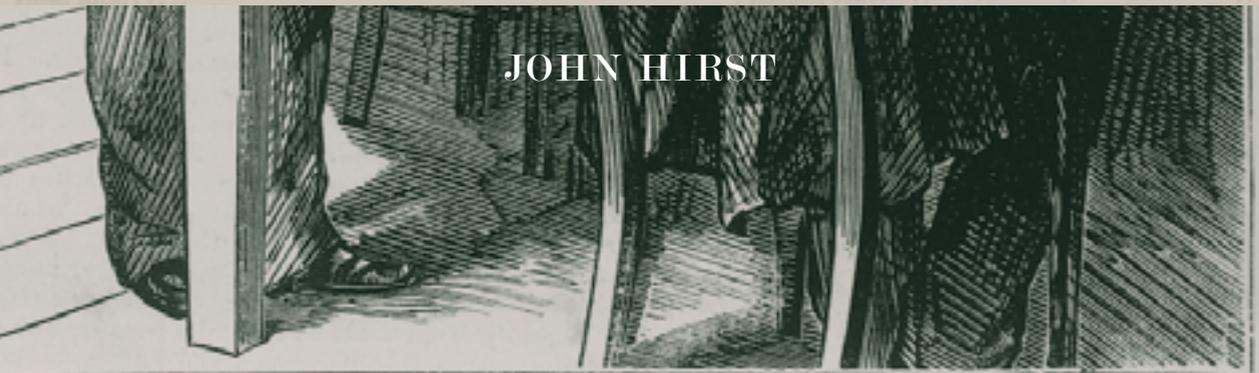


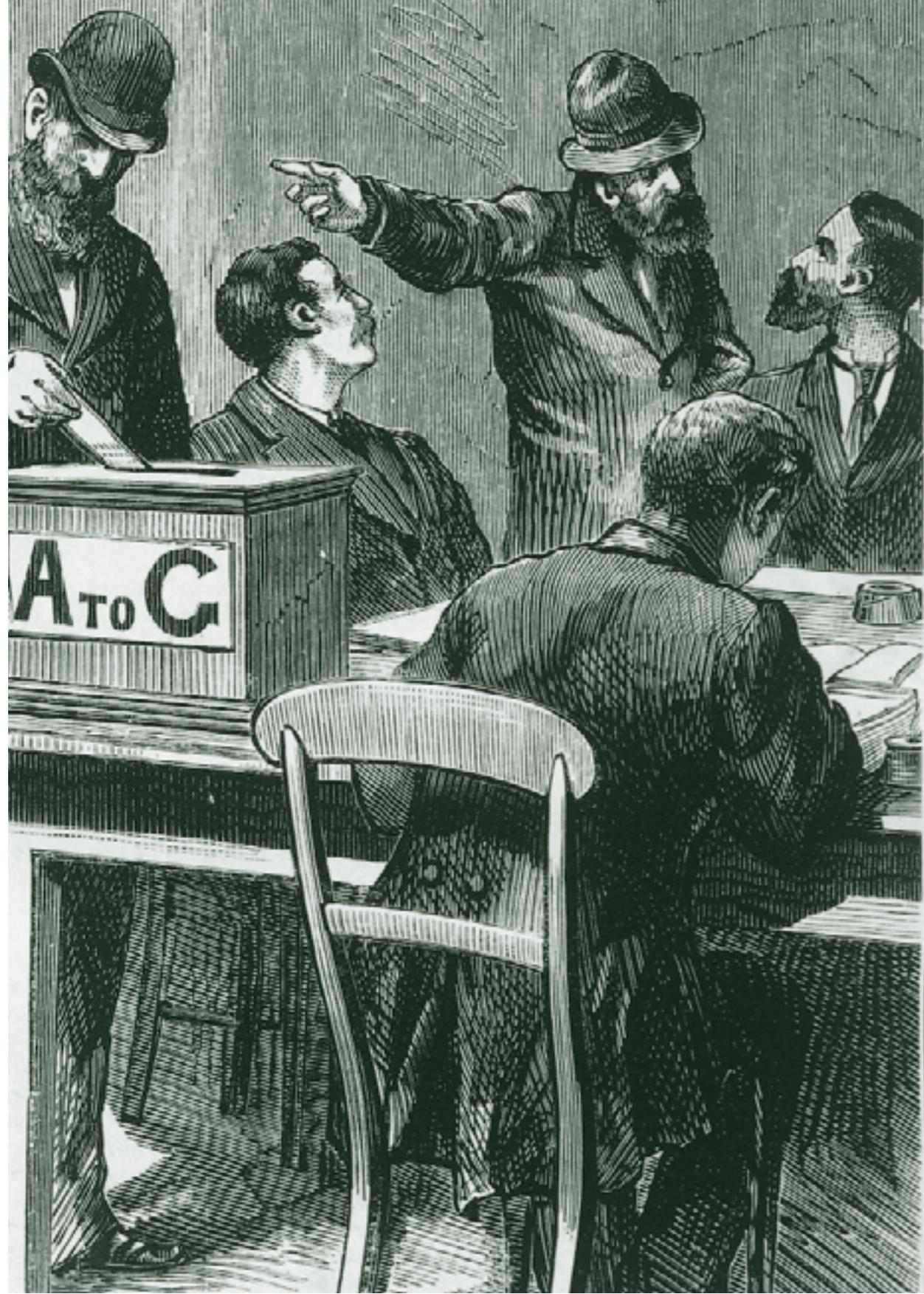


MAKING VOTING SECRET

Victoria's introduction of a new method of voting
that has spread around the world

JOHN HIRST





THE DIS

The following is a correct List
Voted at the Dis

NI

Name of Voter.	For Ehlan.
Cole, George Ward.	..
M'Killip, Alex.	..
Oliver, William.	..
Foster, J. F. L.	..
Campbell, D. S.	..
Wedge, Chas.	..
Hutton, Chas.	..
Marshall, G.	..
Woolley, Alfred.	..
Smith, Jas.	..
Kirk, J. B.	..
Mortimer, H. W.	..
Young, David.	..
Wheatley, A.	..
Broadfoot, A. A.	..
Fawcner, J. P.	..
Harlin, Jas.	..
Andrew, A.	..
Leedsdale, Wm.	..
Sidbottom, Wm.	..
Forrest, Chas.	..
Roach, Geo.	..
Ross, David.	..
Kirby, Wm.	..
Jamieson, Hugh.	..
Belcher, J. W.	..
	21

TEN

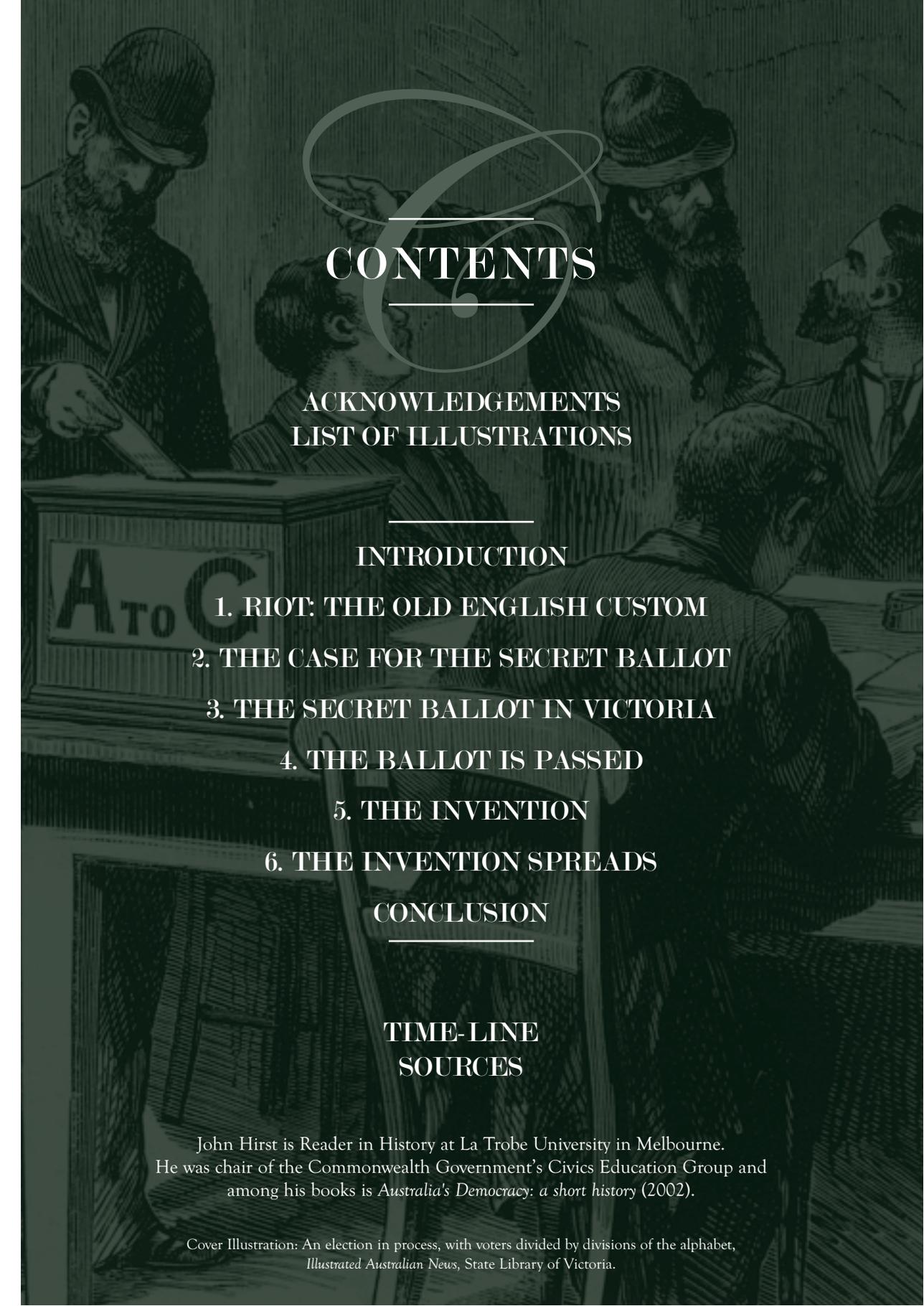
Name of Voter.	For Ehlan.
Ten o'clock	21
Sweeney, Thos.	..
Eddington, Jno.	..
Bell, Henrie.	..
Belcher, W. R.	..
Higgett, Jno.	..
Long, Danl.	..
Meek, Wm.	..
Crow, Jas.	..
Wreid, B. W.	..
Montgomery, Jas.	..
Evans, Wm.	..
Furtur, Geo.	..
M'Pherson, Jno.	..
Brickwood, Wm.	..
Dawson, Wm.	..
Fost, H. B.	..
Magor, J. W.	..
Davidson, A.	..
Patterson, Jno.	..
Smith, Wm.	..
Sewell, E.	..
M'Manus, G.	..
Palmer, J. F.	..
Howitt, Godfrey.	..
Meyer, Jno.	..
Roach, Jas.	..
Hobson, Jno.	..
Hawdon, Jno.	..
Champion, F.	..
Knight, A. H.	..
	44



ELEVEN TILL TWELVE.

Name of Voter.	For Ehlan.	For Walker.	For Thomson.	For Nicholson.	For Mitchell.	For Lang.
Eleven o'clock	44	47	32	35	34	23
Scales, R.	..	..	..	..	..	..

