

Summary

At first glance the Constitution of Western Australia seems a dry, legalistic assembly of rules for the organisation and conduct of government. Unlike the emotive "we the people . . ." opening of the constitution of the United States of America, there is little to tug the heart-strings in any of our constitutional documents - no heroic preamble, no grand sentiments, no philosophical reflection. Yet the Constitution Act 1889, which authorised a parliamentary system of self-government for the colony of Western Australia, was popularly welcomed at the time of its Proclamation in 1890. If nothing else, the sheer scale of those ceremonies alerts us to the need for reconsideration of the State's constitutional past and for reflection upon the social meanings of government, then and now.

From one perspective, the State's constitutional history reads as an exemplar of social progress and political development. It begins with the early, near autocratic rule of the State's first Governor, Captain James Stirling, and unfolds with the slow, incremental growth of political culture and institutions. In 1832, Stirling nominated members to small, exclusive Executive and Legislative Councils; in 1870, the Legislative Council became partly-elected, colonists ran for office and yet the Governor retained considerable personal power; by the 1880s there were increasing calls for colonial self-government; and in 1890 the British Government consented to a new constitution which established responsible, Westminster-style government in the colony. The following year, the new Parliament of Western Australia, comprised of a Legislative Assembly and Legislative Council, sat for the first time. One of the colony's favourite sons, John Forrest, became its first Premier and gave substance to his vision for economic development by adopting an ambitious loans policy to fund public works. Soon after, the rushes to the goldfields at Coolgardie and Hannans, now known as Kalgoorlie, ushered in a decade of unprecedented boom. Politics and political change seemed to be the natural partners of economic prosperity and societal progress.

Yet this version of the State's constitutional past is all about winners. It does not record the fact that the change to self-government in Western Australia occurred more than 30 years after similar developments in other Australasian colonies, nor does it say much about those consigned to the political margins by the original Constitution Act. Women were excluded from the formal, public sphere of politics and government until 1899, when they gained the right to vote but not to sit as members of parliament; many men also had to fight hard to win voting rights in the 1890s because of restrictive electoral and residency provisions. Aboriginal people were excluded from political processes, they were unable to vote and were left without any real influence or power. Moreover, by the end of the 1890s the colonial parliament had moved to repeal a section of the constitution specifically designed to provide funds for their benefit. Non-British immigrants such as the Chinese - many of them contracted in Singapore as indentured labourers - were prohibited from voting unless they could meet stringent property qualifications. Clearly, the new constitution was not the unequivocal emblem of improvement that some leading colonial citizens presumed.

At the turn of the century, the constitution of Western Australia was transformed by Federation. The colony became a State in the new Commonwealth of Australia, and at the same time yielded some of its decision-making powers to the Federal Parliament. The Commonwealth constitution then became the key legal limitation on the range and extent of State Government, supplanting British authority in many cases. With the confirmation of the Statute of Westminster by the Federal Parliament in 1942, the ties between Australia's national government and Britain were cut. However, only in 1986 were the States' connections to the British Government finally severed. Today, Australian State and Commonwealth governments are independent of Britain, but still engaged in a long-standing wrangle with each other over respective powers and responsibilities.

Put simply, the Western Australian constitution is like an historical map of politics and society. Its legislative elements and conventions are indicative of the tenor of social life and political organisation at significant junctures in the State's history. When we look at the development of constitutional government we do more than consider the evolution of political institutions; rather, we engage with a broad sense of how Western Australian society has represented and thought about itself. Study of the constitutional past allows us to trace the lines and shades of power from the time of colonisation to the present. It reveals the connection between colony and Empire, it demonstrates the stratified nature of a society often vaunted as classless and consensual, it shows the gendered condition of our early political and social life, and it exposes the inherent racism of colonial society. The State's constitution is much more than an obscure and uninspiring collection of laws that determine the form and reach of its parliamentary government. If Aristotle is right and we are political animals at heart, then the study of Western Australia's constitutional past is really the study of ourselves.

Introduction

Many people will be surprised to learn that Western Australia has its own constitution. In a sense their ignorance is understandable, for the State's constitution - which sets out the broad rules and framework for its parliamentary government - has rarely come before public notice. Unlike the founding documents of the Australian Commonwealth or the United States of America, the Constitution of Western Australia has been changed and amended many times by Acts of Parliament and without the approval of the people. As a result, the State's constitution today includes a baffling array of acts and amendments passed since the original Constitution Act 1889 conferred self-government on the then colony of Western Australia.

In recent years, however, we have had cause to reflect on the State's constitution and the parliamentary system of government it authorises. The revelations of the 'WA Inc.' Royal Commission have provoked searching questions about the operation of government and, in particular, the relationship of the executive to the legislature. At a national level, argument continues over the respective rights and responsibilities of the States and Commonwealth. Throw in the issue of a future Australian republic, and discussions on the meaning of citizenship, and one discerns a lively, contemporary background to any examination of the State's constitutional past.

When the original Constitution Act was proclaimed on October 21, 1890, the system of self-government it established was deliberately cast as a collective achievement with a roseate glow. For some, it signalled that the colony had attained a high point of political maturity which, in retrospect, seemed to justify the whole enterprise of colonial settlement. Even today, the political history of self-government is easily co-opted to the task of proclaiming the State's progress, a tale routinely marked by the 'triumphs' of economic and political development. Tom Stannage has written that the notion of progress has often been conjoined to the 'gentry' tradition in accounts of Western Australian history . . . "Central to the gentry myth is the idea of progress: of a relatively uninterrupted march towards economic prosperity and political democracy, of a society which was and is open to the thrifty, the temperate and the hardworking individual, and a society marked by harmonious social relations and general well-being". This view of a mythologised Western Australian past is both instructive and cautionary. Instructive, in the sense that it provokes reflection on the way in which a constitutional document was (and still is) connoted with broader notions of progress and development, and cautionary in that it warns of the pitfalls that await any history which glibly reaffirms a progressive view of the constitutional past.

This volume considers the emergence of self-government in Western Australia and particularly examines the Constitution Act 1889, its meaning, and its effects in that exceptional decade of the 1890s. It is divided in four sections and, as it was originally tailored to the needs of a public exhibition, does not always follow a conventional structure for historical writing, nor pretend to be an exhaustive survey of the field of constitutional history.

The first section slices through time to reveal an historical moment - the day in October 1890 when the new constitution authorising self-government was proclaimed in the colony. It re-presents popular images of ceremony and celebration and then asks what this social elaboration of the change to self-government actually meant.

The second section looks at the history of early governmental forms and structures in the colony, from the time of its foundation in 1829 through to the calls for self-government in the 1880s. It is based on a loose chronology of political change and emendation over the period when Western Australia was an undistinguished colony under the direction of the British Government in London.

Section three introduces the Constitution Act 1889 which established responsible self-government in the colony; it then considers some key features of the new system of government and develops a thematic view of its meaning and relevance to the broader context of 1890s Western Australia. It looks at issues of electoral rights and suffrage; constitutional provision for Aboriginal people; the era of stable government led by John Forrest; government support for public works; the goldrush and its effect on constitutional change; federation and the limitations on State sovereignty; and the development of political parties.

In section four, the report briefly considers some specific issues of constitutional change in the twentieth century and concerns about government procedures in recent years.

This report draws heavily on existing published and unpublished research in Western Australia's social and political history. It is largely based on the work of Professor Brian de Garis and Professor Tom Stannage, both of whom have written exhaustively on Western Australian politics and society in the nineteenth century. Some sections also reveal their debt to the volume edited by Associate Professor David Black, *The House on the Hill: A History of the Parliament of Western Australia*, and the authors of its individual chapters. I have tried to condense a popular historical understanding of the State's constitutional past from the work of these and other scholars, and then add specific documentary and other primary material to flesh out the tale. Every sub-section begins with a quote from a contemporaneous source and ends with a reflection from a leading Western Australian historian or commentator, to create a dialogue of sorts between past and present.

What is a Constitution?

The notion that the authority of political administrations should be limited by law to preserve individual freedoms lies at the heart of our constitutional, democratic system of government. Constitutions are collections of laws, customs and practices - sometimes written in a single document, sometimes not - which provide the framework for political institutions, such as parliament, and confirm the rights and responsibilities of citizens. Constitutional law is generally regarded as 'supreme' or higher law in the sense that it stands above the power of a government, though it may be altered by legislation, judicial interpretation, popular action, or customary evolution.

Most constitutions are written down and codified, like those of the United States of America or the Commonwealth of Australia, while some others, notably the constitution of the United Kingdom, rely on legislation and conventions collected and added to over time. It is frequently said that the UK has an 'unwritten' constitution because it has no single, identifiable constitutional document, though the differences between written and unwritten constitutions are more apparent than real. Even the most narrowly-detailed written constitution cannot include every single feature or process of a political system; also, most 'unwritten' constitutions include at least some statute law or other written provisions. In either case, according to Graham Maddox, the "roots of constitutionalism are to be sought in the soil of a community's public and social life". After all, even written constitutions rely on some kind of deeper, broad-based commitment to the ideals of constitutional government. In an abstract sense, we *choose* to accept the notion of constitutional legitimacy and to respect our political institutions, even when we disagree with the particular decisions of a government.

Western Australia's constitution is a 'written' constitution, in that it gains its initial authority and legal status from the Constitution Act 1889 (itself founded on earlier Imperial legislation), which set out the form of parliamentary self-government for the colony. However, this original Constitution Act has been amended and altered many times by the WA Parliament as - unlike the US and Australian constitutions - it can usually be changed by a vote of elected parliamentary members and without a referendum. Today, when we talk about the State's constitution we are referring to those parts of the original Act which have not been repealed *and* all the subsequent amendments, most of which are embodied in another Act, the Constitution Acts Amendment Act 1899.

It is also true that convention plays a part in the conduct of constitutional government in WA, as it does in the Australian Commonwealth and the United Kingdom. Many of the operational procedures of State Parliament depend upon unwritten customs and traditions of the Westminster system, inherited when the Constitution Act was proclaimed in 1890. For example, the original Act made no mention of the office of Premier, yet John Forrest happily accepted that title when he led the first government in 1891. Also, while the Act was intended to establish parliamentary government - with a Cabinet drawn from the legislature to exercise executive power - there was little written detail on how this system worked. Instead the State's constitution relied on what was 'taken for granted' in British colonies about how a parliamentary, Westminster-style government should operate.

