

out a new era in the commerce of the colony',<sup>25</sup>

As Thomson conceded at the time, he was influenced in framing the new tariff by recent legislation in Victoria and suggestions from the Sydney Chamber of Commerce. In fact the origins of the bill lay for the most part in proposals made by the Melbourne Chamber of Commerce. Thomson nonetheless received warm recognition for his sponsorship of the measure, which became known as the 'Deas Thomson' tariff. In later years, when the advocates of protectionist policies became more numerous and vocal, he remembered with pride what he referred to as 'my tariff' of 1852.<sup>26</sup>

In supporting such causes as the railway enterprise and free trade Thomson was very much in tune with the movements of the day. It is therefore not surprising that he was looked upon by many as a man of progress. However, there were also many in the colony during the early 1850s who doubted the sincerity of his commitment to improvement. John Dunmore Lang numbered him amongst 'the patrons of obstruction' who were opposed to 'the men of progress'.<sup>27</sup> The radical press referred to him as 'Mr Reynard Thomson' and suggested that any progressive measures he

<sup>25</sup> Reports of LC proceedings, 7, 21, 22 and 28 July 1852, in *SMH*, 9, 22, 23 and 29 July 1852. Grainger, *Martin of Martin Place*, pp. 61-2.

<sup>26</sup> Report of LC proceedings, 7 July 1852, in *SMH*, 9 July 1852. EDT to Anne Deas Thomson, 11 Dec. 1875, DTP, vol. 2, pp. 253-4. La Nauze, loc. cit., pp. 81-4. Ward, *Earl Grey*, pp. 246-9.

<sup>27</sup> Report of speech at public meeting, 15 Sept. 1851, in *SMH*, 16 Sept. 1851.

introduced were motivated not so much by a concern for colonial interests as by home government policy or political expediency. His idol, claimed the *Empire*, was 'Government craft'. The *People's Advocate* declared that he was forced by his English masters to follow free trade principles, and that he was driven to encourage railway construction by the spirit of the age.<sup>28</sup>

As we have seen, Thomson's activities were certainly influenced by political considerations. But we have also seen that his zest for improvement dated from long before his appointment as Colonial Secretary. When he advocated free trade in the council he was able to refer to his attendance at McCulloch's lectures in the 1820s and to criticise American protectionism on the basis of first hand experience.<sup>29</sup>

Moreover, he initiated or supported many other measures which were motivated neither by expediency nor by orders from Downing Street. For example, while his support for immigration may be seen partially as a response to pressure from squatters, he also took a humanitarian interest in improving conditions aboard immigrant ships. It was undoubtedly at his instigation that FitzRoy wrote to Grey in 1849 recommending that the provisions of a recent North American passenger act relating to shipboard cleanliness and ventilation should be applied to the

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<sup>28</sup> *Empire*, 29 July 1853 and 6 Jan. 1854. *People's Advocate*, 28 Jan. 1854.

<sup>29</sup> Report of LC proceedings, 21 July 1852, in *SMH*, 22 July 1852.

Australian colonies.<sup>30</sup> His determination, mentioned in an earlier chapter, to enforce stringent quarantine regulations was again demonstrated in the early 1850s when legislators imbued with the spirit of *laissez-faire* attempted to secure their abolition. Some medical men argued that quarantine laws were unnecessary violations of individual freedom and denied that diseases such as typhus were infectious.<sup>31</sup> Thomson remained unshaken, holding that it was far better to inconvenience a few people than to risk the decimation of a whole population. His views eventually prevailed. In 1853 a select committee of the legislature reported favourably on the government's administration of the quarantine laws and recommended that the system remain unaltered.<sup>32</sup>

Similarly he supported Attorney-General Plunkett's unpopular efforts to legislate for the admission of aboriginal evidence in the courts of law. He believed it was the government's duty to attempt to repress white atrocities which were 'revolting to every sense of humanity'.<sup>33</sup> He also joined with Plunkett in supporting the controversial national system of education, which was introduced into the colony in 1848. While the churches, with

<sup>30</sup> FitzRoy to Grey, 27 Apr. 1849, CO 201/412, f.311. See also EDT to Bourke, 1 Dec. 1838, BP, uncatalogued MSS., set 403, item 6.

<sup>31</sup> Article by Dr Bowring in *Empire*, 4 Jan. 1851. Report of LC proceedings, 10 June 1853, in *SMH*, 11 June 1853.

<sup>32</sup> Ibid. Report from the Select Committee on Quarantine Laws, 15 Dec. 1853, *VPLC*, 1853(2).

<sup>33</sup> Report of LC proceedings, 27 June 1849, in *SMH*, 29 June 1849. Molony, *op. cit.*, pp. 154-6.

varying degrees of vehemence, denounced the system as an instrument of evil, Thomson declared that it was far better adapted than the denominational system to the geographical circumstances of the colony. He thought, too, that the national system would help to break down sectarian feelings in the community.<sup>34</sup>

Thomson's detractors found many other grounds on which to criticise his performance as Colonial Secretary. Colonial opinion, especially in the early 1850s, was particularly sensitive on the subject of patronage. The *People's Advocate* declared that every appointment to a government situation was characterised by jobbery, 'broad, brazen, unblushing': 'Offices of emolument and trust have been scattered right and left upon the chosen circle of individuals, almost uniformly irrespective of character, and invariably irrespective of ability or fitness for the situation conferred'. The *Advocate* charged that every government position was filled either by 'a new chum', recently arrived in the colony with English letters of introduction, or by 'one of the Governor's pals'.<sup>35</sup> There was a good deal of truth in this claim. The Governor himself was privately concerned that British authorities were apt to give letters of introduction to emigrants who possessed high aspirations but small capacity to adjust to colonial life.<sup>36</sup> Many public officers in the colony were able

<sup>34</sup> Reports of LC proceedings, 10 and 11 May 1848, 7 Aug. 1850, in *SMH*, 12 May 1848, 8 Aug. 1850. Molony, *op. cit.*, pp. 252-3. Naomi Turner, *Sinews of Sectarian Welfare? State Aid in New South Wales 1836-1862*, Canberra 1972, pp. 57-8.

<sup>35</sup> *People's Advocate*, 11 Mar. 1854. See also FitzRoy to Grey, 11 Oct. 1850, CO 201/431, ff.269-70.

<sup>36</sup> See, for example, FitzRoy to Pakington, 10 Feb. and 9 May 1853, Hampton Family Archives, Ref. 705:349, BA3835, parcel no. 16(xi), Worcestershire Record Office.

to boast friends in Government House or government offices.

According to the *Empire*, the Colonial Secretary was the chief representative of this 'miserable system of corruption and jobbery'.<sup>37</sup> Certainly, despite his zest for material improvement, Thomson did not share the enthusiasm of many other nineteenth century improvers for an end to the old system of patronage. Although the system had caused him numerous frustrations in his early life, he presumably came to see value in having loyal friends in subordinate positions. The press carried frequent complaints that police magistrates and land commissioners were appointed without evident qualifications for office.<sup>38</sup> It was said that such people as Mortimer William Lewis, the Colonial Architect, and John Richard Hardy, the Chief Gold Commissioner in 1851 and 1852, were in the Colonial Secretary's pocket.<sup>39</sup>

Thomson was the arch-enemy of those with frustrated ambitions. William Augustus Miles, a senior police magistrate who had previously clashed with the executive, regarded him as 'the most designing double faced rascal in the colony - worse, I am sure, than his felon brother who died in a road gang at the Cape'.<sup>40</sup>

<sup>37</sup> *Empire*, 12 Feb. 1852.

<sup>38</sup> For example, *ibid.*, 12 Feb. and 22 June 1852.

<sup>39</sup> Entry for 5 Sept. 1850 in Journal of George Boyle White, MS. no. B603, f.211, ML.

<sup>40</sup> W. A. Miles to J. P. Townsend, 22 June 1850, Joseph Phipps Townsend Papers, c.1846-1851, ML MSS. 1461 (uncatalogued), p. 22. Hazel King's entry on Miles, *ADB*, Vol. 2, pp. 228-9.

George Boyle White, who referred irreverently to him as 'Mr Neddy Doo-us', believed that 'if the Honble Co[lonial] Sec[retary] will ever be remembered in the history of the Colony it will be for the inability and worthlessness of his proteges'.<sup>41</sup> White, a surveyor, saw the Colonial Secretary as the main obstacle to his promotion to the position of deputy surveyor-general, an office occupied between 1829 and 1853 by Samuel Augustus Perry, a close friend of Thomson and, according to White, his willing tool.<sup>42</sup>

The survey department during FitzRoy's administration was one of Thomson's major problems. To a large extent this may be attributed to the personality of the Surveyor-General, Sir Thomas Mitchell, whose irascible temper was notorious within the colony and in the Colonial Office. He quarrelled with every governor under whom he served and was in frequent conflict with his deputy. Despite the efforts of FitzRoy and Thomson to have him removed, he remained in office until 1855, when his death relieved Governor-General Denison of the embarrassment of dismissing him.<sup>43</sup>

<sup>41</sup> Entry for 20 June 1849 in Journal of George Boyle White, MS. no. B603, f.173, ML.

<sup>42</sup> Entry for 16 Sept. 1851 in Journal of George Boyle White, MS. no. B604<sup>-1</sup>, pp. 154-5, ML. Also Bernard Dowd's entry on Perry, *ADB*, Vol. 2, pp. 324-5.

<sup>43</sup> Fitzroy to Grey, 22 Sept. 1851, and CO minutes, CO 201/442, ff.292-306. Denison to James Macarthur, 6 Oct. 1855, Macarthur Papers, Vol. 27, MS. no. A2923, ML. J. H. L. Cumpston, *Thomas Mitchell: Surveyor General & Explorer*, London 1954, pp. 202-3. D. W. A. Baker's entry on Mitchell, *ADB*, Vol. 2, pp. 238-42. Hazel King, 'Pulling Strings at the Colonial Office', *JRAHS*, Vol. 61, Part 3, Sept. 1975, pp. 156-60.

Thomson's relations with Mitchell were initially amicable. In 1841 he defended the Surveyor-General against charges of inefficiency and in the following year he spoke very highly of his services to the colony.<sup>44</sup> However, as the Colonial Secretary gained stature and influence under Fitzroy, their relations cooled markedly. Thomson was probably annoyed by the Surveyor-General's insolence and frustrated by his frequent absences from the colony, which contributed to administrative problems in the survey department. Mitchell, a man of jealous disposition, regarded Thomson as a rival; at various times in the late 1840s rumours circulated that each was a candidate for the lieutenant-governorship of Victoria. The Surveyor-General was resentful of any interference in matters relating to his department, and complained that FitzRoy and Thomson overruled his decisions and implemented policies behind his back.<sup>45</sup> He argued, as Major Frederick Goulburn had done under Governor Brisbane, that he was bound to adhere to his commission from the home government, even though in so doing he might act contrary to the wishes of the local authorities.<sup>46</sup> Thomson eventually circumvented this difficulty by asking Mitchell to hand over his commission. Mitchell, though amazed at Thomson's presumption, was forced to comply.<sup>47</sup>

<sup>44</sup> Reports of LC proceedings, 27 and 28 July 1841, 19 Aug. 1842, in *SH*, 28 and 29 July 1841, 20 Aug. 1842.

<sup>45</sup> FitzRoy to Grey, 28 Oct. 1850, CO 201/432, ff.153-6.

<sup>46</sup> *Ibid.* Mitchell to Sir George Murray (draft), 30 July -, Papers of Sir T. L. Mitchell, Vol. 6, MS. no. A295, pp. 223-6, ML. See above, p. 109.

<sup>47</sup> Mitchell [to ?], n.d. [1848], Mitchell Papers, Vol. 6, MS. no. A295, pp. 155-8, ML. Cumpston, *op. cit.*, p. 201.

This mutual animosity found further expression in Thomson's relations with Mitchell's son, Roderick, a commissioner for Crown lands. When Roderick Mitchell was transferred from one district to another against his will he blamed Thomson's influence. The Colonial Secretary, he later told his father, 'would strain a point to frustrate any effort I might make to rise above my present position - and God only knows what for'.<sup>48</sup>

Thomson and Mitchell came into most violent conflict over the ill-fated Kennedy expedition. Ever since his arrival in the colony Thomson had taken a close interest in the exploration of the interior of the continent and, as Colonial Secretary, he had encouraged various explorers.<sup>49</sup> In 1848, during one of Mitchell's absences overseas, he sponsored an expedition which had as its object the discovery of a land route from the settled districts of New South Wales to the Gulf of Carpentaria. The expedition, led by Edmund Kennedy, a young and ambitious surveyor, resulted in disaster. Before Kennedy and his twelve-man party could reach the tip of Cape York their progress was halted by mountains and impenetrable mangrove-swamps. Only one member of the party, an Aboriginal named Jackey Jackey, survived to tell of the tragedy.<sup>50</sup>

<sup>48</sup> Roderick Mitchell to Sir Thomas Mitchell, 29 Aug. 1849 and 22 Mar. 1851, Mitchell Papers, Vol. 4, MS. no. A293, pp. 608, 29.

<sup>49</sup> See above, p. 60, for EDT's relations with Sturt. Also Paul Edmund de Strzelecki to EDT, 19 Apr. [1843], DTP London.

<sup>50</sup> Edgar Beale, *Kennedy of Cape York*, Sydney 1970, esp. pp. 141-3. Beale's entry on Kennedy, *ADB*, Vol. 2, pp. 43-4.



When Mitchell returned from England he launched a violent attack upon the project's organisers. He did not doubt that the Colonial Secretary was the chief perpetrator and concluded that 'Such a wanton interference with the duties of one department by the head of another has never I suppose occurred in the annals of our colonies'.<sup>51</sup> George Boyle White supported his chief, attributing the tragedy to 'Deas's sneaking ambition to take the glory of an explorer out of the hands of the Surveyor General, and to do it cheaply'.<sup>52</sup>

Mitchell and White had good reason to refer to the undertaking as 'Deas Thomson's expedition'. Kennedy was a friend and favourite of the Colonial Secretary. In the previous year he had won acclaim for his explorations in the Moreton Bay District, during which he had discovered and named the Thomson River.<sup>53</sup> For the duration of the Cape York expedition he was detached from the survey department, so that he might receive instructions from and communicate directly with the colonial secretary's office.<sup>54</sup> Thomson received private letters from participants in the expedition and took a close interest in the details of

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<sup>51</sup> Mitchell to R. Montgomery Martin, 10 Mar. 1849, Mitchell Papers, Vol. 4, MS. no. A293, p. 594, ML. FitzRoy to Grey, 10 Oct. 1850, and enclosures, CO 201/431, ff.247-68.

<sup>52</sup> Entry for 17 Mar. 1849 in Journal of George Boyle White, MS. no. B602, f.113, ML.

<sup>53</sup> Beale, *op. cit.*, p. 102.

<sup>54</sup> FitzRoy to Grey, 10 Oct. 1850, CO 201/431, ff.247-56.

its progress.<sup>55</sup>

However, there is less justice in Mitchell's accusation that the expedition was carelessly and inadequately planned. On the contrary, as FitzRoy told Earl Grey, Kennedy's intended route was approved by several authorities, including the land explorers Charles Sturt and Edward John Eyre, and the marine surveyors Owen Stanley and Lort Stokes and Phillip Parker King.<sup>56</sup> As the party set out from Rockingham Bay, Owen Stanley wrote to Thomson that the arrangements for the expedition were very good indeed.<sup>57</sup> The Colonial Office, at least, had little time for Mitchell's 'absurd presumption'. Earl Grey agreed with the comment of his assistant Under-Secretary, T. F. Elliot, that the authorities quoted by FitzRoy were far superior to 'the boastful but unprofitable Surveyor General of N.S. Wales'.<sup>58</sup> Within the colony few besides Mitchell and White would have disagreed with the Governor's conclusion that the expedition failed owing to the extraordinary nature of the country explored and the unfavourable nature of the season.<sup>59</sup>

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<sup>55</sup> Owen Stanley to EDT, 26 May 1848, DTP London. Letters and memoranda relating to the Kennedy expedition, 1848-9, MS. no. ADD 142, Dixson Library.

<sup>56</sup> FitzRoy to Grey, 10 Oct. 1850, CO 201/431, ff.247-56.

<sup>57</sup> Owen Stanley to EDT, 26 May 1848, DTP London. Also Owen Stanley to EDT, 30 June 1848, ML DOC. 1127.

<sup>58</sup> Elliot's minute, 5 Apr. 1851, initialled by Grey, on FitzRoy to Grey, 10 Oct. 1850, CO 201/431, ff.256-7.

<sup>59</sup> FitzRoy to Grey, 10 Oct. 1850, *ibid.*, ff.247-56.

Sir Thomas Mitchell was one of the many who held that Thomson was the real governor of the colony and that FitzRoy was a cypher.<sup>60</sup> This view was not confined to the government's detractors, though it was they who expressed it most forcibly. The *Herald*, which was generally sympathetic towards FitzRoy's administration, confirmed that the Governor had handed over to his Colonial Secretary the predominance of executive power, and congratulated him for doing so.<sup>61</sup>

Several historians have reached similar conclusions. Sir Stephen Roberts shared Mitchell's low opinion of FitzRoy's talents: 'caring nothing for the colony, he let it go its own way, as long as he could get somebody else to do everything for him'.<sup>62</sup> This estimate, like so much of Roberts' writings, is seriously misleading. However, far more careful historians, such as G. D. Richardson, have suggested or implied that Thomson was 'the virtual administrator of the colony'.<sup>63</sup>

FitzRoy himself made no secret of his reliance upon his advisers. At the inauguration of the Sydney to Parramatta

<sup>60</sup> Mitchell [to ?], n.d. [1848], Mitchell Papers, Vol. 6, MS. no. A295<sup>1</sup>, pp. 155-8, ML.

<sup>61</sup> *SMH*, 16 Dec. 1853.

<sup>62</sup> Roberts, *The Squatting Age*, p. 270.

