

# Forbes Flyer No 34 (Autumn 2017)

The newsletter of the Francis Forbes Society for Australian Legal History

## *History reports itself*

The proposed sell-offs of the NSW Land Titles Office and the Commonwealth ASIC registers are in the news. At one level, the debate is the same debate whenever privatization is flagged: how does one compare public value and private value, and if there is private value in public value, why so often does the asset sell so far beneath it?

This debate raises or at least touches on a wider question. Not simply “What is the value of public information?” but “Why should a monetary value be given to public information?”

The idea that public information belongs to the commons and that rights of exploitation exist as a reasoned exception is a dangerous anachronism; information is property, and property is alienable. Or so the argument goes. And there is any number of reasoned retorts. (And different views; for a positive view of intellectual property and a belief that property rights serve human values, see Ghosh, Shubha, “The fable of the commons: exclusivity and the construction of intellectual property markets” (2007) 40 U.C. Davis L. Rev. 3, 855-890.)

Mark Finnane’s 2016 Plunkett Lecture touched on this important competition of ideas, with an audience treated to an informed and entertaining analysis of the criminal trial as a microcosm of society.

Also, we review Max Bonnell’s intriguing biography of that elusive colonial judge, John Walpole Willis. The book was published by Federation Press earlier this year and launched in March by the NSW chief justice.

*David Ash, Editor*

## *The 2016 J.H. Plunkett Lecture – Professor Mark Finnane*

“Does the criminal trial have an Australian history? Lessons from the Prosecution Project”.

This was the title of Professor Mark Finnane’s topic as he delivered our 2016 J.H. Plunkett Lecture. The annual lecture honours the memory of one of the state’s pivotal Attorneys General. John Hubert Plunkett (1802-1869) arrived in NSW from Ireland in 1832. For more than 30 years thereafter he made a major contribution to colonial law and society serving as, among other offices, Solicitor General and Attorney General. In 1835 he published *The Australian Magistrate*, the first Australian legal practice book. He

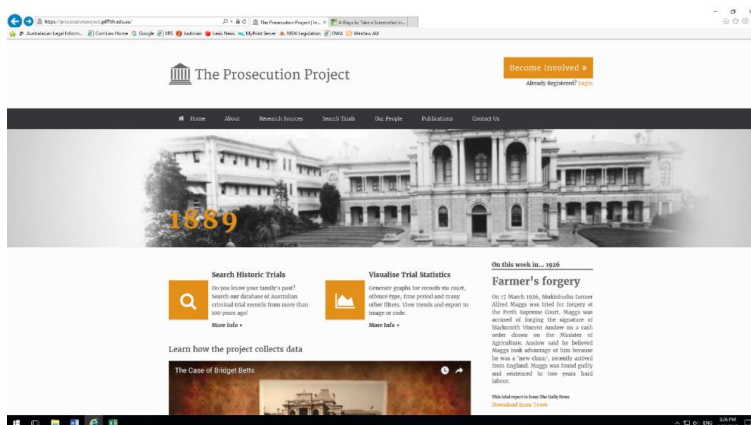
was the first Australian lawyer to be granted a commission as Queen's Counsel. He led Roger Therry, another Irish-born barrister, in the conduct of the Myall Creek Murder trials.



Thinking of the legal historian in the family: a little something for next Christmas?

There is no shortage of research into either criminal law or into the causes of crime. The Prosecution Project is an ambitious attempt at something different, an assessment of the criminal trial itself as a mirror of and a metaphor of its time. There is a simple framework of form and substance about this which should not diminish the vastness of the task. With a directness of understatement, the Project says of itself:

*The Prosecution Project is investigating the history of the criminal trial in Australia. We will start by digitising the registers of Supreme Court cases that are available in most jurisdictions. These record the names of accused as well as their offences and the outcomes of the trials.*



A place to find the black sheep in the family?

Professor Finnane is ARC Laureate Fellow at Griffith University, Professor of History in the School of Humanities, and a member of the Griffith Criminology Institute. He is a former Dean of Humanities and Dean of Graduate Studies at Griffith. He was Director of CEPS in 2009. He is a Fellow of the Australian Academy of Humanities (elected 2001) and of the Academy of the Social Sciences in Australia (2013).

Professor Finnane has published widely on the history of criminal justice, policing, punishment, and criminal law in both Australia and Ireland. His books include *Police and government* (1994), *Punishment in Australian Society* (1997), *When police unionise* (2002), *JV Barry: a life* (2007) and most recently (co-authored with Heather Douglas) *Indigenous Crime and Settler Law: White Sovereignty after Empire* (2012). With the support of the ARC Laureate Fellowship (2013-2018) he directs the Project, hosted at the Griffith Criminology Institute.

In the lecture, Professor Finnane gave a snapshot of the sort of event which (a) provides the source material; and (b) is of itself that very intersection between the form and substance of the project. The snapshot was the NSW chief justice presiding at the Goulburn assizes over four days in April 1865. The incumbent was the (by then, at least) venerable Sir Alfred Stephen, the doyen of the Australian branch of the family at the heart of colonial administration. Professor Finnane tells us that Stephen announced and we can almost hear the stern conservative intoning that “a man cannot be made moral by an Act of Parliament”.