Western Australia's constitution preceded the adoption of the Commonwealth constitution at the Federation of Australian colonies in 1901, and so did not discuss the role of the national government, nor the relationship between the State and Commonwealth. While the Commonwealth constitution provides for a hybrid system of government based on the political institutions of the United States and United Kingdom, the constitution of WA and those of other Australian States are wholly inspired by the UK model. WA's Constitution Act 1889 was drafted with the express wish to create a Westminster-style parliament, quite dissimilar from the US system in which executive and legislative powers are formally divided and federalist. However, an important difference remains between the constitutional provisions of Western Australia and the UK. By codifying British parliamentary forms in a written document, WA's constitution developed a distinctly different legal standing to that of the 'unwritten' constitution it imitated. As a result, the State's constitution has, at least at a theoretical level, a special status as a 'higher law' which stands above the Parliament, in common with the constitutions of the US and Australian Commonwealth. In constitutional systems of this sort, any government which breaks these 'higher laws' can be challenged in a judicial court and its actions reversed. Hence, much of Western Australia's constitutional law has developed in legal decisions, by a process known as judicial review. In the UK, parliament is commonly regarded as the highest law in the land.

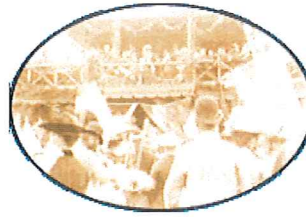
The other important difference enshrined in WA's constitution is the potentially powerful role of the State's upper house. Whereas the House of Lords in the UK is now a limited chamber of review, the Legislative Council in WA has considerable power to check the legislative intentions of Government, which is based in the lower house Legislative Assembly. In theory, it could wield this power much as the Australian Senate has done in recent years. In practice, the Legislative Council has been dominated by conservative interests throughout its history, until 1997. It remains to be seen whether it will fulfil its potential to act as an independent house of review.

Western Australia's constitutional past is part of a wider history of the theory and practice of constitutionalism that has underwritten political systems around the world. The State's constitution shares characteristics with other constitutional documents and provisions, especially those with origins in the British Empire. Yet its explicit detail and the history of its development is uniquely Western Australian.

Proclamation Day

Part One

Political progress and economic prosperity?



Sir William Robinson, in the cockaded hat of a colonial governor, with other dignitaries on the grandstand at the Esplanade on Proclamation Day.

"It is necessary that with one hand and one voice the colonists should use their best energies to launch the ship of State in deep waters. I trust that every good wish that I am now addressing for the future progress of this colony will be amply realised ..."

Sir William Robinson, Governor of Western Australia, 1890.

THOUSANDS of people welcomed the dawn of self-government in Western Australia in 1890. Emboldened by a sense of civic pride, they took to the streets and gathered in town halls to celebrate proclamation of the Constitution Act 1889, the legal document which established a new colonial parliament. That they may not have known the precise form or extent of the Act was immaterial to most. More significant was their sense that this political change was a token of colonial achievement and advance, sentiments keenly fostered by leading citizens of the day.

Sir William Robinson, the new Governor sent from London to guide the colony through the early years of self-government, made his first landfall at Albany, the colony's main port, on October 18. Disembarking from the steamship *RMS Orient*, Sir William was feted by townspeople who had decorated their streets with bush flowers and banners that fluttered in the southerly breeze. At a meeting in the town hall, he referred to the new constitution . . . "now I think we can venture to say, with all sincerity, and in the full conviction that it will be realised, "At last she moves". With these words, Sir William reflected on the colonists' long wait for self-government; after all, Western Australia was the last British territory in Australasia to win the right to elect its own parliament, well after its colonial cousins on the east coast.

Sir William travelled to Perth by special train, a journey of 17 hours through the forests and farming districts of the south-west. People at country stations and small sidings turned out in welcome, and every few miles along the track bonfires blazed in the night. For many, it seemed fitting that the new Governor made the trip by train, as railways were widely regarded as symbols of progress and development. A correspondent wrote in *The West Australian* newspaper that Sir William's journey by rail was . . . "in every way indicative of that more rapid but none the less sure progress which we all unite in believing is to be the characteristic of the new era now dawning". At Perth, the Governor was greeted by scenes of popular celebration. Flags and bunting stretched along roads and buildings, and several street corners were spanned by triumphal arches elaborately woven with fronds of palms, ferns and eucalyptus. "Success to the New Constitution" trumpeted a banner at the town hall, while the National Bank in St George's Terrace was adorned with another promising "Progress and Prosperity".

Proclamation Day was a mixture of formal ceremony and people's carnival. On October 21, more than six thousand men, women and children crowded onto Perth's riverside park, the Esplanade, to hear the constitution officially proclaimed after church services and a civic procession through city streets. The Proclamation - the dry and legalistic preamble to the Constitution Act - was read out by the colony's Acting Chief Justice, Sir Henry Wrensfordsley, and the new Governor led three cheers for the Queen. There was a festival for children with games and a circus, while parents and others lunched at a "300ft-long table piled high with "vegetables and potatoes, beer from four hogsheads, and the meat of an ox, four sheep, three pigs . . . 300 loaves of bread, 600lb of cake and 80lb of cheese". Then came public sports with bicycle and foot races, and novelty events like 'climbing the greasy pole' and 'catching a pig with a greasy tail', followed by gala balls, a torchlight procession and fireworks at night. The next day Governor Robinson travelled to Fremantle, where another round of celebrations ended with the ceremonial planting of a Constitution tree. Other celebrations were held in town centres and rural villages throughout the colony. One of the most imaginative was the "burying of the old Constitution" in Geraldton, where "over 400 people joined in a torchlight procession from Hosken's Club Hotel to the Recreation Ground, the band playing a funeral march. Bearers carried a huge coffin to the ground, where a grave was dug and coloured lights were burning". In Bunbury, the almost obligatory procession was one of the few to include Aboriginal people, who "also engaged in the sports - running, jumping and hockey". Four hundred people gathered on the "beautiful recreation ground" in Northam for a sports carnival which included the running of an aptly-named "Proclamation Handicap", followed by a "Championship of Northam" and, lastly, an "Old Chaps' Race".

Proclamation of the new constitution was an important symbolic episode in Western Australia's history. Not only did it herald a real change in the form and composition of government, but it was also contrived as the moment when the colony finally came of age. Newspaper reports emphasised this broad sense of colonial development, rather than the details of political change . . . "What it is all about perhaps we scarcely realize", ventured *The West Australian's* editorialist. "Still it is a time for gladness and thanksgiving when Western Australia after her long eclipse, her patient trying to rise from comparative obscurity, is going to be proclaimed a full-grown country, is going to begin governing herself entirely at her pleasure and to carve out her destinies with the sole aid of her own sons, born of her and adopted." Newspaper correspondents actively fostered a sense of common interest and collective celebration, and this in turn encouraged colonists to 'imagine' themselves as part of a distinct community. These published reports also suggested that self-government was a confirmation of colonial development and that it beckoned a bright economic future. Yet Western Australia was not a seamless society, nor was it consensual or egalitarian in the way that members of the colonial establishment liked to claim. Like all societies, it was made up of varied, disparate peoples, whose differences of ethnicity, class and gender determined their experiences and opportunities in all spheres of life, not the least politics. Despite the triumphalism of the popular accounts of Proclamation Day, the change to self-government did not confer political power on everyone in the colony, nor did it promise prosperity for all.

" . . . by the time of the Great War, Proclamation Day had undergone several transformations. From the early 1890s Perth was populated by 'othersiders' who cared little for Proclamation Day and who, when they thought about the constitution, regarded it less an achievement than a hindrance to better life in the West."

C. T. Stannage, *People of Perth*, 1979.

Colonisation

Part Two

dispossession and denial

"... that Australia itself, professedly the new home of liberty and light, should have become the theatre of the dark deeds of oppression and cruelty..."

Reverend John Brown Gribble, 1886.

ABORIGINAL people have lived for more than fifty thousand years in Western Australia. It is now widely understood that their communities depended upon close economic, social and religious ties with the land, and that these relationships were irrevocably fractured by the arrival of British settlers in 1829. Colonisation led to the replacement of traditional laws, customs and territorial rights by new, introduced systems of legal and political processes, in which Aboriginal people had no influence or power. They were dispossessed of their lands, suffered deaths from introduced diseases and conflict with armed settlers, and saw much of the fabric of their traditional societies and ways of life destroyed.

It is self-evident, then, that the growth of colonial society and the constitutional development of its government did not occur in a social or political vacuum, but was dependant on the cultural and territorial dispossession of Aboriginal people. The eventual achievement of colonial self-government in 1890, while it may have allowed for wider circles of settlers to be involved in political activity, also restated the long-standing denial of pre-existing Aboriginal rights - to land, to self-determination and to their own systems of law and justice. Even at the time of colonisation, some colonists recognised this basic injustice. George Fletcher Moore, a prominent settler in the colony's early years, wrote in 1841 that "... This people have been taken under protection of the British nation, and claimed as its subjects - their country has been taken possession of - their existence has been overlooked - their rights unregarded - their claims have been unattended to - their lands have been sold by the British Government without reference to their existence".

"Western Australia was invaded by the British in 1829, and claimed by the British without negotiation of a treaty. The concept of a treaty remains a crucial matter which has yet to be fully addressed in order for Aboriginal people to have any confidence and faith in the concept of natural justice. That form of natural justice could emanate from governments or from the institutions that symbolise from where justice should be dispensed."

P. Dodson, *Royal Commission into Aboriginal Deaths in Custody*, 1991.

Early Government

Part Two

The Governor and Legislative Council



Captain James Stirling,
first governor of Western Australia.

"A Colonial Governor is a ruler who has no permanent interest in the colony he governs; who perhaps had to look for it in the map when he was sent thither, who takes years before he really understands its parties and its controversies; who, though without prejudice himself, is apt to be a slave to prejudices of local people near him; who inevitably, and almost laudably governs not in the interest of the colony, which he may mistake, but in his own interest, which he sees and is sure of."

Walter Bagehot, 1867.

At first Captain James Stirling ruled the small, transplanted society of Western Australia by virtue of personal will and at the vague direction of the British Government. Then in 1831 Stirling was formally appointed as governor of the fledgling colony and he formed Executive and Legislative Councils, which had common membership and were based on similar bodies in New South Wales and Van Diemen's Land (later Tasmania). The Executive Council was responsible to the Crown and was made up exclusively of the governor and his senior officials, who obeyed his directions as a matter of course. The Legislative Council was also wholly nominated and hardly representative, but it slowly developed into a kind of mini-parliament with added members appointed from the ranks of the colonial elite. The first bill Stirling presented to this council, in February 1832, was designed to establish civil courts in the colony. Like almost all other bills proposed in these years, it was passed without dissent.

