58-59; Clark, *A History*, vol. iii, pp. 286, 415, 423 and vol. iv, p. 99; Hirst, *Strange Birth*, p. 4; Travers, *Grand Old Man*, pp. 20, 37, 74; Cryle, *The Press*, pp. 40-41, 46; Baker, *Days of Wrath*, p. 456.
[8] Atkinson, *The Europeans in Australia*, vol. 2, p. xiv.
[9] Atkinson, *The Europeans in Australia*, vol. 2, pp. 265-267.

could have imagined a generation or two earlier. Not everything, of course, moved in a radical direction. Socially conservative ideas of respectability, if anything, gained momentum through the nineteenth-century.[10] This was seen in Fairfax and his generation of temperance advocates being roundly condemned by a stricter younger generation of teetotallers. Yet for all this, social mobility was more taken for granted and the idea that all could gain knowledge, develop through self-improvement, be independent rather than dependent, and participate in the political process, had taken firm hold. One difficulty with Atkinson's broader definition of democracy is that it is, arguably, somewhat retrospective in design. It is a feature of the twentieth century mind to attribute so much to democracy. Few in the 1850s, or the 1870s for that matter, would have attributed the social progress so well outlined by Atkinson to democracy. Melleuish points out that despite 'recent tendencies to use the word 'democracy' as the key term describing political developments in nineteenth century Australia ... the key term for most participants was liberalism'.[11] If liberalism is a better term to denote most mid nineteenth-century political discourse, it is also suggestive of the growth of individual liberty, mobility and independence. In contrast to Atkinson, others use the term 'democracy' in its more narrow political sense focusing on political representation. An example is Hirst, who suggests 'the achievement of democracy is commonly understood as the extension to all citizens of the rights in equal measure to determine the composition of the parliament'.[12] Although the *Herald* at times referred to democracy more broadly in terms of its spirit and temper, most of the time it used it in the narrower sense of a theory of political representation.

The 1858 Electoral Act: Secret Ballot

The 1858 Electoral Act brought manhood suffrage, electoral redistribution and vote by secret ballot. Of these vote by ballot was the most divisive at cabinet level. Long on the agenda of radicals and liberal reformers in Britain, vote by ballot was first mooted in NSW in Parker's proposed electoral bill in August 1857. This bill had the dubious honour of being rejected by both John Robertson and James Macarthur, with the *Herald* dryly noting any bill rejected by this unlikely duo stood no chance.[13] In April 1858 Cowper's Electoral Act included the ballot

[10] See Martin, *Bunyip Aristocracy*, p. 164.
[11] Melleuish, 'The Strange Birth of Colonial Democracy revisited', from the abstract.
[12] Hirst, 'Democracy', *The Oxford Companion to Australian History*, G. Davison, J. Hirst, J. Macintyre (eds.), Oxford University Press, Melbourne, 1998, p. 178. See also Hirst, *Sense and Nonsense*, pp. 292-297
[13] *Herald*, 4 September 1857.

but with little warmth. It was not even in the original draft and only included as an open question as the cabinet could not agree on it.[14] Cowper disliked the ballot, as did Robert Campbell.[15]

On the ballot passing the *Herald* fairly reported, this 'piece of radical reform has, however, excited no enthusiasm'.[16] The same editorial debunked three objections to the ballot. Firstly, that 'secrecy is impossible,' as one way or another 'detection' or 'suspicion' as to one's voting intention will arise. To this the *Herald* offered that 'the habit of enquiry will cease when public opinion pronounces it intrusive'. Secondly, that 'multitudes are perfectly indifferent to the protection of the ballot'. The *Herald* argued that the ballot does not oblige a person to 'conceal their votes' but enables them to do so, adding that if only one in a hundred are protected from intimidation it is worthwhile. Thirdly, the ballot was objected to as the 'stuffing' of the boxes and other administration tasks provided greater opportunity for electoral fraud than a showing of hands. The *Herald* argued that due process ought to alleviate this concern.

In contrast with the uncertain 'liberal' cabinet, the *Herald* could boast of having been the 'avowed advocates of this mode of election' for three years.[17] This reference to supporting the ballot for three years places this issue, along with an elected upper house, within Fairfax's claimed period of greater liberalism of the *Herald* since he assumed full control. The *Herald's* support for the ballot was prefigured in Fairfax's *Leamington Chronicle* of the mid-1830s, which progressively described the ballot as 'absolutely necessary'.[18] Voting for parliament by ballot first occurred in the election of July 1859 but this was not the first use of the ballot by the public. The *Herald* claimed that due to its promotion the ballot had been included in municipal elections.[19]

In support of the ballot the *Herald* listed many advantages under the broad rubric of freedom from intimidation. In 1857 the *Herald* debunked claims the ballot was 'un-English', with the retort that not everything 'English' was worth keeping:

> It was once English to keep open the poll for fifteen days; to bring down to the election, hired bullies and pugilists; to keep up a succession of fights round the hustings. It was English for a candidate to spend a fortune in gaining a seat, English for the potwollopers

[14] Ward, *James Macarthur*, p. 240.
[15] Powell, *Patrician Democrat*, p. 85.
[16] *Herald*, 26 October 1858.
[17] *Herald*, 3 April 1858.
[18] *Chronicle*, 18 August 1836. See also the *Chronicle*: 21 May, 4 June 1835; 1, 9 September 1836.
[19] *Herald*, 2 January 1857.

to take bribes in both hands ...[20]

Although proudly monarchical and Anglo-Saxon,[21] West's liberalism preserved him from any vulgar nationalism. Here, and elsewhere, West criticised things British. During the American Civil War, the *Herald* rebuked *The Times* for Southern sympathies and said we 'do not think it credible to the Colonial Press to run with servile submission in the track of British opinion'.[22] The *Herald* also suggested that objection to the ballot 'is answered by the practice of the higher classes themselves, who have ballot in their clubs', adding, 'even in our Assembly, committees are subject to the same process of appointment'.[23] The *Herald* also claimed the ballot liberated the worker from the intimidation of demagogue-influenced co-workers, acknowledging that intimidation could arise from more than its traditional source in Britain, the landowner. This point was a useful polemical tool to persuade liberal-conservatives to embrace the ballot and no doubt John West enjoyed the irony of promoting the ballot on this basis.

The *Herald* was proud of its support for the ballot. It responded to a series of questions regarding the colonial experience of the ballot by the London based *Society for Promoting the Adoption of Vote by Ballot*. In doing so, it noted the 'ballot was introduced by a Government generally called Conservative [Parker's], and was first recommended by the *Sydney Morning Herald* — supposed to lean to Conservative views. The support of the ballot by the party called Radical, was by no means warm or active'.[24] The *Herald's* support for the ballot was not only liberal but progressively so by colonial standards, let alone British standards where the ballot was not introduced until 1872. Due to the historiographical straightjacket of the *Herald's* alleged conservatism, its support for the ballot is usually mentioned without acknowledgement as an obvious expression of liberal ideology.[25]

The 1858 Electoral Act: Manhood Suffrage

Manhood suffrage was regarded as a less important feature of the 1858 Electoral Act than the

[20] *Herald*, 28 May 1857.
[21] See West's references to Anglo-Saxons in his 'On the Friendly Intercourse of Nations'. *Herald* 8 July 1857.
[22] *Herald*, 29 December 1862. Cited by Nadel, *Australia's Colonial Culture*, p. 102.
[23] *Herald*, 28 May 1857.
[24] *Herald*, 13 August 1859. On the ballot see also the *Herald*, 21 October 1856, 21 June 1859.
[25] Rather incongruously Baker claims West and the *Herald* opposed the ballot, see Baker, *Days of Wrath*, p. 456. However, Baker does so in the context of a biography of J. D. Lang, who somewhat bizarrely inferred this. For example, see Lang's letter which was at the centre of the West vs. Hanson & Bennett libel case of 1863 and was published in the *Empire*, 30 May 1863.

reform of electoral boundaries.[26] Only a small group of democrats advanced manhood suffrage on the philosophical premise of the rights of man.[27] For them the passing of manhood suffrage was a great occasion. Yet, as Hirst shows, manhood suffrage arose more or less inadvertently and did not receive strong ideological support.[28] On another tack, Ward emphasizes a pragmatic motivation, with 'demand for land reform ... a potent force behind agitation for manhood suffrage and the secret ballot'.[29]

Democrats sought representation based on population alone. For this principle to be consistently and fully applied it required equal electoral districts. In response, the *Herald* tartly suggested the colony ought be a single electorate.[30] Yet as Hirst and Macintyre note, most colonial liberals rejected population as the *sole* basis for political representation.[31] Hirst suggests colonial liberals in the 1850s used 'democratic support' to resist a landed aristocracy but were nonetheless 'opposed to democracy' and that even after 1860 they 'did not accept democracy in principle'.[32] However, many who opposed manhood suffrage in theory did not oppose it in the 1858 Electoral Act. There were at least two reasons for this. Firstly, due to the inflation associated with the gold rush, the £10 franchise introduced by the British parliament meant that as many as ninety-five percent of Sydney men already enjoyed the franchise (prior to the 1858 Act).[33] This led the *Herald* to claim there were 'comparatively little political consequences to the concession of manhood suffrage'.[34] Manhood suffrage in the

[26] See Hirst, *Australia's Democracy*, pp. 101-103. As discussed below, one reason for the indifference to manhood suffrage was that the vast majority of male urban workers already had the vote.
[27] Hirst, *Strange Birth*, pp. ix, 4-5, 52-53, 101-103, 271-273; Hirst, *Australia's Democracy*, pp. 43, 55-56, 341-344.
[28] Hirst, *Strange Birth*, pp. ix, 4-5, 52-53, 113-114, 271-273. See also Hirst, *Sense and Nonsense*, p. 151: 'The introduction of political democracy was not accompanied by the establishment of a democratic ideology'. Without disagreeing with Hirst's claim the 1850s brought 'political freedoms, but established no indigenous egalitarian tradition', Sammut suggests that Hirst's scholarship was 'Sydney-centred'. J. Sammut, 'A Battle for the past: A Victorian perspective on Colonial Nationalism and Australian Republicanism', *JACH*, v. 4, no. 1, April 2002, p. 44.
[29] Ward, *James Macarthur*, p. 252. For a similar emphasis on the impact of agitation for land and manhood suffrage see Atkinson, 'Towards independence: Recipes for self-government in colonial New South Wales', *Pastiche 1: Reflections on nineteenth-century Australia*, P. Russell and R. White (eds), Allen & Unwin, Sydney, 1994, p. 97; Hirst, *Strange Birth*, pp. 56-61 and *Sense and Nonsense*, p. 152, where Hirst writes: 'The introduction of political democracy can best be seen as a measure adopted by those who were close to success in order to strengthen their hands for the final battle against the squatters'.
[30] *Herald*, 21 January, 8 May 1858.
[31] Hirst, *Strange Birth*, pp. ix, 4-5, 52-53, 101-102, 113-114, 271-273; Hirst, *Australia's Democracy*, pp. 43, 55-56, 341-344. Macintyre, 'Liberalism', p. 388.
[32] Hirst, *Australia's Democracy*, pp. 343-344.
[33] Hirst, *Strange Birth*, pp. 99-100. The *Herald's* estimate was 90%. *Herald*, 20 January 1858. These figures are for men who met the residence requirement and not itinerant workers. Shaw provides a table which highlights the large difference in prices and wages in 1853 compared with figures from pre-gold rush 1850. See Shaw, *The Economic Development of Australia*, p. 69.
[34] *Herald*, 31 July 1858. See also the *Herald*, 12 June 1856, 23 June 1857, 20 January 1858.

Electoral Act had less impact on who voted than any of the extensions of the franchise in Britain (1832, 1867, 1884-85). Secondly, although the Act leaned more strongly toward population as the basis of representation than its predecessor of 1851, it was still far from democratic. This reflected the fact that many colonial politicians occupied what might be termed a halfway position. They lukewarmly supported manhood suffrage as it attracted votes and, as noted, made little practical difference as to who voted. However, this ought not be confused with support for the more fully democratic ideal of representation based on population alone. This was seen in the manner by which manhood suffrage was offset by plural voting for those with property in more than one electorate and rural areas returning a proportionately higher number of members to the LA. This was consistent with liberal political theory. For example, de Tocqueville opposed pure democracy but accepted manhood suffrage, so long as educated men had more than one vote.[35] Consequently, with the franchise already high, the greatest issue of debate in 1858 was not manhood suffrage but electoral distribution. The *Herald* expressed this when claiming the 'greatest feature in the Electoral Bill is, of course, the formation of electoral districts and the distribution of members'.[36]

Yet even within this wider culture of disquiet or indifference toward manhood suffrage, the *Herald* stands out for its periodically vehement commentary. Its opposition to manhood suffrage is evident from a string of editorials from the 1850s well into the 1870s,[37] two of which have attracted particular attention. The first, of 11 May 1858, argued the 'reign of what is falsely called democracy — is the domination of one class over all. It inverts the natural order of society, and places animal force at the head, and intelligence at the foot'.[38] Yet even here, at its seemingly undemocratic and elitist worst, the *Herald's* response warrants careful consideration. While less imaginative and eye-catching than its 'animal force' comments, the next sentence of the editorial is more instructive: 'It [manhood suffrage] is the selection of representatives by men whose interest it is to make capital the slave of labour, and to obtain

[35] Arblaster, *The Rise and Decline of Western Liberalism*, p. 278.
[36] *Herald,* 26 June 1858. See also Hirst, *Australia's Democracy*, p. 56 (cited above).
[37] On extending the franchise and manhood suffrage, see the *Herald*: 25 March, 19, 21 April 1851; 12 June 1856; 28 May, 4, 18, 23 June, 3 July, 3 October 1857; 20, 21 January, 22 February, 31 March, 3 April, 7, 8, 11-13 May, 9, 26 June, 31 July 1858; 19 and 31 May 1859 which consider J. S. Mill's thinking on suffrage; 17 June 1859; 21 November, 5, 12 December 1860; 24 April, 8, 17, 21 May, 2 August, 5, 7, 12 September, 14 November 1861; fuelled by reform debate in Britain, suffrage was a common theme in *Herald* editorials of 1866, see 28 May, 13 June, 11, 27 July, 14 September 1866; 19 September, 10 December 1873; 1 November 1877. Articles: 'The Conservatism of Democracy' 30 March 1860; 'The Progress of Democracy' 18 December 1860; 'Anarchy or order — That is the Question' 5 June 1861; from the *Daily News* 'The Political Prospects of our Australian Colonies', 24 January 1862.
[38] *Herald*, 11 May 1858.

at the present moment the highest personal advantages'. The *Herald* feared such measures as the abolishing of the upper house and an end to all checks and balances, which it noted even the Americans had maintained despite being inundated by migrants and 'their country disgraced with infinite rowdyism'![39] The *Herald* thought the legislature was 'supporting changes which they will not be able to control'[40] and claimed 'a house framed upon universal suffrage and constituted of men representing one class only, will entirely set aside every restraint'.[41] Manhood suffrage was perceived as a threat to private property, with the 'domination of numbers' leading to the 'transfer of capital from the few to the many'.[42] While perhaps not immediate, 'anarchy' and 'military despotism' were likely.[43]

The second and even more notorious editorial came in the *Herald* of 24 April 1861. In an admixture of alarmist indignation and overstatement it proclaimed:

> The Land Bill stands upon a different footing. If the people, in its sovereign pleasure, chose to pass a law that the Museum should be burned down, that the University should be demolished, and that Government House should be turned into a pig-stye, it would be our duty to resist it. We should exhaust all constitutional forms of opposition ... [that failing] ... We should then ... stipulate about the manner of executing these projects ... Having done all this, we might leave the people to use the rights of property at their discretion; to roar among their ruins, to dance about their fires, and to revel among their pigs.