Mutton chops would have been appreciated by the sheep farmers of Goulburn.

The major crime of that month was occurring across the Pacific, with President Lincoln's assassination. There was nothing so spectacular during the assizes, but the point to be made, I think, is that each crime has its own significance to its own community. There was bigamy, there was arson, there was infanticide. The importance of arson – an attack on property rights in a place which gets dry and which uses wood as a primary building source – is obvious. The wider significance of bigamy and of infanticide is less apparent but no less important, whether our focus is gender, power, or general social order. Bigamy and infanticide also offered an important social valve for prurience and self-righteousness. Both judge and jury spent time deliberating over the charge of infanticide.

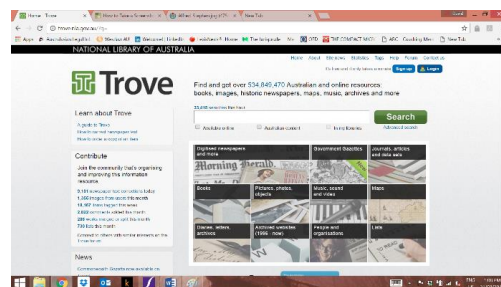
The defendants were a cross-section of the community, including Aborigines and Chinese. The jury's claim was of the eternal type; a complaint about the state of the jury room. (This may have earned Stephen's sympathy. His efforts over decades to improve working conditions in the Sydney Supreme Court were Herculean in execution and Pyrrhic in success.)



Guilty of a delightfully informative address.

Professor Finnane's excellent lecture highlighted a number of important things:

- The extraordinary benefits of the NLA's [Trove](#), an online research tool which is also as a national treasure. Whether it's academic research or great aunt Maude's death notice, this is the tool.
- The rise of the guilty plea as a largely postwar phenomenon.
- The rise of the legal defence and a shift in courtroom domination from the bench to the bar table.



An outstanding Australian research tool. Free (for now).



## *I Like A Clamour – John Walpole Willis, Colonial Judge, Reconsidered*

Max Bonnell, 2017, Federation Press, 270pp.

Reviewed by David Ash.

Judgment is a good word. We speak of people with too little judgment but rarely of people with too much; we like that people are non-judgmental and do not like it when they are; as we know that we must come to judgment, so we practise by passing it on others.

Judges are special creatures. Most of us judge something before coming to an assessment. A skilful and honest judge must take the other road, assessing circumstances before reaching judgment. John Walpole Willis had the four qualities; he had skill, he had an honesty, he had the ability to assess, and he certainly had the means to reach a conclusion. Yet he lacked utterly that magical ingredient, the virtue the Romans knew as *pietas*, not a formal piety but a propriety of form and of substance.

How this lack came about is not clear. No matter what his brains, he couldn't have got as a scholar to Charterhouse without someone, somewhere, acting in his favour. There needed to be some social grease; a friend, a parent, a teacher, an employer, a mentor, a patron.



Virgil would have needed a patron before he could read to Augustus.

And while it is true that he did succeed in being expelled from Charterhouse after some boorish behavior, that itself is unlikely to have been determinative. Many only develop gravitas after expulsion. Certainly there is no suggestion that Willis was diminished by the result.

We do know that three years after his departure, Willis was admitted to Gray's Inn. His first reported appearance was for one of Hastings' creditors. This rounds nicely with the book's title; the words come from one of Edmund Burke's letters, part of which was later reproduced by Willis in *On the Government of the British Colonies*. Given Willis's career, the title gets the Mock Irony award for the 19<sup>th</sup> century, but the words, as the author notes, are apt:

*I am not of the opinion of those gentlemen who are against disturbing the public repose; I like a clamour whenever there is an abuse. The fire-bell at midnight disturbs your sleep, but it keeps you from being burned in your bed. The hue and cry alarms the county, but it preserves all the property of the province. All these clamours aim at redress. But a clamour made merely for the purpose of rendering the people discontented with their situation, without an endeavour to give them a practical remedy, is indeed one of the worst acts of sedition.*

Burke, today the ancestor claimed by both liberals and conservatives, was prosecutor on the impeachment of Warren Hastings. Hastings' problem with his creditors was directly consequential upon this ruinous event; he is reputed to have quipped that pleading guilty would have been the lesser punishment.



1788: New South Wales was being founded, but the real news was Hastings' prosecution.

Willis didn't do much common law, by the way. A good thing too; he sat in the back one day to listen to a matter related to one of his Chancery briefs and ended up challenging counsel to a duel.

It was not only Hastings who provided Willis with work. It was the well-bred will that made for Willis, an aristocracy bleeding out a kind of life estate. He struck gold when he began acting for one of the parties in the litigation which followed Lord Strathmore's decision to do the best by his son, marrying the mother – the daughter of the gardener at the hunting lodge – on the eve of his death.

Apart from the fees, Willis ended up marrying a woman who was that Lord Strathmore's niece and the next Lord Strathmore's daughter. A good result, the more so when the litigation never yielded the couple a penny.