The governor was the representative of the Crown and the paramount political figure in the early phase of settlement, and his authority to make policy and determine government business went virtually unchecked in the colony. He was bound to confer with the Executive Council, and present his proposed laws, or bills, to the Legislative Council, but he could veto their decisions and retained considerable personal power to decide daily issues. The only brake on the governor's authority was that occasionally applied by the Secretary of State for the Colonies, in London, a minister in the British Government. The Secretary of State was responsible for overseas territories and possessions of the British Empire and was kept informed by letter of major decisions in Western Australia, as with all other colonies. He generally appointed governors from the ranks of military men and Imperial servants to serve for fixed periods of time.

Government House was the political headquarters of the colony, as well as the focus of the landowning elite's social life. It served as a material and symbolic reassurance to wealthy settlers, who sought to consolidate their property gains and assert their social importance. Beyond this coterie, whose personal standing gained them influence and possible nomination to the Legislative Council, other colonists had little say in the affairs of early Western Australia. When settlers wanted to publicly voice their opinions they usually called a meeting, passed a series of motions and addressed a memorial to the governor. Anyone who wanted to bring an issue or grievance to the attention of the British government had to do so via the governor's office. The only other alternative was to make one's views known in the flourishing local press, as copies of all colonial newspapers were regularly sent to the Secretary of State in London. The *Perth Gazette*, forerunner of *The West Australian*, was first published in 1833 and became an avenue for moderate political expression, but it was left to the *Inquirer*, founded in 1840, to take a more independent and robust line on colonial affairs.

Members of the Legislative Council met in a modest building on St George's Terrace in the shadow of Government House next door. The physical relationship of the two buildings signalled a political reality, with the council dominated by the imposing executive office of governor. Despite occasional rumblings, council members willingly played their deferential parts in this theatre of a well-ordered society, wearing formal dress to meetings and adhering to the standing orders of the House of Commons in the British Parliament. George Fletcher Moore wrote in 1834 that . . . "We are required to appear in full dress there . . . The Governor appears in full dress (naval uniform), Captain Daniel in full military dress, Messrs. Broun and Roe in blue coats with red collars and Crown buttons . . .".

Tentative calls for a measure of elective government came from colonists in 1835, but were ignored. Western Australia simply seemed too small and insignificant for many years to warrant political change. Even by 1850, the colony's population stood at the remarkably low figure of 5,886, excluding Aboriginal people who were not counted in the census, and the total value of its exports was just 22,135 pounds. Then the decision to send convicts to the colony meant that moves for a partly-elected legislature were again delayed. The first shipment of prisoners arrived at Fremantle in 1850, 21 years after the first free colonists had stepped ashore on the west coast. In the same year, the British government passed the Australian Colonies Government Act (later known as the Australian Constitutions Act No. 2) which allowed its Australian possessions to become self-governing. This Act drew inspiration from the recommendations of Lord Durham's Report of 1839, which had set out the theoretical basis for colonies in North America (now Canada) to gain a measure of political independence. As a result of the 1850 Act, New South Wales, Victoria and Tasmania became self-governing in 1855, South Australia in 1856, and Queensland in 1859. In Western Australia, the prerequisite conditions for political change were met in 1856 but it was thought impossible to allow popular elections while convicts were being transported. So while all other colonies in Australia had self-government by 1860, political development in Western Australia was simply postponed.

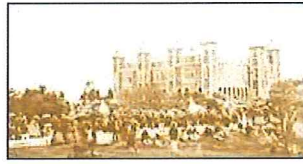
"For . . . forty years Western Australia was a crown colony ruled by governors who were primarily responsible to the British government rather than the colonists over whose welfare they presided. After the first two-and-a-half years the governor had to work with and through a small Legislative Council but the members of this body were officials, who were subject to his authority . . . The politics of the day therefore revolved around the governor and his officials rather than around elections, parties or cabinets."

B. K. de Garis, in *A New History of Western Australia*, 1981.

Representative Government

Part Two

The first elections



Volunteer militia outside the new Government House
built with convict labour on St. Georges Terrace, 1863.

"The Petition of the undersigned, being more than one-third of the Householders of the said Colony, humbly prayeth - That an Ordinance may be passed for establishing in this Colony a Legislative Council according to the provisions recited in the Act of the Imperial Parliament 13 and 14 Vict. Cap. 59."

Petition for Representative Government, 1865.

INTEREST in elective government re-emerged as the convict era drew to a close in the 1860s. A public meeting at the Freemason's Hotel in Perth decided to draft a petition calling for a more *representative* Legislative Council, as provided for in the Australian Colonies Government Act of 1850. When the petition was presented in June 1865 it had 1,303 signatures, representing more than a third of colonial households required under the Act. However members of the Legislative Council favoured reform to allow for an elected majority, rather than a complete overhaul of the existing constitution. They pressed the British Government to allow the council to remain a nominated body and so protect the entrenched power of the colony's wealthy elite.

While the Colonial Office in London hesitated on the issue of constitutional change, the governor of the day, John Hampton, decided to allow informal elections in six districts of the colony. He proposed to nominate the winners of these ballots to the Legislative Council, so establishing a kind of *de facto* partly-elected legislature. The first of these elections were held in November and December 1867 and all free men were allowed to vote. There were no special ballot papers and instead voters wrote their name and address, and the name of the candidate they supported, on a blank piece of paper (the secret ballot was only introduced in 1877). Five successful candidates were appointed to the council and the governor nominated a sixth to represent Champion Bay, where settlers had refused to accept Hampton's compromise. For the first time, elected members sat in a parliamentary chamber in Western Australia.

The change to a more representative political system was formalised in 1870, when the new governor, Frederick Weld, agreed to regular elections for two thirds of the seats on a reconstituted Legislative Council. An ordinance passed in the same year provided for 18 members in the council, six of them nominated by the governor and 12 elected from ten constituencies, with Perth and Fremantle returning two members each. Despite the more representative character of the new council, the interests of the colonial elite were well-protected. Only men who could show they owned or leased property of a certain value were allowed to vote. So although there were about 15,000 men in the colony in 1870, not including Aboriginal men, only three thousand of these could vote. Prospective candidates also had to own property which was worth 2,000 pounds or which earned 100 pounds a year before they could nominate for office. The Legislative Council now sat in a larger building on Hay Street next to the recently-built 'people's palace', the Perth Town Hall. Symbolically it appeared that the partly-elected body had moved out of the influence of the governor's circle and closer to the people. It is true that under the reforms of 1870 the governor was no longer a member of the legislature. However, he still wielded formidable power as head of the Executive Council and he alone could introduce money bills to the legislature through his nominated representative, the Colonial Secretary. The governor and his appointed officials retained day-to-day power to run the colony, though the opening of a telegraph link to the eastern colonies and London in 1877 placed them more firmly under the control of superiors in London. Yet the executive and legislative arms of colonial government were still divided, and in that separation lay the seeds of future conflict. Through the 1880s, elected members of the Legislative Council increasingly vied with the governor and Executive Council to assume greater responsibility for the colony's destiny.

"It was 'representative' in the sense that the Legislative Council was for the first time composed predominantly of men elected to represent their fellows. The Council was little more than an exclusive debating society however and real power remained with the governor, who was answerable primarily to the secretary of state for the colonies in London."

B. K. de Garis, in *A New History of Western Australia*, 1981.

The Move for Self-Government

Part Two

Popular politics and reform



The WA Bulletin published a series of cartoons in the late 1880's arguing for self government in Western Australia.

"In these days of advancement it does not do to stand still, and when we find the powerful cry of progress raised in our colony, it is obvious that it must be to the interest of all to meet it half way. The change which has been gradually coming about for the past few years in spite of all opposition is now close at hand, and, although we may always look for persisted croakings on the part of a few, still we cannot conceal from ourselves that it is a step in the right direction, and that until the Colony throws off the lethargy in which it has been steeped for so many years we shall always rank as the Cinderella of the Australian group."

Eastern Districts' Chronicle, 1888.

COMPLETE reform of the colony's political system seemed just around the corner in the early 1870s. Most members of the partly-elected Legislative Council and even the governor Frederick Weld, supported a draft constitution for a new parliament. They planned for two parliamentary houses, a wholly-nominated upper house and an elected lower house, and this met with the approval of electors when it was put to the vote. However, the British government was less sanguine about the prospect of self-government and it instructed a new governor, Sir William Robinson, to dissuade popular interest in the scheme. Sir William (who served three times as governor, in 1875-77, 1880-83 and finally 1890-95) was successful in deferring the popular movement for self-government, but not in eradicating it. In fact, by 1878 a young lawyer elected to the Legislative Council, Stephen Henry Parker - popularly known as "the people's Harry" after his defence of a convict in 1870 - and two colleagues established a Reform League to work for political change. Parker had been schooled in the relative affluence of Bishop Hale's School on St George's Terrace, where his classmates had included John Forrest. Though his league proved to be a limited force, the young lawyer staked out a reputation as a perennial supporter of political reform. Parker's campaigning motivated popular interest in constitutional change through the early 1880s and his league was eventually relaunched as the Reform Association in 1886. Within days it had signed on 400 members.

A rise in the colony's population, an increase in public works, and a rush to the Kimberley goldfield revealed the colony's potential for economic development in the 1880s. The population (excluding Aboriginal people) stood at 29,561 in 1880; while by 1890 the corresponding figure was 48,502. Government spending on public works, such as telegraph lines, railways, and water and sewerage services, also grew. The first railway line, between Geraldton and Northampton, opened in 1879 and soon after, in 1881, Fremantle, Perth and Guildford were connected by a rail service. This line reached York and then Beverley before a private concern, the Western Australian Land Company, extended it to Albany in return for land grants. Railways were, as historian Geoffrey Bolton has argued, a badge of economic power and advance . . . "The Victorian era, the age of great agricultural and commercial expansion throughout the whole world, was also the age of the railway". In 1886, reports of gold finds in the Kimberley attracted thousands of men but the quality of the deposits was nowhere near that to be found on the eastern goldfields in the 1890s. Some colonists glimpsed the promised land in the economic development of these years, but other events and episodes in the decade shook remaining confidence in the existing government. By 1887, the effects of an economic recession had begun to bite and, in 1888, government expenditure on public works was dramatically cut-back. At the same time, the population decreased marginally, when previously it had been growing year by year. For many colonists the culprits were the British Government and its political instrument, the governor. They condemned the Government House incumbent, Frederick Broome, for what they considered was his overly cautious approach to raising loans for public works. At the same time, a series of disputes between Broome and his officials, in particular the suspension of Chief Justice A. C. Onslow in 1886, turned the Executive Council into an acrimonious 'bear garden' and discredited the government in the eyes of a public ready for change. After the Secretary of State overturned Broome's decision and reinstated Onslow in 1887, more than 2,000 people marched through Perth and stopped outside Government House to give three 'groans' for their governor.