This rather self-indulgent editorial invites the labelling of the *Herald* as conservative in the pejorative sense. However, the historical context of the April 1861 editorial is highly significant. It, along with most of the *Herald's* more alarmist comments about manhood suffrage, came in the context of the Robertson land acts, not the 1858 Electoral Act introducing manhood suffrage. In late April 1861 the land acts were about to be voted upon by the LC. Their passage was not in doubt. The *Herald* disliked the Robertson land acts. It thought them impractical and unlikely to deliver much benefit to small land holders. In this the *Herald* was vindicated. But the *Herald* more than disliked the Robertson land laws: it despised them. It saw them them as prejudicial class legislation, pitting selector against squatter in a degrading state sanctioned and inspired brawl. It saw Cowper and Robertson as inciting the people against the squatters and manipulating manhood suffrage for personal

[39] *Herald*, 7 May 1858.
[40] *Herald*, 11 May 1858.
[41] *Herald*, 12 December 1860.
[42] *Herald*, 12 December 1860.
[43] *Herald*, 7 May 1858.

political gain.[44] To the *Herald* in April 1861, less than three years after manhood suffrage was passed, the LA appeared determined to introduce unwise and illiberal legislation. Concern was not limited to land reform either. At the same time attempts were being made to introduce discriminatory legislation against Chinese workers. This agitation regarding the Robertson land acts and the rights of Chinese workers forms the context of the *Herald's* most notorious outburst against manhood suffrage of 24 April 1861. Unsurprisingly, another savage denunciation of manhood suffrage came a few weeks later, after the attempt to swamp the LC. Here the *Herald* insisted: 'Universal suffrage can only terminate in such exhibitions. It must spoil and destroy everything that it touches. It is ignorance ruling intelligence — it is idleness ruling industry — it is the house of Want against the house of Have. It is the same story the world over'.[45]

The fact that events surrounding the land acts aggravated the rhetoric of the *Herald* against manhood suffrage is seen by surveying the comments of the *Herald* regarding manhood suffrage before and after the land acts. Although viewing the advent of manhood suffrage in NSW as premature and rejecting population alone as the basis for representation, the *Herald's* rejection of manhood suffrage was generally less emotive both prior to and well after the land laws of 1861. In addition to the Robertson land acts and the treatment of Chinese workers, at other times the *Herald's* disdain for manhood suffrage was provoked by low standards of parliamentary conduct and disgust at the development of patronage in NSW. Melleuish has argued that for John West, 'Liberalism could take two forms in Australia: it could be "mixed up with everything vulgar, mean, and anarchical" or it could be "associated with a dignified courtesy, self-restraint, love of order, and respect for personal liberty"'.[46] There is no doubt that for a time in 1860-61 West feared the former expression of 'liberalism' was taking hold.

The Basis of Political Representation

The primary matter of the 1858 Electoral Act was prefigured in debate over the 1851 Electoral Act, namely, whether parliamentary representation ought be based upon population alone or

[44] 'With what intense selfishness have they sacrificed the prosperity of the country for the indulgence of their personal ambition!' *Herald*, 8 May 1861. This was a view more than a little hinted at by Plunkett as well in the LA, 8 November 1860. Published in the *Empire*, 9 November 1860. See also the *Herald*, 28, 29 November 1860 and 16 September 1861.
[45] *Herald*, 21 May 1861. See also the article 'Anarchy or Order — That is the Question'. *Herald*, 5 June 1861.
[46] Melleuish, 'The liberal conservative alliance in Australia', pp. 55-56.

upon interests.[47] In fact, to some degree, manhood suffrage is a 'red herring' in that measures such as plural voting, a residence qualification, or rural voters receiving greater representation, could significantly qualify it. Each of these measures was present in the 1858 Electoral Act which leaned toward the population principle without fully applying it.

As noted, in 1851 the *Herald* agreed with the principles upon which Thomson's 1851 Electoral Act was formulated but thought the urban interest under represented and the rural over represented.[48] The 1858 Act did not implement equal electoral districts as sought by the Electoral Reform League, despite three cabinet ministers being League members.[49] As tabled, the bill proposed an increase in the number of LA members from 54 to 68, with twelve allocated to pastoral districts. As passed, the Act allowed for 80 members with 24 from squatting and rural districts.[50] The *Herald* said of the bill as tabled that with 'respect to the population basis ... the Ministers have moderately applied the principles of which they have been the exponents'[51] and 'less exclusively upon mere population than had been anticipated'.[52] It judged the Act 'capable of being made a liberal measure, and yet adapted to secure a full and fair representation of the people'.[53] This is unsurprising given the *Herald* supported the ballot and claimed to be in substantial agreement with Lang, Parkes and others seeking electoral reform: 'We concur with these gentlemen to a great extent. Population is the first thing to be considered; the next is such a distribution of electoral power as shall prevent the domination of any class, and the exclusion of any large section of the people'.[54] Although disliking the theory behind manhood suffrage, given that it made little real difference to the franchise and was mitigated by plural voting and residence requirements, West could claim 'the Electoral Bill has met with no uniform opposition from the *Herald*'.[55] In summary the *Herald* offered the view:

> Unquestionably the bill is not in this respect [manhood suffrage] as bad as it might be. The residentiary clause is a great mitigation, nor is it less important that the votes founded

[47] For an excellent statement of the liberal-conservative position on the representation of interests 'and not of mere numerical proportions' see the letter of James Macarthur to Henry Oxley of 20 October 1856 cited by Dickey, *Politics in New South Wales, 1856-1900*, pp. 5-6.
[48] For example, see the *Herald*, 21 April 1851.
[49] *Herald*, 17 June 1859.
[50] Ironically the rural component of Cowper's tabled 1858 Electoral Act was virtually identical to that lambasted by 'liberals' in Parker's proposed Electoral Bill of the previous year. Parker had proposed 104 members with 18 from pastoral districts. See Ward, *James Macarthur*, pp. 240-241.
[51] *Herald*, 3 April 1858.
[52] Notes of the Week. *Herald*, 5 April 1858.
[53] *Herald*, 9 June 1858.
[54] *Herald*, 22 February 1858.
[55] *Herald*, 9 June 1858.

> upon property are still retained. No doubt these are safeguards inconsistent with the theory of manhood suffrage.[56]

In a period with many itinerant workers, the *Herald* warmly welcomed the six-month residence clause. The retention of plural voting was also appreciated, although perhaps more for what it symbolised, respect for intelligence and property, as plural voting was unlikely to influence the result in any electorate. Consequently, the *Herald* counselled legislators to pass Cowper's electoral bill, introducing manhood suffrage with a residential qualification, a redistribution of seats favouring more populated urban areas, and the ballot.

Ward suggests that the *Herald* supported the Electoral Act as a pragmatic gesture, as it viewed any subsequent legislation likely to be worse and did not wish to see country-city tensions escalate.[57] There is truth in this but it perhaps underestimates the *Herald's* overall acceptance of the bill. It would be easy to miss the fact that the difference between the *Herald* and Cowper's administration of 1858 was one of degree rather than substance, a point emphasized by the *Herald*. In abstract terms the *Herald* had no objection to all responsible citizens having the vote, regardless of wealth: 'If we find any man excluded [from the franchise] because he has nothing but his industry, because he is a poor man, because he lives under a humble roof, there is room for complaint'.[58] When discussing Parker's doomed 1857 electoral bill it said 'It is unquestionably proper that all persons who are capable of exercising the franchise with intelligence, should be included'.[59] The *Herald* expressed the view of mainstream English liberalism of voting as a privilege and duty of responsible citizens, not a 'natural right'.[60] Put simply, the issue for most colonists in the late 1850s was not whether the population principle ought be held in check or qualified by other interests, but how, and to what degree. The practical point was whether rural electorates had received adequate provision so as to prevent them being overwhelmed by city voters. This is seen in the major difference between the 1858 Electoral Act as tabled and passed. Rural representation in the passed bill was even larger than as tabled, despite in its tabled form being deemed reasonable

[56] *Herald*, 31 July 1858.
[57] *Herald*, 31 May 1858. In Ward, *James Macarthur*, p. 240.
[58] *Herald*, 20 January 1858.
[59] *Herald*, 23 June 1857.
[60] Bradley suggests, 'Victorian Liberals saw the vote not so much as a natural right but rather as a trust to be earned. This view gave them a very exalted idea of the effect which conferring the vote on people would bring'. Bradley, *The Strange Rebirth of Liberal Britain*, p. 38. Biagini outlines William Gladstone's view of the extension of the franchise in the late 1860s as being 'based upon a demonstrated virtue and capacity'. E. Biagini, *Gladstone*, Macmillan, Basingstoke, 2000, p. 44. McCord writes of the Second Great Reform Act, 'Even the keener reformers of 1866 did not see the franchise as a natural right which ought to be enjoyed by every adult male; instead, they aimed at an extended but selective electorate'. McCord, *British History, 1815-1906*, p. 256.

enough by the supposedly conservative *Herald*.

The Liberal Fear of Manhood Suffrage

Having touched on the *Herald's* fear of manhood suffrage in discussion of the 1858 Electoral Act, it is important to contextualise this within a wider liberal setting. To the *Herald* and many colonial liberals, representation on the basis of population alone ran the risk of the tyranny of the majority. The most practical expression of this concern by the *Herald* came in its stress upon the rights and representation of minorities. The editorial of 21 January 1858 examined this theme:

> If there were no proper action for minorities, debate itself would be useless. "The voice of the people," says the proverb, "is the voice of a God" — a prodigious lie. Politicians who precipitate a momentary majority into a decision ... who admit no contradiction, no delay, no protest — who uphold the tyranny of mere numbers — should, to be consistent, admit the divinity of the people.

Later the editorial claimed: 'If history is not an old song, *it teaches us that liberty has disappeared whenever minorities disappear*'.[61] In the colonial context the *Herald's* major opposition to representation by population alone was that this would alienate regional areas and lead to the further dismemberment of the colony. The *Herald* regarded the rural population as a minority whose legitimate interests risked neglect. During debate over the 1858 Electoral Act it claimed, 'If ... the "population basis" [of representation] were adopted, Sydney and its neighbourhood would domineer over the country'.[62] Consequently, it argued 'We do not believe the question is at all one of conservatism or radicalism, but whether the country districts and towns shall have their due share in legislation'.[63] A few weeks later it wrote that we 'have already lost Moreton Bay' and if population alone were applied the 'Western districts will sever their connection with New South Wales'. This was a move, it suggested, which would be greeted sympathetically in both South Australia and Victoria.[64]

The *Herald's* concern for minorities was linked to its commitment to a diversity of opinion within the legislature. Many nineteenth-century liberals feared unqualified manhood suffrage would stifle or render useless parliamentary debate. In 1861, the high point of the

[61] Emphasis the *Herald's*.
[62] *Herald*, 9 June 1858.
[63] *Herald*, 3 April 1858. See also extensive comment in the editorial of 12 May 1858, which rejected the charge the *Herald* is 'hostile to the liberties of the city' but argued that population alone as the basis of representation would lead to 'all but densely populated places' being 'virtually disenfranchised'.
[64] *Herald*, 26 June 1858. As discussed in ch. 4 above regarding intercolonial union, the *Herald's* concern with regional disquiet and the threat of further separation from NSW was by no means unreasonable.

Herald's distaste with colonial politics, the *Herald* said of the LA: 'One class reigns paramount, and without responsibility. There is no balance of power — no effective conflict of opinion; there is nothing to temper the extreme rigour of the iron rule'.[65] The basis of effective and moral Government was the intent to govern in the interest of all. For this to occur different strands of thought or 'interests' within the political spectrum required a voice. In 1859, before the conflagration over land, the *Herald* said:

> Mr. PARKES is the image of the democracy; Mr. KEMP represents colonial conservatism; Mr. MARTIN protection, in all its various forms; Mr. PLUNKETT the equality of religious rights; Dr. LANG, popular anger and discontent. Each of the candidates reflects one of the marked, and probably permanent, phases of colonial society. All these varieties of thought and sympathy require, for the sake of the public good, to have their organs in the Legislature.[66]

Even once the parliamentary agenda was more to its liking, in 1866 the *Herald* still expressed concern that the 'effect of universal suffrage in the colonies is certainly to hand over all public affairs to those who may shape their principles and form their manners to secure a majority of votes'.[67] An aspect of this was its rejection of the payment of members, for fear of a professional political class lacking independent judgement and conviction. Many colonial liberals, such as Henry Parkes, agreed and the payment of members was not introduced until 1889.[68]

However, the *Herald's* criticism was not limited to manhood suffrage or the likes of

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[65] *Herald*, 14 November 1861.