The 10<sup>th</sup> earl. A marrier of note.

Willis's practice did not flourish. Eventually and with a family, and he took the course of many a young barrister and applied for a colonial posting. Like entry to Charterhouse, mere ability was not enough. He had to seek testimonials. The first was from an aristocrat in support of a seat on the new bench in the Cape of Good Hope. Nice name, no success. The second was only from a politician, but was successful, and in April 1827 Lord Bathurst confirmed Willis's appointment to Upper Canada.

The politician was Sir Charles Wetherell. We do not know why Wetherell provided assistance but we can guess. He too had had a struggling chancery practice, despite the patronage of Eldon. He was a Tory Ultra, opposed to any Catholic emancipation. And while Willis's politics were oblique, his bigotry was not. This may have found a relationship.



Wetherell was the beneficiary of an Australian metaphor when a contemporary said of his speeches that “he jumps about like a kangaroo and spoils the effect of his wit, sarcasm and eloquence”. He was succeeded in the attorneyship by that same common lawyer who was almost duelled by Willis, Sir James Scarlett (known to the books as Abinger CB).

Scarlett, by the way, would become a lot more the typical bad judge than Willis, in that – as is often the case – the very things making for brutal forensic success became the impediments to any illusion of pietas. The 1911 *Britannica* declared that “The qualities which brought him success at the bar were not equally in place on the bench; he was partial, dictatorial and vain; and complaint was made of his domineering attitude towards juries.”



James Scarlet

There is the delightful story about Scarlett's cross-examination of Tom Cooke, a famous actor of the day (one role was an early Frankenstein's monster). In one version the exchange goes:

*Scarlett (angrily): “Now, sir, don’t beat about the bush, but explain to his lordship and the jury, who are expected to know nothing about music, the meaning of what you call accent.”*

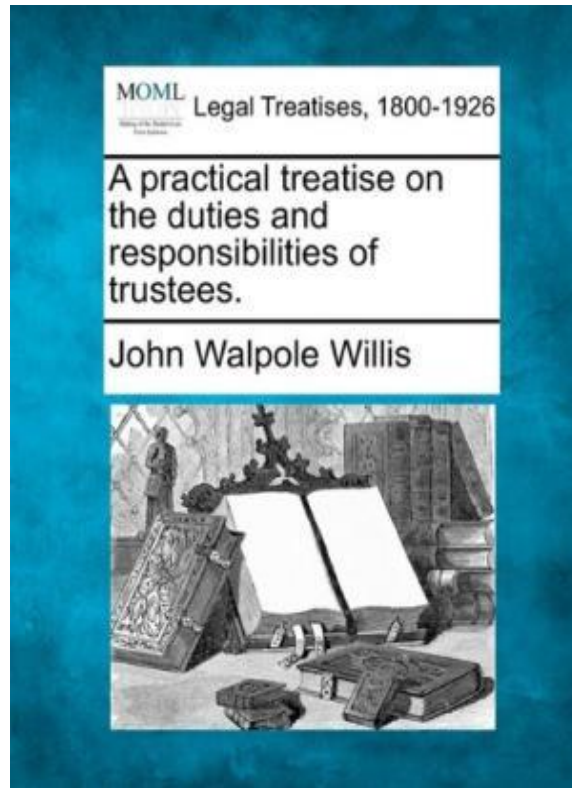
*Cooke: “Accent in music is a certain stress laid upon a particular note, in the same manner as you would lay stress upon a given word, for the purpose of being better understood. For instance, if I were to say, ‘You are an ass,’ it rests on ass, but if I were to say, ‘You are an ass,’ it rests on you, Sir James.”*

*The judge, with as much gravity as he could assume, then asked the crestfallen counsel, “Are you satisfied, Sir James.”*

*“The witness may go down,” was the counsel’s reply.*



Willis meanwhile had left the bar on publication of *A Practical Treatise on the Duties and Responsibilities of Trustees*. As the author of this excellent biography notes, in other circumstances it might have given the necessary boost. But it was not to be.



Get it today. It's published on demand.

Willis's preparation for leaving was unsurprising. He made efforts to have his new job defined; to have his income set; and to be presented to Court prior to embarkation. The bureaucratic response was complete prevarication.

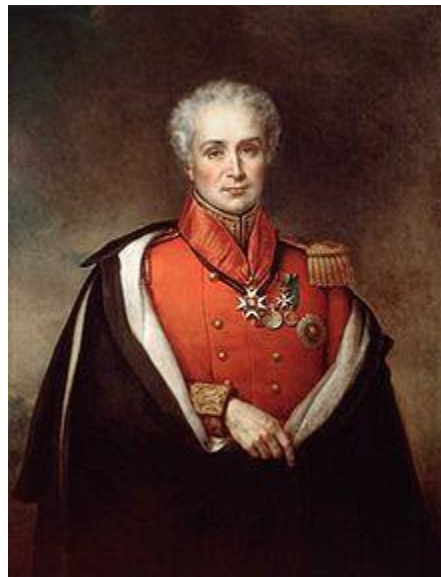
The romantics among us might think that the only appropriate response was either to throw caution to the wind and sail forth with a spirit of succeeding in the unknown or to reject the government's incompetence until something more secure was proffered.