<sup>63</sup> G. D. Richardson, *The Archives of the Colonial Secretary's Department, New South Wales, 1788-1856*, M.A. thesis, University of Sydney 1951, p. 34.

railway he told the assembled crowd that the credit for the government's policies lay not with him but with the executive council.<sup>64</sup> As everyone in attendance knew, the Governor, when he spoke those words, was referring chiefly to Thomson. In addition, he gave private testimony of his regard for the Colonial Secretary. In 1851, when supporting Thomson's claim for an increased salary, he told Earl Grey how deeply he was obliged to the Colonial Secretary for his support.<sup>65</sup> When Grey asked the Governor to recommend men whose long and useful services to the colony qualified them for membership of the Order of the Bath, FitzRoy submitted only Thomson's name.<sup>66</sup> Later, as Thomson was about to leave for England, FitzRoy wrote to the Duke of Newcastle praising the Colonial Secretary's 'considerable talent', 'very sound judgment' and 'unswerving integrity': 'He is better informed and has greater experience on all subjects connected with these Colonies than any other person I know in them'.<sup>67</sup>

The conclusion that Thomson was in fact the real governor

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<sup>64</sup> Report of proceedings, 3 July 1850, in *SMH*, 4 July 1850.

<sup>65</sup> FitzRoy to Grey, 16 June 1851, CO 201/441, ff.156-9.

<sup>66</sup> FitzRoy to Grey (confidential), 17 Sept. 1852, CO 201/454, ff.124-6.

<sup>67</sup> FitzRoy to Newcastle, 24 Jan. 1854, Newcastle MSS., NeC 9555, ff.22-3, University of Nottingham Library. See also Therry, *Reminiscences*, p. 379.

is therefore tempting: but there is more to the problem than that. When Roger Therry, who conceded that his acquaintance with FitzRoy was slight, published his *Reminiscences* in 1863, he repeated the popular view that most of the Governor's writing was done by proxy and that his speeches were prepared by subordinates. Therry concluded that most of the important business of the administration was conducted by Thomson. Following the publication of the first edition, James Macarthur took Therry to task, pointing out that FitzRoy did far more work than the book had assigned to his credit. Accordingly the author amended the second edition to incorporate Macarthur's view that the Governor 'carefully read over an immense mass of official papers, and made very able and sensible remarks upon them with his own hand'.<sup>68</sup>

Both these opinions contained elements of truth. Therry was right with regard to the Governor's speeches: except for his brief addresses at public functions, FitzRoy's speech-making was confined to openings and prorogations of the legislature. In preparing the Governor's speeches to the council Thomson was placed in an extraordinary position, for he was also as a matter of course a member of the committee which drafted the address-in-reply. At the commencement of the 1853 session one member took exception to the fact that a government officer (and there was no doubt that Thomson was the one referred to) had drafted the reply in advance.

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<sup>68</sup> Ibid., pp. 376-80. Therry to James Macarthur, n.d. [1 Mar. 1863], Macarthur Papers, Vol. 34, MS. no. A2930, pp. 250-1, ML.

However, the committee's chairman pointed out that the draft said what the council wanted to say, so the matter was allowed to pass.<sup>69</sup>

Therry also suggested that many of Fitzroy's despatches were composed by 'a clever junior clerk' in the colonial secretary's office.<sup>70</sup> The clerk in question was probably Michael Fitzpatrick, who joined the office in 1837 and rose through his evident ability to become Clerk of the Executive Council in 1851. Following the introduction of responsible government he became Under-Secretary in the department of lands and works and later was elected to the legislative assembly. Thomson employed Fitzpatrick as his personal assistant, especially with regard to legislative council business. Although he was not a member of the council, Fitzpatrick regularly took his seat in the chamber at the Colonial Secretary's left hand.<sup>71</sup> Most probably, Fitzpatrick drafted many official despatches at Thomson's direction, while others were drafted by Thomson himself. However, it is also clear that FitzRoy and Thomson were in close consultation regarding the contents of despatches, and that FitzRoy was well capable of drafting a despatch in his own hand when the need arose.<sup>72</sup>

<sup>69</sup> Report of LC proceedings, 27 May 1853, in *SMH Supplement*, 28 May 1853. Anne Deas Thomson to Bourke, 26 May 1850, BP, uncatalogued MSS., set 403, item 7.

<sup>70</sup> *Reminiscences*, p. 376.

<sup>71</sup> *Empire*, 12 Dec. 1853. Brian Dickey's entry on Fitzpatrick, *ADB*, Vol. 4, pp. 184-5.

<sup>72</sup> See, for example, the despatch to Grey in FitzRoy's hand, 29 May 1851, CO 201/444, ff.9-13. Also Alfred Denison's evidence before the Select Committee on Retrenchment in the Public Expenditure, 29 Oct. 1858, in Progress Report, *VPLA*, 1858(3). For Colonial Office views on the preparation of despatches, see minutes on FitzRoy to Grey, 13 Oct. 1849, CO 201/416, ff.147-8.

Macarthur was quite correct with regard to FitzRoy's perusal of incoming correspondence. Innumerable letters in the Colonial Secretary's Archives are endorsed in the Governor's cumbersome hand. Certainly, his comments are fewer and far less detailed than those of Gipps. However, his minutes leave no room for doubt that he took a close interest in the day to day administration of the colony.

If FitzRoy played an active role in the routine business of government, it is also clear that Thomson bore the brunt of decision-making. According to Anne, when Thomson visited Van Diemen's Land in 1850 the Governor put aside 'all papers that were at all puzzling or required thought' until his return.<sup>73</sup> As we shall see in the following chapter, his influence was nowhere more evident than in framing government policy to deal with the gold rushes. In the legislature, as G. W. Rusden points out, Thomson was left to conduct government business in his own manner, 'so long as principles decided upon in the Executive Council were kept in view'.<sup>74</sup> Moreover, as his importance was generally acknowledged, he was the principal mode of access to the government for members of the public. Following the abolition of the mounted police in 1849, retrenched troopers lingered around the gates of 'Barham' rather than Government House, 'in search of some situation or something to do'.<sup>75</sup>

<sup>73</sup> Anne Deas Thomson to Bourke, 26 May 1850, BP, uncatalogued MSS., set 403, item 7. See also FitzRoy to EDT, 20 Sept. 1851, DTP, vol. 3, pp. 275-8.

<sup>74</sup> Rusden, *op. cit.*, Vol. II, p. 433.

<sup>75</sup> Anne Deas Thomson to Bourke, 1 Jan. 1850, BP, uncatalogued MSS., set 403, item 7.

Thomson himself professed the highest regard for his superior's character and intentions,<sup>76</sup> but we can only guess how highly he rated his abilities. His relationship with the Governor was, of course, a subject of some delicacy, and one on which he was rather sensitive. When Thomson's portrait was moved from one hanging space to another at an art exhibition in 1857, he wrote to the exhibition organiser: 'I am apprehensive that the change of the position of the Portrait in the Exhibition may lead to unpleasant remarks... Could not another place for it be found without displacing Sir Charles?'<sup>77</sup>

As well as performing to some extent the duties of the Governor, Thomson found himself doing the work of other civil officers. During Gipps's administration the Governor himself prepared the annual estimates, a task which would normally have fallen to the Colonial Treasurer. Under FitzRoy, this duty was performed not by Riddell, but by Thomson. When Thomson visited Van Diemen's Land in 1850, Riddell and Auditor-General Lithgow promised to work on the estimates during his absence. However, on his return he found that nothing had been done. The *Herald*, which doubted that Riddell was fit for office, pointed out the absurdity of the Colonial Secretary, the hardest worked official, being called upon to do the drudgery of others. Anne Thomson

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<sup>76</sup> See, for example, his comments at the dinner for the officers of the 99th Regiment, 26 June 1848, reported in *SMH*, 28 June 1848.

<sup>77</sup> EDT to Rev. Dr J. Woolley, 6 Jan. 1857, DTP, vol. 2, p. 496.



felt much the same way: she told her father, 'he is now as usual doing other people's business'. 'I tell him what you say, that "business is made for those who will take it"; my advice to him is to do *his own* business to the letter, but to let every body else do their's [sic]'. But this advice went unheeded.<sup>78</sup>

The full significance of Thomson's role emerges most clearly after he left the colony for England in 1854. In accordance with usual practice, FitzRoy appointed to the position of Acting Colonial Secretary the next senior officer, who happened to be Riddell. This in itself caused an outcry. Did anybody, asked the *Herald*, ever conceive that 'beneath that mass of jolly cypherhood there might possibly lurk the latent germ of talent'?<sup>79</sup> The *Empire* was more sanguine, suggesting that Riddell's feeble-minded indolence would be less dangerous than Thomson's unscrupulous and intriguing activity.<sup>80</sup> However, it was soon forced to change its tune, for Riddell quickly succeeded in realising the worst fears of his critics.<sup>81</sup> When the council met in June 1854 the Governor's speech was ready, but it was not yet printed. Although the threat was not carried out, one member suggested that the address-in-reply should be withheld.<sup>82</sup>

<sup>78</sup> *SMH*, 20 July 1849. Anne Deas Thomson to Bourke, 26 May 1850, BP, uncatalogued MSS., set 403, item 7.

<sup>79</sup> *SMH*, 31 Dec. 1853.

<sup>80</sup> *Empire*, 2 Jan. 1854.

<sup>81</sup> *Ibid.*, 7 Feb. 1854.

<sup>82</sup> Report of LC proceedings, 6 June 1854, in *SMH*, 7 June 1854.

In August Riddell indignantly opposed a motion for the formation of a select committee to enquire into the squatting system. The motion was passed and Riddell was humiliated. He had contrived, said the *Herald*, with the most ingenious perverseness to do two things which a government should never do: firstly, he had refused to grant an inquiry; secondly, he had been beaten. The *Herald* observed that Thomson, had he been faced with a similar motion, would have seen the expediency of yielding.<sup>83</sup> Riddell's standing in the council reached a low point in September, when Charles Cowper moved a vote of censure against him. The motion was lost, but, according to the *Herald*, only because of the esteem in which the Governor was held.<sup>84</sup> Even before this incident the *Herald* had concluded that the executive's position in the council was one of 'jarring incoherence, of helpless decrepitude, and of imbecility little short of mental aberration'.<sup>85</sup>

FitzRoy left New South Wales in January 1855, his stature somewhat diminished from what it had been a year earlier.<sup>86</sup> His successor, Sir William Denison, was less tolerant of Riddell's ineptitude. Rumours circulated that the two men had quarrelled.<sup>87</sup>

<sup>83</sup> *SMH*, 10 Aug. 1854.

<sup>84</sup> Report of LC proceedings, 22 Sept. 1854, in *SMH*, 23 Sept. 1854. *SMH*, 25 Sept. 1854.

<sup>85</sup> *SMH*, 13 Sept. 1854.

<sup>86</sup> At the end of 1853 FitzRoy was generally held in high esteem: see Wentworth's comments in the LC, 14 Dec. 1853, reported in *SMH*, 15 Dec. 1853.

<sup>87</sup> George Macleay to James Macarthur, n.d. [13 Sept. 1855], Macarthur Papers, Vol. 27, MS. no. A2923, ML.

The Solicitor-General, William Montagu Manning, who was a protégé of Thomson, was seen by some as the Governor-General's spokesman in the council.<sup>88</sup> Riddell, mentally and physically exhausted, eventually asked Denison if he might be released from office. However, in order to be sure of receiving his retirement pension, he remained Acting Colonial Secretary until Thomson's return in January 1856, and then resumed his position as Colonial Treasurer until the advent of responsible government in the following June.<sup>89</sup>

While FitzRoy and Denison lamented Riddell's performance, the *People's Advocate* rejoiced at his blundering: 'The very fact of such men being appointed to rule over us must hasten our emancipation'.<sup>90</sup> Thomson, it wrote, knew the strength he possessed in the nominee members, but he was too able a political tactician to expose the forces at his command. 'He was always prepared to meet argument with argument'. Riddell on the other hand, threw aside the mask of respect for the representative members, and met their arguments with a 'totally irresponsible phalanx of dummy votes'.<sup>91</sup>

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<sup>88</sup> Report of LC proceedings, 17 July 1855, in *SMH*, 18 July 1855.

<sup>89</sup> Denison to Riddell (copy), 6 June 1856, Governor's Archives 4/1665, NSWA. This letter does not make it clear whether Riddell asked to be relieved from office when he was Acting Colonial Secretary or Colonial Treasurer: however, the time of his request has no bearing upon the immediate point.

<sup>90</sup> *People's Advocate*, 9 Sept. 1854.

<sup>91</sup> *Ibid.*, 21 Oct. 1854.

These observations suggest a less obvious, but nonetheless important aspect of Thomson's role. To some extent, the proficiency of his conduct as Colonial Secretary under FitzRoy lessened demands in the colony for constitutional reform. Had Riddell, or a man of similar calibre, occupied the position of Colonial Secretary during most of FitzRoy's administration there can be little doubt that political agitation would have been far more violent and sustained. By his adroit management of the legislature, Thomson helped to smooth the transition from representative to responsible government.<sup>92</sup>

As Thomson's labours increased under FitzRoy, his personal life began to suffer. When the strain told upon his health, Anne suggested that he might look about him for some less demanding office. Moreover, by 1849 Edward and Anne were having difficulty supporting their family, now numbering eight children, on a salary of £1,500 a year.<sup>93</sup> Bourke, who learnt of these problems in Ireland, feared that his son-in-law was letting his public activities lead to 'the utter neglect of his private affairs'.<sup>94</sup>

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<sup>92</sup> See Rusden, *op. cit.*, Vol. II, p. 433.

<sup>93</sup> Bourke to EDT, 29 Apr. 1849, DTP, vol. 2, pp. 128-31.

<sup>94</sup> Bourke to R. Bourke jnr, 3 Jan. 1850, Bourke letters 1838-1850, ML MSS. 2328.

Therefore, when it seemed likely that a separate government would shortly be created in Port Phillip Thomson sought the position. Bourke wrote on his behalf to Earl Grey, who placed his name in his register of 'Candidates for Employment'.<sup>95</sup> However, when separation took place in 1851, Superintendent La Trobe became the Lieutenant-Governor.

Following the gold discoveries of 1851, and the increased labours and expenses which these entailed, Thomson applied to the Colonial Office for a rise in salary. FitzRoy supported his claim in the strongest possible manner, telling Earl Grey that he 'never experienced greater satisfaction in bringing under the notice of Her Majesty's Government the merits and claims of any Officer serving under me than I now have in submitting those of Mr. Deas Thomson, to your Lordship's favourable consideration'. The Colonial Office did not doubt that Thomson's application was justified; however, Earl Grey felt that, if the increase were to be defrayed out of the territorial revenue, as Thomson and FitzRoy had suggested, the proposal would best come from the legislative council.<sup>96</sup>

This gave the council an opportunity to pass an opinion

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<sup>95</sup> Bourke to EDT, 3 Dec. 1848, DTP, vol. 2, pp. 123-4. Entry for 30 Dec. 1848 in Grey's register, Grey Papers, University of Durham.

<sup>96</sup> FitzRoy to Grey, 16 June 1851; enclosure, Thomson to FitzRoy, 14 June 1851; and CO minutes, Nov. and Dec. 1851: CO 201/441, ff.156-71.

upon Thomson's services. During a lengthy debate, all those who participated spoke very highly of his merits as Colonial Secretary, although some members expressed reservations about his political role. Donaldson lamented that the Colonial Secretary 'was restricted from serving his country in the manner most congenial to his disposition' and suggested that if he were not obliged to serve the home government he would become the leader of a great popular party in the colony. James Macarthur declared that Thomson was well qualified to lead a liberal party, adding his own view that liberal opinions were 'the true conservatism'. Cowper and others pointed out that they personally disagreed with many of the Colonial Secretary's political opinions, but paid tribute to his industry and capacity as a public officer. Plunkett spoke in glowing terms of his role in the executive council: 'he was the means of infusing into the deliberations of that Council a liberal spirit, which was attended with the most beneficial effects'.

Notwithstanding these words of praise from so many opposing parties, the salary proposal did not pass easily through the council. Several members took offence at being asked by the Secretary of State to vote a specific sum out of the territorial revenue, over which they otherwise had no control. Donaldson proposed an amendment, which declared that the Colonial Secretary's salary ought to be increased, but expressed the council's refusal to do so until the schedules were abolished and the territorial revenue were placed under its control.

This amendment, if accepted, would effectively have prevented Thomson from receiving an increase. However, his friends carried the day. At the end of the debate, after the government officers on Donaldson's insistence had left the chamber, a motion was passed by twenty-one votes to thirteen which not only granted the rise, but back dated it six years to the time of FitzRoy's arrival in the colony. Those who voted against this motion did so either because of the 'great constitutional principle' involved or because they regarded the retrospective increase as excessive.<sup>97</sup>

It need hardly be said that Thomson was deeply gratified by the council's vote of appreciation. He assured members that their kindness would act as an additional stimulant to him in the discharge of his duties.<sup>98</sup> However, he undoubtedly derived great satisfaction from his employment, irrespective of pecuniary considerations. Firstly, he took pleasure in helping to introduce improvements into the colony. Secondly, his position enabled him to play a major part in shaping the future society of New South Wales. In the following chapter we shall see something of the nature of society he hoped for and his efforts to achieve it.

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<sup>97</sup> Report of LC proceedings, 3 Aug. 1852, in *SMH*, 5 Aug. 1852. See also *Empire*, 5 Aug. 1852.

<sup>98</sup> Report of LC proceedings, 4 Aug. 1852, in *SMH*, 5 Aug. 1852.