Name of Voter.	For Ehlan.	For Walker.	For Thomson.	For Nicholson.
Two o'clock	123	129	94	104
Cropper, W. H.
Messersgh, P.
Mowitz
Curry, Geo.
Scott, Chas.



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4. THE BALLOT IS PASSED
5. THE INVENTION
6. THE INVENTION SPREADS

CONCLUSION

TIME-LINE SOURCES

John Hirst is Reader in History at La Trobe University in Melbourne. He was chair of the Commonwealth Government's Civics Education Group and among his books is *Australia's Democracy: a short history* (2002).

Cover Illustration: An election in process, with voters divided by divisions of the alphabet,
Illustrated Australian News, State Library of Victoria.

ACKNOWLEDGEMENTS

This publication was sponsored by the Victorian Electoral Commission to commemorate the 150th anniversary of the Victorian State Parliament.

Mrs Ann Rosenberg of Christchurch, a descendant of Henry Chapman, allowed Dr Chris Connolly of Canterbury University to consult the family papers on my behalf. I am grateful to them both. Jenny Gerrand, a post graduate student at La Trobe University, allowed me to draw on her work on early elections in Port Phillip. Jeremy Sammut helped me with some of the research. Amy McGrath introduced me to the H.S. Chapman Society. It has been a pleasure to work with the officers of the Victorian Electoral Commission, Doug Beecroft, Shane O'Connor and Paul Thornton-Smith.

LIST OF ILLUSTRATIONS

- 1) An election in process, with voters divided by divisions of the alphabet: behind are the voting stalls (*Illustrated Australian News*, 31 July 1880, page 133)
- 2) Special platforms were built for the public nomination of candidates at elections: this is the "hustings" in Sydney's Macquarie Place in 1854 (*Illustrated Sydney News*, 6 May 1854)
- 3) Electioneering in a pub - with free drinks (*Punch*, Vol.1, p. 46)
- 4) Very public voting: the *Port Phillip Herald* 23 June 1843 records how electors voted, with running totals hour by hour (voters could vote for up to 5 candidates to represent Port Phillip)
- 5) The native police called out to quell the election riot of 1843 (William Strutt, "Aboriginal Troopers" in *Victoria the Golden: Scenes, Sketches and Jottings from Nature*, 1850-1862)
- 6) The Chartist petition being handed over (*London Punch*, Vol. 14)
- 7) Members for squatting districts had few electors (*Punch*, Vol.2, p.125)
- 8) Henry Chapman in Victoria (State Library of Victoria)
- 9) Nicholson forcing the ballot into Attorney-General William Stawell (*Punch*, Vol. 2, p.5)
- 10) *Punch* mocks the return of the Haines ministry to office with the ballot an "interesting feature" in their programme (Vol. 1, p.190)
- 11) How to Vote (*Geelong Advertiser*, 26 September 1856)
- 12) The opponents of secret voting quickly announce their conversion: Mr Fawkner and Mr Greeves are shown taking Nicholson's pills (*Punch* 1856, Vol. 3, p.5)
- 13) Crowds gather to watch the posting of election results outside the *Age* newspaper office (*Illustrated Australian News*, 31 July 1880, page 132)
- 14) The counting of the vote, showing the voting stalls more clearly (*Illustrated Australian News*, 31 July 1880, page 133)

INTRODUCTION

Voting was made secret in Victoria in 1856 and used in that year to elect the first parliament. The idea of secret voting was not invented here. A campaign for secret voting had been running in Britain from the 1830s, the time of European settlement in Victoria. Its aim was to ensure that the voter could vote for the candidate he really wanted and not the candidate his boss or his landlord or his neighbours wanted him to support. The British campaign did not achieve success until 1872. The Victorian colonists knew of the British debate, but the debate had not produced a clear plan of how secrecy was to be implemented. This was more difficult than it seems. The existing process could not simply be turned from a public to a private affair—which is as far as the thinking of many supporters of the secret ballot went.

Under 'open' voting, the voter wrote on a piece of paper—any piece of paper—the name of the candidate he preferred and his own name. This was handed to the returning officer who read out the name chosen and asked the voter if that was his preference. The clerk wrote in the poll book the name of the voter and his choice. The piece of paper went into a box so that it could be examined later if there was a challenge to the result. All this happened in public and anyone could easily discover how someone had voted.

How could voting be made secret? Stop the public reading out of names and count the votes in the box after polling was finished. But the paper had the voter's name on it. So drop the voter's name from the paper and just keep the chosen candidate's name. But then it would be easy to multiply the bits of paper with candidates' names on them. There might end up being many more voting papers than there were voters—and no way of checking on fraud.

The Victorians worked out a whole new method of voting under which secrecy would not threaten the integrity of the vote. The man who had the break-through idea was Henry Chapman, a lawyer who had only recently arrived in Victoria and in a few years left to be a judge in New Zealand. He invented the official ballot paper which was a voting paper produced by the government with all the candidates' names on it. Like other inventions, his needed some refinement before it would work smoothly. The refinements were made before it was put into practice for the first time for the parliamentary elections of 1856. The new ballot worked very smoothly at its first trial; it is basically the system we still have today and which has been followed around the world.

The secret ballot was debated in Victoria for six years before it was implemented. This was the most turbulent period of its history. Victoria separated from New South Wales in 1851. Within months gold was discovered and the great rush of fortune-seekers led to the population of the colony increasing seven fold in ten years. Most of the new-comers wanted the people rather than the wealthy landholders to be in charge of the government, but they were too busy at first to worry much about politics. In time their numbers would tell. The secret ballot was one measure amongst many designed to give more power to the people. But in Victoria, strangely, it came to be adopted partly because conservatives could also see some advantage in it.

CHAPTER ONE

RIOT: THE OLD ENGLISH CUSTOM

THE DISTRICT ELECTION.

Name of Voter.	For Rivers.	For Walker.	For Thames.	For Nelson.	For Mackell.
----------------	----------------	----------------	----------------	----------------	-----------------

Eugene					
McArthur, B.					
Dunham, P.					
Dunham, G.					
McArthur, J.					
Legg, Wm.					
Legg, Geo.					
Stawley, H.					
McCracken, T.					
McIntosh, H.					
Kelly, Jm.					
McDonald, Fm.					
Whitehead, R.					
Verdick, Wm.					

WINE TILL TEN.

For Rivers.	For Walker.	For Thames.	For Nelson.	For Mackell.	For Lang.
----------------	----------------	----------------	----------------	-----------------	--------------

A To C



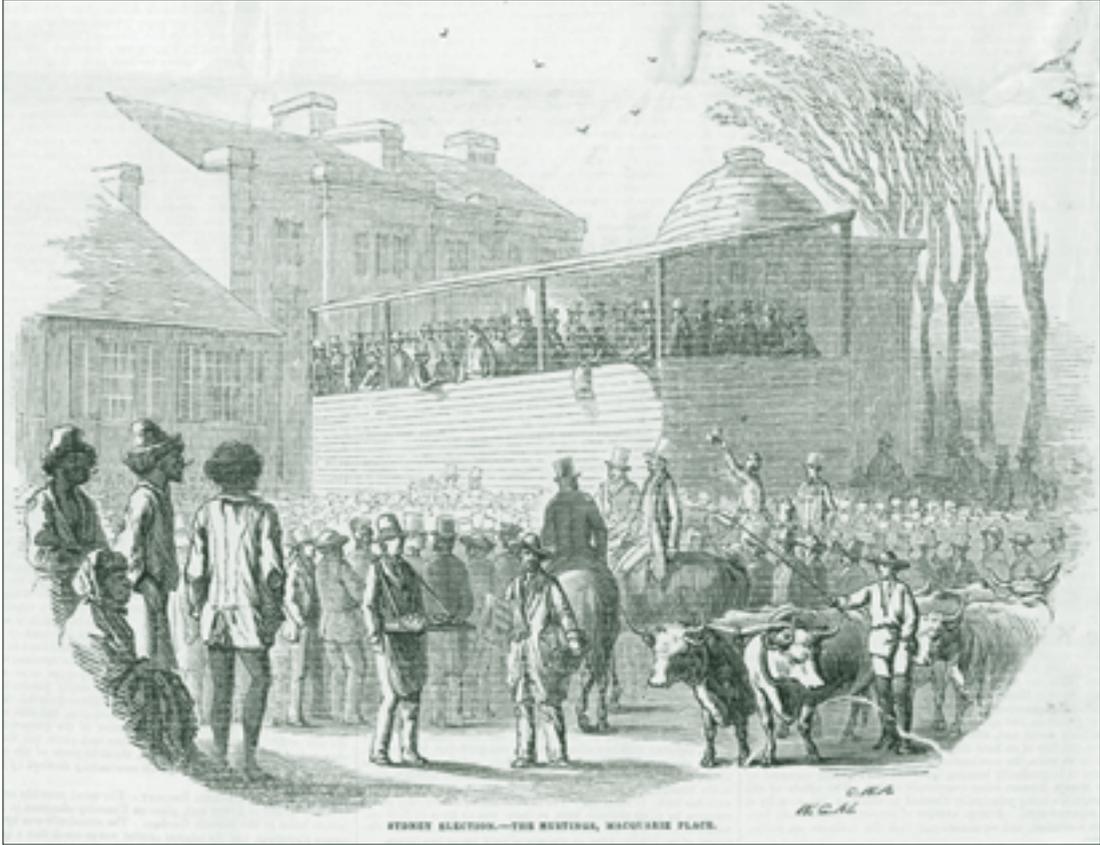
Elections in Australia at first followed the English pattern. Only men who owned property or paid rent above a certain value could vote. Most working men did not qualify. But they could still participate because the whole election process was very open. Nomination of candidates happened in public usually on a platform in the open air. The candidates and their supporters marched to the spot with bands playing and their colours flying. Proposers of candidates made flattering speeches about their man and then the candidates spoke. There was plenty of applause and heckling and booing, which the agents of the candidates could encourage by standing drinks for the men who did not have a vote but who were always present.

After the speeches were over the Returning Officer would call for a show of hands. He would declare one man the winner and the others would then demand a poll. So an election would be held in a few days time. This too happened in public. The electors had to write on a piece of paper the name of their chosen candidate and sign their own name. They then went to the table of the Returning Officer and handed the paper in. The Returning Officer would ask him out loud whom he voted for and he would say the candidate's name. The clerk would record this vote next to the elector's name on the roll and the paper would be put in a box. The contents were kept in case there was a challenge to the election.

There was always a crowd around the table and the route leading to it. They were supporters of the different candidates or just interested bystanders. They yelled advice to the man going to vote and cheered and booed when they heard whom he had voted for.