[66] *Herald*, 30 May 1859. Similarly, with reference to the cabinet in 24 January 1860, the *Herald* said: 'The liberal conservatism of Macarthur, the aristocratic liberalism of Donaldson, the intellect of Manning, the astuteness of Cowper, the vigorous prudence of Thomson, and the judicial moderation of Parker have disappeared from Government and debate'. See also Melleuish, 'The Strange Birth of Colonial Democracy revisited', p. 12. The disparaging reference to J. D. Lang above would not have surprised readers of the colonial *Herald*. Most politicians were periodically criticised, some like Cowper (from 1860) on a regular basis, but none were as consistently reviled as Lang. Despite Mansfield, West, Kemp and Fairfax serving with Lang on public committees of a religious nature, such as the Sydney City Mission and the Mission to Seamen, due to his political views and sectarianism Lang was onerous to the *Herald*. On Lang, see the *Herald*: 2, 26 July 1850; 28 May 1858; 20 August 1859; 13 October 1859 on Lang and separation from the British Empire; 10 June 1862 said 'there is no limit to the gyrations and inconsistencies of this Presbyterian divine ... week after week and year after year — the same story — we might say the same madness ... There is no language he does not feel himself entitled to employ — no misrepresentation of facts in matters relating to the Church, to immigration, or to general politics that is not lawful to him'; 3, 9, 14 January 1863; letter to the editor 9 June 1863; 1 August 1866; 30 October 1873.

[67] *Herald*, 28 May 1866.

[68] Regarding Parkes' views, see comments recorded in the *Herald*, 9 June 1858. Incidentally, at the time Parkes could have done with the money. On living 'by politics' see also the *Herald*, 30 May 1859. For other colonial criticism of the payment of MPs see Stuart Reid, 'Payment of Members', *Victorian Review*, vol. II, May 1880 - October 1880, pp. 33-43. See also: Hirst, *Australia's Democracy*, p. 339. Payment of members was introduced in Victoria in 1870 and in the UK in 1911.

Robertson and Cowper. The *Herald* acknowledged the liberal-conservative eclipse was due in part to its own lack of organization, unity and resolve.[69] It mourned the loss of experienced and eloquent legislators and believed liberal-conservatives were hard done by in terms of loss of reputation and rejection at the polls.[70] It felt, for example, that James Macarthur's reputation had been inappropriately sullied and his economic and political contribution to colonial life ignored.[71] Despite clear policy differences, it defended men such as Charles Kemp, former co-proprietor of the *Herald*, arguing Kemp was 'far more liberal in the highest sense than many bearing more popular names'.[72] The *Herald* sought reasoned and fair debate, willingness to compromise, and the testing of theories by their gradual application. Each was in short supply in the early years of responsible government.

The *Herald* claimed: 'Representation itself, the noblest discovery of modern politics, is a system of checks, preventing the direct and instantaneous action of masses, but at the same time affording both an utterance and an arm'.[73] In 1866 the *Herald* insisted:

> It is asserted that the majority ought to rule and must rule. In one sense this is true, that wherever the power is lodged in the hands of numbers those who are the strongest will wield it; but it is the effect of civilisation to admit another element, namely, that of law, and to enable the minority to hold up this great idea — the supremacy of the law — as an effective resistance against the will of numbers.[74]

The rule of law and the parliamentary representation of all interests and minorities within society were two essential checks against the possible tyranny of the majority. The temporary triumph of colonial radicalism in 1860-61 briefly destroyed any hope of the LA being broadly representative. Yet it was a radicalism without conviction. A radicalism no sooner overheating than quickly self-correcting. This was exemplified not only in the new LC of 1861 but also in the career of James Martin. Martin's speech on the hustings in December 1860 provided a quintessential summary not only of opposition to selection before survey but of liberal disquiet toward manhood suffrage.[75] Yet Martin, despite being unable to gain

[69] For example, at the low-point of the near swamping of the LC the *Herald* said: 'There never was in this country a large body of men with a clear and consistent theory of conservatism, who would stand by each other, and would present an unbroken front to revolution'. *Herald*, 8 May 1861. See also *Herald* commentary on the role of a conservative opposition, *Herald*, 22 June 1859.
[70] For example, see *Herald* editorial of 24 January 1860.
[71] *Herald*, 21 October 1856. More generally, after the December 1860 elections West lamented that the 'disappearance from political life of those who represent the thoughtful and conservative portion of society [is] rejoiced over as a political deliverance'. *Herald*, 17 May 1861.
[72] *Herald*, 4 March 1856. See also the *Herald,* 30 May 1859
[73] *Herald*, 4 June 1857.
[74] *Herald*, 28 May 1866. See also the *Herald*, 14 September 1866.
[75] East Sydney Election: Nomination of Candidates. *Herald*, 6 December 1860, as discussed in ch. 6 above.

election in any of the four electorates he contested in the election, soon after began the first of three terms as Premier of NSW (1863-65, 1866-68, 1870-72).[76]

Liberalism and Democracy

Although it may appear strange to us, for whom the terms 'liberalism' and 'democracy' have been linked for several generations, to mid nineteenth-century liberals democracy was a danger.[77] McClelland suggests the 'history of European (and American) liberalism in the nineteenth century could easily be written as the story of the more or less reluctant conversion of all liberals to the principle of the democratic republic based on universal (male) suffrage'.[78] The concern of the *Herald* with manhood suffrage represents well the concern of mainstream liberalism with democracy in the 1850s and 1860s. Its emphasis on the representation of minorities and for the legislature to represent varied opinions was also typically liberal.

One factor in liberal discomfort with democracy was that it was un-English and associated with republicanism.[79] The *Herald* claimed manhood suffrage was without precedent 'to the Anglo-Saxon race'.[80] It argued Great Britain without manhood suffrage had 'more genuine liberty' than any other nation; boasts 'an independence of action and a freedom of opinion which exists in no other empire'; and that her liberty was maintained because the 'representation of interests has been the prevailing principle, recognising the population as one and only one element'.[81] Frederick Engels agreed, arguing in 1844 that 'England is undoubtedly the freest, that is, the least unfree country in the world, North America not excepted'.[82] Most Australians in the 1850s understood themselves as British or English and a

[76] On colonial politics up to and immediately after 1861 see Ward, *The State and the People*, pp. 38-42; Connolly, 'The Middling-Class Victory in New South Wales, 1853-62', pp. 384-385 and 'The Origins of the Nominated Upper House', pp. 68-71; Melleuish, *A Short History of Australian Liberalism*, pp. 6-8 and 'The Strange Birth of Colonial Democracy revisited', pp. 1-7.
[77] See Arblaster, *The Rise and Decline of Western Liberalism*, pp. 264-278; Girvetz, *The Evolution of Liberalism*, pp. 120-122; Gray, *Liberalism*, pp. 20-22, 70-71; R. Leach, *Political Ideologies*, Macmillan, Melbourne, 1993, pp. 78-79; Manning, *Liberalism*, pp. 51, 107-110, 127; Barker, *Politics, Peoples and Government*, pp. 49-61; J. Sperber, *The European Revolutions, 1848-1851*, Cambridge University Press, 1994, pp. 65, 69.
[78] McClelland, *A History of Western Political Thought*, p. 639.
[79] Hirst, *Strange Birth*, ix, 4-5. As to the extent with which Sydney democrats were republicans, see also Pickering, 'The Oak of English Liberty', p. 22.
[80] *Herald*, 7 May 1858.
[81] *Herald*, 7 May 1858.
[82] Cited by Pickering, 'The Oak of English Liberty', p. 2.

continuity of religion, values, political structures and civil liberties was presumed.[83] At a public meeting in England in 1852, Fairfax assured his hearers that in the colonies we 'carry with us the institutions of Great Britain'.[84] And John West was characteristic of the age in viewing Anglo-Saxon colonisation as vital to the future prosperity of the world. Such colonies existed 'in the providence of God ... to become centres of civil and religious liberty which would flourish when the parent state had become impotent'.[85] This was forward thinking if nothing else.

What then was the state of political democratisation in the 'mother country'? In Britain in the 1850s, one in seven males were eligible to vote.[86] The Second Reform Act of 1867, nearly ten years after the passing of manhood suffrage in NSW, increased this to about one in three.[87] The Third Reform Act of 1884/5 granted the vote to about sixty percent of men along with substantial reform of electorates.[88] Full male suffrage came in 1918 and female suffrage in 1928.[89] Ardent reform advocate Frederic Harrison viewed the changes of 1867, insignificant compared to manhood suffrage, as having moved the 'legal balance of power from the wages-paying to the wages earning' and that 'a new power, a new tone, new possibilities exist'.[90] The reform of the 1880s, though still only bringing voting rights to sixty percent of men, was described by radical liberal Joseph Chamberlain as a 'revolution which has been silently and peacefully accomplished'.[91] *The Economist* agreed, terming it a 'pacific revolution'.[92] And in a lavish statement, suitable for publication in the *Herald* in 1861, the Conservative Lord Randolph Churchill saw it as a 'turbulent and irresistible torrent ... towards some political Niagara, in which every mortal thing we know will be twisted and smashed beyond recognition'.[93]

And yet the primary basis of the mid-nineteenth-century liberal suspicion of

[83] A fine illustration of this is seen in the speech of G. A. Lloyd at his farewell dinner prior to departing for England in March 1855. Indeed the entire evening is an insight into being British in Australia, an event Fairfax chaired in honour of Lloyd. See *Proceedings of the Farewell Dinner to George A. Lloyd Esq. JP* of March 1855. Also recorded in the *Herald*, 29 March 1855. See also Hassam, *Through Australian Eyes*, pp. 9-29.
[84] J. Fairfax, *The Colonies of Australia*, 1852, p. 18.
[85] At a Congregational Union Meeting cited by the *Examiner*, 23 December 1843. In West, *The History of Tasmania*, A. G. L. Shaw (ed.), p. xvi.
[86] D. G. Wright, *Democracy and Reform, 1815-1885*, Longmans, Harlow, 1977, pp. 50-51.
[87] J. V. Beckett, *The Aristocracy in England, 1660-1914*, Blackwell, Oxford, 1986, p. 459.
[88] D. Cannadine, *The Decline and Fall of the British Aristocracy*, Yale University Press, New Haven, 1990, pp. 39-40.
[89] Hirst, *Australia's Democracy*, p. 339.
[90] In W. L. Guttsman (ed.), *The English Ruling Cla*ss, Weidenfeld & Nicholson, London, 1969, pp. 171-172.
[91] Cannadine *The Decline and Fall of the British Aristocracy*, p. 41.
[92] The *Economist*, 6 December 1884.
[93] Cannadine, *The Decline and Fall of the British Aristocracy*, p. 41.

democracy was more fundamental than any disdain for republicanism or the lack of British precedent. Liberals rejected democracy for fear it would crush liberalism. Many liberals feared manhood suffrage would result in the replacement of one tyranny, one privileged class, for another. They feared moving in the space of a few short generations from the tyranny of aristocratic privilege to the tyranny of the working class. As Manning notes, liberals appreciated 'that the will of a majority can be every bit as despotic as that of a minority'.[94] Similarly, McClelland writes 'when aristocracy had been in control of the state it ... used that control to enrich itself'.[95] Consequently, liberals thought 'there was no reason to suppose that a mass working-class electorate would not see its control of the state, if it ever got it, in its own interest as a class'.[96]

Living in the shadow of revolutions, one vital aspect of the liberal fear of tyranny was fear of the 'mob'. This was a deeper fear than an abhorrence of violence. Mob violence and even crowd politics represented the antithesis of the liberal vision of a tolerant society of rational men.[97] A society where opinion was encouraged to ferment and form as the vital prerequisite for political reform. McClelland summarises the liberal fear of the mob: 'When the crowd claimed to be the people, it was coming perilously close to claiming that it could do no wrong: *vox populi*, *vox dei* ... What some saw as lynch law was for others the beginning of a democratic exercise in popular sovereignty'.[98] Liberals feared that democratic theory appeared to legitimise the crowd and nurture a intellectual and cultural homogeneity.[99]

The liberal fear of democracy was exemplified in the colonies by the proprietor of the Melbourne *Argus*, Edward Wilson. Wilson had been an outspoken supporter of manhood suffrage in Victoria but soon published doubts regarding it in a pointed exchange with *Argus*

[94] Manning, *Liberalism*, p. 51.
[95] McClelland, *A History of Western Political Thought*, p. 439.
[96] McClelland, *A History of Western Political Thought*, p. 439.
[97] McClelland, *A History of Western Political Thought*, p. 662. A. J. P. Taylor notes the liberal fear of anarchy and how liberals rallied to crush revolutions across Europe in 1848 in *Europe: Grandeur and Decline*, Penguin, Harmondsworth, 1967, pp. 28-30.
[98] McClelland, *A History of Western Political Thought*, p. 668. As noted, West described the idea of the 'voice of the people' being 'the voice of God' as a 'prodigious lie' and warned against a momentary majority being used too aggressively by politicians. *Herald*, 21 January 1858 see also 21 September 1861. Similarly, Girvetz, *The Evolution of Liberalism*, says of nineteenth-century liberals: 'All liberals agreed that suffrage is a necessary check on the tyranny of government. But some of them wanted class suffrage and others wanted mass suffrage. Some feared the tyranny of the mob much more than they feared the tyranny of the state' (p. 120).
[99] McClelland, *A History of Western Political Thought*, pp. 667-668. J. S. Mill stressed the fear of conventionalism and cultural uniformity.

editor George Higinbotham.[100] Wilson knew the class legislation of the aristocratic oligarchs of past generations had been ruinous but feared that unqualified manhood suffrage, that is, representation by population alone, would lead to a 'form of tyranny more triumphant and more merciless than ever'.[101] Similarly, citing Burke and de Tocqueville, the *Herald* offered: 'A large section of our most ardent reformers have felt that there is a point where extremes meet, and where an autocrat and a multitude exercise precisely the same tyranny'.[102] Wilson thought 'class legislation in favour of the greater numerical proportion of the people themselves seems irremediable. I can imagine no power likely to cope with a form of tyranny resting upon a basis as wide as this'.[103] Yet Wilson argued that he affirmed 'Democracy, not its miserable counterfeit — government by crowd'.[104] To Wilson, true democracy was not one-man one-vote but all interests gaining representation in parliament.