## PRESERVING 'THE BALANCE OF SOCIETY'

1851 - 1854

At the beginning of 1850 Thomson had been in New South Wales some twenty-one years. During that period he had seen changes not only in the economy and the mode of government, but also in the composition of colonial society. The old divisions between emancipists and exclusives had been largely replaced by new alignments. Distinctive Australian characteristics, incorporating those brash and self-assertive qualities which Thomson had noticed on his first arrival in the colony, were emerging with greater clarity. In 1842 the *Herald* had reacted bitterly when the Sydney Municipal Council gave preference to native-born applicants for office. There was, said the *Herald*, a feeling of bigoted 'Australianism' growing up in the colony, which forgot that Britain was the one true home of all Australians.<sup>1</sup>

One thing that many of the native-born frequently shared with newly-arrived immigrants was a belief in the virtues of democracy. As we saw in the preceding chapter, democracy received a powerful impetus in the late 1840s in reaction to the apparent successes of the squatters and the efforts to renew

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<sup>1</sup> *SMH*, 14 Nov. 1842.



transportation, as well as from events in Britain and Europe. In 1848 the *People's Advocate* was established to give expression to the views of working men and to agitate for a redistribution of wealth. Late in 1850 Henry Parkes set up the *Empire*, which became 'the rallying and reconciliation point of the sharpest radical and liberal minds of the day'.<sup>2</sup>

At the forefront of radical politics was the question of the franchise. Under the 1842 constitution the vote was restricted to those possessing freehold property to the value of at least £200 or paying a minimum household rent of £20 per annum. Although FitzRoy and Thomson opposed any widening of the franchise, in view of 'the present social state of this colony',<sup>3</sup> the British Parliament was more receptive to the demands of the colonists. The Act of 1850, as well as extending the franchise to holders of depasturing licences and certain £10 leaseholders, reduced by half the amount of the qualification for holders of freehold and for occupiers of dwelling houses.

These changes, together with the constitutional separation of New South Wales and Victoria, made it necessary for the local government to introduce new electoral arrangements. Hitherto, electoral distribution had been determined by the 1842 constitution

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<sup>2</sup> A. W. Martin's entry on Parkes, *ADB*, Vol. 5, p. 400. Also Russel Ward, *The Australian Legend*, 1st paperback ed., Melbourne 1966, esp. ch. III; and Roe, *Quest for Authority*, ch. 4.

<sup>3</sup> FitzRoy to Grey, 26 Dec. 1849, CO 201/419, ff.254-6. Report of LC proceedings, 8 Apr. 1851, in *SMH*, 9 Apr. 1851.

and a local ordinance of the following year.<sup>4</sup> Together these provided that town constituencies should elect one quarter of the twenty-four members, with the two largest settlements, Sydney and Melbourne, returning two members and one member respectively.<sup>5</sup> Existing arrangements therefore strongly favoured the rural population and emphasised the rights of property.

The bill designed to replace this system was laid before the legislature late in March 1851. As FitzRoy later put it, the 'entire credit' for its preparation belonged to the Colonial Secretary.<sup>6</sup> The most significant of its eighty-two clauses related to the division of the colony into electoral districts. They provided that twenty-nine constituencies should return the thirty-two <sup>elected</sup> members of the legislature. Fourteen members would come from the 'County Districts', comprising the rural electorates under the old system; eight would be returned by the newly-established 'Pastoral Districts'; and ten would come from the 'Urban Districts'.<sup>7</sup> These arrangements, if put into effect, would

<sup>4</sup> 6 Vic., No. 16.

<sup>5</sup> Gipps to Stanley, 17 Apr. 1843, *HRA*, I, 22, pp. 663-4.

<sup>6</sup> FitzRoy to Grey, 16 June 1851, CO 201/441, f.173.

<sup>7</sup> [Edward Deas Thomson,] *Corrected Report of the Speeches of the Honorable Edward Deas Thomson, Esq., Colonial Secretary of New South Wales, delivered in the Legislative Council, on the First and Second Reading of the Bill for the Division of the Colony into Electoral Districts, in the First Session of 1851*, Sydney 1851, p. 42.

have strongly favoured country voters, and especially the inhabitants of the squatting districts, at the expense of townspeople.

When Thomson introduced the bill into the legislature early in April he was aware that loud protests had been raised against the proposed distribution.<sup>8</sup> He therefore took particular care to explain the principles upon which the measure was based, pointing out that the division of electorates took into account property as well as population. While conceding that population was an essential, and perhaps the principal element in any computation, he argued that property also had its rights. This was recognised both by the council's select committee on the franchise, which had reported in 1844, and by the Great Reform Act of 1832. It was essential to follow British precedent if New South Wales were to obtain a safe and enduring constitution. He argued, moreover, that population alone was an inadequate criterion, as it was subject to constant variation.

He then proceeded to define the principal interests in the colony, all of which, he suggested, were represented under the bill. These differed widely from those which existed in other countries, especially Britain. In New South Wales there were three leading classes or interests: the town population, incorporating commercial and trading groups and the small manufacturing interest; the rural population, representing chiefly

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<sup>8</sup> For example, *Empire*, 29 Mar. 1851.

those engaged in agricultural pursuits; and the population of the intermediate and unsettled districts, where pastoral activities predominated. Thomson stressed the importance of the agricultural and pastoral interests. These, he said, were the major productive groups in the colony, upon which the towns were dependent. In particular, the pastoral districts accounted for nearly two-thirds of the colony's exports. They were also the areas where population was most likely to increase. He therefore had no hesitation in assigning to them one quarter of the popular representation in the council.

Thomson was anxious to show that his bill actually extended the representation of the urban population. Compared with the existing legislation, the proportion allotted to towns was almost doubled. He cited figures to prove that Sydney, under this bill, would be far better represented than London then was under the Reform Act. Furthermore, the widening of the franchise increased the political influence of the towns, including those outside the metropolis.

In concluding his first reading speech, Thomson outlined the proposed changes regarding the conduct of elections. Under the new legislation, the task of revising electoral lists would be assigned to barristers, rather than to the courts of petty sessions. Non-resident barristers, he said, would less likely be involved in district politics than would local justices. This observation recalled his regrets in the 1830s that the assignment

of convict servants was performed by local magistrates. Other important changes related to the issuing of writs of election and the appointment of courts to try disputed elections. His object in each of these cases was to assimilate local procedures to British practice.<sup>9</sup>

The debate on the second reading of the bill extended over three sittings, and centred mainly on the proposed electoral distribution.<sup>10</sup> Thomson's supporters - who included Wentworth, Martin, Donaldson and Plunkett - stressed the dangers of allowing the urban masses too much influence. They reiterated Thomson's arguments regarding the importance of property in any system of representation, and suggested that the towns added little or nothing to the productive wealth of the colony. They proffered the additional argument that the inhabitants of Sydney could and did exert great influence owing to their proximity to the centre of government.

Against the bill were ranged a formidable group of speakers, chief amongst whom were John Lamb and John Dunmore Lang. Lamb, a non-official nominee who spoke for the commercial and manufacturing interests, argued that colonial manufactures were now of considerable importance. Exports, on the other hand,

<sup>9</sup> For the preceding four paragraphs see [EDT], *Corrected Report*, pp. 3-12.

<sup>10</sup> The following account of the second reading debate is based on reports of LC proceedings, 11, 15 and 16 Apr. 1851, in *SMH*, 12, 16, 17 and 18 Apr. 1851; and [EDT], *Corrected Report*, pp. 13-47.

were of small significance, and Sydney could survive and flourish without them. Thomson probably led the cries of astonishment which greeted this remark. Lamb warned that the bill, if approved, would lead indirectly to the renewal of transportation, for additional members from squatting districts would vote in favour of convict labour. Lang agreed with this conclusion, suggesting that the bill's main object was to bolster up the squatters. Other speakers reiterated that the measure was a piece of class legislation, providing for the representation of sheep and cattle.

On the third day of the second reading debate Thomson defended his proposals at length. His speech was obviously the product of painstaking research. Drawing on detailed figures and quotations from leading authorities, especially Lord John Russell, he sought to show that the system of representation established under the Reform Act of 1832 was not based solely on population. He cited returns to the House of Commons to demonstrate the inequalities which existed in the British electoral system. In 1843 the borough of Bridgenorth returned one member for every 965 inhabitants, while the Tower Hamlets returned one member for every 209,865 persons. With regard to the overall representation of the United Kingdom, he discovered that England and Wales returned one member for 31,813 inhabitants, Scotland one for 49,437, and Ireland only one for 77,859. These and similar figures, he argued, proved conclusively that something more than population determined the electoral divisions of the

United Kingdom.

Looking to New South Wales, Thomson proceeded to show that the Electoral Bill took population into consideration. The urban districts, he observed, were represented in the ratio of one member to 7,500 inhabitants, and the rural districts, settled and unsettled, had a ratio of one to 5,300. He explained this discrepancy by referring to export and livestock figures, which established the value to the colony of the rural interests.

Although the debate was sometimes weighed down by detail, the *Herald* recognised that it in fact represented a conflict between the great principles of democracy and conservatism.<sup>11</sup> For Thomson, the opposing forces stood for democracy on the one hand, and the constitutional principles of England on the other. As the chief defender of the constitution his position was especially strong, for few members of the council were prepared to deny the relevance of British precedent. When Lang urged the adoption of the American system he was easily put down by Plunkett, who, with characteristic concern for oppressed minorities, pointed to the treatment of Negroes as an indictment of American political institutions. Although Dr John Dickson, a member for the Port Phillip District, commented on the absurdity of comparing a middle ages constitution with one of yesterday, other opponents of the bill, including even Lang, were prepared to meet Thomson on his own ground. Argument therefore revolved

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<sup>11</sup> *SMH*, 19 Apr. 1851.

around the principles behind the Reform Act. More specifically, the opposing sides debated the nature of the representation established under the Act and whether or not the Act was intended to be a final measure.

The discussion revealed very different views of the meaning of representation. James Martin asserted that 'the true object of representation was not to give a vote to any individual, but to provide means for representing and guarding the public interests'. For Plunkett, the aim of representation was to add greater security to life and property. Few people were prepared to ignore entirely the claims of property. Even Lang sought to prove that property was in fact equitably represented if population were taken as the sole basis of representation. This was explained by 'the great principle' that average masses of the population possessed average masses of wealth. Lang was placed in an invidious situation, for it was he who, as chairman of the 1844 select committee on the franchise, had recommended the combination of population and property as the basis of representation. Lang's weekly, the *Press*, grudgingly conceded that Thomson had made adroit use of the committee's report, but argued that in 1844 the conservative council and the British government were obviously unready for any suggestion advocating population alone. While it had been necessary then, as the *Press* put it, to 'gild the pill', this was no longer the case.<sup>12</sup>

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<sup>12</sup> *Press*, 9 Apr. 1851.



Lang and others argued that the changes introduced by the Reform Act were founded on population alone. Thomson, however, looked at the whole system of representation established under the measure and demonstrated that property and interests were taken into account. Opponents of the Electoral Bill accounted for deficiencies in the Reform Act by contending that it was not a final measure. Thomson countered that the authors of the Act had clearly intended it as such, and remarked that no succeeding ministry had attempted to unsettle the system established in 1832. These conflicting views are not surprising, for declarations by ministers in the early 1830s left plenty of room for differing interpretations. The politicians of New South Wales were perhaps looking for principles behind the Reform Act which scarcely existed, and motives which were very confused. Thomson was not then aware that Lord John Russell had since changed his mind on the question of finality, and that, in the very year of his Electoral Bill, further proposals for reform were being considered by the British government.<sup>13</sup>

Although Thomson claimed that his bill merely recognised

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<sup>13</sup> F. B. Smith, *The Making of the Second Reform Bill*, Melbourne 1966, pp. 30-2. John Milton-Smith, 'Earl Grey's Cabinet and the Objects of Parliamentary Reform', *Historical Journal*, Vol. XV, No. 1, 1972, pp. 72-4. John Prest, *Lord John Russell*, London 1972, esp. pp. 42, 123, 324-5, 331-41. See also Cowper's comment in LC, and EDT's reply, August 1853, in Edward Kennedy Silvester (ed.), *The Speeches, in the Legislative Council of New South Wales, on the Second Reading of the Bill for Framing a New Constitution for the Colony*, Sydney 1853 (reprinted 1896), pp. 126, 176.

existing interests, it certainly made a substantial impact upon colonial society. In the first place, it helped to impart respectability to the squatters. Despite their achievement of security of tenure in 1847, and the subsequent consolidation of their political position, in 1851 they still lacked the social standing enjoyed by the agriculturalists. William Bowman, himself a large-scale pastoralist, reflected widely held views when he expressed the hope that squatters would one day own their land, devote a great portion of it to agricultural pursuits, and be referred to by the more acceptable name of 'graziers'.<sup>14</sup> James Macarthur feared that the squatting constituencies, owing to the instability of their populations, were 'more likely to become republicanised in sentiment than more intelligent and settled portions of the Community'.<sup>15</sup>

Secondly, by defining three major interests Thomson fostered divisions in colonial society. Although he emphasised the interdependence of these interests, his bill sharpened existing animosities between town and country. Several conservatives in the council poured scorn on the inhabitants of Sydney. Wentworth charged that 'such a city was hardly worthy of representation at all'. Henry Dangar, a Hunter Valley pastoralist, suggested that only a maniac would say 'the

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<sup>14</sup> Report of LC proceedings, 11 Apr. 1851, in *SMH*, 12 Apr. 1851.

<sup>15</sup> James Macarthur to William Macarthur, 18 Sept. 1855, Macarthur Papers, Vol. 36, MS. no. A2932, ML.

thousands of idlers who inhabited the lanes and alleys of Sydney' were as deserving of representation as the squatters.

The bill itself, together with assertions such as these, inflamed the radical press. The *People's Advocate* charged that the government had handed the representation of the colony to sheep, bullocks and gum trees. Wentworth was denounced as an 'arch-traitor to his country', a 'hoary-headed renegade'. Thomson was mocked as Wentworth's flunkey. The *Press* under Lang's direction saw Thomson as the first enemy of the country, and referred to the bill as 'the Thomson swindle'.<sup>16</sup>

Lang's venom against Thomson was partly motivated by personal considerations. In 1849 he had written highly of the Colonial Secretary's 'acknowledged ability, his moderate views, and conciliating deportment'.<sup>17</sup> Since then, however, Lang had been roundly condemned by the Secretary of State for enticing immigrants to New South Wales with the apparent object of personal gain. Thomson had joined in this condemnation, labelling Lang's activities unscrupulous. Lang then launched a verbal attack on Thomson and others who had criticised him in the legislature, with a personal vindictiveness which had not abated by the time the Electoral Bill came up for discussion.<sup>18</sup>

<sup>16</sup> *People's Advocate*, 5 Apr., 19 Apr. and 10 May 1851. *Press*, 30 Apr. and 11 June 1851.

<sup>17</sup> John Dunmore Lang, *Remarks on the Proposed Constitution for the Australian Colonies, in a Letter to Benjamin Hawes, Esq., M.P. Under-Secretary of State for the Colonies*, London 1849, p. 6.

<sup>18</sup> Grey to FitzRoy, 15 Dec. 1849, *VPLC*, 1850(2). Report of LC proceedings, 6 Aug. 1850, in *SMH*, 7 Aug. 1850. *Press*, 22 Jan. 1851. See also Henry Parkes to Lang, 15 Dec. 1853, Papers of Rev. J. D. Lang, Vol. 22, MS. no. A2242, pp. 4-5, ML.

Despite the attacks of the radicals, the bill passed its second reading without difficulty. In committee one major amendment was approved, increasing the size of the council, <sup>including no nunes,</sup> from forty-eight to fifty-four members, in order to provide two additional representatives for Sydney. Thomson, in a spirit of compromise, did not oppose this alteration.<sup>19</sup>

In many ways the debate and eventual passage of the bill was a triumph for colonial conservatives, though their achievement was short-lived. The radicals were fettered in their arguments by the overwhelming support in the council for adherence to British constitutional precedents, as well as by the conclusions of the 1844 select committee. When William Westgarth, a Port Phillip representative, moved that a petition in support of the secret ballot be printed, Thomson was able to put him down peremptorily.

To this principle he was most decidedly opposed, regarding it as he did, not only as unconstitutional, but as un-English. No Englishman would desire to do that secretly which ought to be done and could be done fairly and openly. (Hear, hear.)

Thomson pointed out that the objections to the ballot had been forcibly and lucidly expressed in 1831. Westgarth's motion was accordingly defeated.<sup>20</sup> The radicals also had little success in

<sup>19</sup> Report of LC proceedings, 22 Apr. 1851, in *SMH*, 23 Apr. 1851.

<sup>20</sup> Report of LC proceedings, 15 Apr. 1851, in *SMH*, 16 Apr. 1851. On the moderate nature of colonial radicalism see J. M. Main, 'Making Constitutions in New South Wales and Victoria 1853-1854', in *Historical Studies: Selected Articles, Second Series*, ed. and comp. Margot Beever and F. B. Smith, Melbourne 1967, p. 62.

attempting to play down the importance of the squatting interests.

In the elections for the new council which followed the passage of Thomson's bill, Lang headed the poll for the Sydney constituency. However, almost immediately following his return to the council he was forced to leave the colony for England, in order to attend to financial problems arising out of his immigration activities.<sup>21</sup> His departure further weakened the radical cause. Thomson was no doubt delighted to be rid of his most vociferous opponent.

Notwithstanding the hostility Thomson incurred as a result of the bill, its passage represented for him a personal triumph. The peroration in his second reading speech was followed by prolonged cheers:

Throughout the long career which I have pursued in the public service of this Colony it has ever been my study to promote the public welfare; to deal with every public measure without favour or affection to any man; to conduct myself alike to all, of whatever party, creed, or denomination; to do justice to the poor man as well as to the rich. And while I believe that none will deny, and many will attest, that these have been the principles of my past official life, I boldly assert that these principles, and these only, have actuated me in the preparation of this measure.<sup>22</sup>

FitzRoy was delighted with his Colonial Secretary's performance, and suggested that the speech be published.<sup>23</sup> Although the

<sup>21</sup> Report of public meeting, 20 Oct. 1851, in *SMH*, 21 Oct. 1851.

<sup>22</sup> [EDT,] *Corrected Report*, p. 39. *Bell's Life in Sydney*, 19 Apr. 1851.