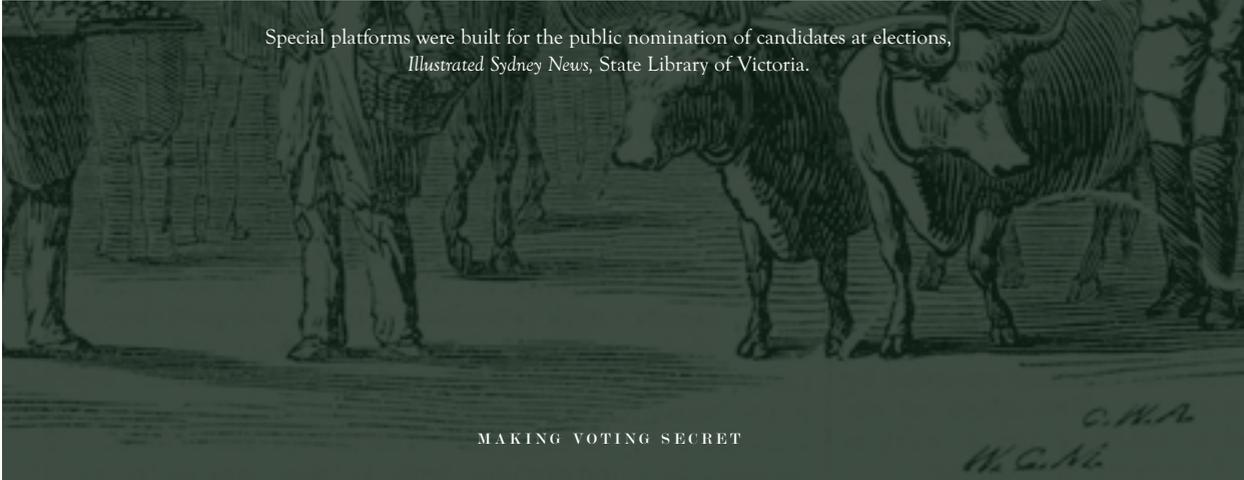
In Australia elections were frequently held in pubs because there were few public buildings. The Returning Officer would have his table in one room. The candidates would each occupy another room. They were not charged for the room because the pub owner made his money from the food and drinks they had to lay on for their supporters and those who were voting for them. A voter would go into the room of his chosen candidate. Here there would be pen and paper as well as the food and drink. The voter would fill in his vote or the candidate's committee would have on hand voting papers already filled out to which the elector only had to add his signature—or his mark if he could not write. He would have a drink, go down the corridor to vote and, if he liked, come back for another drink afterwards. If there were two candidates to be elected for the one seat there was another room in the pub where he would be made very welcome. Bribery was an offence but everyone expected that candidates had to lay on refreshments. This was not taken to be bribery. As one voter reported at an enquiry into malpractice, he had decided whom he was voting for before he came into the pub.

On election day the clerk would tally up the figures every hour and post outside a notice giving the state of the poll: how many votes each candidate had so far received.



SYDNEY ELECTION.—THE MUSTINGS, MACQUARIE PLACE.

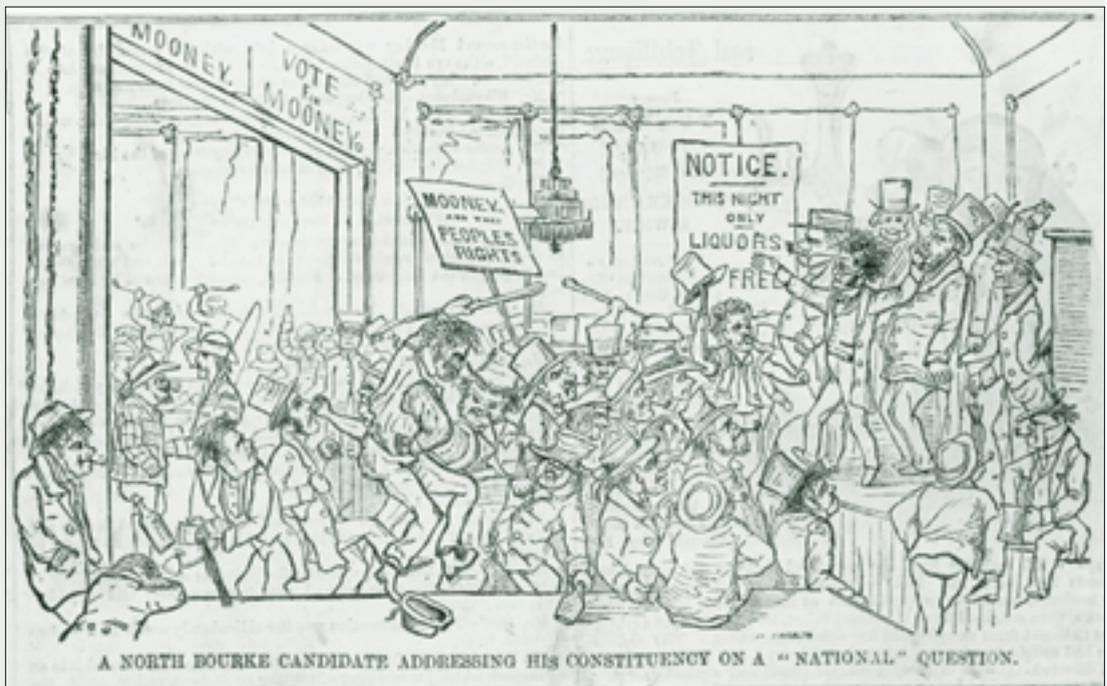
Special platforms were built for the public nomination of candidates at elections,
Illustrated Sydney News, State Library of Victoria.



MAKING VOTING SECRET

SYDNEY ELECTION.—THE MUSTINGS, MACQUARIE PLACE.

A candidate with a good committee would already know this because they would be marking down each vote as it was announced and keeping an eye on who had voted (voting was voluntary). If someone who had promised to support their candidate had not shown up it might be time to go and fetch him. If men known to be supporters of the other side had not shown up, it might be time to work out how to stop them reaching the polling place—setting their horse loose, for example, or sending round a friend to keep him chatting until the poll closed. When the voting was close, the late afternoon competition to get votes and stop votes became intense. Some voters who did not care about the outcome would be waiting for this moment when they would give their vote to the candidate offering the most drink. Drunken voters being steered to the voting table was a sign of a tight election.



Electioneering in a pub – with free drinks, *Punch*, State Library of Victoria.

There had been elections in Victoria since 1843. Until 1851 Victoria was part of New South Wales and was known as the Port Phillip District. Because New South Wales began as a convict colony, the British government was very nervous about allowing it control over its own affairs. At first the governor ruled alone; then he was given a Legislative Council to advise him and pass local laws, but all the members were nominated by the governor. In 1843 the British government risked allowing two-thirds of the Council to be elected, with one-third remaining as nominees of the governor. Of the 24 elected members, Melbourne was to send one member and the District five.

These first elections in Melbourne were conducted in public and ended in the good old English way with a riot. The mounted police and then the army were called out to control it. Houses were damaged; shots were fired; several men were injured.

Such passion is at first surprising because it was hard to find men who could take the time off to represent Melbourne and Port Phillip in Sydney. There was no payment of members. Some of the candidates were Sydney people, not all of whom bothered to show up in Melbourne during the election. Most of the locals who were elected did not last long; they resigned and others had to be found to take their place. Not surprisingly one of the big issues at this first election was the separation of Port Phillip from Sydney control.

Melbourne was only eight years old but already it had the makings of a capital city. It shipped the wool of the Port Phillip District to London; immigrants arrived here from the United Kingdom; it had a pretend governor in the person of Charles La Trobe, a cultivated man who was given a low salary and the title merely of Superintendent because he was answerable to Governor Gipps in Sydney.

At first it seemed that there would be no election for the Melbourne seat. The only candidate was Edward Curr, a squatter who lived in town and left the management of his sheep runs to his sons. He was widely respected but in religion he was different from the majority—he was a Catholic. This greatly troubled the Presbyterian clergyman the Rev John Dunmore Lang, who was based in Sydney but who had friends and supporters throughout New South Wales, including Melbourne and Geelong. He himself was running as a candidate to represent Port Phillip. Lang worked hard for Australia's future, bringing out free immigrants and promoting education but his vision was marred by a terrible bigotry against Catholics. He thought it would be a disgrace for Protestant Melbourne to be represented by a Catholic. He and his friends looked around for a Protestant champion. They had to settle for Henry Condell, a brewer of beer, not an educated man and a poor speaker, who had nevertheless managed to become the mayor of Melbourne. Like Lang he was a Scotchman and a Presbyterian.

At the nomination Curr's supporters gave Condell a very hard time.

Gentlemen you all know I am no orator. *Oh yes! So it appears!* But as I have not come here of my own choice *No, you come as the tool of others!* But in compliance of the wishes of a large body of my fellow citizens *No No Groans* You must take me as I am *You're useless! Can you spell your name?*

When he turned to his prepared speech he had trouble reading it and had to be helped by one of his supporters on the platform.

Nevertheless on polling day this man did very well. Lang had turned the election into a question of religious allegiance and most of the voters were Protestant. He had placarded the town with this appeal:

Protestant Electors of Melbourne.
Remember what your forefathers have suffered from Popery.
Will you again give it the ascendancy by returning
A POPISH MEMBER



The native police called out to quell the election riot of 1843, Drawing by William Strutt, State Library of Victoria.

Before the poll closed it was clear that Condell was going to win. The Irish Catholic working men who supported Curr (though they couldn't vote) were determined to take their revenge. They roughed up electors who were coming to vote for Condell. They tried to storm into the hall where the election results were to be officially announced. The doors were shut against them and special constables barred their way. They were well primed and angry and they were not going away. The chief magistrate of the town arrived and riding fearlessly into the mob urged them to disperse. The mounted police, including six Aboriginal troopers, came soon afterwards. Their officer left the black men in the street; the others rode into the crowd with their swords unsheathed and pushed the crowd back. Curr, the man they were supporting, appeared at an upper window and though he must have known differently, told them he had won and they should come back later for the official declaration.

What finally drew the crowd away was the sound of action elsewhere. Men were running through the streets and smashing the windows of the houses, shops and pubs of Condell's prominent supporters. One group armed with fencing palings paraded the streets shouting 'We're the heart's blood of true Irishmen and we'll murder every [bloody] Scotsman that comes in our way'. At the house of Mr Green, an auctioneer in Elizabeth Street, a crowd broke the windows and tore off the shutters and then tried to force their way in. Mr Green fired a pistol through his door and hit a man in the back of the neck. He was carried away. More shots were fired from upstairs windows and another person was wounded. The magistrate arrived and told the crowd he would arrest the people inside. He went up to the door and demanded that he be let in, dodging the stones the crowd was still throwing at the house. He took Mr Green away and kept him locked up for the night. The next day he was released because there was no clear evidence of who fired the shot.

Order came to the town after soldiers were called out to help the police. The crowds were broken up. The magistrate ordered that all the pubs be shut. Soldiers and police patrolled the town through the night.

In Sydney too there was a riot and a man who was injured later died. Another died in the country at Paterson. This was regarded as perfectly normal by English standards. Governor Gipps reported to the Colonial Office in London: 'The elections in general went off very well. . .' That men should be killed during an election did not show that elections were a mistake.

No Victorian election was as violent as the first, though there was plenty of drunkenness and minor scuffling while open voting remained. The next general election in 1848 was amazingly quiet. The men of Port Phillip decided that they would use the elections to show how worthless it was to send representatives to Sydney. For Port Phillip district no candidates stood. For Melbourne they elected Earl Grey, the Secretary of State for Colonies in London, who was refusing to allow Port Phillip to separate from New South Wales.

CHAPTER TWO

THE CASE FOR THE SECRET BALLOT

THE DISTRICT ELECTION.

Name of Voter.	For Brown.	For Walker.	For Thompson.	For Mason.	For Mottell.
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... is a correct list of the voters, and the way in which they all
voted at the District Election on Tuesday last.

NINE TILL TEN.

Name of Voter.	For Brown.	For Walker.	For Thompson.	For Mason.	For Mottell.
George Ward.
Mr.
Mr.
Mr.
Mr.