However, for Willis as for so many this was not an option. A young lawyer with a young family had to grab what he could, when he could. Besides, as any amount of correspondence from colonial judges demonstrates, complaints about salaries and funding were the stuff of day-to-day life. Francis Forbes and Alfred Stephen spring to mind.

What makes Willis such a fascinating study is not merely his inability to move on – Stephen, for example, was capable of a chronic grudge – but his ability to allow the frustration to grow exponentially, defining and ultimately consuming what might have been a colonial career of great distinction. A particular strength of this biography is its lively balance between Willis’s ever present possibility of resurrection and the inevitability of his fall.

Upper Canada needed an equity jurisdiction. Run by a small group known as the Family Compact, it was a creditors’ paradise with no court able to recognise any equity of redemption. Willis at 34 was promised – and thought he was promised – an appointment to the court in waiting. A day after his arrival he presents himself with enthusiasm to the Lieutenant-Governor Sir Peregrine Maitland and begins to explain how he is looking forward to the establishment of the new court.

Maitland was not in league with the Family Compact, but he had learnt to live with it. He was not merely typical of colonial appointments in the late 18<sup>th</sup> and early 19<sup>th</sup> centuries, he was its paradigm. The great-grandson of a duke, he was decorated for bravery at Waterloo (for which he rated a mention in Victor Hugo’s *Les Miserables*), he was a first class cricketer, and he was nephew to Jane Austen’s brother. There was no way was he going to get enmeshed in something until either he was ordered to or the status quo demanded it.



Maitland was a class above Willis and Willis didn’t stand a chance.

Maitland’s response to Willis’s enthusiasm was abrupt: “Yes, Sir. But you have not got your Equity Court yet.” Of course, Willis never did, and in the meanwhile Maitland became a cipher for his first amoval.

Willis failed utterly to understand the game. The author's use of Maitland's response as a chapter heading is apt; it is the epitaph for a man whose career has peaked at the outset. That said, it should be noted that Scarlett had now become Attorney and Willis's suspicions had as they so often did a fair foundation.

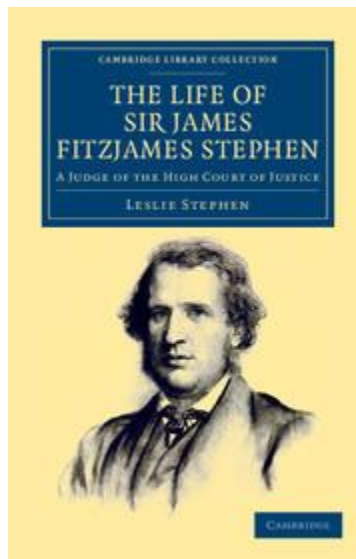
For Australians, one aside is that the Secretary of State who finally kiboshed the idea of an Equity jurisdiction for then was William Huskisson. That he was the first person to die in a rail accident – examining *The Rocket* – is well-known. That the peaceful Jervis Bay community was named in his memory by Sir George Gipps, sometime governor of NSW and Willis's nemesis, is delicious.



Remember Look and Learn magazines?

This is the artwork for a 1975 issue; the caption is "First In the World: Steam's Tragic Triumph".

One does not deal with colonial administration, law, or much else in Victorian England without coming across the Stephen family. At the beginning of the century it became related to the Wilberforces. By the end it had produced a young Virginia Woolf. It included James Fitzjames Stephen, famous for India's Evidence Act and for his contribution to criminal law, entirely forgotten for his philosophical counters to JS Mill, and in his spare time a cousin of AV Dicey.



A Stephen writes about a Stephen.

Eventually we got stream of consciousness.

At the heart of the English branch of the family was James Fitzjames's father, James, counsel in the Colonial Office from 1813, its longtime de facto head, and eventually the bureaucratic head (as Permanent Under-Secretary) from 1836 to 1847.

Unlike judges today, Willis was at her Majesty's pleasure. Bonnell puts the case for this through Stephen's words to an 1828 Select Committee. The words are vital to anyone who wishes to understand how the English administrators understood the process of colonisation they were administering and how they understood the people they employed on the ground:

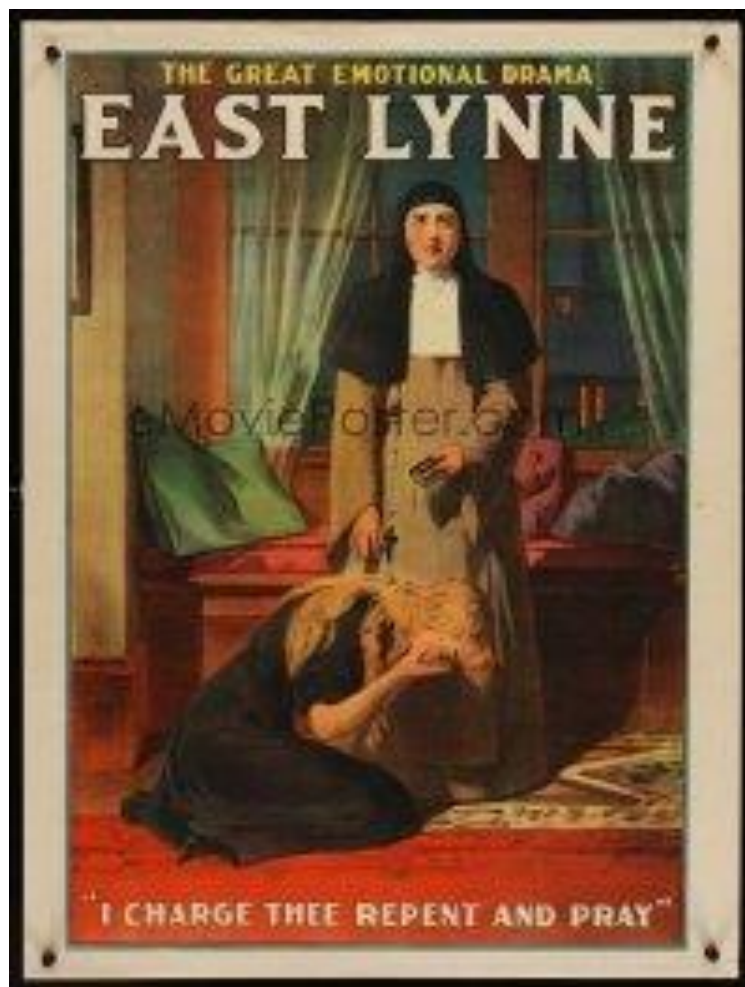
*I should regret the appointment of judges independent of the Crown, in any colony... My reasons are these. The gentlemen of the bar who go out to the colonies as judges, are of course seldom selected from the most successful members of the legal profession. They are frequently young men, and (without meaning to say one word disrespectfully of them) they are seldom well known. They go to a small society, where, as a matter of course (for it may be said to be the essential state of all small societies) they find violent feuds and parties. How they will conduct themselves in such situations must always be a matter of conjecture, and doubtful experiment. If the judge were independent and irremovable, I fear he would too often become the ally of some one or the other of the local parties... You must remember, too, that every other public officer in the colony, even the governor himself, holds*



*during pleasure. If you arm the judge with the whole powers of the law, and place him in perfect independence, without any large society to check and control him, can you expect that he will not be a little intoxicated with that elevation, and that the judicial will not be gradually merged in the political character.*

Maitland's removal of Willis was reviewed by the Privy Council and upheld. But the forced break back in England did produce one piece of legislation wholly in Willis's favour. Cuckolded by an Old Rugbeian, Willis put in train the motions for the passing, on 24 July 1833, of *An Act to dissolve the Marriage of John Walpole Willis with the Right Honourable Lady Mary Isabelle his now Wife, and to enable him to marry again; and for other Purposes therein mentioned.*

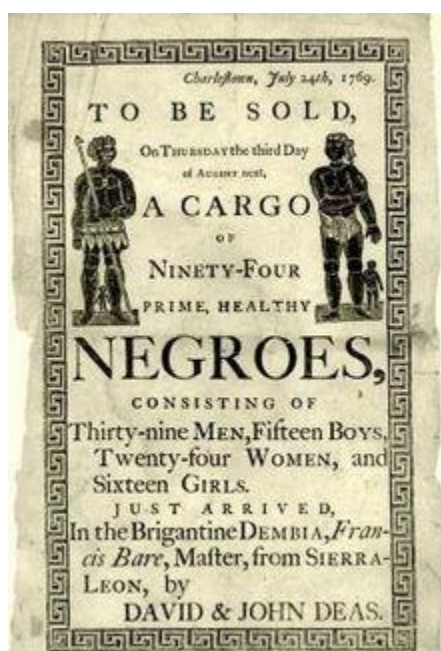
Willis of course couldn't be satisfied with this; he commenced an action in criminal conversation. The upshot was never-paid damages and exposure to ridicule and three decades later the basis for *East Lynne* by Mrs Henry Wood, an bestselling author more popular in Australia than Dickens.



Willis's life as a movie.

But Willis would get a second chance in law and in love. As to the first, he was offered British Guiana on an undertaking to behave himself. British Guiana was not a great gig. Apart from anything else, it was dangerously unhealthy. Willis accepted, as he had to.

Legally, the colony was a tragic fascination. There was the overhang of civil law from the Dutch surrender a generation before and an ambiguity about slavery, the white economy's backbone. There was the predictable tension between the government line and the local knowledge; it is sobering for those (all) of us who have from time to time resented a government's interference with our property rights that we are repeating the resentments of the white planters of the tropics.



Lest we forget the inalienable right of property?

Willis scrubs up well here.

To a point.

It is no surprise that Willis's largeness of spirit on the larger questions – slavery and indigenous questions being the exemplars – was matched by an embarrassing lack of sympathy to the non-white actually in the dock. They received on the whole "unfair, and cruelly unsympathetic, treatment" in his court.