<sup>23</sup> FitzRoy to EDT, n.d. [17? Apr. 1851], DTP, vol. 3, pp. 964-6. FitzRoy to Grey, 16 June 1851, CO 201/441, f.173.

*Herald* had reservations about the proposed representation of Sydney, it declared that Thomson had delivered his most masterly speech ever. 'Clear in its statements, impregnable in its facts, cogent in its reasonings, and singularly felicitous in its language, it would have adorned the British House of Commons. The honorable gentleman met his opponents at all points, and met to conquer'.<sup>24</sup>

Thomson's forcefulness, and the ultimate success of his measure, owed much to the fact that he was supporting his own deeply-held convictions. Michael Roe suggests that his advocacy of representation of interests indicates that he had 'moved steadily rightwards from his father-in-law's liberalism'.<sup>25</sup>

However, as we have seen, Thomson had long believed that society was composed of various interests, delicately balanced in a relationship of mutual dependence. Throughout his career he upheld consistently the need to preserve the 'balance of society' and to adhere\* to the principles of the British constitution. Bourke's 'liberalism', which incorporated these beliefs, was far removed from the 'liberalism' which Thomson opposed in 1851.<sup>26</sup>

<sup>24</sup> *SMH*, 21 and 23 Apr. 1851.

<sup>25</sup> Roe, *op. cit.*, p. 55.

<sup>26</sup> See Lord Monteagle's comment on Bourke's objectives as Governor, in letter to Sir Arthur Helps, 8 Sept. 1855, *BP*, vol. 9, p. 154.

Ironically, just as Thomson viewed with satisfaction the enactment of his conservative electoral system, an event occurred which threatened to overturn the existing social order. On 2 May 1851, the legislative council was dissolved pending the election of a new council under the Electoral Act. Less than a fortnight later Sydney was set aflame by the news of a gold discovery near Bathurst, on the other side of the Blue Mountains.

Thomson had long been aware that gold existed in New South Wales. His close friend Thomas Icely was an enthusiast on the gold prospects of the colony. On his property at Coombing Park, west of Bathurst, Icely had constructed a mine, which had yielded small quantities of the precious metal. Thomson, during his visits to Coombing, had personally extracted grains of gold from quartz. He had searched in rivers, but without success, for he lacked a practical knowledge of gold-washing.<sup>27</sup>

Reports of discoveries had also come to him in his official capacity. In 1849 W. T. Smith, a lapidary, showed him a nugget

<sup>27</sup> EDT's evidence, 24 Apr. 1861, Progress Report from the Select Committee on the Claims of the Reverend W. B. Clarke, ordered to be printed 3 May 1861, *VPLA*, 1861(2), p. 1188. E. H. Hargraves' account of the gold discovery, 22 Nov. 1870, in appendix to Report from the Select Committee on Claims of William Tom, James Tom, and J. H. A. Lister, as the First Discoverers of Gold in Australia, ordered to be printed 18 Dec. 1890, *ibid.*, 1890(4), p. 1081. K. J. Cable's entry on Icely, *ADB*, Vol. 2, pp. 1-2. *SMH*, 19 Oct. 1849, reported that quartz sent by Icely to England for analysis contained 28 ozs of gold per ton.

weighing some three and a half ounces. Smith offered to tell the government the location of his find if he were promised an adequate reward. Thomson replied that the government would reward him if the discovery proved valuable. However, Smith found this arrangement unsatisfactory and decided to hold his peace. It was partly Smith's claim which persuaded FitzRoy to write to the Colonial Office suggesting the appointment of a government geologist.<sup>28</sup>

Thomson was therefore not surprised when in March 1851 Edward Hammond Hargraves assured him that gold was to be found in the colony. Hargraves, who had recently come from California with the stated purpose of discovering gold, offered to divulge the location of his find if he were promised a reward. The Colonial Secretary thought that Hargraves' 'scarcely visible' specimens were 'certainly not very promising as indicative of a productive Gold Field', and returned the same reply that he had given W. T. Smith over two years earlier. Unlike Smith, Hargraves decided to trust in the government's liberality and set about publicising his discovery to the best of his abilities, assuming that the value the find would influence the size of his reward.<sup>29</sup>

<sup>28</sup> FitzRoy to Grey, 1 Mar. 1849, CO 201/412, ff.3-8. EDT's evidence before Select Committee on the Claims of the Rev. W. B. Clarke, *VPLA*, 1861(2), p. 1189. Geoffrey Blainey, 'Gold and Governors', *HS*, Vol. 9, No. 36, May 1961, pp. 347-8. Blainey, *The Rush That Never Ended: A History of Australian Mining*, 2nd ed., Melbourne 1969, p. 9.

<sup>29</sup> Evidence of Hargraves and EDT, 29 June and 27 July 1853, Report from the Select Committee on the Gold Fields Management Bill, ordered to be printed 20 Sept. 1853, *VPLC*, 1853(2), pp. 485-6, 509-10. Blainey, 'The Gold Rushes: The Year of Decision', *HS*, Vol. 10, No. 38, May 1962, pp. 132-3.



Geoffrey Blainey, who has looked closely into the origins of the rushes and the early management of the gold fields, has described Hargraves as a 'professional persuader'.<sup>30</sup> The self-styled discoverer of gold recognised that Thomson was an important man to cultivate. If his later letters to the Colonial Secretary are any indication, he applied himself sedulously to this end. When on New Year's Eve 1851 he sent Thomson a small cabinet specimen of gold to commemorate the discovery, he remarked that 'the only retrograde movement made by the people of this country in this year of wonders was the Election of Dr Lang for the City of Sydney'.<sup>31</sup> Thomson, on reading this, might well have uttered an ardent 'hear! hear!' Later, Hargraves commended 'the singular soundness' of Thomson's views in pointing to Ballarat as a probable gold field, long before the Victorian discoveries actually took place. Although Thomson might well have recognised the potential of Ballarat, the probable source of this information was the Anglican clergyman and geologist, William Branwhite Clarke. Hargraves knew this, but being an accomplished flatterer, he did not say so.<sup>32</sup>

<sup>30</sup> Ibid., p. 129. See also Blainey, *Rush That Never Ended*, pp. 13-19; Julia Clifford, Edward Hammond Hargraves, the Gold Discovery, and the Crisis of 1851, B.A.(Hons.) thesis, University of New England 1963; and Bruce Mitchell's entry on Hargraves, *ADB*, Vol. 4, pp. 346-7.

<sup>31</sup> Hargraves to EDT, 31 Dec. 1851, MS. no. Ah27/7, ML.

<sup>32</sup> Hargraves to EDT, 10 Nov. 1853, DTP, vol. 3, pp. 479-81. W. B. Clarke's evidence, 12 Apr. 1861, before Select Committee on the Claims of the Rev. W. B. Clarke, *VPLA*, 1861(2), p. 1176. Ann Mozley's entry on Clarke, *ADB*, Vol. 3, pp. 420-2.

When Hargraves first reported his finds to the government, Thomson was not deceived by his smooth tongue. He was probably more than usually wary, for swindlers were known to have passed off Californian gold for local discoveries.<sup>33</sup> Even after the commencement of the first rush his suspicions remained. He evidently told his newly appointed Chief Gold Commissioner, John Richard Hardy, to look into Hargraves' capabilities.<sup>34</sup>

Thomson's scepticism about Hargraves, together with his long-term acceptance of the fact that gold existed, explains why he was unprepared for the excitement of May 1851. There was scarcely more reason for him to act upon Hargraves' advice than upon the results of his own fossicking at Coombing in previous years. Hargraves provided no evidence, beyond his own assurance, that an extensive gold field existed. Thomson therefore had no cause to anticipate or prepare for a rush to the diggings.

In the days following the publication of Hargraves' discoveries the mood of Sydney was feverish. 'No words', wrote Colonel Mundy, 'can describe the excitement occasioned in all

<sup>33</sup> See, for example, *SMH*, 29 Mar. 1851.

<sup>34</sup> See Hardy to EDT, n.d. [May 1851], DTP, vol. 3, pp. 991-3. Also Hargraves, *Australia and its Gold Fields: A Historical Sketch of the Progress of the Australian Colonies, from the Earliest Times to the Present Day...*, London 1855, pp. 119-20. It should be noted that Thomson later accepted Hargraves as the 'practical discoverer' of gold in the colony: see report of Gold Anniversary Dinner, 12 Feb. 1853, in *SMH*, 14 Feb. 1853; and EDT's evidence before Select Committee on the Gold Fields Management Bill, *VPLC*, 1853(2), pp. 510-11.

classes of society by the announcement'.<sup>35</sup> Some inhabitants predicted a glorious future for the colony. Others trembled as they recalled reports of Californian lawlessness and anarchy. Almost at once, the social order seemed threatened by rapidly increasing prices and workers abandoning their usual vocations. FitzRoy, lamenting the departure of his hall porter, asked Thomson the question in so many people's minds: 'Where will it all end?'<sup>36</sup>

A week after Sydney heard of the discovery the government took measures to bring the diggings under its control. On 22 May, a proclamation was issued declaring that all gold found within the territory was the property of the Crown. The next day provisional regulations were published which required all diggers to pay a licence fee of thirty shillings per month. A commissioner was appointed to take responsibility for issuing licences and police were stationed at intervals on the road from Bathurst to Sydney.<sup>37</sup>

<sup>35</sup> Godfrey Charles Mundy, *Our Antipodes: or, Residence and Rambles in the Australasian Colonies. With a Glimpse of the Gold Fields*, 3rd ed., London 1855, p. 561.

<sup>36</sup> FitzRoy [to EDT] (incomplete), n.d. [May 1851], DTP, vol. 3, p. 1074. See also poem by 'R.S.', 'The Advent of Gold in New South Wales', in *SMH*, 19 May 1851; Mundy, op. cit., pp. 561-70; Therry, *Reminiscences*, pp. 369-70; Eric W. Dunlop, "'The Golden 'Fifties'" Being the Story of the Influence of the Gold Discoveries in Australia in the 1850's', *JRAHS*, Vol. XXXVII, Part I, 1951, pp. 27-34; and Blainey, *Rush That Never Ended*, pp. 13-27.

<sup>37</sup> FitzRoy to Grey, 22 and 31 May 1851, and enclosures, CO 201/444, ff.3-9, 19-31.

It would be difficult to exaggerate the impact of the government's licensing regulations. In New South Wales they formed a sound basis of order on the diggings. When they were copied in Victoria, they became a focal point of discontent and agitation. Geoffrey Blainey has forcibly expressed their significance. FitzRoy and Thomson, he writes,

devised a radical economic policy, offering one of the country's richest resources equally to all men at a time when Australia was becoming a big man's economy. They sanctioned the democratic form of mining that resembled the open-field system of feudal times and had deep effects on immigration, the accumulation and dispersal of wealth, racial problems, and most phases of social and economic life for at least a generation.<sup>38</sup>

Blainey's account of the origins of this system lays heavy emphasis on the role of chance and the force of circumstances in a crisis situation. He suggests that the government would probably have devised other policies, were it not for a 'flimsy chain of events and the strange behaviour of several men'. There was 'a touch of neurosis' in the concern of those in power for peace and order. According to Blainey, Thomson was deceived by advice that California had an efficient licensing system and by the assurance of a 'nameless Californian miner' that the gold samples had really come from across the Pacific.<sup>39</sup>

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<sup>38</sup> Blainey, 'The Gold Rushes', p. 129.

<sup>39</sup> Ibid., pp. 129-40.

Chance circumstances and a crisis situation were of course important in influencing the government's response to the early rushes. Yet there was more order and reason behind official movements than Blainey makes out. If we look at Thomson's part in framing the regulations we shall see that his behaviour was cautious, logical, and consistent with his previous performance as Colonial Secretary.

In support of his argument, Blainey investigates the government's tardiness in bringing the gold fields under its control. A delay of several days, he argues, placed the executive in a position where it could only 'accept the rush and soften the harshness of its impact'. Noting FitzRoy's reluctance to take responsibility, he charges him with the delays which occurred after 17 May. On that date a report arrived from the government geologist, Samuel Stutchbury, tentatively confirming that gold existed. 'Thomson', writes Blainey, 'seemed anxious to act but now FitzRoy dithered'. He awaited a legal opinion establishing the Crown's rights to the gold and then delayed committing himself until a fuller report arrived from Stutchbury.<sup>40</sup>

In fact it is more probable that Thomson was chiefly responsible for the government's procrastination. As always, he would have placed the necessity for caution before the need for urgency. Certainly, there was every reason to hasten: but there were risks in doing so. As we have seen, he still wondered about Hargraves' veracity. His doubts were increased on 17 May

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<sup>40</sup> Ibid., pp. 135-6.

when Blainey's 'unnamed Californian miner' commented on the resemblance between the alleged local finds and Californian gold.<sup>41</sup> Therefore he decided to await unequivocal confirmation that a large field existed. Had the government acted on rumours which later proved to be unfounded, they would have added to the excitement. Moreover, they would have appeared ridiculous in the eyes of the colonists and their Downing Street masters. The Governor's first despatch relating to the discoveries, which was probably drafted by Thomson, warned that the reports might be mainly fictions.<sup>42</sup> As late as 31 May, FitzRoy's despatch incorporated a saving clause that the discovery might yet prove to be a delusion.<sup>43</sup>

Blainey spends some time discussing the origins of the licensing regulations. He concludes that Hargraves deliberately misled the executive into believing that California had an efficient licence system, in order that the government might derive a large gold revenue and grant him a proportionate reward.<sup>44</sup>

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<sup>41</sup> Blainey (*Rush That Never Ended*, pp. 19-20), in seeking to explain why gold was not mentioned at the executive council meeting of 13 May, assumes that Thomson had received this testimony before that date. However, the Colonial Secretary's first meeting with the unnamed miner was 17 May. See below, p. 347.

<sup>42</sup> FitzRoy to Grey, 22 May 1851, CO 201/444, f.5.

<sup>43</sup> FitzRoy to Grey, 31 May 1851, *ibid.*, f.22.

<sup>44</sup> Blainey, 'The Gold Rushes', pp. 136-7.

However, Blainey omits to notice that Californian authorities had experimented with licences in 1850. The introduction of a similar system in New South Wales therefore came as no surprise amongst colonists.<sup>45</sup> Moreover, Blainey overlooks evidence of interviews which took place between the Colonial Secretary and Alfred Elliott Bush, who had been an alcalde on the Californian fields. Thomson was first introduced to Bush, by the American consul, on 17 May. According to Michael Fitzpatrick, he emerged from the interview 'highly gratified', for Bush had furnished him with details of Californian regulations. Although the Californian experiment with licences proved to be short-lived, Bush's information formed the basis of the regulations which Thomson prepared for New South Wales.<sup>46</sup>

Thomson seized eagerly upon a system which he understood had worked in practice. But the licensing scheme had more to recommend it than that. In the first place, it was appropriate to a pattern of individual digging. While Thomson, as Blainey points out, was certainly no democrat,<sup>47</sup> he did believe devoutly in freedom of individual enterprise. He later told Fitzroy that:

<sup>45</sup> See *SMH* editorial, 16 May 1851, which urges the government to lose no time in introducing a licence system.

<sup>46</sup> Correspondence, &c., relative to services of Mr. A. E. Bush, ordered to be printed, 14 Nov. 1861, *VPLA*, 1861-2(2), esp. items no. 9 and 10. Report from the Select Committee on Mr. A. E. Bush, ordered to be printed 2 Sept. 1862, *VPLA*, 1862(4). E. Daniel Potts and Annette Potts, *Young America and Australian Gold: Americans and the Gold Rush of the 1850s*, St Lucia (Qld) 1974, pp. 171-2.

<sup>47</sup> Blainey, 'The Gold Rushes', p. 139.

as a general proposition I should be decidedly opposed to any interference with the manner in which the masses of the people may choose to employ their industry - A great emergency may perhaps justify in some measure a temporary departure from that golden rule. There is always however a great risk that in attempting to cure one evil you may produce a greater.<sup>48</sup>

Furthermore, the licensing system accorded fully with Thomson's attitude to the gold discovery. He was optimistic that the diggings would bring great improvements to the colony as a whole. One of the major advantages to be looked for was large scale immigration, which in turn would put an end to the transportation question once and for all and would counterbalance the emigration from the colony to the Californian gold fields since 1849. He confidently expected that the influx would be comparable with that which took place into California.<sup>49</sup> Therefore, he probably favoured ready access to the diggings as a means of stimulating this immigration.

Gold licences would do little towards furnishing a large government revenue, but this was of small importance. Thomson felt the advantages of gold would be shared by all classes and interests, not solely by those persons who went to the diggings.

<sup>48</sup> EDT (Coombing) to FitzRoy, 25 Aug. 1851, DTP, vol. 2, pp. 440-1.

<sup>49</sup> See Denison to EDT, 22 Aug. and 12 Nov. 1851, DTP, vol. 2, pp. 610, 629-30; and Hargraves' evidence, 27 July 1853, before Select Committee on the Gold Fields Management Bill, *VPLC*, 1853(2), p. 508. Also FitzRoy to Grey, <sup>6</sup> Nov. 1849, CO 201/417, ff.67-70.



Although the ordinary economic pursuits of the colony would suffer immediate distress, they would ultimately be 'most materially benefited'.<sup>50</sup> Therefore the revenue from the diggings need cover only the expenses of the gold establishment and the maintenance of order on the gold fields. Any surplus revenue, which might be devoted to the general improvement of the colony, would of course be welcome. However, government policy was not directed primarily towards this end.<sup>51</sup>

At the forefront of Thomson's mind when he prepared the gold regulations was the importance of maintaining social order and harmony. While he was optimistic about the long term consequences of the discovery, he also feared that it threatened 'the general *bouleversement* of society'.<sup>52</sup> His first object, therefore, was to retain firm government control, whilst allowing for the orderly exploitation of the colony's gold resources. He was acutely aware that the powers of the executive were limited. In 1849, much against his wishes, the legislature had disbanded the mounted police as a retrenchment measure.<sup>53</sup> More recently

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<sup>50</sup> EDT to James Macarthur (copy), 30 May 1851, DTP, vol. 3, pp. 235-7.