Edward ...	...	...	...	...	...
Mr. Arthur ...	...	...	...	...	...
Thompson, ...	...	...	...	...	...
Thompson, ...	...	...	...	...	...
Mr. ...	...	...	...	...	...
Joseph, Wm.	...	...	...	...	...
For ...	...	...	...	...	...
Slawing, Mr.	...	...	...	...	...
Mr. ...	...	...	...	...	...
Mr. ...	...	...	...	...	...
Keith, ...	...	...	...	...	...
Mr. ...	...	...	...	...	...
Whitehead, ...	...	...	...	...	...
Venue, Wm.	...	...	...	...	...

In England open voting was one of the ways the great landowners kept power in their hands. Before election day the landowner's agent or bailiff—the man who collected the rent—would make clear to all the tenant farmers of his master how they should vote. If they did not vote as instructed they might find that the agent did not renew their lease or hassled them harder when their rent was overdue. The landowner might also own houses in the local town so the men who rented these would be subject to the same influence. The shopkeepers in the town who got the benefit of the business of the great landed estate would also have to watch how they voted—or risk losing a very important customer.

That the landowners exercised this power seemed perfectly proper to them and their supporters. Compared with most societies England ran a very open political system (at least it had a parliament) but in their eyes the system only worked well because the great landowners could influence or control it. Sir Robert Peel, the leader of the Conservative Party, said in 1833:

if the influence of property in elections were destroyed, the security of all property and the stability of all government would be destroyed with it. It was surely absurd to say, that a man with ten thousand pounds a year should not have more influence over the legislature of the country, than a man of ten pounds a year.

In the 1830s and 1840s the power of the landowners was under sustained attack. In the Reform Bill of 1832 the great new towns were given more representation in parliament. In 1846 the landowners lost the tariff on imported wheat (the Corn Laws) which had kept the price of wheat—and bread—higher in England and allowed the landowners to collect more rent from their tenant farmers. The attack on the landowners came from middle and working class people in the towns, which were growing rapidly as England was changing from an agricultural to an industrial society.

The reformers were attacking the landowning aristocracy on many fronts. The secret ballot seemed one quick way to reduce their power. The intellectual leaders of the reform movement, who were called philosophical radicals, put great stress on it. Every year from 1833 one of their number, George Grote, moved a motion in favour of the ballot in the House of Commons. Grote died in 1871, the year before the ballot was adopted in England. In Australia he is remembered in the name of one of Adelaide's streets. Like other radical reformers, he was a supporter of the new convict-free colony of South Australia, which was going to be a model society. It adopted the ballot in the same year as Victoria, 1856.

The philosophical radicals operated on a clear first principle of government which they learnt from the great law reformer, Jeremy Bentham (1748-1832). Government, said Bentham, did not exist just to protect property or preserve rights or punish the wicked; its true aim was to create the greatest happiness of the greatest number of people. This was a novel and much more positive role for government than anyone had thought of previously. It did not make the philosophical radicals supporters of all government action. On the economy they were in favour of less interference, which would produce, they thought, the

outcome that would bring the greatest benefit. But they were not afraid of government and in other matters they wanted government to step in. They planned how government could act neatly and efficiently to solve a problem. One of their schemes was that the government should keep a central register of all landholdings and who owned them. That would make buying and selling land much simpler and cheaper. There would be no need for lawyers to track down deeds and check if they were genuine. You could find the existing owner of a property by looking at the register and your name went on the register if you bought it. South Australia adopted this system in 1858, and it took the name of the man who worked out the details of the plan, Robert Torrens.

For the philosophical radicals it was crucial that parliament truly represent the interests and wishes of all the people for otherwise how would the laws contribute to the greatest happiness of the greatest number? They wanted all men to vote (or nearly all) and their vote must be their opinion, not anyone else's. So this was why the secret ballot was absolutely central to their reform plans.

Henry Chapman, who invented the Victorian voting system, was a philosophical radical. In England in the 1830s he worked closely with the leaders of the movement and wrote articles on the ballot and parliamentary reform for their journals and magazines. His fullest account of what was needed for the reform of parliament was set out in issue number 22 of *Pamphlets for the People*.

All heads of household to vote
 No property qualification for members of parliament
 Secret ballot
 Easier registration of voters
 More equal distribution of electorates on the basis of population and territory
 Duration of parliaments to be shortened (from 7 years)

This was a much more radical programme than most middle-class people wanted. The Reform Bill of 1832 had given middle class people the vote; any further reform along the lines that Chapman wanted would increase the power of the working class, which they could fear as much as the aristocracy.

As it became clear that the radical programme was not going to be implemented, Chapman took up the study of the law. His parents had not been well off. There was enough to give him a secondary education but then he had to make his way in the world. His first job when he was fifteen years old was a bank clerk. He graduated to being an import agent in the trade between England and Canada. He crossed the Atlantic several times and spent enough time in Canada to be an advocate of its claims for greater self-government. Coming to the law late, without connections and money behind him, he struggled to make a living. In 1843 when he was forty he was very pleased to get the appointment of a judgeship in New Zealand. Here he drew up the rules of procedure for his Court, proper work for a follower of Jeremy Bentham. He kept on the lookout for positions that would pay better and dreamed that if a reformer became Colonial Secretary in England he would have a job as his assistant.

The programme of the philosophical radicals was taken up by working-class reformers. Working people had supplied the numbers for the huge demonstrations and parades that had finally persuaded parliament to pass the Reform Bill in 1832. But that measure did not give working men the vote and it was soon clear that the reformed parliament was not going to make any moves in that direction. So the leaders of the working class formed their own organisation to push for a completely democratic programme. They were known as the Chartists because their programme was embodied in what they called the People's Charter. It had six points; some were the same as those of the philosophical radicals; others took their points and pushed them further.

- Votes for all men
- No property qualification for members of parliament
- Secret ballot
- Equal electorates
- Payment of members
- Annual parliaments

The strategy of the Chartists was to make their Charter into a petition to parliament and collect so many signatures that parliament would have to take notice. Their first petition in 1839 was signed by over a million people and was 5 kilometres long. When it arrived in the House of Commons, the members refused even to discuss its demands. The same thing happened with their second petition in 1842 and their third in 1848. By then the Chartist organisation was fading away.

The secret ballot was common to both programmes and it was the one item which enjoyed good support among the middle class. In 1837 Grote got his best result on his annual motion for the ballot—200 votes for and 317 against. Once the Chartists took up the cause support in parliament fell off—to agree to the ballot looked like supporting Chartism and democracy.

The migrants who came from Britain to Victoria in the 1830s, 1840s and 1850s were overwhelmingly middle-class and working-class people. They could be expected to be in favour of the secret ballot. But there was one argument against the ballot that did have some hold on these people. The ballot was said to be un-English. An Englishman was meant to declare his opinions openly in the face of the world. It was the manly thing to do. People admired a tenant farmer who defied his landlord and voted how he wished no matter what the consequences. Open voting was almost necessary to provide this opportunity for noble action. Moreover secret voting would encourage the telling of lies. A man would promise to support one candidate and actually vote for someone else. Supporters of the ballot often said they did so reluctantly—they would prefer open voting but secrecy was the only way to stop the tremendous influence the rich and powerful exercised over other voters.



NOT SO *VERY* UNREASONABLE!!! EH?

The Chartist petition being handed over, *London Punch*, National Library of Australia.

These misgivings about the ballot affected even the Chartists. The 1848 petition did not include the ballot. Feargus O'Connor, one of the Chartist leaders, was opposed to it because 'it put a mask on an honest face'.

CHAPTER THREE

THE SECRET BALLOT IN VICTORIA

THE DISTRICT ELECTION.

Name of Voter.	For Wilson.	For Walker.	For Thomson.	For Robinson.	For Mitchell.
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This is a correct List of the Votes, and the way in which they all
Fall at the District Election on Tuesday last. —

NINE TILL TEN.

Name of Voter.	For Wilson.	For Walker.	For Thomson.	For Robinson.	For Mitchell.	Blank.
Mr. Ward.						
Mr. ...						
Mr. ...						
Mr. ...						
Mr. ...						

Emmett, J. ...
McArthur, D. ...
Brownson, D. ...
Duncan, B. ...
McKee, J. ...
Joseph, Wm. ...
Paterson, Geo. ...
Manning, H. ...
McFarlane, J. ...
McIntosh, J. ...
Keith, Geo. ...
McDonald, F. ...
Whitehead, H. ...
Veruel, Wm. ...

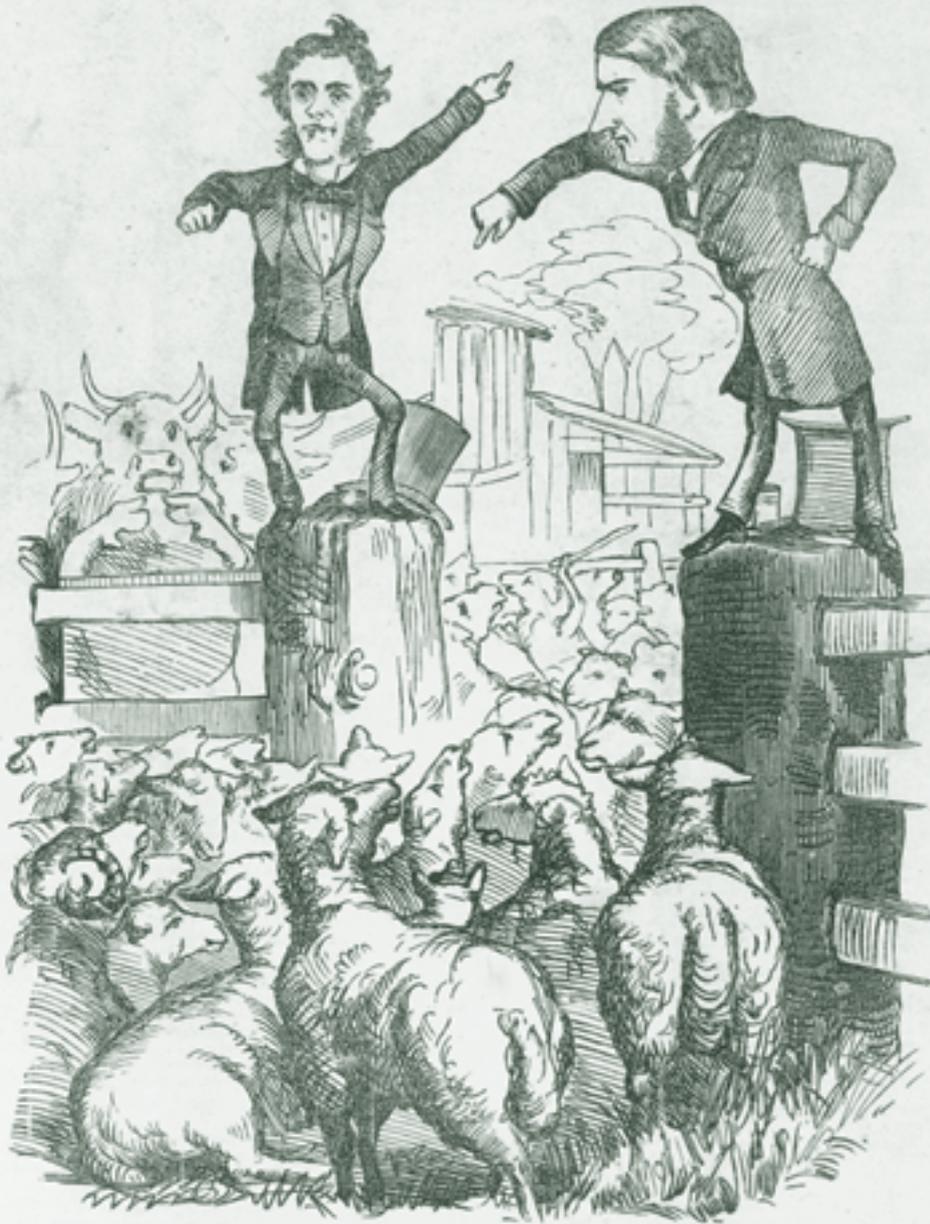
The secret ballot was first debated in Melbourne soon after news arrived that there was to be a separate colony of Victoria. This was provided for in the Australian Colonies Government Act passed in London in 1850.