What bothered liberals like Wilson, Fairfax and West about democracy was its potential to crush liberty. Contemporary political philosopher and historian of liberalism John Gray writes: 'Unlimited democratic government, from a liberal point of view, is rather a form of totalitarianism'.[105] This expresses the basic fear of nineteenth-century liberals of a form of democracy arising that was contemptuous of constitutional restraints and would overturn property rights and oppress individual liberty.[106] John West had no doubts the future would be democratic, but would it also be liberal? In 1855 the *Herald* insisted: 'The inevitable tendency of the colonies is to the development of democratic power. Those who desire to influence the opinion of others, or to fill stations of trust, must recognise this truth, or they

[100] As proprietor of the *Argus* Wilson gave his editors editorial independence. Wilson thought Higinbotham too radical but, ironically, became even more perplexed by the conservatism of Higinbotham's successor, H. E. Watts. Apparently Watts so annoyed Wilson that he claimed 'really one felt almost impelled to head a mob to go and break one's own office windows'. G. Serle, 'Wilson, Edward (1813-1878)', *ADB*, vol. 6: 1851-1890, R-Z, G. Serle, R. Ward (ed's), Melbourne University Press, Melbourne, 1966, p. 414.
[101] Cited by the *Herald*, 4 June 1857.
[102] *Herald*, 4 June 1857. See also the eloquent article published in the *Herald* titled 'The Progress of Democracy', 18 December 1860 (note, published at the height of debate over the Robertson land acts). For other colonial critique of manhood suffrage and democracy, see: W. Lockhart Morton, 'Tyranny of Democracy in Australia', *Victorian Review*, vol. V, November 1881 - April 1882, Melbourne, pp. 603-610 and James F. Hogan, 'Manhood Suffrage in Victoria', *Victorian Review*, vol. II, May 1880 - October 1880, pp. 522-533. Hogan rejected manhood suffrage as being a liberal ideal.
[103] Cited by the *Herald*, 4 June 1857. Wilson proposed a return to the principle of representation of interests and developed various schemes by which this might be implemented. He prepared differing schemes for Victoria and for England, with each identifying specific 'interests' (8 in Victoria, 19 in England) apportioning each an equal number of parliamentary representatives. 'Interests' included miners, squatters, unskilled labourers, women, landowners, townspeople. See the *Herald*, 11 May 1858 and Serle, 'Wilson, Edward (1813-1878)', p. 414.
[104] Cited by the *Herald*, 11 May 1858.
[105] Gray, *Liberalism*, p. 41.
[106] Gray, *Liberalism*, pp. 73-74. See also Barker, *Politics, Peoples and Government*, p. 49.

will be assuredly defeated'.[107] But for democracy to also be liberal it had to express more than the 'will of the people'; for a society can be democratic without being liberal. The *Herald* believed freedom and a growing franchise were not incompatible: 'Let us have liberty as perfect as laws can secure it to us; but let us take care that the form that approaches us under the name of Liberty is not, after all, that goddess whose fatal wand turned men into swine'.[108] West said of Britain in August 1861 that despite being 'aristocratical' the 'whole tendency of its modern laws is to transfer the weight of taxation from the poor to the rich, and to regard with increasing care the rights of labour and the welfare of the people'.[109] However, West continued:

> Direct representation would of course enable the masses to take the law-making into their own hands, and to carry out their own theories. But it is almost certain that, if unrestrained, they would carry out violent and ill-considered changes that would end in ruin to themselves.[110]

Such comments are easy to ridicule as an expression of social conservatism or a paternalistic *bourgeois* contempt for 'the people'. However, several points mitigate this criticism. Firstly, the political views of West and his generation of liberals were formed in the Burkean-described shadow of the excesses of the French Revolution. This revolutionary terror was only compounded by France's continued inability over the next half-century to arrive at a liberal midpoint between monarchical and military despotism. West aptly implied that France experienced 'government by despotism, balanced by occasional revolutions'.[111] The anarchy arising from the revolutions across Europe in 1848 cemented this perspective.[112] To West and colonial liberal-conservatives, an all-conquering argument, however pragmatic (and indeed in

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[107] *Herald*, 16 October 1855.
[108] *Herald*, 4 June 1857.
[109] *Herald*, 2 August 1861.
[110] *Herald*, 2 August 1861. This was similar to the comment of James Martin in 1853 that 'by giving uncontrolled power to the masses, you give them the means, not of protecting their rights, but of violating all rights, including their own'. Cited by Gascoigne, *The Enlightenment*, p. 58. On the hustings during the December 1860 election, dominated by debate over land reform, Martin argued there was indeed a crisis but it was not so much about the land but the composition of Parliament. Martin insisted: 'We knew that owing to our advancing progress in political affairs, and to the enlargement of the franchise, there was unfortunately, in the absence of that education which we desired to see pervading the masses, a tendency downwards ... We should send men into the Assembly who were not the delegates of the noisiest and most ignorant of the masses, but those who were capable of forming an Independent opinion of their own, and were able to express it ... he would appeal to all ... who valued the free institutions of the mother country, to do all in their power to send in men who would form a conservative Legislature ... [one] ... not swayed by angry popular impulses ... He believed that those who promised to do that were the true friends of the working classes'. East Sydney Election: Nomination of Candidates. *Herald*, 6 December 1860.
[111] *Herald*, 11 June 1857.
[112] Arblaster, *The Rise and Decline of Western Liberalism*, pp. 266-267.

good measure *because* it was pragmatic), in favour of Britain's more gradual approach to reform was that it worked. It brought reform without instability. Secondly, the momentum towards democracy, as seen in measures such as manhood suffrage, was untried. It is difficult living after an event to understand the uncertainly of those living before it. McClelland comments: 'Friends and enemies of democracy could only guess at what the practice of democratic politics was going to be like'.[113] Here, the perspective of colonial politician W. J. Napier is helpful. From the vantage point of 1882, Napier claimed the idea that conservatism and manhood suffrage 'could not possibly coexist has been considered axiomatic. But colonial experience fails to verify this assumption'.[114] Thirdly, the extinction of liberal values within twentieth-century communism and national socialism suggests the abstract fears of mid nineteenth-century liberal theorists for the future were far from unfounded.[115]

In support of its concerns with democracy, the *Herald* drew upon prominent liberal political theorists such as J. S. Mill and de Tocqueville.[116] The *Herald* discussed Mill's account of 'the struggle between individualism and conventionalism'[117] and the fear of democracy in Mill's pamphlet 'Thoughts on Parliamentary Reform':

> A considerable portion of the work is an eloquent plea for the preservation of liberty, and a lament over its decay; the tyranny he deplores and deprecates, not being that of kings or aristocracies, but that of the great mass of the people who constitute society, and who, in their various organisations, so harness each other down to tame and obedient movements, as to leave no freedom for individual action.[118]

Although with respect to manhood suffrage the *Herald* was relatively conservative in the land-inflamed colonial context of 1858-61, a gradualist approach to the extension of the franchise was not a conservative position in the mid nineteenth-century. McClelland captures this well:

> Liberalism was neither radically democratic nor conservative ... Caution was therefore to be the liberal watchword where extension of the franchise was concerned ... A too hasty extension ... could only benefit liberalism's own enemies to the left and to the right.[119]

Furthermore, when commenting about liberalism's approach to political change in

[113] McClelland, *A History of Western Political Thought*, p. 640.
[114] W. J. Napier, 'Colonial Democracies', *Victorian Review*, vol. VI, May 1882 - October 1882, p. 81.
[115] This last point does not imply that manhood suffrage or democracy somehow led to fascism or Stalinism. The point is broader, namely, that instituting rapid political change might bring unwelcome or unforeseen consequences.
[116] See the *Herald's* discussion of Mill's 'Thoughts on Parliamentary Reform', 19 and 31 May 1859.
[117] The *Herald's* terminology, 31 May 1859.
[118] *Herald*, 31 May 1859.
[119] McClelland, *A History of Western Political Thought*, p. 439.

general, McClelland suggests that liberalism's apparent 'conservatism' was due to its 'willingness to allow institutions to wear thin'.[120] Liberals preferred change to be well thought out, incremental, and applied only after a 'significant body of opinion had formed around it'.[121] This required patience, a commodity in short supply among radicals and democrats. The tendency of some historians to label the *Herald's* preference for a tried and tested approach to land reform, or for franchise extension over manhood suffrage, as 'conservative', suggests a failure to understand liberalism. Indeed, the historiography of colonial Australia fails to draw a clear enough distinction between 'liberalism' and 'democracy'. They were not synonymous.[122] It is somewhat inconsistent for historians to acknowledge that most liberals were wary of, or rejected, manhood suffrage,[123] but then portray colonists who rejected manhood suffrage as 'conservatives'.[124] The frailty of this is seen in considering colonists such as Peter Lalor, leader of the Eureka stockade. Lalor was among colonial liberals who rejected manhood suffrage and said of democracy:

> Do they mean Chartism, or Communism or Republicanism? If so, I never was, I am not now, nor do I ever intend to be a democrat. But if democracy means opposition to a tyrannical press, a tyrannical people, or a tyrannical government, then I have been, I am still, and I ever will remain a democrat.[125]

The restive relationship between liberals and manhood suffrage is finely illustrated in the thought of that doyen of nineteenth-century British liberalism, William Gladstone. While Fairfax was busy in the 1830s with his liberal *Leamington Chronicle*, the young Gladstone, only four years Fairfax's junior, was busy promulgating an idealised defence of the established church and the nexus between church and state, exemplified in the relationship between the Tory Party and the Church of England.[126] Gladstone's relatively speedy acceptance of the

[120] McClelland, *A History of Western Political Thought*, p. 436.
[121] McClelland, *A History of Western Political Thought*, p. 436.
[122] As Wedderburn insisted. See Wedderburn, 'English Liberalism and Australasian Democracy', p. 44.
[123] Stuart Macintyre expresses this well: 'while these liberals sought representative government, they were not yet thorough-going democrats: they wanted a franchise restricted to those capable of exercising it, and feared the danger of mob tyranny as imperilling the rights of property on which they believed liberty depended'. S. Macintyre, 'Liberalism', p. 388. See also Hirst, *Australia's Democracy*, pp. 343-344 and Hirst, *Strange Birth*, p. 53. T. H. Irving, '1850-70', *A New History of Australia*, F. Crowley (ed.), Heinemann, Melbourne, 1974, pp. 125-126 suggests merchants called themselves 'liberals' and thought 'democracy and responsible government [ought to] be reached by steady and tested steps'.
[124] As discussed in the introduction above, this is the inevitable result of the term 'liberal' being cut off from its ideological heritage and applied largely in a factional or partisan sense.
[125] Cited by Hirst, *Strange Birth*, p. 55.
[126] See W. E. Gladstone, *The State in its Relations with the Church*, John Murray, London, 1838 and *Church Principles Considered in Their Results*, John Murray, London, 1840. The *Herald*, 26 July 1866, claimed Gladstone had 'started from the high ground of an impracticable conservatism and had descended to the level of fact and possibility'. On Gladstone, see also the *Herald* 23 March 1864.

redundant and anachronistic character of his own ideals personified the paradigm shift of the mid nineteenth- century toward a pluralistic society and its concomitant, the drift toward modern liberal democracy. As Liberal Party leader, Gladstone was Prime Minister from 1868-74, 1880-85, 1886, 1892-94 and is considered by many to have been 'the greatest of all the Victorians'.[127] Gladstone's commitment to liberal reform and a pluralistic society was seen in his support for the extension of the franchise, the disestablishment of the Protestant Church of Ireland, the abolition of church rates in 1868, and many reforms in fiscal policy, administrative procedures, and trade policy. Yet not even Gladstone could resolve the new tensions created by the trend toward democracy. Gladstone pondered the question; does a government exist to lead, or is it simply there to mirror the transitory feelings of society? Gladstone wrestled with this in a letter to Henry Manning, stating 'the very idea of Government be debased by supposing that it is only to be actuated by and not also to actuate the people'.[128] Elsewhere Gladstone said: 'according to the modern notion the State is a club; the Government is the organ of the influence predominating in the body' and thus open to the 'tyranny of majority rule'.[129] Gladstone saw no easy answer to these tensions. Few did. The politicisation of the masses was untried. However, Gladstone and gradualist mainstream liberals like him in Britain, with whom the *Herald* is most properly grouped, had the luxury of this social experiment being introduced progressively between 1832 and 1918. This was not the case in New South Wales. In part, the *Herald's* hyperbole was political, coming as it did in an attempt to influence the outcome of elections and legislative debates and votes.[130] It was also aggravated by events in the colony itself, such as events surrounding the Robertson land laws, the treatment of Chinese workers, and the growth of patronage. But in good measure the *Herald's* concern also reflected the more general suspicion of mid nineteenth-century liberalism towards democracy.

[127] D. L. Edwards, *Christian England*, vol. iii, Fount Paperbacks, London, 1984, p. 219.
[128] Cited by D. Nicholls, *Church and State in Britain since 1820*, Routledge and Kegan Paul, London, 1967, p. 62.
[129] Nicholls, *Church and State*, p. 62.
[130] This is likely in view of the fact that West had conceded in his *History of Tasmania* (1852) that 'the widest possible extension of suffrage cannot be long resisted, and qualifications for office founded on property will inevitably break down'. See West, *The History of Tasmania*, A. G. L. Shaw (ed.), p. 528.

Strands of Thought within the *Herald* less hostile to Manhood Suffrage and Democracy

Although the *Herald* intensified its editorial position against manhood suffrage in the context of declining parliamentary standards and impoverished land law reform, it also included commentary more favourable to manhood suffrage. One article attributed to Henry Parkes was published on 3 March 1860, and titled 'The Conservatism of Democracy'.[131] Though supporting manhood suffrage, Parkes suggested:

> The conservatism of democracy ... is a power to be built up more by the ethics of political life than by legal charter: a matter more of personal authority than of legislative enforcement. Its great end should be to ensure to the country the government of its worthiest citizens. By whatever name you may call it, your free government is a delusion, if it be not this.