<sup>51</sup> See EDT's speech in LC, 7 Sept. 1852, reported in *SMH*, 8 Sept. 1852.

<sup>52</sup> Report of LC proceedings, 21 Oct. 1851, in *SMH*, 22 Oct. 1851.

<sup>53</sup> Report of LC proceedings, 29 Aug. 1849, in *SMH*, 30 Aug. 1849.

the only regiment stationed in New South Wales had been reduced from 900 to 640 men.<sup>54</sup> It would have been 'as futile to attempt to stop the tide of the Ocean as the rush of the people to El Dorado'.<sup>55</sup> If the government had tried to prevent digging and then had failed it would have been placed in an extremely humiliating position. As Thomson told James Macarthur,

it is only by engaging the good feelings of the better disposed portion of the community in co-operating with the Government in establishing Regulations and order that we can hope to place the whole question upon a safe & satisfactory basis.<sup>56</sup>

While Thomson aimed in the long term to encourage immigration, he was anxious in the short term to afford as much protection as possible to existing economic interests. The amount of the licence fee was set high, so as to discourage workers who were already in the colony from leaving their present occupations. At the same time

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<sup>54</sup> Mundy, op. cit., p. 566. For Thomson's concern about the military and police situations, see his letter to FitzRoy, 25 Aug. 1851, DTP, vol. 2, p. 443.

<sup>55</sup> EDT to James Macarthur (copy), 30 May 1851, DTP, vol. 3, p. 234. Notice the similar phrase in FitzRoy's despatch to Grey of the following day (CO 201/444, f.24), which suggests that Thomson drafted the despatch: 'it would have been as futile to attempt to stop the influx of the tide as it would be to attempt to stop the rush of the people to the gold fields'.

<sup>56</sup> EDT to James Macarthur (copy), 30 May 1851, DTP, vol. 3, pp. 228-9.

it was kept at a high level which the government believed the miners would willingly pay. Thirty shillings was selected on the assumption that, while the fee might be easily lowered, it could not so readily be raised.<sup>57</sup>

There were, of course, other means which the government might have adopted of regulating individual diggings. Royalties might have been imposed, either on exports or on the metal as it was taken from the ground. However, Thomson felt that the second of these alternatives would be impossible to supervise, and would serve only to encourage illicit digging.<sup>58</sup> The licence, unlike both systems of royalties, was a fixed and conspicuous fee, payable in advance, which might dissuade poorer workers, especially in the pastoral industry, from coming to the gold fields.

Other measures of the government in the early weeks of the rushes were directed towards the same end of preserving social order. On FitzRoy's initiative a warning was issued that persons who left the public service would be noted down as ineligible for re-employment.<sup>59</sup> Soon afterwards, a complementary measure increased

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<sup>57</sup> Hardy to EDT (copy), 18 May 1856 [1851], return to an address from the legislative assembly, 14 Nov. 1856, *VPLA*, 1856-7(2). Executive council minute no. 24, 23 May 1851, 4/1527, pp. 257-8, NSWA.

<sup>58</sup> Reports of LC proceedings, 2 Dec. 1851 and 7 Sept. 1852, in *SMH*, 4 Dec. 1851 and 8 Sept. 1852.

<sup>59</sup> FitzRoy's memorandum, 26 May 1851, CSIL SB 4/1146.1. *Government Gazette*, 27 May 1851.

the salaries of clerks by twenty-five per cent.<sup>60</sup> This judicious combination of coercion and conciliation had the desired effect of keeping the public service functional.

Thomson realised that his regulations would win acceptance only if they were tactfully applied. He therefore left a great deal to the discretion of the Chief Commissioner. For example, although Bush had furnished him with details regarding the area allocated to individuals on the Californian diggings,<sup>61</sup> Thomson did not attempt to prescribe in advance the size of claims.

Obviously, the success of the regulations depended very largely on those appointed to give them effect. The Chief Commissioner, John Richard Hardy, was Thomson's protégé. Although he was related by marriage to Sir Alfred Stephen, Hardy probably owed his appointment to his impressive performances as a police magistrate at Yass and Parramatta. Well-educated and well-endowed with *savoir-faire*, he was supremely confident of his own abilities. Although he anticipated a time when an ordinary labourer could earn ten shillings a day, he assured Thomson that this was no cause for anxiety: 'Every difficulty may be met and overcome - as I have met mine - and there is no storm on the horizon'. He also

<sup>60</sup>

Executive council minute no. 26, 3 June 1851, 4/1527, NSW. 'Retrospect of the Australian Gold Discovery', by 'A Man of Letters', in *SMH*, 8 May 1852. Only government clerks of the third class or below received this increase.

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Col. Sec.'s memorandum of interview with Bush, in Correspondence, &c., relative to services of Mr. A. E. Bush, *VPLA*, 1861-2(2), p. 22.

possessed an agility and a constitution which enabled him to withstand the extraordinary rigours of moving about the gold fields, often in rainy weather. In September he told Thomson how he had undertaken a seventy mile ride with a slight cold and a sore throat. After spending the night in a cool bed by a river he rose the next morning with a blazing fever. He asked a companion to lance his throat with a penknife in half a dozen places: 'and I got from a Shepherd's hut a piece of Blue Stone...which I tied on the end of a stick and rubbed on the places afterwards'. In this condition he travelled fifteen miles down the river.<sup>62</sup>

On Hardy's urging, Thomson visited the diggings during August and September 1851. During three weeks he travelled with the Chief Commissioner in a gig around the various sites. He was very surprised by the high yields of gold, and concluded that 'the ultimate results of this grand discovery must exercise the most important influence on the destiny of this Colony'. He feared, however, the immediate impact of the discovery on other industries. He contemplated various proposals for increasing the licence fee in order to discourage pastoral workers from coming to the diggings, but decided that such measures would endanger the harmony which then prevailed. He expressed to FitzRoy the decided opinion 'that the Government should do nothing until put in motion by the parties interested'.<sup>63</sup>

<sup>62</sup> Nancy Keesing's entry on Hardy, *ADB*, vol. 4, pp. 343-4. Hardy (Bathurst) to EDT (private), 12 July and 21 Sept. 1851, DTP, vol. 3, pp. 244-56, 291-4.

<sup>63</sup> EDT to FitzRoy, 21 and 25 Aug. 1851, DTP, vol. 2, pp. 416-23, 426-46, and other letters in this series. Blainey, *Rush That Never Ended*, p. 27.

In the months following the initial rushes, the mining regulations were extended and refined. In August 1851 the government introduced a system of royalties on matrix gold, which was generally extracted by groups of diggers.<sup>64</sup> When Thomson returned from the diggings he brought with him various ideas for the improvement of the existing system, based on his own observations and the suggestions of Hardy and others. These ideas he incorporated in additional regulations, relating to the size of claims, the amount of the licence for working diggings on private property, the mining of matrix gold and the draining of ponds.<sup>65</sup> In March 1852, after approval of the early regulations had been received from the Secretary of State, a consolidated and amended code was issued, which covered all aspects of mining.<sup>66</sup>

As the government's regulations sought to steer a course between conflicting interests, it is hardly surprising that they were attacked from every side. Few people at first were satisfied with the principle of the licence fee. James Macarthur warned FitzRoy that individual licences were likely to keep up 'the worst characteristics of gold digging - the breaking down of proper

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<sup>64</sup> Additional Gold Regulations, 5 Aug. 1851, *Government Gazette Supplement*, 5 Aug. 1851.

<sup>65</sup> Additional Gold Regulations, 7 Oct. 1851, *Government Gazette*, 7 Oct. 1851.

<sup>66</sup> Gold Regulations, 29 Mar. 1852, *ibid.*, 2 Apr. 1852.

distinctions and right motives - the abandonment of regular occupations, and social duties - and the engendering of a gambling, selfish and antisocial spirit'. The system, he said, was uneconomic and could lead to the annihilation of existing industries. He urged Thomson to forbid mining entirely, by means of martial law if necessary, until an orderly system of gold field management could be introduced.<sup>67</sup> Stuart Donaldson put forward a scheme by which areas of gold country would be leased upon a certain tenure to capitalists, who would pay royalties on their earnings.<sup>68</sup> The *Herald* criticised specific features of the regulations and concluded that the system would preclude the efficient exploitation of the colony's resources and obstruct the enterprise of capitalists.<sup>69</sup>

The licensing system was likewise attacked by those who had the miners' interests at heart. The *Empire* wrote in favour of royalties, complaining that the thirty shillings fee would exclude the most needy from the gold fields. It portrayed the diggings as a new source of government patronage, and condemned the commissioners as petty despots.<sup>70</sup> In November 1851 diggers

<sup>67</sup> James Macarthur to EDT, 29 May and 10 June 1851, DTP, vol. 3, pp. 207-14, 223-6. James Macarthur to FitzRoy (copy), Macarthur Papers, Vol. 24, MS. no. A2920, pp. 178-88, ML.

<sup>68</sup> Donaldson to Col. Sec., 25 July 1851, enclosure in FitzRoy to Grey, 15 Aug. 1851, Correspondence relative to the recent Discovery of Gold in Australia, PP 1852 (1430) Vol. XXXIV, pp. 67-8.

<sup>69</sup> *SMH*, 21 Oct. 1851.

<sup>70</sup> *Empire*, 26 May, 7 Aug. and 8 Aug. 1851, 8, 14 and 20 Apr. 1852.

at Sofala, on the Turon River, addressed a petition to the legislature, complaining that the licensing system, being a tax on labour rather than produce, was unjust in principle. The petitioners declared that the amount of the tax was exorbitant and the manner of its collection unnecessarily vexatious.<sup>71</sup> Early in the following year a group of some 400 miners on the Turon organised armed resistance to the regulations. However, the government averted an uprising by promptly sending half a company of soldiers to the scene of the disturbance.<sup>72</sup>

In 1852 James Macarthur moved in the legislative council for the establishment of a select committee to enquire into the management of the gold fields. In order to show that the system was not working, speakers on the motion referred to an alleged widespread evasion of the licence fee. One of the major complaints was that licences failed to secure an adequate revenue to the colony as a whole. John Darvall expressed a widely-held view that the waste lands 'were held in trust for the public at large, not for the mere advancement of the idle, the wandering, and the dissipated'.<sup>73</sup>

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<sup>71</sup> Petition on Gold Regulations, 15 Nov. 1851, *VPLC*, 1852, 2nd session (2), pp. 65-6.

<sup>72</sup> FitzRoy to Newcastle, 20 May 1853, CO 201/465, ff.12-13. Dunlop, loc. cit., pp. 45-6.

<sup>73</sup> Report of LC proceedings, 7 Sept. 1852, in *SMH*, 8 Sept. 1852.



A casualty of the committee's deliberations was John Hardy, who held an extremely democratic view of the regulations which he was charged with carrying out. Hardy contended that, although the gold fields were the property of the Queen, gold extracted from the ground was the property of those who removed it. Each digger, he argued, was entitled to the profits of his own labour; the imposition of royalties would be an improper interference with those profits. Members of the committee were appalled by this attitude, as well as by his casual administration of the gold department. Macarthur was astounded that assistant commissioners were not even required to keep a journal of their daily activities. Hardy was as much a victim of his immense self-confidence as of his radical opinions. By claiming that the existing system was perfect and not susceptible of significant improvement, he managed to alienate a majority of the committee. Their conclusion was virtually inevitable: Hardy's opinions were 'wholly incompatible' with the position he occupied, and his recent performance of his duties more than outweighed his early zeal and activity. On the committee's recommendation the office of chief gold commissioner was abolished, and commissioners were instructed to report directly to the Colonial Secretary.<sup>74</sup>

<sup>74</sup> Progress Report from the Select Committee on the Management of the Gold Fields, 14 Dec. 1852, *VPLC*, 1852(2). Third Report..., 22 Dec. 1852, *ibid.* Report ..., *VPLC*, 1853(2). Report of LC proceedings, 23 Sept. 1853, in *SMH*, 24 Sept. 1853. Hardy to EDT, 30 Sept. 1853, *DTP*, vol. 3, pp. 475-8.

Notwithstanding these criticisms of the administration of the system, the committee's reaction to the regulations was generally favourable. In late 1852, having considered a bill introduced by the government to give the system legislative sanction, it approved the principle of the licensing system and proposed alterations in the regulations 'merely of detail'.<sup>75</sup> In the following year it examined an amending bill proposed by the government and suggested several changes, including the reduction of the licence fee to ten shillings, to meet an intended sharp reduction in the Victorian levy and thereby compete with the sister colony in attracting immigrants, and the introduction of a clause empowering the government to levy a duty on gold exports. It commended the government's action in restoring order at the Turon, and once again resolved that the licence system, 'as a mere measure of Police', should be maintained.<sup>76</sup>

The *Empire* was indignant that the council was, in effect, leaving the whole question of gold fields management to the government.<sup>77</sup> But the fact was, as the *Empire* itself had grudgingly conceded, that the regulations worked 'passably well'.<sup>78</sup> When the system was attacked during the early stages of the rushes, Thomson had no difficulty in putting down its critics. In 1851 he easily dismissed the petition of the Sofala miners, pointing out that the moving spirit behind it was 'a reverend agitator,

<sup>75</sup> Third report ..., 22 Dec. 1852, *VPLC*, 1852(2).

<sup>76</sup> Report ..., 20 Sept. 1853, *VPLC*, 1853(2).

<sup>77</sup> *Empire*, 28 Dec. 1852.

<sup>78</sup> *Ibid.*, 8 Apr. 1852.

who, forgetting the principles of his holy vocation, endeavoured to raise discontent and discord'.<sup>79</sup> Later, active members of the legislature were frustrated by a lack of interest on the part of their colleagues. During the 1852 debate on the proposed appointment of a committee on gold fields management, the house was frequently without a quorum. In the strangers' gallery there was not a single spectator.<sup>80</sup> This reflected the prevailing political apathy of the gold rush period. As the *People's Advocate* lamented, everything gave way to a passion for acquiring gold; the government was at perfect liberty to do as it pleased.<sup>81</sup>

The measures of the New South Wales government appeared in a still better light when contrasted with the performance of its Victorian counterpart. The Victorian rushes commenced in earnest in September 1851. At first La Trobe followed New South Wales precedents, declaring the Crown's rights over the discoveries and introducing a thirty shilling licence fee. However, when the licence met with immediate and forceful resistance, the government backed down and announced that no fees would be collected for September. Having made this concession, it then attempted to collect payments for half of the month.

<sup>79</sup> Report of LC proceedings, 2 Dec. 1851, in *SMH*, 4 Dec. 1851. Lang, of course, was the 'reverend agitator' in question.

<sup>80</sup> Report of LC proceedings, 7 Sept. 1852, in *SMH*, 8 Sept. 1852.

<sup>81</sup> *People's Advocate*, 13 Mar. 1852. See also Thomson's comment in LC, 19 July 1853, reported in *SMH*, 21 July 1853.

Then, at the beginning of the following year, it doubled the amount of the fee. So great was the outcry that within a fortnight it was compelled to retract this measure. In later months the fee was adjusted on several occasions as the executive and the legislative council sought to control persistent, and sometimes violent, disorder on the diggings. Eventually, in 1855, the licence was discarded in favour of an export duty on gold and a 'miner's right' of one pound a year, which gave each digger a legal right to his claim and entitled him to the vote.<sup>82</sup>

Geoffrey Serle has written that 'The basic problem in judging La Trobe's government of Victoria is measuring the extent to which the appalling difficulties facing him may be taken as excuse for a sorry show of inefficiency'.<sup>83</sup> Certainly, La Trobe's difficulties were in many ways greater than those which had confronted the New South Wales executive. At the commencement of the rushes separation had only just occurred and the government officers were untried in their new roles. Communications between Melbourne and the diggings were poor and the Lieutenant-Governor had problems in finding suitable commissioners.<sup>84</sup> However, the executive's actions vastly increased the difficulties of administration. In New South Wales the thirty shillings fee was

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<sup>82</sup> Geoffrey Serle, *The Golden Age: A History of the Colony of Victoria, 1851-1861*, Melbourne 1963, esp. pp. 19-29, 177. Blainey, *Rush That Never Ended*, pp. 32, 53-6.

<sup>83</sup> Serle, op. cit., p. 95.

<sup>84</sup> Ibid., pp. 20-1, 24, 95-101.

imposed, initially as a provisional measure, on the assumption that it would willingly be paid. The Victorian licence was introduced not in response to immediate, local circumstances, but in accordance with the policy of the sister colony. When early yields were small it was vigorously resisted. The collection of a half licence in September appeared to the diggers as a breach of faith.<sup>85</sup>

The inhabitants of New South Wales, always eager to pour scorn upon the sister colony, remarked contemptuously on the weakness of the Victorian executive. In February 1852, after major disturbances had taken place at Mount Alexander, the *Herald* contrasted the sluggishness, indecision and general ineptitude of the Melbourne authorities with 'the successful example of our own government'.<sup>86</sup> Next year the Gold Management Committee, when approving the executive's measures, deprecated in passing 'the vacillating policy pursued in the colony of Victoria'.<sup>87</sup>

In November 1852 the *Herald* expressed the opinion that the government officers of New South Wales, from FitzRoy down, had performed their duties very well:

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<sup>85</sup> *Ibid.*, pp. 20-1.

<sup>86</sup> *SMH*, 25 Feb. 1852.

<sup>87</sup> Report ..., 20 Sept. 1853, *VPLC*, 1853(2). See also Serle's comment (*op. cit.*, p. 13): 'if La Trobe had had as chief executive and adviser someone as competent as his friend Deas Thomson ... the team would have been fairly strong by colonial standards'.