For New South Wales proper the Act made very little change. The elected members of the Legislative Council had been hoping to achieve full powers of local self-government. That was still denied. Tasmania and South Australia were now to be allowed to elect two-thirds of the members of their Legislative Councils that had previously been totally nominated. Port Phillip gained most. It was separated from New South Wales with the name of Victoria and it was to be governed like the rest: a governor and his officials appointed from England would be the government and the laws would be passed by a Legislative Council, two-thirds elected and one-third nominated.

When this measure was introduced into the British parliament the qualifications for voting for all the Councils were set down as the same as had been operating in New South Wales. But a very strange thing happened as the measure passed through the House of Lords. Their lordships decided to halve these qualifications because they had been told that in New South Wales some well off ex-convicts had the vote and newly arrived respectable free migrants did not. Now the lowest qualification was to be the paying of ten pounds per year as rent on a house. Their lordships did not know anything about levels of rent in Australia. This qualification would allow skilled workers and some ordinary workers in the towns to gain the vote, people to whom their lordships would never dream of giving the vote in Britain itself. At a stroke Australia had been pushed very close to full democracy, as it was then understood. This would change the nature of the debate over the ballot in Australia.

The last act New South Wales performed for Port Phillip was deciding the electorates for the new Victorian Legislative Council and the method of voting. A group of merchants and shopkeepers in Melbourne decided to make their views known to the Council in Sydney. They knew that the Council was composed chiefly of large landowners and squatters who would allocate most of the representation to the country. Following good English precedent, the Councillors believed that property not population should be the basis for the allocation of electorates. The Melbourne businessmen wanted to ensure that Melbourne and Geelong and the farming districts around them were not left without influence in the new Council. The squatters had control of the land; they did not want them to take control of the colony.

In March 1851 the businessmen called a public meeting in the Mechanics Institute Hall in Melbourne, which started on Friday afternoon and was adjourned to Saturday evening. It was the first time the new Victorian colonists debated their political future. The organisers had drawn up two resolutions they hoped to carry: the first for population as the basis of allocating electorates; the second for the secret ballot. There were some squatters and their supporters present so the organisers did not have everything their own way. The resolution on electorates was easily carried. On the ballot those who were united against the squatters were divided. Big John O' Shanassy, the champion of the Irish Catholics, and little Johnnie Fawkner, one of the founders of the city, were both anti-squatter, but were supporters of the old English voting method.



MURRAY CANDIDATES ADDRESSING THEIR CONSTITUENTS.

Members for squatting districts had few electors, *Punch*, State Library of Victoria.

MAKING VOTING SECRET

MURRAY CANDIDATES ADDRESSING THEIR CONSTITUENTS.

The advocates of the secret ballot conceded that in the colony there was much less intimidation of voters than in England. This was undoubtedly the case. Society was not so closely knit and there were more opportunities for employment and advancement, which meant that no-one could exercise the power of the great English landowners. O'Shanassy declared that 'The real aristocracy of this country are workingmen'. They were free and independent so there was no need to take from them the opportunity to vote openly. The situation in Victoria was entirely different from Ireland where the landlords exercised great power, though 'many do defy them'.

The supporters of the ballot had to make as their primary argument what was a secondary argument in England: the secret ballot would reduce drunkenness, riots and disturbances which had certainly happened in Victorian elections. But intimidation had not disappeared. The man who seconded the resolution for the ballot at this meeting had a damaging example. At a recent election for the city council a landlord had asked a man who rented a shop from him to vote for John O'Shanassy. On election day the shopkeeper voted for someone else so the landlord gave him notice to leave within a week. He had built up a good business and he had a family to support. He begged to be allowed to stay and 'humbled himself before the landlord' and did what 'an honest and upright man would be ashamed to do'—probably he promised to vote as the landlord wished in the future.

The man making this allegation excused O'Shanassy from any responsibility, but O'Shanassy was incensed. He demanded that the speaker name names. The speaker refused. The chairman thought it would be better if no names were mentioned. The man in the chair was the Mayor of Melbourne, William Nicholson, who had started his colonial career in the humble position of keeping a grocery shop. He became an important businessman in the city and in 1859 premier of the colony. In 1855 he moved the resolution in the Legislative Council that established the secret ballot.

The resolution for the ballot at the 1851 meeting was carried but presumably less comfortably than the first resolution. The *Argus* newspaper, which was a great supporter of the ballot, does not give the figures. The merchant William Westgarth, member for Melbourne in the New South Wales Legislative Council, spoke up for both resolutions in Sydney. Earl Grey, elected for Melbourne in 1848, had of course not taken his seat and in 1850 Melbourne people decided it would be good to have one of their own present when the Council settled how the new Victorian Council was to be elected. Westgarth made no impression in Sydney. The electorates were to be weighted heavily in favour of the country and voting was to be open. The Council even refused to have a Melbourne petition in favour of the ballot printed lest it signal some support of the principle. The Colonial Secretary, the governor's chief official, declared the ballot to be 'unconstitutional and un-English'.

In September 1851 the first elections for the Victorian Legislative Council were held. The ballot was an issue on which most candidates declared their views. Most were against the ballot and a majority of those elected to the new Council were against it. John O'Shanassy was elected for Melbourne though he proclaimed his opposition to

the ballot. The *Argus* tried to embarrass him by quoting the views of the great Irish patriot Daniel O’Connell in favour of the ballot. O’Shanassy’s reply was that in the different circumstances of Australia O’Connell would support open voting. Melbourne elected three members. William Nicholson came fourth and he too declared against the ballot, though he had chaired the meeting that had voted in its favour.

Religion not the ballot was the issue that raised most interest and passion. No candidate could be elected if he supported the English position of having an official established church. Candidates were divided between those who wanted the state to support all churches (the current situation in the colonies) or none and how far the state should take over education from the churches. Very radical views were expressed on these subjects. Nicholson said he was against government grants to churches because it only encouraged bickering between them, which was a throwback to the barbarous ages when Christians slaughtered each other. But he would not support the ballot! Not every progressive cause in the old world seemed automatically right for the new.

The elections were held as the first news of the gold rushes reached Melbourne. Most readers of the newspapers would have been more interested in what ‘Our Buninyong Correspondent’ wrote than what the candidates for election were saying. In the next four or five years, while there was a chance of making a fortune, men were not very interested in politics.

The discovery of gold and the flood of new migrants to Australia convinced the British government that self-government should be granted. The Legislative Councils were told in 1852 that they could draw up constitutions providing for two houses of parliament. Once these were established the government would consist of a premier and ministers, responsible to parliament, instead of the British governor and his officials. There was to be self-government and responsible government.

The Victorian Council planned a conservative upper house which was to continue its name—the Legislative Council. It was to be elected (unlike the House of Lords in Britain) but by large property-holders. To become a member you had in current terms to be a millionaire. The popular or lower house was to be the Legislative Assembly. Every one who had a vote for the existing Council was to have a vote for the Assembly. The number of these voters was expanding without any change to the law because rents were going up rapidly in the general inflation that followed the gold rushes. Now the tenant of the lowest hovel in Melbourne paid enough rent to get the vote. But some respectable people did not yet have the vote: the young gentlemen who worked in banks, businesses and government offices and who boarded. They were likely to be of a conservative tendency so the Council created a new voting qualification to include them: people receiving a salary of at least a hundred pounds per year. Most of the Councillors were afraid of democracy but to stave it off they were giving more people the vote! The diggers were not to have the vote unless they took out an annual instead of a monthly licence. Since there was no financial advantage in doing this very few did so.



Henry Chapman in Victoria, State Library of Victoria.

The diggers took very little interest in this constitution-making. The only issue that really concerned them for the moment was the amount of their licence fee and how it was policed. Their grievances about this were the foundation of the protest movement at Ballarat in 1854, which ended with the Eureka Stockade. As the protest became organised into the Ballarat Reform League, the diggers' leaders did adopt a political program. It included all the Chartist points—except the secret ballot.

Only a minority of the diggers went into the stockade but the violent attack on it by British soldiers united all the diggers and much of the rest of the population against Governor Hotham and his officials. Thirteen of the rebels were put on trial in Melbourne for treason and all were acquitted. Leading lawyers worked for nothing on their defence. Among them was Henry Chapman who had just arrived in the colony.

From his New Zealand judgeship, Chapman had moved to the position of Colonial Secretary in Tasmania, that is the chief official of the governor. Transportation of convicts still continued to Tasmania and Governor Denison supported it strongly against a growing opposition. Chapman was opposed to the policy and could not support the governor. So he was obliged to resign, which enhanced his reputation as a man of principle. He came to Victoria without an official job and began to practise as a lawyer.

Ten weeks after his arrival Chapman ran for election to the Council in a by-election for the seat of South Bourke, which covered the villages, farms and suburban villas to the south of Melbourne. He was a strong candidate, much more experienced in public affairs than most, and supported by the two leading newspapers, the *Argus* and *Age*. But he was a newcomer without knowledge of the area. Perhaps this is why he began his speech on nomination day with the roads, their terrible state and how he was committed to their improvement. In a long and learned speech he did not mention the ballot. In question time he was asked if he supported it. Of course he did; he had supported it in Britain and in the colonies. But he noted that there had been no petition in its favour. Petitions were the standard way in Britain to show support for an issue and to put pressure on parliament. There were to be one or two petitions in Victoria but the ballot was to come without petitioning being necessary. Chapman won the seat and entered the Council when it had only a year left to run before the new parliament took over.

The rule by the Governor and his officials was discredited by the Eureka affair. If the new constitution had not been on its way back to Victoria after approval in London, the reaction against the Governor would have been even more intense. The Governor had to agree to implement the findings of a royal commission into the goldfields. The most important of these was that the licence system should be abolished and, for a small payment of one pound, the diggers could obtain a 'miner's right' that would enable them to dig for a year. Since they now had a licence to dig for a year they also acquired the vote. This virtually completed Victoria's move to democracy. The occupier of any house in Melbourne already had the vote and now men who lived in tents and moved around the country had the vote. To support universal suffrage (a vote for all men) was no longer a radical cry; it had virtually come into existence.

In order to allow the diggers representation immediately the Legislative Council, even though its days were numbered, created eight new seats on the goldfields. The elections for these seats were held in November 1855, less than twelve months after the Eureka rebellion. At Ballarat two leaders of the miners were returned unopposed: Peter Lalor, who had led the rebellion in the stockade, and John Humffray, who was a leader until the hard-heads took up arms. All of these new members had pledged themselves to support the ballot. On the goldfields more than in the towns there was a strong commitment to a full democratic programme.