Then again, the more removed an issue is, the more liberal each of us tends to be. Bonnell's biography achieves the uncomfortably worthy goal of presenting a difficult and idiosyncratic man who has more in common with each of us than we may want to admit.

On the wider issue of the intersection between Aboriginality and colonial justiciability, Bonnell is correct to conclude that Willis's judgment in *Bonjon* "ought not to have been neglected; it was a brave, scholarly opinion, and history [ie Mabo] has vindicated it". The Full Court decision which Willis typically ignored was *Murrell*, a vital and frequently forgotten element in the jurisprudence and national self-reflection which would climax in the late 20<sup>th</sup> and early 21<sup>st</sup> century. By the bye, wholesale judicial advance on legislative and executive inertia is a fascinating case of the dog chasing the tail. A paradoxical and some might say wrongheaded thing, it certainly needs some comparative study: Mabo and then Prime Minister Rudd's apology contrasted with Dred Scott and the Civil War might be an interesting choice.

Bonnell describes the lead up to the Full Court decision in *Murrell* in the following terms:

*... in February 1836, an Aboriginal known as Jack Congo Murrell was charged with murdering Jabbingee, another native, near Windsor. The court appointed Sidney Stephen to represent Murrell, and Stephen argued that his client could not be tried for the murder of another Indigenous man. Forbes, at first, suggested that this plea "was perfectly just", but Stephen then – inexplicably – snatched defeat from the jaws of victory by asking that the question be resolved by the Full Court.*

I disagree with Bonnell's assessment of Stephen. Bruce Kercher puts the snatch on Forbes:

*Forbes went on to say that the issue should be referred to the legislature. In the meantime, he suggested that it was better for Murrell's case to go to trial. He told Stephen that he would see that the point of jurisdiction raised by defence counsel would be put to the full court should Murrell be found guilty. This was a common way for the court to deal with preliminary points of law, but Stephen declined and said that he sought the opinion of all three judges before trial.*

There is an irony in the course followed by Stephen, as Murrell was acquitted and the case may never have been the vehicle for Burton's expression of *terra nullius* at all. However, the fact that a course other than accepting the plea was followed at all, was the doing in the first instance of Forbes and not of Stephen. The passion of Stephen's reported words resonate as much now as they must have before the Court:

*This country was not originally desert, or peopled from the mother country, having had a population far more numerous than those that have since arrived from the mother country. Neither can it be called a conquered country, as Great Britain was never at war with the natives, nor a ceded country either; it, in fact, comes within neither of these, but was a country having a population which had manners and customs of their own, and we have come to reside among them; therefore in point of strictness and analogy to our own law, we are bound to obey their laws, not they to obey our laws. The reason why subjects of Great Britain are bound by the laws of their own country is, that they are protected by them; the natives are not protected by those laws, they are not admitted as witnesses in Courts of Justice, they cannot claim any civil rights, they cannot obtain recovery of, or compensation for, those lands which have been torn from them, and which they have probably held for centuries. They are not therefore bound by laws which afford them no protection.*

And the retort of the Full Court (Justice Burton, Forbes CJ & Dowling concurring) remains as poignant. The Court, it said, had jurisdiction:

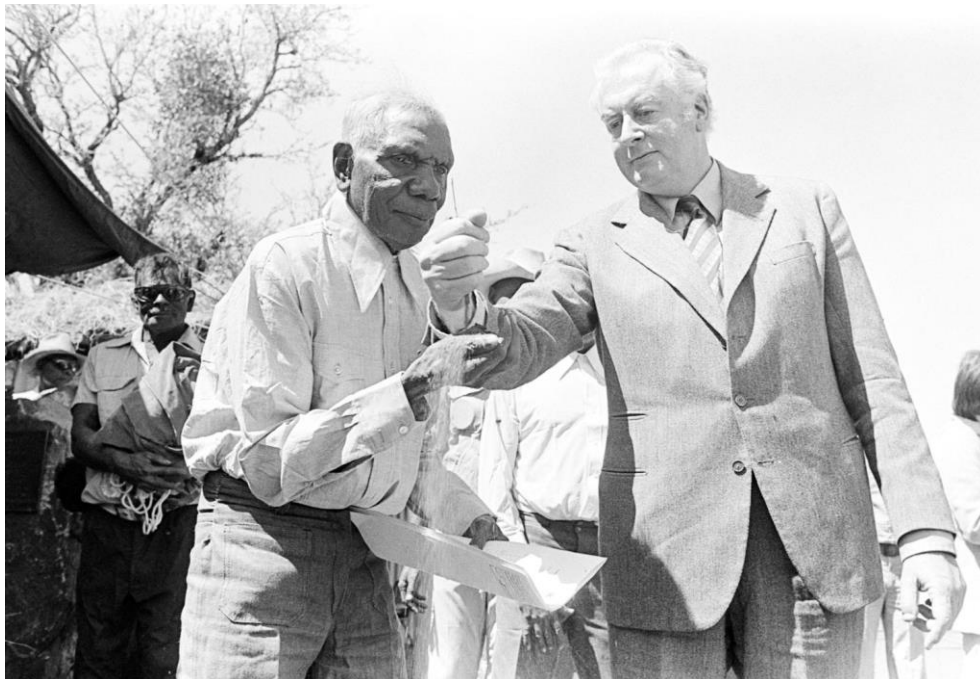
*That although it might be granted that on the first taking possession of the Colony, the aborigines were entitled to be recognised as free and independent, yet they were not in such a position with regard to strength as to be considered free and independent tribes. They had no sovereignty.*

Two very Sydney postscripts to *Murrell*, both from the 1970s.