Parkes believed this could only be achieved by education:

> Education, then, is the element of our conservatism — education, diffusive and cheap, for the rising generation — education, stimulating and invigorating for every class of citizens. ... The standard of public merit must be raised, and talent in alliance with virtue accepted as the passport to our places of distinction and power.

Parkes concluded by counselling 'Australian conservatives' to 'accept our institutions on their broad democratic basis' and 'labour in good faith in the creation of a kindred aristocracy — that of intellect and virtue'. The crucial distinction between Parkes and the editorial stance of the *Herald* was that Parkes believed education could be conferred alongside manhood suffrage rather than as a prerequisite. Both saw education as a necessity to its proper functioning and new institutions such as vote by ballot presupposed basic literacy.[132] The radically-minded W. A. Duncan noted in his dairy a quote from de Tocqueville that 'freedom, public peace, and social order itself will not be able to exist without education'.[133] For liberal-conservatives such as James Macarthur, manhood suffrage was acceptable so long as adequate provision was made for general education.[134] And the *Herald* hinted that manhood suffrage might be appropriate in the future, arguing:

> The theory of bare numbers may be exceedingly pleasing to the imagination; but unless a people be thoroughly educated, unless property be universally diffused — unless voters

[131] Walker, *Newspaper Press*, pp. 69-70, attributes articles designated with an Omega sign (Ω) to Parkes.
[132] Atkinson, *The Europeans in Australia*, vol. 2, pp. 256-257.
[133] Diary of W. A. Duncan mid-1840's.
[134] Ward, *James Macarthur*, pp. 240-41.

> have fixed habitations and a permanent stake in the country, the reign of democracy is the domination of ignorance over knowledge.[135]

That there is some truth in these comments is perhaps seen in the fact that the *Herald's* 'prescription' is precisely what occurred throughout Australia in the second half of the nineteenth-century: free basic education and a broader ownership of property proliferated. For most liberals, education came to replace property as the essential prerequisite to the franchise.[136]

Even more pointedly, in January 1862 the *Herald* republished from the London *Daily News* a letter from 'A Colonist,' titled, 'The Political Prospects of Our Australian Colonies'.[137] This letter was an even more spirited defence of manhood suffrage and democracy than Parkes' article. It stressed the sociological differences between Britain and her colonies, where 'the middle class is not separated, as in Europe, by a sharply-defined line from the lower orders'.[138] As a consequence, 'the greatest extension of the suffrage must always contain a conservative element, which does not, and cannot exist in England'. Given the 'high rate of wages' in Australia, the 'humblest labouring man' knew that with 'ordinary industry he must one day become the possessor of property'. With a greater interest in society, working men would not risk this by resort to anarchy: 'men so situated may with safety be entrusted with the suffrage' and will not sponsor 'legislation either subversive of the foundations of society or directed against the rights of property'. The letter concludes by claiming democracy as unfolding in the Australian colonies 'will assuredly neither arrest the progress nor dim the future of the most promising possessions of the Crown'.[139]

This was the most optimistic commentary on democracy in the *Herald* and much nearer the mark in predicting the outcome of colonial democracy than the editorial stance of the *Herald*, poor parliamentary standards and patronage notwithstanding. By any standard of the period, the Australian colonies were not only economically prosperous but provided their

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[135] *Herald*, 7 May, 1858.

[136] Whig/liberal historian and politician Thomas Macaulay claimed in 1842 to support some of the Chartist's six points and that he could live with all except universal suffrage. Macaulay objected to 'universal suffrage before there is universal education'. Cited in Smith, *Liberty and Liberalism*, pp. 168-171. Education and growth in 'character' or 'moral improvement' were commonly held out as prerequisites of the franchise. Bellamy notes 'In liberal eyes the political ascendancy of the masses had to be linked to their moral improvement if a destructive anarchy was not to result'. Bellamy, *Liberalism and Modern Society*, pp. 12-13, see also pp. 22, 29, 35.

[137] *Herald*, 24 January 1862.

[138] 'The Political Prospects of our Australian Colonies'. Published in the *Herald*, 24 January 1862.

[139] 'The Political Prospects of our Australian Colonies'. Published by the *Herald*, 24 January 1862. Victorian politician W. J. Napier argued similarly in 1882. Napier claimed the 'stolid sensible shop-keeper or artisan who acquires a little property, is a bulwark against disorder, or too-adventurous change'. Napier, 'Colonial Democracies', p. 84.

citizens with much personal liberty. The 'Political Prospects' letter played a similar role to the article published at the height of debate over the Robertson land bills, 'Will the Squatters be Ruined by Free Selection?'.[140] Both were long and passionate entreaties presenting views at odds with the editorial position of the *Herald.* Although maintaining its at times fierce critique of government and parliamentary standards well after the climax of May 1861, the *Herald* nonetheless became a little more sanguine. In May 1866 it responded to Robert Lowe's latest denunciations of colonial life by claiming: although 'the worst men possible have been often successful at the poll ... it is probably true that so far as the objects of government are contemplated they are better secured than might be expected'.[141]

Democracy and Local Government

One important, broader aspect of the *Herald* and West's stance on democracy was its commitment to local government. Matters related to parliamentary democracy tend to dominate discussion on democracy and it is easy to miss that in mid nineteenth-century liberal theory local government was a context for a healthy democratic impulse. West saw any system of government as unsatisfactory 'which does any thing for the people which they can do for themselves, or that takes out of the hands of a town, a district, or a colony, affairs which are limited to their interest'.[142] This is where Atkinson's broader use of democracy is helpful. The values of independence and self-development could gain prominent and natural expression in local government. There was in West's thinking 'pro-democratic' as well as 'pro-conservative' elements.[143] Hirst notes that liberals believed:

> popular participation could be encouraged through local government. Here the people could learn the civic virtues and become more self-reliant and less dependent on the central government. The liberal state, in turn, would become more secure if free institutions permeated the whole society.[144]

However, Hirst then suggests that 'after the liberals came to power local government became weaker, not stronger'[145] and 'local institutions had few responsibilities or were non-existent;

[140] *Herald*, 29 November 1860.
[141] *Herald*, 28 May 1866. In 1878 editor Andrew Garran, after stating colonial politicians generally lacked appreciation of 'the need for compromise and moderation', nevertheless concluded: 'It has taken centuries to develop the state of affairs that exists in England. It would be a marvel if the colonies could spring to the same level in a generation'. *Herald*, 12 December 1878 cited by Dickey, *Politics in New South Wales, 1856-1900*, p. 76.
[142] Cited in Melleuish, *John West's 'Union Among the Colonies'*, pp. xxi-xxii. See also pp. xxiv-xxvi.
[143] Melleuish, *John West's 'Union Among the Colonies'*, p. xxvi.
[144] Hirst, *Strange Birth*, p. 195.
[145] Hirst, *Strange Birth*, p. 195

the predominant form of the state became a centralised bureaucracy'.[146] In a related vein, Melleuish comments that for 'West, checks and balances were informal, social and political in nature rather than legalistic mechanisms built into a formal constitution'.[147] It was thus in characteristically liberal fashion that West and the *Herald* spoke out against the decline of local government.[148]

Female Suffrage

Although a few decades before it became a serious political issue, an interesting aspect of the *Herald's* discussion of manhood suffrage were several references to female suffrage. The *Herald* appears to have neither supported the idea of female suffrage nor mocked it. Perhaps spurred on by J. S. Mill's support for a future universal suffrage, the *Herald's* principal point was that if representation were to be based upon population alone then logic required it include female suffrage. The *Herald* noted the old cry for 'universal' suffrage had been replaced by 'manhood' suffrage[149] and could see no rational basis for this: 'Women ... are often more intelligent than ordinary men, nor is it very easy to see why a woman, who supports herself by her own industry, should not have a vote in legislation'.[150] If the simple fact of being human, paying taxes, and obeying laws were to be advanced as the basis for the franchise, it ought be granted to women. The *Herald* observed, of course, that no such calls for the enfranchisement of women were being made. As an even greater barb, the *Herald* discussed granting the franchise to the Chinese and others foreigners.[151] Once again this was a polemical device against proponents of manhood suffrage, whose advocates the *Herald* claimed did 'not imagine ... [agreeing] to the Chinese franchise, however much they may exaggerate the importance of their own'.[152]

The Quality of Parliamentary Governance in NSW 1856-61

Another difficulty facing the *Herald* in the first few years of manhood suffrage was the general conduct of the LA, of which it was highly critical. Melleuish notes that *Herald* editor

[146] Hirst, *Strange Birth*, p. 273.
[147] Melleuish, *John West's 'Union Among the Colonies'*, p. xxxi.
[148] On local government, see the *Herald*, 16 June 1857, 2 November 1857, 29 October 1858, 25 April 1859, 25 August 1862, 28 September 1863, 7 January 1864.
[149] *Herald*, 23 June 1857.
[150] *Herald*, 23 June 1857 (see also 20 January 1858). On Mill and female suffrage, see the *Herald* 19 May 1859.
[151] *Herald*, 12 June 1856.
[152] *Herald*, 12 June 1856. See also the *Herald*, 31 July 1858 and an article 'Signs of Popularity', *Herald* 27 March 1860.

John West has been stigmatised as a 'conservative' due to the *Herald's* assault on the standard of parliamentary government from 1856. Melleuish also points out the irony of acknowledged liberals, such as Deniehy, being 'equally unimpressed' at the lack of 'gravitas'.[153] In September 1861 West sketched a brief history of responsible government to that date. It highlighted the enervating effects of disunity, factionalism and immoderate behaviour upon the standard of government.[154] A few months earlier, after the attempted swamping of the LC in May 1861, West wrote:

> The real guarantee for prosperity and for good government lies in the moral character of the people. Those only can possess liberty who are fit to enjoy it, and who understand its duties as well as it rights, and who know that it requires *toleration, equity, and truth*.[155]

Here West illustrates classic liberal theory, exemplified by J. S. Mill, regarding the cultural and moral dimensions of liberty.[156] West sought to counter the real possibility of democratic power bereft of liberal virtue. As Bellamy suggests, 'In liberal eyes the political ascendancy of the masses had to be linked to their moral improvement if a destructive anarchy was not to result'.[157] West continued:

> All public men who educate the people to the exercise of these virtues ... render a service to their generation, whether they may happen to be popular or unpopular, in Opposition or in Government. All who discard these virtues themselves, and stimulate the people to disregard them also, are enemies to the future prosperity of the country, even though they may be successful candidates, popular ministers, and the heroes of so-called reforms.[158]

One particular concern of West and the *Herald* was the illiberal development of patronage in colonial government, particularly under Cowper.[159] In 1863, Cowper wantonly declared: 'What was the object of placing parliamentary patronage in the hands of a Ministry if it was not that they should bestow it upon their friends'. Cowper lamely qualified this by

[153] Melleuish, *John West's 'Union Among the Colonies'*, p. xiv.
[154] *Herald*, 7 September 1861. For more on the *Herald* and parliamentary conduct, see 18 June 1857; 25 June, 15, 16 August 1859; 21 May 1861; 28 May, 27 July 1866; 19 September 1873. Articles: 'Responsible Government', 12 November 1859; 'The Legislative Council: Whom Shall we Elect and How', *Herald*, 8 October 1860; 'Parliamentary Manners and Morals', 6 February 1861.
[155] *Herald*, 17 May 1861. Emphasis added.
[156] Barker, *Politics, Peoples and Government*, p. 49. See also Bellamy, *Liberalism and Modern Society*, pp. 12-13, 22-35.
[157] Bellamy, *Liberalism and Modern Society*, pp. 12-13. John West expressed this in an editorial complementing the colony on its conduct during the first elections under responsible government in 1856. West directly linked moral virtue with the franchise, claiming the 'extension of the franchise was fully vindicated by the moral conduct of those who enjoy it'. *Herald*, 29 March 1856.
[158] *Herald*, 17 May 1861. Emphasis added.
[159] On patronage, see the *Herald* 27 October 1855; 6 June 1858; 5 September 1861, 25 August 1863, 29 December 1865. Articles 'Administrative Liberalism' 6 March 1863 and 'Liberalism in Apogee' 10 March 1863 by the same author designated with 'X'.

adding 'so long as they made good appointments'. The most arresting aspect of this is that Cowper's remarks were made in the LA and drew no objection.[160] The decidedly contra-liberal growth of civil service patronage came at the same time Britain was introducing merit-based entry for civil service as part of its liberal reform agenda.[161] The *Herald* condemned Cowper's orchestration of patronage as 'the construction of an official aristocracy — a class which would be Conservative from its sense of vested interest'.[162]

Much colonial historiography affirms the *Herald's* often bleak verdict of the early years of responsible government. Powell claims Cowper and other 'liberals' engaged in 'indiscriminate obstructionism' against Donaldson's administration, the first under responsible government.[163] Hirst's *Strange Birth of Colonial Democracy* is a diatribe against the low parliamentary standards of the LA after manhood suffrage, and suggests colonists 'made public life something to be ashamed of'.[164] Melleuish describes the period under Cowper as 'not so much the triumph of liberalism but its vulgarisation'.[165] Loveday and Martin's *Parliament Factions and Parliament*, notable for a more sanguine view of the achievements of colonial government, nonetheless concede that many contemporary political observers were disgusted by colonial politics.[166] And Connolly, although affirming the 'reforms' leading up to 1861, nonetheless condemns politics in the period thereafter, claiming it 'revolved increasingly around personalities, public works, patronage and the pursuit of power for its own sake'.[167]

Conclusion

How is it best to describe the *Herald's* position on manhood suffrage and democracy? Are the unqualified descriptions of 'conservative' common within sections of the historiography

[160] Cited by Powell, *Patrician Democrat*, p. 129. See Powell's further comments on pp. 129-133.
[161] Melleuish, *A Short History of Australian Liberalism*, p. 6. See also Hirst, *Strange Birth*, pp. 177-181 where Hirst refers to 'Cowper's patronage machine'. Golder's *Politics, Patronage and Public Works* pp. 141-158, provides an excellent sketch of changes to public service recruitment and promotion and the role of patronage. Without directly making the connection to liberalism, Golder notes that the changes to public service entry in Britain 'ran counter' to Cowper's initiatives (p. 143).
[162] 'Liberalism in Apogee'. *Herald*, 10 March 1863.
[163] Powell, *Patrician Democrat*, p. 68. Of this early period the *Herald* claimed: 'There are men in the House whose tempers rather than their ideas are at variance; whose personal antipathies are the only cause of their political opposition; who only gratify resentment by voting in opposition to their convictions'. *Herald*, 18 June 1857.
[164] Hirst, *Strange Birth*, p. 273, see also pp. 175-195. See also Hirst, *Sense and Nonsense*, pp. 294-298.
[165] Melleuish, 'The Strange Birth of Colonial Democracy revisited', p. 3.
[166] Hirst, *Strange Birth*, p. 191. See Loveday and Martin, *Parliament Factions and Parties*, the introduction and ch. 2 in particular.
[167] Connolly, 'The Middling-Class Victory in New South Wales, p. 385.

appropriate?[168] The *Herald* of the 1850s and 1860s clearly rejected suffrage as a 'natural right' and population alone as the basis for parliamentary representation. It was, however, a consistent supporter of the ballot and an extensive franchise. It also mooted manhood suffrage subject to the broad provision of basic education. In Britain it would have been at the progressive end of the strong middle-class liberal reform movement: neither conservative nor radical but unquestionably liberal. In the colonial context, the best term to describe the *Herald* on the political representation is 'liberal-conservative'. The tendency of historians to generally limit colonial political nomenclature to the terms 'liberal' or 'conservative' has been unhelpful. It obscures the more democratic radicalism of liberals such as Parkes and Robertson and, equally, obscures the essential mainstream liberalism of those colonists who were conservative in only a local and comparative sense.