In Bendigo there were three candidates for the two seats. The defeated candidate was a businessman who ran on a popular programme that included universal suffrage and the ballot. But the diggers did not want him and before the polling was over some diggers had torn down his banner, broken up the tables and chairs of his committee and used the pieces as weapons to drive him and all his supporters off the field. The *Bendigo Advertiser*, which supported the diggers, said this was all in good fun and there was nothing personal about it. The *Argus* in Melbourne used the incident to show that there was a need for the secret ballot in Victoria.

CHAPTER FOUR

THE BALLOT IS PASSED

THE DISTRICT ELECTION.

Name of Voter.	For Kemper.	For Walker.	For Thomson.	For Masterson.	For Mitchell.
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is a correct List of the Voters and the name in which they all
Voted at the District Election on Tuesday last —

NINE TILL TEN.

Name of Voter.	For Kemper.	For Walker.	For Thomson.	For Masterson.	For Mitchell.	For Lang.
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Age Ward.
Mrs.
Miss.
Miss.
Miss.
Miss.

Esperett,
McArthur, C.
Dunnison, P.
Dunnison, D.
McKee, W.
Tosch, Wm.
Tosch, Geo.
Slawberg, M.
McCracken, J.
McIntosh, J.
Keith, Geo.
McDonald, Geo.
Whitehead, M.
Verrett, Wm.

A to C



The new constitution arrived from England in October 1855, but the old Legislative Council had to remain in existence until it had settled how the new parliament was to be elected. This gave the supporters of the ballot the opportunity to make secret voting part of the new order from the beginning.

One important change was made as soon as the constitution arrived. The governor's officials told the governor that the principle of responsible government should come into force at once. In future they would answer to the Legislative Council rather than to him. Governor Hotham, who was a good admiral out of his depth in public affairs, reluctantly agreed.

The officials knew Hotham was a lame duck. If they were to have a future in Victorian politics under the new regime of parliament and responsible government they needed to disassociate themselves from the Governor as soon as possible. Two of them were able men who could well think they would have an on-going role on the conservative side of politics. These were William Haines, a large landholder, and William Stawell, a lawyer. Both had come to the colony as migrants in the normal way; the Governor, looking for talent, had nominated them to the Council and given them their administrative jobs. Haines was the chief official, the Colonial Secretary, and Stawell was Attorney-General.

Haines and Stawell were firm opponents of the ballot. They presented to the Council an Elections Bill that provided for open voting in the usual way. On 18 December 1855 William Nicholson, the former mayor of Melbourne and a man of growing importance, moved that they be conducted by secret ballot (a position he had not adopted when he first ran for the Council).

In his speech Nicholson spent most of his time on the evils of open voting in England and the failed efforts to control them, which had led to the demand for the secret ballot. He conceded there was much less intimidation of voters in Victoria than in England but insisted that it still did occur. The best argument he could make about intimidation was that with the coming of responsible government, ministers would expect government workers to support them at elections and with open voting it would be able to sack those who did not vote the right way. This certainly happened in England: voters holding jobs in the naval dockyards were expected to support the government of the day. Nicholson pointed out that in Victoria the government was a very large employer. It had just taken over the railways and it ran the police force (which in England was a local responsibility). There would be plenty of opportunity for intimidation. Though everyone agreed there was not yet much intimidation in Victoria, there was plenty of treating, money spent on supplying food and drink to electors—and the drink could then lead to disorder. Nicholson argued that treating would cease with the secret ballot because candidates would not spend money if they could not check whether voters kept their promises to support them.

A long debate followed on Nicholson's motion. The opponents of secret voting, with Haines and Stawell at their head, thought Nicholson had made a poor case. There was not much wrong with the present system as it operated in Victoria and there was no strong demand

for changing it. Secret voting would make the system easier to corrupt and far from ending treating it would encourage the telling of lies. Electors, said Stawell, would take a candidate's grog, wear his colours, shout his cry, promise to support him—and then vote against him.

Opponents of the ballot could still appeal with success to the value of an open and honest declaration of one's opinion. Humffray, the diggers' leader, former Chartist and new member for Ballarat, admitted that he admired 'the spectacle of the honest voter going up, free and independent, openly to record his vote'. But not everyone, he continued, could do this—fewer in Victoria than in England—but enough to warrant making the change.

This was a common view. The ballot had the reputation of being a progressive measure and it gained in standing from the movement to obtain it in England, which is why Nicholson in his speech spent so long referring to it. The evils of open voting were not as bad in Victoria but if the chance was there to achieve the ballot it was still worth doing.

Henry Chapman put this view but he gave a very different speech from the others. It was a philosophical speech about human behaviour and the development of schemes to control it, which showed him as a true disciple of Bentham. He took up and answered the objections that it would be easier to cheat under a secret ballot. There would be imperfections in any system: 'there was no human invention which could not be evaded and the object was not absolute perfection, but such a degree of it as would tend to diminish the evil'. Take the engraved designs on banknotes and cheques, he said. They work to prevent forgeries but they can't absolutely prevent them. 'In the case of the ballot box, ingenuity united with roguery might find a means of fraud, but eventually some more perfect contrivance would be made in consequence of such fraud itself'. The plan that would make the secret ballot work was not yet clear to Chapman, but his was the mind to contrive it.

The secret ballot was an imported cause and the arguments for and against it were mostly imported arguments. However, the local circumstances of Victoria changed the significance of the cause and the weight of the arguments. For some people the local circumstances destroyed the case for the ballot because there was very little intimidation, the chief evil in England. O'Shanassy and Fawkner in this debate, as in 1851, were supporters of open voting, though they were on the popular side in Victorian politics. Their view of the case was that Victoria could keep the benefits of English openness though England itself might have to give up on them.

In England the conservative argument against the ballot was that it was designed to reduce the legitimate power of large landowners and other superior people and because it was part of a wider democratic programme. But in Victoria democracy had by stealth almost been established. The Council member who saw most clearly how that affected the conservative argument against the ballot was John Goodman, a squatter. He expected that the first parliament would complete the widening of the electorate by introducing manhood suffrage. That made the case for the ballot very strong—he saw it as the 'only means of conservatism left to the colony'. The ordinary voter who did not want to support radical causes now needed to be protected not against pressure coming from his betters but from his workmates



Nicholson forcing the ballot into Attorney-General William Stawell, *Punch*, State Library of Victoria.

and neighbours. It was the great mass of the people who might now not let anyone disagree with them. Goodman said he agreed with the traditional argument that property should have its due influence in politics (which in England was an argument for open voting) but in Australia property was much more widely spread. Property would have its influence

so long as voters would not be intimidated. He said that the recent establishment of the second French Empire under Louis Napoleon (who won a popular mandate to shut down a radical republic) showed that universal suffrage and the ballot were not necessarily disruptive forces. Goodman's thinking had jumped a long way ahead of that of Haines and Stawell, who considered the ballot un-English and who still thought they had to fight off democracy.

The argument that the ballot would protect voters against the influence of democrats was run very hard by the *Argus*, which followed the Council debate on the ballot closely, countering arguments of opponents and feeding arguments to supporters. The paper declared 'It would be of little use to escape the evil influence of landlords and masters, to fall beneath the yoke of a tyrant majority'. The secret ballot was required in Victoria 'more rather than less than in England, although the danger to be repelled is of a very different kind in the two places'. The tyranny of the majority argument was also an English import. In England it gained more force later as democracy seemed the inevitable end result of liberal reform. It resonated sooner and more strongly in Victoria.

THEATRE ROYAL,
ST. PATRICK'S.

RE-ENGAGEMENT OF MONS. HAINES AND HIS CELEBRATED TROUPE OF MARIONETTES.

THE Managers of the above Establishment have much pleasure in announcing, that, through the kind mediation of
COL. MACARTHUR,
Mr. Haines and his troupe of Marionettes, whose performances excited so much astonishment last season, have accepted a re-engagement for a limited period, and will have the honor of appearing this evening in an

OPERA BUFFA,
New to a Colonial or any other audience, entitled

IL CONSIGLIO STOLTIFICATO;
OR
THE COUNCIL BAMBOOZLED.

Principal Characters by the Troupe, to be followed by the Laughable Burlesque of

IL CABINETTO RINOVATO;
OR
THE CABINET REFURBISHED.

The Management of the THEATRE ROYAL, ST. PATRICK'S, beg to intimate that

THE BALLOT,

will form an interesting feature in the programme of the Season, and that

SIGNORA GRIMES

Has been Engaged as

PREMIERE FIGURANTE.

N.B.—An early application is recommended for places.

Punch mocks the return of the Haines ministry to office with the ballot an "interesting feature" in their programme, *Punch*, State Library of Victoria.

The motion on the ballot in the Council was carried 33 votes to 25, a much better result than the *Argus* dared to hope. As it noted, support came from members of all political persuasions; it was not simply, as it was in England, a liberal and progressive cause. Opposition too was mixed: O'Shanassy and Fawkner for once voted with the ministers. One of the ministers, Hugh Childers, had to vote against the ballot, though he was rumoured to be in favour. He soon returned to England and had a distinguished career in politics there. In his maiden speech to the House of Commons in 1860 he spoke in favour of the ballot and pointed out that in Victoria, unlike England, it had conservative supporters.

The day after the Victorian Legislative Council voted for the ballot, the Haines government surprised everyone by resigning. They were opposed to the ballot and they did not want to implement it. They were taking responsible government seriously: if the Council wanted the ballot it would have to find another set of ministers to carry it out. Haines and his colleagues hoped that no other government could be assembled. Then they would be back in office and the Council would have to give up the ballot plan.

Governor Hotham, as advised by Haines, commissioned Nicholson to form a new government (since he was responsible for introducing the ballot motion on which the government had been defeated). This is not what Nicholson had expected or wanted. He was planning a trip back to England. He made a half-hearted attempt to put together a ministry and soon gave up. There was not that much talent or administrative experience among those who had voted for the ballot. They had not operated as a group; still less had they prepared themselves for taking office. They expected Haines and his colleagues to swallow the ballot and remain the government. It was rumoured that Nicholson had asked Chapman to be his Attorney-General, and that Nicholson would not agree to the condition Chapman laid down: that he would soon be appointed to a judgeship. It is quite likely that Chapman was looking for a safe and well paid job. He had lost his position in Tasmania and was starting from scratch (at age 52) to earn a living in the law in Victoria. When he ran for the Council, his leading opponent accused him of being a job hunter who had been ready to take the British government's money in the colonial service.

After Nicholson failed to form a ministry the Governor (it was the acting governor because Hotham meanwhile had died) recalled Haines on Nicholson's advice. The same ministers resumed their offices. Haines told the Council they planned to act as if the motion on the ballot had not been passed. There was uproar at this and Haines then said he would treat the ballot as an open question: that is, the Council could adopt it without the ministers treating it as a matter of confidence on which they would resign. But the ministers were still opposed to the ballot and they would do nothing towards planning the details. That would have to be done by Nicholson and his friends. Stawell said they would make such a mess of it that they would be forced to give up the whole idea.

During the debate on the ballot Nicholson showed that he had no clear idea how it would work. Nor did anyone else. Everyone took as the starting point the existing system where voters came to vote with a card filled out giving their name and whom they voted for. Nicholson suggested that the voter come into a room and be given a card; he would then go into a second room and without anyone watching fill in the card and place it in a box. But to work this system you would have to be able to read and write. One of the advantages of the existing system was that the candidates' committees could fill out a card for the illiterate and the blind. To cater for these people, Nicholson proposed to give candidates a colour and have cards and ballot boxes with colours matching those of the candidates. He joked that Mr O'Shanassy's colour would of course be green. This was a proposal that clearly needed more work.