In this atmosphere of political disillusionment, the by-election for the Legislative Council seat of Perth in 1888, fought between John Horgan and Septimus Burt, was "the most exciting in the history of Western Australia". Horgan was an immigrant Irishman, a Catholic, and a solicitor who believed in "responsible government, payment of members, manhood suffrage, a land tax, and a single chamber legislature". Septimus Burt was a member of the colonial elite, a habitue of the exclusive Weld Club and son of a former chief justice of the colony. The fiery Horgan raged that . . . "the press has been teeming with instances of gross mismanagement on the part of the Governor - and I say the Governor because he is the Czar of Western Australia. He is the despot of Western Australia, and we are actually nauseated with the attacks of that man". Horgan's abuse of the governor and rich landowners, in particular the "six hungry families" of the Stones, Leakes, Lee Steeres, Shentons, Lefroys and Burts, saw him condemned in the conservative *West Australian* newspaper and in the halls of the respectable classes, but it resonated with the experiences of many townspeople barred from politics. In a tight contest, Horgan won the seat by just three votes, polling 420 votes to Burt's 417. His election gave heart to those seeking to broaden political activity in the colony, but it did not represent the end of domination by the landowning elite. Soon after, a petition against self-government was circulated in Perth by colonists worried at the threat of mass political action. In the end, the purported threat posed by Horgan petered out - he lasted just nine months in office before losing his seat.

The Legislative Council passed a resolution in principle calling for self-government in 1887, despite a warning from the Colonial Office in London that the price of change might be division of the colony. Secretary of State Sir Henry Holland cautioned Governor Broome that if self-government was allowed . . . "it would not be practicable for Her Majesty's Government to surrender to a Parliament representing a small population principally resident in the southern districts the control of all the vast territory now included in Western Australia". Sir Henry suggested the colony might be divided at the 26th parallel, near Shark Bay, with all land to the north remaining under control of the British Government. However, after strong opposition from members of the council, the threat of division was reluctantly dropped. The following year, after Horgan had won the hotly-contested Perth by-election, Governor Broome drafted a Constitution Bill and presented it to the Legislative Council for consideration. In January 1889, an election showed strong popular support for the Bill, which was promptly returned to the council for further fine-tuning and seemingly interminable debate on electoral details. On April 26th, 1889, the Bill was passed and sent to London, for the proposed changes needed the approval of the British government. Even then, the long wait for self-government was not over. The House of Lords passed the measure without delay, but the bill hit a snag when the House of Commons postponed its decision till 1890. This unexpected delay caused consternation in Perth. Three delegates - Governor Broome, Sir Thomas Cockburn-Campbell and Stephen Henry Parker - were despatched to London to shepherd the measure past opponents in the Commons. They argued their case at a series of meetings with the sceptics, many of whom were more concerned at the conservative nature of the proposal rather than any supposed loss of British control and influence. Finally, in 1890, the Bill was passed by both Houses of Parliament and confirmed by the Royal Assent of Queen Victoria.

"The constitution which emerged from these discussions was deeply conservative, far more so than any of those in force in the eastern colonies of Australia. The Constitution and Electoral Acts of 1890 formed the framework of political life in Western Australia in the 1890s and early 1900s. They gave the 'sandgroppers' - the 'ancient colonists' - a firm defence against the winds of change which were shortly to blow in strongly from the east."

C. T. Stannage, *People of Perth*, 1979.

Constitution Act of 1889

Part Three

Creating a parliament

"... for the peace, order and good government of the colony of Western Australia."

Constitution Act 1889.

THE Constitution Act established the broad form of *responsible* self-government in Western Australia that we recognise today. It provided for two houses of parliament - an elected Legislative Assembly, and a Legislative Council with members initially nominated by the governor. The constitution was similar to those in force in other Australian colonies, with some added provisions to protect the colonial elite. Parliaments of this sort were British in origin, and much of the understanding and conventions about how they worked had emerged by the middle of the nineteenth century. Today, we refer to this type of government as the Westminster system, but in the 1890s it was usually described as *responsible government*, because the executive or cabinet was responsible, or accountable, to the legislature. Government was to be conducted by a ministry, or Cabinet, of five members of parliament and not, as in the past, by the governor and appointed officials. This meant that Cabinet could only govern while it retained the support of a majority of members of the lower house and that its power was therefore limited by parliamentary review. Before, governors had served dual roles as representatives of the King or Queen and agents of the British Government, but under the new constitution their role as imperial agents was greatly diminished. Though governors maintained confidential correspondence with the Colonial Office in London, it was expected that they would approve legislation with the advice of local ministers, and not at the direction of the Secretary of State. The British Government retained responsibility for external affairs, defence and Aboriginal welfare, but the new Western Australian Government had control of all other matters. There was no doubt that the colony was still part of the British Empire - it was certainly not wholly independent - but it had gained a large degree of political autonomy.

The first elections to the Legislative Assembly in November and December 1890 were quiet and remarkably restrained by our standards. There were no formal political parties and most candidates described themselves as independent "free lances". Thirty members were elected for four-year terms from single-member constituencies, of those 19 were elected unopposed. The governor also appointed 15 men to the upper house, the new Legislative Council, in December. Sir James. G. Lee Steere, who had been Speaker of the old Legislative Council, was elected first Speaker of the new Legislative Assembly at a brief sitting of parliament on December 30. John Forrest formed a five-member Cabinet, all of whom had to resign their seats and contest another round of elections allowing voters to judge whether they were suitable for ministerial office. The five - Forrest, Septimus Burt, George Shenton, W. E. Marmion, and H. W. Venn - were all returned and parliament re-convened on 20th January, 1891.

The two houses, the Legislative Assembly and the Legislative Council, sat in different buildings at first. The assembly met in a chamber on Hay Street next to the Town Hall, which had been used by the former Legislative Council between 1870 and 1890. The new council returned to the modest offices on St. George's Terrace, next to Government House, where the old council had sat between 1836 and 1870. There was strong criticism of these ad-hoc arrangements, however, and in 1897 a commission recommended a new building on the St. George's Terrace site. Parliamentary members rejected the advice - not the first nor last time this would happen - and instead chose a location at the west end of St George's Terrace for a new Parliament House. The first stage of the building, much of it designed by Hillson Beasley, was begun in 1902 and opened two years later. Sixty years later an eastern entrance overlooking the city of Perth, and new offices were added to the existing structure. This upgraded complex was opened on 23 March, 1964, and is still in use today.

"While the immediate purpose of such a system was the conservative one of protecting the interests of wealthy property owners, it had the effect of enshrining a constitutional system based on negotiation and compromise which could not be dominated by the government of the day acting solely in the name of the majority of representatives in the lower House."

Campbell Sharman on the two Houses of Parliament, in *House on the Hill*, 1991.

Section 70

Part Three

Aboriginal people and the Constitution



A group of Aboriginal people in European clothing.

"There shall be payable to Her Majesty, in every year, out of the Consolidated Revenue Fund the sum of Five thousand pounds mentioned in Schedule C to this Act to be appropriated to the welfare of the Aboriginal Natives, and expended in providing them with food and clothing when they would otherwise be destitute, in promoting the education of Aboriginal children (including half-castes), and in assisting generally to promote the preservation and well-being of the Aborigines."

Section 70, Constitution Act 1889.

THE British Government insisted on retaining responsibility for the welfare of Aboriginal people when it agreed to grant Western Australia self-government in 1890. Governor Broome had earlier warned the Secretary of State in London that the colonists could not be trusted to treat Aboriginal people equitably. As a result, a special section was included in the Constitution Bill, similar to a provision in the charter which had established a legislature in Natal in 1856. This section, known as Section 70, included a formula for funding the Aborigines Protection Board, which had been formed in Perth in 1886 and was to remain responsible to London, not the Western Australian Parliament. The section compelled the colonial government to hand over 5,000 pounds or 1 per cent (whichever was the greater) of consolidated revenue to the board each year, to be spent in the interests of Aboriginal people.

The inclusion of Section 70 in the Constitution was resented by colonial supporters of self-government, who agreed to it under duress to avoid jeopardising the whole Bill. After the constitution was proclaimed, parliamentary leaders renewed their criticism and claimed the provision was a slur on the abilities of Western Australians to govern themselves. John Forrest, who had earlier supported inclusion of Section 70, became a vociferous critic and first tried to repeal it in 1892. He was later backed by another member of parliament, William Traylen, who argued that . . . "as our revenue is growing up now, and the natives can scarcely be said to be increasing in numbers, we shall be paying a very undue proportion of our income as a colony for the purpose of supporting the Aboriginal native race". Governor Robinson, as representative of the British Government, and Premier Forrest wrangled over the question for years. Aboriginal people themselves were never consulted about the issue. Robinson and his superiors in London were reluctant to yield to the Western Australian Parliament because of concerns at the likely treatment Aboriginal people would receive. Yet after a series of arguments and counter-arguments, Forrest prevailed. Legislation was passed in 1897 to repeal Section 70 of the constitution, and this was ostensibly confirmed by the Aborigines Act 1905. Today, the validity of this legislative action remains under a cloud. A group of Kimberley Aboriginal elders is seeking to prove in the Supreme Court that the repeal of Section 70 was illegal, and that the State Government is still bound to hand over funds for Aboriginal welfare, in accordance with the Constitution Act 1889.

" . . . it can be clearly seen that colonisation has been consolidated in this State through aspects of violence, and by the design and implementation of government policies and legislation. What becomes most apparent, is the right of government to create institutional control over Aboriginal peoples without too much emphasis being placed upon Aboriginal legal, social and cultural requirements. This control, combined with powerful interest groups and representatives from law enforcement agencies, ultimately denied Aboriginal people any form of real empowerment."

P. Dodson, *Royal Commission into Aboriginal Deaths in Custody*, 1991.

Franchise

Part Three

Electoral opportunity and political power

"... having more than they can do well in all that appropriately belongs to them, to add the civil and political duties of men, would be unjust and oppressive."

The Victorian Express, 1870.

THE early years of self-government were not democratic in the way we tend to think of democracy now. The new Constitution Act conferred political power on a relatively small, elite group of men in the colony, not the entire population. Most people did not have the right to vote, much less run for parliament. At first, only a very few men - those with extensive property interests - were allowed to stand as candidates. Politics was a masculine domain and women were totally excluded from formal politics; they could not vote or nominate for seats, and married women were not even legally entitled to own property in Western Australia till 1892.