On 15 April 1973, the Federal Government made a statement that it was “to finance an imaginative community housing development put forward by Aborigines in Sydney”. At that time, *Cooper v Stuart* represented the law of New South Wales. The exact proposal was explained in the following terms:

*The Minister for Aboriginal Affairs, Mr Gordon Bryant, announced today that he had authorised negotiations to proceed for the purchase of 41 terraced houses in the inner city suburb of Redfern for development by an Aboriginal co-operative housing society.*

The Block was part of an 1819 grant to William Hutchinson. As far as I am aware, it has never been publicly acknowledged that the land the subject of *Cooper v Stuart* (originally covering much of Zetland, Alexandria, Waterloo and part of Surry Hills) was a separate grant made to the same William Hutchinson in 1823. He had sold it to the well-known merchants Cooper & Levey in 1825.



Reflecting on terra nullius prior to Mabo.



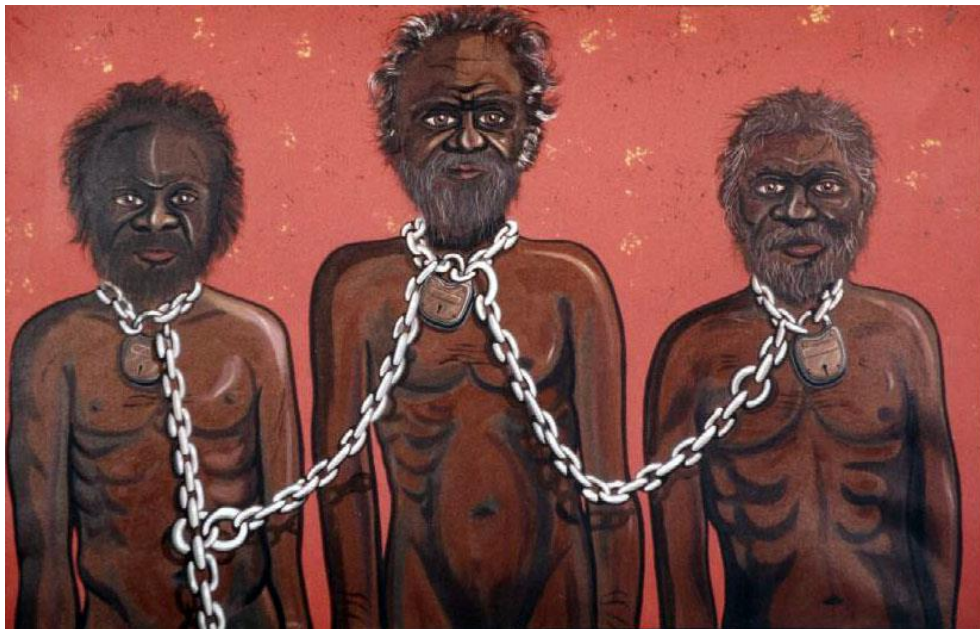
Then, on 15 & 25 June 1976, Mr Justice Rath of the NSW Supreme Court heard a plea that the Court had no jurisdiction because the accused, who had been indicted on a charge of murder, was an Aboriginal. The Court applied *Murrell* and referred to “the express authority of the Privy Council” in *Cooper v Stuart*. The Court concluded:

*It seems to me that all the reasons of the Court in R v Murrell are as valid today as they were when judgment in that case was given on 19<sup>th</sup> February 1836.*

On 3 June 1992, the High Court delivered its reasons in *Mabo*. As the headnote records, a number of decisions including *Cooper v Stuart* were “not followed”. It is no small credit to Willis that *Bonjoy*, had it been mentioned, would have been followed.

Each of Stephen and Willis might have been appalled by or delighted by or bemused by the lawyer (and new Sidney Stephen) who put the plea in the 1976 case, war hero Bruce Miles. On his death, the *Sydney Morning Herald* wrote:

*The state eventually took over the huge burden that Miles had shouldered, in the form of the Legal Aid Commission, which provided hundreds of talented lawyers. But Miles was hardly to see the problems of injustice solved. He moved on to the Aboriginal Legal Service and spent 25 years acting for people who were at a particular disadvantage. In the mid-'70s he went with two Aborigines to England to claim that country for the Aboriginal people. He took constitutional issues on behalf of the Aboriginal people as far as the High Court. "We fought in the High Court for four or five years for a finding that acknowledged that the Aboriginal people had been deprived of a proper application of the law," he said. For his dedication, Miles was made an honorary Aboriginal and given a name equivalent to Talking Bird.*