Yet despite this careful contextualising, it remains true, as Walker says of the *Herald* of 1860-61, that the 'melodrama of the *Herald* was overdrawn'.[169] By 1866 the *Herald* conceded that despite manhood suffrage returning lesser-qualified members to the LA, the standard of governance was not as bad as it had feared.[170] The land laws had not crushed the squatters but in fact greatly augmented their strength (not that the *Herald* thought this a good result, just better than squatting being annihilated). Nor were there any further legislative disasters to match the Robertson land acts. Patronage and a low standard of parliamentary conduct in the LA continued to rankle the *Herald* (and many others).[171] But the political agenda had by and large moved on to issues like national schooling and the termination of

[168] For example, see Walker, *Newspaper Press*, pp. 26, 36-37, 50, 58-59; Clark, *A History*, vol. iii, pp. 286, 415, 423 and vol. iv, p. 99; Hirst, *Strange Birth*, p. 4; Travers, *Grand Old Man*, pp. 20, 37, 74; Cryle, *The Press*, pp. 40-41, 46; Baker, *Days of Wrath*, p. 456.
[169] Walker, *Newspaper Press*, p. 70.
[170] *Herald*, 28 May 1866.
[171] A telling eyewitness account of colonial LA conduct is provided by Thomas Gainford. Subsequently a Congregational minister in NSW and friend of Fairfax, Gainford first settled in the colony of Victoria. He was despatched as a delegate of a regional association to witness proceedings of a proposed land bill in the Victorian LA in 1857. Here is Gainford's account: 'I had pictured to myself the gentleman who was introducing the new Land Bill ... eloquently addressing the members, who were rapt in attention ... and taking notes of the various points in his discourse, which they intended to enlarge upon, or speak against, as the case might be. How different was the reality! There stood the speaker, vainly endeavouring to gain the attention of his audience; one or two certainly appeared to be listening ... but the others paid no heed whatever. Some were sitting with their backs to him and reading the evening newspaper; some with their hats stuck on the back of their heads, and their feet resting upon the top of the bench in front of them; others were staring vacantly into space; while many were stretched out upon the benches, quietly sleeping off the effects of a late dinner. I was horrified. "Surely" I thought, "these can never be the men who, when seeking the suffrage of the people, promise to do so many things and pay such great attention to their wants;" but such they were'. Gainford was offered a position as an MP for his district and £200 p.a. but rejected it, saying he would not sit 'amongst such an assemblage' for £1,000 a year! See John and William R. Gainford, *Memoir of Incidents in the Life and Labours of Thomas Gainford*, George Allen, Kent, 1886, p. 133-134.

state-aid to churches, which the *Herald* supported. As early as May 1863 Fairfax was able to write to James Macarthur, then in England: 'You will be pleased to know that a better political feeling is springing up in the colony — a tendency to moderate conservatism'.[172] Walker neatly summarised the *Herald's* restored comfort with colonial politics and society, describing both the abolition of state aid in 1862 and the Public Schools Act of 1866 as 'measures of deep satisfaction' to Fairfax and West. Obviously Henry Parkes did not consider Fairfax or the *Herald* of the late 1860s out of step with public opinion or he would not have asked Fairfax to stand for the LA in 1869. Fairfax refused, writing to Parkes: 'I have come to the resolution of declining to stand for East Sydney. I am, however, very thankful to Sir James Martin, yourself and other friends for your estimate of my fitness. I believe my views would generally be with your party'.[173] Fairfax did, however, accept nomination to the Council for Education in 1871 and the LC in 1874,[174] his LC appointment coming nearly twenty years after declining Donaldson's offer of a place in the first LC of responsible government.[175] As Walker sagely concluded, 'Colonial liberalism was not so bad, after all'.[176]

[172] John Fairfax to James Macarthur, 21 May 1863. Macarthur Papers. For Macarthur's feelings on colonial politics, see Ward, *James Macarthur*, ch. 9, pp. 244-283.
[173] Fairfax to Parkes, 24 November 1869, Parkes Correspondence.
[174] Walker, *Newspaper Press*, p. 71.
[175] James Fairfax writes: 'When Responsible Government was introduced, Mr. Donaldson ... consulted my father as to the formation of the first Ministry, and offered him a seat in the Upper House, which he declined'. James Fairfax, *A Short Memoir of the Life of John Fairfax*, p. 24.
[176] Walker, *Newspaper Press*, p. 71.

Ch. 10. Conclusion: Political Nomenclature in Colonial Society and Colonial Historiography.

This chapter concludes the thesis by pulling together several revisionist strands regarding the nature of colonial liberalism, the reputation of the *Herald,* and the use of political nomenclature within colonial historiography.

'We are all Liberals here': Colonial Political Nomenclature

When English liberal Nonconformists like John Fairfax of the *Leamington Chronicle* emigrated to NSW, they entered a society where many of the liberal reforms they had zealously sought in Britain were battles already won or redundant causes. There were no religious grievances requiring amelioration, as there was no established church. Nor was there an aristocracy or a political apparatus built upon the hereditary principle. The Electoral Act of 1858 formally instituted manhood suffrage, which was a radical rather than a liberal ideal in Britain at the time. Manhood suffrage had both principled adherents and opponents among those traditionally labelled 'liberal' within colonial historiography. Some opposed to manhood suffrage in principle nonetheless accepted it, as it made little material difference as to who could vote.[1] Manhood suffrage thus largely arrived with neither fanfare nor controversy, in its own semi-accidental manner. However, the political system still fell well short of democracy, in its twentieth-century sense. Plural voting, a nominated LC, a higher property qualification for members of the LC, and the absence of the payment of members, saw to that. The ballot also came in 1858, the removal of state-aid soon after, as well as reforms in education. NSW was also committed to that central principle of nineteenth-century liberalism, free trade. These all pointed to a society whose liberalism was well advanced by the standards of the day. There were failures, such as patronage in the civil service, the treatment of Chinese workers, and corrupt land administration practices. The tendency towards extravagant government expenditure, criticised by Wedderburn, was also illiberal.[2] However, this was partly mitigated by the pressures placed upon government in a new society, such as with the provision of infrastructure, pressures acknowledged by liberal theorists. Furthermore, it was also natural for young and wealthy countries to give tangible evidence of their progress and civilisation in

[1] As discussed in ch. 9 above, due to inflationary pressures, as many as 90% of employed men in Sydney already qualified for the franchise prior to the 1858 Electoral Act.
[2] Wedderburn, 'English Liberalism and Australasian Democracy', p. 56.

the form of munificent government buildings. But overall, by any British (or wider-European) definition of the term 'liberal' in the 1850s and 60s, NSW was a decidedly liberal society. In an age of liberalism, the term 'liberal' constituted the high moral and political ground, and popular colonial politicians were quick to label their own measures as 'liberal' and opposition to them as 'conservative'.

The *Herald* was well aware of the polemical use of these terms and had much to say about colonial political nomenclature. It made clear an opinion that old world political party categories were useless in the colonies. In October 1855 it claimed, 'It is clear that the distinctions of European politics are unsuited to define colonial parties'.[3] In December 1855 it asserted: 'We do not believe that the political ideas of men differ now so far as to be readily classified. We have neither Whigs nor Tories, nor Radicals in any intelligible sense'.[4] Similarly, the *Empire* suggested it was difficult for the colony to produce true conservatives or radicals as there was nothing to conserve or to overthrow.[5] However, the era of responsible government and faction politics afforded politicians with too tempting an opportunity, and old world jargon abounded. In response, the *Herald* insisted that the differences between politicians such as Cowper, Donaldson, Plunkett and Manning were not primarily ideological. In mid-1857 Terence Murray referred to colonial High-Tories, earning this reply from the *Herald*:

> When, then, Mr. MURRAY rides the high horse and talks of a High Tory party, it would be acceptable to know who and where that party is. We have not a particle of sympathy with High Toryism; we never found it in the speeches of Messrs. THOMSON, MANNING, or PLUNKETT, of the old regime, and certainly not in Mr. DONALDSON, or Mr. DARVALL, of the new. The truth is, that [colonial] High Toryism is a delusion, and a calumny.[6]

Of even greater interest, the *Herald* added: 'There is not in practice any difference of opinion as to the direction and character of public policy — nothing, except as *what rate we are to proceed, and in what company*'.[7] Even during the height of the *Herald's* disappointment with the land laws, it argued that 'parties in colonies are not divided on known and recognised principles of government ... the great bulk of the people differ only in the *time and mode of*

[3] *Herald*, 16 October 1855.
[4] *Herald*, 20 December 1855. See also the *Herald*, 21 October 1856.
[5] Cited by Martin, *Henry Parkes*, p. 76.
[6] *Herald*, 3 June 1857.
[7] Emphasis added.

carrying out principles generally acknowledged'.[8] The *Herald* maintained this conviction. The October 1877 elections were extraordinary for City of Sydney electors rejecting both Premier Sir Henry Parkes and leader of the opposition Sir John Robertson. In commenting on the result, *Herald* editor Andrew Garran claimed: 'The electors of Sydney had not questions of Conservatism or Liberalism to decide. *We are all Liberals here*, though some of us profess to be of a purer type than others'.[9]

The *Herald* did not deny politicians like Cowper and Robertson the right to be termed 'liberal', despite believing some of their policies and practices inconsistent with liberalism. What the *Herald* objected to was the likes of J. H. Plunkett, James Martin and James Macarthur being labelled 'conservative' in a narrow or party sense. The *Herald* could be termed conservative in temper but this ought not be seen as inconsistent with liberalism. In fact, as has been discussed, liberalism's approach to reform set it apart from both conservatism and radicalism; from the former by persistently seeking reform and from the latter by urging a more cautious or tested approach. Liberalism occupied the middle-ground. Thus, the colonial 'conservatism' the *Herald* admired accepted the need for reform but was incremental and experimental in method. Colonial politicians who took this approach, although differing on particular issues, were sometimes termed by the *Herald* (and others) as 'liberal-conservatives'. On matters of electoral reform the *Herald* placed itself among them.

An editorial of 1858 met the topic of colonial political nomenclature head on:

> WHAT is a liberal? and what is an "advanced liberal?" What is the exact shade of difference? Will any body define the genus, or characterise the species? Our political nomenclature is sadly vague ... One man gets up on a hustings and calls himself a liberal, pointing at the same time the finger of scorn at his opponent as a conservative.[10]

The editorial then highlighted what might be termed differences in ethos, such as over the best method or the speed of reform, rather than any insurmountable differences as to the preferred outcome. It then claimed, it 'is amusing to note what different meanings attach to the word "liberal" in England and Australia'. At the time, English newspapers were citing 'far-going liberal members of Parliament' in Britain, who sought franchise extension, the ballot, a greater acknowledgement of population in political representation, boundary reform, and the abolition of property qualification for members of parliament as well as triennial parliaments. In response the *Herald* claimed:

[8] *Herald*, 20 July 1861. Emphasis added.
[9] *Herald*, 1 November 1877. Emphasis added.
[10] *Herald*, 22 February 1858.

> This radical manifesto ... is pretty well identical with the conservative creed in Australia. The "far-going liberals," if they were to show their faces in Sydney, would be hooted as bigoted tories, as enemies of human progress, as defenders of antiquated and obsolete ideas, as supporters of an aristocracy, and as opposed to the elevation of the masses ... Emigration must enlarge the intellect and make little minds great, or how else shall we account for ... our colonial ROBERTSONS and PIDDINGTONS are so much in advance of men like GILPIN, MIALL AND MORLEY— men whom the mother country ... regards as "far-going liberals".[11]

Similarly, the *Herald* in March 1863 published an article titled 'Liberalism in Apogee'. This highlighted the lack of articulation of political ideology from the self-styled 'liberal' politicians: 'The priests and prophets of "liberalism" have been somewhat mysterious on this point, and have never been much in the habit of encumbering themselves with definitions'.[12]

John West was the finest and most persistent voice objecting to the annexation of the term 'liberal' for personal political gain in the immediate post-responsible government era in NSW. West had this response to the political climate of mid-1861 and the passing of the Robertson land laws:

> Those who were liberals from their youth — whose origin is of the people, whose sympathies are with them — who never felt any warmer and stronger wish than to see their fellow-countrymen good, prosperous, and happy — are compelled to retreat upon the primary ideas of government, from the horrible monster which, under the name of liberalism, dishonours a holy cause ... When we consider that no parties dare call a night meeting in this city in opposition to the lowest demagogism, in defence of humanity or justice; and that it is only by the Press that any opinions or facts not popular can reach the public, we are the more impressed with the value and dignity of that great organ which can obtain a hearing and maintain the cause of the colony as a state against those who would deal with it as a conquest — *a Press which can call things by their English names*.[13]

This was no exaggeration. At this time, Hirst claims the '*Sydney Morning Herald* ... [was] ... the only conservative voice which could not be drowned out by hostile chanting'.[14] For a brief time at least, NSW had moved a long way from the liberal ideal of a society committed to free

[11] *Herald*, 22 February 1858. On colonial liberalism, see also the *Herald*: 18 June 1857; 12 May, 16 June 1858; 24 January 1860; 16 May, 20 July, 5, 12 September 1861; 6, 10 March 1863; 28 May 1866; 1 November 1877. Articles: 'The Conservatism of Democracy', 30 March 1860; 'The Progress of Democracy', 18 December 1860; 'Parliamentary Manners and Morals', 6 February 1861; 'Anarchy or Order — That is the Question', 5 June 1861; from the *Daily News* 'The Political Prospects of our Australian Colonies', 24 January 1862; 'Administrative Liberalism', 6 March 1863; 'Liberalism in Apogee', *Herald*, 10 March 1863.
[12] 'Liberalism in Apogee', *Herald*, 10 March 1863.
[13] *Herald*, 12 September 1861. Emphasis added.
[14] Hirst, *Strange Birth*, p. 141.

and reasoned debate. It was in this context that West subjected colonial political culture to assessment in terms of the basic principles of (then) contemporary liberal theories of political discourse and moral economy, and at many points found it wanting.