In the first elections for the Legislative Assembly only men over the age of 21 who owned or leased property of a certain value were entitled to vote. They also had to satisfy stringent residency qualifications before they could register as electors. This meant that many men were denied voting rights and, in some cases, candidates won office with the support of a tiny fraction of the people in their constituency. For example, in the West Kimberley in 1890 there were just 39 registered voters, though about 833 adult males, and an even greater number of Aboriginal men, lived in the region. Also, there were about 3,200 men in Perth in 1891, but only 1,504 registered to vote in the city's electorates. These restrictive provisions were intended to preserve the electoral domination of the landowning elite. The *Daily News* wrote in 1891 that "under a franchise in which only those who have a stake in the country can have a voice in selecting those who legislate for it, we need have no fear of the legislature containing more than a very small proportion of members who are pledged to support motions in favour of the government finding work for the unemployed, or fixing the rate of wages, or extracting money from the successful to give it to the unsuccessful. This sort of thing comes only of manhood suffrage, the tendency of which in Australia is to bring down everyone to the same level of impecuniosity".

It took a series of reforms to the original Constitution Act to extend voting rights; even then, there were prohibitions on Aboriginal people wielding the vote as late as 1962. A coalition of interests - among them goldfields diggers and other liberal-minded colonists - pressed for electoral reforms and contested the tight political grip of conservative landowners in the 1890s. The Forrest government was somewhere between the two camps, and Forrest himself recognised the need for change, arguing that "no member wants to have justice demanded from him at the point of the bayonet". In 1893, the Constitution Act Amendment Act dropped the property requirement for candidates and introduced manhood suffrage. In principle, these changes meant that an adult man could vote and nominate for the Legislative Assembly, irrespective of whether or not he owned or leased property. However, the would-be elector still had to satisfy strict residency requirements and other registration formalities which, in reality, barred many from enrolling to vote. The government also specifically excluded Aboriginal men from the reforms by stipulating that they could only enrol if they owned freehold land. Women still did not have the vote and nor did immigrants from Asia or Africa.

The new Legislative Council, or upper house, was a conservative house of review and the natural ally of wealthy landowning interests. It was at first a wholly-nominated chamber but soon became elective because of rapid growth in the colony's population. In 1894, twenty one members were elected to the council from seven provinces across the colony. Despite the elections, the chamber retained its conservative character - candidates had to be aged at least 30 years and have lived in Western Australia for two years, while voters had to satisfy stringent property and residency qualifications before they could register, despite the reforms that extended voting rights in Legislative Assembly elections. In fact, property qualifications for council voters were extremely durable. They remained in force, albeit in reduced form, till 1964, when the franchise was brought into line with that of the Assembly.

Women began lobbying for voting rights in 1893, just two years after the introduction of self-government. The Women's Christian Temperance Union, an association devoted to women's rights and the family, was at the forefront of the campaign. Its members formed the Women's Suffrage and Political League in 1896, which included Lady Margaret Forrest, and the Women's Franchise League in 1899. The Forrest government was first opposed to women gaining the vote, but then decided in 1899 to reverse its position. By the Constitution Acts Amendment Act of that year, women were finally able to cast votes in Legislative Assembly and Legislative Council elections, though in the case of council polls they still had to satisfy property qualifications, as did men. In passing this legislation, Western Australia became the second Australian colony, after South Australia, in which women had voting rights. But it would be another twenty-one years before they could sit as members in State Parliament.

One of the most contentious electoral issues in the 1890s was plural voting, which allowed landowners to vote in every constituency where they held property. Alexander Forrest, it was said, was entitled by this provision to vote in almost all the forty four electorates of the Legislative Assembly in 1899. Plural voting was supported by the colonial elite, but condemned by the burgeoning goldfields' population and other liberals as undemocratic. After several unsuccessful attempts to end the practice in the 1890s, most notably by Assembly member Frederick Illingworth who twice moved unsuccessfully for its abolition, it was abolished in Legislative Assembly elections in 1904. However, it remained the practice in voting for the Legislative Council as late as 1964.

"The newcomers to Western Australia found a political system which was operated by 'ancient colonists' and for established interests, particularly the landed. They, with some liberal 'ancient colonists', demanded political reform and drove the established interests on to the defensive. Concessions were extracted, and within the space of twenty years there emerged a new political system, more democratic than the old."

C. T. Stannage, "The Composition of the Western Australian Parliament", 1967.

Stable Government

Part Three

The Forrest family

"We are not political adventurers, desirous of retaining office at the expense of the country. For my own part I am willing and anxious to devote my whole time to the service of this country; I am not actuated by any desire for office in so far, at any rate, as the spoils of office are concerned. We wish to see the population increased, and this colony made the happy home of thousands of our race."

John Forrest, 1891.

THE Forrest family put their stamp on the whole decade of unprecedented boom in the 1890s, not simply on the politics of self-government. Other Australian colonies had suffered political instability when they began managing their own affairs, but Western Australia under John Forrest was notable for its stable administration. Forrest emerged as a strong, authoritative Premier and led a series of governments focused on an ambitious programme of public works financed by large loans raised in Britain. His wife Margaret was a skilful supporter who played a key role in making their home in Perth, the Bungalow, known as the social and political centre of the colony. Brother Alexander was a close confidante and a noted financier and politician.

John and Alexander Forrest embodied qualities that were highly-valued in colonial Western Australia. They were able and self-reliant, they became prosperous by dint of application and work, and they were the sons of early colonists, though not of the colonial elite. Born in Bunbury to William and Margaret Forrest who had migrated from Kincardineshire in Scotland in 1842, John and Alexander were schooled at Bishop Hale's School in The Cloisters, on St George's Terrace. Both went on to gain international reputations as explorers and surveyors, with John rising to the post of Surveyor-General by 1883. Alexander, who as a boy had dreamed the colony's north was an El Dorado, went on to build a pastoral and financial empire with interests in the Kimberley.

John Forrest won the seat of Bunbury in the first elections for the new Legislative Assembly. In an era before party politics, he quickly established himself as the likely candidate to lead a ministry and become the colony's first Premier. A self-confident conservative with a dash of liberal individualism, Forrest was preoccupied with developing the colony and its resources by funding public works, including railways, roads and harbours. He was proud of his achievements in this field and commended similar schemes and projects as models for colonial development throughout the Empire. Forrest also wanted to open up areas of Western Australia for small farmers, and he sponsored the Homestead Act 1893 to settle a "bold yeomanry" on the soil.

Margaret Forrest was a leading figure in the colony in her own right, and a strong supporter of her husband's ambition in an age when women were precluded from entering politics themselves. Historian Frank Crowley has reflected that . . . "Unashamedly she used her social talents for political purposes, and there was hardly a public dinner, reception or ball which did not provide some opportunity to talk to her husband's associates or opponents". Margaret Forrest was a member of the Karrakatta Club, a society founded in 1894 for well-to-do women in the colony. She was also well-known for her talent as a painter of wildflowers and she became involved in informal political action after John Forrest's move to the Commonwealth Parliament, in 1901. Yet, like all other women in Western Australia, she was unable to vote during the first decade of self-government and only cast a ballot for the first time in the Federation referendum of 1900.

Alexander Forrest was also returned to the new colonial parliament in the 1890 elections, representing the West Kimberley where he had property interests. Alexander was a financier and agent in several key colonial ventures, and he was interested in the problems of attracting investment to Western Australia. Labelled the "sixth minister" by those who believed he held great sway in the government while not formally a member of the official cabinet, Alexander was Government Whip in the Assembly and also served as the Mayor of Perth in the 1890s. He was in some ways more unpredictable than his brother, even philosophically opposed to him at times.

John Forrest was a great political survivor, who dominated the early Western Australian Parliament by virtue of his sheer physical presence and reputation, and he became the first Australian to be elevated to the British peerage. He was careful to protect the interests of the colonial elite, whose members had interests in pastoral and agricultural areas, and he often overcame opponents by incorporating their ideas in his legislative programme. John Forrest enjoyed strong support from the influential *West Australian* newspaper, but was criticised on the goldfields for ignoring diggers' rights to greater parliamentary representation.

"Forrest was a typical second-generation colonist of Great Britain - a self-conscious, Australian-born imperialist, not an aggressive colonial nationalist. He had always been an ardent supporter of the monarchy . . . and he had a simple, unsubtle, almost naive concept of Australia's relations with Great Britain."

Frank Crowley, *Forrest*, 1971.

Public Works

Part Three

Politics and progress

"My Ministers confidently believe that the policy of public works now recommended to Your Honourable House will be productive of great benefit to the Colony. It will, they are confident, attract population, develop our mineral resources, encourage the settlement of the land, greatly increase facilities of transit, and will be the means of placing the people of the Colony in a position to develop its great and varied resources."

Governor Robinson, Inaugural Speech to Parliament, 1891.

The Forrest Government embarked on an ambitious programme of public works funded by overseas loans when the first parliament convened in January, 1891. Demand for self-government in the 1880s had been driven by the widespread belief that the British Government was too cautious and slow in developing services and facilities in the colony. Immediately he became Premier, John Forrest moved to raise more than a million pounds for a range of railway, harbour and telegraph projects - at one stroke justifying the new system of government to the people, and promoting projects which would aid economic development.

Charles Yelverton O'Connor was appointed to oversee the public works programme, which included a new harbour at Fremantle and construction of railways linking Perth to the Goldfields, Bunbury and Geraldton. O'Connor was efficient and lucid in his approach to creating a base of public infrastructure to develop Western Australia's primary resources. His most ambitious scheme was to bring coastal water to the Goldfields by construction of what was then one of the longest pipelines in the world. O'Connor expressed the developmental spirit of Western Australia in the 1890s, but drew on a broader professional background that made him more outward-looking than many of the colony's leading figures. He suffered the storms of political criticism over the public works projects that were so inextricably entwined with the fortunes of the Forrest Government. Tragically, he committed suicide in 1902, a year before the goldfields pipeline was complete.

"Week by week, the demands made upon O'Connor by a colony stirred by the gold-stimulated upsurge of activity grew to an accumulated load that only a man of his physique and resilience of spirit could have borne so long unrelieved. In the last years of his life, political instability offered a favourable climate for a persistent stream of attack culminating in the disastrous pressures of early 1902."

Merab Tauman, *The Chief: C. Y. O'Connor*, 1978.

The Goldrush

Part Three

T'othersiders and political representation

"The air in Perth is full of the yellow fever. Its germs, in the shape of talk of reefs, leases, claims, yields, trial crushings, camels, syndicates, stocks and Company flotations, are as thick as a London fog . . . It is impossible to speak for two minutes with anybody, from a Cabinet Minister to a cow-minder, without referring to the omnipotent subject that lies closest to the hearts of all."

Albert Calvert, 1897.