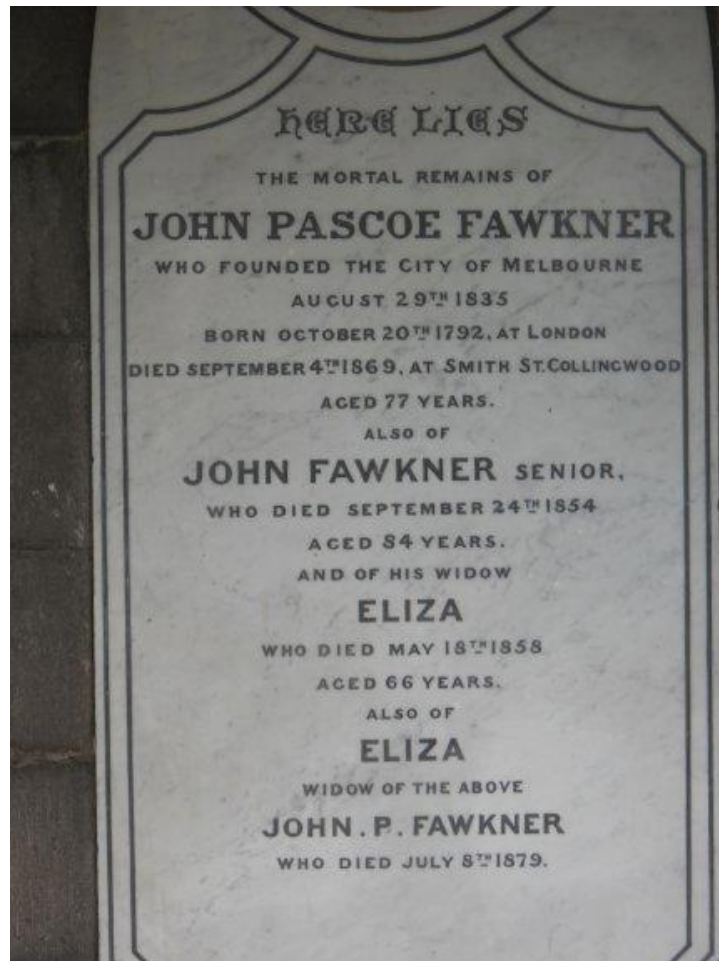
The fact that Aboriginals were subject to colonial law was not always appreciated by them.

What might the paper or its predecessor the *Sydney Herald* made of Willis?

Bonnell paints a superb picture of media fights in Melbourne. On the one side was George Cavenagh. Cavenagh had edited the *Herald's* competition, the more-or-less establishment *Sydney Gazette*, for a few years before starting up on his own in the fledgling Melbourne. He founded *The Port Phillip Herald*.

The paper's motto was "Impartial, not neutral". Maybe, but it should have included "and never temperate either". His arrival coincided with Willis's, and the inevitable clashes followed.

More than merely superficially, Cavenagh's dealings with Willis bear similarity with Edward Smith "Monitor" Hall's battles with Governor Darling. There is no point working over the author's excellent analysis of the dealings as the trigger for Willis's second amoval, save to say that Willis manifested both a partial sectarianism and an inappropriate financial assistance to Cavenagh's greatest enemy, John Pascoe Fawkner, acts which do no credit to his own sometimes justifiable image of himself.



Good press will out!

Willis fought his second amoval as bitterly as his first. What did surprise me was the biography's end. I expected a short and sharp decline, a rage against the dying of the light. But history is not so neat. Willis appears to have become the very country gentleman he had hoped upon his first marriage, by providence in his second, ending his judicial life as a well-regarded country magistrate, and dying well beyond the time of many of his enemies.

Lord Bathurst confirmed Willis's appointment, and the publisher was fortunate in securing Chief Justice Tom Bathurst to launch a most valuable addition to this nation's legal history. There was irony aplenty. To meet Willis's sectarianism, the book launcher was not only born on St Patrick's Day but educated at Sydney's premier Jesuit school. To meet Willis's ambition, the book launch was attended by the most recent appointee to the position of Chief Judge in Equity. And to meet Willis's frustrations, the book launch was held in the Sydney offices of what is today King Wood Mallesons, but which is known to any Sydneysider beyond a certain age only as Stephen Jaques, the firm founded by the offspring of Sir Alfred Stephen.



Lord Bathurst, when the Executive had more clobber than the Judiciary.

Though one does not need a book launch in the colonies to find irony in Willis today. To meet Willis's need for social recognition, he is the great-great-great-uncle of Her Majesty. And when *East Lynne* inevitably came to its BBC production, a young Martin Shaw played the cuckold. While Shaw is

remembered in Australia more for *The Professionals* and *Inspector George Gently*, Willis would not doubt enjoy the fact that Shaw found no little professional success from his portrayal of Judge John Deed.

Or perhaps Willis would have slotted Deed for degrading the judiciary. We'll never know. But we can make a better guess with this fine work, well-produced by a publisher whose contribution to the public disclosure of Australian legal history is always appreciated.

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