A preference for moderate, well thought out, incremental change was a principal feature of the colonial *Herald's* editorial ethos. As such, in the colonial context, this broadly positioned the *Herald* as a liberal-conservative journal. It was liberal in that it sought equality before the law and measured, tested reforms. However, it was also conservative in temper and opposed reforms it thought unwise, rash or needlessly radical. The *Herald* described itself as advancing an 'intelligent conservatism', which supported necessary change while avoiding 'extreme political opinions'.[15] It described some colonists, especially after the gold rush, as 'eager to distinguish themselves in their new sphere where it was possible to give vitality to a thousand theories'.[16] In contrast it (correctly) saw itself as advancing ideas more in keeping with the graduated approach to reform in Britain. Fairfax and West were well aware this made the *Herald* an easy target for exaggerated accusations of conservatism. From the perspective of British liberalism this was laughable, given the *Herald's* mainstream liberal or progressive views on free trade, education, extending the franchise, state-aid (disestablishment in Britain) and persuasion rather than legislation in matters of public morality, such as temperance. However, the *Herald* conceded that in the hothouse environment of a young colony:

> It is easy to say that the *Herald* is the organ of monopolists, capitalists, and the moneyed classes — a story which has been repeated a thousand times by three-fourths of the popular leaders and their literary organs.[17]

Periodically, the *Herald* defended itself against accusations it was opposed to reform and 'conservative' in the narrow sense by appealing to its own success. On 1 January 1859 it exclaimed:

> It has pleased that party ... whose members call themselves "Liberals," to represent the *Herald* as the opponent of progress, and as an enemy of the poor. By what process, however, are we to explain the continued favour which the *Herald* enjoys, in a colony essentially liberal in its tendencies, and where the working classes are in a condition to judge of the spirit of a publication? In spite of the incessant misrepresentation of our views and political character — in spite of our habitual disregard of these misrepresentations, the circulation of the *Herald* has continued to increase until it has

[15] *Herald*, 16 May 1861.
[16] *Herald*, 8 May 1861.
[17] *Herald*, 28 April 1859.

> now reached a point at which our mechanical appliances fail us.[18]

Even more pointedly, nearly three years later, the *Herald* claimed for its editorial perspective the 'silent approval of multitudes who take no active part in politics, and the secret concurrence of many who do'.[19] It then added, again, that despite having maintained an 'attitude of antagonism' to many aspects of colonial politics since 1856, it had done so 'not only without loss, but with a circulation far advanced beyond its mechanical resources when Responsible Government dawned upon us'.[20]

Argument based upon the circulation and commercial success of the *Herald* needs to be treated carefully. The *Herald's* success was multi-causal. In part it stemmed from the momentum gained from its sheer survival amidst a junkyard of failed newspapers.[21] Management practices played their part also, with the Fairfaxes fair and excellent employers who ensured a continuity of quality staff.[22] From an ideological angle, an editorial of May 1861 claimed, in pointed contrast with Henry Parkes' *Empire* (collapsed 1858), that part of the *Herald's* great success was its rejection of 'extreme political opinions'.[23] It continued:

> The truth is, that all who possess property, and who come chiefly into commercial contact with the daily Press, rather sympathise with an intelligent conservatism. They have something to lose as well as something to gain. They are the chief advertisers and buyers of property. They form the mercantile class.

The *Herald* added:

> while a large majority of active politicians have shown themselves favourable to extreme opinions, the commercial, monetary, and stable interests naturally shrink from

[18] See also the *Herald*, 12 May 1858, which asks: is 'it possible that a journal whose chief circulation is dependent upon the good will of the citizens can really be opposed to their interests?'
[19] *Herald*, 12 September 1861.
[20] *Herald*, 12 September 1861.
[21] Walker's *Newspaper Press* accounts for the rise and fall of many newspapers in NSW.
[22] Regarding Fairfax as an employer, in the volatile and public setting of the hustings John Fairfax said: 'He thought, as one of the largest employers of skilled labour in the colony for the last sixteen years, he might challenge any man who had ever been in his employ to say whether he had at any time attempted oppression or unkindness or anything approaching thereunto'. Representation of the City. *Herald*, 29 December 1856. Prominent *Herald* journalist Charles St. Julian wrote to Fairfax on Fairfax's fiftieth birthday in 1855 and referred to Fairfax's 'many acts of practical kindness, and ... manifestation of sound, genuine, warm-hearted consideration', adding, 'I have long regarded you as one of my best friends'. Charles St. Julian to John Fairfax 24 October 1855. Fairfax Family Papers. Among published eulogies of Fairfax, the *Australian Witness* claimed Fairfax 'always gave the highest price for labour' and the *Western Independent* affirmed: 'As an employer he was not only respected, but really loved by all who were in any way connected with him'. *In Memoriam*, pp. 33-34. One former employee wrote on Fairfax's death in the *Dubbo Despatch*: 'He was as big-hearted as he was honourable; and his charities were many ... the relations between himself and his subordinates were always of the most friendly character ... I could tell you many stories of John Fairfax's kindness ... The father of the New South Wales Press, he was one of whom we could all feel proud'. Cited by *A Century of Journalism*, pp. 61-62.
[23] *Herald*, 16 May 1861.

them. Cheers and applause, however pleasing, pays no debts, and build up no fortune.

The *Herald's* understanding of commerce and the financial world was seen in editorials reminding legislators that capital investment flourished amidst stability but was wary of rumour, uncertainty and rash legislation. Few would doubt this as a component of the *Herald's* success. But commercial acumen and 'intelligent conservatism', combined with good management, does not fully account for the popularity of the *Herald*.

It is also difficult, especially of the period after the gold rush, to argue the *Herald* was a voice only for capital, or that only the wealthy could afford newspapers. During the 1850s the *Herald* and *Empire* (under Parkes) matched each other for price, as did the *Herald* and second *Empire* (under Samuel Bennett) during the 1860s.[24] Nor was the *Herald* without effective alternatives, with Hawksley's *People's Advocate* (until 1856), the *Empire*, and another successful daily the *Evening News* (from 1867).[25] Instead it is likely the *Herald*, as this thesis suggests and the *Herald* itself claimed,[26] was nowhere near as out of touch with the mood of colonial society as depictions of its conservatism, both from competitors at the time and some historians since, suggest. Dyster acknowledges this, referring to the 'triumphant survival of the *Herald*' as evidence that those holding moderately conservative views were less at the margins of colonial society than is often portrayed.[27]

One compelling support for this verdict is the success of the *Sydney Mail*. This weekly newspaper was produced by the Fairfaxes from July 1860, at the inspiration of John Fairfax's eldest son and part owner Charles Fairfax. Walker notes, at 'threepence it was a cheap condensed version of the *Herald*, and as such succeeded beyond expectations'.[28] After initial provision of 1,000 copies in July 1860, in December 1860 its circulation was 5,000 and by January 1865, 10,000.[29] Walker informs us the *Sydney Mail* gained a solid subscription base in the bush but 'also found a ready sale among workingmen who could not afford the *Herald*'.[30] The *Herald's* own account of its success was balanced and credible. Its general political position was that of a thoughtful mainstream liberalism and its wide readership and enormous success suggests it sat comfortably enough within the mainstream of colonial culture.

[24] See Walker, *Newspaper Press*, pp. 66, 73.
[25] The proprietor of the *News* was Samuel Bennett, the colony's second press baron after John Fairfax. See Walker, *Newspaper Press*, chaps. 6 and 7.
[26] For example, see the *Herald*, 12 September 1861.
[27] Dyster, 'The Fate of Colonial Conservatism on the Eve of Gold-Rush', p. 334.
[28] Walker, *Newspaper Press*, p. 71.
[29] Walker, *Newspaper Press*, p. 71. To put this in perspective, the *Herald* and Bennett's *Evening News* sold about 8,000 copies daily in the mid-1860s. See Walker, *Newspaper Press*, p. 76.
[30] Walker, *Newspaper Press*, p. 71.

This hegemony of liberalism, beneath the veneer of political and newspaper rhetoric, occasionally gained clear admission, and did so during John Fairfax's attempt to enter the LA at a by-election in December 1856. Despite an obvious alignment with the editorial position of the *Herald* on political representation, James Martin was the nominee for the opposing candidate, William Bede Dalley.[31] Dalley won and embarked on a successful career in politics and the law. But with a complete absence of guile, Dalley, the acknowledged liberal, freely admitted on the hustings that as to him and Fairfax, the purported conservative, 'their opinions appeared scarcely to differ' and that the views 'expressed by his opponent were as liberal as his most ardent supporter could desire'.[32]

In its own period, the stereotyping of the colonial *Herald* as 'conservative' is entirely understandable given the polemical requirements of politicians whom the *Herald* criticised and the need for competitors to try and dent the *Herald's* dominance. At times politicians owned or contributed to *Herald* rivals, most notably the *Empire* under Henry Parkes. Although the *Herald's* relative conservatism within a colonial context made it a target for the pejorative use of the term 'conservative', it was just that, a *relative* conservatism, and largely limited to issues surrounding political representation. By any widely recognised definition of nineteenth-century liberalism, the *Herald* of the 1850s and 1860s was a voice of mainstream liberalism. And even were we to quarantine the colonial political context from global liberalism, the *Herald* under Fairfax and West is best described as 'liberal-conservative' on political representation, 'liberal' on free trade and education (1850s and 60s), and 'progressively-liberal' on religious sectarianism, the treatment of foreign workers, patronage, the ballot and national schooling (in the 1870s).[33] As for land reform, this thesis has shown that the land debate centred on practical matters, such as selection before survey and deferred payments, and that the *Herald* and most members of the LA supported the essence of a liberal land policy, as was enacted in other colonies, which was free selection (i.e., no competition and a

[31] See Martin's speech on the hustings in December 1860. East Sydney Election: Nomination of Candidates, 5 December 1860. Published in the *Herald*, 6 December 1860.

[32] Election for the City. *Herald*, 30 December 1856. Dalley then said he left it to electors to decide who was the 'most liberal'. Yet it remains interesting that Dalley felt it appropriate to concede that he and Fairfax were similar enough on most issues and were both liberals. Dalley and Fairfax subsequently became friends. Fairfax used to pick up Dalley, a near neighbour, on the way in to town and Dalley became a frequent contributor to the *Herald*. Souter, *Company of Heralds*, p. 71.

[33] Fitchett arrived at a more nuanced description of the colonial *Herald's* overall editorial position than most when writing in 1892: 'the paper has always been conducted along Liberal lines so far as English politics are concerned, and on the Constitutional side so far as regards the local policy'. Fitchett, *Review of Reviews*, p. 34.

fixed price).[34]

The stereotyping of the *Herald* as 'conservative' within Australian historiography

The conservative stereotyping of the *Herald* is in part due to a wider tendency within the historiography to readily and rigidly place people and ideas into camps of 'liberal' or 'conservative'. A 1996 article by A. R. Buck provides a concise example of this approach. Buck writes: 'Liberals espoused democracy, favoured the introduction of manhood suffrage and supported land reform through free selection before survey. Conservatives opposed all these initiatives'.[35] Yet we have seen that most acknowledged colonial liberals did not espouse democracy. They accepted but were unenthusiastic toward manhood suffrage and only in NSW did some liberals support free selection before survey. Furthermore, in contradiction of their own two camp narrative, Buck and others nonetheless maintain that the boundary between liberalism and conservatism in the colony was blurred and 'slippery'.[36] This unlikely scenario has come about for two reasons. Firstly, the historiography has tended to follow the nomenclature established by the political victors of the period, with their ready labelling of themselves as 'liberals' and their opponents as 'conservatives'. Secondly, historians nonetheless appreciate that in terms of objective political science the differences between these so-called 'liberals' and 'conservatives' are harder to establish.

At one level the use of popular nomenclature is understandable. The history is easier

[34] As discussed in the chapters on land reform, the fact that the timing of survey was not the essence of a liberal land policy was poignantly illustrated by the absence of selection before survey in other 'liberal' colonies.

[35] A. R. Buck, '"The Poor Man": Rhetoric and Political Culture in Mid-Nineteenth Century New South Wales', p. 204. Buck goes on to suggest conservatives opposed manhood suffrage to avoid any change of 'the primary end of legislation from the defence of property to the conditions of the poor'. This is loaded with assumptions. It implies, without substantiation, that Cowper and Robertson and others in favour of manhood suffrage were committed to it out of a primary concern to enact legislation for the benefit of the poor. This is highly debatable. It also implies (so termed) conservatives were unable to mediate between their classically liberal concern for the rights of property and other interests within society. This also is highly debatable. As seen with land reform, it was (so termed) conservatives who made proposals that would have been of more practical advantage to small landholders, and more in keeping with land reform measures in the other Australasian colonies, than that proposed by Robertson. Furthermore, Buck's claim that colonial liberals 'espoused democracy' is a great exaggeration. As discussed in chaps. 8 and 9 above, support for manhood suffrage was at best lukewarm and qualified by plural voting, a residence qualification, and rural voters receiving greater representation. More broadly, Buck's article contends that purported conservatives, like the *Herald*, thought the poor man 'lacked a capacity for independent thought'. However, given the perceived necessity for wider and compulsory education, it is unlikely the *Herald's* views were at any great variance from those of most educated colonists at the time.