MANY colonists had prayed that self-government would deliver them progress and prosperity, but few could have imagined the extent of the economic boom that followed. By 1893, Western Australia was in the grip of a gold rush after strikes at Coolgardie and Hannans, now known as Kalgoorlie. Compared to the modest returns won on the northern, Kimberley goldfields in the 1880s, the eastern 'fields quickly produced a series of stunning finds. Thousands of diggers flocked to the area intent on making their fortunes and escaping the depression which blighted eastern colonies. *The West Australian* reported that . . . "In Perth and Fremantle everyone seems to be either carrying tents, picks, shovels, and dishes, or otherwise preparing for the road".

The goldrushes were responsible for strong economic growth and a population explosion in the 1890s. In 1891, the population was recorded as 49,782, though this did not include Aboriginal people in the colony. By 1895 the population had doubled to 100,515, and then by 1901 almost doubled again to 184,124. Similarly the value of exports leapt, from 874,447 pounds in 1890 to 5,962,178 pounds in 1900. That astonishing growth prompted Western Australia's early historian J. S. Battye to reflect that . . . "The gold almost seems to have waited for the advent of responsible government to declare itself, or perhaps it was that a freer, more independent, and more enterprising spirit came upon the people through the change". By 1896, more than 300 companies had been floated in London to the exploit gold deposits. After years of slow, modest growth, the colony looked to be riding the crest of a wave. For decades Western Australia had been a distant, self-contained society, removed from the currents of social, economic and political change which periodically swept eastern colonies. With the goldrush boom, that sense of relative isolation was steadily eroded. The landowning elite welcomed the new economic prosperity of the colony but resented the influx of immigrants from the east, derisively nicknamed t'othersiders. They most feared being swamped by the 'fields transients "who brought with them a lively radical outlook impatient of the old 'sandgroper' oligarchy". Septimus Burt, regarded by many immigrants as the epitome of the conservative, landowning interest, simply confirmed the antipathy of old to new when he carped . . . "Miners are birds of passage . . . who are they to have a vote and maybe upset the settled policy of the Government? Enough of pick and shovel representation". No more clues were needed to define the new Battye lines in 1890s Western Australian society.

The diggers crowded in Kalgoorlie, Coolgardie and the Murchison clamoured for two things - political representation and increased government spending on infrastructure projects, like railways and water services. While the Forrest government acknowledged the need for public works, it was reluctant to cede much political power to recent arrivals. Forrest argued that . . . "I do not believe that people come to this country for the purpose of voting. They come here to make a fortune, and if they take my advice they will apply themselves in that direction instead of running after the franchise or getting on the roll." He moved cautiously, amending the Constitution Act to establish three new goldfields electorates for the Legislative Assembly in 1893 in response to cries for more representation. Then in 1896 a redistribution of seats saw the creation of ten goldfields constituencies for the Assembly and three new seats in the Legislative Council. Still, representation for the 'fields seemed lean compared with their proportion of the colony's total population. In 1899, the fiery goldfields member Frederick Vosper sponsored a motion supporting increased representation in the Council. At the same time, the Forrest Government consolidated all constitutional amendments in the Constitution Acts Amendment Act of 1899, which also reduced the terms of the Assembly to three years, from four previously, and added more seats for the goldfields.

"Until the late eighteen nineties the composition of the Parliament underwent few important changes. It represented only a small proportion of the total population and greatly over-represented those who lived in the country districts. No attempt was made to have electoral districts with an equal number of voters. In fact, quite the opposite was the case. Miners had great difficulty in proving "residence" for a sufficient period in the one place in order to be registered as electors - originally a year - and increased representation of the goldfields was much delayed."

Frank Crowley, *Australia's Western Third*, 1960.

Political Parties

Part Three

Political action and parliamentary control

"The Forrest Ministry will never die. They only reconstruct. They have 17 members (which is a majority) who will vote with them under almost all circumstances."

Frederick Illingworth, 1895.

PERSONALITIES, rather than political philosophy, dominated the first decade of self-government. The Constitution Act 1889 made no mention of political parties, nor of the part they have come to play in our parliamentary system of government. Members were unpaid till 1900 and most regarded their political careers as part-time interests rather than careers. John Forrest garnered support by force of will through much of the 1890s, but by the turn-of-the-century his 'Ministerialist' faction was in decline. The ranks of the "Oppositionists" in the parliament were also fluid, with members choosing to support some Government Bills and reject others. Both groupings were parliamentary alliances struck between members sharing common interests, rather than political parties with concrete organisations and programmes.

Stephen Henry Parker had led a short-lived Reform Party in the old Legislative Council during the campaign for the new constitution. However, when self-government was granted there seemed little else within the purview of the party's political vision and it quickly faded from view. Other organisations, such as the Western Australian Liberal Association and the Eight Hours Association, which campaigned for workers' rights, had little real impact on the parliament. While there was more emphatic parliamentary opposition among liberals and goldfields members to the Forrest Government by 1895, this was not organised as a formal political party. Not until Charles Oldham was elected as the first Labor member in 1897, did party politics take root. Oldham was sponsored by the Political Labor Party, "a new offshoot" of the Trades and Labour Council founded in 1891. His success prompted more political action by labour organisations in Perth and the goldfields, and brought surprisingly good results in the first federal and state elections in 1901. Forrest's departure to the federal arena further weakened his 'Ministerialist' group in the State Parliament, and in 1901 the liberal George Leake formed a new Government with conditional Labor support. It was a turbulent time in Western Australian politics, however, and by 1904 the mould of parliamentary support had been completely recast. Non-Labor members, including liberals like Walter James, formed a 'Ministerial' grouping opposed to Labor. Henry Daglish led a short-lived Labor Government between 1904 and 1905 but was replaced by C. H. Rason's 'Ministerial' group, which formally became known as the Liberal Party in 1911.

"... party discipline has not only transformed the nature of electoral choice but has had a dramatic effect on the operation of parliament. Instead of a government being dependent on building loose coalitions for support of its legislative programme in the lower House, it can now rely on party discipline to ensure fixed majorities on the floor of the Legislative Assembly."

Campbell Sharman, in *House on the Hill*, 1991.

Federation

Part Three

New limits on colonial/state Government

"I think it is 'Hobson's choice' with us. We must either join as an original State, or else trust to Providence in the future to get in on better terms. I am of the opinion that, if we do not join now, we shall probably enter in the future on much worse terms than those at present open to us - worse, at any rate, as far as representation is concerned."

H. J. Saunders, MLA, 1900.

WESTERN Australia was unique in gaining its political independence just as the movement for Australian Federation was strengthening. The other colonies had enjoyed self-government since 1859 and by the 1890s looked forward expectantly to political union. Western Australian delegates took part in the constitutional conventions held in 1891 and 1897-8, but there were many in the ranks of the colonial elite who were unimpressed at the prospect of federation. They believed that the creation of a new national government would necessarily involve their ceding some of the recent gains of self-government.

Opposition to the federation cause was strongest in rural areas and among some sections of the coastal population. Many pastoralists and others felt they had little to gain and everything to lose if Western Australia adopted uniform national measures on trade, for instance. However, the prospect of union with the other colonies had widespread support in the goldfields, where there were many immigrant diggers with personal ties to the east. The question of whether or not Western Australia would join the proposed Commonwealth of Australia became a battle between these two interests, mediated to some degree by parliamentary figures like John Forrest. However reluctantly, Forrest accepted that federation was inevitable and he set about trying to extract as many concessions as possible for Western Australia in the drafting of the Commonwealth Constitution.

The referendum on whether or not the colony should join the proposed federation was held in 1900, well after successful polls in other colonies. For a time it had seemed that the Forrest Government was stalling and might not put the issue to a popular vote at all. Goldfields supporters of federation reacted by threatening to separate from the colony unless the Forrest Government proceeded with the referendum. When electors did eventually go to the polls, there was a resounding vote in favour of Federation - 44,652 for, 19,636 against. That result ensured the colony became one of the original States in the new Commonwealth of Australia from January 1, 1901.

The reach of the Western Australian Government, which became a State government after Federation, was limited by the new Commonwealth of Australia. While the Western Australian Constitution was not amended to accommodate the Commonwealth, the Commonwealth Constitution did define the relationship of Federal and State governments. In simple terms, it spelled out the responsibilities of the Federal Government, and left control over everything else to the States. The Commonwealth Constitution also altered the direct relationship between British and Western Australian governments, by positioning the Commonwealth between the two in several areas of responsibility, though this did not affect the State's continuing loyalty to the British Crown. In all other respects, the Commonwealth Constitution became a new, important limitation on Western Australia's constitutional arrangements.

"Somewhat Janus-like, then, Governments in Perth looked to both London and Canberra for ultimate constitutional authority in a number of matters. After the demise of imperial suzerainty in 1986, the principal limitations that still operate upon the State's constitutional powers are those attributed to its federal relationship with the Commonwealth."

Peter Johnston, in *House on the Hill*, 1991.

State Government in the 20th Century

Part Four

Alteration and progress?

"... our pride in the future, and it will be a very great pride too, will not be so much that we are Western Australians as that we are Australians. Our pride will be in our country, the whole of Australia, the same as is the case with the Canadians and the Americans; and we have this to guide us also, that in Canada and the United States - and this is a good argument which may be used by anyone - the people have not suffered through federation."

Sir John Forrest, 1900.

THE constitutional history of Western Australia did not end with Federation in 1901. Rather, the process of amending and adding to the State's Constitution has continued till the present. Our system of State government still bears the marks of its founding document, the Constitution Act 1889, but much of the way that government is run depends on changes in legislation, convention and practice since then. However, there is still a governor, with reduced powers, and there are still two houses, the Legislative Assembly and the Legislative Council, in our parliamentary system.

Changes to electoral law have meant that the right to vote in elections for either house is now open to all adults, as long as they are Australian citizens or, in some cases, British subjects. The same is true of the rules governing the eligibility of candidates; in 1920 women finally gained the right to run for office and the following year Edith Cowan became the first woman to sit in a house of any Australian parliament. Electoral rights for Aboriginal people took much longer to achieve; not until 1962 did they enjoy the same electoral opportunity as other Western Australians. In 1964, voting for the Legislative Council, which had retained a property qualification ever since it had become elective in 1893, was finally liberalised and made uniform with the Legislative Assembly. In 1970, the voting age was lowered to 18. As well as these progressive alterations to political franchise, there have been periodic changes to other features of the State's electoral system. Preferential voting was introduced in 1908 and three years later it became *mandatory* for voters to rank all candidates in this manner. In 1922, the State parliament transferred responsibility for deciding electoral boundaries to independent commissioners, and there has been a series of seat redistributions for both houses since then. Compulsory voting was officially introduced in 1939, and eight years later the requirement for prospective ministers to re-contest their seats at by-elections was finally abolished. In 1987, four-year terms were reintroduced for the Legislative Assembly, and the same term newly-applied for members of the Legislative Council.