Good sense, sound judgment, a high feeling of public duty, and a just concern for the interests of the community at large, and for those of private individuals so far as they were not incompatible with what was due to the public, appear to us to have been the distinguishing features of their policy throughout that season of unexampled difficulty.<sup>88</sup>

This view was probably shared by a large majority of the community. Moreover, the British government thought very favourably of the local executive's handling of the crisis. Earl Grey told FitzRoy that the Queen approved of the judgment and vigour with which he had acted.<sup>89</sup> Gladstone, now Chancellor of the Exchequer, commented privately to the Governor that people in England were impressed by the political and social condition of the Australian colonies compared with that of California. The local authorities, he said, had evidently played their part eminently well.<sup>90</sup>

The leading part throughout the period of emergency was played by the Colonial Secretary. Although others assisted in framing the early regulations, it was he who determined their final form and supervised their execution. Hardy, with characteristic lack of modesty, later claimed that he alone was responsible for the principle behind the system and for maintaining order on

<sup>88</sup> *SMH*, 19 Nov. 1852.

<sup>89</sup> Grey to FitzRoy, 17 Oct. 1851, Correspondence relative to the recent Discovery of Gold in Australia, PP 1852(1430) Vol. XXXIV, p. 75.

<sup>90</sup> Gladstone to FitzRoy (copy), 21 Feb. 1853, Gladstone Papers, Vol. CCCCXLIII, BM ADD. MS 44,528, f.101.

the fields. But even he praised the Colonial Secretary for resisting the 'powerful band of idiots' who pressed the government to prohibit mining, and conceded that Thomson had stemmed a torrent which would have overwhelmed a weaker man.<sup>91</sup> FitzRoy fully recognised Thomson's contribution. In February 1853, at the Gold Anniversary Dinner, he borrowed a phrase used by Colonel Mundy to refer to the 'Prince of Colonial Secretaries and the best of good fellows'. Tremendous applause met this commendation.<sup>92</sup>

By mid-1854, as the *Herald* observed, gold digging had become 'one of the permanent and ordinary interests of the colony'.<sup>93</sup> Although society had undergone fundamental changes, order had been preserved. For this the credit lay chiefly with Thomson.

While the diggers were exploiting the gold fields, the legislative council was debating another matter of great social importance. In June 1852 Wentworth, taking advantage of permission granted in the Act of 1850, moved for the formation of a select committee to prepare a new constitution for the colony.<sup>94</sup> Although the council's deliberations in the 1852 session were inconclusive, the subject was taken up by another committee in the following year. By this time councillors were aware of Sir John Pakington's

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<sup>91</sup> J. R. Hardy, *Squatters and Gold-Diggers, Their Claims and Rights*, Sydney 1855, p. 14.

<sup>92</sup> Proceedings at dinner, 12 Feb. 1853, reported in *SMH*, 14 Feb. 1853.

<sup>93</sup> *SMH*, 2 June 1854.

<sup>94</sup> Report of LC proceedings, 16 June 1852, in *SMH*, 17 June 1852.

favourable response to the 1851 Declaration and Remonstrance, and could therefore frame a constitution on the assumption that it would be accepted by the home government.

Despite the initial arguments of Wentworth and others that government officers should take no part in constitution-making, Thomson and his colleagues, especially Plunkett and Manning, played an active part in the deliberations. After Thomson had insisted that officials should be represented, he and Plunkett were elected to the committees of 1852 and 1853.<sup>95</sup> At committee meetings and in the council chamber they spoke unconstrained by directions from above.

By December 1853 the council had agreed upon a constitution which provided for the introduction of responsible government and the formation of a bicameral legislature.<sup>96</sup> Thomson made two major contributions to this outcome. In the first place, although the franchise was extended, the pattern of electoral distribution adopted for the lower house was based on the system he had devised in 1851 for the old council. Secondly, he consistently and forcefully advocated a nominated upper house. No question during the debates was more vexed than the composition of this chamber. In 1852 even Wentworth was unsure what solution would best satisfy conservative interests; in the following year, however,

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<sup>95</sup> Ibid.

<sup>96</sup> The 1853 debate on the Constitution Bill is printed in Silvester, *op. cit.*, pp. 22-232.



conservative opinion settled firmly on the desirability of a nominated chamber.<sup>97</sup>

Thomson gave as his main reason for supporting a nominated upper house the need to follow British constitutional precedents. He observed that the British constitution balanced the three branches of the legislature against one another. If New South Wales were to have an enduring constitution it would be necessary to reproduce this balance. He therefore approved the intended measure because it was, in his view, both liberal and conservative. He welcomed the extension of the franchise for the lower house, but at the same time supported the formation of a nominated upper house which would be independent both of the Crown and of the people.<sup>98</sup>

Although other conservatives besides Thomson spoke at length on the need to preserve a balance of interests and to follow British precedents, their support for a nominated chamber rested on a more substantial basis. Liberals as well as conservatives invoked British principles and institutions in order to justify opposite points of view. The liberal John Darvall reminded the council that opinion in Britain differed on the merits of elected and nominated chambers, and that only recently a privy council committee had favoured an elected upper house for the Cape.<sup>99</sup> Similarly, admiration for 'a balanced

<sup>97</sup> C. N. Connolly, *Politics, Ideology and the New South Wales Legislative Council, 1856-72*, Ph.D. thesis, Australian National University 1974, pp. 17-18.

<sup>98</sup> Silvester, *op. cit.*, pp. 169-79.

<sup>99</sup> *Ibid.*, pp. 69-70.

constitution' could be used in support of a variety of institutions. Even a unicameral legislature could be constructed so as to balance the various interests in the community.

C. N. Connolly argues that the real basis of conservative support for the principles of nomination lay in self-interest. Although the squatters were numerically the strongest force in the existing council, the chamber was intellectually dominated by the 'urban aristocrats', comprising government officers, lawyers and others. Members of this group were more regular in their attendance than the squatters and were better acquainted with constitutional matters. They were therefore the strongest conservative influence in shaping the constitution. Anxious to maintain their own power, they had no wish to create an upper house on a limited property franchise, which would become 'a bastion of squatter supremacy'.<sup>1</sup>

Thomson's speeches in the constitution debates largely bear out Connolly's conclusions. Certainly, he had no desire to see an upper house dominated by the squatters. On theoretical grounds he opposed the granting of exclusive privileges to any one class. More practically he recognised that a squatters' council would be unacceptable to the colony at large. Why, he asked, should merchants and professional men be ineligible for membership? Although he did not specifically mention former

<sup>1</sup> Connolly, *op. cit.*, pp. 23-7.

officers of government in this context, he was probably concerned that people like himself would be excluded from a council elected on a high property franchise.<sup>2</sup>

Recalling later swampings of the legislative council, historians have traditionally regarded the conservative preference for a nominated house as unwise. They have assumed that Wentworth and his colleagues failed to recognise the susceptibility of such a chamber to swamping. However, as Connolly demonstrates, Wentworth, Thomson and others were well aware that a nominated house could be swamped, but regarded this as a positive advantage. If the upper house were elected on a more restrictive franchise than the lower house, conflicts would probably ensue and these might lead to constitutional deadlocks. If, on the other hand, the upper house were nominated, the governor could be given power to appoint sufficient new members to break a deadlock.<sup>3</sup>

Although Thomson did not specifically mention swamping, he certainly recognised that this possibility existed. The upper house, he argued, was responsible to the lower one, and was therefore indirectly responsible to the people.<sup>4</sup> Other conservative speakers were more explicit. Wentworth praised what he called 'the expansive character' of the House of Lords,

<sup>2</sup> Silvester, *op. cit.*, pp. 169-79. Report of LC proceedings, 8 Dec. 1853, in *SMH*, 9 Dec. 1853.

<sup>3</sup> Connolly, *op. cit.*, pp. 27-30.

<sup>4</sup> Report of LC proceedings, 8 Dec. 1853, in *SMH*, 9 Dec. 1853.

suggesting that its very vulnerability had saved England from more than one revolution.<sup>5</sup> The conservatives' support for the principle of swamping reflected their confidence in the stability of colonial society. Unlike their counterparts in Victoria, who chose an elective upper chamber, they were not intimidated by the threat of aggressive democracy. They recognised that at some stage in the future the upper house might have to be swamped, but believed that any coercive measures would follow the precedent set in Britain in 1832, when the House of Lords had passed the Reform Bill under the threat of swamping.<sup>6</sup>

Thomson's support for a nominated upper chamber also reflected his wish to adhere to imperial precedents. In his view the unicameral experiment had failed and its failure had convinced him that the traditional bicameral structure, which incorporated a nominated upper house, was the safest and most suitable form of colonial legislature.<sup>7</sup> Moreover, his experience with nominee

<sup>5</sup> Silvester, *op. cit.*, p. 219.

<sup>6</sup> Connolly, *op. cit.*, pp. 27-30. See also Norman Gash, *Reaction and Reconstruction in English Politics 1832-1852*, Oxford 1965, pp. 31-58.

<sup>7</sup> See above, pp. 278-9. Compare Thomson's views with James Stephen's support for bicameralism: Foster, 'The Concession of Responsible Government to New South Wales', in publication commemorating sesquicentenary of parliamentary institutions in New South Wales (forthcoming).

members in a single chamber had convinced him that they could play a valuable role in a bicameral system.

The 1853 debate on the Constitution Bill witnessed the consummation of the alliance between the government officers and the elected conservative members of the council. Since the Electoral Bill debates of 1851 the two groupings, led by Thomson and Wentworth respectively, had been steadily coming together in response to the increasing challenge of democratic elements in the community. In 1852 Wentworth argued against a proposal which would force the executive to act contrary to Colonial Office instructions: 'except in cases of great emergency, he could not think that the Government should be constantly placed by that House in collision with the Home Government'.<sup>8</sup> With the arrival of Pakington's conciliatory despatch of 15 December 1852, the final major obstacle to harmony within the conservative ranks was removed.<sup>9</sup>

When the Constitution Bill passed its third reading at the end of 1853, to the accompaniment of loud and enthusiastic cheering within the council chamber, both Thomson and Wentworth were preparing to leave the colony. Now that the initial problems of the gold rushes had been satisfactorily dealt with and the introduction of responsible government was within sight, the Colonial Secretary was granted leave of absence. Wentworth, having achieved the passage of a conservative constitution, was about to

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<sup>8</sup> Report of LC proceedings, 29 June 1852, in *SMH*, 30 June 1852.

<sup>9</sup> Connolly, *op. cit.*, p. 17.

sail for England, where he was destined to stay for most of his remaining years. One of Wentworth's tasks in England was to watch over the passage of the Constitution Bill through the Colonial Office and Parliament. However, supporters of the bill wondered if he could be entrusted to perform the job alone. Accordingly, the urbane Thomson was appointed to join the brusque and nonchalant Wentworth in the task of supervision.<sup>10</sup>

Thomson eventually left Sydney in late January 1854 and Wentworth followed some two months later. The proximity of their departures led to a little embarrassment in the colony, for the usual practice of the day was to present embarking dignitaries with testimonials, furnished by public subscriptions. Although there was initially some talk of limiting the amount of individual subscriptions, or of delaying one of the testimonials, it was decided to let each gentleman stand on his own merits.<sup>11</sup> The outcome demonstrated that both men were held in high regard by the community. By the time of his departure, the Thomson Testimonial Committee had collected over £2,300 from a great many large and small subscribers.<sup>12</sup> The Wentworth Testimonial, with longer to run, attracted donations in excess of £3,000.<sup>13</sup>

<sup>10</sup> Report of LC proceedings, 21 Dec. 1853, in *SMH*, 22 Dec. 1853. Sir Charles Nicholson to James Macarthur, 21 Apr. 1853, Macarthur Papers, Vol. 27, MS. no. A2923, p. 155, ML.

<sup>11</sup> *SMH*, 13 Dec. 1853.

<sup>12</sup> Report of testimonial meeting in EDT's honour, 23 Jan. 1854, in *SMH*, 24 Jan. 1854.

<sup>13</sup> *SMH*, 15 July 1853.

Although the two amounts were comparable, most people had different reasons for subscribing to each testimonial. According to the *Herald*, the tribute to Thomson was founded less on political than on personal and official considerations. In contrast, the Wentworth testimonial related 'not so much to the individual as to the senator, the politician, the patriot'.<sup>14</sup> What the *Herald* was driving at was that Thomson, notwithstanding his political opinions, was respected and liked by all but a few in the community. Wentworth, on the other hand, was loved by very few, though his achievements were admitted by many. In liberal eyes, he was a 'hoary-headed renegade' who had betrayed the causes of his younger days.<sup>15</sup> Even his supporters believed that his passionate diatribes against the masses were ill-advised.<sup>16</sup>

The contrasting popular feelings towards the two men were best demonstrated at the time of their departures. When Wentworth embarked from Circular Quay only a few people were there to see him leave his native land. The *Herald* regretted that the proceedings were interrupted by 'some half-score hired ruffians'.<sup>17</sup> Previously Thomson had received one of the warmest farewells ever accorded a departing official or colonist. A few days before his

<sup>14</sup> *SMH*, 21 Dec. 1853.

<sup>15</sup> *People's Advocate*, 5 Apr. 1851. *Empire*, 12 Dec. 1853.

<sup>16</sup> *SMH*, 19 Apr. 1851.

<sup>17</sup> *SMH*, 21 Mar. 1854.

sailing a 'brilliant assemblage', comprising 'all classes of good society, varying in opinion on special subjects in every possible way', gathered in his honour at the Victoria theatre. John Gilchrist, a leading merchant and President of the Testimonial Committee, told the crowd that 1,000 guineas of the testimonial would be used to purchase a piece of plate. The remainder, at Thomson's request, would be set aside for the establishment of a scholarship at the new University of Sydney. Nicholson then read a eulogistic address, Thomson replied, and three cheers were given for the guest of honour.<sup>18</sup> There were of course, some dissenting voices. The *People's Advocate* saw the whole affair as a hollow mockery and sneered at the address and reply 'written in the most approved style of twaddle'.<sup>19</sup> However, the prevailing feeling was expressed at the Victoria theatre when, at the end of the ceremony, people rushed forward in order to shake the departing hero's hand. That same feeling inspired a poet to write, with more warmth than talent:

When in the zenith of thy power,  
 Forget not THOMSON'S name;  
 Let all that's just, and kind, and good,  
 Be mingled with his fame:  
 And laurels for that brow prepare  
 Which throb'd for thee with many a care.<sup>20</sup>

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<sup>18</sup> Report of testimonial meeting in EDT's honour, 23 Jan. 1854, in *SMH*, 24 Jan. 1854.

<sup>19</sup> *People's Advocate*, 28 Jan. 1854.

<sup>20</sup> 'Lines Written Impromptu, on the Departure of the Hon. E. Deas Thomson, Esq., Colonial Secretary of New South Wales', by E.S., in *SMH*, 27 Jan. 1854.



On 25 January 1854 Thomson, with his wife and eight children, sailed from New South Wales. Whether or not he expected to return is uncertain. He knew that the coming of responsible government would necessitate his retirement from office, and perhaps he envisaged the possibility of another appointment in the colonial service or in Britain. Wherever he was situated, he would surely remember his final farewells. At 1.30 p.m., while a band played 'appropriate airs', he and his family boarded the steamship *Victoria* which then drew the sailing vessel *Vimeira* down the harbour. At the Heads, after the voyagers had boarded the *Vimeira*, the steamer pulled away, but again came alongside the sailing vessel three more times. Each time, the well-wishers who lined the decks of the *Victoria* cheered enthusiastically. Then, in the words of the *Herald*, 'with a favouring breeze, wafting blessings and kindly wishes from every tongue and every heart, E. Deas Thomson left the colony'.<sup>21</sup>

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<sup>21</sup> *SMH*, 26 Jan. 1854.

## PREPARING FOR RESPONSIBLE GOVERNMENT

1854 - 1856

Thomson and his family were absent from New South Wales almost two years. They arrived in England in April 1854 and, after a short time in London, set out for Ireland, where they stayed with Anne's father, who was now in his seventy-eighth year. As winter approached, Edward and Anne left the younger children with Bourke at his estate near Limerick, and proceeded to France.

One of the major objects of the Thomsons' travels was to restore Edward's health, which had been seriously impaired by the pressures of the gold rushes. His doctors had advised him to take a complete rest from decision making. The family therefore made two visits to the Continent, extending in all over several months. In the south of France, Edward took courses in the mineral waters which, together with the change of air and the absence of business pressures, greatly improved his condition and gave him some relief from what he called 'that detestable complaint', the gout.<sup>1</sup> In Italy they made numerous visits to public buildings and galleries. Edward declared that he found their travels far more interesting than he had anticipated, and described what he saw with almost as much enthusiasm as he had

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<sup>1</sup> EDT to William Macarthur, 27 June 1855, Macarthur Papers, Vol. 40, MS. no. A2936, pp. 259-62, ML.

displayed in the United States twenty-seven years earlier.<sup>2</sup>

When they returned to England their pleasures were suddenly cut short by the unexpected news of Bourke's death. The funeral and period of mourning prevented Thomson from attending the Great Exhibition at Paris at the time of the Queen's visit. However, he did manage to visit Scotland, where he renewed acquaintance with many old friends and relatives.<sup>3</sup>

It was later charged that Thomson had not taken sufficient pains to support colonial interests while he was abroad.<sup>4</sup> However, wherever he travelled he was anxious to obtain information which might have proved useful in New South Wales. He sent home a box of sorghum seeds for distribution to local farmers, hoping that the crop would become a valuable addition to the products of the colony.<sup>5</sup> He arranged the exchange of plants between the Royal Botanic Gardens at Kew and the Botanical Gardens at Sydney.<sup>6</sup>

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<sup>2</sup> EDT to William Macarthur, 26 Mar. 1855, *ibid.*, pp. 234-9.

<sup>3</sup> EDT to William Macarthur, 7 Oct. 1855, *ibid.*, pp. 301-6.  
King, *Richard Bourke*, p. 254.

<sup>4</sup> Report of LC proceedings, 6 June 1856, in *SMH*, 7 June 1856.

<sup>5</sup> EDT to William Macarthur, 11 Feb. 1855, Macarthur Papers, Vol. 40, MS. no. A2936, pp. 224-31, ML.