In January 1856, after the reinstatement of the Haines' ministry, the Councillors who supported the ballot had to put their plans into words and have them inserted in the government's Electoral Bill. Nicholson knew that if he could not propose a good plan the scheme might yet collapse. He knew too that he was responsible for producing a detailed plan since the government refused to do so. He turned for help to Henry Chapman who gave him a very different starting point for the voting process. Chapman proposed that the government should print ballot papers, on which would be the names of the candidates. So normal to us, this was a novel idea. Governments previously had very little to do with elections. They issued the writs for an election to the Returning Officer, who with the candidates and their committeemen and scrutineers organised the business. The paper work was generated by the voters themselves or the candidates' committees.

Now there would be an official ballot paper. That immediately made fraud more difficult. To ensure that no ballot papers resembling the government's were used, the Returning Officer would sign his name (in full) on the back of each ballot paper. The names of the candidates would be listed in alphabetical order. The voter would strike out the names of the candidates he did not want. This seemed to Chapman a natural and psychologically satisfying way of expressing one's views. It also meant that those who could not write could manage the system. Those who could not read might just manage. They could be told by the candidate or his supporters 'Strike out the top two names and leave the bottom one'. If they could not manage, they were able to ask the Returning Officer for help. So were the blind. After striking out the names of the unwanted, the voter was to fold his paper and as he dropped it into the ballot box the signature of the Returning Officer was to be visible.

That the government should step in to regulate and purify a process was a natural thought to a Benthamite like Chapman. His plan for an official ballot paper was akin to opening a government registry of land ownership. This was the invention which was the basis for a successful plan of secret voting. But Chapman had not worked out all the details and his plan had to be refined as it went through the Council. Strangely Chapman did not attend these debates; perhaps he could not afford the time away from his law business.

When Nicholson first presented the Chapman plan to the Council he was still working with the idea of two rooms, an inner and outer. The voter was to collect his ballot paper in the outer room and then go into the inner room where there was a desk with ink and pen. There was to be only one desk and only one voter could be in the room at any one time. Stawell, the Attorney-General, keen to show the whole scheme was unworkable, pounced on these arrangements. He estimated that it would take one voter three minutes to ink up his pen, strike out the names, blot his work, fold up the paper, and put it in the box. With the polling stations open for 10 hours that would allow only 200 people to vote!

Supporters and opponents of the ballot argued about how long the new process would take compared with the old, until one member, Charles Griffith (who had voted against the ballot) said if the difficulty was time why not have five or six compartments in one polling booth? The *Argus* took up the idea. Is the Attorney General, it asked facetiously, acquainted with the interior of a pawnbroker's shop? The clients are in little confessionals shut off from each other but opening upon the counter behind where the pawnbroker passes to communicate with all. So the Council added 'compartments' or 'ballot rooms' to the inner room where there could now be more than one elector so long as they were all at work on their ballot papers. To speed up the issuing of papers to the voters, the outer room might be divided according to a division of the alphabet and an elector could only collect his paper so long as 'his surname shall commence with one of the letters which shall be so fixed over the entrance of such compartment'.

Stawell kept hammering at the danger the new system posed: it would be easier to impersonate another voter and get away with it. The impersonator would have dropped his ballot paper in the box, after which there would be no way of isolating it from the genuine votes. He insisted there must be some capacity to scrutinise the votes. The supporters of the ballot resisted this because if the ballot papers could be traced to voters then secrecy was at an end. John Goodman, who had spoken with such insight during the earlier debate, solved this problem. He had been asking Americans in the colony about their voting practices and from one of them he learnt of a system where the poll officials wrote on the back of the voter's card his number as it appeared on the electoral roll. The Council took up this idea. On the back of the ballot paper would be the Returning Officer's signature and the voter's number. The people counting the votes would not know voters' numbers so there was no threat to secrecy. But if the votes had to be examined to detect fraud then ballot papers could be traced to voters. If there were two or more ballot papers with the same number, then they could be excluded and the investigators would have a name with which to begin their enquiries. To get a fail-safe secret plan, absolute secrecy was abandoned.

The Council did finally produce a workable scheme. Early in the Council's deliberations this looked an unlikely outcome. Stawell, who was usually mild mannered, became almost apoplectic when he spoke against the ballot. He kept making his objections not to improve the scheme but to show that it could never work. The supporters of the ballot pleaded with him to be positive and to use his legal expertise to get the Bill into a good shape. He refused and refused also to allow the government's legal officers to help out. But in time he came

BALLOT PAPER
GEELONG DISTRICT
returning
FOUR MEMBERS
CANDIDATES NAMES

John Robinson Bailey
 William Behan
 William Bright
 John Henry Brooke
 Alexander Fyfe
 Charles Read
 Charles Sladen

DIRECTIONS

The voter is to strike out the name or names of the candidate or candidates for whom he does not intend to vote by drawing a line through the name with a pen.

He must be careful not to leave uncanceled more names than are capable of being returned for the district in which he votes, namely FOUR names, otherwise his ballot paper will be invalid.

If he cannot read he may require the returning officer to strike out for him such name or names as he may designate.

The ballot paper so marked by or for the voter is to be dropped by him into the ballot box.

The voter is not permitted to take his ballot paper out of the ballot room or polling booth.

THE FORMULA OF THE ELECTION

A few plain words to the electors will not be out of place. There are four members to be elected out of the seven candidates before the public.

The names of the candidates will be seen printed on the ballot paper which will be given to the elector at the balloting booth. The voter will enter that part of the booth over the entrance of which he sees the letter forming the initial letter of his name. The alphabet is cut in two: one half appears over one entrance; the other half over the other entrance. Brown, Smith, Jones or Robinson can therefore see at a glance which door to go in at by looking at the alphabetical letters over it.

When the voter enters he will confront a clerk, to whom he must give his name. The clerk then shouts out the name, and the Returning Officer and the scrutineers for the different candidates refer to the electoral lists to ascertain whether the name be printed therein. If there be any doubt about identity or other causes tending to invalidate the vote, questions are then put, and then the clerk hands to the voter a balloting paper, signed by the Returning Officer, and marked with a number, corresponding to the one which appears before the name of the elector on the printed electoral roll. The paper contains the names of all the candidates.

The duty of the voter is, to go with such paper into one of the compartments of the polling booth, provided for the purpose, and there with a pen, to scratch through the names he objects to. The names remaining on the paper untouched will be the names of the candidates the voter intends to return.

Having done this, the voter must carry the ballot paper folded up, to the ballot box, and deposit it in such box, which is placed before the Returning Officer, who sees the act of voting performed.

Electors should take care to make the erasure very distinct, and to allow the ink to dry for a few moments before applying the blotting paper. At last election some of the ballot papers were doubled up without applying blotting paper at all. In other cases the blotting paper was applied the instant after writing and left the erasure so pale as to be scarcely distinguishable.

There are seven candidates to select from. Let us impress on the electors the necessity of taking care before they give up the ballot papers, which once parted with settles the vote. In the first place, let it be borne in mind, that as only four members are to be chosen, three names must be struck out of the ballot paper. Any paper containing more than four names will be good for nothing, and be set aside. Such vote will be lost.

round and towards the end of the debate he virtually took control of refining the measure that he had opposed, but which his government would have to implement.

The administration of the new system fell to the Chief Secretary's department, which was headed by Haines. If he had wanted to stymie the system, he could have allowed uncertainty about implementation to grow into chaos. Instead the department issued very full instructions to the Returning Officers on how to set up polling booths in the new way. Unfortunately, no copy of the instructions has yet been found, but the details can be deduced from the correspondence that followed and other papers in the department. The Returning Officers were responsible themselves for acquiring or having built all that was needed—the pens, ink and blotting paper; ballot boxes of different sizes according to the number of voters in the locality; the boards from which to construct what were called voting 'stalls'. There were plans sent out to show how all this should be arranged. The stalls were as we know them but on generous proportions - four feet wide and eight feet high, separated by boards an inch thick. They were much larger than the current cardboard versions.

In August and September 1856 the secret ballot had its first trial when the first parliament under responsible government was elected. The Legislative Council was elected first and then the Legislative Assembly. All went smoothly. The problems were only minor. Some voters were suspicious about their number being written on the back of the ballot paper. Returning Officers complained of the labour of having to sign their names in full (not just initials) on the ballot papers. Many electors had trouble wielding the pen and using the blotting paper.

The *Age* suggested that pencils might be used in future (ink had been prescribed presumably because it could not be tampered with). One returning officer reported that even respectable people (and hence accustomed to pen and ink) took five minutes to mark their ballots. This was much more than the three minutes Stawell had estimated when Nicholson's scheme provided for only one voter at a time marking his ballot. The voting 'stalls' were crucial to the success of the scheme and they should be remembered along with an official ballot paper as the inventions that made secret voting workable.

The quietness on voting day was eerie. There were no crowds outside the polling booths. Voting for parliament was an important event but there was nothing to see and nothing to be learned of its unfolding. The *Argus* was pleased at the quiet; it was the proper atmosphere in which to exercise an important privilege. But some voters told reporters that they regretted that the carnival atmosphere of open voting had gone. There was no chance of its returning. After the success of its first trial, the opponents of the secret ballot hurried to announce their conversion to it.

But the ballot did not produce as thorough a change as had been expected. Candidates and their supporters still canvassed the voters before the election seeking a promise of support. They kept a list of promised supporters and used it on polling day to check that all their supporters had come to vote. So who voted for whom was commonly known and



THE NEW CURE.

Mr. G..... YES.—Hollos, F...k...r, who'd have expected to see you trying Nicholson's Pills after what you used to say about them!
 Mr. F.....K.....R..... Ah! I've been persuaded to try them, I've been told th'e're safe and secret. But you used to be as much
 down upon them as myself.
 Mr. G.....YES.—So I was, but at the solicitation of numerous respectable friends I mean to give them a trial. (The honorable
 gentlemen go home to swallow their ballot pills and study their regulations).

The opponents of secret voting quickly announce their conversion: Mr Fawkner and Mr Greeves are shown taking Nicholson's pills, *Punch*, State Library of Victoria.

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WAITING THE RETURNS OF THE VICTORIAN ELECTIONS

Crowds gather to watch the posting of election results outside the Age newspaper office, Illustrated *Australian News*, State Library of Victoria.

people generally did not mind its being known. There was nothing to stop voters breaking their promise when they were in the polling booth, but the old English respect for keeping one's word seems to have held up—despite the fears of those who thought that the secret ballot would be a terrible temptation to wickedness. Of course if you wanted or needed to keep the matter secret you now could. Voters who had given their promised support to a candidate still expected that the candidate would stand them a drink. So treating did not disappear.

The chief difference brought about by the secret ballot was not that knowledge of how people voted completely disappeared, but that no-one knew the state of the poll as the voting was in progress (though a good committee would have a fair idea). In principle there was no reason why the returning officer could not have continued to count the votes every hour and posted the results, but the law declared that the ballot box could only be opened when voting was over. This was the secrecy that robbed the polling booth of its excitement and ended the mad dash to find voters if the voting was close, which in turn led to drunkenness and disorder.

Nicholson had proposed to abolish the open-air meetings where candidates were nominated. He collected only six votes in the Council in 1856 for that plan. In 1863 parliament readily agreed to abolish open nomination. That completed the process of taking the formal business of elections out of public space. However, following the results of elections was something that still happened in public. The newspapers erected large tally boards outside their offices where they posted the results, collected from all over the colony by telegraph. The crowds in front of the boards were large enough to block the street. In the twentieth century radio and then TV brought the results on the tally boards into the homes of the voters. But some of them organised parties on election night, the last survival of election as carnival.