The State's constitutional relationship to the British government has changed dramatically since the early days of self-government. For much of the first three decades of this century, the governor still sent lengthy reports to the Colonial Office, later known as the Dominions Office, and later still as the Commonwealth Office, in London. In 1933, Sir James Mitchell, a former Premier, became the first Australian-born vice-regal representative in Australia, though he took the title of lieutenant-governor till 1948 when he was commissioned as a full governor. This break with the tradition of appointing a British citizen further eroded the argument that the governor looked to British interests, rather than those of the State. In another step, the Statute of Westminster, ratified by the Australian Government in 1942, allowed for the full political independence of the nation of Australia. This new sense of sovereignty was bolstered in 1948 by the introduction of Australian citizenship; previously Australians had been known formally as British subjects. Yet despite these developments on the national stage, State governments in Australia retained residual links with the British Government, as well as the Crown, for many years. Through the 1950s and 1960s, State governors still sent periodic reports to London and the Privy Council was maintained as the last court of appeal. Only with the passage of the Australia Acts in 1986 were links between the governors and British Government, though not the King or Queen, finally severed. The only constitutional limitation on the Western Australian Government now is that exerted by the Commonwealth of Australia, not the British Government.

Of course the State's relationship to the Commonwealth has rarely been tranquil. In 1933, a referendum recorded a startling two-to-one vote in favour of Western Australia seceding from the Australian Commonwealth, and the newly-elected Collier Labor Government was forced to send the petition to London, where it was simply ignored. While commentators have since regarded that vote as a protest at Commonwealth ignorance of the State's desperate circumstances during the early Depression years, it is true that secessionist calls have recurred periodically ever since. Subsequent claims for separation have failed to win the same kind of support as in 1933, but they indicate Western Australia's particular regional accent within broader themes of national politics and identity.

One of the most significant, yet little-known, episodes in the State's constitutional past occurred two decades ago, when special legislation entrenched elements of Western Australia's parliamentary government in the Constitution. These amendments, passed in 1978, mean that the key roles of the governor, and the Legislative Assembly and Council, can only be abolished or altered by a two-thirds majority vote at a referendum, rather than by Act of Parliament as was the case formerly. Whereas the State's Constitution was once a parliamentary document in its entirety, now it is subject in part to the will of the people.

Problems with the conduct of government in the 1980s and the subsequent Royal Commission have refocused public attention on the State's Constitution and its Parliament. In particular, these events have provoked questions about the extent to which the Parliament - the legislative arm of government - is dominated by its executive, the Cabinet. The Constitution Act 1889 provided the framework for a parliamentary system to prevent the arbitrary use of executive power by the governor and his elected officials. Under this system of *responsible* government, executive officers - known as ministers - were members of parliament who could only act while they had the support of a majority of their colleagues. In theory, this meant that the decisions and actions of the executive were to be open to close parliamentary review. In practice, the rise of political parties in the twentieth century has allowed Cabinet to marshal support behind party flags and so avoid independent scrutiny.

In the 1990s, two bodies have re-examined the Western Australian Constitution and the form of government it authorises within broad discussions on the need for governmental reform. The Western Australian Constitutional Committee was particularly concerned with the growth of Federal power, while the Commission on Government looked at broad, systemic problems in the present system of State Government. Both groups issued reports that advocated reform (in the case of the Commission on Government, a staggering five volumes of findings and recommendations) but it remains to be seen whether their work will translate into legislative action. At the same time, there is reconsideration of the meaning and practice of citizenship, with special regard to political and economic rights and responsibilities in liberal democracies. Some critics have suggested that political institutions modelled on those in Britain, which have their roots in eighteenth or nineteenth century political practice and philosophy, may be inadequate to deal with new global forces, such as transnational companies, in the defence of individual freedoms. They argue that constitutionally-limited government cannot adapt and reform itself quickly enough in the face of rapidly-changing economic and technological conditions. If that is the case, and more and more political and economic decisions are taken at an international level, then the fate of regional and even national governments may be that of increasing irrelevance. Whether or not these predictions prove accurate, Western Australians looking to re-fashion their political futures have never had greater cause to examine their constitutional pasts.

"The preservation of a strong and esteemed Parliament in Western Australia is dependent upon our willingness to review critically the success of our adaptation to the Westminster derived system of responsible government as a whole. Apart from being frequently misrepresented even

by some parliamentarians, the underlying principles and apparatus of responsible government is facing increasing challenge from political and constitutional theorists."

P. Boyce, in *House on the Hill*, 1991.

Appendix 1

Governors of Western Australia

James Stirling

Naval captain James Stirling was the driving force behind the colonisation of Western Australia. His energy persuaded the otherwise reluctant British Government to support foundation of a settlement at the Swan River in 1829. Born in 1791, Stirling went to sea as a young boy of 12 and was quickly promoted through officer ranks. After the War of 1812 and some subsequent service in the Caribbean, he was put on half-pay and forced to cool his heels ashore, like many other naval officers at the time. Finally, in 1825, Stirling was given command of the newly-launched *HMS Success* and sent to New South Wales, where he gained the task of exploring the west coast of the continent. In 1827, Stirling sailed to the South West and spent more than two weeks in the country around the Swan River.

After the voyage, the ambitious Stirling - related by marriage to a director of the East India Company - set out to convince the British Government of the merits of settling the west coast. In London, he spoke to leading figures in the colonial service and argued that a British presence would help deter French interest in the area. Despite doubts over the cost of the scheme, the government finally agreed and a small band of settlers embarked under Stirling's leadership. The advance party, led by Captain Fremantle in the warship *Challenger*, landed in May 1829 and Stirling arrived a month later in the *Parmelia*.

Stirling ruled as lieutenant-governor at first, till appointed a full governor in 1831. With a grant of 100,000 acres from the Crown, his own fortunes were inextricably entwined with those of his settlers. He toured the colony and supervised the expansion of settlement inland and to the south west, which had the effect of dispossessing Aboriginal people from their lands. At one stage, he personally led a bloody raid against a Nyungar group near Pinjarra, which left 15-30 people dead. In 1832, with the colony struggling to survive, Stirling went to London to plead the case for aid, without success. On return to Perth in 1834, the once-popular governor suffered increasing criticism for his imperious and autocratic administration. Also, his continued enthusiasm now seemed to aggravate as many people as it had once inspired. Frustrated by the apparent lack of progress, he resigned his post and sailed from Fremantle in 1839, never to return. He resumed his naval career and after long and distinguished service, was made an admiral. Stirling retired to Guildford, in Surrey, England, where he died in 1865.

John Hutt

John Hutt was appointed governor of Western Australia after involvement in the colonisation plans for South Australia. Hutt may have won the WA post as consolation for having failed to secure the governorship of SA, for which he had applied. At any rate, he brought with him experience as a civil servant in India and a general knowledge of colonisation inspired by his interest in the Wakefield principles applied in SA. By nature "reserved and bookish", Hutt was a meticulous bachelor who stuck to the letter of the law in administration of land regulations which required settlers to improve and develop their holdings, or else loose title to the land.

In the early years of Hutt's administration the fledgling colonial economy showed healthy signs, with whale oil and wool the most lucrative, locally-produced goods. But by the middle of the 1840s hopes for continued growth were dashed by the effects of an economic depression. This stagnation and Hutt's natural reserve failed to endear him to the broader public by the end of his term in 1846, though he was acknowledged as a careful and adroit manager.

Andrew Clarke

Andrew Clarke was governor for just 13 months, his term cut short by his death in 1847. A protestant Irishman born in Donegal, Clarke enjoyed a rapid rise in the army, was given temporary command of troops in Van Dieman's Land when just 18, and rose to the rank of Lieutenant-Colonel. He later spent a successful stint as Governor of St. Lucia, in the West Indies, before he was transferred to Western Australia in 1846. The brevity of his service in Perth meant that he had little real effect on the fortunes of the colony.

Charles Fitzgerald

Charles Fitzgerald was, like Stirling, a naval captain who moved into colonial service. A former governor of Gambia, Fitzgerald was an able administrator whose appointment to the governorship of Western Australia was his last posting before retirement. When he arrived in the colony to take up his appointment in 1848, Fitzgerald found moves underway for constitutional reform to give more power to prominent settlers. He wrote to the Secretary of State Earl Grey that . . . "I am of opinion if such organic changes take place that your Lordship will be transferring the Government of the Colony from the hands of the Governor into those of a party long resident in this settlement . . .". In any event, the proposed changes never happened.

Criticised for a pompous and overbearing manner, Fitzgerald nevertheless managed to oversee the arrival of convicts in the colony in 1850 with a minimum of fuss. He regarded the convict system as a virtual necessity in a colony whose economic performance was so lacklustre. In the end, the decision to commence transportation was made in London with little reference to officials, the governor included, in Perth. By 1855, when Fitzgerald's term came to an end, the colony was emerging from years of relative lethargy under the impetus of the convict system.

Arthur Kennedy

Arthur Kennedy replaced Fitzgerald in 1855 and was quick to distance himself from his predecessor by implementing a range of belt-tightening economic measures. He was, according to one account, "an administrator of varied experience, whose personal assets included social charm and a distinguished appearance". His budget cuts made him popular in the Colonial Office in London, but won him no friends among the colonists. He faced strident opposition from non-official nominees on the Legislative Council, and was stung by the condemnation of two members, Lionel Samson and Marshall Waller Clifton, who resigned their seats.

Kennedy was probably the most experienced servant of Empire appointed to the governorship in the early years of the colony. He had served in the army till 1848 before moving through a range of civil posts, acting as a country inspector of the Board of Works in Ireland, and as governor of Gambia and then Sierra Leone. Kennedy's six and a half-year term in WA did his career no harm - he won the respect of superiors and was subsequently promoted three times.

John Hampton

John Hampton arrived in Western Australia in 1862, with the reputation of being a stern disciplinarian, after service as comptroller-general of convicts in Van Diemen's Land (Tasmania). He had fallen out with the Legislative Council in VDL over a claim that he had gained personally

from the exploitation of convict labour. In Perth, Hampton's administration was dogged by similar allegations of personal and familial self-interest, and he was criticised for installing his son, G. E. Hampton, in the lucrative post of comptroller-general of convicts.

Yet Hampton won approval for his use of convict labour on public works, and many of the enduring monuments of the colonial era, such as the Perth Town Hall and Government House, were built during his years in office. He also oversaw a more punitive regime in the colony, dispensing justice to his transported charges with the birch and lash. In 1867, a London newspaper printed a letter from the Howard Association condemning the convict system in WA after a signed memorial detailing the brutality of punishment had reached London.