<sup>6</sup> EDT to Sir William Hooker, 31 July, 6 Sept. and 23 Sept. 1855, and 27 Feb. 1856, Official Correspondence: letters to Sir W. J. Hooker, Vol. LXXIV, Australian letters, 1851-1858, items 222-5, Royal Botanic Gardens, Kew. I am indebted to Mrs P. Millward, Australian Joint Copying Project Officer, London, for referring me to these letters.

Owing to his lengthy absences on the Continent, he left the task of watching the passage through Parliament of the constitution bill to Wentworth alone.<sup>7</sup> However, on his return to England he joined Wentworth in interviewing several members of the Colonial Office and of Parliament, as well as Lord Elgin, who advised them regarding the operation of responsible government in Canada.<sup>8</sup> He studied the reports of debates concerning New South Wales and in mid-1855 protested vehemently to the Secretary of State about certain comments by Robert Lowe, who was now a member of the House of Commons. Lowe had charged that the constitution bill was the result of a corrupt bargain between the squatters and the government officers, contrived to make the monopoly of legislation and government as complete as the monopoly of the land. Thomson denied that there had been any such understanding and pointed out that the constitution bill gave the squatters no exclusive privileges which they did not already possess by virtue of the 1847 Order in Council and the accompanying act of Parliament. He stated his own view that the squatters had procured in 1847 more favourable terms from the imperial government than he personally would have wished.

Lowe also suggested that the government officers had been granted pensions equal to the inflated salaries they were receiving during the gold rushes, and implied that Thomson and Plunkett had played an active part in procuring these pensions. Thomson sharply refuted these charges. He told the Secretary of State that, although

<sup>7</sup> EDT to Merivale, 16 Dec. 1854, CO 201/482, f.399.

<sup>8</sup> Report of LC proceedings, 6 June 1856, in *SMH*, 7 June 1856.

he was to receive a pension equal to a salary rate which had recently been increased to £2,000, this increase was actually a restoration of the salary enjoyed by Alexander Macleay and was made not because of the gold rushes but in consideration of his long services to the colony. The pensions of other officers had been granted at the old salary rate. He also pointed out that he and Plunkett had retired from the council when the pensions were under discussion. The Secretary of State was well satisfied with each of these denials.<sup>9</sup>

While Thomson was absent on the Continent members of the Colonial Office found it very inconvenient that he was not within reach.<sup>10</sup> However, on his return to England they managed to obtain his advice on a number of subjects, including the vexed question of the imperial power of veto over colonial legislation. In the proposed constitution approved by the legislative council in 1853 a distinction was drawn between matters of imperial and local concern. Hitherto, the Crown had possessed the right of disallowance over all acts of the colonial legislature. Now the colonists hoped to limit that right to imperial subjects, including questions of allegiance to Her Majesty, the naturalisation of aliens, foreign relations, military matters, and the crime of high treason.<sup>11</sup>

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<sup>9</sup> *Hansard's Parliamentary Debates: Third Series*, Vol. XXXIX, cols 1989-2005, House of Commons, 14 June 1855. EDT to Russell, 28 May and 19 June 1855, and CO minutes, CO 201/492, ff. 376-84, 394-9.

<sup>10</sup> Sir George Grey's minute, 5 [Mar. 1855], on EDT to Merivale, 26 Feb. 1855, CO 201/492, ff. 366.

<sup>11</sup> A Bill to confer a Constitution on New South Wales, and to grant a Civil List to Her Majesty, printed in Silvester, *Speeches*, p. 5.

When asked by the Secretary of State, Lord John Russell, to comment on this proposal, Thomson supported the formal distinction between 'imperial' and 'local' legislation. He had already admitted, a decade earlier, that such a division influenced the policies and conduct of the local government.<sup>12</sup> With Wentworth's help, he now drafted for the Colonial Office a detailed set of instructions to the governor, which defined in precise terms the areas in which legislation was to be reserved for imperial consideration. He seems to have felt that the formal distinction was not in practice necessary, for he knew that in recent years the Crown had not interfered in matters of purely local concern. However, as many colonists strongly favoured limitations on the Royal power of veto, he pressed the arguments in favour of the distinction.<sup>13</sup>

This pragmatic approach had already received forceful support in cabinet. In late 1854 and early 1855 Gladstone, now Chancellor of the Exchequer, had argued that the great mistake of imperial policy makers had been to support fictitious imperial interests as if they were real ones. It was unwise, he said, to deny any request by the legislature of a free colony, except on the grounds of proven impracticability or interference with imperial interests. The veto proposals fell into neither of these categories.<sup>14</sup> Lord John Russell

<sup>12</sup> See above, p. 248.

<sup>13</sup> EDT to Merivale, 5 June 1855, CO 201/492, ff. 384-92.

<sup>14</sup> Confidential memorandum by Gladstone on the Australian Constitutional Acts, Dec. 1854, CO 881/1, Item XVI. Gladstone to Sir George Grey (copy), 17 Jan. 1855, Gladstone Papers, Vol. CCCXLV, BM ADD. MS. 44,530, f. 14.

argued equally strongly from the opposite point of view that, while the Crown and Parliament might distinguish in practice between 'imperial' and 'local' legislation, a formal division could not be admitted. Such a division would constitute a dangerous encroachment upon one of the few remaining links binding the colonies to the empire. Moreover, the distinction in practice would be impossible to maintain, for it would invariably turn out to be either too narrow or too wide.<sup>15</sup> Later, when Thomson submitted to the Colonial Office his proposed instructions for the governor, Russell questioned the wisdom of issuing any instructions at all. By doing so, he observed, the government would leave itself open to the charge of tightening the cord instead of loosening it.<sup>16</sup>

Russell's view, which was supported by other members of the Colonial Office, prevailed, and Thomson's plans were laid aside. The imperial power of general disallowance was therefore left unimpeded until 1865, when the Colonial Laws Validity Act prescribed that colonial laws should be valid unless they contravened an imperial statute which applied directly to the colony. The Secretary of State had acted wisely in rejecting the proposals of Thomson and others. As A. G. L. Shaw points out, had the formal distinction been made,

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<sup>15</sup> Paper by Lord John Russell on the 'Australian Bill', CO 881/1, Item IX.

<sup>16</sup> Russell's minute, 7 June [1855], on EDT to Merivale, 5 June 1855, CO 201/492, f. 387.

the future development of Imperial-colonial relations would have been placed in a rigid strait-jacket, and the evolution of Dominion status as it later became known would have been impossible.<sup>17</sup>

Thomson's advice on various matters was also sought by Sir William Molesworth, who succeeded Russell as Secretary of State. In September 1855 Molesworth requested his opinions on the subject of Moreton Bay separation, which had been revived by Matthew Henry Marsh, New England pastoralist and a member of the legislative council.<sup>18</sup> Marsh, who had recently visited Britain, argued that, with the end of transportation, the Moreton Bay District was ripe for separation. He suggested that a new colony be created north of the thirtieth parallel (running south of Grafton) and including the Macleay and New England pastoral districts to the south. These areas, he said, were neglected by the government at Sydney.<sup>19</sup>

Thomson had no illusions about the motives of the separation-ists. He told Molesworth that the Moreton Bay squatters feared

<sup>17</sup> A. G. L. Shaw, 'Orders from Downing Street', *JRAHS*, Vol. 54, Part 2, June 1968, pp. 129-30. See also D. B. Swinfen, *Imperial Control of Colonial Legislation 1813-1865: A Study of British Policy towards Colonial Legislative Powers*, Oxford 1970, pp. 95-6; and S. G. Foster, 'The Concession of Responsible Government to New South Wales', in publication commemorating sesquicentenary of parliamentary institutions in New South Wales (forthcoming).

<sup>18</sup> E. W. Dunlop's entry on Marsh, *ADB*, Vol. 5, p. 213. Marsh vacated his seat in the council in August 1855. He was later a member of the House of Commons.

<sup>19</sup> See B. A. Knox, 'Moreton Bay Separation: A Problem of Imperial Government, 1825-1856', *HS*, Vol. 14, No. 56, Apr. 1971, pp. 572-3.



that the Sydney legislature under the new constitution would interfere with their security of tenure and were therefore anxious to establish their own squatter-dominated legislature. He recognised, however, that the desire for separation was very widely held in the Moreton Bay region, and consequently supported the proposal for a new colony.<sup>20</sup> In this way he reinforced the Colonial Office view that separation was 'little more than a matter of time',<sup>21</sup> Thomson argued forcefully against the inclusion of the Macleay and New England districts in the new colony, but agreed with Marsh that the boundary should follow the thirtieth parallel. However, when the colony of Queensland was established in 1859 its boundary with New South Wales largely followed the twenty-ninth parallel, which had been recommended by Governor Denison.<sup>22</sup>

The correspondence between Thomson and the Colonial Office shows that he was held in high regard by the members of the department. In 1855 he was appointed a Companion of the Order of the Bath on the recommendation of Sir William Molesworth. Although the Secretary of State was reluctant to create a precedent in appointing a colonial official to this Order, Herman Merivale pointed out that Thomson had no equal in the Australian colonies with regard to length

<sup>20</sup> EDT to Molesworth, 27 Sept. 1855, CO 201/486, ff. 166-77.

<sup>21</sup> T. F. Elliot's minute for Merivale, 1 Oct. [1855], on EDT to Molesworth, 27 Sept. 1855, *ibid.*, ff. 176-8. See also Knox, *loc. cit.*, p. 574.

<sup>22</sup> See Papers relative to the Separation of the Moreton Bay District from New South Wales and the Establishment of a Separate Government, Presented to both Houses of Parliament by Her Majesty's Command, 30 July 1858, PP 1859[2505], Vol. XVII.

and importance of service. John Ball, the Parliamentary Under-Secretary, agreed that he had demonstrated considerable ability during his career 'with an absence of that violence and occasional rancour which has too often been shown by other public men in the same colony'.<sup>23</sup> Owing to his unique services, Lord John Russell granted him two years' leave of absence, six months longer than the maximum period formally allowable to officials from the Australian colonies.<sup>24</sup>

Thomson sailed with his family from Plymouth in October 1855 and arrived at Sydney on 6 January 1856. A week later he resumed his duties as Colonial Secretary, but not those of an executive councillor, for technically the era of responsible government had already begun.<sup>25</sup> On 24 November 1855 the Constitution Act had been proclaimed and on 19 December Governor Denison had been sworn in under a new commission and instructions.<sup>26</sup> It was now understood that the Governor would follow the conventions of responsible government and appoint executive councillors who held the confidence of the legislative assembly. As elections for the assembly had not

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<sup>23</sup> FitzRoy to Ball, 19 July 1855, with Merivale's minute, 23 July, Ball's minute, 24 July, and Molesworth's minute, 24 July, CO 201/491, ff. 386-95.

<sup>24</sup> Russell's undated minute [7-10 May], on EDT to Merivale, 23 Apr. 1855, CO 201/492, f. 370.

<sup>25</sup> *SMH*, 7 Jan. 1856. *Government Gazette*, 15 Jan. 1856.

<sup>26</sup> Under this commission, Denison ceased to hold the title of Governor-General, though he continued to be known as such in the colony.

yet taken place, the political situation of the colony was in a state of transition.<sup>27</sup>

Sir William Denison had arrived in New South Wales early in January 1855, after eight years as Lieutenant-Governor of Van Diemen's Land. His career at Hobart had been stormy, for he had distinguished himself as a resolute supporter of transportation. A staunch conservative, he held a cynical view of politics in the Australian colonies, where, he said,

Every question is discussed upon personal grounds - how will it affect me or my property? what profit shall I derive from it? what return shall I derive from the tax I am called upon to pay? This is the spirit in which questions involving the future character of the people of the colony are dealt with.<sup>28</sup>

Denison was a man of great energy and, by his own admission, a strict taskmaster. He prided himself on his 'habits of self dependence and decision, of firmness and earnestness of purpose', and was contemptuous of those who lacked similar qualities.<sup>29</sup> James

<sup>27</sup> See W. J. V. Windeyer, 'Responsible Government - Highlights, Sidelights and Reflections', *JRAHS*, Vol. 42, Part 6, 1957, pp. 287-8; P. Loveday, *The Development of Parliamentary Government in New South Wales, 1856-1870*, PhD thesis, University of Sydney, 1962, pp. 13-20; and Brian Dickey, 'Responsible Government in New South Wales: the Transfer of Power in a Colony of Settlement', *JRAHS*, Vol. 60, Part 4, Dec. 1974, pp. 222-3.

<sup>28</sup> Denison to Duke of Newcastle, 27 Oct. 1853, Newcastle MSS., MS. no. NeC 9555, ff. 127-8, University of Nottingham.

<sup>29</sup> Denison to J. E. Denison, 1 June 1851, Ossington MSS., MS. no. OsC 318a, University of Nottingham. See also Denison to EDT, 17 Jan. 1853, DTP, vol. 2, p. 696.

Macarthur, after several months' acquaintance, thought that he over-rated his own abilities. He was, wrote Macarthur, frank, agreeable and well-intentioned, but lacked the vital qualities of reticence and cool deliberate judgment. Although impetuous and impulsive when arriving at decisions, he wanted firmness and determination when giving them effect.<sup>30</sup> However, as Macarthur later admitted, the new Governor recognised his faults and was prepared to attempt to rectify them.<sup>31</sup> Moreover, despite his strong opinions, he was always ready to listen to advice.<sup>32</sup>

Since Thomson had first visited Van Diemen's Land in 1849, he and Denison had been close friends. The two men exchanged confidential letters relating to all manner of improvements and political subjects. However, as in the case of the similar relationship between Gipps and La Trobe, only the letters of one party are extant. Denison's letters to Thomson were written impromptu, in an easy familiar style. His informal manner is reflected in a typical abrupt conclusion: 'I have no time for more so goodbye, Yours truly'. The correspondents shared an interest in gardening, and exchanged plants, seeds, fruit and potatoes.<sup>33</sup>

<sup>30</sup> James Macarthur to William Macarthur, 18 Sept. and 26 Sept. 1855, Macarthur Papers, Vol. 36, MS. no. A2932, ML.

<sup>31</sup> James Macarthur to William Macarthur, 5 Jan. 1856, *ibid.*

<sup>32</sup> See Denison to J. E. Denison, 22 Apr. 1849, Ossington MSS., MS. no. OsC 1384; and Denison to J. E. Denison, 1 June 1851, *ibid.*, MS. no. OsC 318a. See also C. H. Currey's entry on Denison, *ADB*, Vol. 4, pp. 46-53.

<sup>33</sup> Denison to EDT, May 1850-Dec. 1853, DTP, vol. 2, pp. 534-735.

Denison placed great emphasis on the role of the colonial secretary. In 1849 he told his brother Evelyn, a member and sometime speaker of the House of Commons, that FitzRoy was lucky in having as Colonial Secretary 'a perfect man of business', who was well capable of defending the government in the council. His own Colonial Secretary in Van Diemen's Land, James Ebenezer Bicheno, was, on the other hand, 'marvellously devoid of judgment', for he was sure to bring forward the subjects most certain to provoke opposition.<sup>34</sup> In 1851 Bicheno died and was replaced the following year by Henry Samuel Chapman, whose early relations with the Lieutenant-Governor were promising. Denison told Chapman that the executive council was merely a form, and that the Lieutenant-Governor and Colonial Secretary in fact made up 'the government'.<sup>35</sup> However, when Chapman opposed Denison on the transportation issue their relations cooled, and Chapman was persuaded to take leave of absence at the end of 1852.<sup>36</sup> In New South Wales, as we have seen, Denison was encumbered with the inept Riddell as Acting Colonial Secretary during his first year as Governor.<sup>37</sup>

<sup>34</sup> Denison to J. E. Denison, 22 Apr. 1849, Ossington MSS., MS. no. OsC 1384. Compare unsigned entry on Bicheno in *ADB*, Vol. 1, p. 97.

<sup>35</sup> H. S. Chapman to Henry Chapman, 25 Apr. 1852, quoted in Neale, *Class and Ideology*, p. 184, n. 5. Also Denison to EDT, 8 May 1852, DTP, vol. 2, p. 662.

<sup>36</sup> R. S. Neale's entry on Chapman, *ADB*, Vol. 3, pp. 380-2.

<sup>37</sup> See above, pp. 318-19.

Denison therefore expected much of Thomson, owing both to their long-standing friendship and to Thomson's well-known competence as Colonial Secretary. He looked forward to his assistance in preparing the way for the new order of government, and very much hoped that he would head the first responsible ministry. As he later told Thomson, his own experience of the colony was limited. 'Without the control of a person accustomed to business, and with a thorough knowledge of the colony, matters will be thrown into great confusion'.<sup>38</sup> In order to give his Colonial Secretary complete freedom of movement, he decided to avoid convening an interim executive council unless an emergency arose. With the same end in view, he absented himself for some time from Sydney, so that there would be little business for an executive council to consider.<sup>39</sup>

Leading conservative politicians were also looking forward to Thomson's return. In September 1855 Sir Charles Nicholson told James Macarthur:

What we shall really require will be a *rallying* point, some able and efficient man to take the lead in the offices of the Colony, with constitutional independence that will enable him to resist the undue interference of the Governor on the one hand, and the assaults of the democratic party on the other.<sup>40</sup>

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<sup>38</sup> Denison to EDT, 15 Jan. 1856, quoted in Denison, *Varieties of Vice-Regal Life*, Vol. 1, London 1870, p. 333.

<sup>39</sup> Denison to Manning, 19 Dec. 1855, Sir William Montagu Manning Papers, ML MSS. 1107. James Macarthur to William Macarthur, 5 Jan. 1856, Macarthur Papers, Vol. 36, MS. no. A2932, ML.

<sup>40</sup> Nicholson to Macarthur, 15 Sept. 1855, Macarthur Papers, Vol. 27, MS. no. A2923, ML.