There was a strong movement for the ballot in South Australia in the 1850s. The campaigners for the ballot in Victoria cited this colony as an example and a threat—South Australia might adopt the ballot before Victoria. South Australia passed its legislation only a month after Victoria in 1856 and it can look as if Victoria should not be given too much credit as the pioneer. But the system that South Australia adopted was the Victorian system.

At first the South Australian plan was for the voter to deliver to the Returning Officer a ‘closed white paper’ on which he had written the name of his chosen candidate. Without looking inside the paper the Returning Office was to drop the paper in a box. On 22 February 1856 this plan was dropped in favour of Chapman’s, which had been first unveiled in the Victorian Council on 23 January. There was to be an official ballot paper, signed by the returning Officer, though only his initials were required, and ‘in separate apartments or places’ the voter was to strike out the names of the candidates he was not voting for. The method of voting was later changed to putting a cross beside the favoured candidate. But the honest South Australians did not follow Victoria on the placement of the voter’s number on the back of the ballot paper. Theirs was a system of absolute secrecy.

The other colonies also followed the Victorian system of the official ballot paper and kept the crossing out of the names of the unwanted; but they too did not adopt the numbering of the ballot papers. In 1902 the new Commonwealth adopted the South Australian system, that is voting by a cross and no numbering of the ballot papers. Victoria dropped the numbering system in 1938.

After the first trial of the ballot in Victoria, the *Argus* declared that ‘its successful operation will be watched with interest by all the friends of progress in Great Britain’. The success of the ballot in these British communities overseas did help the cause in Britain itself, though opponents could argue that the circumstances of the colonies were very different from those in Britain. After years of the cause being pushed from the backbench, in 1868 Gladstone’s Liberal government committed itself to the introduction of the ballot. To help its planning the government called for reports from the Australian Governors and Premiers on how the ballot operated. They all reported favourably and provided interesting assessments on how much the ballot had changed electoral politics. The British minister in charge of bringing in the ballot, Lord Hartington, was particularly interested to learn that voters generally were still open about who they voted for. He hoped that after the ballot had stamped out intimidation and riot in Britain, they might return to open voting.

The different practices in the Australian colonies gave British ministers and parliamentarians a range of options to consider. The government at first chose the Victorian system but had to drop the voter’s number to satisfy its supporters who said that after years of intimidation voters would not feel safe unless secrecy was absolute. But the House of Lords, where opposition to the ballot was still strong, wanted a system of scrutiny as a check against fraud—and so the voter’s number had to be reinstated to get the Bill passed. Thus in 1872 the ballot became law. It was in origin a British idea, which was now implemented according to an Australian plan.



COUNTING THE BALLOT PAPERS

The counting of the vote, *Illustrated Australian News*, State Library of Victoria.



MAKING VOTING SECRET

COUNTING THE BALLOT PAPERS.

In the United States in the 1880s and 1890s the 'Australian ballot' became famous. Reformers who wanted to clean up politics advocated it as part of their programme. The party machines in the United States had for many years taken a firm grip on the whole voting process. On election days voters had to elect local, state and federal representatives and office-holders as well—judges, police chiefs and dog catchers. The parties had their chosen candidates for all these positions and they produced a voting card already filled up.

So to save himself the labour of writing out scores of names, the voter took the party's card and dropped it in the box. The card had a distinctive colour so that the men of the party-machine could tell how you voted. There were favours to be had if you voted as the party wanted. Since you had to be on the party's card to have any chance of election, the party machines demanded big money from those they put on their list.

The attraction of the 'Australian ballot' to the American reformers was not so much that it increased secrecy; it was a way of lessening the power of the party machines by the production of an official ballot paper. One of the reformers talked on the subject under this heading: 'The Feasibility of printing and distributing ballots at the Government's expense'. By 1910 nearly all states had adopted the Australian ballot in some form. But the ballot papers did not look like the Australian ballots of that period for the candidate's party identification was included and the candidates of each of the parties were grouped together. The voter could still vote very easily for all the candidates from the one party; the difference was that independents could gain a place on the ballot.

In America the novelty of Chapman's scheme was recognised far more clearly than it has been in Australia. He did not invent a secret ballot; his invention was an official ballot paper in order to facilitate secret voting.

CONCLUSION

The story of the adoption of the secret ballot in Victoria seems at first sight not to need much explanation. It was a reform pushed by liberals and democrats in Britain which was 'naturally' adopted in progressive Australia. But that is much too simple. In Victoria there was less need for the ballot because in a more open society there was very little intimidation of voters. The reformers in Victoria had to use the second-string argument that secrecy would stop disturbance, drunkenness and riot on election day. The arguments against the ballot were also carried from the old world to the new. There was a wide-spread feeling that voting in secret was shameful and un-English. Even some supporters of the ballot felt this way. So opponents of the secret ballot in Victoria said that since the colony had less need of it, they could stick with old-English openness.

In Britain the ballot was first advocated when the right to vote was still very restricted. The ballot was supported by some people who were opposed to democracy because it seemed a neat and safe way to reduce the power of the aristocracy. When the ballot was advocated as part of a whole democratic programme it got very much less support. In Victoria the relationship between the secret ballot and the extension of the right to vote was very different. In the 1850s the right to vote was expanding rapidly. When the decision for the ballot was made in 1856 it was reasonable to assume that soon there would be manhood suffrage. The ballot could now be seen as a conservative weapon: it would enable ordinary people to defy their neighbours who might want them to support wild and radical schemes.

Thus in the colony the arguments over the ballot and their supporters fell into a different pattern from that in Britain. It was not a foregone conclusion that the ballot would be adopted and its adoption did not represent simply the victory of liberal and democratic forces. Since there was less intimidation in Victoria, the method of voting was a matter of less significance than in Britain. There was no real struggle to obtain it and its adoption did not represent a shift in the exercise of political power. Its immediate consequences were that elections were more peaceful. But it was a reform worth having. As its supporters said, if there was no great evil associated with open voting in Victoria, the establishment of secrecy was a guarantee that old-world evils would not re-establish themselves.

The innovation of 1856 was not the adoption of secrecy in voting but of a new method of voting. The government took charge of the process by printing official ballot papers. This new role for government should be seen as being influenced by the teachings of Jeremy Bentham. The invention of the official ballot paper came very late; in fact after an in-principle decision to adopt the ballot had been made. The supporters of the ballot were under great pressure to produce a good scheme because the government was opposed to the introduction of the ballot. Chapman's idea provided a new starting point for solving the problem of producing a ballot that would work efficiently and be free of fraud. However, he was not responsible for the refinements of the scheme: the voter's number on the ballot and the voting booths. These were developed as the members of the Legislative Council—supporters and opponents of secrecy—worked on the details. The scheme worked so well that all opposition disappeared immediately.

After a few years in Victoria Chapman returned to New Zealand where he was appointed a judge with tenure and a good salary, just what he had been long seeking. He is honoured in Australia today by a small group of people who call themselves the H. S. Chapman Society. They are worried about the integrity of our voting system and want a tighter control on the whole process of enrolling and voting. They have chosen the right name for their group because H. S. Chapman not only was a creative system-maker; he knew that all systems have to be watched and adjusted as 'ingenuity united with roguery' finds ways to undermine them.

The Victorian Electoral Commission, the body responsible for the integrity of the system, is aware of the dangers. It is reassuring that an independent body, and not the government of the day, is responsible for drawing electoral boundaries and ensuring that voting is honest. The ballot papers no longer bear the number of the voter but after each election the Commission scans the voting rolls by computer to see if anyone has voted twice. The Commission is working on how voting can be made more accessible, so that even the blind might vote without assistance, a problem that Henry Chapman could not beat.

TIME LINE

- 1833 George Grote introduces first of annual motions for secret ballot in House of Commons
- 1835 European settlers arrive in Port Phillip district of New South Wales
- 1838 People's Charter in England includes secret ballot as one of its six points
- 1843 First elections for the Legislative Council of New South Wales; election riot in Melbourne
- 1848 Electors of Melbourne elect British Colonial Secretary (Earl Grey) as their member as protest against having to send representatives to Sydney
- 1850 Australian Colonies Government Act separates Port Phillip from NSW with name Victoria
- 1851 Citizens of Melbourne vote for secret ballot at public meeting; NSW Council rules that voting for Victorian Legislative Council shall be 'open'
- 1851 July Gold discovered
- 1852 Legislative Council given permission to write constitution for self-government
- 1853-4 Constitution drawn up and sent to England
- 1854 Henry Chapman arrives in Victoria
- 1854 Ballarat Reform League calls for democratic change (but not secret ballot); Eureka rebellion
- 1855 New miner's right gives diggers the vote; Goldfields elect 8 members to Legislative Council, all committed to secret ballot
- 1855 October Victorian constitution arrives from England; Governor Hotham's officials declare themselves responsible to Legislative Council
- 1855 December Motion for ballot passed in Legislative Council; Ministry resigns and is reinstated after supporters of ballot fail to form a government
- 1856 March Chapman's scheme for secret ballot incorporated into electoral law
- 1856 August - Elections for first parliament using secret ballot
October
- 1856 Secret ballot adopted in South Australia
- 1858 Secret ballot adopted in NSW
- 1872 Secret ballot on Victorian lines adopted in United Kingdom
- 1880s Australian ballot becomes a reform cause in the United States

SOURCES

There are two studies of the introduction of the ballot in Victoria: Ernest Scott, 'The History of the Victorian Ballot', *Victorian Historical Magazine*, vol. 8, no. 1, Nov 1920 and no.2, May 1921; Mark McKenna, *Building 'a closet of prayer' in the new world: the story of the Australian ballot*, Menzies Centre for Australian Studies, London 2002. Neither recognises the novelty of Chapman's method. Chapman himself is studied by R. S. Neale in 'H.S.Chapman and the 'Victorian' Ballot', *Australian Historical Studies*, vol. 12, no. 48, April 1967 and by Peter Spiller in *The Chapman Legal Family*, Victoria University Press, Wellington 1992.

The general history of Victoria in the 1850s is authoritatively dealt with by Geoffrey Serle in *The Golden Age*, Melbourne University Press, Melbourne 1963. For broad changes in politics in this period including the size of the electorate see John Hirst, *Australia's Democracy: a short history*, Allen and Unwin, Sydney 2002. M.M. Thompson, *The First Election: The New South Wales Legislative Council Election of 1843*, Goulburn 1996, is a useful study.

There is no official record of debates in the Victorian Legislative Council 1851-1856. They are reported in the newspapers; I have relied chiefly on the reports in the *Argus*. Melbourne *Punch* provides a lively and humorous account of political developments.

The correspondence of the Chief Secretary's office, held at the Public Records Office, deals with the implementation of the secret ballot (though the instructions to Returning Officers appear to be missing).

For the secret ballot outside Australia, see Bruce Kinzer, *The Ballot Question in Nineteenth Century English Politics*, Garland Publishing, New York and London, 1982 and L.E.Fredman, *The Australian Ballot: The Story of an American Reform*, Michigan State University Press, East Lansing 1968. The operation on the ballot in Australia is assessed in the *British Parliamentary Papers*, 1868-9 (352) Vol. VIII, Select Committee on Parliamentary and Municipal Elections and 1871 (286) Vol. XLVII, Ballot in Australian Colonies.