Through the 1860s, Hampton dealt with growing agitation for constitutional reform among the colonists. An increase in the number of unofficial members - nominated from the ranks of the colonial elite - to sit on the Legislative Council was approved in 1867. Hampton agreed to informal elections for the existing and new unofficial seats on the council, and within years this was formalised in constitutional changes which created a more representative chamber.

Frederick Weld

Frederick Weld was governor through the early years of the partly-elected Legislative Council. Weld, a scion of one of England's distinguished Catholic families, had emigrated to New Zealand when he was just 20 years old, in 1843. He later won office as premier of that colony and was highly regarded as a colonial politician before ill-health drove him back to England.

He was appointed to the post in WA in 1869 and quickly established himself as a hard-working administrator . . . "A tall, slim, energetic man, Weld travelled thousands of miles on horseback and got to know the colony as few of his predecessors had done". He oversaw the change to a representative Legislative Council and also supported early moves for full self-government. In 1874, a draft constitution was presented to the Council, but the British Government rejected the move as premature.

Harry Ord

Harry Ord came to Western Australia after six years in Singapore as governor of the Straits Settlements. Ord had spent 22 years with the Royal Engineers, serving in the West Indies and the Gold Coast, before entering the ranks of colonial administration. His time in Perth was unremarkable and excited little criticism.

Frederick Broome

Frederick Broome was born in Canada and migrated to New Zealand at the tender age of 16 to begin a career as a pastoralist. He had mixed fortunes as a farmer, and turned his hand to literary pursuits, writing poetry and working as a journalist for *The Times* in London. In 1883, he was appointed governor of Western Australia, having earlier served as colonial secretary in Natal and Mauritius.

A spirited man with a reputation for playing favourites, Broome travelled a rocky road during his six years in office. Clashes with senior officials peppered his administration, and he was forced by the Secretary of State to reinstate the Chief Justice A. C. Onslow, whom he had summarily suspended. He also suffered the brunt of colonial criticism directed at the cautious and constraining policies of the British Government, yet was personally supportive of the calls for self-government. Broome actually drafted the Constitution Bill which was finally passed by the Legislative Council, after much debate, in 1889.

William Robinson

William Robinson served three times as governor of Western Australia - in 1875-77, 1880-1883, and 1890-1895. Robinson was a professional colonial administrator and served at crucial times in the colony's political development. A keen singer and composer of operettas, Robinson was a popular governor despite his clear adherence to the instructions of Colonial Office superiors. During his first stint in the colony, he was charged with dampening enthusiasm for a change to responsible self-government, while his third term in office coincided with the British Government's eventual approval of political reform.

Robinson served in a variety of colonial posts before his arrival in WA. At 28 he had been appointed President of Monserrat, an island in the West Indies so small that he was "carried ashore on the coxswain's back, there being no jetty". He then distinguished himself as an administrator of "remarkable ability and tact" when promoted to Prince Edward Island. His supervision of the change to self-government in WA was noteworthy for his delicate handling of local sensitivities and concerns, though he was involved in a protracted tussle with Premier John Forrest over the repeal of Section 70 of the Constitution Act 1889.

Appendix 2

A Chronology of Constitutional Change

Western Australia's early government was organised in a similar fashion to the system of administration in the first Australian colony of New South Wales. In the early phase of colonisation in NSW, political authority was exercised by autocratic governors who had extraordinary powers to make laws and administer territory. In 1823, the **New South Wales Judicature Act**, passed by the British Parliament, established a Legislative Council with members nominated by the governor. Two years later, a small Executive Council was formed to advise and consult the governor on matters of policy and administration. Similar councils were established in Tasmania, then known as Van Diemen's Land, when it became a separate colony in 1825, while in South Australia a single council was given executive and legislative roles. All these councils were dominated by their respective governors, who retained considerable personal power and prestige. Similarly, Captain James Stirling ruled alone as Lieutenant-Governor of Western Australia from 1829 until 1831, when he was formally appointed as full governor of the colony. He then nominated four senior officials to an Executive Council, and the same members to a Legislative Council. In 1838, four non-official members were appointed to the Legislative Council from the ranks of the colony's substantial landowners.

The Durham Report 1839

This report published in 1839 recommended the introduction of limited self-government to Canadian territories of the British Empire, to be modelled on the Home Parliament at Westminster. It was an innovative document that laid foundations for the future internal independence of colonies throughout the Empire. Lord Durham advised that popular agitation in Canada could only be solved by . . . "administering the Government on those principles which have been found perfectly efficacious in Great Britain". That meant ensuring that the executive arm of government - the Cabinet - was drawn from and answerable to the legislature, a form of administration known then as *Responsible Government* and which today we call the *Westminster* system.

Australian Constitutions Act (No.1) 1842

The Legislative Council in New South Wales became a partly-elected *representative* chamber, with two thirds of its members returned by voters in the colony, by this Act of the British Parliament. However, the Executive Council was still constitutionally separate from the legislature, not responsible to it. Only men who owned freehold property worth 200 pounds or who were householders paying 20 pounds rent a year could vote. Women were excluded from the reform.

Australian Colonies Government Act (or Australian Constitutions Act No. 2) 1850

This Act allowed for the transition in all Australian colonies to *responsible* self-government, with the executive drawn and answerable to the legislature. It also created the new colony of Victoria by excising the Port Phillip district from New South Wales. The Act, passed by the British Parliament, retained the property franchise for the existing Legislative Councils, but halved the qualifications.

New South Wales, Victoria and Tasmania availed themselves of the Act to establish parliaments in 1855; South Australia followed in 1856; and Queensland in 1859. South Australia introduced manhood suffrage - votes for all men irrespective of property qualifications - from the start of responsible self-government, Victoria followed in 1857, New South Wales in 1858, Queensland in 1872, Western Australia in 1893 and Tasmania in 1900.

Colonial Laws Validity Act 1865

The British Government passed this Act to confirm the validity of laws made by colonial parliaments. Colonial law was only to be superseded when it was in conflict with British law specifically designed to apply to the colony. However, the Act also included "manner and form" requirements that later limited the legislative power of colonial parliaments to amend their constitutions.

"An Ordinance to provide for the establishment of a Legislative Council . . ." 1870

The Australian Constitutions Act (No. 2) allowed Western Australia to establish a partly-elected legislature on the presentation of a petition signed by one third of its householders. A petition was compiled in 1865 and after some delay a new, more *representative* Legislative Council was established by the above ordinance, in 1870. Twelve members of the Council were to be elected by voters, while six were to be appointed by the governor as before. The franchise was restricted along the same lines as in New South Wales between 1850 and 1855 - voters had to be men who owned freehold property worth 100 pounds or who paid rent of 10 pounds a year. The size of this council was increased from time to time, so that by 1886 there were 24 members.

Constitution Act 1889

Western Australia gained *responsible* self-government under this Act, first passed by the partly-elected Legislative Council in 1889 and then by the British Parliament in 1890. The new constitution established two Houses of Parliament with an elected Legislative Assembly and a nominated Legislative Council, though this latter body became elective within three years. The Cabinet, comprising the premier and four other ministers, was drawn from the ranks of parliamentary members and not appointed by the governor. This system of responsible government was of the kind advocated by Lord Durham for Canada fifty years before.

The franchise was still restricted, along the same lines as had prevailed under the old Legislative Council. Men who owned freehold property worth 100 pounds, or who rented or leased property for 10 pounds a year, could vote. Women were still barred from voting.

Constitution Act Amendment Act 1893

This Act of the new Western Australian Parliament introduced manhood suffrage for Legislative Assembly elections, subject to residency requirements. The Act also specifically discriminated against Aboriginal, Asian and African men - all of whom were only allowed to vote if they owned freehold property worth 50 pounds. The Act also increased the size of the Assembly and established a new full-elected Legislative Council, though with a restricted property franchise.

Constitution Act Amendment Act 1896

This colonial Act increased the members in both Houses of Parliament and added another minister to the Cabinet.

Aborigines Act 1897

By this Act the Western Australian Parliament tried to repeal Section 70 of the Constitution Act 1889 which obliged it to set aside one percent of consolidated revenue for Aboriginal people. However, the Act miscarried and the Parliament made another attempt to abolish the section in 1905.

Constitution Acts Amendment Act 1899

The colonial parliament passed several Acts in the first decade to self-government to amend the original Constitution Act 1889. The Constitution Acts Amendment Act consolidated these amendments and introduced some new provisions in a single piece of legislation. Since then, the courts have found that the Constitution Acts Amendment Act 1899 is a complete Act in its own right, and not simply an amendment of the original Constitution Act 1889. Much of the legislative rule for Government in Western Australia is now contained in this later consolidating Act, and not in the original Constitution Act.

Aborigines Act 1905

This Act of the colonial parliament sought to confirm the abolition of the special provision for Aboriginal people in the original Constitution Act 1889. Section 70 of the 1889 Act forced the colony to set aside 1% of its revenue for the Aborigines Protection Board, to be administered directly by the governor rather than the parliament. However, the validity of this Act is subject to a legal challenge in the Supreme Court of Western Australia.

Australian States Constitution Act 1907

This Act confirmed the British Government's continued interest in the legislative affairs of the State of Western Australia, despite the federation of the Australian colonies in 1901. Under this Act, proposals to alter the form of the Legislative Assembly or Legislative Council still had to be approved by the King, acting on the advice of British ministers.

The Statute of Westminster 1931

The Commonwealth of Australia confirmed this Act of the British Government in 1942 and ended the legal subordination of the Australian Parliament to Westminster. The Act assured the national government of its legislative independence and, in theory at least, ranked the national parliaments of the Empire dominions - including the Home Parliament at Westminster - on the same legal standing. However, it did not apply to the States, which chose to retain subordinate links to London.

Acts Amendment (Constitution) Act 1978

This Act of the Western Australian Parliament entrenched the position of the governor and the two Houses of Parliament in the State's Constitution. The amendment meant that any attempt to abolish the office of governor or the Houses of Parliament had to be approved by popular vote in a referendum, as well as by absolute majorities in the Legislative Assembly and Legislative Council. Before this, State Parliament had been able to amend the constitution in its entirety, without the agreement of the people.

The Australia Acts 1986

The Australia Acts, passed simultaneously by the Australian and British Parliaments, severed the remaining links between the State governments of Australia and the British Government. The position of governor was retained, but appointments were to be made by the Queen or King on the advice of Western Australian ministers, not those of the British Government. Other links between the States and the British Government terminated, and the Commonwealth of Australia became the sole limiting body on the constitutional fabric of the States.