Perhaps Thomson would fill these requirements? At least he would be able to advise the conservatives on a proper course of action. The greatest danger lay amongst the radicals, with men like Cowper and Parkes ready and eager to seize power.<sup>41</sup> The conservatives recognised how important it was to control the first ministry, for the men who composed it would nominate the members of the legislative council.<sup>42</sup>

According to William Macleay, all the conservatives at this stage were anxious to see Thomson head the first ministry.<sup>43</sup> Macleay, James Macarthur and others took steps to ensure his election to the assembly, and arranged that soon after his arrival the electors of West Camden would petition him to stand for their constituency.<sup>44</sup>

Thomson was therefore the man of the moment when he stepped ashore on 6 January. Immediately he commenced lengthy discussions with Governor Denison and fellow conservatives, including James Macarthur and Manning, about future political arrangements.<sup>45</sup>

<sup>41</sup> See John M. Ward's entry on Cowper, *ADB*, Vol. 3, p. 477; and Dickey, 'Responsible Government', pp. 223-4.

<sup>42</sup> James Macarthur to William Macarthur, 26 Jan. 1856, Macarthur Papers, Vol. 36, MS. no. A2932, ML.

<sup>43</sup> See Denison to EDI, 15 Jan. 1856, quoted in Denison, *op. cit.*, p. 332.

<sup>44</sup> Nicholson to James Macarthur, 28 Oct. [1855], Macarthur Papers, Vol. 27, MS. no. A2923, pp. 374-5, ML. James Macarthur to William Macarthur, 26 Jan. 1856, *ibid.*, Vol. 36, MS. no. A2932.

<sup>45</sup> James Macarthur to William Macarthur, 26 Jan. 1856, *ibid.* Report of LC proceedings, 6 June 1856, in *SMH*, 7 June 1856.

From the first he seemed reluctant to enter the legislative assembly and declined the petition of the West Camden constituents on the grounds of ill-health.<sup>46</sup> However, he decided to accept nomination to the future legislative council and acceded to Denison's request that he should try to form the colony's first responsible government.

On receiving Denison's letter he consulted various persons who shared his opinions on 'the great political questions of the day'. Only the faithful Manning was willing to join him in a ministry. Plunkett declined his invitation on grounds which were widely held in the community, that those who were connected with the old order should make way entirely for new men. Thomson was therefore forced to tell the Governor that he could not form an administration without sacrificing his political consistency and compromising his opinions.<sup>47</sup>

Denison then took the advice of James Macarthur, an important background figure throughout these negotiations, and asked Stuart Alexander Donaldson to attempt to constitute a ministry.<sup>48</sup> Donaldson, a Sydney merchant and a conservative in politics, had been a member of the legislative council between 1848 and 1853. He too was unable to form an administration which he believed would hold the confidence of a future assembly. In the meantime

<sup>46</sup> EDT to James Macarthur, 11 Feb. 1856, Macarthur Papers, Vol. 27, MS. no. A2923, pp. 425-6, ML. Therry to James Macarthur, 11 July 1856, *ibid.*, Vol. 34, MS. no. A2930, p. 62, ML.

<sup>47</sup> Thomson detailed his efforts to form a ministry and read relevant correspondence in the LC, 6 June 1856, reported in *SMH*, 7 June 1856.

<sup>48</sup> James Macarthur to William Macarthur, 26 Jan. 1856, Macarthur Papers, Vol. 36, MS. no. A2932, ML. Sandra Draper's entry on Donaldson, *ADB*, Vol. 4, pp. 84-6.



Denison decided to delay the formation of a responsible ministry until the elections had been held and asked Thomson and Riddell to join the interim executive council which he had recently established.<sup>49</sup>

The elections took place during March and April 1856 and by mid-April the results were clear. Thomson was pleased to find that they were more conservative than he had anticipated and accordingly undertook to try again to form a ministry.<sup>50</sup> By this time he had come to realise his mistake in not standing for the West Camden constituency and resolved to seek election to the assembly as soon as possible.<sup>51</sup> Nevertheless, he still encountered difficulties. In an effort to form a strong conservative ministry he asked Donaldson to accept the position of colonial treasurer and lead the government in the lower house. Donaldson declined, arguing that he would be forced to bear the brunt of political struggles in the assembly while his leader would be snugly located in the upper house. According to Thomson, Donaldson was ambitious to be at the head of affairs and reluctant to accept a subordinate position. Plunkett also declined, on the grounds that Thomson was not a member of the assembly, and was evidently offended that Donaldson rather than himself had been offered the leadership of the government in the lower house. Private circumstances prevented Henry Watson Parker from joining a ministry,

<sup>49</sup> Denison to Molesworth, 19 Feb. 1856, CO 201/493, ff. 251-5.

<sup>50</sup> Report of LC proceedings, 6 June 1856, in *SMH*, 7 June 1856.

<sup>51</sup> James Macarthur to William Macarthur, 16 Apr. 1856, Macarthur Papers, Vol. 36, MS. no. A2932, ML.

which left Manning as the only person approached by Thomson who would lend him his support.<sup>52</sup>

When Thomson's second failure became apparent the Governor again sent for Donaldson, who invited Thomson to join a ministry led by him. Thomson curtly replied that, as Donaldson had rejected his similar invitation, he could scarcely be expected to become a member of a government in what many people would regard as an inferior situation. Despite this refusal, Donaldson managed to secure the support of sufficient like minds to form a ministry. On 29 April he, Macarthur, Manning, Darvall and George Nichols replaced the provisional executive council of which Thomson was a member. However, Thomson and his colleagues remained at the head of their respective offices until their services were officially terminated on 6 June.<sup>53</sup>

Thomson's role during these prolonged political manoeuvrings dismayed his conservative friends. By declining to seek election to the assembly he deprived himself of much support. According to Roger Therry his refusal to stand for West Camden on the score of ill health was unjustified, as he had been quite well in the fortnight after his return to the colony. Therry believed that he and his colleagues were more concerned to ensure the receipt of their pensions than to serve the community. James Macarthur, who

<sup>52</sup> Report of LC proceedings, 6 June 1856, in *SMH*, 7 June 1856. Donaldson's speech on the hustings, 9 June 1856, in *SMH*, 10 June 1856.

<sup>53</sup> See Windeyer, 'Responsible Government', pp. 290-2; and Dickey, 'Responsible Government', pp. 226-7.

was himself anxious to remain aloof from politics, was irritated by Thomson's conduct and his reluctance to assume responsibility.<sup>54</sup>

The Governor, too, was disappointed by his behaviour. While Thomson was attempting for the second time to form a government, Denison told the Secretary of State, Henry Labouchere, that he had little chance of success. 'He has not had courage enough to take his line at once and adhere to it - but has been a waiter upon Providence'. Denison felt that he lacked decision, 'that most important of all qualities'. Moreover, he shared Therry's view that the main object of the old officials was to ensure that their pensions were guaranteed.<sup>55</sup>

Thomson was certainly concerned about his pension of £2,000 per annum. Although his financial situation had been improved by the retrospective salary increase granted to him in 1852, he still had a large family to support and received no substantial income beyond what he collected from the government. During 1856 the size of the pensions granted under the Constitution Act was widely criticised as excessive. Moreover, the way in which the old officials would receive their pensions on retirement or release from office was by no means clear. Thomson might well have felt

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<sup>54</sup> Therry to Macarthur, 11 July and 5 Sept. 1865, Macarthur Papers, Vol. 34, MS. no. A2930, pp. 59-62, 71-8, ML. Macarthur to Donaldson, 3 July 1856, Donaldson Ministry Letters, MS. no. A731, pp. 85-8, ML.

<sup>55</sup> Denison to Labouchere, 18 Apr. and 12 June 1856, Sir William Denison Correspondence, microfilm no. FM3 795, ML.

that his acceptance of political office under responsible government would prejudice his right to the pension.<sup>56</sup>

However, there are other, more substantial reasons which explain his reluctance to take the lead in the new order of politics. Firstly, he was uncertain whether he or his family would live in Britain or Australia after his retirement. In September 1856 he evidently intended to book a passage to England for early the following year.<sup>57</sup> In October, however, he began to take a more active interest in politics when he joined the third ministry under responsible government, led by Henry Watson Parker.<sup>58</sup>

Secondly, his unwillingness to stand for popular election reflects his long-term desire to avoid involvement in political wrangling. Ever since his first arrival in the colony he had been anxious to remain aloof from party squabbles. Now, having occupied for so many years a privileged position as unchallenged leader of the government, he may have felt that contests for power were beneath him. His anxiety to remain apolitical was carried to an extreme. When Denison offered him the prestigious position of President of the Legislative Council he declined on the grounds that the office was political, even though the Governor and the Chief Justice, Sir Alfred Stephen, who subsequently accepted the appointment, were convinced that this was not the case.<sup>59</sup>

<sup>56</sup> See report of LC proceedings, 6 June 1856, in *SMH*, 7 June 1856; and Windeyer, 'Responsible Government', p. 289.

<sup>57</sup> Therry to Macarthur, 5 Sept. 1856, Macarthur Papers, Vol. 34, MS. no. A2930, p. 72, ML.

<sup>58</sup> See below, p. 414.

<sup>59</sup> Report of LC proceedings, 6 June 1856, in *SMH*, 7 June 1856.

However, Thomson's conduct is best explained by his failure to appreciate the realities of the new order of politics. When he returned to New South Wales he shared the common belief of colonial conservatives that he would be called upon to lead the country. He did not anticipate that opposition would be expressed towards the old officials continuing in positions of power. Nor did he believe that, if he were to lead the government, he would be forced to submit himself to popular election. When he failed to receive adequate support from his former colleagues he was hurt and dispirited. By the time he realised the necessity of winning popular support at an election his chance had already passed.

The events which followed Thomson's retirement as Colonial Secretary confirmed his disillusionment with responsible government. He had to suffer the taunts of Donaldson, who criticised his efforts to form a government and derided him as a 'he-goat of politics'.<sup>60</sup> Thomson keenly resented this abuse and stayed clear of Donaldson during the early weeks of the first ministry. Roger Therry was disappointed that he did not rise above personal pique and recognise that it was not Donaldson but the country which suffered when he withheld his advice and the results of his experience.<sup>61</sup> In August Thomson had another opportunity to stand for the assembly, but he declined again on the grounds of ill health. According to

<sup>60</sup> Donaldson's speech on the hustings, 9 June 1856, in *SMH*, 10 June 1856.

<sup>61</sup> Therry to Macarthur, 24 June 1856, Macarthur Papers, Vol. 34, MS. no. A2930, pp. 53-4, ML.

Therry he would not have used this excuse if he had been offered the more onerous position which he aspired to of governor of Victoria.<sup>62</sup>

The *Herald* interpreted his second refusal to seek election as a final determination to relinquish all active participation in public life.<sup>63</sup> As we shall see in Chapter 10 this was far from the truth. However, in view of Thomson's conduct during the first half of 1856, Donaldson was justified in concluding that 'the political superiority of that gentleman ceased with the advent of responsible government'.<sup>64</sup>

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<sup>62</sup> EDT to William Spain (draft), 28 Aug. 1856, DTP, vol. 2, pp. 487-90. Therry to Macarthur, 2 Sept. 1856, Macarthur Papers, Vol. 34, MS. no. A2930, pp. 65-6, ML.

<sup>63</sup> *SMH* editorial, 29 Aug. 1856.

<sup>64</sup> Donaldson's speech on the hustings, 9 June 1856, in *SMH*, 10 June 1856.

## THE OFFICE

1837 - 1856

'The execution of political measures', wrote Henry Taylor in *The Statesman*, 'is in reality the essence of them'.<sup>1</sup> As well as playing a vital political role in the legislature, Thomson was closely concerned with the day to day administration of the colony. The importance of this function was emphasised by Darling in 1827:

It is not enough that Orders are issued, or regulations made; There must be an immediate controlling power somewhere; and, under the Governor, it is the special and indispensable duty of the Colonial Secretary, to see that all orders and regulations are properly followed up, and carried into effect - and that they are not, by the supineness of others, allowed to become a dead letter.<sup>2</sup>

As we have seen, it was Darling who was chiefly responsible for the administrative structure which Thomson inherited.<sup>3</sup> He replaced a system appropriate to the needs of a penal settlement with one which was better suited to a developing colony. His arrangements were nonetheless adapted to an autocratic form of government,

<sup>1</sup> Cambridge 1957, p. 46 (first published 1836).

<sup>2</sup> Darling to Col. Sec., 10 Oct. 1827, minute no. 81, CSIL MM 4/991.

<sup>3</sup> See above, pp. 73-5.

and were therefore highly centralised. As all executive power was vested in the governor and his executive council, subordinate officers had to seek his authority for virtually every act of government.

The place of the colonial secretary in this system was partly determined by Lord Bathurst's instructions to Darling in 1825, which provided that all correspondence between the governor and members of the public and other government departments should pass through his office.<sup>4</sup> Departmental heads, such as the colonial treasurer and the surveyor-general, were therefore responsible to the governor through the colonial secretary. Darling further emphasised this predominant role. He felt that the office had hitherto been too much involved in doing the work of other departments, especially routine business relating to the convict establishment and the conduct of prisoners. Now it would be engaged 'in considering, framing, and perfecting such Measures as might be suggested for the better Government of the Colony; the improvement of its public Establishments, and all Matters of general arrangement'. It would maintain an overall superintendence of other departments, in order to ensure that their duties were conducted diligently and efficiently.<sup>5</sup>

The distribution of labour and mode of conducting business

<sup>4</sup> Bathurst to Darling, 14 July 1825, *HRA*, I, 12, pp. 18-19.

<sup>5</sup> Darling to Col. Sec., 10 Oct. 1827, minute no. 81, CSIL MM 4/991.



within the office was also reorganised under Darling. The department was divided into separate branches, each of which assumed specific responsibilities. The daily conduct of business was supervised by the Assistant Secretary, T. C. Harington, a diligent and capable officer. Harington, who believed that '*strictness* always contributes to the eventual comfort of all parties interested', kept a watchful eye on the output of every clerk who worked under him.<sup>6</sup> The length of time which clerks were required to spend at the office varied, depending upon the amount of business which had to be transacted. When there were substantial arrears in any branch, its members were required to work nine hours each day, from Monday to Saturday.<sup>7</sup> When the pressures of work were less demanding, clerks were obliged to remain only seven hours. Each clerk was required to maintain a high standard of efficiency; any whose performance was found wanting was dismissed.

Notwithstanding Darling's energy and enthusiasm, there were some who thought he was inflicting through his reforms a 'most serious injury' on the colony.<sup>8</sup> Chief Justice Forbes believed that business had been conducted far more efficiently under Governor Brisbane who, to a large extent, had let the departmental heads go their own ways.<sup>9</sup> The centralised system, although designed

<sup>6</sup> Harington's memorandum, 23 Jan. 1835, CSIL SB 2/1844; and see above, p. 156.

<sup>7</sup> See, for example, Macleay's unsigned memorandum, 21 May 1831, CSIL SB 2/1844.

<sup>8</sup> William Macarthur to Edward Macarthur, 5 Jan. 1832, Macarthur Papers, Vol. 39, MS. no. A2935, p. 25, ML.

<sup>9</sup> Forbes to Horton, 22 Mar. 1827, *HRA*, IV, 1, pp. 703-4.

to bring order to arrangements which were previously chaotic, itself contributed to delays and inefficiency. Harington complained in 1837 of 'the very circuitous route by which the Colonial Secretary has to obtain information on a very simple matter from a Colonial Surgeon': he first had to write to the Military Secretary, who then communicated with the Deputy Inspector-General, who in turn called upon the medical officer in charge, who obtained a report from the appropriate surgeon, and transmitted it back to the Colonial Secretary through the same cumbersome procedure.<sup>10</sup>

Moreover, in the years preceding Thomson's appointment the morale of the office was low. When Bourke referred in 1834 to 'the delays and ill will of that depot of discontent', he was not looking simply to the head of the office, but to the tensions and frustrations which plagued the department as a whole.<sup>11</sup> These frustrations reflected those which were then apparent in colonial society. There was a constant conflict between efficiency and economy: there was pressure on governors from the Colonial Office to ensure that all arrears of business were brought up to date and that clerks were employed for nine hours daily.<sup>12</sup> Governors were anxious that their administrations should be conducted with an economy which compared favourably with expenditure in other colonies. Bourke, for example, felt that the

<sup>10</sup> Harington's unsigned memorandum, Jan. 1837, CSIL SB 4/7167.

<sup>11</sup> Bourke to R. Bourke jnr, 21 Apr. 1834, BP, vol. 6, p. 9.

<sup>12</sup> Darling's memorandum no. M1614, 18 June [1831], CSIL MM 4/1005.

colonial secretary's office was excessively costly to run, and suggested staff retrenchments.<sup>13</sup> Clerks who were absent from work without leave had their salaries reduced at the rate of one day's pay for every hour's absence.<sup>14</sup> Members of the department squabbled over unequal distribution of duties, guarded their status with jealousy, and criticised the promotion of other clerks over their own heads.<sup>15</sup>

The position of clerks who had at one time been convicts was a particular problem. Charles Nye, who was employed in the colonial secretary's office, had been transported to New South Wales in 1820 and had received a conditional pardon in 1825. He won the praise of Goulburn and Macleay, while Harington remarked that he was without equal in the office for neatness, despatch and accuracy. Yet, despite his frequent attempts to secure increased status and salary, it was twelve years before he was placed on the permanent establishment. Even then he continued to suffer insults from the other clerks, and complained bitterly that his salary was not commensurate with his functions. Eventually he seems to have suffered financial difficulties and was imprisoned for debt. He turned to drink, suffered a series of fits, and was dismissed in 1834 after frequent absences from the office.<sup>16</sup>

<sup>13</sup> Bourke's memorandum for Macleay, 4 June 1833, CSIL SB 2/1844.

<sup>14</sup> Macleay's unsigned memorandum, 21 May 1831, *ibid.*

<sup>15</sup> See, for example, Thomas Ryan to Harington, 17 Feb. 1827, *ibid.*

<sup>16</sup> Correspondence, minutes, etc., relating to Charles Nye, *ibid.*, item 64.