[36] Buck, '"The Poor Man": Rhetoric and Political Culture in Mid-Nineteenth Century New South Wales', p. 204. Further examples of historians noting that the line between (so-termed) colonial liberals and conservatives was blurred, include: Powell, *Patrician Democrat*, p. 65; Souter, *Company of Heralds*, p. 49; Martin, *Henry Parkes*, p. 139; Connolly, 'The Middling-Class Victory in New South Wales, 1853-62', pp. 377-78; Dyster, 'The fate of Colonial Conservatism on the Eve of Gold-Rush', pp. 331-34; Atkinson, 'Time, Place and paternalism: Early Conservative Thinking in New South Wales, p. 2.

to write with a simple narrative of two groups, colonial 'liberals' and 'conservatives'. It also allows a more dashing, triumphalist depiction of victorious progressive liberals outfoxing self-interested *status quo* seeking conservatives. It could also be contended that 'liberal' and 'conservative' were labels of the period and must be accepted and understood as such. However, it can also be argued that much has been lost from adopting a partisan use of political nomenclature. Unity among those designated 'liberals' is routinely overestimated, and, conversely, the conservatism of those designated 'conservatives' is often greatly exaggerated or poorly portrayed. Colonial politics was simply not made up of two groups, one conservative and reactionary, looking to the past and committed to social stratification, the other idealistic and progressive, looking to the future and egalitarian in intent.[37] Colonial politics was far less orderly. For some, politics was about faction and obstructionism in the name of political self-interest. While, for others, there was a stubborn, independent addressing of each issue on its merits, which led to politicians aligning differently over different issues. As for the terms 'liberal' and 'conservative' being common to the period, this can be exaggerated and the fact that their meaning was hotly contested can be lost. Political labelling in the period was more nuanced than the simple narrative of 'liberal' or 'conservative' suggests.

The *Herald's* assessment of the 1859 election illustrates the point. It classified the new members of the LA variously as 'avowed Ministerialists'; 'Radicals'; 'Liberals'; 'Liberal Conservatives'; and 'Conservatives'.[38] It thought there was only a handful of genuine radicals and conservatives, with the mass of colonial politicians being self-interested factionalists, liberals or liberal-conservatives, with the difference between the last two more to do with the pace of reform than the end result. The use of the term 'liberal' within much of the historiography also suggests a confounding of liberalism with democracy. Usually, only those colonists sympathetic to manhood suffrage are termed 'liberal' and the rejection of manhood suffrage is interpreted as a denial of liberalism and an indicator of conservatism. Yet while some colonial liberals supported manhood suffrage, such as Lang and Robertson, most were indifferent towards it. This was seen in the manner by which manhood suffrage was offset by plural voting, electoral boundaries favouring rural areas, the absence of the payment of members, and a nominated LC.

[37] The beginning of Melleuish's 'The Strange Birth of Colonial Democracy revisited' touches on these historiographical issues.
[38] *Herald*, 13 July 1859.

But it is in case studies from the period that the shortcomings of the nomenclature common to the historiography are most apparent. The study of land reform in this thesis has highlighted the folly of grouping those for and against the Robertson land acts into liberal and conservative groupings. Many opposed to the NSW land laws merely wanted legislation similar to that enacted in other Australian colonies; hardly a basis for conservatism. Another glaring illustration is the depiction of the NSW 'mercantile liberal movement'[39] of the 1850s, of which Fairfax and the *Herald* were a part. This group is routinely described before responsible government as 'liberal', due to their leadership of antitransportationism and the quest for responsible government, plus their preference for free trade, support for the extension of the franchise and (for some) the ballot. Most rejected the Robertson land laws and manhood suffrage, though many pragmatically accepted it within the 1858 Electoral Act. However, when responsible government dawned, liberal-democrats such as Robertson knew full well they could not describe themselves as democrats and so annexed the term 'liberal'. As a corollary to this, Cowper, Robertson and their allies called the remaining urban liberals 'conservatives'. It was a shrewd and effective political manoeuvre. Yet the slavish use of this partisan use of political nomenclature by many historians has lead to the most fanciful depiction of the fate of the merchant liberals. To illustrate, Hirst rightly says of colonial liberals of the early to mid 1850s that 'Liberals in both Britain and New South Wales were not democrats'.[40] Yet in response to their rejection of manhood suffrage and the Robertson land laws Hirst portrays them as having 'deserted to the conservatives'.[41] Likewise, Connolly, having clearly established the liberal, as distinct from radical, qualifications of the mercantile liberals of the early to mid 1850s, suggests their 'exodus' in the late 1850s to the 'conservative camp was immense'.[42] What 'exodus'? Their opinions in the late 1850s were unchanged from their opinions in the mid-1850s. Yet to accommodate the labelling of the mercantile liberals of the late 1850s by their political opponents as 'conservatives', historians perpetuate the myth of a liberal desertion to conservatism. A better way to account for events is to simply acknowledge that the mercantile liberals lost the political initiative to more radically minded

[39] The description of Loveday and Martin, *Parliament, Factions and Parties*, p. 18. Other terms include 'urban liberals'.
[40] Hirst, *Strange Birth*, p. 53.
[41] Hirst, *Strange Birth*, p. 55. Hirst (pp. 53 and 55) also suggests 'by the second half of the 1850s the colonial liberals were moving rapidly leftwards'. This, at least, correctly identifies who changed their views, the acknowledged 'liberals' of the historiography (Cowper, Robertson and co). Yet, as Hirst shows so well (pp. 113-114), this apparent move to the left was driven by the politics of land reform rather than a genuine embrace of manhood suffrage.
[42] Connolly, 'The Middling-Class Victory in New South Wales', p. 377.

liberal-democrats. The reasons for this were clear enough: lack of cohesion and commitment among the urban liberals; the influx of population from the gold rush; and, most especially, the extraordinary political environment created by the uproar over land reform. Pedalling the myth of a liberal 'exodus' to conservatism runs the risk of the historiography being as partisan as the period it claims to be describing. It stretches credulity to portray a group of people as having participated in an ideological 'exodus' when their views remained unchanged.

Another illustration is the contortion wherein protectionism in the colony of Victoria is described as 'liberal policy'. It would be better to acknowledge that, however liberal it may have been in other respects, colonial Victoria departed from liberalism on the subject of free trade. Colonial context alone cannot allow colonial liberalism to be severed from its intellectual and global heritage. Contemporary observers such as West, Wedderburn and Smith appreciated this well enough. Further examples are the use of patronage and the marginalising of local government in NSW. These were measures inconsistent with liberalism as a political creed and ought to be identified as such.

Interestingly Hirst, who, along with Melleuish, has done the most to highlight illiberal aspects of colonial politics, nonetheless applies the traditional nomenclature. It is perhaps churlish to criticise Hirst's *The Strange Birth of Colonial Democracy*, arguably the finest work of colonial historiography to date. However, tensions within *Strange Birth* are evident at this very point. An example is Hirst's account of the LC rejecting a discriminatory clause within a bill of Cowper's 'liberal' government regarding the participation of the Chinese on the goldfields. Hirst writes: 'The conservative legislative counsellors threw the clause out, and so preserved liberalism from its friends'.[43] It might be better to describe the issue and politicians involved and leave the reader to determine who were the liberals on this occasion. A better alternative would be to frankly acknowledge the essential liberalism of the LC at this point. Another example is Hirst's description of the colonial *Herald.* True to the stereotype, Hirst, early in *Strange Birth,* lambasts the *Herald* as 'staid' and 'conservative', while ironically the remainder of the book vindicates much of the editorial perspective of the colonial *Herald* and its critique of colonial politics.[44]

Admittedly, Hirst in *Strange Birth* is merely applying the nomenclature accepted by

[43] Hirst, *Strange Birth*, p. 171.
[44] Hirst, *Strange Birth*, p. 4 (as discussed in the literature review above).

much of the historiography.[45] However, as suggested above, the issues attached to failing to develop a more nuanced use of political nomenclature to describe colonial politics remain substantial. And the implications extend beyond the understanding of our own colonial history, as important as that remains. For without qualifying, rather than perpetuating, the partisan use of political nomenclature among colonists, it is difficult to imagine any meaningful comparative research emerging. As long as we persist in advancing mid nineteenth-century 'liberals' who fine-tuned systems of political patronage and trade protection, our use of political nomenclature will seem at best bewildering to international scholars of liberalism.[46]

The grouping of colonists into liberal and conservative camps has been a major factor behind the stereotyping of the *Herald* as 'conservative' and the subsequent neglect of the *Herald* and its key participants, such as West and Fairfax. The *Herald's* rich mainstream liberalism on free trade, education, state-aid, the ballot, sectarianism and even its preference for a more gradual extension of the franchise, has been lost. The stereotype of its conservatism rules this out. Even Souter's critically sympathetic company history at times labours under its weight. Souter — damning with faint praise — remarks of the *Herald's* editorial position under West: 'although still essentially conservative, they sometimes took an unexpectedly humane or enlightened position'.[47] The largely unqualified use of the term 'conservative' by some historians as a general description of the colonial *Herald* is a partisan use of political nomenclature which has led to an inaccurate and misleading portrayal of the *Herald*.

Dissent

In different ways, several historians have presented a revisionist perspective on colonial politics and colonial political nomenclature. Barrie Dyster's *JRAHS* article of 1968 was a largely unheeded clarion call for a fresh look at the use of political nomenclature. Dyster rejected the tendency to 'posit simple oppositions or alignments in mid-century New South Wales. Opponents on one issue might be staunch allies elsewhere'.[48] Dyster argued that 'colonial conservatism was both broader and more flexible than the existing definition would have it'.[49] Similarly, Alan Atkinson has argued for a more nuanced and flexible account of what

[45] And, it should be acknowledged, to challenge the use of accepted nomenclature is more easily achieved in an unpublished thesis than a major published work.
[46] This was highlighted to me in discussion with Robert D. Linder (Professor of History, Kansas State University and celebrated historian of civil religion in the United States), who suggested that Fairfax sounded to him like a mainstream liberal.
[47] Souter, *Company of Heralds*, p. 57.
[48] Dyster, 'The Fate of Colonial Conservatism on the Eve of Gold-Rush', p. 350.
[49] Dyster, 'The Fate of Colonial Conservatism on the Eve of Gold-Rush', p. 334.

had been termed colonial conservatism. Atkinson suggests that the depiction of the colony's (relatively) conservative politicians as reactionaries is 'a view invented by the liberals themselves and is not true'.[50] More broadly, in 1995 Shaw lamented how bicentennial history surveys neglected the 'bourgeoisie'.[51] However, the most prolific and determined revisionism of colonial politics has come from Gregory Melleuish,[52] who has contextualised colonial politics within the broader parameters of the history of Western ideas and political thought. Consequently, Melleuish makes connections, such as between patronage and protectionism with eighteenth-century British conservative political culture and practice.[53] Equally, Melleuish has been able to identify the essential, mainstream liberalism of West and the *Herald* on a range of issues.

The alternative to this has been to so broadly define colonial liberalism that it becomes a rubric without boundaries, divorcing political nomenclature from political theory. A more accurate path than the traditional liberal / conservative dichotomy, with its slavery to faction, would be to acknowledge a hegemony of liberalism within colonial NSW. With regard to issues such as land reform, education, state aid, and the ballot, colonial politics moved in a steadily liberal direction, with individual politicians loosely and changeably aligned over different issues at different times. With regard to political representation, a colonial liberal hegemony is best described as containing two broad and overlapping political tendencies. One group, tendency or ethos, might be described as 'liberal-conservative', the other as 'liberal-democratic'. To acknowledge a liberal hegemony requires a more nuanced and qualified use of political nomenclature. It would deprive the historiography of its simple and unqualified narrative of 'liberal' and 'conservative'. But it would provide a much clearer insight into the period and a more genuine sympathy for mid nineteenth-century colonial society. It would encourage a greater appreciation of the tension between liberalism and democracy, a tension readily acknowledged by historians of liberalism in Europe. Until this is done, the democratic and egalitarian credentials of those designated 'liberal' will continue to be exaggerated, as will

[50] Atkinson, 'Time, Place and paternalism: Early Conservative Thinking in New South Wales', p. 2.
[51] Shaw, 'Themes in Australian Historical Writing', p. 16. See also Hirst, *Sense and Nonsense*, p. 3.
[52] As did Wedderburn, as cited above. Several works of Melleuish have already been cited, but note especially: Melleuish, 'Daniel Deniehy, Bede Dalley and the Ideal of the Natural Aristocrat in Colonial New South Wales', *AJPH*, 33, 1 (1987), pp. 45-59; 'The liberal conservative alliance in Australia', *IPA Review* (1993); *Cultural Liberalism in Australia* (1995); 'Metahistory Strategies in Nineteenth Century Australia', *JACH*, vol. 1, no. 2, August 1999, pp. 80-102; *A Short History of Australian Liberalism* (2001); 'The Liberal Pedigree in Australia' *Policy* (2000-2001); *John West's 'Union Among the Colonies'* (2001); 'The Strange Birth of Colonial Democracy revisited: The NSW 1859 election', (2002).
[53] Hirst also makes these links but maintains the traditional nomenclature. For example, see *Strange Birth*, pp. 179-181.

the conservatism of those portrayed as 'conservative'.

It has taken a long time for the historiography of colonial Australia to begin to catch up with the likes of West, Wedderburn, and Smith, and to critically assess colonial political nomenclature, instead of perpetuating the partisan, self-serving and self-referencing use of political nomenclature by populist colonial politicians. As for the future reputation of the *Herald* within Australian historiography, this is ultimately secure. For as the *Herald* itself said in reply to the exaggerated claims of its critics: 'what is written remains. We point to that'.[54]

[54] *Herald*, 28 April 1859.

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